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BMS CAT of Michigan, LLC dba Jarvis Property Restoration
MICHIGAN MASTER SUBCONTRACT AGREEMENT

SUBCONTRACTOR: _____

ADDRESS: _____

LICENSE NO.: _____ TRADE: _____

TAX ID NO.: _____ PHONE: _____

CONTACT PERSON: _____ 24 HOUR EMERGENCY NO.: _____

EMAIL: _____

MICHIGAN MASTER SUBCONTRACT AGREEMENT

This Master Subcontract Agreement (“Master Agreement”) made as of this ____ day of _____, 20__, by and between BMS CAT of Michigan, LLC dba Jarvis Painting, Inc. a Michigan corporation, (“BMS CAT-Jarvis”), whose corporate address is 41800 Executive Drive, Harrison Township, MI 48045, and Subcontractor identified above (“Subcontractor”). Collectively referred to as the “Parties”.

RECITALS

WHEREAS, BMS CAT-Jarvis and Subcontractor are entering into this Master Agreement (“Agreement”) to provide for the terms and conditions, which will apply to all projects (the “Work”) with Subcontractor, in order to expedite the Subcontracting process and to allow forms or proposals to contract work from Subcontractor (“Purchase Order” or “Work Order”) to be executed in the field by an authorized BMS CAT-Jarvis management.

WHEREAS, BMS CAT-Jarvis and Subcontractor agree that each Purchase Order or Work Order that provides for a scope of work, schedule and price must be executed by both Parties to authorize Subcontractor to work on each project which the Subcontractor is retained by BMS CAT-Jarvis.

NOW, THEREFOR, in consideration of the foregoing recitals, BMS CAT-Jarvis and Subcontractor agree as follows:

TERMS OF AGREEMENT

1. **Master Agreement.** The terms of this Agreement will govern the Parties’ relationship for all work performed from the date of this Agreement until this Agreement is terminated. Notwithstanding the foregoing, Purchase Order or Work Order will set the price, schedule, and scope of work to be performed under this Agreement. This Agreement sets forth all the general terms and conditions of the parties’ agreements and supersedes all prior negotiations or understandings, written or oral, between BMS CAT-Jarvis and Subcontractor. Subcontractor expressly agrees that any general conditions, terms of any kind, or covenants

that are contained in Subcontractor's proposals, invoices, or any other forms shall be rendered null, void, and of no force or effect. The terms of this Agreement cannot be modified except by a written document signed by both Parties that specifically refer to this Agreement.

2. **Relationship.** Subcontractor shall be an independent contractor with respect to BMS CAT-Jarvis. Nothing contained in this Agreement shall be construed to create the relationship of principal and agent or of employee and employer between BMS CAT-Jarvis and Subcontractor.
3. **Term.** The term of this Agreement shall continue on a year-to-year basis until terminated pursuant to the terms of this Agreement.
4. **Termination.**
 - a. BMS CAT- Jarvis shall have the right to terminate this Agreement, including any active Work Orders, for any reason whatsoever, including for the convenience of BMS CAT-Jarvis, by notice in writing to the Subcontractor. Upon receipt of such notice, the Subcontractor shall immediately discontinue Work unless the notice specifies otherwise. Upon such termination, the Subcontractor shall be entitled to payment per the terms of and through the process provided for in this Agreement for all Work satisfactorily completed to the date of termination. The Subcontractor shall not be entitled to prospective profits on unperformed Work.
 - b. BMS CAT- Jarvis may terminate this Agreement, including any active Work Orders, upon written notice to the Subcontractor whenever the Subcontractor is deemed by BMS CAT-Jarvis to be in default or violates the provisions of this Agreement by failing, neglecting, or refusing to proceed with the Work so as to achieve the Work in a timely manner, and according to and in full compliance with BMS CAT-Jarvis' requirements. Alternatively, BMS CAT-Jarvis may, at its option and without prejudice to any other rights afforded by this Agreement or law, take steps as are necessary to overcome the condition giving rise to the default or violation of the Subcontract, in which case the Subcontractor shall be liable to BMS CAT-Jarvis for the cost thereof. Subcontractor may be terminated for cause because of, but not limited to: (a) Subcontractor's work is not done in accordance with the standards set forth in this Agreement or Work Order; (b) the Work is not performed in accordance with BMS CAT-Jarvis' schedule and/or Work Order; or (c) if any of Subcontractor's representations or warranties set forth in this Agreement should provide to be false.
 - c. In the event of termination for cause, BMS CAT -Jarvis may exclude the Subcontractor from the site and shall take possession of the Work and all of the materials and equipment for which BMS CAT-Jarvis has paid to the Subcontractor. The Subcontractor shall be entitled to payment for portions of the Work satisfactorily completed prior to termination, less costs incurred by BMS CAT-Jarvis as a result of the Subcontractor's default. Subcontractor shall be entitled to payment of amounts

due only after the Work has been completed by a replacement subcontractor or BMS CAT-Jarvis has fully quantified the additional costs it has incurred due to the Subcontractor's default. Subcontractor shall not be entitled to any claim or lien against BMS CAT-Jarvis, the property owner, or anyone else for any additional compensation or damages in the event of termination.

