

# Subcontract Agreement

NATI377

**Contract Number:** 131375  
**Contract Date:** 2/21/2023  
**Job Number:** 23-0024-07

NATIONAL TAB  
1329 E Kemper Rd  
Ste 4210  
Cincinnati, OH 45246

Will Turnbough - will@nationaltab.com  
(855)682-6822

**Jobsite:** NIKE  
4060 Cane Ridge Parkway  
Suite #301  
Antioch, TN 37013  
**Superintendent:** Guy Haney

(440)396-5054

### Scope of Work

**Cost Code:** 15703

provide certified air balance report for the above referenced project. which includes balancing of (5) rtu's, (2) exhaust fans, air devices, and duct socks. includes commissioning walk-thru and scissor lift.

Subcontractor Work Start Date: 8/14/2023

Subcontractor Work Completed Date: 8/16/2023

**Total Cost, Including all taxes:** \$ 5,650.00

**PRIOR TO STARTING THE JOB, YOU MUST HAVE SUBMITTED AND HAVE HAD ACCEPTED YOUR SIGNED CONTRACT, INSURANCE INFORMATION, W-9, AND CHANGE ORDER AGREEMENT!**

**DO NOT PERFORM ANY ADDITIONAL WORK WITHOUT THE PRIOR APPROVAL OF THE LAKEVIEW CONSTRUCTION PROJECT MANAGER. THE FIELD SUPERINTENDENT MAY NOT AUTHORIZE ADDITIONAL WORK.**

### SUBCONTRACT AND INVOICING PROCEDURES

Your Subcontract Agreement will have 4 pages (including the terms and conditions). Sign this page, intitial the last two pages, and return all 4 pages to Lakeview Construction. Please make a copy for your records. A copy of our application for payment signed by Lakeview's onsite superintendent (page 2 of this agreement) should be included with each pay request.

**PRIOR TO BEGINNING ANY SITEWORK, THE FOLLOWING DOCUMENTS MUST BE SUBMITTED AND ACCEPTED:**  
**(1) SIGNED CONTRACT, (2) CURRENT CERTIFICATE OF INSURANCE, (3) W-9, (4) CHANGE ORDER AGREEMENT, (5) AND A LIST OF ALL MAJOR SUPPLIERS INCLUDING ALL JOINT CHECK INFORMATION .**

**DRAW 1** - Upon 45% completion of work scope as approved by contractor/superintendent.

**DRAW 2** - Upon 90% completion of work scope as approved by contractor/superintendent. Must include the following:  
- Labor, material, and equipment rental lien waivers covering Draw #1 including joint check agreements and / or subcontractor affidavits. (HVAC subcontractors must also submit a certified air balance report.)

**DRAW 3** - Project complete. Must include ALL FINAL lien waivers , warranty statements, and all closeout documents.

**CHANGE ORDERS MUST BE BILLED SEPERATELY.** Once the change orders are approved, our change order form will be sent to you. That form should be signed and submitted for payment.

Applicable license and registration information will be available upon request. All payments are NET 30 from the date of draw approval. All early payments may be subject to a 5% discount.

### SUMMARY OF INSURANCE REQUIREMENTS (Please see attached papagraph 18, 19 and 20 for ALL details)

- Lakeview Construction must have a current copy of your certificate of insurance and necessary policy endorsements.
- General Liability insurance must include at least \$1,000,000 per occurrence and general aggregate of at least \$2,000,000 or greater.
- Employer's Liability (workers compensation) must meet or exceed statutory limits.
- Excess Insurance (Umbrella) must include a limit of at least \$2,000,000 or greater.
- Lakeview Construction must be named as a certificate holder and as additional insured with primary / non-contributory status.
- Coverages can be blanket or job specific. The job name and location should be referenced on the certificate.

Accepted by: Will Turnbough of NATIONAL TAB

Dated: 2/22/2023

Accepted by: \_\_\_\_\_ of Lakeview Construction, LLC

Dated: 2/21/23

Please contact project manager Gary Case or project coordinator Jean Blauser with any questions regarding this subcontract agreement.

# Application for Payment

NAT1377

**Contract Number:** 131375      **A B C**  
**Contract Date:** 2/21/2023  
**Job Number:** 23-0024-07

NATIONAL TAB  
1329 E Kemper Rd  
Ste 4210  
Cincinnati, OH 45246

Will Turnbough - will@nationaltab.com  
(855)682-6822

**Jobsite:** NIKE  
4060 Cane Ridge Parkway  
Suite #301  
Antioch, TN 37013  
**Superintendent:** Guy Haney  
  
(440)396-5054

### Scope of Work

provide certified air balance report for the above referenced project. which includes balancing of (5) rtu's, (2) exhaust fans, air devices, and duct socks. includes commissioning walk-thru and scissor lift.

Subcontractor Work Completed Date: 8/16/2023      **Total Cost, Including all taxes:** \$ 5,650.00

### APPLICATION INSTRUCTIONS

1. This form will need to be submitted for payment. We will not pay off an invoice.
2. Make a copy of this form for each draw. Indicate which draw is requested by circling the appropriate letter(s) above.
3. On-site supervisor's signature must be present.
4. If there are changes to the contract you will receive our "CHANGE ORDER FORM". That form will be used as an invoice.

### REQUIREMENTS

**PRIOR TO BEGINNING ANY SITEWORK, THE FOLLOWING DOCUMENTS MUST BE SUBMITTED AND ACCEPTED:  
(1) SIGNED CONTRACT, (2) CURRENT CERTIFICATE OF INSURANCE, (3) W-9, (4) CHANGE ORDER AGREEMENT,  
(5) AND A LIST OF ALL MAJOR SUPPLIERS INCLUDING ALL JOINT CHECK INFORMATION .**

A (45%) - 1st Application - 45% Completion as approved by Contractor	2,542.50
B (45%) - 2nd Application - 90% Completion as approved by Contractor Labor, material, and equipment lien waivers covering the 1st application. Joint check agreements and / or subcontractor affidavits. HVAC contractors must also include a certified air balance report.	2,542.50
C (10%) - Final Application - 100 % Completion as approved by Contractor Final Labor, material, and equipment lien waivers. Joint check agreements and / or subcontractor affidavits. Warranty Statement and all other close out documents.	565.00
<b>Total Contract</b>	<b>5,650.00</b>

Please contact project manager Gary Case or project coordinator Jean Blauser with any questions regarding this application for payment.

