

## Midwest Machinery Movers, LLC's Customer Terms and Conditions of the Contract

Customer's acceptance of this Quote, Midwest Machinery Movers, LLC ("Midwest") commencement of work, or other contract forms shall constitute the contract (the "Contract"). These Terms and Conditions will be considered part of Midwest's Quote whether or not specifically referenced therein. These Terms and Conditions may be amended or changed from time to time by Midwest and may be found at [midwestmachinerymovers.com/terms-and-conditions](http://midwestmachinerymovers.com/terms-and-conditions).

Unless otherwise expressly agreed in writing, all work performed by Midwest is subject to the following terms and conditions:

1. Cost. Midwest's proposal is subject to acceptance within ninety 90 days and is conditional upon satisfactory arrangements being made regarding payment and/or security. Prices are based on job conditions being the "same" as those at time of site visit by Midwest. The term "same" will be solely determined by Midwest. Midwest's price is based on the weight(s) and dimensions provided by Customer. The price is subject to change should any of the dimensions or weight(s) vary from those provided by Customer. This Contract is based on Work performed at a straight time rate between the hours of 7:00 A.M. to 5:00 P.M., Monday through Friday, except legal holidays. Premium time for Work performed at Customer's request will be billed at premium time rates. Waiting time of more than two (2) hours for trucks or trailers will be extra and billed at our regular rates or premium rates as may apply. Work performed to correct shop blueprint errors will also be billed as extra at our regular rates in addition to the Contract price. Rescheduling without a 24-hour notice is subject to additional charges at Midwest's discretion.
2. Terms of Payment. Payment is due at Net 30 Days unless other terms are specified in the Proposal. All quotes are in US Dollars unless otherwise stated. 3% will be added if paying by credit card.
3. Delays. Midwest shall not be responsible for any direct or indirect damages whatsoever caused by delays and shall not be responsible for any damages or loss due to delays caused by fires, strikes, adverse weather conditions, labor disputes, material procurement difficulties, governmental regulations, accidents (without regard to cause), transportation delays, or any other delay beyond Contractor's control.

In the event Midwest is delayed in the performance of the work due to the fault of Customer, its employees, servants, agents, or contractors of the purchaser other than Midwest, Midwest will be entitled to be reimbursed for any costs it incurs as a result of any such delay. Time and Material rates for labor and equipment will apply. This quotation will be subject to availability of appropriate equipment.

4. Midwest's Representations. Midwest represents that it is qualified to perform the Work; that the Work will be performed in a manner consistent with that level of care and skill ordinarily exercised by others performing similar work under similar circumstances; that the Work will be free from defects; and that all goods and materials to be supplied by Midwest shall be of good quality. Midwest's liability for loss or damage to Customer's property (real or personal) due to Contractor's negligent acts, errors or omissions shall be **limited to the lesser of Customer's actual damages or One Million Dollars (\$1,000,000)**. Further, Customer agrees to indemnify and hold harmless Midwest for any damages or loss suffered by Midwest or claimed by any other person, entity, or

insurer in excess of any available insurance applicable to Midwest for Customer's losses or damages due to Midwest's acts, errors, or omissions.