- d. In the event of termination for cause, BMS CAT-Jarvis shall offset the cost of completing the Work against any payment due to Subcontractor that may be due and owing from BMS CAT-Jarvis with respect to other Work Orders.
 - e. Termination of this Agreement does not relieve Subcontractor of its obligations or liabilities hereunder or under any Work Order.
5. **Scope of Work/Materials/Permits.** The Subcontractor agrees to furnish all labor, materials, tools, supervision, and equipment necessary and complete all work set forth in the Work Order. Subcontractor agrees to produce the Work in accordance with BMS CAT-Jarvis' work schedule. The Work will be performed in a good and workmanlike manner in accordance with local codes, Subcontractor's license requirements and contract documents. Subcontractor acknowledges that the services to be performed for BMS CAT -Jarvis are those which Subcontractor generally performs in the independent established profession in which Subcontractor is customarily engaged. All materials furnished by Subcontractor will be new and Work shall be performed to the satisfaction of BMS CAT -Jarvis and its client. Warranties for materials, equipment, appliances, and fixtures will be provided to BMS CAT-Jarvis upon completion of the Work Order. Where BMS CAT-Jarvis does not pull the permits, licenses or authorizations, Subcontractor will be responsible for obtaining and paying for all permits, licenses, or authorizations necessary for the proper execution and completion of the Work. It is the obligation of the Subcontractor to verify that all appropriate permits, licenses, and authorizations have been pulled for the portion of the work it is performing. Subcontractor shall be responsible to BMS CAT-Jarvis for liquidated damages in the amount of \$100.00 per day, not to exceed a total amount of \$10,000.00 for failing to comply with the terms set forth in this Section 5. Said amount is deemed not to be a penalty, but, is an estimated amount of delay damages only as such damages are otherwise difficult to establish. In the event of Subcontractor fails to perform the Work as set forth in the Work Order, BMS CAT-Jarvis shall have the right to offset the cost of completing the Work against any payment due to Subcontractor that may be due and owing from BMS CAT-Jarvis with respect to other Work Orders.
6. **Pricing of Work.** The price to be paid for Work performed under this Agreement shall be agreed to for each individual job in accordance with either bids, Purchase Orders or Work Orders submitted by Subcontractor.
7. **Invoice/Payment.**
- a. It is agreed between the Parties that, as a condition precedent to any payment hereunder, that: (i) BMS CAT-Jarvis must first receive payment from the property owner or property owner's insurance carrier. If the property owner or other responsible party

delays making payment to BMS CAT-Jarvis from which payment to Subcontractor is to be made, BMS CAT-Jarvis and its sureties shall have a reasonable time to make payment to Subcontractor. "Reasonable Time" shall be determined according to the relevant circumstances, but in no event shall be less than the time BMS CAT-Jarvis, BMS CAT-Jarvis' sureties require to pursue and conclude their legal remedies against property owner or other responsible party to obtain payment; (ii) after the completion of the Work, Subcontractor will satisfy all necessary inspections prior to being paid; (iii) the Subcontractor satisfactory completes all the Work and if the Subcontractor fails to complete the Work or servicing of the Work satisfactory within the time schedule set by BMS CAT-Jarvis, may apply all or part of the retainage or amount owed to the costs of having the work or serviced performed by another party In consideration of this Agreement, Subcontractor waives any right it may have to interest charges on delayed payments. If the Subcontractor finds that its invoice(s) were not received by BMS CAT-Jarvis, it must resubmit the invoice to receive payment.

- b. Subject to the subsection above, BMS CAT-Jarvis shall pay Subcontractor monthly progress payments based on monthly invoices submitted in accordance with and subject to the below requirements and conditions:
- 1) All invoices require BMS CAT-Jarvis's approval prior to payment.
 - 2) Subcontractor shall submit to BMS CAT-Jarvis by the **20th day of each calendar month** a detailed monthly invoice for work completed by the Subcontractor through the last day of the previous month and as approved by BMS CAT-Jarvis' Project Manager.
 - 3) Progress payments, less retainage, shall be made to Subcontractor within thirty (30) days of BMS CAT-Jarvis' receipt of funds from property owner or the responsible party pursuant to the terms of the Prime Agreement, if any, except for final payment.
 - 4) Final payment, plus retainage, shall be withheld until BMS CAT-Jarvis approves all the work performed under the Work Order. BMS CAT-Jarvis shall make final payment to Subcontractor

by the 30 day of the following month.

