



SUBCONTRACT AGREEMENT

THIS AGREEMENT made at Grand Rapids, Michigan on (date) by and between Angstrom Technology hereinafter referred to as the Contractor, and [redacted] hereinafter referred to as the Subcontractor, to perform part of the Work on the following Project:

CONTRACTOR: Angstrom Technology

PROJECT: Angstrom Technology Cleanroom located at:

OWNER:

SUBCONTRACTOR:

ARTICLE 1: SCOPE OF WORK

1.1 The agreement between Owner and Contractor (the "Prime Contract") and all general, special, and supplemental conditions; drawings; plans; and specifications referred to in, and made part of, the Prime Contract; all addenda and modifications to the Prime Contract; and all other documents forming a part of the Prime Contract (collectively, the "Contract Documents") are incorporated into this Agreement to the extent they apply to the work of Subcontractor. Subcontractor assumes toward Contractor all obligations, rights, duties and redress that Contractor assumes toward Owner and others under the Contract Documents. In the event of conflicts or inconsistencies between provisions of this Agreement and the Contract Documents, the provision imposing the higher quality, greater quantity, or greater duty or obligation on Subcontractor governs. Subcontractor is bound by all interpretations of the Contract Documents made by the Owner or the Architect/Engineer and furnished to it by Contractor that are binding upon Contractor. The Contract Documents will be made available upon Subcontractor's request.

1.2 Subcontractor shall perform the work required by this Agreement (the "Subcontractor's Work") under the general direction of Contractor, subject to approval of the Architect/Engineer or other specified representative of Owner, so Contractor may fulfill obligations to Owner. Subcontractor shall provide Subcontractor's Work for the Project in accordance with the Schedule to be prepared by Contractor after consultation with Subcontractor, and as it may change from time to time. Subcontractor shall give timely notices to authorities pertaining to Subcontractor's Work and shall be responsible for all permits, fees, licenses, assessments, inspections, testing and taxes necessary to complete the Subcontractor's Work. The Subcontract Work shall consist of the following:

SEE ATTACHED SCOPE OF WORK (Drawings and Specifications). ATTACHMENT 2

1.3 The following Schedules and Attachments are incorporated by reference and made part of this Agreement.

1.4 Should any questions arise with respect to the interpretation of the drawings and specifications, such questions shall be submitted to the Architect/Engineer and his decision shall be final and binding. If there is no Architect/Engineer for this project, the Contractor's decision shall be followed by the Subcontractor.

ARTICLE 2: PAYMENTS

2.1 The Contractor agrees to pay to the Subcontractor for the satisfactory completion of Subcontractor's Work the sum of (\$) in monthly payments of ninety percent (90%) of the value of the Subcontractor's Work performed in any preceding month, in accordance with estimates prepared by the Subcontractor and approved by the Contractor and Owner. Subcontractor will provide monthly-completed lien waivers and affidavit forms, in a form satisfactory to the Owner and Contractor. Subcontractor shall submit its monthly estimates to Contractor by the 20th day of the month. Payment of the approved portion of the Subcontractor's monthly estimate shall be conditioned upon receipt by the Contractor of such lien waiver, affidavits, warranties, guarantees or other documents reasonably required by Contractor. In addition, the Owner's payment to Contractor for Subcontractor's work is a condition precedent to Contractor's obligation to pay Subcontractor. Subcontractor acknowledges that it relies on the credit of Owner, not Contractor, for payment for Subcontractor's work. Payment of the approved portion of the Subcontractor's monthly estimate is specifically agreed not to constitute or imply acceptance by the Contractor or Owner of any portion of the Subcontractor's Work.