5. Customer Responsibilities. Unless otherwise specified herein:
  - Midwest will neither furnish nor perform the following Work: electrical, mechanical, hydraulic, piping, hook ups or disconnects, leveling, anchoring, concrete work, painting, fabricating, or crating disposal, unless specifically stated in Quote.
  - When necessary, the following (but not limited to) shall be furnished by Customer without expense to Midwest: material for blocking, bracing, or skidding, shoring of floors, walls, buildings, or parts thereof. These customer-supplied materials and equipment should be of good quality unless otherwise specified. All materials and equipment provided by Customer not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.
  - Customer is to provide adequate access & egress to job site.
  - Midwest is not responsible for any oils, chemicals, liquids, contaminants, etc., not removed from equipment being moved. Removal charges and fines will be charged to Customer.
6. Indemnification of Midwest for Property Damage. Midwest shall not be liable for and Customer hereby indemnifies and holds Midwest harmless from any loss due to damage of any nature, including, but not limited to, driveways, finished floors, walls, buildings, curbs, sidewalks, or parts thereof not adequate to support machinery and the equipment needed to complete the job.
7. Customer Inspection of Work. Unless Customer gives written notice within forty-eight hours after receipt of the equipment specifying defects or other objections, it shall be conclusively presumed between Customer and Midwest that Customer has fully inspected the equipment, that it is in full compliance with terms of this Contract, is in good condition and repair, and that Customer is satisfied and has accepted the same.
8. Indemnification for Negligence of Parties. Customer shall indemnify, hold harmless and defend Midwest, its employees, agents, and representatives from and against any and all losses, damages, expenses, claims, suits and demands of whatever nature, resulting from damages or injuries, including death and lost profits, to any property or persons, caused by or arising out of any action, omission, or operation under this Contract or in connection with the Work attributable to parties other than Midwest, its material men, employees, agents or representatives, provided however, that the Customer shall not be required to indemnify Midwest, its employees, agents, and representatives hereunder for any damages or injuries, including death, to any property or persons, caused solely and exclusively by the negligence of Midwest. Midwest, at its option, may reasonably add to any monies owing by Customer to indemnify Midwest against losses, liabilities, and obligations for which Customer is liable under this and all related agreements.
9. Worker's Compensation, Property Damage and Cargo Insurance. Workmen's Compensation and General Liability Insurance are carried by Midwest. Certificates of Insurance will be furnished upon request.

10. Notices. All notices or other communications required by Customer pursuant to this Contract shall be in writing and shall be delivered personally or sent by overnight courier, by facsimile or email with confirmation or by registered/certified mail return receipt requested.
11. Waiver. Any waiver of any right, power or privilege hereunder shall not operate as a waiver of any other right, power or privilege hereunder.
12. Execution in Counterparts. This Contract may be executed in any number of counterparts, and by the parties in separate counterparts, each of which shall be an original, but all of which shall together constitute one and the same Contract.
13. Customer Acceptance of Terms and Conditions. If there is not a signed Quote returned; any authorization, consent, or notice to proceed with Work (oral, email, phone call, text message, purchase order) is Customer's unequivocal acceptance to these Terms and Conditions.
14. Governing Law and Jurisdiction; Attorney Fees. This Contract is governed by Michigan law. Any action to enforce it must be brought in a state or federal court physically located in Saginaw County, Michigan. The prevailing party will be able to recover all costs and attorney fees from the losing party in any dispute or litigation under this Contract.
15. Exclusive Terms and Conditions. The Contract sets forth the exclusive terms and conditions under which Midwest will provide services for the Work and for which Customer will purchase the services described for the period(s) specified in this Contract. Terms and Conditions proposed by Customer that are different from, or in addition to, the provisions of the Contract are expressly rejected by Midwest and are not a part of the Contract, and Customer's acceptance is expressly limited to the Terms and Conditions of the Contract. The Contract constitutes the entire agreement between Customer and Midwest with respect to the matters contained herein and supersedes all prior or contemporaneous oral or written agreements, representations and/or communications. The Contract may be modified only by an amendment issued by Midwest. In case of a conflict between the terms and conditions on the face of the Quote or other document and the Terms and Conditions contained herein, the terms and conditions on these Terms and Conditions shall control.
16. Nature of the Relationship of Parties. Customer and Midwest are independent parties and nothing in the Contract will make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.
17. Severability. In the event that any one or more provisions contained in the Contract shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The remedies contained herein are cumulative and in addition to any other remedies at law or equity.
18. Construction and Acknowledgment. This Agreement is the product of negotiations between the Parties and shall not be construed as being drafted by one Party as opposed to the other. Both parties acknowledge that they have read and understand the contents of this Agreement. Both

parties agree that they have had the opportunity to have legal counsel review this Agreement and are satisfied with its contents.

