

NV5
Subconsultant Terms and Conditions Agreement
Dated June 15, 2023

1. PARTIES OF AGREEMENT:

1.1. NV5 (located at 3550 W. Market Street, Akron, Ste. 200, Akron, OH 44333) has been engaged by its clients to procure surveying services from the Independent Licensed Surveyor/Surveying firm ("Subconsultant").

2. TERMS OF AGREEMENT

2.1. COMMUNICATING WITH NV5: The Subconsultant will communicate with NV5 throughout the duration of the project to report the project status, delivery status, and relate questions or concerns via email with the assigned NV5 Project Team.

2.2. DELIVERY OF FIRST DRAFT OF SURVEY: The Subconsultant shall deliver the surveys within the calendar days ("Due Date") indicated within the Subconsultant's Quote from receipt of NV5's Authorization to Proceed. If Subconsultant experiences any delays in complying with this due date, the Subconsultant will advise NV5 in writing via email. It is understood that the surveys are due on the Due Date whether or not current title commitments and supportive documents are received by the Subconsultant. In an instance where the current title commitment and supportive documents have not been made available at the time of the submittal of the first draft, the Subconsultant shall state on the survey that the draft of survey was prepared without the benefit of a current title commitment or supportive documents.

2.3. DELIVERY/RECEIPT OF TITLE COMMITMENTS: A copy of current title commitment (including copies of all supportive documents) will be delivered to Subconsultant as soon as they become available. The Subconsultant shall review these materials immediately upon receipt and advise NV5 of missing documentation.

2.4. LIMITS OF SURVEY: The limits of the property to be surveyed are those described in the information made available to the Subconsultant at NV5's original request for proposal. It is the responsibility of the Subconsultant to review these materials and verify or qualify the same on the Quote submitted to NV5. In the event the current title commitment contains off-site appurtenant easements, then the Subconsultant shall show the limits of said easements on his survey however no improvements within said easements shall be required within the scope of the survey. In the event the current title commitment contains more lands than the information which was made available at the time of the proposal request and as verified by the Subconsultant on the quote, then the Subconsultant shall immediately advise NV5 in writing.

2.5. STATUS REPORTING: The Subconsultant shall report the project status, problems, questions, etc. to NV5 throughout the entire duration of the project. It is the responsibility of the Subconsultant to notify NV5 of any project delays.

2.6. SURVEY DELIVERY PROCEDURE: The standard NV5 survey delivery procedure is a submittal of a copy of the first draft of survey delivered to NV5 by the Due date. After review comments are offered by NV5 and/or NV5's Client, the survey will be revised and delivered according to the instructions of NV5.

2.7. REVIEW COMMENTS: All review comments and questions regarding the Survey shall be delivered to the Subconsultant in writing from NV5. After review comments are offered by NV5 and/or NV5's Client, then the surveys will be revised and delivered according to the instructions of NV5. If the Subconsultant needs any clarifications to requested revisions, such questions shall be submitted in writing to NV5 by e-mail. The Subconsultant shall NOT address requests for revisions from other parties without the written permission or instruction of NV5. It is understood that there may be multiple parties who may offer review comments or questions, including but not limited to the title company, lender's counsel, and buyer's counsel. All comments will be addressed by the Subconsultant as a part of the scope of services and under the direction and instruction

of NV5. If the Subconsultant determines that communication with the client is needed to clarify or respond to review comments or questions relating to the Subconsultant's work product, then NV5 will facilitate direct communication between the Subconsultant and client.

