

GENERAL TERMS AND CONDITIONS

Phase I Environmental Site Assessments

The following General Terms and Conditions are applicable to Agreements between Impact Environmental Consulting, Inc. (IEC) and the CLIENT, when attached to and made part of such Agreement or Proposals by reference.

Acceptance of Agreement

This Agreement's General Conditions, of which this provision is a part, have been established in large measure to allocate certain risks between CLIENT and IEC, and IEC will not initiate service without formal agreement of General Conditions and other terms and conditions set forth in this Agreement. For purposes of convenience, CLIENT may choose to accept this Agreement orally or to orally authorize IEC to initiate services. In that event, CLIENT specifically agrees that, as a material element of the consideration IEC requires to execute the services indicated herein, oral acceptance or authorization to initiate services shall be considered by both parties to constitute formal acceptance of all terms and conditions of this Agreement. Unilateral modification of this Agreement subsequent to IEC's initiation of service is expressly prohibited. Furthermore, all preprinted terms and conditions on CLIENT's purchase order acknowledgement forms are inapplicable to this Agreement and IEC's involvement in CLIENT's project.

CLIENT understands that a Phase I Environmental Site Assessment is conducted solely to permit IEC to render a professional opinion about the likelihood of regulated contaminants being present on, in, or beneath the site in question at the time services were conducted. No matter how thorough a Phase I Environmental Site Assessment study may be, findings derived from its conduct are limited and IEC cannot know or state for an absolute fact that a site is unaffected by reportable quantities of regulated contaminants. Furthermore, even if IEC believes that reportable quantities of regulated contaminants are not present, CLIENT still bears the risk that such contaminants may be present or may migrate to the site after the study is complete. Given the foregoing, CLIENT's acceptance of this Agreement shall signify the CLIENT understands the risks associated with Phase I Environmental Site Assessments and, as a material element of the consideration IEC requires to perform these services, CLIENT shall, to the fullest extent permitted by law, indemnify, defend, and hold IEC harmless from any claim or liability for injury or loss arising from IEC's discovery of unanticipated hazardous materials, or suspected hazardous materials, or their presence. CLIENT also shall compensate IEC for any time spent or expenses incurred by IEC in defense of any such claim (the term "any claim" means "any claim in contract, tort or statute alleging negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation or other acts giving rise to liability"). Such compensation shall be based upon IEC's prevailing fee schedule and expense reimbursement policy.

ASTM Standards

The American Society for Testing and Materials (ASTM) has developed a variety of prescriptive professional practice standards (standard practices and standard guides), that identify specific methods professionals could or should use to attain results. Such prescriptive professional practice standards fail to consider the unique needs of a client, the client's project-specific expectations, or the requirements and

obligations of the professionals engaged to provide service, nor do they consider more effective techniques that may have been developed subsequent to the issuance of such standards. These ASTM standards are generic and general in nature and, therefore, do not constitute, nor are they tantamount to the applicable standard of care, which necessarily is defined and must consider project-specific contractual terms and other particular needs, expectations, circumstances, and requirements of the project and the professional engagement. As such, adherence to ASTM's prescriptive professional practice standards may not be appropriate or in the best interests of the client or the IEC's instruments of service. IEC has not followed prescriptive professional practice standards issued by ASTM, and has instead worked to develop a scope of service specifically for this project, in accordance with CLIENT's needs and preferences and IEC's professional and contractual obligations.

Maintenance of Professional Standards and Ethics

The CLIENT recognizes that IEC's services in all cases must be rendered in accordance with prevailing professional standards and ethics. Services performed by IEC under this Agreement will be conducted in a manner consistent with the level of care and skill standard to the industry under similar conditions. NO OTHER WARRANTY EXPRESSED OR IMPLIED IS MADE. If a situation emerges that causes IEC to believe compliance with the CLIENT's wishes could result in IEC violating an applicable provision or aspect of professional standards, or ethics, laws of regulations, IEC shall so advise the CLIENT. The CLIENT and IEC shall immediately enter into discussions to arrive at a mutually satisfactory solution. Failing achievement of a solution, either party may terminate this Agreement in accordance with the termination provisions stated herein.

Compliance with Codes and Standards

IEC shall exercise due and reasonable care in observing those federal, state and local codes, standards, statutes, and regulations applicable at the time IEC prepared the scope of services included in this Agreement. In the event that IEC becomes aware of any changes in such codes, standards, statutes, or regulations, and if IEC believes such changes affect IEC's services, IEC shall inform CLIENT of such changes and the impact abiding by them may have on services already performed or to be performed, the fees and costs involved, and scheduling. If either CLIENT or IEC believes a change requires renegotiations of this Agreement both CLIENT and IEC shall bargain promptly and in good faith. If a renegotiated Agreement cannot be developed, CLIENT shall give IEC the right to terminate this Agreement without penalty. In any event, CLIENT shall, to the fullest extent permitted by law, waive any claim against IEC, and indemnify, defend, and hold IEC harmless from any claim or liability for injury or loss arising from IEC's alleged failure to abide by federal, state or local codes, standards, statutes, or regulations that were not in effect or publicly announced at the time IEC otherwise would have incorporated their intent into IEC's services. CLIENT shall also compensate IEC for any time spent of expenses incurred by IEC in defense of any

such claim. Such compensation shall be based upon IEC's prevailing fee schedule and expense reimbursement policy. The term "any claim" used in this provision means "any claim in contract, tort, or statute alleging negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, or other acts giving rise to liability.")