19. Headings. Section titles or captions contained in this Agreement are inserted as a matter of convenience and for reference only, and in no way define, limit, extend or describe the scope of this Agreement.
20. Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LEGAL REQUIREMENT THAT CANNOT BE WAIVED, THE PARTIES WAIVE AND COVENANT THAT THEY WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT, OR OTHERWISE), ANY RIGHT TO TRIAL BY **JURY** IN ANY ACTION ARISING IN WHOLE OR IN PART UNDER OR IN CONNECTION WITH THIS AGREEMENT, ANY ANCILLARY AGREEMENT, OR ANY OF THE CONTEMPLATED TRANSACTIONS, WHETHER NOW EXISTING OR ARISING AFTER, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY **JURY** IN ANY ACTION WHATSOEVER BETWEEN OR AMONG THEM RELATING TO THIS AGREEMENT, ANY ANCILLARY AGREEMENT, OR ANY OF THE CONTEMPLATED TRANSACTIONS, AND THAT SUCH ACTIONS WILL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A **JURY**.

## **Midwest Machinery Movers, LLC. Carrier Terms and Conditions of the Contract**

Carrier's commencement of Work, Carrier Agreement, or other contract form shall constitute the contract (the "Contract") for the performance of the Work described. These Terms and Conditions may be amended or changed from time to time by Midwest and may be found at [midwestmachinerymovers.com/terms-and-conditions](http://midwestmachinerymovers.com/terms-and-conditions).

Unless otherwise expressly agreed in writing, all purchases are subject to the following Terms and Conditions:

1. Unless Midwest has otherwise agreed in writing, payment terms shall be Net thirty (30) days from the later of the date Midwest receives Carrier's invoice or the date on which Midwest accepts the Work as satisfactory.
2. Any amount owed to Carrier by Midwest shall be subject to deduction for any set-off, counterclaim, or indemnification rights arising out of this or any other Contract owed by Carrier to Midwest.
3. Carrier will supervise and direct all work ("Work") performed under this Contract and will cooperate with Midwest in scheduling and performing the Work to avoid conflict, delay or interference with the work of Midwest or other subcontractors. Carrier will complete the Work in accordance with any schedule agreed to between the parties or directed by Midwest. Carrier will take necessary precautions to protect the work of Midwest and other subcontractors from damage caused under this Contract.
4. Carrier represents that it is qualified to perform the Work; that it is a motor carrier registered with the Department of Transportation; and that the Work shall be performed in a manner consistent with that level of care and skill ordinarily exercised by others performing similar work under similar circumstances.
5. Carrier agrees that any employee or lower tier Carrier that will be working on or transporting materials has received, prior to performing any Work, all training required by applicable federal, state and local laws, rules and regulations.
6. Carrier shall comply with all applicable governmental laws, ordinances, codes, rules, regulations, programs, plans and orders in the performance of this Contract and the Work. At Midwest's request, Carrier shall provide appropriate certificates of compliance. Carrier shall obtain all permits or licenses required in connection with the Work Carrier undertakes for Midwest.
7. Carrier shall not delegate or subcontract any duties or assign any rights or claims under this Contract without Midwest's prior written consent, and any such attempted delegation, subcontract or assignment shall be void.
8. Carrier shall be liable to Midwest for all loss or damage to any cargo, machinery or other products that Carrier will be transporting under the Contract.
9. Carrier shall maintain with an insurance company or companies Comprehensive General Liability Insurance (including liability hereunder) in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, naming Midwest as an additional insured. Carrier shall also

maintain all required workers' compensation insurance in the minimum amount of \$500,000, Cargo Insurance at \$250,000 per single conveyance, and automobile liability insurance in a minimum amount of \$1,000,000 combined single limit per accident, as well as such other insurance coverage as Midwest may request. At Midwest's request, a certificate of such insurance shall be filed with Midwest and shall provide for not less than 10 days prior written notice to Midwest of cancellation or material change. Liability insurance limits shall not be construed to limit Midwest's right of indemnity hereunder

