

Subcontract Agreement

Aslan Construction, Inc.

640 E. Eisenhower, Ste. 2, Loveland, CO 80537 mail@aslanconstruction.com 970-593-9669 phone/970-593-6996 fax

Project:	[Project Name]	Purchase Order:	Year-Award-Number
Owner:	[Owner] [Address] [Address]	Tax Exempt No.:	[TBD]
Engineer:	[Engineer] [Address] [Address]	Pay-ap close:	[Per Specifications]
Billing Address:	Aslan Construction, Inc. 640 E. Eisenhower, Ste. 2 Loveland, CO 80537	Delivery Address:	[Jobsite address]
Admin. Contact:	[Project Manager] (970) 593-9669	Field Contact:	[Superintendent] [Phone]

Scope of work:

Provide materials and labor complete per drawings and specification:

Inclusions:**Exclusions:****Amended:****Contract Amount:**

Attachments C & D are made a part of this contract.

Buyer: Aslan Construction, Inc.**Seller:** [Subcontractor]**Signed:** _____**Signed:** _____**Name:** [Project Manager]**Name:** _____**Title:** Project Manager**Title:** _____**Date:** [Date]**Date:** _____

Attachment C

[Project Name]

[Subcontractor]

PLANS AND SPECIFICATIONS

All materials, equipment, workmanship and service will be in accordance with Contract Documents as prepared by [Engineering Firm]. Performance under the Agreement must conform to applicable parts of the specifications, whether or not specifically referenced in the specification section used to define the scope of work. This includes, but is not limited to: [Spec Section] – General Conditions, [Spec Section] – Supplementary Conditions, [Spec Section] – Summary of Work and [Spec Section] – Submittals.

DELIVERY SCHEDULE

Item	Provided By
Schedule of Values	Date
Insurance Requirements and W9	Date
Activity List for Scheduling	Date
Product Submittals	Date
Warranty Proposal	Date
O&M Manuals	Date
Startup proposal	Date
Spare Parts	One week after substantial completion
Equipment Representative Services	Schedule with 2 weeks notice
Confirmation of Warranty	2 weeks after substantial completion of the work
Final As-built Drawings	One week after substantial completion
Final Lien Release	Prior to final payment

SCHEDULE OF VALUES

A schedule of values shall be provided by the date indicated above. The schedule shall be separated by work area and activity, and shall be of satisfactory detail to allow monitoring of work progress, and verification of pay applications.

W9

Enclosed is a W9 form. Payment cannot be made until a completed form is returned to our office.

INSURANCE

Prior to the commencement of any work, Subcontractor shall furnish a certificate of insurance to show that the insurance specified in this contract is in force. Approval, disapproval or failure to act by the Contractor regarding any insurance supplied by the Subcontractor shall not relieve the Subcontractor of full responsibility or liability for damages and accidents.

A. Commercial General Liability:

General Aggregate	\$ 2,000,000
Products - Completed Operations Aggregate	\$ 2,000,000
Each Occurrence	\$ 1,000,000
Personal Injury	\$ 1,000,000

The following are endorsements required:

- Aslan Construction, Inc. and Owner, their subsidiaries, directors, officers, employees, and agents shall be included as Additional Insureds for Ongoing Operations and for Completed Operations.
- The policy shall be endorsed to be primary and non-contributory with any insurance maintained by Aslan Construction, Inc. and Owner, their subsidiaries, directors, officers, employees and agents.

B. Workers' Compensation and Employer's Liability:

Statutory Coverage:	As required by the State in which the Work is performed.
Employers Liability Coverage:	\$ 1,000,000 Each Accident \$ 1,000,000 Disease, Policy Limit \$ 1,000,000 Disease, Each Employee
Waiver of Subrogation	Endorsement included in favor of Contractor and Owner.

ACTIVITY LIST FOR SCHEDULING

An activity list for use in project scheduling shall be provided by the date indicated above for all subcontract work. The activity list must indicate the expected duration of each activity comprising the entire scope of work. The work must be broken down sufficiently so that no activity is in excess of a 10 day duration. Subcontractors shall fully describe all work they wish to have completed prior to the start of each activity.

