

February 13, 2026

STANDARD TERMS AND CONDITIONS OF DETROIT ENGINEERING, LLC (D/B/A DETROIT ENGINEERING)

1) Scope of Work.

- a. Client has determined that it has a need for professional engineering services.
- b. When called upon by the Client, the Company shall provide, or cause to be provided, the services requested by the Client as outlined in any Proposal that has been agreed upon and accepted by both parties, subject to the terms contained herein, and the terms of any Service Agreement, as further defined, expanded, restricted, or altered in any Change Order(s) that are requested by Client and accepted by Company.
- c. When requested by the Client to perform an assignment, the Company shall prepare a Proposal which shall outline the scope of services to be performed, billing method, and a cost estimate for the work to be performed. If the Proposal is accepted by Client, Client shall sign a Service Agreement that incorporates the terms of the Proposal by reference, and it will thereafter bind both parties.
- d. Thereafter, Company's duties, and the scope of services for any Project, may not be expanded, altered, or amended unless both parties agree in a written Change Order signed by both parties.
- e. In the event of a conflict between the terms of these Standard Terms and Conditions and any Proposal (that has been accepted by signing a Service Agreement) the terms of the Proposal shall control. In the event of a conflict between a Proposal and a later Change Order that is signed by both parties, the Change Order will control.
- f. Together, the Proposal (as accepted in any Service Agreement), the Service Agreement itself, these Standard Terms and Conditions, and any later Change Orders (that are accepted and signed by both Parties) constitute one singular agreement. Together, they are referred to throughout as the "Agreement."

2) Client's Responsibilities.

- a. Client shall have the responsibilities set forth herein, in any accepted Proposal, and in **Exhibit A**.

- b. Client shall pay Company as set forth herein, in any accepted Proposal, and/or in any later Change Order.
- c. Client shall be responsible for, and Company may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, technical documents, and other information furnished by Client to Company pursuant to this Agreement. Company may use such requirements, programs, instructions, reports, data, technical documents, and information in performing or furnishing services under this Agreement. Company cannot independently verify the information Client provides, and does not assume responsibility or liability for information Client provides that is inaccurate.

3) Schedule for Rendering Services.

- a. Commencement. Company will be authorized to begin rendering service(s) as of the Effective Date specified in the Service Agreement unless a later time is specified in the Proposal, in which case the Proposal will control.
- b. Time for Completion.
 - i. If no time period for completion is specified in the Agreement, then Company shall complete its obligations within a reasonable time and the Period of Performance will be considered to be completed when all services outlined within the accepted Proposal or Change Order (or goods to be furnished) have been fully rendered and/or furnished. If an accepted Proposal or Change Order provides a specific period of time for the rendering services, or specific dates by which services are to be completed (the "Period of Performance"), they are hereby agreed to be reasonable and shall be binding on the parties, subject to the terms hereof.
 - ii. If, through no fault of Company, such periods of time or dates are changed, or the orderly and continuous progress of Company's services is impaired, or Company's services are delayed or suspended, then the time for completion of Company's services shall be extended equitably.
 - iii. Client shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Company's performance of its services.
 - iv. Upon completion of the Scope of Work as defined in any accepted Proposal (and as amended by any Change Order(s)), Company shall submit a Notice of Completion to Client.
 - v. If Client believes Company has failed to complete the Scope of Work or that the services/deliverables provided are incomplete or deficient in any way, Client must notify Company in writing of any claimed deficiency within 30 days of the earlier of: (a) Client's receipt of the Notice of Completion, or (b) Company's formal delivery of the completed

project/deliverables. If Client does not provide a written notice to Company in accordance with this paragraph, it shall be conclusively established for all purposes, including any later litigation, that Company completed the scope of work and provided all deliverables to the full and complete satisfaction of Client in accordance with this Agreement, the Proposal, and any Change Order(s), and all claims for any breach of thereof will be forever waived and Client will be deemed to have released Company from any liability stemming therefrom.

- vi. Client may not terminate this Agreement prior to the close of the Period of Performance except under the express provisions of the Agreement.

4) Invoices and Payments.