Services Requiring a Licensed Professional

From time to time, the CLIENT may request professional services (e.g., architecture, engineering, land surveying) that by law must be performed by a licensed professional. In the event that such professional services are required, IEC will contract to provide those services with a licensed professional or professional entity authorized to provide such services by and in the State of New York.

CLIENT's Responsibilities

The CLIENT shall provide all criteria and full information as to CLIENT's requirements for the project; designate any persons to act with authority of CLIENT; examine and respond promptly to IEC's submissions; and give prompt written notice to IEC whenever a defect in work has been noted.

The CLIENT will provide for the right of entry to allow IEC to complete the work. While IEC will take reasonable precautions to minimize any damage to the site, it is understood by CLIENT that in the normal course of work some damage may occur, the correction of which is not part of this agreement.

The CLIENT shall be responsible for payment of all fees in connection with this project.

Alteration of Instruments of Service

CLIENT agrees that designs, plans, specifications, reports, proposals and similar documents prepared by IEC are instruments of professional service and, as such, no matter who owns or uses them, they may not under any circumstances be altered by any party except IEC. CLIENT warrants that IEC's instruments of service will be used only and exactly as submitted by IEC. Accordingly, CLIENT shall waive any claim against IEC, and shall, to the fullest extent permitted by law, indemnify, defend, and hold IEC harmless from any claim or liability for injury or loss arising from unauthorized alteration of IEC's instruments of service. CLIENT also shall compensate IEC for any time spent or expenses incurred by IEC in defense of any such claim (the term "any claim" means "any claim in contract, tort or statute alleging negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation or other acts giving rise to liability"). Such compensation shall be based upon IEC's prevailing fee schedule and expense reimbursement policy.

Invoices, Reimbursable Expenses, Escalation of Fees

IEC will submit invoices to CLIENT monthly on IEC's standard invoice form, terms net thirty (30) days. Partially completed items of work for which a fee has been specified may be billed based upon percentage of completion as estimated by IEC, otherwise, invoices will be based upon IEC's Schedule of Standard Hourly Rates in effect at the time the work is performed. Past due balances are subject to interest of 1.0 percent per month, or the maximum permitted by state law, whichever is less. IEC, after giving seven (7) days written notice, may suspend services under any Agreement until all past due accounts, including applicable interest, have been paid. In the event that the invoice is not paid voluntarily and promptly, and must be referred to an

attorney or agent for collection, the CLIENT agrees to pay to IEC, IEC's reasonable collection and attorney's fee equal to 25 percent of the total amount due at that time.

The minimum time segment for charging of survey fieldwork is four (4) hours. The minimum time segment for charging of all other work is one-half hour.

Reimbursable Expenses

Reimbursable expenses, those outside of the scope of the proposed services, are charged to the CLIENT at cost plus ten (10) percent and include the following items:

Out of scope reproduction of plans, specifications and other documents, including plans and documents necessary for submission to regulatory agencies, but excluding documents reproduced for use by IEC and any of its consultants. IEC reproduction charges for documents reproduced by IEC are: photocopying: black and white at \$0.15 per page; color at \$2.00 per page; and binding at \$7.50 per report.

Out of scope permit application and filing fees advanced by IEC. Such fees will be invoiced to CLIENT at cost.

If the services covered by this Agreement are subject to local or state taxes or fees, such additional costs will be charged to the project and are subject to reimbursement as provided herein.

Escalation of Fees

Fees and schedule commitments are subject to renegotiations for unreasonable delay caused by CLIENT's failure to provide specified facilities or information, or for delays caused by unpredictable occurrences, or force majeure, such as fires, floods, strikes, riots, unavailability of labor or materials or services, acts of God or of public enemy, or acts or regulations of any governmental agency. Temporary work stoppage caused by any of the above may result in additional costs (reflecting a change in scope) beyond that outlined in the proposed Agreement.

IEC shall have the right to increase its compensation payable by the CLIENT to IEC in the event that IEC must modify services, facilities or equipment to comply with laws or regulations that become effective after execution of this Agreement, provided the IEC give the CLIENT thirty (30) days prior notice as to the cause for escalation and the additional amounts involved.

Insurance

IEC represents and warrants that it now has in full effect and will maintain the following insurances for the duration of this project.

IEC will furnish to the CLIENT certificates of insurance upon request. Premiums for insurance coverage in excess of the following when requested by CLIENT will be invoiced to and paid by CLIENT.

Personal Adv. Injury	\$1,000,000 for each occurrence
Products-Comp/Op Agg.	\$1,000,000 for each occurrence
General Aggregate	\$2,000,000 in the aggregate
Excess Liability-Umbrella	\$1,000,000 for each occurrence
Automobile Liability	\$1,000,000 combined single limit

Workers' Compensation Insurance - Securing compensation for the benefit of IEC employees as required by the Worker's Compensation Law. Premiums for additional insurance coverage required for work on or near the waterfront will be charged to the project and are subject to reimbursement.