10. Carrier shall indemnify, hold harmless and defend Midwest, their employees, agents, and representatives from and against any and all losses, damages, expenses, claims, suits and demands of whatever nature, resulting from damages or injuries, including death and lost profits, to any property or persons, caused by or arising out of any action, omission, or operation under this Contract or in connection with the Work attributable to Carrier, its material men, employees, agents or representatives, provided however, that the Carrier shall not be required to indemnify Midwest, its employees, agents, and representatives hereunder, for any damages or injuries, including death, to any property or persons, caused solely and exclusively by the negligence of Midwest. To the extent that Carrier and Midwest have signed any other contract, any indemnity by the Carrier will be in addition to, and not replace, this indemnity.
11. All notices or other communications required by Carrier pursuant to this Contract shall be in writing and shall be delivered personally or sent by overnight courier, by facsimile or email with confirmation or by registered/certified mail return receipt requested.
12. Any waiver of any right, power or privilege under these Terms and Conditions or the Contract shall not operate as a waiver of any other right, power or privilege hereunder.
13. If there is not a signed quote returned, any authorization, consent, or notice to proceed for work (e.g., oral, email, phone call, text message, purchase order) is Carrier's unequivocal acceptance to these Terms and Conditions.
14. This Contract is governed by Michigan law. Any action to enforce it must be brought in a state or federal court with jurisdiction in Saginaw County, Michigan. The prevailing party will be able to recover all costs and attorney fees from the losing party in any dispute or litigation under this Contract.
15. In the event that any one or more provisions contained in the Contract shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The remedies contained herein are cumulative and in addition to any other remedies at law or equity.
16. This Agreement is the product of negotiations between the Parties and shall not be construed as being drafted by one Party as opposed to the other. Both parties acknowledge that they have read and understand the contents of this Agreement. Both parties agree that they have had the opportunity to have legal counsel review this Agreement and are satisfied with its contents.

17. Section titles or captions contained in this Agreement are inserted as a matter of convenience and for reference only, and in no way define, limit, extend or describe the scope of this Agreement.
18. Carrier and Midwest are independent parties and nothing in this Contract will make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. The conduct of the parties pursuant to this Contract does not create a partnership.
19. Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LEGAL REQUIREMENT THAT CANNOT BE WAIVED, THE PARTIES WAIVE AND COVENANT THAT THEY WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT, OR OTHERWISE), ANY RIGHT TO TRIAL BY **JURY** IN ANY ACTION ARISING IN WHOLE OR IN PART UNDER OR IN CONNECTION WITH THIS AGREEMENT, ANY ANCILLARY AGREEMENT, OR ANY OF THE CONTEMPLATED TRANSACTIONS, WHETHER NOW EXISTING OR ARISING AFTER, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY **JURY** IN ANY ACTION WHATSOEVER BETWEEN OR AMONG THEM RELATING TO THIS AGREEMENT, ANY ANCILLARY AGREEMENT, OR ANY OF THE CONTEMPLATED TRANSACTIONS, AND THAT SUCH ACTIONS WILL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A **JURY**.

## **Midwest Machinery Movers, LLC. Subcontractor Terms and Conditions of the Contract**

Subcontractor's commencement of Work, Subcontractor Agreement, or other contract form shall constitute the contract (the "Contract") for the performance of the Work described. These Terms and Conditions shall be deemed incorporated into Midwest's request for the Work. These Terms and Conditions may be amended or changed from time to time by Midwest and may be found at [midwestmachinerymovers.com/terms-and-conditions](http://midwestmachinerymovers.com/terms-and-conditions).

Unless otherwise expressly agreed in writing, all purchases are subject to the following Terms and Conditions:

1. Cost. Prices are based on job conditions being the "same" as those at time of inspection by Midwest. The term "same" will be solely determined by Midwest. Subcontractor represents and warrants that the prices set forth in the Purchase Order are at least as low as those currently being quoted by Subcontractor to commercial users for the same products or services, in like quantities, under similar circumstances. Unless Midwest has otherwise agreed in writing, payment terms shall be net thirty (30) days from the later of the date Midwest receives Subcontractor's invoice or the date on which Midwest accepts the Work as satisfactory.
2. Terms Of Payment. Each invoice must comply with applicable law and include the following information regarding the corresponding performance of services: (a) amount due (In US Dollars); and (b) location of delivery or performance; Midwest may reject any invoice that is inaccurate or does not conform to these requirements, and Subcontractor will promptly reissue any such rejected invoice. Midwest's failure to reject an Invoice does not constitute Midwest's acceptance of the invoice or the services to which such invoice pertains. Midwest will pay for the services provided by Subcontractor in accordance with the payment terms and in US Dollars.
3. Setoff. Any amount owed to Subcontractor by Midwest or any of Midwest's affiliates, shall be subject to deduction for any set-off, counterclaim or indemnification rights arising out of this or any other Contract owed by Subcontractor to Midwest.
4. Supervision of Work. Subcontractor will supervise and direct all work ("Work") performed under this Contract and will cooperate with Midwest in scheduling and performing the Work to avoid conflict, delay, or interference with the work of Midwest or other subcontractors. The Subcontractor will complete the Work in accordance with any schedule agreed to between the parties or directed by Midwest. Subcontractor shall take necessary precautions to protect the work of Midwest and other subcontractors from damage caused under this Contract. Further, if Subcontractor's acts or omissions result in, or are likely to result in, Subcontractor's failure to meet Midwest's Work requirements and Midwest is required to find another subcontractor for the Work, Subcontractor will be solely responsible for all costs and expenses associated with such replacement of Subcontractor. The parties agree that Subcontractor is not an employee of Midwest for the purposes of the work performed pursuant to this agreement.
5. Subcontractor's Representations. Subcontractor represents that it is qualified to perform the Work; that the Work shall be performed in a manner consistent with that level of care and skill ordinarily exercised by others performing similar work under similar circumstances; that the Work shall be free from defects; and that all goods and materials to be supplied by