- 2.8. SURVEY FEES:** The Subconsultant's fees for providing each survey are as noted on each NV5 Quote Form submitted and as noted and acknowledged on NV5 letter of Authorization to Proceed. Said fees are not-to-exceed amounts based upon the requirements, terms and conditions stated herein and the Limits of Survey described herein. Said fees are to include sales tax, all overnight delivery charges, reproduction costs, telephone calls, and labor and materials incidental to the performance and preparation of the survey(s). If the Limits of Survey described herein change, then the Subconsultant shall notify NV5 immediately in writing of any change prior to completing the survey.
- 2.9. INVOICE TO NV5:** The Subconsultant's invoice shall include: 1). NV5 Project Name; 2). NV5 Project and site Number; 3). Property Address 4). Invoice amount. The Subconsultant understands a delay in payment may be experienced if all the information is not provided on the invoice. The Subconsultant shall also be responsible for providing NV5 with a W-9 form as required by the Internal Revenue Service. This can be verified by contacting NV5's accounting department @ 1-800-787-8397.
- 2.10. PAYMENT:** It is understood that the Subconsultant will not be paid until NV5 receives payment from their client, the final survey, and Subconsultant's Invoice. Payment to the Subconsultant will be processed once the above conditions are met.
- 2.11. LIABILITY:** It is understood that Subconsultant is engaged by NV5 as an independent contractor to perform surveys for NV5 and NV5's client(s). The actual performance of the surveying will be performed by a Subconsultant who is licensed to practice surveying within the state in which the project is located. NV5's liability will be limited to managing the procurement of said survey, monitoring all survey progress, communicating surveying needs to the Subconsultant, reviewing surveys for compliance with requirements and delivery of final surveys to parties involved in the transaction. NV5 shall not be liable or responsible for data, certifications or information reported by Subconsultant on said survey(s), and Subconsultant shall hold NV5 harmless and indemnify NV5 and NV5's client against any and all claims arising from any negligence, errors, and omissions by Subconsultant in the performance of the work.
- 2.12. MINIMUM REQUIRE INSURANCE:** The Subconsultant shall provide to NV5 a certificate of insurance evidencing the following minimum limits required by NV5:

Workers Compensation	Statutory
Employer's Liability	\$1,000,000 per occurrence
Commercial General Liability	
Bodily Injury and	\$1,000,000 per occurrence
Property Damage	\$2,000,000 in the aggregate
Products/completed	\$1,000,000 per occurrence
operations	\$2,000,000 in the aggregate
Automobile Liability for Owned & Rented Vehicles	
Bodily	\$1,000,000 per occurrence
	\$1,000,000 in the aggregate
Professional Liability	\$1,000,000 per claim
	\$1,000,000 in the aggregate

- 2.13. RIGHT TO CANCEL: Termination without Cause:** NV5 shall have the right to terminate this Agreement at any time at its convenience, without cause, upon written notice to Subconsultant. In the event that NV5 so elects to terminate without cause, Subconsultant shall be entitled to receive payment for all amounts due it for services provided through the termination date under the payment terms of this Agreement. Subconsultant shall not be entitled to unrealized or lost profits, incidental damages, consequential damages, or any such indirect or special damages. Termination for cause: In the event Subconsultant fails or is unable to comply with the provisions of this Agreement, or there is a defect in the Services, and same is not corrected within forty-eight (48) hours after written notice by NV5 to Subconsultant, NV5 may at its sole discretion, notwithstanding any other right or remedy: A. Terminate this Agreement as provided above and be relieved of the payment of any further consideration to Subconsultant. In the event of such termination, NV5 may proceed to complete the services in any manner deemed proper by NV5, either by the use of its own forces or by re-subcontracting them to others. B. NV5 may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies or help necessary to remedy the situation, at the expense of Subconsultant. Subconsultant's Breach or Default: In the event of Subconsultant's default under, or breach or threatened breach of, this Agreement, NV5 shall in addition to any remedy provided for in this Agreement, be entitled to all remedies otherwise available to it at law or equity in such circumstance, and no provision of this agreement shall be construed to restrict or abridge to NV5 the rights or remedies generally available to parties aggrieved by default or breach of contract or the threat thereof.
- 2.14. CONFIDENTIALITY:** Subconsultant agrees that it will not divulge to any third party without the written consent of NV5, nor use for any purpose other than the performance of the services under this Agreement, any information that is disclosed to Subconsultant by or on behalf of NV5 or its clients in connection with the performance of services under this Agreement or that is obtained or developed by NV5 in connection with such performance, except information which (a) Subconsultant can show was in his possession prior to obtaining same from NV5, and was not subject to an obligation of confidentiality to a third party, or (b) was at the time of disclosure to Subconsultant hereunder freely available in the public literature, or (c) thereafter becomes freely available in the public literature without any breach of this Agreement. Subconsultant shall not communicate directly with Client without the express written consent of the NV5 and shall go through NV5 for any and all communications.
- 2.15. QUALIFICATIONS.** The Subconsultant represents and warrants to NV5 that it lawfully possesses and will maintain all necessary licenses, permits and certifications and that it is adequately experienced, qualified, equipped, organized and financed to perform the services hereunder. Subconsultant agrees to furnish proof of any of these upon NV5's request. The Subconsultant further represents and warrants that it has qualified employees in adequate numbers to accomplish the Services.
- 2.16. STANDARD OF CARE / WARRANTY.** Subconsultant shall perform its services with the prevailing degree of skill and care exercised by members of its profession performing similar services, on similar projects, in like locations. Subconsultant warrants that it will perform and complete the services in a safe and workmanlike manner strictly in accordance with the requirements of this Agreement, the specifications and prevailing standards in the area for similar services to the extent the specifications do not address a particular issue. Subconsultant warrants that the services and all materials or equipment supplied under this Agreement will be free of defects and will conform to the specifications and industry standards.
- 2.17. USE OF SUBCONSULTANTS:** Subconsultant agrees that it will not enter into any subcontract with any party for the performance of any performance for which it is obligated under this Agreement without the express written approval of NV5 to each specific subcontract.
- 2.18. INDEPENDENT CONTRACTOR.** Subconsultant agrees that it is an independent contractor and not an employee or agent of NV5 or Client, and that Subconsultant is subject, as an employer, to all applicable unemployment compensation, worker's compensation and other applicable employee benefit statutes, so as to relieve NV5 of any responsibility or liability from treating Subconsultant's employees as employees of NV5 for the purpose of keeping records, making reports or payments of unemployment compensation, worker's compensation or other employee related premiums, taxes or contributions. Subconsultant further agrees to indemnify and hold NV5 harmless and reimburse it for any expense or liability incurred under said statutes in connection with employees of Subconsultant.