- a. Invoices. Company shall prepare invoices in accordance with its standard invoicing practices and shall submit its invoices to Client on a monthly basis, unless modified by a Proposal, or Change Order. Invoices are due and payable within 30 days of receipt. All payments are final and non-refundable.
- b. Out-of-Pocket Expenses. In addition to any fees or costs explicitly agreed upon in any Proposal or Change Order(s), Client agrees to pay for, or reimburse Company for, reasonable out-of-pocket expenses and costs incurred in the performance of the services outlined in any scope of work (i.e. shipping costs, actuary fees, data costs, records fees). Company, at its discretion, may bill Client directly for any such expenses or advance the costs on behalf of Client and be entitled to reimbursement; provided however that expenses in excess of \$500 will require prior written authorization by Client.
- c. Taxes and Other Costs. In addition to the above, Client is responsible for any taxes, fees, tariffs, or charges related to or stemming from services or goods Client purchases in performing its duties under this Agreement or completing the Scope of Work.
- d. Payments.
 - i. Application to Interest and Principal: Payment will be credited first to late fees, then to any interest owed to Company and then to principal.
 - ii. Failure to Pay: If Client fails to make any payment due Company for services and expenses within 30 days after receipt of Company's invoice, then:
 1. amounts due Company will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 2. Company may, after giving seven days written notice to Client, suspend services under this Agreement until Client has paid in full

all amounts due for services, expenses, and other related charges. Client waives any and all claims against Company for any such suspension.

- e. Disputed Invoices: If Client contests an invoice, Client shall promptly advise Company of the specific basis for doing so and must pay the undisputed portion.
- f. Legislative Actions. If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, tariffs, or charges on Company's services or compensation under this Agreement, then the Company may invoice such new taxes, fees, tariffs, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Client shall reimburse Company for the cost of such invoiced new taxes, fees, and charges; such shall be in addition to the compensation to which Company is entitled under the terms of this Agreement, any Proposal or Change Order.

5) Opinions of Cost.

- a. Company's opinions of probable production cost are to be made on the basis of Company's experience and qualifications and represent Company's best judgment as an experienced and qualified professional generally familiar with the industry. However, because Company has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Company cannot and does not guarantee that proposals, estimates, quotes, bids, or actual production cost will not vary from opinions of probable production cost prepared by Company. If Client requires greater assurance as to probable production cost, Client must employ an independent cost estimator.
- b. Designing to Production Cost Limit. If a production cost limit is established between Client and Company, such production cost limit and a statement of Company's rights and responsibilities with respect thereto must be specifically set forth in a Proposal or Change Order.
- c. Opinions of Total Project Costs. The services, if any, of Company with respect to total project costs shall be limited to assisting the Client in collating the various cost categories which comprise total project costs. Company assumes no responsibility for the accuracy of any opinions of total project costs.
- d. If Company provides a cost estimate for the work to be performed in a Proposal or Change Order, it is expressly agreed that it is only an estimate and is not final or binding on Company unless explicitly agreed otherwise in writing.

6) Ownership Rights.

- a. If explicitly stated in a Proposal or Change Order, Company may grant an unlimited right/license for Client to use or reuse any tangible product or document created within Company's Scope of Work or otherwise during the design and development

process to document the work and/or convey technical information (“Technical Artifact”). Technical Artifacts may include, but are not limited to, source code, prototypes, equipment specifications, fabrication drawings, requirements and specifications, drawings and schematics, test plans, reports, meeting notes.

- b. Unless stated specifically otherwise in a Proposal or Change Order, Client does not acquire any rights of ownership in any Technical Artifact, or any other deliverable, work product, design document, copyright, patent, trademark, or intellectual property owned or licensed by Company, or produced or developed by Company within the scope of its work under this Agreement or any Proposal or Change Order(s), all of which shall remain the sole and exclusive property of Company. Client acquires only the right to use the work product and intellectual property subject to the terms of this Agreement and any Proposal or Change Order(s). However, If explicitly stated in a Proposal or Change Order, Company may grant Client an unlimited license/right of use and reuse of any Technical Artifact, or other deliverable, work product, design document, copyright, patent, trademark or intellectual property produced or developed by Company within the scope of its work under this Agreement or any Proposal or Change Order(s). The terms of the Proposal or Change Order shall control.
- c. If any Technical Artifact, or other work product, design document, copyright, patent, trademark, or intellectual property is specifically sold or labeled as the exclusive property of Company, it may not be sold, resold, modified, distributed or reverse engineered by Client.