Professional Liability Insurance - Insuring against negligent acts, errors and omissions, by IEC in an amount of \$1,000,000 per claim with a \$2,000,000 aggregate.

Indemnification and Limitation of Liability

Application of the joint and several liability concept could result in IEC becoming wholly liable for damages created directly or indirectly by regulated contaminants. CLIENT agrees that exposing IEC to such a liability would be unfair, because IEC had nothing whatsoever to do with creation of the hazardous conditions. Accordingly, CLIENT shall, to the fullest extent permitted by law, indemnify, defend, and hold IEC harmless from any claim or liability for injury or loss arising from IEC being considered liable for creating a hazardous materials condition or permitting one to exist, as a consequence of application of a joint and several liability concept. CLIENT also shall compensate IEC for any time spent or expenses incurred by IEC in defense of any such claim (the term "any claim" means "any claim in contract, tort or statute alleging negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation or other acts giving rise to liability"). Such compensation shall be based upon IEC's prevailing fee schedule and expense reimbursement policy.

The CLIENT agrees that IEC's total aggregate liability to the CLIENT and to all other parties associated with the project or its use, due to IEC professional negligent acts, errors omissions, shall not exceed IEC's total fee for services rendered on the project.

The CLIENT shall make no claim for professional negligence, either directly or in a third-party claim against IEC unless the CLIENT has first provided IEC with a written certification executed by an independent design professional currently practicing in the same discipline as IEC. The certification shall: a) identify the name of the professional; b) specify each and every act or omission that the certifier contends is a violation of the standard of care identified in this Agreement; c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to IEC not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any arbitration or judicial proceeding.

Disputes

In the event that a dispute should arise relating to the performance of the services to be provided under this Agreement, and should that dispute result in litigation in which IEC prevails, it is agreed that IEC shall be entitled to recover all reasonable costs incurred as a result of the claim, including staff time, court costs, attorney's fees and other claim-related expenses. Notwithstanding the foregoing, IEC shall have the right to submit any controversy or claim arising out of or relating to this Agreement, or the breach thereof, to binding arbitration administered by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules, and judgement on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Consequential Damages

CLIENT shall not be liable to IEC and IEC shall not be liable to CLIENT for any consequential damages incurred by either party due to the fault of the other, regardless of: the nature of this fault; or whether it was committed by CLIENT or IEC, their employees, agents, or subcontractors; or whether such

liability arises in breach of contract or warranty, tort (including negligence), statute, or any other cause of action. Consequential damages include, but are not limited to, loss of use and loss of profit.

Confidentiality

IEC agrees to keep confidential and to not disclose to any person or entity (other than IEC's employees and subcontractors), without the prior consent of CLIENT, all data and information not previously known to and generated by IEC, or furnished to IEC and marked "Confidential" by CLIENT; provided, however, that these provisions shall not apply to data that: are in the public domain; were previously known to IEC; or were independently acquired by IEC from third-parties under no obligation to CLIENT to keep said data and information confidential. These provisions shall not apply to information in whatever form that comes into the public domain through no fault of IEC, nor shall they be interpreted in any way restrict IEC from complying with a legally enforceable order to provide information or data. CLIENT agrees the IEC may use and publish CLIENT's name and a general description of IEC's services with respect to the project in describing IEC's experience and qualifications to others. CLIENT also agrees that any patentable or copyrightable concepts developed by IEC in the course of IEC's services hereunder are the sole and exclusive property of IEC.

Failure to Follow Recommendations

IEC disclaims any and all responsibility and liability for problems that may occur during implementation of IEC's plans, specifications, or recommendations when IEC is not retained to observe such implementation.

Defects in Service

CLIENT and CLIENT's personnel and contractors shall promptly inform IEC of any actual or suspected defects in IEC's services, to help IEC take those prompt and effective measures that in IEC's opinion will help minimize the consequences of any such defect. CLIENT's payment in full amount owed for services rendered shall be taken to mean that CLIENT is satisfied with IEC's services and is unaware of any defect.

Ownership of Instruments of Service

Plans, specifications, reports, boring logs, calculations, field data, field notes, laboratory test data, estimates, electronic media files, magnetic tapes (drives), and similar paper and electronic media (other than samples) prepared by or for IEC as instruments of service are IEC's property. IEC shall retain these instruments of service for five years following submission of project deliverables, during which period IEC's instruments of service will be made available for CLIENT's review at any reasonable time.

Termination

This Agreement may be terminated by either party upon ten (10) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. Such termination shall not be effective if the substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, IEC shall be paid for services performed to the termination notice date plus reasonable termination expenses. The expenses shall include any fees incurred by IEC from the laboratory prior to receipt of a termination notice date.

Governing Law

Unless otherwise provided, the substantive law of the state of New York will govern the validity of this Agreement, its interpretation and performance, and remedies for contract breach or any other claims related to this Agreement.

Assigns

The CLIENT may not delegate, assign, sublet or transfer his duties, obligations or interests in this Agreement without the written consent of IEC.