2.2 Final payment shall be paid to the Subcontractor upon approval by the Owner, Architect/Engineer and the Contractor of the Subcontractor's Work and upon payment having been received by the Contractor for all of Subcontractor's Work and satisfactory evidence having been received by the Contractor that all labor, including customary fringe benefits and payments due under collective bargaining agreements, and all subcontractors and suppliers have been fully paid and are waiving their lien rights upon the final payment of a specific balance due. Final payment shall constitute a waiver of all claims by Subcontractor relating to Subcontract Work not previously identified in writing by Subcontractor, but shall in no way relieve Subcontractor from liability for warranties, or for non-conforming or defective work discovered after final payment.

2.3 The Contractor may deduct from any amounts due or to become due to the Subcontractor any amounts the Subcontractor owes the Contractor; and in the event of any breach by the Subcontractor of any provision or obligation of this Agreement, or if others assert any claim or lien against the Owner, the Contractor, Contractor's Surety, or the premises upon which the Work was performed, which claim or lien arises out of the Subcontractor's performance or breach of this Agreement, the Contractor may retain out of any payments due or to become due to the Subcontractor an amount sufficient to completely protect the Contractor from any loss, damage, or expense relating to the claim or lien until the claim, or lien has been adjusted by the Subcontractor to the satisfaction of the Contractor. This paragraph applies even if the Subcontractor has posted a full payment and performance bond. Contractor's rights under this paragraph are not intended to benefit any third party and no third-party beneficiary status is intended to be created by this paragraph.

2.4 All payment requests must be submitted on an AIA G-702 Application and Certificate for Payment, along with an AIA-703 Continuation Sheet. These forms must be completed, notarized, and submitted by the 20th of the month. Partial lien waivers shall be sent with each payment and must be completed, notarized, and returned before subsequent pay requests can be processed. Change Orders must be listed separately on the G-703 Continuation Sheet. On projects where prevailing wage rates apply, certified payroll reports must accompany the Application for Payment.

ARTICLE 3: PROSECUTION OF WORK

- 3.1 Time is of the essence for Contractor and Owner, and Subcontractor shall perform the Subcontractor's Work, and see that the work of its subcontractors is performed, so that the entire Project is completed in accordance with the Contract Documents. The Subcontractor shall provide the Contractor with scheduling information and Subcontractor's proposed schedule for the Subcontractor's Work. The Contractor shall then prepare the Schedule of the Work and, as necessary, revise the schedule as the work progresses. Subcontractor acknowledges that revisions may be made in such schedule and agrees to make no claim for acceleration or delay damages for revisions that are of the type normally experienced in work of this scope and complexity (except for claims arising out of a delay that is the proximate result of the Owner's or Contractor's act or failure to act).
- 3.2 The Subcontractor shall prosecute Subcontractor's Work in a prompt and diligent manner in accordance with the Schedule of Work without hindering the Work of the Contractor or any other subcontractor. If Subcontractor damages work of others, the Subcontractor will cause such damaged work to be corrected to the satisfaction of and without cost to the Contractor and Owner. If the Subcontractor fails to maintain its part of the Schedule of the Work, it shall, without additional compensation, work such overtime as the Contractor may direct until Subcontractor's Work is in accordance with such schedule.
- 3.3 The Subcontractor is responsible for, and will prepare for, performance of Subcontractor's Work, including without limitation, the submission of shop drawings, samples, tests, field dimensions, determination of labor requirements and ordering of materials as required to meet the Schedule of Work. Subcontractor shall notify the Contractor when each portion of its work is ready for inspection.
- 3.4 The Subcontractor shall furnish weekly progress reports of the Subcontractor's Work as mutually agreed, including the progress of materials or equipment to be provided under this Agreement that may be in the course of preparation or manufacture.
- 3.5 The Subcontractor shall cooperate with the Contractor and other subcontractors whose work may interfere with the Subcontractor's Work and participate in the preparation of coordinated drawings and work schedules in areas of congestion, specifically noting and advising the Contractor of any interference by other contractors or subcontractors.
- 3.6 The Subcontractor shall keep the building and premises reasonably clean of debris resulting from the performance of Subcontractor's Work. If the Subcontractor fails to comply with this paragraph within 48 hours after receipt of notice of noncompliance from the Contractor, the Contractor may perform such necessary cleanup and deduct the cost from any amounts due to the Subcontractor.
- 3.7 The Subcontractor shall give adequate notices pertaining to the Subcontractor's Work to proper authorities and secure and pay for all necessary licenses and permits to carry on Subcontractor's Work, the furnishing of which is required by the Contract Documents.
- 3.8 The Subcontractor shall comply with all Federal, State and Local laws, Social Security Laws and Unemployment Compensation Laws, Workers' Compensation Laws and Safety Laws applicable to the performance of this Agreement, shall pay all taxes applicable to the performance of Subcontractor's Work, and shall maintain a safety program for compliance with such laws.
- 3.9 The Subcontractor shall not assign this Agreement nor subcontract the whole or any part of the Subcontractor's Work without the prior written consent of the Contractor, except that Subcontractor may enter into sub-subcontracts with only those subcontractors and suppliers identified in writing by the Subcontractors and furnished to the Contractor at the time this Agreement is executed.
- 3.10 Ten days after this Agreement has been fully executed, the Subcontractor shall furnish Contractor with purchase orders and material order acknowledgments from each materials supplier, and each subcontractor furnishing material or labor under this Agreement. Delivery dates shall be included on the purchase orders and/or material order acknowledgments and shall indicate delivery of all material as required for performance of work under this Agreement within the dates contained on the Schedule of the Work.