Subcontractor shall be of good quality and new. Subcontractor shall, at its sole expense, promptly correct or replace non-conforming or defective Work. Corrected or replaced Work shall be subject to the same warranties set forth herein. This remedy shall be in addition to all other remedies provided by law and shall survive the termination of the Contract.

6. Acknowledgment of Risk; Safety Training. Subcontractor acknowledges that the site of any Work may contain hazardous materials, hazardous wastes and other safety hazards, and the Subcontractor knowingly and voluntarily assumes all risk of injury to Subcontractor, its employees, and agents. Subcontractor agrees that any employee or lower tier subcontractor that will be working on or for the site has received, prior to performing any work, all training required by applicable federal, state and local laws, rules and regulations.
7. Cancellation by Midwest. Midwest may, by notice to Subcontractor, cancel the whole or any portion of this Contract in the event of that Subcontractor becomes insolvent, bankrupt, or Midwest believes in good faith that Subcontractor cannot complete this Contract or any Work undertaken by Subcontractor for Midwest. In the event of any such cancellation, Midwest, at its discretion, may direct Subcontractor to complete all unfinished Work.
8. Warranties by Subcontractor. In addition to any other express or implied warranties, Subcontractor warrants that all Work performed, and goods provided hereunder, will be merchantable, new, suitable for the uses intended, of the grade and quality specified, free from all defects in design, material and workmanship, will conform to all samples, drawings, descriptions and specifications furnished, and will be free of liens and encumbrances. In addition, Subcontractor acknowledges that Subcontractor knows of Midwest's intended use of the services and goods for Work performed and warrants and guarantees that such goods have been selected, designed, manufactured, or assembled, and all services performed by Subcontractor were based upon Midwest's stated use, and such goods and services will be fit and sufficient for the particular purposes intended by Midwest. These warranties shall survive any delivery, inspection, acceptance, or payment for the Work and shall extend to Midwest and Midwest's customers. These warranties shall be construed as conditions as well as warranties and shall not be deemed to exclude Subcontractor's standard warranties or other rights or warranties which Midwest may have or obtain. At its expense and option, Subcontractor shall replace or repair any products not conforming to the foregoing warranties. If after notice, Subcontractor fails promptly to replace or repair any such product, Subcontractor shall promptly refund to Midwest the full purchase price paid by Midwest for all such Work.
9. No Assignment or Delegation of Duties by Subcontractor. Subcontractor shall not assign, delegate, or subcontract any duties or assign any rights or claims under this Contract without Midwest's prior written consent, and any such attempted delegation, subcontract or assignment shall be void.
10. Work Changes. Midwest may at any time and from time to time, by notice to Subcontractor, make changes in specifications, designs, drawings, method of packing, destinations and delivery schedules, and Subcontractor shall immediately comply therewith. If any such change causes a material increase or decrease in Subcontractor's cost or the time for performance, an equitable adjustment shall be made to the price or delivery schedule, or both.

