



VENDOR AND CONTRACTOR AGREEMENT

SUMMARY OF TERMS

A.	Date of Contract	
B.	Landlord (Owner)	[INSERT ENTITY HERE] c/o ProEquity Asset Management Corporation
C.	Vendor	
D.	Vendor License # (If required for such work)	
E.	Premises / Job Location	
F.	Contract Amount	
G.	Estimated Start Date	
H.	Estimated End Date	
I.	Notice to Landlord (Owner)	[INSERT ENTITY HERE] c/o ProEquity Asset Management Corporation 4980 Hillsdale Circle, Suite A El Dorado Hills, CA 95762
J.	Notice to Vendor	
K.	Billing Schedule	Monthly, net 30.

THIS AGREEMENT (the "Agreement") is made and entered into as of date in Section A of the Summary of Terms, by and Landlord and Vendor.

RECITALS

WHEREAS, Landlord desires to engage Vendor to provide certain services on Landlord's property located at Premises pursuant to Section E of the Summary of Terms.

WHEREAS, ProEquity Asset Management Corporation ("ProEquity") has authority from Landlord to execute this Agreement on behalf of Landlord.

DEFINITIONS

The terms used in this Agreement shall have the following meanings:

"Services" shall mean the scope of work set forth in the attached Exhibit "A."

"Change Order" shall mean a written change order signed by both Landlord, by its agent ProEquity, and Vendor. All Change Orders must include the following: (1) a detailed summary of the scope of work that exceeds the Services (the "Extra Work"); (2) a price for the Extra Work, and in the case of unit priced items (i.e. materials) the price per unit; and (3) signature by both Vendor and Landlord accepting the written Change Order.

"Billing Backup" shall be a written billing statement delivered to Landlord by Vendor summarizing, in detail, all work performed by Vendor for which Vendor is seeking payment. For any invoices that include materials, permit fees, subcontracted labor, or any other third-party costs (i.e. monies advanced or owed by Vendor to complete the Services), collectively "Costs", Vendor must provide written documentation

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evidencing the Cost including, but not limited to, bills, invoices, purchase orders, receipts, and/or any other written documentation evidencing such Costs were incurred to complete the Services as reasonably requested by Landlord.

"Payment Due Date" shall thirty (30) days from the date Landlord receives an invoice supported by the required Billing Backup.

NOW THEREFORE, incorporating the Recitals and Definitions as set forth above, and in consideration of the mutual covenants herein contained, Landlord and Vendor mutually hereby agree as follows:

ARTICLE I TERM

Landlord hereby employs Vendor and Vendor hereby accepts employment to perform the Services set forth in Exhibit A until complete. In the case of a monthly service contract, either party may terminate this Agreement upon thirty (30) days written notice unless property is sold per section 5.3 of this agreement; however, Landlord shall have the right to immediately terminate Vendor for Cause, as defined hereafter.

ARTICLE II SCOPE OF SERVICES

2.1 *Scope of Services.* Vendor is authorized to provide the Services set forth in Exhibit A, and Vendor shall provide no Extra Work absent a written Change Order that complies with this Agreement. Vendor expressly represents, and Landlord directly relies, on Vendor's express representation that no Extra Work will be provided and/or claimed unless Vendor has first obtained a written Change Order as defined above.

2.2 *Change Order Procedure.* In the event Vendor determines Extra Work is necessary to complete the Services, Vendor shall immediately provide Landlord with a written Change Order, using the Landlord's form (sample attached in exhibit C or can be downloaded at <http://proequityam.com/vendors/>) including all of the information set forth in the Definitions above, to Landlord for review. Landlord shall have five (5) business days to accept or reject the proposed Change Order. If Landlord does not deliver a signed Change Order within five (5) days of delivery, Landlord shall be deemed to have rejected the proposed Change Order. **VENDOR SHALL NOT COMMENCE ANY WORK WITHIN THE CHANGE ORDER IN ADVANCE OF APPROVAL.**

2.3 *Landlord's Request for Additional Services.* In the event Landlord desires additional services from Vendor, Landlord will provide Vendor with a written request for bid for such additional services. Vendor shall provide Landlord with a written Change Order in response to Landlord's request for bid. Landlord's request for additional services shall not be deemed an approval of authorization for extra work absent a fully executed Change Order.