ARTICLE 4: CHANGES IN THE WORK

4.1 The Contractor may add to or deduct from the Subcontractor's Work, and any changes so made in the amount of Work involved, or any other parts of this Agreement, shall be by a written amendment setting forth a detailed description and value of the changes involved, which shall be mutually agreed upon between the Contractor and Subcontractor. In the absence of such agreement, the Subcontractor shall proceed with the changed work when so ordered in writing by the Contractor so as not to delay the progress of the changed work or the Subcontractor's Work and pending any determination of the value of the changed work, unless Contractor first requests a proposal of cost before the changes are affected. If the Contractor requests a proposal of cost for a change, the Subcontractor shall promptly comply with such request.

4.2 Subcontractor shall be entitled to receive no extra compensation for extra work or materials or changes of any kind absent a change order issued in writing by the Contractor. The Subcontractor shall be responsible for any costs incurred by the Contractor for changes of any kind made by the Subcontractor that increase the cost of the work for either the Contractor or other subcontractors when the Subcontractor proceeds with such changes without a written order therefore. Accordingly, no course of conduct between the parties shall serve as the basis for additional compensation. Similarly, Subcontractor shall not make any claim for unjust enrichment for any claimed additional work.

4.3 The Subcontractor shall make no claim for additional services rendered or materials furnished by the Subcontractor to the Contractor unless notice is given to the Contractor prior to the furnishing of any of the services or material. Contractor must approve all change orders in writing before the changed or extra work is performed. No additional payment or time will be granted for any changes performed by the Subcontractor that have not been ordered by Contractor or agreed to by the parties. Subcontractor shall not deviate from the plans and specifications or substitute materials (including "or equal" materials) without the issuance of a written change order by Contractor.

Pricing on Change Orders will be as follows:

| | |
|--------------------|---|
| <u>Labor</u> | Actual wages paid plus taxes, insurance, contribution assessments and benefits required by law or collective bargaining agreements, and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions. These costs are to be substantiated in detail. |
| <u>Material</u> | Actual costs incurred. Supplier invoices must be provided. |
| <u>Subcontract</u> | Actual costs incurred. Subcontractor invoices must be provided. |
| <u>Fee</u> | A 10% fee may be added to labor, material and subcontract costs to cover overhead & profit. |

Final pricing on Change Orders must be received within 10 days of completion of the extra work. Failure to submit final pricing within this time frame shall waive Subcontractor's right to such claims.