7) Disclaimers and Notices.

- a. If any deliverable, Technical Artifact, product, work, design, document, or property is provided to Client with any marking, warning, label, limitation of liability, restriction on use, instruction, or other disclaimer (collectively “Disclaimer”) Client agrees to maintain the Disclaimer and to display or distribute said Disclaimer in a like fashion as when delivered to Client for all purposes including any internal or external use, or for any sale, resale, use, reuse, reproduction, sale, or distribution. Client will indemnify and hold Company harmless from any damage or injury resulting from any failure of Client to strictly observe this covenant.
- b. Client expressly acknowledges that any service, deliverable, or good provided by Company is not intended to be used in any environment or other product requiring fail-safe performance, in which failure of the product could directly lead to death, personal injury, or server physical or environmental damage, and agrees to indemnify Company and hold Company harmless from any damages or injuries caused by such use.

8) General Considerations.

- a. Standards of Performance

- i. **Standard of Care:** The standard of care for all professional engineering and related services performed or furnished by Company under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Other than as explicitly stated in subparagraph 8.n Company makes no warranties, express or implied, under this Agreement or otherwise, in connection with Company's services.
- ii. **Technical Accuracy:** Client shall not be responsible for discovering deficiencies in the technical accuracy of Company's services. Company shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Client-furnished information.
- iii. **Consultants:** Company may employ such independent contractors and/or Consultants ("Consultants") as Company deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Client.
- iv. **Reliance on Others:** Subject to the standard of care set forth above, Company and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- v. **Compliance with Laws and Regulations, and Policies and Procedures:**
 1. Company and Client shall comply with applicable Laws and regulations.
 2. Prior to the Effective Date, Client shall provide to Company in writing any and all policies and procedures of Client applicable to Company's performance of services under this Agreement. Company shall comply with such policies and procedures, subject to the standard of care set forth above, and to the extent compliance is not inconsistent with professional practice requirements. If Client fails to provide said policies and procedures, it shall be conclusively established that Company is acting in accordance with any such policies and procedures.
 3. This Agreement is based on Laws and Regulations and Client-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Client provided written policies and procedures must be memorialized in a Change Order to the extent that they effect Client's responsibilities or Company's scope of services, times of performance, or compensation.

- vi. Company shall not be required to sign any documents, no matter by whom requested, that would result in the Company having to certify, guarantee, or warrant the existence of conditions whose existence the Company cannot ascertain. Client agrees not to make resolution of any dispute with the Company or payment of any amount due to the Company in any way contingent upon the Company signing any such documents.
 - vii. Company shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of production insurance or surety bonding requirements.
 - viii. Company shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons, including Client's, (except Company's own agents, employees, and Consultants) furnishing or performing any Work; or for any decision made regarding the Agreement, the Proposal or any Change Order, or any application, interpretation, or clarification, of the Agreement or the Proposal or any Change Order, other than those made by Company.
 - ix. Company's employees and representatives shall comply with the specific applicable requirements of Client's safety programs of which Company has been informed in writing in advance.
- b. Design Without Production Phase Services. Company shall be responsible only for those Production Phase services expressly required of Company in a duly accepted Proposal or Change Order. With the exception of such expressly required services, Company shall have no design, review, supervisory, or other obligations during production and Client assumes all responsibility for all necessary Production Phase engineering and professional services. Client waives all claims against the Company that may be connected in any way to Production Phase engineering or professional services except for those services that are expressly required of Company in an accepted Proposal or Change Order.
- c. Use of Documents.
- i. Unless explicitly stated otherwise in a Proposal or Change Order, all Documents are “instruments of service” with respect to this Project, and Company shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Company) whether or not the Project is completed. Client shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Company or one of its Consultants.
 - ii. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, email or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data,

graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

- iii. Client may make and retain copies of Documents for information and reference in connection with use on the Project by Client. (1) Client acknowledges that such Documents are not intended or represented to be suitable for use or reuse by Client or others on extensions of the Project, on any other project, or for any other use or purpose, (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Company, as appropriate for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to Company or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Client shall indemnify and hold harmless Company and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Company. If Company, at Client's request, verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Client shall compensate Company at rates or in an amount to be agreed upon by Client and Company

d. Suspension and Termination.