Accepted by: \_\_\_\_\_ of Lakeview Construction, LLC      Dated: \_\_\_\_\_  
Project Manager

Accepted by: \_\_\_\_\_ of Lakeview Construction, LLC      Dated: \_\_\_\_\_  
Field Superintendent

# Terms and Conditions

1. PLANS AND SPECS ARE AVAILABLE AT THE PROJECT SITE AND ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE SAME. WITH RESPECT TO THE WORK, SUBCONTRACTOR SHALL ASSUME TOWARD THE CONTRACTOR ALL OBLIGATIONS, RISKS, AND RESPONSIBILITIES WHICH THE CONTRACTOR HAS ASSUMED TOWARDS THE OWNER UNDER THE CONTRACT DOCUMENTS, INCLUDING, WITHOUT LIMITATION, ALL REQUIREMENTS RELATING TO THE QUALITY, QUANTITY AND TIMELINESS OF THE WORK.

SUBCONTRACTOR REPRESENTS AND AGREES THAT IT HAS CAREFULLY EXAMINED AND UNDERSTANDS THIS PURCHASE ORDER/SUBCONTRACT AND THE CONTRACT DOCUMENTS, AND HAS INVESTIGATED THE NATURE, LOCALITY AND SITE OF THE WORK AND THE CONDITIONS AND DIFFICULTIES UNDER WHICH IT IS TO BE PERFORMED AND THAT IT ENTERS INTO THIS PURCHASE ORDER/SUBCONTRACT ON THE BASIS OF ITS OWN EXAMINATION, INVESTIGATION, AND EVALUATION AND NOT IN RELIANCE UPON ANY OPINIONS OR REPRESENTATIONS OF THE CONTRACTOR. SUBCONTRACTOR REPRESENTS TO THE CONTRACTOR THAT IT IS FULLY ABLE, QUALIFIED AND EXPERIENCED TO PERFORM THE WORK REQUIRED BY THIS PURCHASE ORDER/SUBCONTRACT. NO ALLOWANCE OR EXTRA PAYMENT WILL BE MADE ON ACCOUNT OF ANY COSTS, EXPENSES, DELAYS OR OTHER MATTERS INCURRED IN CONNECTION WITH THE CHARACTER OF THE SITE OR OCCASIONED BY THE SUBCONTRACTOR'S FAILURE TO BECOME FAMILIAR WITH THE SITE OR ON ACCOUNT OF ANY ERROR OR OVERSIGHT ON SUBCONTRACTOR'S PART. THE SUBCONTRACTOR HAS VERIFIED ALL INFORMATION FURNISHED BY THE CONTRACTOR OR OTHERS AND IS SATISFIED WITH ITS CORRECTNESS OR ACCURACY.

SUBCONTRACTOR REPRESENTS TO THE CONTRACTOR THAT SUBCONTRACTOR HAS SUFFICIENT MANPOWER TO PERFORM THE WORK IN A TIMELY MANNER.

2. NO EXTRAS WILL BE ALLOWED UNLESS APPROVAL IS GRANTED IN WRITING AND SIGNED BY THE CONTRACTOR'S PROJECT MANAGER LISTED ON THE PURCHASE ORDER/SUBCONTRACT PRIOR TO THE WORK TAKING PLACE. FIELD PERSONNEL ARE NOT AUTHORIZED TO SIGN CHANGE ORDERS. ALL CHANGE ORDERS WILL HAVE A SEPARATE APPLICATION FOR PAYMENT. SUBCONTRACTOR AGREES THAT PAYMENT FOR SUCH EXTRAS SHALL NOT BE DUE UNTIL SUCH TIME AS A WRITTEN CHANGE ORDER DETERMINING THE PRICE OF THE EXTRAS HAS BEEN ISSUED BY THE CONTRACTOR AND THE CONTRACTOR HAS BEEN PAID BY THE OWNER FOR SUCH EXTRAS. SHOULD CHANGE ORDER BE ISSUED AND LATER BE FOUND TO BE COVERED BY THE ORIGINAL SCOPE OF WORK, THE CHANGE ORDER SHALL BE DEEMED TO BE INVALID AND SHALL NOT BE ADDED TO THE PURCHASE ORDER/SUBCONTRACT AMOUNT. SUBCONTRACTOR AGREES TO PROVIDE DETAILED DOCUMENTATION FOR ALL CHANGE ORDER OR EXTRA WORK INCLUDING, BUT NOT LIMITED TO, MAN HOUR AND MATERIAL BREAKDOWNS AND ITEMIZATIONS, LABOR RATES, EQUIPMENT RATES, ETC. SO AS TO FULLY SUPPORT THE REQUEST IN QUESTION TO THE SATISFACTION OF THE CONTRACTOR AND THE OWNER.

IF OWNER ELECTS TO REDUCE THE AMOUNT OF WORK TO BE DONE BY THE CONTRACTOR OR THE CONTRACTOR ELECTS TO REDUCE THE AMOUNT OF WORK TO BE DONE BY THE SUBCONTRACTOR, THE CONTRACTOR SHALL HAVE THE RIGHT TO ELIMINATE PORTIONS OF THE WORK FROM THIS PURCHASE ORDER/SUBCONTRACT AND THE VALUE OF THE WORK DELETED SHALL BE THE VALUE DETERMINED BY OWNER AND/OR CONTRACTOR AND SHALL RESULT IN THE REDUCTION OF THE AMOUNT DUE SUBCONTRACTOR.

