



## **Contract with Independent Contractor**

### **1. Names**

This agreement is between Rock Contractors, LP, a Texas Limited Partnership doing business as Rock Contractors (Client), and \_\_\_\_\_ (Independent Contractor).

### **2. Services to be performed by Contractor**

Provide services for: Stone Work, Brick Work, Construction of Retaining Walls or other Construction Related Services.

### **3. Time for Performance**

Upon contact by Client, Contractor will evaluate and if agreed, perform the required service(s).

### **4. Payment**

Client will pay Contractor per square foot, per hour or per job as agreed after completion of work and receipt of Contractor invoice. Invoice(s) submitted by Thursday of the previous week will generally be paid on Friday of the following week.

### **5. State and Federal Taxes**

Client will not:

- withhold Social Security and Medicare taxes from Contractor's payments or make such tax payment on Contractor's behalf
- make state or federal unemployment contributions on Contractor's behalf, or
- withhold state or federal income tax from Contractor's payments

Contractor will pay all applicable taxes related to the performance of services under this contract. This includes income, Social Security, Medicare and self-employment taxes. Contractor will also pay all unemployment contributions related to the performance of services under this contract. Contractor will reimburse Client if Client is required to pay such taxes or unemployment contributions. Contractor will furnish client valid Tax ID Number. Client will issue Form 1099-MISC annually to Contractor.

### **6. Fringe Benefits**

Neither Contractor nor Contractor's employees are eligible to participate in any employee pension, health, vacation pay, sick pay or other fringe benefit plan of the Client.

### **7. Invoices**

Contractor will submit invoices to Client for all Services performed.

### **8. Independent Contractor Status, Indemnity and Insurance**

**1.1 Indemnification: To the fullest extent permitted by applicable law, the Subcontractor expressly agrees to defend (at Subcontractor's expense and with counsel acceptable to**

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**Contractor), Indemnify, and save and hold harmless the Contractor, the Owner, and all of their officers, directors, shareholders, employees, agents, successors, and assigns, from and against any and all claims, suits, losses, causes of action, damages, liabilities, and expenses of any kind whatsoever, including without limitation, all expenses of litigation and arbitration, court costs and attorney's fees, arising on account of or in connection with injuries to or the death of any person whomsoever or any and all damages to property (including the loss of use thereof), regardless of possession or ownership, which injuries, death or damages arise from or are in any manner connected with the work performed by or for the Subcontractor under this Subcontract or are caused in whole or in part by reason of the acts or omissions or presence of the person or property of the Subcontractor or any of its employees, agents, representatives, subcontractors, or suppliers, INCLUDING WITHOUT LIMITATIONS INJURIES, DEATH, OR DAMAGES WHICH ARISE FROM OR IN CONNECTION WITH, OR ARE CAUSED BY, ANY ACT, ERROR, OMISSION, OR NEGLIGENCE OF THE CONTRACTOR, THE OWNER, and all of their OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUBCONTRACTORS, OR SUPPLIERS WHICH WAS THE PROXIMATE CAUSE JOINTLY OR CONCURRENTLY WITH THE NEGLIGENT CONDUCT OF THE SUBCONTRACTOR; BUT EXCLUDING INJURIES, DEATH OR DAMAGES CAUSED BY THE SOLE NEGLIGENCE OR WANTON AND WILLFUL MISCONDUCT OF THE CONTRACTOR. The indemnification obligations under this Subcontract shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Subcontractor under worker's or workman's compensation acts, disability benefit acts or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the Subcontractor or of any third party to whom the Subcontractor may sublet a part of the Work.**

1.1.1 Such obligation shall not be construed to negate or abridge or otherwise reduce any other right of obligation or indemnification which would otherwise exist as to any party or person described in this Article.

1.1.2 Subcontractor shall also hold and save Contractor harmless from any liability including costs and expenses, and reasonable attorney's fees, for an account of any patented invention, article or appliance manufactured or used in performance of this Subcontract, including their use by Owners; and any claims for defective or improper work of Subcontractor, whether or not said claims be asserted by Owner or third-party.

1.2 Insurance. Prior to starting the Subcontract work, the Subcontractor shall procure and maintain in force statutory Workers Compensation Insurance for all of Subcontractors employees at the project site, Employers Liability Insurance with \$500,000 coverage (each section), Commercial General Liability Insurance (including XCU coverage by subcontractors involved in utility work, excavation, mechanical, electrical and/or plumbing work) and Automobile Liability Insurance and such other insurance, to the extent required by the Contract Documents for the Subcontract Work. Unless otherwise provided in this Agreement by Exhibit, the Subcontractor's Commercial General and

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Automobile Liability Insurance, as required by this provision shall be written for not less than limits of liability as follows:

- (i) Commercial General Liability
  - \$1,000,000 Each Occurrence
  - \$2,000,000 General Aggregate (per project)
  - \$1,000,000 Products/Completed Operations Aggregate
  - \$1,000,000 Personal and Advertising Injury
  