4.4 Subcontractor shall give Contractor written notice of all claims affecting or relating to the Subcontract Price for which the Owner is or may be liable under the Contract Documents no later than 48 hours after Subcontractor's first observance of the facts giving rise to the claim, or, if sooner, within the time limits provided in the Contract Documents for like claims by Contractor upon the Owner and in sufficient time for Contractor to initiate such claims against the Owner in accordance with the Contract Documents. The claim shall proceed in the manner provided in the Contract Documents and Subcontractor shall be responsible for substantiating a claim submitted to the Owner on Subcontractor's behalf. Subcontractor shall be responsible for all costs, expenses, and attorney fees incurred by it and by Contractor relating to the claim.

4.5 Any notice of a claim by the Subcontractor shall detail the amounts claimed and provide all information necessary to permit timely and appropriate evaluation of the claim, the determination of responsibility, and any remaining opportunity for mitigation. If the Subcontractor is unable to calculate any amount claimed in detail or provide other required information, the Subcontractor shall use all commercially reasonable efforts to provide an estimate of such amount or such information.

4.6 If Subcontractor is delayed, obstructed, hindered, or interfered with in a critical element of the Subcontract Work by any cause beyond Subcontractor's reasonable control and not due to the fault of Subcontractor, its officers, agents, employees, lower tier subcontractors, or suppliers, then (A) Subcontractor shall be entitled to an extension of time for a period equivalent to the time lost by reason of such causes, but only if (1) Subcontractor gives Contractor notice in writing of such delay, obstruction, hindrance, or interference within 48 hours of Subcontractor's first observance of the facts giving rise thereto, (2) Subcontractor demonstrates that it could not have anticipated or avoided such delay, obstruction, hindrance, or interference and has used all available means to minimize the consequences thereof, and (3) the Owner grants Contractor an extension of time for the performance of the Subcontract Work; and (B) Subcontractor shall be entitled to an adjustment in the Subcontract Price to the extent provided in this Section 4. Subcontractor shall only receive an extension of time for the performance of the Subcontract Work to the extent that the Owner grants Contractor an extension of time for the performance of the Subcontract Work.

4.7 Subcontractor shall not be entitled to nor claim any cost reimbursement, compensation, or damages (A) attributable to delay, obstruction, hindrance, or interference to Subcontract Work as set forth in Section 4.5, or (B) on account of any claim for which the Owner is or may be liable under the Contract Documents as set forth in Section 4.4, except to the extent that Contractor is entitled to a corresponding cost reimbursement, compensation, or damages from Owner under the Contract Documents on account thereof, and then only to the extent of the amount, if any, that Contractor on behalf of Subcontractor actually receives from Owner on account thereof, less any costs, expenses and attorney fees incurred by Contractor. Nothing in this Subcontract precludes Subcontractor's recovery of damages for delay or to constitute a waiver of Subcontractor's right to recover damages for delay.

4.8 Subcontractor shall give Contractor written notice of all claims affecting or relating to the Subcontract Work not addressed above within 48 hours of Subcontractor's first observance of the facts giving rise to the claim. All such claims shall be resolved in the manner provided in Section 10 ("Claims & Damages").

4.9 Subcontractor's failure to assert a claim in the manner and within the time provided for in this Section constitutes a complete waiver of the claim.

4.10 Notwithstanding any other provision, if the Work for which the Subcontractor claims extra compensation is determined by the Owner or Architect/Engineer not to entitle the Contractor to a Change Order or extra compensation, then the Contractor shall not be liable to the Subcontractor for any extra compensation for such Work, unless Contractor agreed in writing to such extra compensation.

4.11 A Work Directive is a written order issued by the Contractor to the Subcontractor relating to Subcontractor's Work but not involving adjustment of the Subcontract sum or schedule and not inconsistent with the intent of the Contract Documents. The Subcontractor shall promptly carry out each Work Directive regardless of whether the Subcontractor agrees that the order does not involve adjustment of the Subcontract sum or schedule. If the Subcontractor reasonably believes that it should be entitled to an adjustment of the Subcontract sum or schedule, or both, on account of a Work Directive, the Subcontractor, within three days after receiving the order, shall give the Contractor written notice of the Subcontractor's position and shall proceed with the subject Work without first receiving a Change Order related to it.