THE SUBCONTRACT/PURCHASE ORDER PRICE SHALL NOT BE SUBJECT TO INCREASE BY REASON OF CHANGES IN THE COST OF ANY OF THE MATERIALS, LABOR, EQUIPMENT, OR ANY OTHER ITEMS THE SUBCONTRACTOR AGREES TO FURNISH HEREUNDER.

SUBCONTRACTOR OVERHEAD AND PROFIT SHALL NOT EXCEED TEN PERCENT (10%) UNLESS OTHERWISE AGREED UPON IN WRITING BY CONTRACTOR.

3. TIME IS OF THE ESSENCE. SUBCONTRACTOR WILL COMMENCE AND COMPLETE ITS WORK AS DIRECTED BY THE SUPERINTENDENT FOR A TIMELY COMPLETION. IF NECESSARY TO ASSURE TIMELY COMPLETION, SUBCONTRACTOR SHALL ACCELERATE ITS PERFORMANCE, AT ITS OWN COST, TO MAKE UP FOR DELAYS CAUSED BY ITS OWN ACTIONS OR OMISSIONS OR THOSE OF ITS SUBCONTRACTORS OR SUPPLIERS. IF SUBCONTRACTOR FAILS TO DO SO, CONTRACTOR MAY ITSELF TAKE WHATEVER ACTIONS IT DEEMS NECESSARY TO EXPEDITE MATERIAL DELIVERIES OR COMPLETION OF WORK AND CHARGE RESULTING COSTS TO SUBCONTRACTOR. SUBCONTRACTOR WILL COORDINATE ITS WORK WITH THE WORK OF THE CONTRACTOR AND OTHER SUBCONTRACTORS, SO THAT NO DELAYS OR INTERFERENCE WILL OCCUR IN THE COMPLETION OF

ANY PART OR ALL OF THE PROJECT IF THE CONTRACT DOCUMENTS PROVIDE FOR ASSESSMENT AGAINST THE CONTRACTOR OF LIQUIDATED DAMAGES, OR ACTUAL DELAY DAMAGES SUFFERED BY OWNER. THE SUBCONTRACTOR SHALL BE LIABLE TO THE CONTRACTOR FOR ANY PORTION OF SUCH DAMAGES THAT MAY BE FAIRLY ATTRIBUTED TO THE SUBCONTRACTOR'S DELAYS. THE SUBCONTRACTOR SHALL ALSO BE LIABLE FOR ANY ACTUAL DAMAGES SUFFERED BY THE CONTRACTOR AS A RESULT OF THE SUBCONTRACTOR'S DELAYS, INCLUDING, WITHOUT LIMITATION, EXTENDED SITE SUPERVISION COSTS.

4. SUBCONTRACTOR SHALL AT ALL TIMES KEEP THE PROJECT SITE FREE FROM DEBRIS AND SHALL BE RESPONSIBLE FOR REMOVAL OF ITS DEBRIS DAILY. SUBCONTRACTOR SHALL TURN OVER THE SUBCONTRACT WORK IN SUCH CONDITION AS TO PERMIT THE NEXT SUCCEEDING OR INTERVENING WORK TO BE COMMENCED WITHOUT FURTHER CLEANING. IF SUBCONTRACTOR FAILS TO COMPLY WITH THE PROVISIONS OF THIS PARAGRAPH, THE CONTRACTOR MAY PERFORM SUCH CLEANING AND CHARGE THE COST TO THE SUBCONTRACTOR, OR DEDUCT THE COST FROM FUTURE PAYMENTS OTHERWISE DUE OR TO BECOME DUE TO THE SUBCONTRACTOR. SUBCONTRACTOR IS REQUIRED TO PERFORM ITS WORK IN A SAFE MANNER AND TO COMPLY WITH ALL LOCAL, STATE OR FEDERAL SAFETY AND HEALTH REQUIREMENTS. EACH SUBCONTRACTOR IS RESPONSIBLE TO MAINTAIN SAFE, OSHA REQUIRED WORKING CONDITIONS FOR THE SAFETY OF ALL INVOLVED ON THE SITE. THE CONTRACTOR IS RELYING UPON THE SKILL AND EXPERTISE OF THE SUBCONTRACTOR TO PROTECT WORKERS ON THE PROJECT SITE.

5. SUBCONTRACTOR MUST FURNISH FEDERAL ID NUMBER OR SOCIAL SECURITY NO. ON THE COMPLETED W9 AND CONFIRMATION OF EXEMPTION FROM BACKUP WITH-HOLDING.

6. CONTRACTOR MUST RECEIVE THE ENCLOSED WARRANTY STATEMENT WITH SUBCONTRACTOR'S FINAL PAYMENT REQUEST.

7. TERMS: NET 30 DAYS BEFORE ANY PAYMENT IS MADE TO THE SUBCONTRACTOR, THE SUBCONTRACTOR MUST SUBMIT TO THE CONTRACTOR ALL SUB-SUBCONTRACTOR AND MATERIAL WAIVERS FOR THE PAYMENT.

