

**INDEMNIFICATION AGREEMENT BY AND AMONG THE BOARD OF EDUCATION  
OF LIBERTYVILLE SCHOOL DISTRICT NO. 70, TOWER CONTRACTING, LLC,  
AND GREAT AMERICAN INSURANCE COMPANY**

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of May 2018, by and among the Board of Education of Libertyville School District No. 70, Lake County, Illinois (the “Board”), Tower Contracting, LLC (“Tower”), and Great American Insurance Company (“Great American”) (collectively referred hereto as “the Parties”).

**WHEREAS**, on or about March 24, 2016, the Board and Tower entered into a contract (the “Contract”) whereby Tower agreed to serve as the contractor for a construction project involving an addition and related capital improvements for the benefit of the Board, including, but not limited to, improvements to the Copeland Manor School (the “Project”); and

**WHEREAS**, Tower is an Illinois corporation that provides construction services; and

**WHEREAS**, Great American is an Ohio corporation and is the surety that provided payment bond CA4263752 for the Project in the total amount of \$5,690,000.00 as surety to the Board for the Project; and

**WHEREAS**, Pursuant to the Contract, Tower entered into various sub-contracts with third-party trade contractors and the Board is not a party to Tower’s contracts with the sub- contractors; and

**WHEREAS**, as a condition to payment for any work performed by any contractors or sub-contractors on the Project, the Contract requires Tower to provide final lien waivers from all contractors or sub-contractors who perform work on the Project; and

**WHEREAS**, Tower has been unable to obtain final lien waivers from certain sub-contractors or other parties, including, but not limited, to Hines Excavating, Inc., Yonan Floor Coverings, Inc., Safe Environmental Corporation, and BCT Contractors, LLC. (collectively the “Sub-Contractors”) related to certain work performed on the Project; and

**WHEREAS**, the Contract empowers the Board to require this Agreement, and the Parties desire to enter into this Agreement to provide the Board with indemnification against potential claims, demands, or causes of actions for payment from any entity that performed any work related to the Project for which the Board did not receive a final lien waiver.

**NOW, THEREFORE**, in consideration of the terms and conditions herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are incorporated in this Agreement as if set forth therein.

2. **Duration of Contract.** This Contract shall commence on the date all Parties execute the Agreement.
3. **Indemnification.** Pursuant to the Contract, and in exchange for the Board's agreement to release certain payments to Tower for certain remaining amounts due and owing or claimed for work performed by the below identified Subcontractors for whom Tower has not obtained and delivered final lien waivers and any entities that performed related work including but not limited to suppliers and sub-sub-contractors. Great American, as Surety on payment bond number CA4263752 agrees to fulfill its obligations per the terms and conditions of payment bond CA4263752 and binds itself, its heirs, executors, administrators, successors and assigns to the Board to pay for labor, materials and equipment furnished for use in the performance of the Contract. Tower and its respective agents, partners, employees, shall and do agree to indemnify, protect, defend and hold harmless the Board, from and against all claims, demands, liens or suits arising out of, related to or connected with any request, demand, or claim for payment for work performed by the below identified Subcontractors or any entities that performed related work including but not limited to suppliers and sub-sub-contractors for the Project. (collectively "Liabilities").

**Identified Sub Contractors:**

- a. Safe Environmental Corporation
  - b. Yonan Floor Coverings, Inc.
  - c. Hines Excavating, Inc.
  - d. BCT Contractors, LLC.
4. **Not a Release of Claims.** The Parties understand that this agreement applies only to the Liabilities identified in Paragraph 3 above. This agreement is in no way to be construed as a waiver of any other claims the Parties may have against each other, or their respective board members, officers, directors, employees and agents.
  5. **Notice to Indemnitees.** The Indemnitors agree to immediately notify the Indemnitees in writing of any claim or potential claim which has been or which likely will be made against Indemnitees in connection with the obligations herein indemnified.
  6. **Amendments/Modification.** No subsequent alteration, amendment, change, addition, deletion, or modification to this Agreement shall be binding upon the Parties unless reduced to writing and duly authorized and signed by each of them.
  7. **Entire Agreement.** This Agreement sets forth all of the promises, agreements, conditions, and understandings between the Parties relative to the subject matter hereof and no other promises, agreements, or understandings, whether oral or written, expressed or implied, exist between the Parties. This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior negotiations and/or agreements, proposed or otherwise, written or oral, concerning the subject matter hereof.

8. **Execution.** This Agreement may be executed in multiple counterparts, and a set of counterparts bearing the signatures of each Party shall constitute the Agreement as fully as if the Parties had signed a single document. The Parties shall accept facsimile or electronic copies of this Agreement as if original copies.
  
9. **Severability.** Should any provision of this Agreement be declared illegal by a court of competent jurisdiction, then said provision shall be deleted from this Agreement to the extent that it violates the law, and the remaining provisions in this Agreement shall remain in full force and effect so long as the Parties' intent in entering into this Agreement can still be met.
  
10. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois, notwithstanding its choice of law provisions. Any claim to enforce the terms and conditions of this Agreement shall be brought in the Circuit Court of Lake County, Illinois, or the U.S. District Court, Northern District of Illinois, Eastern Division.
  
11. **Effective Date.** This Agreement is effective upon execution by all Parties.

IN WITNESS WHEREOF, the Parties have signed this Agreement on the \_\_\_\_ day of May 2018.

**BOARD OF EDUCATION OF  
LIBERTYVILLE SCHOOL  
DISTRICT NO. 70,  
LAKE COUNTY, ILLINOIS**

**TOWER CONTRACTING, LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**GREAT AMERICAN COMPANY**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_