



Gray West Construction Inc.

421 E. Cerritos Avenue
 Anaheim, California 92805
 Ph: (714) 491-1317

Purchase Order

To: NATIONAL TAB
 1329 E KEMPER RD, STE 4210
 CINCINNATI, Ohio 45246
 (855)682-6822

Order #: 22-2271PO-12
 Date:
 Job: 22-2271 - Nike - Carlsbad, CA

Job Site: 5620 Paseo Del Norte
 Carlsbad, California 92008

Ship To:

Ordered By	Delivery Date	F.O.B.	Terms
		Carlsbad, California	

#	Cost Code	Description	Type	Amount
1	15-920 - Test, Adjust, Balancing	Air Balance Testing	Subcontracts	\$4,554.00

Grand Total: \$4,554.00

See Attached Exhibit A: Additional Terms and Conditions

DocuSigned by:

 Kelly Stevens
 3B96224359B8405...

 Gray West Construction Inc. Date 9/21/2022

DocuSigned by:

 Will Turnbough
 0EA20F5462E446A...

 NATIONAL TAB Date 9/21/2022

Kelly Stevens, Gray West Construction Inc.
 Ph: (714) 491-1317 ext. 467 Cell: 714.469.5246 Email: kstevens@gray.com

Christina Villegas, Gray West Construction Inc.
 Ph: (714) 491-1317 ext. 136 Email: cvillegas@gray.com