THE CONTRACTOR MAY WITHHOLD FUNDS FROM ANY PROGRESS PAYMENT TO THE SUBCONTRACTOR, OR FROM FINAL PAYMENT, TO THE EXTENT THAT MAY BE NECESSARY TO COVER ALL COSTS ASSOCIATED WITH (1) DEFECTIVE SUBCONTRACT WORK NOT REMEDIED, (2) THIRD-PARTY CLAIMS FILED AGAINST THE CONTRACTOR AS A RESULT OF MATTERS RELATING TO THE SUBCONTRACT WORK, OR REASONABLE EVIDENCE INDICATING PROBABLE FILING OF SUCH CLAIMS, (3) FAILURE OF THE SUBCONTRACTOR TO MAKE PROMPT PAYMENT TO SUB-SUBCONTRACTORS OR SUPPLIERS FOR LABOR, MATERIALS OR EQUIPMENT, (4) REASONABLE EVIDENCE THAT LUMP SUM PRICE ITEMS CANNOT BE COMPLETED FOR THE UNPAID BALANCE OF THE AGREED LUMP SUM PRICE, (5) DAMAGE TO PROPERTY OF THE CONTRACTOR, THE OWNER OR ANOTHER CONTRACTOR OR SUBCONTRACTOR WORKING AT THE PROJECT, (6) REASONABLE EVIDENCE THAT THE SUBCONTRACT WORK WILL NOT BE COMPLETED WITHIN THE CONTRACT TIME, (7) FAILURES TO CARRY OUT THE WORK IN ACCORDANCE WITH THE SUBCONTRACT OR THE CONTRACTOR'S DIRECTIONS, OR (8) ANY MATERIAL BREACH OF THE SUBCONTRACT. THIS REMEDY OF WITHHOLDING PAYMENT IS NOT EXCLUSIVE.

ALL MATERIAL AND WORK COVERED BY PROGRESS PAYMENTS OR FINAL PAYMENTS, WHEREVER LOCATED, IS AUTOMATICALLY THE PROPERTY OF THE CONTRACTOR OR, IF THE CONTRACT DOCUMENTS SO PROVIDE, THE PROPERTY OF THE OWNER. THIS PROVISION SHALL NOT RELIEVE THE SUBCONTRACTOR FROM THE SOLE RESPONSIBILITY AND LIABILITY FOR ALL WORK AND MATERIALS UPON WHICH PAYMENTS HAVE BEEN MADE, UNTIL FINAL ACCEPTANCE OF THEM BY THE OWNER. THE FACT THAT A PROGRESS PAYMENT HAS BEEN MADE WITH RESPECT TO ANY PORTION OF THE SUBCONTRACT WORK SHALL NOT CONSTITUTE AN ACCEPTANCE OF THAT WORK IF IT IS DEFECTIVE OR OTHERWISE NOT IN CONFORMITY WITH THE PURCHASE ORDER/SUBCONTRACT, AND SHALL NOT CONSTITUTE A WAIVER OF ANY OF THE CONTRACTOR'S OR THE OWNER'S RIGHTS OR REMEDIES AGAINST THE SUBCONTRACTOR WITH RESPECT TO ANY DEFECTS OR OTHER FAILURES TO CONFORM TO THE PURCHASE ORDER/SUBCONTRACT, INCLUDING APPLICABLE REQUIREMENTS OF THE CONTRACT DOCUMENTS.

NO PAYMENTS SHALL BE CONCLUSIVE EVIDENCE OF THE SUBCONTRACTOR'S PERFORMANCE OF ALL OR ANY PART OF THIS PURCHASE ORDER/SUBCONTRACT. ALL PAYMENTS RECEIVED BY THE SUBCONTRACTOR HEREUNDER SHALL BE HELD BY THE SUBCONTRACTOR AS TRUST FUNDS FOR PAYMENT FOR THE ITEMS THE SUBCONTRACTOR AGREES TO FURNISH, AND ALL OTHER CHARGES INCURRED IN

CONNECTION WITH THE PERFORMANCE OF THE SUBCONTRACT WORK AND SHALL NOT BE APPLIED TO ANY OTHER PURPOSE UNTIL SUCH OBLIGATIONS ARE SATISFIED. THE SUBCONTRACTOR SHALL BE FULLY RESPONSIBLE FOR ALL SUCH OBLIGATIONS AND ANY OTHER CLAIMS OR LIENS AGAINST THE

SUBCONTRACTOR, THE SUBCONTRACTOR'S WORK, THE OWNER, THE CONTRACTOR, THE CONSTRUCTION, OR THE PREMISES INVOLVED, CHARGEABLE TO THE SUBCONTRACTOR OR THE SUBCONTRACTOR'S SUBCONTRACTORS, VENDORS, SUPPLIERS, ETC. THE SUBCONTRACTOR'S RESPONSIBILITIES UNDER THIS PARAGRAPH SHALL SURVIVE THE COMPLETION AND ACCEPTANCE OF THE WORK AND/OR THE EXPIRATION AND/OR TERMINATION OF THIS PURCHASE ORDER/SUBCONTRACT. THE CONTRACTOR SHALL NOT BE REQUIRED TO PAY THE SUBCONTRACTOR IN FINAL PAYMENT OR RETAINAGE ANY AMOUNTS IN EXCESS OF THOSE ACTUALLY ACCEPTED AND PAID BY THE OWNER WITH RESPECT TO ANY SUBCONTRACT WORK.

ACCEPTANCE OF FINAL PAYMENT SHALL CONSTITUTE A WAIVER OF ALL OF THE SUBCONTRACTOR'S CLAIMS FOR FURTHER COMPENSATION OR CLAIMS UNDER THE PURCHASE ORDER/SUBCONTRACT, EXCEPT THOSE THAT HAVE BEEN SPECIFICALLY IDENTIFIED IN WRITING EITHER BEFORE THE APPLICATION FOR FINAL PAYMENT IS SUBMITTED OR IN THE APPLICATION FOR FINAL PAYMENT ITSELF.

PROVIDED THAT THE CONTRACTOR HAS PROMPTLY PAID THE SUBCONTRACTOR ALL AMOUNTS DUE UNDER THE SUBCONTRACT, OTHER THAN THOSE SUBJECT TO GOOD FAITH DISPUTE, THE SUBCONTRACTOR SHALL PROCEED WITH THE SUBCONTRACT WORK, INCLUDING ANY DISPUTED PORTION THEREOF, WITHOUT INTERRUPTION OR DELAY, WHILE ANY CLAIM OR DISPUTE IS BEING CONSIDERED, ARBITRATED OR LITIGATED. FAILURE TO CONTINUE TO WORK DILIGENTLY DURING THE PENDENCY OF A DISPUTE OR CLAIM SHALL CONSTITUTE A MATERIAL BREACH OF THE PURCHASE ORDER/SUBCONTRACT.