i. Suspension:

1. By Client: Client may suspend the Project for up to 90 days upon 30 days written notice to Company.
2. By Company: Company may, after giving 30 days written notice to Client, suspend services under this Agreement if Company's performance has been substantially delayed through no fault of Company.

ii. Termination: The obligation to provide further services under this Agreement may be terminated:

1. For Cause.

- a. Immediately upon written notice by Company if Client is in default of payment of any invoice for a period of 30 days after it is due.
- b. By either party upon 7 days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of the Agreement, a Proposal or Change Order, through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice

- c. By Company, upon seven days written notice if Client demands that Company furnish or perform services contrary to Company's responsibilities as a licensed professional; or upon seven days written notice if the Company's services for the Project are delayed or suspended for more than 90 days for reasons beyond Company's control. Company shall have no liability to Client on account of such termination.

2. Without Cause. Either Party may terminate this Agreement without cause on 120 days prior written notice.

- e. Effective Date of Termination: The terminating party may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Company to demobilize personnel and equipment and orchestrate the return of materials or documents, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files.

f. Payments Upon Termination:

- i. In the event of any termination under this Agreement, Company will be entitled to invoice Client and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination, all of which shall become immediately due and payable. Upon making such payment, Client shall have the limited right to the use of Documents, at Client's sole risk, subject to the provisions 6.c above.
- ii. In the event of termination by Client without cause, or by Company for cause, Company shall be entitled, in addition to invoicing for those items identified in Paragraph 8.f.i. above, to invoice Client and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as

reassignment of personnel, costs of terminating contracts with Company's Consultants, and other related close-out costs.

- g. **Governing Law.** This Agreement is a contract made under, and shall be governed by and construed in accordance with, the laws of the State of Michigan without giving effect to its choice-of-law principles. The parties agree that any legal or equitable action or proceeding with respect to this Agreement or the transactions contemplated by it shall be brought only in any court sitting in Oakland County of the State of Michigan, or the Eastern District Court of the United States sitting in Michigan, and each of the parties submits to and accepts generally and unconditionally the exclusive jurisdiction of those courts with respect to it and its property and irrevocably consents to the service of process in connection with any action or proceeding by personal delivery or by the mailing by registered or certified mail, postage prepaid to its address first set forth above. Nothing in this Agreement shall affect the right of any party to serve process in any other manner permitted by law. Each party irrevocably waives any objection to the laying of venue of any action or proceeding in the above described courts.
- h. **Successors, Assigns, and Beneficiaries**
 - i. Client and Company are hereby bound and the successors, executors, administrators, and legal representatives of Client and Company (and to the extent permitted herein, the assigns of Client and Company) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
 - ii. Client may not assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of Company, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically agreed to by the non-assigning party in a signed written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
 - iii. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Client or Company to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Company and not for the benefit of any other party.
- i. **Dispute Resolution.**