2.4 *Emergency Change Order.* In the event of an emergency, Landlord may authorize Vendor to perform "Emergency Extra Work" without a prior written Change Order based on a phone call or oral authorization from Landlord. In the event Vendor performs Emergency Extra Work, Vendor shall submit a written Change Order within forty-eight (48) hours of performing the Emergency Extra Work

2.5 *Timelines.* In the event the Services include construction work, Vendor shall, in advance of commencement of work, supply the Landlord and Landlord's agents with an estimated timeline that shall include pre-construction scheduling, permitting and complete milestones and subcontractor schedules.

2.6 *Prior to Commencement of Services.* Vendor is to provide all documentation in listed in Exhibit B1 attached hereto.

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**ARTICLE III
PAYMENT**

The compensation shall be as follows:

3.1 *Payment Schedule.* Landlord shall pay Vendor within thirty (30) days following the completion of the Services or thirty (30) days following expiration of a period in the event of a periodic contract (i.e. monthly, quarterly, or annually), or pursuant to Section K of the Summary of Terms, and upon Vendor's delivery of an invoice and acceptable Billing Backup.

3.2 *Payment of Construction Work.* In the event the Services include construction work, and as a condition to release of periodic payments, Tenant shall provide to Landlord for each such release the required list in Exhibit B2 (Progress Payments), Within thirty (30) days after receipt of items Landlord shall issue a check in the amount of the payment. Upon completion of the Services, the balance of the payment for the Services shall be paid within ten (10) days after Landlord's receipt of the following Exhibit B3 (Final Payment). In addition and as a condition to final payment, Vendor shall supply Landlord a list of all warranties in a manner using Exhibit D as the template for such submission. They shall also supply Landlord with copies (or originals, as applicable) of all warranties, including but not limited to manufacture's warranties, or service warranties.

3.3 *Retention.* In the event the Services include construction work, Vendor shall withhold 10% of all progress billing as retention until services are complete and all items in Section 3.2 have been fulfilled.

3.4 *Payment and Billing:* Vendor must submit invoices in a timely manner, detailing out the work performed, property name where services rendered, date of service, Bill to must name Ownership entity, and payment remit to address; **ALL must be listed on** invoices and submitted to: ap@proequityam.com in order to be processed.

3.5 *Disputed Billing.* In the event a dispute arises regarding Vendor's billing of Billing Backup, Landlord shall pay the undisputed amounts, and Vendor must continue the Services. In the event the parties cannot resolve any billing dispute, the parties agree to mediate the dispute with a mutually acceptable mediator (mediator's costs to be shared equally). In the event either party refuses to mediate the dispute after demand from the other party, the party who refuses such mediation shall not be entitled to collect attorney's fees and costs under this Agreement.

Landlord's Initials

Vendor's Initials

**ARTICLE IV
INSURANCE AND INDEMNIFICATION**

4.1 *Liability Insurance.* Landlord will require that all parties performing construction or other work on or with respect to the Property, including without limitation contractors, general contractor, architects, engineers, designers, space planners, sub-contractors and service providers (each a "Contractor"), maintain insurance coverage, at such Contractors expense, to include:

1. Commercial General Liability Insurance: Limits not less than Two Million Dollars (\$2,000,000) written on a applying separately to each property.
2. Worker's Compensation Insurance: Statutory limits, with Agent as named insured, and including a "Waiver of Subrogation in favor of Owner and Agent".
3. If providing management or consulting services, Professional Liability Insurance (E&O): For all professional services provided by Agent, including Construction Management where applicable, with limits not less than Five Hundred Thousand (\$500,000).
4. Automobile Liability Insurance: Covering owned, non-owned and hired vehicles, with limits not less than Two Million Dollars (\$2,000,000).

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5. Such other insurance coverage and/or insurance limits as Owner reasonably deems advisable for protection against claims, liabilities and losses arising out of or in connection with the operation of the Property.
6. Insurance coverage requirements can be satisfied with an Umbrella or excess liability policy.
 - Minimum acceptable A.M. Best's rating of each insurer is A-: VII.
 - Vendor must obtain Owner's written permission to waive any of the above requirements.
 - Higher policy limits may be required by Landlord if the work to be performed is deemed by Landlord to be hazardous.
 - Certificates of insurance must be delivered prior to commencement of work.
 - Landlord will be named as an Additional Insured with respect to Automobile Liability and Commercial General Liability insurance, including any Umbrella or Excess policies.