ARTICLE 5: INSURANCE AND INDEMNITY

5.1 To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnities) from all claims for bodily injury and property damage that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, to the extent caused by the acts or omissions of the Subcontractor, the Subcontractor's sub-subcontractors, suppliers, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

5.2 Before commencing the Subcontract Work, and as a condition of payment, the Subcontractor shall purchase and maintain insurance that will protect it from the claims arising out of its operations under this Agreement, whether the operations are by the Subcontractor, or any of its consultants or subcontractors or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Subcontractor shall provide Contractor a certificate of insurance demonstrating all required coverages have been purchased. Subcontractor shall also provide a copy of all endorsements demonstrating such coverages.

5.3 The Subcontractor shall procure and maintain with insurance companies licensed in the jurisdiction in which the Project is located and acceptable to the Contractor, which acceptance shall not be unreasonably withheld, at least the limits of liability as set forth in

ATTACHMENT 1.

5.4 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 Liability policy. The Contractor and Owner shall be named as Additional Insured under each policy. The foregoing policies shall contain a provision that coverage afforded under the policies will not be canceled or not renewed until at least thirty (30) days' prior written notice has been given to the Contractor. Certificates of Insurance acceptable to the Contractor shall be filed with the Contractor prior to the commencement of Work.

5.5 The Subcontractor shall maintain completed operations liability insurance for three years after acceptance of Subcontract Work, substantial completion of the Project, or to the time required by the Subcontract Documents, whichever is longer. The Subcontractor shall furnish the Contractor evidence of such insurance at the time of completion of the Subcontract Work.

5.6 The Contractor and Subcontractor waive all rights against each other and against the Owner, the Architect/Engineer, separate contractors, and all other subcontractors for damages caused by fire or other perils to the extent covered by Builders Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance.

5.7 In addition to the coverages provided in Attachment 1, the Subcontractor shall secure workers' compensation coverage or purchase insurance from a company authorized to do business in the state in which the Project is located that protects the Contractor from claims under workers' compensation, disability benefit and other similar employee benefit acts applicable to the Subcontractor's Work, and claims for damages because of bodily injury, occupational sickness or disease, or death of the Subcontractor's employees, which may arise out of or result from the Subcontractor's Work, whether such work is performed by the Subcontractor, by a sub-subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

5.8 To the fullest extent permitted by law, and in addition to the other indemnity obligations in this Article 5, the Subcontractor shall indemnify, defend, and hold harmless the Contractor, the Contractor's agents, and the Contractor's employees from and against all claims, losses, expenses, and costs including but not limited to attorneys' fees, arising out of any claim brought against the Contractor by an employee of Subcontractor, its sub-subcontractors or suppliers, regardless of whether such claim may be covered by any applicable workers compensation insurance. In any claim against the Contractor, the Contractor's agents, or the Contractor's employees by any employee of Subcontractor or anyone for whose acts the Subcontractor may be liable, Subcontractor's indemnification obligation is not limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

5.9 The indemnification obligations of this subcontract shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers compensation act, disability benefit acts, or other employee benefits acts.

ARTICLE 6: PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

A Performance Bond and a Labor and Material Bond in a form satisfactory to the Contractor shall be furnished in the full amount of this Agreement, if required by the Contractor. This obligation shall continue throughout the Agreement and may be required at any time during the performance of Subcontractor's Work by a change under Article 4.