EXHIBIT A: PURCHASE ORDER ADDITIONAL TERMS AND CONDITIONS rev. 01/15/13

1. **Binding Terms.** This Purchase Order ("Order") constitutes a legal and binding offer to contract. The terms and conditions of this Order shall constitute the entire agreement between Seller and Buyer and may not be altered except as set forth herein. Any additional or different provisions contained in any acknowledgements, sales memoranda, invoices or in other documents issued against or in response to this Order that purport to alter or vary any of the terms and conditions of this Order are hereby rejected and objected to in advance and shall not become a part of the parties' contract of sale unless otherwise specifically agreed in a writing signed by the parties.
2. **Scope of Work.** Buyer hereby agrees with Seller to perform the services and/or provide the materials and goods described on the Order attached hereto, which is incorporated herein by reference, Seller shall provide all management, supervision, labor, materials, tools, equipment, facilities, appurtenances, services, engineering, testing and/or required shop drawings and field measurements, necessary to perform fully Seller's obligations hereunder.
3. **Modification.** This Order including prices may not be changed, enlarged or modified without the prior written consent of Buyer. Additional materials, goods or services outside the scope of this Order shall be furnished only if first authorized in writing by Buyer. Seller understands that Buyer shall have no obligation to pay for additional materials, goods, costs or services unless prior written authorization has been obtained from Buyer.
4. **Taxes.** The purchase price includes all federal, state, and local taxes applicable to the sale of materials, goods, or services covered by this Order. Seller shall pay when due all taxes of whatever kind levied or imposed in connection with performance under the Order, including, without limitation, all state sales taxes, excise taxes, transportation taxes, unemployment compensation taxes, old age benefits and social security taxes.
5. **Time of Essence.** Time is of the essence in this Order. Seller shall commence performance when notified by Buyer to do so and shall take any and all actions lawful and necessary to complete its performance in a diligent manner so that neither Buyer nor any other party will be unduly delayed or impeded in its performance under the Order.
6. **Termination.** Buyer may terminate all or any part of this Order for default if (a) Seller refuses or fails to deliver the materials, goods, or services within the time specified, fails to comply with any of the provisions of this Order, fails to make progress as to endanger performances hereunder, delivers nonconforming goods or becomes insolvent or subject to proceedings under any law relating to bankruptcy, insolvency, or the relief of debtors; or Buyer may terminate for its convenience if (b) Buyer determines it is in its best interest to terminate this Order. If Buyer elects to terminate this Order for convenience, Buyer shall notify Seller of the termination and Buyer's liability shall be limited to payment for goods and services actually delivered, performed, and accepted by the Buyer prior to termination. In no event shall Buyer be responsible for loss of anticipated profit nor shall reimbursement exceed the Order value. If the Buyer terminates for default, the Buyer may procure, upon such terms and in such manner as the Buyer may deem appropriate, supplies or services similar to those so terminated and the Seller shall be liable to the Buyer for any excess costs for such similar supplies or services; provided, that the Seller shall continue the performance of this Agreement to the extent not terminated under the provisions of this clause. If, after notice of termination of this Agreement, it is determined for any reason that the Seller was not in default under the provisions of this clause, or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued as one for the convenience of the Buyer.
7. **Independent Contractor Status.** Seller is an independent contractor responsible for the methods and means used in performing the services under this Order, and is not an employee, agent, or partner of Buyer.
8. **Indemnification.** Seller shall indemnify and hold harmless Buyer and other contractors, consultants, and subcontractors and all of their agents and employees from and against all liabilities, claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from the materials or goods delivered or services performed by Seller under this Order or Seller's breach of or default under this Order.
9. **No Limitation of Warranty or Remedy.** Buyer expressly rejects and objects in advance to any disclaimer or limitation by Seller of any applicable warranties, express or implied, made by or deemed by Seller, its agents or parties to whom it deals in connection with the performance of this Order. Buyer rejects and objects in advance to any disclaimer or limitation on remedies against Seller, its agents or suppliers in connection with the sale of materials, goods, or services covered by this Order.
10. **Warranties.** Seller warrants that the goods shall be free from liens and defects in design, material, workmanship and title, and shall conform in all respects to the terms of this Agreement and to the applicable drawings issued for manufacture, and shall be new and of the best quality, if no quality features are specified. Unless the warranty period is otherwise extended, the conditions of which are provided elsewhere in this Agreement, the following warranty shall apply: if, any time prior to one (1) year from the date of commercial operation of Buyer's or Buyer's customer's facility, or eighteen (18) months from the date of delivery, whichever comes first, it appears that the goods, or any part thereof, do not conform to these warranties or to the specifications, and Buyer so notifies Seller within a reasonable time after its discovery, Seller shall promptly correct such nonconformity to the satisfaction of the Buyer, at the Seller's sole expense; failing which Buyer may reject or revoke acceptance, and cover by making any reasonable purchase of goods in substitution for those rejected and the Seller will be liable to the Buyer for any excess costs for similar goods or services; or Buyer may proceed to correct Seller's nonconforming work by the most expeditious means available, the costs of which shall be for Seller's account; or Buyer may retain the nonconforming goods and an equitable adjustment reducing the order price to reflect the diminished value of such nonconforming goods will be made by written change order or modification. Seller's liability hereunder shall extend to all damages proximately caused by the breach of any of the foregoing warranties, including incidental damages, such as removal, inspection, costs of return or warehousing; consequential damages, such as (but not limited to) delay costs and loss of use, and Seller shall be liable to Buyer for any attorneys' fees or costs incurred in enforcing the terms of this purchase order.
11. **Quality Standards.** Seller shall comply with the standards of quality specified by this Agreement in addition to those customary in the industry if no requirement is specified. Buyer's Quality Representative shall be afforded free access during working hours to the plants of Seller and its sub-suppliers in order to monitor compliance with the quality requirements. Buyer's right to inspect, examine, and test the goods shall extend through the manufacturing process, the time of shipment and a reasonable time after arrival at the final destination. Seller's failure to adhere to the standards of quality required under this Agreement shall be deemed grounds for insecurity, and Buyer may demand in writing that Seller provide adequate assurances of Seller's ability to meet the quality standards. The goods shall not be deemed accepted until finally inspected by Buyer's representative at final destination. The making or failure to make an inspection, examination or test of, or payment for, or acceptance of the goods shall in no way relieve the Seller from its obligation to conform to all of the requirements of this Agreement and shall in no way impair Buyer's right to reject or revoke acceptance of nonconforming goods, or to avail itself of any other remedies to which Buyer may be entitled, notwithstanding Buyer's knowledge of the nonconformity, its substantiality or the ease of its discovery.
12. **Compliance.** Seller warrants that all goods sold hereunder shall have been produced, sold, delivered and furnished in strict compliance with all applicable laws and regulations to which goods are subject. Seller shall execute and deliver to Buyer any documents as may be required to effect or to evidence such compliance. All laws and regulations required to be incorporated in agreements of this character are hereby incorporated herein by reference.
13. **Expediting.** The goods furnished under this Agreement, including all warranty work, shall be subject to expediting by Buyer. Buyer's representatives shall be afforded free access during working hours to Seller's plants, and Seller agrees to procure a similar right for Buyer, for expediting purposes with respect to Seller's subcontractors and vendors. As required by Buyer, Seller shall supply schedules, progress reports and unpriced copies of Seller's purchase orders and subcontracts for Buyer's use in expediting. Seller shall notify Buyer in writing of any actual or anticipated delays immediately upon discovery. Such notice shall include an estimated period of delay, cause and corrective actions being taken. Slippage in Seller's schedule may be deemed grounds for insecurity in which event Buyer may demand in writing that Seller provide adequate assurances that Seller will perform on time.
14. **Intellectual Property.** Seller shall pay all patent and other intellectual property royalties and license fees which may be due in connection with the Seller performance under this Order. Seller shall not infringe on the trademark, servicemark, copyright, patent, or other intellectual property rights of any person, and shall defend all suits for claims for infringement of any such rights arising out of the services hereunder which may be brought against Buyer, and shall indemnify Buyer for all loss, including all costs, expenses, and attorney's fees.
15. **Confidential Information.** Buyer and Seller acknowledge that they will exchange information during the course of performance of this Order, and each disclosing party shall be held in confidence by the receiving party

EXHIBIT A: PURCHASE ORDER ADDITIONAL TERMS AND CONDITIONS

and shall not be disclosed without the prior written consent of the disclosing party.

16. Insurance. Prior to commencement of delivery of services, goods or materials pursuant to this Order and until the completion of the performance of its obligations hereunder, Seller shall maintain insurance of the kind and amount as may be required from time to time by the Buyer. Upon request of the Buyer, Seller shall make evidence of such policy of insurance. Buyer shall be named as an additional insured on any such policy of insurance.