- c. Subject to subsection (a) and (b) above and as a condition precedent to payment, all invoices submitted to BMS CAT-Jarvis for payment must meet the following requirements as a condition precedent to any payment hereunder:

General Requirements for all Invoices:

1. All invoices shall be **numbered** in sequential order and **dated** for tracking;
2. All invoices must include the **job number, job name, and job address;** and
3. Invoices shall only include completed billable work as per Project Manager approval. Invoices will only be paid for completed work.

Progress Invoices:

All progress invoices must be submitted with the following documentation for payment:

1. Conditional Progress Waiver and Release of all Liens and Claims, to be completed by Subcontractor (**Attachment A**).
2. Conditional Progress Waiver and Release of all Liens and Claims, to be completed by all sub-tier subcontractors and suppliers (**Attachment B**).
3. Copy of Subcontractor's insurance certificate in accordance with Section 12 below.

Final Invoice

All the final invoice must be submitted with the following documentation for payment:

1. Conditional Final Waiver and Release of all Liens and Claims Upon Final Payment, to be completed by Subcontractor (**Attachment C**);
2. Conditional Final Waiver and Release of all Liens and Claims Upon Final Payment, to be completed by all sub-tier subcontractors and suppliers (**Attachment D**); and
3. Return of all manuals, MSDS sheets, product data, and warranties related to the items that are being supplied and installed or products used for installation of materials supplied by Subcontractor.

Invoice Submission

All invoices shall be sent directly to the Project Manager via Email or US Mail at the following address:

BMS CAT-Jarvis Property Restoration
Email: ap@ Jarvisconstruction.com
41800 Executive Drive
Harrison Township, MI 48045

8. **Retainage.** Unless otherwise prescribed by law, BMS CAT-Jarvis will pay 90% of the undisputed Progress Invoices consistent with and subject to the terms and conditions of this Agreement. BMS CAT-Jarvis will retain 10% of each Progress Payment, which will be released after the date of final completion and upon Subcontractor's submission of a Final Invoice consistent with and subject to the terms and conditions of this Agreement. BMS CAT-Jarvis may withhold from any retention funds due to Subcontractor, partial or final, or otherwise due under this Agreement, such sums as BMS CAT-Jarvis reasonably may determine are necessary to protect BMS CAT-Jarvis, including but not limited to (1) unforeseen claims or lien; (2) defective work by Subcontractor; (3) damages created by

Subcontractor, employees, or sub-subcontractors; and/or (4) to compensate BMS CAT-Jarvis from any costs incurred due to Subcontractor's default or breach of this Agreement.

9. **Change Orders.** All modifications or amendments of the Work or Work Order shall be evidenced by a written Change Order. No amendment, modification or change to the contract price, materials, supplied or completion date shall be effective unless and until a Change Order has been executed by BMS CAT-Jarvis and property owner or property owner's representatives. BMS CAT-Jarvis shall not be obligated to pay any amount in excess of the agreed to price or grant any extension in the completion time unless such change is evidenced by a written and approved Change Order as described herein.
10. **Damages to Work in Place.** Subcontractor shall be liable for any loss or damage to any Work in place or to any equipment or materials on the job site either directly or indirectly by Subcontractor, its agents, employees, or guests.
11. **Warranty.** Subcontractor guarantees that all materials and workmanship under this Agreement, and shall replace or correct, at its sole costs and expense, all work not conforming to these requirements including substitutions not properly approved or authorized, to the satisfaction of BMS CAT-Jarvis, the property owner, or property owner's insurance company. The warranty provided in this Section shall be in addition to and not limited to any other warranty or remedy required by law or by the contract documents. Subcontractor agrees to provide a minimum two (2) year warranty from the date when the property owner signs BMS CAT-Jarvis' certificate of satisfaction form ("**Warranty Period**"). Warranty work shall be performed within ten (10) working days, unless otherwise agreed to in writing and except in the case of an emergency, which shall be completed as soon as practicable. During this Warranty Period, if Subcontractor fails to correct any defective or nonconforming work within the agreed upon time, Subcontractor shall be responsible for all costs or fees to make such corrections incurred by BMS CAT-Jarvis plus BMS CAT-Jarvis' overhead and administrative fee equal to twenty (20%) percent of BMS CAT-Jarvis' costs for correcting the defective or nonconforming work. BMS CAT-Jarvis shall offset such costs of corrections against any payment due to Subcontractor that may be due and owing from BMS CAT-Jarvis with respect to other Work Orders. A warranty item is not considered complete until property owner has signed off on such warranty work and a copy is provided to BMS CAT-Jarvis. In the event of Subcontractor fails to comply with this Section, BMS CAT-Jarvis shall have the right to offset the cost of completing the Work against any payment due to Subcontractor that may be due and owing from BMS CAT-Jarvis with respect to other Work Orders.
12. **Indemnification.** Subcontractor agrees that in consideration for any and all Work or Work Orders entered into with BMS CAT-Jarvis, to the fullest extent permitted by law, Subcontractor shall defend, indemnify and hold BMS CAT-Jarvis, its officers, subsidiaries, affiliates, successors, employees and agents ("**Indemnified Parties**") harmless from any and all claims, injuries, damages, losses or suits including attorneys' fees and court costs, arising out of, relating to or from, in connection or allege to arise out of, relate to or resulting from (a) any breach of this Master Agreement or any Work or Work Order, (b) the performance or