ARTICLE 7: WARRANTY

Subcontractor warrants that all materials and equipment furnished under this Agreement shall be new, unless otherwise specified, of good quality, in conformance with this Agreement and the Contract Documents, and free from defective workmanship and materials. The Subcontractor agrees to promptly make good without cost to the Owner or Contractor any and all defects due to faulty workmanship and/or materials which may appear within the guarantee or warranty period so established in the Contract Documents; and if no such period be stipulated in the Contract Documents, then such guarantee shall be for a period of one year from the date of completion and acceptance of the project by the Owner. The Subcontractor further agrees to execute any special guarantees as provided by the terms of the Contract Documents, prior to final payment. Warranties shall commence on the date of Substantial Completion of the Subcontract Work or a designated portion thereof.

ARTICLE 8: CONTRACTOR'S OBLIGATIONS

8.1 Upon request, the Contractor will give the Subcontractor written authorization to obtain direct from the Architect/Engineer Owner's authorized agent, evidence of amount and percentages of completion certified on its account.

8.2 The Contractor shall not issue or give any instruction, order or directions directly to the employees or workers of the Subcontractor other than to the persons designated as the authorized representatives of the Subcontractor.

8.3 The Contractor shall make no demand for liquidated damages in any sum in excess of the amount specifically named in this Agreement or the Contract Documents. Liquidated damages in any sum shall not be assessed for delays not caused by the Subcontractor. Liquidated damages, when assessed, shall not exceed the Subcontractor's proportionate share of the responsibility for such delay. This provision does not preclude any claim the Contractor may have for direct damages under law.

8.4 The Subcontractor will furnish those temporary facilities and services required by the Subcontractor. Adequate storage areas will be allocated by the Contractor for the Subcontractor's materials and equipment during the course of the Work.

ARTICLE 9: TERMINATION

9.1 Termination Without Fault of Subcontractor. If either the Contractor or the Owner terminates the Prime Contract for any cause permitted by the Contract Documents (except a default by Contractor), Contractor by notice to Subcontractor may terminate this Agreement. In addition, Contractor may at any time and without cause by written notice to Subcontractor terminate this Agreement and require

Subcontractor to cease the Subcontractor's Work. In either event, Subcontractor, as directed by Contractor, shall discontinue Subcontractor's Work, remove its equipment, materials, and employees from the project site, and take such action as necessary to terminate its agreements with its lower tier subcontractors and suppliers, and to minimize its losses resulting from such termination. Subcontractor shall then promptly deliver to Contractor a statement covering the balance owed under this Agreement for work completed prior to the termination and additional costs for which it is liable to others by reason of such termination. This statement shall be the maximum amount for which Contractor may be liable by virtue of its termination of the Subcontract.

9.2 Termination Upon Default of Subcontractor. If Subcontractor defaults on any term of this Agreement or the Contract Documents, Contractor may issue a notice giving the Subcontractor two days to correct the default. If Subcontractor fails to correct the default within that period, Contractor may, without waiving any rights or remedies it has, take whatever steps it deems necessary or appropriate to correct any deficiencies at the cost of Subcontractor, which will be liable for that cost plus Contractor's reasonable overhead, profit, and attorney fees. In addition to correcting Subcontractor's default upon the expiration of the two-day period, Contractor may issue a second notice of default giving the Subcontractor six days to correct the default. If Subcontractor fails to correct the default within that six-day period, Contractor may terminate the Subcontract, and all costs associated with completing the Subcontract Work, including reasonable overhead, profit, and attorney fees, will be deducted from any amounts owed to Subcontractor. Subcontractor is liable for any amount by which the cost of completing the Subcontractor's Work (including reasonable overhead, profit, and attorney fees) exceeds any amounts owed or to be owed to Subcontractor. If any termination for default by Subcontractor is determined to be wrongful or made in error, then the termination shall be deemed to be a termination without fault of Subcontractor and the provisions of Section 9.1 shall apply.

9.3 Contractor may terminate this Agreement upon 48 hours written notice to Subcontractor if there is (1) any delivery delay of equipment, material or supplies described in this Agreement, (2) any delay in the progress of the Subcontractor's Work due to any work stoppage, slowdown, strike, picketing, boycott, observation of picket lines, or (3) any delay in the progress of the Subcontractor's Work which, in the judgment of the Contractor, is causing or is likely to cause delay in the progress of the work to be performed at the job site.