- 2.19. NON-ASSIGNABILITY:** The Subconsultant shall not let, transfer, or assign, voluntarily or by operation of law, or otherwise, this Agreement or any part thereof, or any amounts due or to become due hereunder, without the prior written consent of NV5.
- 2.20. SEVERABILITY:** If any part of this Agreement is determined by a court of competent jurisdiction or by agreement of the parties hereto to be unenforceable, the remainder thereof shall remain in full force and effect.
- 2.21. NOTICE:** All notices, demands and communications hereunder shall be in writing, shall be effective upon receipt, and may be served or delivered personally upon the party for whom intended, or mailed or transmitted by telefax or similar electronic reproduction to the party for whom intended at the address set forth on the first page of this Agreement. The address of a party may be changed by notice given pursuant to this Section.
- 2.22. GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the state where the work is performed in a court of competent jurisdiction in the County of the project's location.
- 2.23. RESOLUTION OF DISPUTES.** All claims, disputes, controversies or matters in question arising out of, or relating to, this Agreement or any breach thereof, including but not limited to disputes arising out of alleged design defects, breaches of contract, errors, omissions, or acts of professional negligence, (collectively "Disputes") shall be submitted to mediation before and as a condition precedent to pursuing any other remedy. Upon written request by either party to this Agreement for mediation of any dispute, NV5 and Subconsultant shall select a neutral mediator by mutual agreement. Such selection shall be made within ten (10) calendar days of the date of receipt by the other party of the written request for mediation. In the event of failure to reach such agreement or in any instance when the selected mediator is unable or unwilling to serve and a replacement mediator cannot be agreed upon by NV5 and Subconsultant within ten (10) calendar days, a mediator shall be chosen as specified in the Construction Industry Mediation Rules of the American Arbitration Association then in effect, or any other appropriate rules upon which the parties may agree. Should either party to this Agreement commence any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.
- 2.24. WAIVER OF JURY TRIAL.** Each party waives its right to a jury trial in any court action arising between the parties, whether under this Agreement or otherwise related to the work being performed under this Agreement.
- 2.25. SUCCESSORS AND ASSIGNS:** This agreement shall be binding on and inure to the benefit of the successors and assigns of the parties hereto.
- 2.26. ENTIRE AGREEMENT:** This Agreement represents the entire agreement between the parties. No other prior written or oral representations, negotiations, or discussions are part of this agreement. To the extent allowed by law, any agreement that as part of the scope of Sub-NV5 services is incorporated by reference into this agreement shall be subordinated to the terms and conditions of this agreement where they conflict. This Agreement may not be changed or terminated orally or by any course of conduct or usage of trade, but only by an agreement in writing duly executed by the parties hereto.