nonperformance of Subcontractor's work, including work performed or not performed by Subcontractor's consultants, lower tier subcontractors, suppliers, or anyone directly or indirectly employed by them, or anyone for whose acts Subcontractor may be responsible or liable, or (c) injury to or death of any and all persons, or arising out of property damage of any kind, whether tangible or intangible, or loss of use resulting therefrom, or in any manner connected with the Subcontractor's performance of this Subcontract (" Indemnity Claims").

Subcontractor at its sole expense shall promptly dispose of Indemnity Claims, defend all lawsuits and similar proceedings filed against an Indemnified Party, pay all awards and judgments rendered against Indemnified Party and reimburse each indemnified party for all reasonable expenses incurred by such Indemnified Party in connection with Indemnity Claims, lawsuits and similar proceedings, including but not limited to attorney's fees, expert witness fees, court costs, arbitration or mediation fees, and all other reasonable costs and expenses. If a court of competent jurisdiction determines that the Indemnity Claims are caused in part by any joint or concurrent negligent acts or omissions, by an Indemnified Party, Subcontractor shall indemnify, hold harmless and defend such Indemnified Party from such claims only as they relate to the work performed (or not performed) by Subcontract, its consultants, lower tier subcontractors, suppliers, employees or anyone for whose acts Subcontractor is found responsible or liable for. This indemnification shall extend to claims occurring after this Master Agreement is terminated as well as while it is in force. Subcontractor's duty to indemnify shall arise at the time written notice of a Claim is first provided to an Indemnified Party regardless of whether claimant has filed suit on the Claim. In no event shall Subcontractor be obligated to indemnify an indemnified Party for indemnity Claims which arise out of or result from the gross negligence or willful misconduct (as determined by a court of competent jurisdiction) of such Indemnified Party or its agent or employee.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Subcontractor's waiver of immunity under any applicable state industrial insurance law or worker's compensation law, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

13. **Mutual Release of Consequential Damages.** Notwithstanding any provision herein to the contrary, neither Party shall be liable to the other Party for, and each Party releases the other from liability attributable to, indirect, incidental, special, consequential and punitive damages arising out of the performance of this Agreement, or default in the performance hereof, whether based upon contract, tort, warranty or any other legal theory. Any waiver of consequential damages set forth in this Agreement shall not be deemed to negate or waive any liquidated damages provisions set forth in this Agreement.
14. **Insurance.** The Subcontractor will provide to BMS CAT-Jarvis written evidence, in an ACORD certification form, insurance policies for: Worker's Compensation, Employer's Liability, Comprehensive General Liability ("CGL") and Automobile Liability. BMS CAT-Jarvis Property Restoration, Inc., BMS CAT-Jarvis Paintings, Inc. dba BMS CAT-Jarvis

Property Restoration shall be a Named Additional Insured with coverage as “primary and primary non-contributing” on the Subcontractor’s CGL policy. The coverage must include products and completed operations coverage. Subcontractor shall not be paid by BMS CAT-Jarvis until evidence of insurance is presented. Subcontractor will also name property owner as additional insured if BMS CAT-Jarvis’ contract with property owner requires it. The policy shall provide for 30 days’ notice of cancellation to BMS CAT-Jarvis. These policies must remain in full force and effect and the Subcontractor will provide BMS CAT-Jarvis with evidence of yearly renewals.