Monthly progress updates shall be provided with pay applications, showing completion percentages of activities included in the approved schedule. Pay applications will not be processed without progress updates which support the billing.

PRODUCT SUBMITTALS

Submittals shall be furnished with [# Per Specifications] copies ([Per Specifications] if electrical and mechanical connections required) by the date indicated above. After review by the Engineer, 1 copy will be returned to the Subcontractor. Submittals shall conform to the requirements of specification section [Spec Section] – Submittals.

Any deviations from the contract specification must be noted on the submittal cover page, including an explanation of the reason for the variance. Submittal approval does not constitute acceptance of variations to the specifications unless specifically acknowledged and accepted by the Engineer and Aslan Construction, Inc.

The delivery schedule is based on submittals being satisfactory to receive a review action of “approved” or “approved as noted” on first review by the Engineer, which constitutes a release for production (delivery schedule to be confirmed with Aslan Construction, Inc. at that time). In the event that initial submittals are rejected, the Subcontractor shall, at their own cost, accelerate the fabrication schedule to maintain delivery commitments in the contract.

In the event that resubmittal is required, a summary sheet shall be provided describing how each comment by the Engineer has been addressed. Any comments which are unclear to the Subcontractor should be clarified through the Contractor prior to resubmittal.

WARRANTY

Refer to Attachment “D” and specifications. Subcontractors are bound by the requirements of section [Spec Section] - Warranty, as well as any requirements specific to the scope of supply under this contract. A warranty submittal shall be provided in accordance with the above schedule, and shall include terms of warranty such that they are in compliance with the General Contract. The submittal shall include instructions for pursuing warranty correction, warranty contact information (with phone number, fax number, shipping address and mailing address), and confirmation of warranty period, which shall begin upon recognition of substantial completion of the work by the Owner. Confirmation of warranty shall be provided within two weeks of substantial completion listing the warranty expiration date.

O&M MANUALS

Submit [# Per Specifications] copies of O&M Manuals to Aslan Construction, Inc., Inc. in accordance with above schedule (not to exceed 30 days after submittal approval). O&M manuals shall meet the requirements described above for submittals, and shall comply with the requirements of specification section [Specification Section].

STARTUP PROPOSAL

Services shall be provided as required by the specifications. A proposal shall be submitted in accordance with the above schedule (not to exceed 30 days after submittal approval), which describes all activities that will occur during the on-site visit, including the estimated duration for each activity. The proposal shall describe in detail all accommodations that must be made before and during the visit, and what construction must be complete to allow services to occur. Where training is required, a training outline and schedule shall be included.

SPARE PARTS

Spare parts shall be supplied in accordance with the above schedule, and packaged separately from other material supplied under the contract. The packaging shall be clearly labeled as "Spare parts" and shall indicate the specification section describing the material.

EQUIPMENT REPRESENTATIVE SERVICES

On-site services shall be scheduled by Aslan Construction, Inc. with two weeks notice. Subcontractor may be responsible for multiple visits if service requirements are not consistent with the approved startup proposal (as described above).

Manufacturer's representative shall meet with Aslan Construction, Inc., the Engineer, and the Owner prior to beginning on-site services. Services shall be documented by the manufacturer's representative during the visit on forms provided by Aslan Construction, Inc., or on manufacturer's standard forms if acceptable to Aslan Construction, Inc. Included in the documentation shall be a description of any problems identified, and a plan for addressing the difficulties.

FINAL AS BUILT DRAWINGS

Each Subcontractor shall keep a record of construction changes specific to their scope of work, which is updated not less than every two weeks. These shall be transferred by the Subcontractor to a set of record drawings kept by Aslan Construction, Inc. within five days of request (to be requested periodically as needed). Subcontracts shall review and update a final set of drawings at the end of the project, and is to be turned over to the Owner.

COATINGS/PAINTING

Refer to [Specification Section] of the Contract Specification for surface preparation and coating requirements. When only shop prime coatings are being provided, they shall be coordinated with the contractor for compatibility with additional coatings. Special care is to be used in loading and shipment to minimize damage to the paint system.

