

GENERAL CONDITIONS

1 Client will grant or obtain free access to the site for all equipment and personnel necessary for Consultant to perform the work set forth in this Agreement at no cost to consultant. Client will notify any and all possessors of the project site that Client has granted Consultant free access to the site. Consultant will take reasonable precautions to minimize damage to the site, but Client understands that, in the normal course of work, some damage may occur and the correction of such damage is not part of this Agreement unless so specified in the Proposal.

2 All original papers, documents, drawings, computer files and other work product of Consultant, and copies thereof, produced by Consultant pursuant to this Agreement, except documents which are required to be filed with public agencies, shall remain the property of Consultant. Copies of drawings and specifications retained by Client may be utilized only for Client's use and for occupying the project for which they were prepared, and not for the construction of any other project. Client will not distribute Consultant's reports to any other person or organization without prior authorization. Additionally, Client agrees to release Consultant from liability and further agrees to defend, indemnify, and hold harmless Consultant from any liability or damages arising from unauthorized distribution.

3 In the event changes are made in the plans or specifications or Consultant's scope of services by Client or by any other person other than Consultant, Which changes affect Consultant's work, any and all liability arising out of or as a result from such changes or usage is waived by Client against Consultant. Client assumes full responsibility for liability for such changes. Client further agrees not to use or permit any other persons to use plans, drawings, or other documents prepared by Consultant, which are not signed by Consultant. Client agrees to indemnify Consultant against any and all liability, loss, costs, damages, fees of attorneys and other expenses which Consultant may sustain or incur as a result of such unconsented changes or usage.

4 Client will pay Consultant in accordance with the procedures indicated in the proposal and its attachments. Invoices will be submitted to Client on a monthly or semi-monthly basis or at the completion of a task by Consultant, and will be due and payable upon presentation. If Client objects to all or any portion of any invoice, Client will so notify Consultant in writing within seven (7) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute. The parties will immediately make every effort to settle the disputed portion of the invoice. In the absence of written notification described above, the balance as stated on the invoice will be paid.

5 Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. Client will pay an additional charge of two-and-one-half (2.5%) percent per month on any delinquent amount, excepting any portion of the invoiced amount in dispute and resolved in favor of Client. Payment thereafter will first be applied to accrued interest and then to the principal unpaid amount. All time spent and expenses incurred (including in-house labor expense and attorney's fees) in connection with collection of any delinquent amount will be paid by Client to Consultant in accordance with Consultant's current fee schedule. In the event Client fails to pay Consultant within sixty (60) days after invoices are rendered, Client agrees that Consultant will have the right to consider the failure to pay the Consultant's invoice as a breach of this Agreement.

6 Client has relied on Consultant's professional judgment in evaluating Consultant's scope of service and fee for this project, given the project's nature and risks.. Client shall also rely on Consultant's professional judgment in evaluating the continued adequacy of this agreement in light of occurrences or discoveries that were not originally contemplated by or known to Consultant. Should Consultant require contract renegotiations, Consultant shall identify the changed conditions, and Consultant and Client shall promptly and in good faith enter into the renegotiation process. If renegotiated terms cannot be agreed to, Consultant shall have the right to terminate this agreement without penalty per paragraph 13, Termination.

7 In the event that Consultant's services are interrupted by circumstances beyond Consultant's control, Client shall compensate Consultant for the labor, equipment, and other costs Consultant incurs in order to maintain continuity of Consultant's project team for Client's benefit during the interruption. Alternatively, and at Client's option, Client shall compensate Consultant for the various costs Consultant incurs for demobilization and subsequent remobilization. Consultant's compensation shall be based upon Consultant's current fee schedule and expense reimbursement policy.

8 Consultant may employ certain observations or sampling/testing procedures in performing the services stated herein. Client understands that such procedures indicate actual conditions only at the precise locations and times where and when the procedures were performed. As is customary, Consultant shall make certain inferences based upon the information derived from these procedures in order to formulate an opinion of conditions in other areas. Consultant shall sign certifications only if in an approved form provided prior to commencement of services. Certification is limited to a statement of professional opinion and does not constitute a warranty or guarantee expressed or implied.

9 Client agrees to accept the responsibility of notifying Consultant at least twenty-four (24) hours in advance of any necessary testing and/or observations. If Client assigns this responsibility to a contractor, architect, engineer job inspector, or construction manager, Client will defend, indemnify, and hold harmless Consultant from any and all claims, damages and liability, including defense costs, arising from improper scheduling on the part of the responsible party.

10 Client agrees to waive any claim against Consultant and to defend, indemnify and hold harmless Consultant from, any and all claims, damage, or liability for injury or loss, costs created by delay of the project, costs associated with possible reduction of property value, and any consequential damages of whatever nature, which may arise directly or indirectly as a result of the services provided by Consultant under this Agreement, unless such claim or liability is caused by the sole negligence or willful misconduct of Consultant.

11 Client agrees to limit Consultant's liability to Client and to all other parties for claims arising out of Consultant's performance of the services described in this Agreement. The aggregate liability of Consultant will not exceed ten times the Consultant's fee for the project in question or \$50,000 (whichever is less) for negligent professional acts, errors, or omissions. Client agrees to indemnify and hold Consultant from and against all liabilities in excess of the monetary limit established above. If Client wishes to discuss higher limits and the charges involved an agreement may be negotiated by Consultant and Client. Higher limits, to be valid, must be made as a written addendum to this contract.

12 Consultant will dispose of all remaining soil and rock samples thirty (30) days after submission of the report covering those samples or following completion of required tests. Further storage or transfer of samples can be made at Client's expense upon Client's prior written request. Client will be responsible for ultimate disposal, and costs thereof, of any samples secured by Consultant which are found to be contaminated.

13 This Agreement may be terminated by either party thirty (30) days after written notice with or without cause. In the event of any termination, Consultant will be paid for services performed prior to the date of termination plus reasonable termination expenses, including, but not limited to, the cost of completing analyses, records, and reports necessary to document job status at the time of termination.

14 Consultant agrees to notify Client when unanticipated hazardous materials or suspected hazardous materials are encountered. Client agrees to make any disclosures required by law to the appropriate governing agencies. Client also agrees to hold Consultant harmless for any and all consequences of disclosures made by Consultant, which are required by governing law. In the event the project site is not owned by Client, Client recognizes that it is Client's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.

15 Notwithstanding any other provision of the Agreement, Client waives any claim against Consultant and, to the maximum extent permitted by law, agrees to defend, indemnify, and save Consultant harmless from any claim, liability, and/or defense costs for injury or loss arising from Consultant's discovery of unanticipated hazardous materials or suspected hazardous materials, including, but not limited to, any costs created by delay of the project and any cost associated with possible reduction of the property's value.

16 All claims, disputes, and other matters in controversy expressly pertaining to allegations by Client of acts of professional negligence by Consultant arising out of or pertaining to this Agreement or the breach thereof, shall be submitted to nonbinding mediation as a condition precedent to litigation unless the parties agree otherwise in writing or have otherwise waived said condition precedent. The cost of mediation shall be split equally between the parties. This agreement to mediate shall be specifically enforceable under the law of the State of California.

17 In any action, proceeding, mediation, or binding arbitration, the claim will be brought and tried in the jurisdiction of the court of the county where Consultant's principal place of business is located and Client waives the right to remove such action, proceeding, mediation, or binding arbitration to any other county or judicial jurisdiction.

18 The law of the State of California will govern the validity of the terms and conditions of this Agreement, their interpretation and performance. If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of the Agreement for any cause.