11. Compliance with Laws. Subcontractor, and any goods or services supplied by Subcontractor, will comply with all applicable laws, rules, regulations, orders, conventions, ordinances, or standards of the country(ies) of destination or that relate to the manufacture, labeling, transportation, importation, exportation, licensing, approval or certification of the goods or services, including, without limitation, those relating to environmental matters, the handling and transportation of dangerous goods or hazardous materials, data protection and privacy, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health/safety and motor vehicle safety. Subcontractor agrees to provide Midwest with copies of any applicable Material Safety Data Sheets at the time of delivery to Midwest's premises of the products or services ordered hereunder which require such compliance, and any updates of such sheets required to be delivered by Subcontractor to Midwest under such laws and regulations and/or upon request. Subcontractor further represents that neither Subcontractor nor any of its subcontractors, vendors, agents or other associated third parties will utilize child, slave, prisoner or any other form of forced or involuntary labor, or engage in abusive employment or corrupt business practices, in the supply of goods or provision of services under this Purchase Order. Subcontractor agrees to comply with all applicable anti-corruption laws, including, without limitation, the U.S. Foreign Corrupt Practices Act, and that neither Subcontractor nor any of its subcontractors, vendors, agents or other associated third parties will engage in any form of commercial bribery, nor directly or indirectly provide or offer to provide, anything of value to or for the benefit of, any official or employee of a governmental authority or of any government-owned, government-controlled or government-affiliated entity to obtain or retain any Purchase Order, business opportunity, or other business benefit, or to influence any act or decision of that person in his/her official capacity. At Midwest's request, Subcontractor will certify in writing its compliance with the foregoing. Subcontractor will indemnify and hold Midwest harmless from and against any liability, claims, demands or expenses (Including, without limitation, legal or other professional fees) arising from or relating to Subcontractor's noncompliance.
12. Subcontractor Insurance. Subcontractor shall maintain with an insurance company or companies standard ISO Commercial General Liability coverage with an insurer admitted to do business in the state where the project is located. The coverage must be endorsed to name Midwest as an "additional insured". The "Additional Insured" form shall state that this insurance shall be primary without right of contribution from any other insurance available to the "additional insureds" and the amount of the company's liability under this policy shall not be reduced by the existence of such other insurance. Coverage for the "additional insureds" shall be provided until the expiration of the applicable statute of repose for the work performed by the Subcontractor. The CGL must be written on an occurrence basis, in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, Products and Completed Operations Aggregate in the amount of \$2,000,000, Personal/Advertising Injury in the amount of \$1,000,000. Subcontractor shall also maintain umbrella coverage in the amount of \$1,000,000. Subcontractor shall also maintain all required workers' compensation insurance in the minimum amount of \$500,000, and automobile liability insurance in a minimum amount of \$1,000,000 combined single limit per accident, as well as such other insurance coverage as Midwest may request. Liability insurance limits shall not be construed to limit Midwest's right of indemnity hereunder.

13. Indemnification by Subcontractor. Subcontractor shall indemnify, hold harmless and defend Midwest, the Construction Manager, General Contractor, Engineer, Architect or any other party required in any contract relating to the Work, their employees, agents, and representatives from and against any and all losses, damages, expenses, claims, suits and demands of whatever nature, resulting from damages or injuries, including death and lost profits, to any property or persons, caused by or arising out of any action, omission, or operation under this Contract or in connection with the Work attributable to Subcontractor, its material men, employees, agents or representatives; provided however, that the Subcontractor shall not be required to indemnify Midwest, its employees, agents, and representatives hereunder, for any damages or injuries, including death, to any property or persons, caused solely and exclusively by the negligence of Midwest. To the extent that Midwest is damaged or suffers losses in any way due to a lien caused or initiated by Subcontractor's conduct, Subcontractor shall indemnify, hold harmless, defend and reimburse Midwest. To the extent that Subcontractor and Midwest have signed a Subcontract Agreement, any indemnity by the Subcontractor will be in addition to, and not replace, this indemnity.
14. Notices. All notices or other communications required by Subcontractor pursuant to this Contract shall be in writing and shall be delivered personally or sent by overnight courier, by facsimile or email with confirmation or by registered/certified mail return receipt requested.
15. Waiver. Any waiver of any right, power or privilege under these Terms and Conditions or the Contract shall not operate as a waiver of any other right, power or privilege hereunder.
16. Oral Acceptance of Terms and Conditions. If there is not a signed quote returned, any authorization, consent, or notice to proceed for work (e.g., oral, email, phone call, text message, purchase order) is Subcontractor's unequivocal acceptance to these Terms and Conditions.
17. Governing Law. This Purchase Order and the rights and obligations of the parties hereunder shall be governed by and interpreted, construed and enforced in accordance with the laws of the State of Michigan, United States of America, and the courts sitting in Saginaw County, Michigan, or the U.S. District Court for the Eastern District of Michigan shall have exclusive jurisdiction and venue over any dispute arising hereunder.
18. Entire Agreement; Applicability. The Contract sets forth the exclusive Terms and Conditions under which Subcontractor will provide services for the Work and for which Midwest will purchase the goods or services described herein for the period(s) specified in this Contract. Terms and Conditions proposed by Subcontractor that are different from, or in addition to the provisions of the Contract are expressly rejected by Midwest and are not a part of the Contract, and Subcontractor's acceptance is expressly limited to the terms of the Contract. The Contract constitutes the entire agreement between Subcontractor and Midwest with respect to the matters contained herein and supersedes all prior or contemporaneous oral or written agreements, representations and/or communications. The Contract may be modified only by an amendment issued by Midwest. In case of a conflict between the Terms and Conditions on the face of the Purchase Order, Subcontractor Agreement, quote or other document and the Terms and Conditions contained herein, these Terms and Conditions shall control.