The following are the minimum limits BMS CAT-Jarvis requires for performance of this Agreement and breach of these requirements shall be material and a cause for termination of this Agreement and any Work Order:

(a) Insurance Coverage’s

- 1) **Workers’ Compensation and Employer’s Liability Insurance** covering your statutory obligations in the state(s) in which your work for us is to be performed. Coverage for your liability under the Longshoreman (USL & HW) or Maritime (Jones Act) statutes must be included in your coverage if any of your work for us is on or over navigable waterways or involves your use of any vessel.
 - i. Worker’s Compensation: \$500,000 or the State statutory set limit.
- 2) **Automobile Liability Insurance** with a limit of in the amount of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. Coverage shall include coverage for leased or hired vehicles as well as employers’ non- ownership coverage for vehicles owned by Subcontractor’s employees.
- 3) **Commercial General Liability Insurance** written on an OCCURRENCE policy form that includes coverages for your operations, personal injury, OCU (explosion, collapse and underground), independent contractors, contractual, and products completed operations with limits of liability as follows:
 - i. If your policy is written on the 2004 ISO Simplified form:
 - ii. \$ 1,000,000 Occurrence
 - iii. \$ 2,000,000 General Aggregate
 - iv. \$ 2,000,000 Product-Completed Operations Aggregate
 - v. \$ 1,000,000 Personal/Advertising Injury
- 4) **Pollution Liability**
Pollution Liability insurance with liability limits per occurrence of not less than \$5,000,000.00.

(b) Other Requirements

- a) Evidence of your insurance coverage’s, required herein, is to be provided to us on ACORD Certificate Form 25 or 25-S and must indicate:

- i. Each insurance policy shall be written on an “occurrence” form; excepting that insurance for professional liability, errors and omissions when required, may be acceptable on a “claims made” form. If coverage is approved and purchased on a “claims made” basis, the Subcontractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the Work which is the subject of this Subcontract.
- ii. The coverage limits required herein do not limit Subcontractor's potential liability to Contractor for breach of this Subcontract or otherwise.
- iii. A Best’s rating for each of your insurance carriers at A- VII or better.
- iv. That the issuing insurance company will provide 30 days written notice of cancellation to the certificate holder.
- v. That BMS CAT-Jarvis Property Restoration **is** to be added as additional insured on primary basis using the ISO form CG 2010 11/85 edition or its equivalent. Forms must be attached.
- vi. General Liability and Auto Liability limits may be attained by individual policies or by a combination of underlying policies with umbrella and/or excess liability policies.
- vii. Hold Harmless and indemnification agreement in favor of BMS CAT-Jarvis Property Restoration.

(c) Notify Your Insurance Agent

You may prevent unnecessary follow up resulting from incomplete insurance certificates, by sending or faxing a copy of these insurance requirements to your agent when you request an insurance certificate.

(d) Prime Contract Insurance Requirements

Notwithstanding the foregoing, in any event, all insurance policies shall be written with a liability limit not less than the limits required by the prime contract or the above limits, whichever is greater.

(e) Performance and Payment Bond

If required by BMS CAT-Jarvis and upon written notice, a performance bond, and a payment bond in a form satisfactory to BMS CAT-Jarvis shall be furnished in the full amount of a Work Order. These bonds will be furnished by a surety company acceptable to BMS CAT-Jarvis.

15. **Safety.** The Subcontractor has sole responsibility for the job site conditions and for implementing, maintaining and supervising all safety precautions and measures in connection with the performance of the Work, including but not limited to, posting warning signs, covering hazards and placing barricades at appropriate locations. Subcontractor shall have a representative at each safety meeting and the representative will coordinate attendance with the Project Manager; attendance will be demonstrated and verified by

signatures on the attendance sheet. The Subcontractor shall comply with all applicable federal, state, and local safety regulations governing the job site, employees and subcontractors, and applicable safety regulations. Subcontractor agrees to defend, indemnify, and hold BMS CAT-Jarvis harmless from all safety related claims, demands, proceedings, violations, penalties, assessments, or fines that arise out of or relate to Subcontractor's failure to comply with any safety-related laws, ordinances, rules, regulations, orders, or its obligations hereunder. BMS CAT-Jarvis may charge against the sums otherwise owing to Subcontractor the amount of the fine and the fees, costs and expenses incurred by the BMS CAT-Jarvis in the defense of the claims, citation and/or fine arising from or relating to the Subcontractor's above-referenced failure.

16. **Hazardous Materials.** The Subcontractor shall perform the Work to meet the requirements set forth in the specifications and any applicable laws or regulations related to hazardous or materials encountered during performance of the Work. For the purposes of this paragraph, hazardous materials include but are not limited to: asbestos, PCBs, lead, radioactive materials, explosives, and other materials defined as hazardous or dangerous wastes by any state regulatory agency. The Subcontractor shall give immediate notice to BMS CAT-Jarvis upon the discovery of any hazardous materials not specifically identified in the Work Order, and thereafter proceed with the Work only as directed by BMS CAT-Jarvis. Subcontractor shall indemnify and hold BMS CAT-Jarvis harmless from any fees, losses, fines, damages, claims, or penalties incurred by BMS CAT-Jarvis arising out of or caused by Subcontractor's noncompliance in this section.