- (ii) Comprehensive Automobile Liability
  - \$1,000,000 Combined Single Limit of Liability
  
- (iii) Commercial Umbrella
  - \$1,000,000 Each Occurrence
  
- (iv) Workers Compensation & Employers Liability
  - Statutory Limit Per State Laws
  - \$500,000 Each Accident
  - \$500,000 Disease – Policy Limit
  - \$500,000 Disease - Each Employee

1.2.1 The Commercial General Liability Policy shall contain broad form contractual liability coverage, and endorsement listing the Owner and Contractor as additional insured with coverage on a primary basis for the additional insured (not contributory), and products/completed operations coverage. The Additional Insured provision is a separate obligation and applies whether or not required by other provisions of the contract. Commercial General Liability Insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella policy.

1.2.2 All policies providing coverage for work under this subcontract shall contain a waiver of subrogation endorsement in favor of Owner, Contractor and their employees. Subcontractor shall

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execute a joint agreement to be filed with the Workers Compensation Commission stating the Subcontractor is an independent contractor.

1.2.3 Prior to starting the Subcontract Work, the Subcontractor shall deliver to Contractor an original Accord Certificate of Insurance acceptable to Contractor which evidences the coverages and endorsements required herein and which states that the coverages afforded under the policies will not be cancelled, terminated or materially modified unless at least 30 days written notice is given to the Contractor. If Subcontractor subcontracts any portion of the Subcontract Work, Subcontractor shall deliver to Contractor for each Subcontractor's subcontractors or employee leasing/staffing companies an original Accord Certificate of Insurance, which evidences the same coverages and endorsements required herein. Upon request from Contractor, Subcontractor shall deliver a copy of all policies of insurance required herein.

This Agreement shall be governed by the law in effect at the location of the Project.

#### **9. Other Clients**

Contractor retains the right to perform services for other clients.

#### **10. Assistants**

Contractor, at Contractor's expense, may employ assistants as Contractor deems appropriate to perform the contractual services. Contractor will be responsible for paying these assistants as well as any expense attributable to them including income, Social Security and Medicare taxes, and unemployment contributions. Contractor will maintain workers' compensation insurance for all of its employees.

#### **11. Equipment and Supplies**

Contractor, at Contractors expense, will provide all equipment, tools and supplies necessary to perform the contractual services.

#### **12. Expenses**

Contractor will be responsible for all expenses required for the performance of the contractual services.

#### **13. Disputes**

If a dispute arises, the parties will try in good faith to settle it through mediation conducted by a mediator to be mutually selected.

The parties will share the costs of the mediator equally. Each party will cooperate fully and fairly with the mediator and will attempt to reach a mutually satisfactory compromise to the dispute. If the dispute is not

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resolved within 30 days after it is referred to the mediator, it will be arbitrated by an arbitrator to be mutually selected.

Judgment on the arbitration award may be entered in any court that has jurisdiction over the matter. Costs of arbitration, including lawyers' fees, will be allocated by the arbitrator.

#### **14. Entire Agreement**

This is the entire agreement between the parties. It replaces and supersedes any and all oral agreements between the parties, as well as any prior writings.

#### **15. Successors and Assignees**

This agreement binds and benefits the heirs, successors and assignees of the parties.

#### **16. Notices**

All notices must be in writing. A notice may be delivered to a party at the address that follows a party's signature or to a new address that a party designates in writing. A notice may be delivered:

- in person
- by certified mail, or
- by overnight courier

#### **17. Governing Law**

This agreement will be governed by and construed in accordance with the laws of the state of Texas.

#### **18. Counterparts**

The parties may sign several identical counterparts of this agreement. Any fully signed counterpart shall be treated as an original.

#### **19. Modification**

This agreement may be modified only by a writing signed by the party against whom such modification is sought to be enforced.

#### **20. Waiver**

If one party waives any term or provision of this agreement at any time, that waiver will be effective only for the specific instance and specific purpose for which the waiver was given. If either party fails to exercise or delays exercising any of its rights or remedies under this agreement, that party retains the right to enforce that term or provision at a later time.



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### 21. Severability

If any court determines that any provision of this agreement is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this agreement invalid or unenforceable and such provision shall be modified, amended or limited only to the extent necessary to render it valid and enforceable.

#### CLIENT

Rock Contractors, LP,  
a Texas Limited Partnership doing business as Rock Contractors  
1854 E. Beltline Rd. Suite 3  
Coppell, Texas 75019-9607

Dated: \_\_\_\_\_

By: \_\_\_\_\_

David W. Rollen  
President

#### INDEPENDENT CONTRACTOR

Dated: \_\_\_\_\_

Company Name \_\_\_\_\_

By: (Signature owner/officer) \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip \_\_\_\_\_