PAYMENT

Subcontractor invoices received by the [Per Specifications] of the month will be submitted to the Owner for payment for work in place and in satisfactory condition as of that date.

CHANGE ORDERS

Subcontractors must submit written request for change order within seven days of when change order issue is identified. The request shall include explanation of what the current contract requires, and what conditions have changed to require work not under contract.

COMMUNICATION WITH THE ENGINEER

Subcontractors are encouraged to communicate with the Engineer on an informal basis to aid in understanding or solving problems. No agreements or understanding shall be considered to modify or clarify the contract unless agreed to in writing through Aslan Construction, Inc. Aslan Construction, Inc. may instruct that direct communication with the Engineer (as related to this contract) be discontinued at any time.

Subcontractor Terms and Conditions

1. SUBCONTRACT WORK

To the extent terms of the agreement between Owner and Contractor (prime agreement) apply to the work of Subcontractor, Contractor assumes toward Subcontractor all obligations, right, duties, and redress that Owner assumes toward Contractor. In an identical way, Subcontractor assumes toward Contractor all obligations, right, dues, and redress that Contractor assumes toward Owner and others under the prime agreement. IN the event of conflicts or inconsistencies between provisions of this Agreement and the prime agreement, this Agreement shall govern. Subcontractor shall perform Subcontract Work under the general direction of Contractor and shall cooperate with Contractor so Contract may fulfill obligations to Owner. Subcontractor shall provide Subcontract Work for the Project in accordance with the Progress Schedule to be prepared by Contractor after consultation with Subcontractor, and as it may change from time to tome. Subcontractor shall give timely notices to authorities pertaining to Subcontract Work and shall be responsible for all permits, fees, licenses, assessments, inspections, testing and taxes necessary to complete Subcontract Work.

2. INSURANCE

Subcontractor shall purchase and maintain insurance that will protect Subcontractor from claims arising out of Subcontractor operations under this Agreement, whether the operations are by Subcontractor, or any of Subcontractor's 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.

3. SAFETY

To protect persons and property, Subcontractor shall establish safety program implementing safety measures, policies and standards conforming to (1) those required or recommended by governmental and quasi-governmental authorities having jurisdiction and (2) requirements of this Agreement. Subcontractor shall keep project site clean and free from debris resulting from subcontract Work.

4. ASSIGNMENT

Subcontractor shall not assign the whole or any part of Subcontract Work or this Agreement with out prior written approval of Contractor.

5. TIME

TIME IS OF THE ESSENCE

Time is of the essence for both parties. The parties agree to perform their respective obligations so that the Project may be completed in accordance with this Agreement.

SCHEDULE

In consultation with Subcontractor, the Contractor shall prepare the schedule for performance of Contractor's work (Progress Schedule) and shall revise and update such schedule, as necessary, as Contractor's work progresses. Subcontractor shall provide Contractor with any scheduling information proposed by Subcontractor for Subcontract Work and shall revise and update as Project progresses. Contractor and Subcontractor shall be bound by the progress Schedule. The Progress Schedule and all subsequent changes and additional details shall be submitted to Subcontractor reasonably in advance of required performance. Contractor shall have the right to determine and, if necessary, change the time, order and priority in which various portions of Subcontract Work shall be performed and all other matters relative to subcontract Work.

6. CHANGE ORDERS

When Contractor orders in writing, Subcontractor, without nullifying this Agreement, shall make any and all changes in subcontract Work, which are within the general scope of this Agreement. Any adjustments in the Subcontract Amount or time of performance shall be authorized by a Change Order. No adjustments shall be made for any changes performed by Subcontractor that have not been ordered by Contractor. A Change Order is a written instrument prepared by Contractor and signed by Subcontractor stating their agreement upon the change in Subcontract Work. If commencement and/or progress of Subcontract Work is delayed without the fault or responsibility of Subcontractor, the time for Subcontract Work shall be extended by Change Order to the extent obtained by Contractor, and the Progress Schedule shall be revised accordingly.