Proof of insurance shall be provided using ACCORD form.

4.2 Indemnification. Vendor shall defend, indemnify and hold harmless Landlord, its principals, officers, directors, shareholders, partners, employees and agents (individually and collectively, the "Indemnitees") from and against all liability, claims, suits, damages, judgments, costs and expenses of whatever nature, including attorneys' fees and disbursements to which the Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of any property, Landlord's ownership of the Premises, or otherwise in connection with the performance or nonperformance of Vendor's obligations under this Agreement.

ARTICLE V TERMINATION

5.1 Termination of Contract. Notwithstanding the provisions of Article I above to the contrary, either party may terminate this Agreement at its election, provided only that at least thirty (30) days written notice of such termination is given to the other party.

5.2 Obligations Upon Termination. Upon termination of this Agreement, for whatever reason, each party shall promptly pay to the other, as soon as the same is determinable after the effective date of termination, all amounts due such other party under the terms of this Agreement, and upon such payment neither party shall have any further claim or right against the other, except as expressly provided hereinafter. Upon termination for whatever cause, Vendor shall, no later than the effective date of termination, deliver to the Landlord all documents in its possession related to the Services for the Premises, including but not limited to: all books, permits, plans, records, leases, licenses, contracts and other documents pertaining to the Premises.

5.3 Termination due to close of escrow, foreclosure or trustee sale. Notwithstanding any provision herein, each party acknowledges that this contract shall terminate upon the close of escrow, foreclosure or trustee sale or other conveyance of title or deed of trust. Landlord or Manager shall make reasonable effort to provide notification to the Vendor prior to sale but shall not be required to terminate upon sale. Vendor shall not cause to penalize or cause to charge Landlord any termination fee and shall be limited to work actually completed.

ARTICLE VI MISCELLANEOUS PROVISIONS

6.1 Headings. The headings used herein are for purposes of convenience only and should not be used in constructing the provisions hereof.

6.2 Notice. Any notice, demand or communication required or permitted hereunder shall be deemed effectively given when mailed, postage prepaid, addressed to the following addresses or to such other addresses as any party may hereafter designate by written notice fax or email. Notice address are defined within Section I and J of the Summary of Terms.

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6.3 *Relationship of the Parties.* Vendor is an independent contractor hired by the Landlord pursuant to the terms hereof. ProEquity is an authorized agent of Landlord, and has full authority to enter into this Agreement on Landlord's behalf.

6.4 *Entire Agreement.* This document represents the entire agreement between the parties with respect to the subject matter hereof, and to the extent inconsistent therewith, supersedes all other prior agreements, representations, and covenants, oral or written. Amendments to this Agreement must be in writing and signed by both parties.

6.5 *Assignment.* Vendor shall not have the right to assign its rights and obligations hereunder to a third party, but Landlord may assign this Agreement to a successor-in-interest.

6.6 *Successors and Assigns.* Subject to the limitations concerning assignment, this Agreement shall be binding upon and inure to the benefit of the parties, their heirs, legal representatives and successors.

6.7 *Time of the Essence.* Time is of the essence of this Agreement.

6.8 *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California. The parties expressly agree that this Agreement is made, is to be performed, and the obligations and liabilities arise in the County in which the Premises is located.

6.9 *Severability.* Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal for any reason whatsoever, such provision shall be severed from the Agreement and shall not affect the validity of the remainder of this Agreement.

6.10 *Authority.* ProEquity hereby certifies that it is duly authorized to execute the foregoing Agreement and that the Agreement, when so executed, will be binding upon the Landlord in accordance with its terms and no further authorization is required.

6.11 *Exculpation of Landlord and Manager.* It is expressly understood and agreed that notwithstanding anything in this agreement to the contrary, and notwithstanding any applicable law to the contrary, the liability of Landlord and ProEquity, hereunder (including any successor landlord hereunder) and any recourse by Vendor against Landlord shall be limited solely and exclusively to the interest of Landlord in property, and neither Landlord, manager, nor any of its officers, directors, constituent partners or sub-partners, shall have any personal liability therefor, and Vendor, on behalf of itself and all persons claiming by, through or under Vendor, hereby expressly waives and releases Landlord and such officer, directors, partners and sub-partners from any and all personal liability.