8. SUBCONTRACTOR MAY NOT SUBLET OR ASSIGN THE PURCHASE ORDER/SUBCONTRACT AND/OR THE PROCEEDS FROM IT, IN WHOLE OR IN PART, TO ANY SECONDARY SUBCONTRACTOR WITHOUT PRIOR WRITTEN APPROVAL FROM CONTRACTOR.

9. CONTRACTOR MAY TERMINATE THIS CONTRACT BY NOTICE IN WRITING IN THE EVENT OF NON PERFORMANCE OR MATERIAL BREACH ON THE PART OF THE SUBCONTRACTOR. SUBCONTRACTOR AGREES THAT A MATERIAL BREACH OF THE PURCHASE ORDER/SUBCONTRACT OCCURS IF SUBCONTRACTOR (I) FAILS TO PROMPTLY PAY FOR MATERIALS, SUPPLIES, LABOR OR OTHER ITEMS PURCHASED OR USED IN CONNECTION WITH THE WORK, (II) FAILS TO PURSUE THE WORK PROMPTLY, IN ACCORDANCE WITH THE PURCHASE ORDER/SUBCONTRACT AND THE SCHEDULES ESTABLISHED BY THE OWNER AND CONTRACTOR, (III) FAILS TO SUPPLY A SUFFICIENT NUMBER OF PROPERLY SKILLED SUPERVISORS, WORKMEN OR A SUFFICIENT AMOUNT OF MATERIALS, EQUIPMENT OR SUPPLIES OF THE APPROPRIATE QUALITY TO PROPERLY AND EXPEDITIOUSLY CARRY OUT THE WORK, (IV) INTERFERES WITH OR DISRUPTS THE OPERATIONS OF THE CONTRACTOR, OWNER OR ANY OTHER LABORER, MATERIALMAN, SUPPLIER, SUBCONTRACTOR OR OTHER PERSON WORKING ON THE PROJECT, (V) HAS FILED AGAINST IT ANY LIEN FOR UNPAID TAXES FOR FEDERAL, STATE OR MUNICIPAL AUTHORITIES, (VI) ALLOWS ANY INSURANCE UNDER THE CONTRACT TO LAPSE, HAS SUCH INSURANCE CANCELLED OR OTHERWISE FAILS TO MAINTAIN ALL REQUIRED COVERAGES FOR THE FULL TERM REQUIRED BY THE PURCHASE ORDER/SUBCONTRACT (VII) FAILS, UPON DEMAND, PROMPTLY TO COMPLY WITH ANY SUBCONTRACT PROVISION RELATING TO THE REMOVAL OF LIENS THAT HAVE BEEN PLACED UPON THE PROJECT OR RELATING TO DEFENSE OF LIEN CLAIMS, OR (VIII) FAILS TO CARRY OUT THE WORK IN A WORKMANLIKE MANNER AND IN FULL COMPLIANCE OF THE SPECIFICATIONS. THIS LIST IS NOT INTENDED TO BE EXHAUSTIVE AND OTHER BREACHES BY THE SUBCONTRACTOR MAY ALSO BE MATERIAL UPON SUCH A TERMINATION. THE CONTRACTOR MAY COMPLETE THE WORK ITSELF OR THROUGH OTHERS, BY WHATEVER METHOD THE CONTRACTOR DEEMS EXPEDIENT.

CONTRACTOR IS UNDER CONTRACT WITH THE ABOVE-REFERENCED PROJECT. THE TERMS OF THE CONTRACT, INCLUDING BUT NOT LIMITED TO LIQUIDATED DAMAGES, TIMELY COMPLETION, AND LIEN WAIVER UPON RECEIPT OF PAYMENT ARE INCORPORATED IN THIS PURCHASE ORDER/SUBCONTRACT BY REFERENCE. CONTRACTOR'S PURCHASE ORDER/SUBCONTRACT TO SUBCONTRACTOR IS CONTINGENT UPON THE CONTRACT WITH THE TENANT/OWNER.

# Terms and Conditions

10. THE TERMS AND CONDITIONS OF THIS PURCHASE ORDER/SUBCONTRACT WILL BE GOVERNED BY THE STATE OF WISCONSIN, WITHOUT REGARD TO ITS CONFLICT PROVISIONS.

11. SUBCONTRACTOR MUST SUBMIT TO CONTRACTOR A LIST OF ANY AND ALL SUB-SUBCONTRACTORS AND MATERIAL SUPPLIERS WHO HAVE WORKED ON OR SUPPLIED MATERIAL FOR THE PROJECT. THIS LIST MUST BE INCLUDED WITH SECOND PAYMENT REQUEST FOR PAYMENT ON THE SECOND DRAW. SUBCONTRACTOR MUST OBTAIN LIEN WAIVERS FROM ALL LISTED SUB-SUBCONTRACTORS AND SUPPLIERS AS A PREREQUISITE TO PAYMENT. A VIOLATION OF THIS PARAGRAPH CONSTITUTES A MATERIAL BREACH OF THIS PURCHASE ORDER/SUBCONTRACT.

12. TO AVOID BACKCHARGES, LANDLORD/TENANT OWNER PUNCLIST ITEMS MUST BE COMPLETED 7 DAYS AFTER ISSUE SHOULD THE SUBCONTRACTOR FAIL TO DO SO, THE CONTRACTOR SHALL HAVE THE RIGHT TO (1) COMPLETE SAID PUNCLIST ITEMS AND TO (2) DEDUCT ALL ASSOCIATED COSTS FROM THE FINAL PAYMENT.