7. PAYMENT

SCHEDULE OF VALUES

As a condition of payment, Subcontractor shall provide a schedule of values satisfactory to Contractor not more than fifteen (15) days from the date of this Agreement.

PROGRESS AND FINAL PAYMENTS

Progress payment, less retainage, shall be made to Subcontractor, for Subcontract Work satisfactorily performed, no later than seven (7) days after receipt by Contractor of payment from Owner for Subcontract Work. Final payment of the balance due shall be made to Subcontractor no later than seven (7) days after receipt by Contractor of final payment from Owner for Subcontract Work. These payments are subject to receipt of such lien waivers, affidavits, warranties, guarantees or other documentation required by this Agreement of Contractor. If payment from Owner for such Subcontract Work is not received by Contractor, though no fault of Subcontractor, Contractor will make payment to Subcontractor within a reasonable time for Subcontract Work satisfactorily performed.

PAYMENTS WITHHELD

Contractor may reject a Subcontractor payment application or nullify a previously approved Subcontractor payment application, in whole or in part, as may reasonable be necessary to protect Contractor from loss or damage caused by Subcontractor's failure to (1) timely perform Subcontract Work, (2) properly pay subcontractors and/or suppliers, or (3) promptly correct rejected, defective or nonconforming Subcontract Work.

WAIVER OF CLAIMS

Final payment shall constitute a waiver of all claims by Subcontractor relating to Subcontract Work, but shall in no way relieve Subcontractor of liability for warranties, or for nonconforming or defective work discovered after final payment.

8. INDEMNITY

To the fullest extent permitted by law, subcontractor shall defend, indemnify and hold harmless Contractor, Contractor's other subcontractors, Architect/Engineer, Owner and their agents, consultants, employees and others as required by this Agreement from all claims for bodily injury and property damage that may arise from performance of Subcontract Work to the extent of the negligence attributed to such acts or omissions by Subcontractor, Subcontractor's subcontractors or anyone employed directly or indirectly by any of them or by anyone for show acts any of them may be liable.

9. CONTRACTOR'S RIGHT TO PERFORM SUBCONTRACTOR'S RESPONSIBILITIES AND TERMINATION OF AGREEMENT

FAILURE OF PERFORMANCE

Should Subcontractor fail to satisfy contractual deficiencies or not commence and continue satisfactory correction of the default with diligence or promptness within three (3) working days from receipt of Contractor's written notice, then Contractor, without prejudice to any right or remedies, shall have the right to take whatever steps it deems necessary to correct deficiencies and charge the cost thereof to Subcontractor who shall be liable for such payment, including

reasonable overhead, profit and attorneys' fees. In the event of an emergency affecting safety of persons or property, Contractor may proceed as above without notice, but Contractor shall give Subcontractor notice promptly after the fact as a precondition of cost recovery.

TERMINATION BY OWNER

Should Owner terminate the prime agreement or any part which includes Subcontract Work, Contractor shall notify Subcontractor in writing within three (3) days of termination, and upon written notification, this Agreement shall be terminated and Subcontractor shall immediately stop subcontract Work, follow all of Contractor's instructions, and mitigate all costs. In the event of Owner termination, Contractor liability to Subcontractor shall be limited to the extent of Contractor recovery on Subcontractor's behalf under the prime agreement. Contractor agrees to cooperate with Subcontractor, at Subcontractor's expense, in the prosecution of any Subcontractor claims arising out of Owner termination and to permit Subcontractor to prosecute the claim, in the name of Contractor, for the use and benefit of Subcontractor, or assign the claim to Subcontractor.