6.12 *Exhibit Conflicts.* To the extent there is any conflict between language in the main body of this agreement and its exhibits, the language in the main body shall control and supersede any representation in the exhibits.

6.13 *Countersignature.* This Agreement may be signed electronically. This signature certifies that the Agreement has been approved by both the signer and the other party. Original signature is not needed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

Landlord (Owner)	Vendor
[INSERT ENTITY HERE] By: ProEquity Asset Management Corporation, Authorized Agent for Landlord (Owner)	[ENTER VENDOR NAME HERE]
	X
By: [Name of Signing Party]	Print Name:
Date	Date

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Exhibit A
Scope of Work

Property of ProEquity Asset Management

SAMPLE

**Exhibit B1
(Prior to Commencement of Work)**

1.	List of Subcontractor	A current / updated list of all contractors present on job site. List shall include: name, contact, contact phone and email, address, license number.
2.	Proof of Insurance	Current insurance naming Landlord and Landlord's agent as additionally insured. If there are subcontractors, master contractor shall provide proof of insurance for each and every subcontractor.
3.	License Information	Confirmation of good standing for all appropriate licenses managed by the local, state or federal regulation.
4.	W9	Current Executed W9

Property of ProEquity Asset Management

SAMPLE

**Exhibit B2
Progress Payment**

The following items are required prior to progress payment:

5.	Progress Photos	Progress showing the work condition for all requested payment items.
6.	PDF of Plans	For first progress payment only. PDF of the final set of plans approved by the municipality.
7.	Update List of Subcontractors:	A current / updated list of all contractors present on job site. List shall include: name, contact, contact phone and email, address, license number.
8.	Contractor/Subcontractor Information:	Copies of all contractors and subcontractor certificates of insurance and copies valid lices
9.	Invoices	Copy of all itemized invoices from Venders or sub-contractors seeking payments
10.	Conditional Lien Releases:	Signed conditional lien releases from all contractors/sub-contractor and suppliers seeking payment.

**Exhibit B3
Final Payment**

The following items are required prior to final payment:

11.	Progress Photos	Progress showing the work condition for all requested payment items.
12.	PDF of Plans	For first progress payment only. PDF of the final set of plans approved by the municipality.
13.	List of Subcontractors:	A current / updated list of all contractors present on job site. List shall include: name, contact, contact phone and email, address, license number.
14.	Contractor/Subcontractor Information:	Copies of all contractors and subcontractor certificates of insurance and copies valid licenses
15.	Invoices	Copy of all itemized invoices from Venders or sub-contractors seeking payments
16.	Unconditional Lien Releases on all Vendors, sub-vendors:	Signed unconditional lien releases from all contractors/sub-contractor and suppliers seeking payment.
17.	Exhibit D	Warranty Summary per template contained herein
18.	Warranties Documents	Copies or originals of all warranties, manuals and documentation.

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Exhibit C

Change Order Sample (THIS FORM CAN BE DOWNLOADED AT: <http://proequityam.com/vendors/>)

1.	Change Order #	
2.	Date of Change Order	
3.	Project Name <i>(enter name and address)</i>	
4.	Contractor <i>(name, address and license number)</i>	
5.	The contract is changed as follows	
6.	Original contract price:	\$
7.	Net change by previous Change Orders:	\$
8.	Adjusted total prior to this Change Order: <i>(state increase/decrease/unchanged)</i>	\$
9.	New adjusted contract price:	\$
10.	Previous date of substantial completion: <i>(prior to this Change Order)</i>	
11.	New date for substantial completion:	

CONTRACTOR ACKNOWLEDGES THAT THIS CHANGE ORDER IS NOT VALID OR AUTHORIZED UNTIL EXECUTED BY ALL PARTIES:

Landlord (Owner)	Vendor
[ENTER OWNERSHIP ENTITY] By: ProEquity Asset Management Corporation, Authorized Agent for Landlord (Owner)	[ENTER VENDOR NAME]
PRINT NAME OF SIGNING PERSON:	PRINT NAME OF SIGNING PERSON:
Date	Date

Landlord (Owner) Construction Manager
XXXXXXXXXXXXXXXX By: ProEquity Asset Management Corporation, Authorized Agent for Landlord (Owner)
PRINT NAME OF SIGNING PERSON:
Date

Initials: _____ / _____