13. ANY CONTROVERSY OR CLAIM ARISING OUT OF OR IN RELATION TO THIS PURCHASE ORDER/SUBCONTRACT OR ITS INTERPRETATION, CONSTRUCTION OR ANY BREACH THEREOF, OR ANY RELATIONSHIP BETWEEN THE PARTIES HERETO, WHETHER SUCH CLAIM IS GROUNDED IN COMMON LAW OR STATUTORY LAW, BUT EXCLUDING ANY CLAIM SEEKING INJUNCTIVE RELIEF, SHALL BE SETTLED EXCLUSIVELY BY ARBITRATION IN THE STATE OF WISCONSIN, IN ACCORDANCE WITH THE THEN-APPLICABLE CONSTRUCTION INDUSTRY ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION AND JUDGMENT RENDERED UPON THE AWARD MAY BE ENTERED IN ANY COURT OF COMPETENT JURISDICTION. THE FAILURE OF ANY PARTY TO SUBMIT TO ARBITRATION IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE A BREACH OF THIS PURCHASE ORDER/SUBCONTRACT. NEITHER PARTY SHALL PURSUE ARBITRATION AS PROVIDED HEREIN WITHOUT THIRTY (30) DAYS NOTICE TO THE OTHER PARTY, DURING WHICH TIME BOTH PARTIES SHALL BE REASONABLY AVAILABLE FOR INFORMAL DISPUTE RESOLUTION DISCUSSIONS.

14. IN THE EVENT OF ANY CONTROVERSY OR CLAIM, THE PREVAILING PARTY SHALL BE ENTITLED TO RECOVER FROM THE OTHER PARTY ALL OF THE REASONABLE AND ACTUAL COSTS AND EXPENSES OF THE PREVAILING PARTY IN CONNECTION WITH SUCH CLAIM OR CONTROVERSY INCLUDING REASONABLE ATTORNEYS' FEES.

15. IF ANY PROVISION OF THIS PURCHASE ORDER/SUBCONTRACT SHOULD BE INVALID OR UNENFORCEABLE, THE REMAINDER OF THE PURCHASE ORDER/SUBCONTRACT SHALL REMAIN BINDING ON THE PARTIES AND CONTINUE TO BE GIVEN FULL FORCE AND EFFECT. THE FAILURE OF CONTRACTOR TO INSIST ON ANY ONE OF THE PROVISIONS OF THIS PURCHASE ORDER/SUBCONTRACT OR TO EXERCISE ANY RIGHT HEREIN SHALL NOT BE CONSTRUED AS A WAIVER OF SUCH PROVISION OR RIGHT.

16. SUBCONTRACTOR SHALL BILL NO CHARGES FOR PREMIUM TIME, WITH RESPECT TO THE WORK INCLUDED IN THE PURCHASE ORDER/SUBCONTRACT EXCEPT UPON THE PRIOR WRITTEN ORDER OF CONTRACTOR. IF PREMIUM TIME IS ORDERED TO COMPLETE THE PROJECT IN A TIMELY FASHION, SUBCONTRACTOR AGREES TO BILL CONTRACTOR FOR THE PREMIUM TIME USING THE FOLLOWING FORMULA: REGULAR HOURLY RATE MULTIPLIED BY 1.5 PLUS TEN PERCENT (10%) OVERHEAD AND PROFIT. THERE IS NO PREMIUM PAID FOR UNION BENEFITS.

OVERHEAD AND PROFIT SHALL NOT EXCEED TEN PERCENT (10%) ON ALL SUB-SUBCONTRACTOR AND MATERIAL SUPPLIER PURCHASE ORDERS, WHETHER REGULAR OR PREMIUM TIME.

17. TO THE EXTENT PERMITTED BY LAW, THE SUBCONTRACTOR AGREES TO INDEMNIFY AND SAVE HARMLESS THE OWNER AND THE CONTRACTOR AGAINST LOSS OR EXPENSE BY REASON OF THE LIABILITY IMPOSED BY LAW UPON THE OWNER AND/OR THE CONTRACTOR FOR DAMAGE BECAUSE OF BODILY INJURIES, INCLUDING DEATH AT ANY TIME RESULTING THERE FROM, ACCIDENTALLY SUSTAINED BY ANY PERSON OR PERSONS OR ON ACCOUNT OF DAMAGE TO PROPERTY ARISING OUT OF OR ON ACCOUNT OF OR IN CONSEQUENCE OF THE PERFORMANCE OF THIS SUBCONTRACT WHERE SUCH INJURIES TO PERSONS OR DAMAGE TO THE PROPERTY ARE DUE OR CLAIMED TO BE DUE TO ANY NEGLIGENCE OF THE SUBCONTRACTOR, ITS EMPLOYEES, AGENTS, OR SERVANTS. THE SUBCONTRACTOR SHALL PROTECT AND INDEMNIFY THE CONTRACTOR AGAINST ANY LOSS OR DAMAGE SUFFERED BY ANY ONE ARISING THROUGH THE SUBCONTRACTOR'S NEGLIGENCE, OR THOSE EMPLOYED BY THE SUBCONTRACTOR'S AGENTS OR SERVANTS, THE SUBCONTRACTOR SHALL BEAR ANY EXPENSE WHICH IT MAY HAVE BY REASON THEREOF,

OR ON ACCOUNT OF BEING CHARGED THEREWITH, AND IF THERE ARE ANY SUCH INJURIES TO PERSONS OR PROPERTY UNSETTLED FOR, WHEN THE WORK HEREIN PROVIDED FOR IS FINISHED, FINAL SETTLEMENT BETWEEN THE SUBCONTRACTOR AND THE CONTRACTOR SHALL BE DEFERRED UNTIL SUCH CLAIMS ARE ADJUSTED OR SUITABLE SPECIAL INDEMNITY ACCEPTABLE TO THE CONTRACTOR IS PROVIDED BY THE SUBCONTRACTOR. NONE OF THE FOREGOING PROVISIONS SHALL DEPRIVE THE OWNER OR THE CONTRACTOR OF ANY RIGHT OR REMEDY OTHERWISE AVAILABLE TO THE OWNER OR THE CONTRACTOR AT COMMON LAW.