ARTICLE 10: CLAIMS & DAMAGES

10.1 All claims, disputes and other matters in question arising out of, or relating to, this Subcontractor or the breach thereof shall be decided by Arbitration in accordance with the Construction Industry Arbitration rules of the American Arbitration Association unless the parties mutually agree otherwise. The Contractor and Subcontractor agree to conduct a mediation as a condition precedent to arbitration of any claim or dispute. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon in accordance with applicable law in any court having jurisdiction thereof. Any arbitration hearing shall be held in Grand Rapids, Michigan.

10.2 Should the Contractor enter into arbitration with the Owner or others regarding matters relating to this Agreement, the Subcontractor shall be bound by the result of the arbitration to the same degree as the Contractor.

10.3 The Subcontractor shall carry on Subcontractor's Work and maintain his progress during any arbitration proceedings. The prevailing party in any dispute arising out of or related to this Agreement or its breach shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred by the prevailing party in connection with such dispute.

10.4 If the Contract Documents allow for liquidated or other damages for delay beyond the completion date set forth in the Contract Documents, and such damages are assessed, Contractor may assess a share of the damages against Subcontractor in proportion to the Subcontractor's share of the responsibility for the delay. This section does not limit Subcontractor's liability to Contractor for Contractor's actual delay damages caused by Subcontractor's delay.

10.5 Subcontractor waives all claims against Contractor for consequential damages arising out of or relating to this Agreement, including damages for principal office expenses (which includes unabsorbed principal office expenses) and the compensation of personnel stationed there; for loss of financing, business and reputation; and for loss of profit.

ARTICLE 11: PREVAILING LAW

This Agreement shall be governed by the law in effect in Michigan.

ARTICLE 12: SAFETY

The Subcontractor has been retained as an expert for this particular Subcontractor's Work, and with respect to that Subcontractor's Work, is solely responsible for compliance with all safety requirements, including the provisions of the Occupational Safety and Health Act, the Industrial Commission of Michigan, of the Owner, or of any contractual obligations which are included by reference in this Agreement.

In connection with its obligations, Subcontractor shall perform the following:

- 12.1 Provide all project personnel with the necessary orientation and training needed for the project.
- 12.2 Prior to commencing work, submit Health and Safety Program, Hazard Communication Program (including Material Safety Data Sheets and an inventory of hazardous chemicals to be used on site) and Site-Specific Safety Plan directly to the jobsite Superintendent. These programs will be maintained on-site and recorded on file for review by any other contractors or subcontractors. Multi-employer work rules observance will be reviewed upon the pre-inspection and/or entry of the job site.
- 12.3 Before commencing work and during its progress, inspect the work site and report to Contractor's Project Superintendent or other jobsite representative any safety hazards, which may affect its employees.
- 12.4 Correct any hazards identified before commencing work on the project.
- 12.5 Provide adequate safety devices and methods for its own employees, sufficient for the risk of the assigned task.
- 12.6 If any safety devices or methods necessary for Subcontractor employees are to be provided by others, notify Contractor prior to commencement of such operations if any are missing or defective.
- 12.7 Reinstall any safety devices removed for construction operations immediately upon cessation of the construction operations.
- 12.8 Attend the project safety meeting held weekly after the project construction meeting.
- 12.9 Provide and require utilization of all necessary personal protective equipment, including but not limited to, hard hats, safety harnesses, lanyards, and other equipment.
- 12.10 Report all injuries to Contractor's Project Superintendent, as well as their own Company representative. In addition, a Report of Accident form shall be submitted to Contractor within one week of injury.
- 12.11 Should Contractor encounter any safety hazard created by the Subcontractor, it may, without notice, correct the hazard created or permitted by the Subcontractor and back charge the Subcontractor for the cost of such item.
- 12.12 Subcontractor shall defend, indemnify and hold harmless Contractor for all losses and damages (including attorney fees) with respect to any compliance with the Occupational Safety and Health Commission or safety obligations imposed by the Industrial Commission for violation of specific requirements that may occur with respect to Contractor or its employees for the Subcontractor's failure to comply with any applicable safety regulations. Subcontractor shall defend, indemnify, and hold Contractor harmless from any and all deaths, bodily injuries, property damage or other loss occasioned by Subcontractor's failure to comply with its safety obligations.
- 12.13 Contractor shall indemnify and hold harmless the Subcontractor with respect to any compliance with the Occupational Safety and Health Commission or safety obligations imposed by the Industrial Commission for violation of specific safety requirements that may occur with respect to the Subcontractor or its employees for Contractor's failure to comply with any applicable safety regulations. Contractor shall indemnify and hold the Subcontractor harmless from any and all deaths, bodily injuries, property damage or other loss occasioned by Contractor's failure to comply with its safety obligations.