17. **Compliance with Laws, Regulations, Taxes, and Permits:** The Subcontractor shall comply with all laws, ordinances, codes, rules, regulations including but not limited to those relating to work place safety, environmental pollution prevention and preservation of public natural resources, and permits relating to the conduct of the Work. The Subcontractor shall pay all taxes, licenses, and fees of every nature which may be imposed or charged by and governmental authority upon the labor, materials or other items used in the performance of the Work. Unless otherwise provided in the Work Order, the Subcontractor shall obtain and pay for all permits and licenses necessary for the conduct of the Work. If the Subcontractor misrepresents its license status, Subcontractor will be liable to BMS CAT-Jarvis if BMS CAT-Jarvis suffers any losses, costs, damages, or penalties of any sort or amount due to such misrepresentation. Subcontractor shall be solely responsible for payment of all income, withholding, social security, unemployment and other taxes imposed by state and federal law in connection with wages which it pays or persons it employs. Subcontractor, upon request, shall furnish evidence satisfactory to BMS CAT-Jarvis that any or all of the foregoing obligations have been fulfilled. Subcontractor shall maintain records on all its employees used on BMS CAT-Jarvis projects. Particular attention is called, but not limited, to those requirements, regulations, statutes, and acts related to safety, Equal Employment Opportunity, Wage and Hours, OSHA, Workers' Compensation, and environmental and hazardous/toxic material. Subcontractor shall indemnify and hold BMS CAT-Jarvis harmless from any fees, losses, fines, damages, claims, or penalties incurred by BMS CAT-Jarvis arising out of or caused by Subcontractor's noncompliance in this section.

18. **Audit.** The Subcontractor shall keep full and detailed records to confirm compliance with the obligations of this Agreement. BMS CAT-Jarvis, upon notice to Subcontractor, shall be afforded access to, and shall be permitted to audit the Subcontractor's construction file, records, employment records, and other data relating to this Agreement, and Subcontractor shall preserve these for a period of seven (7) years after final payment, or for such longer period as may be required by law.
19. **Delay.** Time is of the essence under this Agreement. Subcontractor shall begin performing the Work upon receipt of notice by BMS CAT-Jarvis to do so and complete the Work in accordance with the schedule and/or time of completion identified in by BMS CAT-Jarvis. Subcontractor agrees to perform the Work consistent with the BMS CAT-Jarvis' schedule. If the Subcontractor cannot meet the requirements of the schedule and an agreeable schedule cannot be reached or Subcontractor fails to complete or continue the Work within 24 hours of notice provided by BMS CAT-Jarvis, then Subcontractor may be considered in "Failure of Performance," and may result in the assessment of damages for avoidable delay in addition to other remedies available to BMS CAT-Jarvis. Subcontractor shall be responsible to BMS CAT-Jarvis for liquidated damages in the amount of \$100.00 per day, not to exceed a total amount of \$10,000.00. Said amount is deemed not to be a penalty, but, is an estimated amount of delay damages only as such damages are otherwise difficult to establish. In the event that there is no schedule or date of completion identified in the Work Order, Subcontractor shall perform the Work in a prompt fashion as directed by BMS CAT-Jarvis.
20. **Excusable Delay.** In the event the Subcontractor is delayed in the performance of its obligations under this Agreement where the cause of delay is fire, flood, epidemic, severe and unpredictable weather, an environmental condition, a labor dispute, and issuance of permits and inspections (unless said delay in the issuance of permits is caused in part or whole by the Subcontractor) or for any other cause which is beyond foreseeable reasonable control of Subcontractor, the time for performance of such obligations shall be extended for the period of the delay; provided that the Subcontractor shall notify BMS CAT-Jarvis at the beginning of such delay ("Excusable Delay"). The term "labor dispute" shall mean picketing, strikes, and work stoppages by construction workers at the job site. The time to complete the work by reason of Excusable Delay shall be stated in a Change Order executed by BMS CAT-Jarvis and Subcontractor. In the event the Subcontractor's work is delayed for a period of thirty (30) consecutive calendar days and such delay is not caused by the Subcontractor then by written mutual agreement between BMS CAT-Jarvis and Subcontractor, BMS CAT-Jarvis and Subcontractor may mutually agree to stop work.
21. **Inspection of Work/Punch List.** BMS CAT-Jarvis reserves the right to (1) inspect all Work to determine, in good faith, whether the Work has been satisfactory completed, (2) control access to each BMS CAT-Jarvis worksite, (3) schedule Work in logical sequence or to avoid disturbances, (4) stop Work for safety reasons or to insure conformity of Work. Further, Subcontractor shall be responsible to BMS CAT-Jarvis for liquidated damages in the amount of \$100.00 per day, not to exceed a total amount of \$10,000.00 for failing to work any day as scheduled. Said amount is deemed not to be a penalty, but, is an estimated