TO THE EXTENT THAT ANY LIENS MAY LEGALLY ATTACH TO ANY PORTION OF THE OWNER'S PROPERTY OR THE PROJECT, THE SUBCONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR AND THE OWNER AND THEIR SUCCESSORS IN INTEREST, FROM AND AGAINST ANY AND ALL MECHANICS LIENS OR OTHER LIENS, OR CLAIMS OF RIGHTS TO ENFORCE LIENS, INCLUDING ANY RELATED EXPENSES OR LEGAL FEES, AGAINST THE PROJECT OR THE IMPROVEMENTS TO BE ERECTED THEREON ARISING OUT OF ANY WORK TO BE PERFORMED OR LABOR OR MATERIALS TO BE FURNISHED UNDER THE SUBCONTRACT. NEITHER FINAL PAYMENT NOR ACCEPTANCE OF THE IMPROVEMENTS ERECTED HEREUNDER SHALL CONSTITUTE A WAIVER OF THIS INDEMNITY. IF ANY SUCH LIEN OR CLAIM FOR LIEN SHALL AT ANY TIME BE FILED, THE SUBCONTRACTOR SHALL PROMPTLY CAUSE THE LIEN TO BE REMOVED, OR SHALL REIMBURSE THE CONTRACTOR FOR ALL COSTS IT INCURS OR MAY BE COMPELLED TO PAY IN DISCHARGING ANY SUCH LIEN OR SATISFYING ANY SUCH CLAIM, INCLUDING ALL LEGAL FEES.

18. THE SUBCONTRACTORS SHALL PROCURE AND MAINTAIN UNTIL THE WORK HAS BEEN COMPLETED AND FOR AN ADDITIONAL TWELVE MONTHS THEREAFTER, TO COVER THE WARRANTY PERIOD, COMMERCIAL GENERAL LIABILITY COVERAGE WITH COMBINED SINGLE LIMITS OF NOT LESS THAN \$1,000,000 PER OCCURRENCE, \$2,000,000 GENERAL AGGREGATE CERTIFICATES MUST SHOW BROAD FORM PROPERTY DAMAGE COVERAGE INCLUDING BUT NOT LIMITED TO, DAMAGE ARISING FROM EXPLOSION, COLLAPSE AND ANY UNDERGROUND STRUCTURE WITH X, C, U, EXCLUSION REMOVED. THE POLICY MUST INCLUDE CONTRACTORS PROTECTIVE LIABILITY INSURANCE AND COMPLETED OPERATIONS COVERAGE. THE GENERAL LIABILITY POLICY SHALL BE ENDORSED TO INCLUDE PERSONAL INJURY, INCLUDING BUT NOT LIMITED TO, LIBEL, SLANDER, WRONGFUL EVICTION AND FALSE ARREST. THE POLICY SHALL BE WRITTEN ON AN OCCURRENCE BASIS RATHER THAN CLAIMS MADE. THE POLICY SHALL NAME "LAKEVIEW CONSTRUCTION LLC" AS ADDITIONAL INSURED ON A "PRIMARY AND NON-CONTRIBUTORY" BASIS, WITHOUT CONTRIBUTION FROM ANY COLLECTABLE INSURANCE MAINTAINED BY LAKEVIEW CONSTRUCTION LLC, AND SUCH ISO FORM CG2010 (04-13) OR EQUIVALENT ENDORSEMENT WILL ACCOMPANY CERTIFICATE. SUCH COVERAGE MAY BE PROVIDED BY OWNERS AND CONTRACTORS PROTECTIVE POLICIES NAMING "LAKEVIEW CONSTRUCTION, LLC" AS ADDITIONAL INSURED.

19. SUBCONTRACTOR MUST PROVIDE CERTIFICATE SHOWING STATUTORY WORKERS' COMPENSATION COVERAGE. SUBCONTRACTOR MUST PROVIDE CERTIFICATE SHOWING EMPLOYERS LIABILITY COVERAGE WITH MINIMUM LIMITS OF \$100,000/\$500,000/\$100,000.

20. SUBCONTRACTOR MUST PROVIDE CERTIFICATES OF INSURANCE SHOWING THAT IT MAINTAINS COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE.

IN ADDITION TO THE ABOVE-STATED INSURANCE REQUIREMENTS IN PARAGRAPH(S) 18, 19 AND 20, SUBCONTRACTOR SHALL PROVIDE CERTIFICATES OF INSURANCE SHOWING THAT IT MAINTAINS EXCESS OR UMBRELLA INSURANCE OVER GENERAL LIABILITY, AUTOMOBILE AND EMPLOYERS LIABILITY, WITH A MINIMUM LIMIT OF \$2,000,000.

ALSO, A WAIVER OF SUBROGATION ENDORSEMENT (RELATED TO THE GENERAL LIABILITY, AUTOMOBILE, AND WORKERS COMPENSATION INSURANCES) WILL BE PROVIDED IN FAVOR OF LAKEVIEW CONSTRUCTION LLC.

21. ANY DELAYS IN THE COMPLETION OF THE SUBCONTRACT WORK DUE TO THE SUBCONTRACTOR'S FAILURE TO OBTAIN OR MAINTAIN INSURANCE SHALL BE TREATED AS DELAYS DUE TO THE SUBCONTRACTOR'S BREACH OF SUBCONTRACT. IF THE SUBCONTRACTOR FAILS TO OBTAIN THE REQUIRED INSURANCE COVERAGE, OR IF THE COVERAGE IS PERMITTED TO LAPSE, OR IS CANCELED OR CEASES TO BE IN EFFECT, FOR ANY REASON, AT ANY TIME BEFORE THE SUBCONTRACT WORK IS COMPLETED, THAT EVENT SHALL CONSTITUTE A MATERIAL BREACH ENTITLING THE CONTRACTOR TO TERMINATE THE PURCHASE ORDER/SUBCONTRACT FOR DEFAULT.