- i. Client and Company agree to make a good-faith effort to resolve any disagreement arising out of, or in connection with this Agreement or any Proposal or Change Order through negotiation. In the event of a dispute between Client and Company on any matter, including but not limited to any matter related to or arising from this Agreement, but excluding any action based on the non-payment of Company's fees (which may be, at the option of Company, immediately submitted to a court of competent jurisdiction), the non-defaulting or requesting party shall give written notice to the other party as soon as reasonably possible after learning of the dispute—but no later than the applicable statute of limitations. The notice shall set forth in specific detail the nature and extent of the dispute and damages claimed. The notice will be sent by certified mail, return receipt requested, or served personally on the breaching party. The recipient party shall acknowledge receipt of the notice and respond in writing to the claim within twenty-one (21) days of receipt of the written notice. If the matter is not resolved after receipt of the response, the parties shall mutually agree on a date, time, and neutral location for a face-to-face settlement meeting of the parties and their counsel, if any. Such settlement meeting will be held within twenty-one (21) days after the date of the recipient party's response. The purpose of the settlement meeting is to further define the nature and extent of the dispute and to explore options for resolution.
- ii. If no resolution is achieved within fourteen (14) days of the settlement meeting, the parties shall submit the matter to neutral, nonbinding confidential mediation in accordance with the Michigan Court Rules. Unless otherwise agreed, the parties to the dispute will share equally in the costs of the mediation, including forum fees, expenses, and charges of the mediator. The mediation will be conducted in accordance with the Michigan Court Rules will take place within thirty (30) days after submission of the dispute to the mediator. All parties will attend the mediation in person unless otherwise mutually agreed, and each party will have at least one person present at mediation with full settlement authority.
- iii. If the dispute is not resolved in mediation, then at the option of Company, the case shall be submitted to and heard and determined by the American Arbitration Association pursuant to its commercial arbitration rules in effect at the time of any dispute, and the determination of the arbitrator will be binding on the parties and will not be appealable, and judgment on the award rendered may be entered in any court having jurisdiction on the matter. To that end, both parties submit to the exclusive jurisdiction of the Oakland County Circuit Court or any appropriate district court within Oakland County.
- j. Indemnification. Except in any case where Company knowingly or intentionally infringed on the intellectual property of a third-party, Client shall indemnify and hold harmless Company (and its principals, owners, members, subsidiaries,

affiliates, officers, agents, sub-contractors, co-branders or other partners, and employees) from any and all claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys' fees and all related costs and expenses) incurred by Company as a result of any claim, liability, judgment, or adjudication against Company: (a) related to or arising from or out of this Agreement; or (b) Company's performance of the Services under this Agreement, or any products or services which result from Company's performance of Services under this Agreement (including, but not limited to, actions in the form of tort, warranty, contract, or strict liability); or (c) arising out of or in any way related to any system or component that was created by any third-party or to which Company did not design or was not made aware of. Client further agrees to fully indemnify and hold Company harmless from any losses, claims, costs, fees, liabilities, damages, injuries or causes of action that result from Client's breach of any provision of this Agreement, including but not limited to paying Company's actual attorney fees and costs expended. In any action or suit to enforce any right or remedy under this agreement or to interpret any provision of this agreement, including any collection action, Company shall be entitled to recover its actual attorney's fees, costs and other expenses from Client

- k. Fees; Limitations on Refunds and Cancellation Fees. Client agrees to pay Company any and all fee(s) as billed in accordance with this Agreement. THE CLIENT FURTHER AGREES THAT, IN THE EVENT OF ANY TERMINATION OR ATTEMPTED TERMINATION OF THIS AGREEMENT BY CLIENT, NO REFUNDS SHALL BE GIVEN UNDER ANY CIRCUMSTANCES WHATSOEVER.
- l. Cooperation. Client agrees to cooperate and communicate with Company. Client will inform Company of any all information necessary to prepare for and complete the services under this Agreement, and of any changes in circumstances that arise after the execution of this Agreement. Company is not responsible if Client or other key individuals fail to provide sufficient information, appear, or otherwise cooperate with requests.
- m. Provision of Sufficient Information. It is understood that the adequacy of the Services provided is entirely dependent upon Client providing accurate, and complete information to Company in a timely fashion. It is acknowledged that no party will benefit if Client provides inaccurate, incomplete, insufficient, or untimely information. To that end, Client shall provide Company, in advance of any meetings, consultations, or appointments with accurate, unbiased and sufficient information for it to review, and shall promptly provide further information that Company reasonably deems relevant to forming any pertinent conclusions, providing the services under this Agreement, or that are otherwise relevant to the matter. It is expressly understood that Company has no fiduciary obligation to Client, but instead a contractual one described by the terms of this Agreement; and that service does not require Company to be an advocate for Client or its products in any forum, public or private. Client expressly agrees that under no circumstances will this role be compromised or inaccurately represented.