amount of delay damages only as such damages are otherwise difficult to establish. Subcontractor warrants and agrees to promptly remedy: (a) any rejected work, (b) any defect in the work due to complaints or actual faulty material or workmanship; or (c) any work that does not meet applicable codes or customary standards. Subcontractor will be responsible for any re-inspection fees charged to BMS CAT-Jarvis due to Subcontractor's failure to comply with any applicable building codes, rules, or regulations. Upon completion of the Work, BMS CAT-Jarvis will provide the Subcontractor with a punch-list of incomplete or unsatisfactory work and that Subcontractor agrees to complete the punch list within three (3) days of receipt of the punch-list. Punch-list work does not include Warranty work under Section 10. A punch- list is not considered complete until the property owner has signed off on it and a copy has been provided to BMS CAT-Jarvis.

22. **Job Site and Clean up.** Subcontractor will not place any tools, materials, or food items on or in any cabinets, countertops, or other finished surfaces. Damaged materials or supplies will be repaired or replaced at Subcontractor's expense. Long term storage of materials on site will not be allowed, except by written exception from BMS CAT-JARVIS. Subcontractors who store materials on a weekly basis shall store materials in an orderly and neat fashion and shall be solely responsible for the protection of said material from weather, theft, or other conditions which would cause stored materials to become unusable. In the event that stored materials from the site become unusable, Subcontractor shall remove said materials from the site immediately. Subcontractors shall indemnify and hold BMS CAT-JARVIS harmless from and against any liability, fines, costs or expenses, including, without limitation, costs of repair, renewal or restoration, arising out of any damage to or in part by the acts or omissions of Subcontractor, its employees, subcontractors or any damage caused by careless handling of building materials or debris. Subcontractor agrees and shall regularly clean up and remove from the site all rubbish, waste, and debris resulting from its Work, and also shall clean such dirt, grease and other foreign materials deposited or placed on or about the work site as a result of the Work, all to the satisfaction of BMS CAT-Jarvis. Rubbish, waste, and debris shall not be permitted to accumulate to the extent it interferes with free access to the jobsite or creates a safety hazard. Any such cleanup not performed properly, to the sole discretion of the BMS CAT-Jarvis, may be accomplished by BMS CAT-Jarvis at the sole expense of the Subcontractor at a rate of two percent (2%) of the total contract price. BMS CAT-Jarvis shall offset such costs of clean-up against any payment due to Subcontractor that may be due and owing from BMS CAT-Jarvis with respect to other Work Orders.
23. **Failure to Enforce.** A failure by any Party to enforce at any time, or over a period of time, any provision of this Agreement shall not be construed to be a waiver of such provision or of the right to enforce such provision or any other provision in this Agreement.
24. **Notice.** Any notice to be delivered by either Party to the other, may be delivered, in person, sent by fax or First Class US Mail, registered mail, certified mail, with postage prepaid, and addressed to the party to whom intended at the party's address identified on the first page of this Agreement. Either Party, at any time, by prior written notice may designate a different address that shall be substituted for the aforementioned.

- 25. **No Assignment.** Work Orders and this Agreement cannot be assigned by the Subcontractor to another party without the prior written authorization of an authorized BMS CAT-Jarvis representative. Any assignment consented to by BMS CAT-Jarvis shall not operate to relieve Subcontractor of its primary responsibility to BMS CAT-Jarvis for the due and full performance of the work or this Agreement.

- 26. **Venue and Jurisdiction.** Venue for all controversies or claims arising from or relating to this Agreement shall be in Harrison Township, Michigan. This Agreement shall be governed by the laws of the state of Michigan.

- 27. **Dispute Resolution.** Nothing in this Subcontract shall be construed to prevent BMS CAT-Jarvis and Subcontractor from resolving any dispute between them through negotiation, mediation, or other mutually agreed upon alternative dispute resolution methods. To initiate the dispute resolution process, the complaining Party shall write a description of the allegations and refer to the relevant section of this Agreement upon which the complaint arises under. Unless BMS CAT-Jarvis and Subcontractor agree in writing to a resolution of the dispute arising out of or relating to the Agreement, the following shall apply: Venue for all controversies or claims arising from or relating to this Agreement shall be in Harrison Township, Michigan. In the event BMS CAT-Jarvis prevails in any dispute resolution, action or suit brought forth under this Agreement either by BMS CAT-Jarvis or Subcontractor, Subcontractor agrees to pay all of BMS CAT-Jarvis' attorney fees incurred.

- 28. **Entire Agreement.** This Agreement together with Work Orders, Purchase Orders, Punch lists, represent the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, oral or written. Subcontractor, its subcontractors, suppliers and/or materialmen are bound by any contract documents incorporated therein insofar as they relate in any way, directly or indirectly, to the work covered by this Agreement.