22. IN ANY AND ALL CLAIMS AGAINST CONTRACTOR OR ANY OF ITS AGENTS OR EMPLOYEES BY ANY EMPLOYEE OF SUBCONTRACTOR, ANY SUB-SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER THIS PARAGRAPH SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR SUBCONTRACTOR OR ANY OF ITS SUB-SUBCONTRACTORS UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFITS AND/OR THEIR EMPLOYEE BENEFIT ACTS.

23. IF ANY SUB-SUBCONTRACTOR OR MATERIAL SUPPLIER, EMPLOYEE OR AGENT OF THE SUBCONTRACTOR ASSERTS A MECHANICS LIEN AGAINST THE PROJECT, THE CONTRACTOR SHALL HAVE THE RIGHT TO WITHHOLD ANY PAYMENT SUBSEQUENT TO BECOME DUE A SUM EQUAL TO ONE HUNDRED FIFTY PERCENT (150%) OF THE AMOUNT SO CLAIMED. THE CONTRACTOR, IN ITS SOLE DISCRETION, SHALL HAVE THE RIGHT TO PAY ANY SUCH CLAIMS DIRECTLY AND DEDUCT ANY SUMS SO PAID. THE CONTRACTOR SHALL FURTHER HAVE THE RIGHT TO RECOVER ALL COSTS INCURRED BY THE CONTRACTOR BY REASON OF THE ASSERTION OF ANY CLAIM, INCLUDING CLAIMS PAID, REASONABLE ATTORNEYS FEES, COURT COSTS AND INTEREST CHARGES INCURRED.

24. THE SUBCONTRACTOR SHALL OBTAIN AND PAY FOR ALL PERMITS, LICENSES, FEES, AND CERTIFICATES OF INSPECTION NECESSARY FOR THE PROTECTION AND COMPLETION OF THE WORK. IT SHALL ARRANGE FOR ALL NECESSARY INSPECTIONS, SUBJECT AND APPROVALS BY PUBLIC OFFICIALS, SUBJECT TO COORDINATION OF SAME WITH THE CONTRACTOR.

25. THE CONTRACTOR HAS CONTRACTED WITH THE SUBCONTRACTOR, AND THE SUBCONTRACTOR IS ACTING AT ALL TIMES PURSUANT TO THIS PURCHASE ORDER/SUBCONTRACT AS AN INDEPENDENT CONTRACTOR.

26. THE SUBCONTRACTOR SHALL NOT ENTER INTO ANY AGREEMENTS WITH OWNER OR ARCHITECT WITH RESPECT TO THE PROJECT WITHOUT FIRST OBTAINING THE CONTRACTOR'S WRITTEN CONSENT.

27. THE SUBCONTRACTOR AUTHORIZES THE CONTRACTOR TO RECOUP OR OFFSET AGAINST AMOUNTS OTHERWISE DUE AND OWING TO THE SUBCONTRACTOR UNDER THE SUBCONTRACT, ANY AND ALL AMOUNTS DUE TO THE CONTRACTOR FROM THE SUBCONTRACTOR, REGARDLESS OF THE ORIGIN OF SUCH OBLIGATIONS.

28. SUBCONTRACTOR WILL BE HELD TO BE THOROUGHLY FAMILIAR WITH ALL CONDITIONS AFFECTING LABOR IN THE NEIGHBORHOOD OF THE PROJECT INCLUDING, BUT NOT LIMITED TO UNIONS, INCENTIVE PAY, PROCUREMENT, LIVING AND COMMUNITY CONDITIONS AND WAGE DECISIONS APPLICABLE TO THE WORK. SUBCONTRACTOR SHALL ASSUME RESPONSIBILITY TO THE CONTRACTOR FOR ALL COSTS RESULTING FROM THE FAILURE TO VERIFY ALL CONDITIONS AFFECTING LABOR. THE SUBCONTRACTOR SHALL NOT EMPLOY ANY LABOR WHICH WILL INTERFERE WITH LABOR HARMONY AT THE JOBSITE OR WITH THE INTRODUCTION OF MATERIALS OR THE WORK OF OTHER SUBCONTRACTORS. ANY WORK STOPPAGE CAUSED BY A STRIKE, PICKETING, INABILITY TO OBTAIN SUPPLIES, MATERIALS OR EQUIPMENT, BOYCOTT OR ANY VOLUNTARY OR INVOLUNTARY CESSATION OF WORK, BY OR CAUSED BY THE PRESENCE OF EMPLOYEES OF THE SUBCONTRACTOR, ITS AGENTS, SUPPLIERS AND/OR SUB-SUBCONTRACTORS, WHICH IN THE SOLE JUDGMENT OF THE CONTRACTOR WILL CAUSE OR IS LIKELY TO CAUSE DELAY IN THE PROGRESS OF THE WORK SHALL CONSTITUTE A DEFAULT BY THE SUBCONTRACTOR.

29. THIS PURCHASE ORDER/SUBCONTRACT MAY BE EXECUTED SIMULTANEOUSLY IN TWO OR MORE COUNTERPARTS, EACH OF WHICH SHALL CONSTITUTE ONE AND THE SAME INSTRUMENT. SUBCONTRACTOR AGREES THAT THIS PURCHASE ORDER/SUBCONTRACT MAY BE ELECTRONICALLY SIGNED AND SAME SHALL SERVE AS HANDWRITTEN, ORIGINAL SIGNATURES FOR THE PURPOSE OF ENFORCEABILITY, VALIDITY AND ADMISSIBILITY.