TERMINATION BY CONTRACTOR

If Subcontractor fails to commence and satisfactorily continue correction of a default within three (3) days after written notification issued under Paragraph 9.1, then Contractor may, in lieu of or in addition to Paragraph 9.1, issue a second written notification, to Subcontractor and its surety, if any. Such notice shall state that if Subcontractor fails to commence and continue correction of a default within seven (7) days of the written notification, the Agreement will be deemed terminated. A written notice of termination shall be issued by Contractor to Subcontractor at the time subcontractor is terminated. Contractor may furnish those materials, equipment and/or employ such workers or subcontractors as Contractor deems necessary to maintain the orderly progress of Contractor's work. All costs incurred by Contractor in performing Subcontractor Work, including reasonable overhead, profit and attorney's fees, costs and expenses, shall be deducted from any monies due or to become due Subcontractor. Subcontractor shall be liable for payment of any amount by which such expense may exceed the unpaid balance of the Subcontract Amount. At Subcontractor's request, Contractor shall provide a detailed accounting of the costs to finish subcontract Work.

10. CLAIMS AND DISPUTES

CLAIMS RELATING TO CONTRACTOR

Subcontractor shall give Contractor written notice of all claims within seven (7) days of Subcontractor's knowledge of facts giving rise to the event for which claim is made; otherwise, such claims shall be deemed waived. All unresolved claims, disputes and other matters in question between Contractor and Subcontractor shall be resolved in the manner provided in this Agreement.

DAMAGES

If the prime agreement provides for liquidated or other damages for delay beyond the completion date set forth in this Agreement, and such damages are assessed, Contractor may assess a share of the damages against Subcontractor in proportion to Subcontractor's share of responsibility for the delay. However, the amount of such assessment shall not exceed the amount assessed against Contractor. Nothing in this Agreement shall be construed to limit Subcontractor's liability to Contractor for contractor's actual delay damages caused by Subcontractor's delay.

WORK CONTINUATION AND PAYMENT

Unless otherwise agreed in writing, Subcontractor shall continue Subcontract Work and maintain the Progress Schedule during any dispute resolution proceedings. If Subcontractor continues to perform, Contractor shall continue to make payments in accordance with this Agreement.

MULTIPARTY PROCEEDING

The parties agree, to the extent permitted by the prime agreement, that all parties necessary to resolve a claim shall be parties to the same dispute resolution proceeding. To the extent disputes between Contractor and Subcontractor involve in whole or in part disputes between Contractor

and Owner, disputes between Subcontractor and Contractor shall be decided by the same tribunal and in the same forum as disputes between Contractor and Owner.

STAY OF PROCEEDINGS

In the event that provisions for resolution of disputes between Contractor and Owner contained in the prime agreement do not permit consolidation or joinder with disputes of third parties, such as Subcontractor, resolution of disputes between Subcontractor and Contractor involving in whole or in part disputes between Contractor and Owner shall be stayed pending conclusion of any dispute resolution proceeding between Contractor and Owner.

DIRECT DISCUSSION

If a dispute arises out of or relates to this Agreement, the parties shall endeavor to settle the dispute through direct discussion.

MEDIATION

Disputes between subcontractor and Contractor not resolved by direct discussion shall be submitted to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association. The parties shall select the mediator within fifteen (15) days of the request for mediation. Engaging in mediation is a condition precedent to any form of binding dispute resolution.

OTHER DISPUTE PROCESSES

If neither direct discussions nor mediation successfully resolve the dispute, the parties agree that action may be filed in the appropriate state or federal court.

11. JOINT DRAFTING

The parties expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate terms and to obtain assistance of counsel in reviewing terms prior to execution. This Agreement shall be construed neither against nor in favor of either party, but shall be construed in a neutral manner.

Request for Taxpayer Identification Number and Certification

**Give form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
	List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). Check the "Limited liability company" box only and enter the appropriate code for the tax classification ("D" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),

2. The United States or any of its agencies or instrumentalities,

3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,

4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or

5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

7. A foreign central bank of issue,

8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,

9. A futures commission merchant registered with the Commodity Futures Trading Commission,

10. A real estate investment trust,

11. An entity registered at all times during the tax year under the Investment Company Act of 1940,

12. A common trust fund operated by a bank under section 584(a),

13. A financial institution,

14. A middleman known in the investment community as a nominee or custodian, or

15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹See Form 1099-MISC, Miscellaneous Income, and its instructions.

²However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ³
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.consumer.gov/idtheft or 1-877-IDTHEFT(438-4338).

Visit the IRS website at www.irs.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.