19. Authorization. Subcontractor represents and warrants that it has been duly authorized to execute, deliver, and perform the Contract, and the person signing on the Subcontractor's behalf has the power and authority to do so.
20. Severability. In the event that any one or more provisions contained in the Contract shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The remedies contained herein are cumulative and in addition to any other remedies at law or equity. Midwest's failure to enforce, or waiver of a breach of, any provision of the Purchase Order, Subcontractor Agreement, quote or other agreement shall not constitute a waiver of any other breach or of any provision of the Contract.
21. Additional or Inconsistent Terms. Any term or condition set forth in any Purchase Order, Subcontractor Agreement, quote, or other agreement provided to Midwest by Subcontractor, which is in any way different from, inconsistent with, or in addition to the Terms and Conditions set forth herein will not become a part of the Contract or be binding upon Midwest. If Subcontractor objects to any Term or Condition set forth herein, this objection must be in writing and received by Midwest at the address stated on the website, care of Julie Law, prior to Subcontractor's delivery of services under the Work. Midwest's failure to object to terms contained in any communication from Subcontractor will not be a waiver of the Terms and Conditions set forth herein. Subcontractor shall not condition any delivery of goods or services upon the abrogation or modification of any of the Terms and Conditions.
22. Specific Performance. Subcontractor acknowledges and agrees that money damages will not be a sufficient remedy for any actual or threatened breach of the Contract by Subcontractor and that, in addition to all other rights and remedies that Midwest may have, Midwest will be entitled to specific performance and temporary, preliminary and permanent injunctive relief in connection with any action to enforce the Contract, without any requirement of a bond or other security to be provided by Midwest.
23. Nature of the Relationship of Parties. Subcontractor and Midwest are independent parties and nothing in the Contract will make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.
24. Headings. Section titles or captions contained in this Agreement are inserted as a matter of convenience and for reference only, and in no way define, limit, extend or describe the scope of this Agreement.
25. Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LEGAL REQUIREMENT THAT CANNOT BE WAIVED, THE PARTIES WAIVE AND COVENANT THAT THEY WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT, OR OTHERWISE), ANY RIGHT TO TRIAL BY **JURY** IN ANY ACTION ARISING IN WHOLE OR IN PART UNDER OR IN CONNECTION WITH THIS AGREEMENT, ANY ANCILLARY AGREEMENT, OR ANY OF THE CONTEMPLATED TRANSACTIONS, WHETHER NOW EXISTING OR ARISING AFTER, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED-FOR

AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY **JURY** IN ANY ACTION WHATSOEVER BETWEEN OR AMONG THEM RELATING TO THIS AGREEMENT, ANY ANCILLARY AGREEMENT, OR ANY OF THE CONTEMPLATED TRANSACTIONS, AND THAT SUCH ACTIONS WILL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A **JURY**.