17. Entire Agreement. This Order contains the entire agreement of the parties with respect to the subject matter hereof and supercedes any prior or contemporaneous agreements, negotiations, or understandings.

18. Governing Law. The laws of CA shall govern the interpretation and application of this Order, regardless of the conflicts of laws principles that may be applied by the courts of CA or any other jurisdiction.

19. No Assignment. Neither this Order nor any interest under it may be assigned by Seller without the prior written consent of Buyer.

20. Government Regulations. Seller's performance of this Order and goods or materials supplied hereby shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances.

21. Arbitration. Any controversy, claim or dispute arising out of this Order shall be settled by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. The arbitration shall be conducted in Lexington, Kentucky, and judgment on the arbitration award may be entered into any court having jurisdiction thereof.

TERMS APPLICABLE TO ORDERS OF GOODS AND MATERIALS:

22. Delivery. Timely performance and delivery in accordance with the schedule herein is essential to this Agreement. Seller shall be responsible to Buyer for delays that are caused by events within Seller's control or caused by Seller's acts or negligence.

Buyer reserves the right to refuse delivery after 2:00 p.m. unless 48 hours advance notice of late delivery is sent to Buyer at its home office or job site.

23. Shipments. All shipments must be sent prepaid, F.O.B. job site.

24. Adjustment. Right is reserved, by the Buyer, to increase or decrease quantities at the unit price per good or material prior to receipt of the complete order.

25. Invoices. When invoices, subject to cash discount, are not mailed on the date of shipment, or are not accompanied by bills of lading, discount period will begin on the day both invoices and bills are received by Buyer. Invoices received will be considered due and payable thirty (30) days following Buyer's receipt, unless otherwise agreed. All invoices must be rendered to the Buyer's address at the top of this purchase order. Buyer reserves the right to return, at Seller's expense, all goods or materials delivered in error, or in excess of the quality call for in this Order. The Order number must appear on invoices, bills of lading, packing slips and freight tickets.

26. Inspection. All material is subject to Buyer's inspection and approval within a reasonable time after delivery, notwithstanding prior payment of invoices to obtain a cash discount.

27. Damaged Material. Title and all risk of loss or damage to all goods and materials covered by this Order shall remain with Seller until delivered

by Seller as set forth above. In the event goods and materials are delivered in a damaged condition, Buyer reserves the right to accept the damaged Goods if Buyer determines that portions of the goods and materials are usable and advantageous to the progress of the work. In accepting goods and materials, Buyer reserves the right to: (a) Repair the damage or any part thereof at Seller's expense; (b) Demand replacement of the damaged goods by Seller, at Seller's expense; (c) Accept the damaged goods and adjust purchase price as Buyer deems appropriate (d) Purchase replacements for the damaged goods elsewhere at Seller's expense in the event Seller does not replace the damaged goods within 60 days after notice is given by Buyer; or (e) Withhold payment until the damaged goods are repaired or replaced.

28. Hazardous Communication. In accordance with OSHA 29 CFR Part 1910, 1200, Seller shall supply Material Safety Data Sheets (MSDS) as necessary in performance of this Order. Failure to provide necessary MSDS shall be deemed a representation by Seller that materials or goods supplied are exempt from such requirements.

TERMS APPLICABLE TO ORDERS OF SERVICES:

29. Standard of Performance. Seller shall perform its services under this Order skillfully, using its best judgment and reasonable care, in accordance with the highest standards of its profession, and in compliance with all applicable federal, state, and local laws and regulations. All of Seller's services shall be performed by well-qualified persons who are properly licensed, registered, or authorized pursuant to all applicable laws, ordinances, and regulations.

30. Ownership of Work Product. All technical data, evaluations, reports, and other work product of Seller pursuant to this Order shall become the property of Buyer and shall be delivered to Buyer upon completion of the services authorized hereunder.

31. Confidentiality: Media Contact and Website Promotion Prohibited.

Except as necessary to carry out its obligations pursuant to this Agreement, Seller agrees to keep confidential all information regarding the Project, including the existence of this Agreement. Seller shall have no contact with the media regarding this Project; and if contacted, Seller shall refer the media to Gray. Seller shall immediately notify Gray of any and all such contacts within twenty-four (24) hours. Seller is also prohibited from issuing any press releases or statements to the press or other media outlets that in any way relate to this Project.

Seller is further prohibited from promoting or otherwise publishing its participation in this Project on Seller's website, or to other third parties unrelated to the Project without first obtaining Gray's written permission, which Gray may withhold at its sole discretion.

Seller and its employees are prohibited from bringing any photographic or video equipment to the Project site and prohibited from taking photographs or video on the Project site except as expressly provided in the Contract Documents for Project documentation.

Failure of Seller to comply with this Section shall be a material breach and default of the Agreement as determined by Gray at its discretion, which shall entitle Gray to recover from Seller all costs, damages, losses, attorney's fees, and consultants' fees, as well as procurement costs pursuant to Section 6 of this Agreement.