ARTICLE 13: MISCELLANEOUS

13.1 Manner of Acceptance. By shipping goods, by acknowledging receipt of this Agreement, or by commencing the Subcontractor's Work, Subcontractor agrees to the terms and conditions contained in this Agreement, although its agreement to such terms and conditions is not limited to the foregoing methods. This Agreement may be accepted by Subcontractor without signature.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the date set forth above.

Witness

By _____

Date: _____

Subcontractor:

By _____

Date: _____

Federal Tax ID# _____

Witness

By _____

Date: _____

Contractor:

Angstrom Technology

By _____
Corey Tinker – Accountant

Date: _____

Attachment 1

Subcontractor's Minimum Insurance Requirements

Commercial General Liability (CGL)

- 1,000,000 Each Occurrence
- 2,000,000 General Aggregate
- 2,000,000 Products/Completed Operation
- CGL shall include aggregate per project (GC2503)
- CGL shall apply as primary and non-contributory with respect to any other insurance which covers the additional insured
- CGL shall include Angstrom Technology, The Prime Contractor and The Owner, the Engineer and all others as required by contract as additional insured using ISO forms CG2010 (10/01) and CG2037 (10/01) or a substitute form that includes completed operations coverage
- CGL shall include a Waiver of Subrogation Endorsement (CG2404A) in favor of the Additional Insureds
- Subcontractor shall maintain CGL insurance for at least 3 years after final acceptance of the work
- 30-Days Notice of Cancellation (except 10 Days for Non-Payment of Premium)

Automobile Liability (Auto)

- 1,000,000 Combined Single Limit to cover bodily injury and property damage arising out of the ownership, maintenance, or use of any owned, non-owned and hired vehicles.
- Auto shall include Angstrom Technology, The Prime Contractor and The Owner, the Engineer and all others as required by contract as additional insured
- Auto shall include a Waiver of Subrogation Endorsement in favor of the Additional Insureds
- 30-Days Notice of Cancellation (except 10 Days for Non-Payment of Premium)

Workers' Compensation Including Employers Liability (WC)

- Subcontractor shall maintain workers compensation coverage meeting the requirements of applicable law
- Employees Liability
- \$1,000,000 Each Accident
- \$1,000,000 Each Employee
- \$1,000,000 Policy Limit
- WC shall include a Waiver of Subrogation Endorsement (WC000313) in favor of the Contractor and Owner
- 30-Days Notice of Cancellation (except 10 Days for Non-Payment of Premium)

Umbrella Liability

- \$3,000,000 Occurrence
- \$3,000,000 Aggregate including Products Completed Operations
- Umbrella Shall include Angstrom Technology, The Prime Contractor and The Owner, the Engineer and all others as required by contract as additional insured
- Umbrella shall include a Waiver of Subrogation Endorsement in favor of the Additional Insureds
- 30-Days Notice of Cancellation (except 10 Days for Non-Payment of Premium)

Attachment 2

SCOPE OF WORK (Drawings and Specifications)