Each Party executing this Agreement warrants and represents that it has full power and authority to enter into this Agreement and to bind itself to performance hereunder. Each party further warrants and represents that the individual signing this Agreement is an officer or authorized agent or a principal of the party for which he or she signs, or has been granted or delegated the authority to bind the party on behalf of which he or she signs.

IN WITNESS WHEREOF, BMS CAT-Jarvis and Subcontractor agree to the above.

BMS CAT of Michigan, LLC dba Jarvis Property
Restoration, Inc.

Subcontractor: _____

Name:

Name: _____

Signature:

Signature: _____

Date:

Date: _____

EXHIBIT A
SUB-CONTRACTOR CONDITIONAL WAIVER AND RELEASE OF
LIEN UPON PROGRESS PAYMENT

STATE OF MICHIGAN)
COUNTY OF _____)

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, for and in consideration of the sum of \$ _____ to be received, but not yet received, does hereby release his/her lien, and waive and relinquish the right to claim a lien in the amount of \$ _____, subject to the condition of payment described below, for labor, services, and materials furnished for improvement through _____ at the following described property:
[insert date]

Property Address:

This is a Partial Release of Lien by the undersigned given for the sole purpose of releasing the lien rights up to the amount above stated and does not waive or release any lien rights after the date specified. This Partial Waiver and Release of Lien is conditioned upon payment of the consideration described above. It is not effective until said payment is received in paid funds.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 20____.

Releasing Party: _____

Signature: _____

Name: _____

Title: _____

Notary Public

The forgoing instrument was acknowledged before me this _____ day of _____, 20____.

NOTARY PUBLIC

NAME: _____

COMMISSION EXPIRES: _____

EXHIBIT C
SUB-CONTRACTOR CONDITIONAL WAIVER AND RELEASE OF
LIEN UPON FINAL PAYMENT

STATE OF MICHIGAN)
COUNTY OF _____)

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, for and in consideration of the sum of \$ _____ to be received, but not yet received, does hereby release his/her lien, and waive and relinquish the right to claim a lien in the amount of \$ _____, subject to the condition of payment described below, for labor, services, and materials furnished for improvement through _____ at the following described property:
[insert date]

Property Address:

This is a Final Release of Lien by the undersigned given for the sole purpose of releasing the lien rights up to the amount above stated and does not waive or release any lien rights after the date specified. This Final Waiver and Release of Lien is conditioned upon payment of the consideration described above. It is not effective until said payment is received in paid funds.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 20____.

Releasing Party: _____

Signature: _____

Name: _____

Title: _____

Notary Public

The forgoing instrument was acknowledged before me this _____ day of _____, 20____.

NOTARY PUBLIC

NAME: _____

COMMISSION EXPIRES: _____

EXHIBIT D
THIRD TIER SUB-CONTRACTOR/VENDOR CONDITIONAL WAIVER AND RELEASE OF LIEN UPON FINAL PAYMENT

STATE OF MICHIGAN)
COUNTY OF _____)

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, for and in consideration of the sum of \$ _____ to be received, but not yet received, does hereby release his/her lien, and waive and relinquish the right to claim a lien in the amount of \$ _____, subject to the condition of payment described below, for labor, services, and materials furnished for improvement through _____ at the following described property:
[insert date]

Property Address:

This is a Final Release of Lien by the undersigned given pursuant to Fla. Stat. § 713.20(5) for the sole purpose of releasing the lien rights up to the amount above stated and does not waive or release any lien rights after the date specified. This Final Waiver and Release of Lien is conditioned upon payment of the consideration described above. It is not effective until said payment is received in paid funds.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 20____.

Supplier/Sub-Subcontractor: _____
Signature: _____
Name: _____
Title: _____
Notary Public

The forgoing instrument was acknowledged before me this _____ day of _____, 20____.

NOTARY PUBLIC

NAME: _____

COMMISSION EXPIRES: _____



CERTIFICATE OF LIABILITY INSURANCE

OP ID: _____

DATE (MM/DD/YYYY) _____

Sample

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND DOES NOT CONFER ANY RIGHTS ON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No., Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED Sub-Contractor Name/Address	INSURER A:	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURERS (INSR / WVD)	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
X	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	XXXX			EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
X	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		XXXX			COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
X	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A XXXX			<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

BMS-CAT of Michigan, LLC dba Jarvis Property Restoration is listed as additional named insured with respects to Worker's Compensation, Automobile coverages and General Liability using forms CQ2010 (11-85) or its equivalent. Forms are attached. Insurance is Primary and Non-Contributory. Thirty-day notice of cancellation applies with 10-day notice for non-payment of premium.

CERTIFICATE HOLDER**CANCELLATION**

BMS CAT of Michigan, LLC dba Jarvis Property Restoration 41800 Executive Drive Harrison Township, MI 48045	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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