- n. Limited Warranty. If an accepted Proposal is for a fixed price and for specific physical deliverable good, then Company provides a limited 60-day warranty on such good(s) under the following terms and conditions:
 - i. Company warrants to Client that any such deliverable good:
 - 1. Will not be “nonconforming” as defined below;
 - 2. for a period of sixty (60) days from the date of delivery of the goods to Client (“Warranty Period”), such goods will materially conform to the specifications set forth in the Proposal for the provision of such goods and will be free from significant defects in material and workmanship; and
 - 3. the goods are free and clear of all encumbrances and liens of any kind, other than the rights reserved by Company under this Agreement.
 - ii. For purposes of this Agreement, the term “nonconforming” shall mean any goods received by Client from Company pursuant to a fully accepted Proposal that (i) do not materially and significantly conform to the specifications outlined in the Proposal or an accepted Change Order, or (ii) materially exceed the quantity of goods ordered by Client pursuant to this Agreement or any Proposal or Change Order.
 - iii. The warranties under this Section do not apply where the goods have:
 - 1. been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper installation, improper storage, improper handling, abnormal physical stress, abnormal environmental condition, or use contrary to any instructions issued by Company;
 - 2. been reconstructed, repaired, or altered by persons other than company or its authorized representative; or
 - 3. been used with any third-party product, hardware, or product that has not been previously approved in writing by Company.
 - iv. The warranties under this Section also do not apply where:
 - 1. any third party hardware or software is included or used as part of the deliverable or good;
 - 2. Client provided inaccurate or incomplete data or incomplete procedures to Company that was used in the development, design, or production of the good;

3. The compensation under the Proposal was based on time spent and materials provided rather than a fixed fee;
 4. Client provided defective components for use in the deliverable or good;
 5. Company was not the actual or proximate cause of the defect or non-conformity;
 6. Where Client is in prior material breach of the Agreement.
- v. Exclusive remedy for Defective Goods. Notwithstanding any other provision of this Agreement, this subparagraph 8.n contains Client's exclusive remedy for goods that do not conform to the limited warranty described herein ("Defective Goods"). Client's remedy under this subparagraph is conditioned on Client's compliance with its obligations under this subparagraph. During the Warranty Period, regarding any allegedly Defective Goods:
1. Client shall notify Company, in writing, of any alleged claim or defect within five (5) business days from the date Client discovers, or on reasonable inspection should have discovered, such alleged claim or defect (but in any event before the expiration of the applicable Warranty Period);
 2. Client shall ship, at Client's expense and risk of loss, the allegedly nonconforming goods to Company's facility designated by Company for inspection and testing by Company;
 3. If Company's inspection and testing reveals, to Company's reasonable satisfaction, that such Defective Goods and any such defect has not been caused or contributed to by any of the factors described under this subparagraph, Company shall in its sole discretion, and at its expense, (a) repair or replace Defective Goods or (b) credit or refund the price of Defective Goods less any applicable discounts, rebates, or credits; and
 4. If Company exercises its option to repair or replace, Company shall, after receiving Client's shipment of Defective Goods, ship to Client, at Company's expense and risk of loss, the repaired or replaced goods to the delivery location designated by Company.

Client has no right to return for repair, replacement, credit, or refund any goods except as set forth in this subparagraph. In no event shall Client reconstruct, repair, alter, or replace any goods, in whole or in part, either itself or by or through any third party. THIS SECTION SETS FORTH CLIENT'S SOLE REMEDY AND COMPANY'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN THIS SUBPARAGRAPH 8.N.

- o. Disclaimer of All Other Warranties. OTHER THAN AS DESCRIBED IN 8.N, COMPANY DOES NOT WARRANT THAT THE SERVICES PROVIDED UNDER THIS AGREEMENT OR THE PRODUCTS PRODUCED AS A RESULT WILL MEET THE CLIENT'S EXPECTATIONS OR REQUIREMENTS. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE IS WITH CLIENT. EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT, COMPANY PROVIDES ITS SERVICES "AS IS" AND WITHOUT WARRANTY OF ANY KIND. THE PARTIES AGREE THAT (A) THE LIMITED WARRANTIES SET FORTH IN THIS SECTION ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED BY EACH PARTY, AND (B) EACH PARTY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR TITLE, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, RELATING TO THIS AGREEMENT, PERFORMANCE OR INABILITY TO PERFORM UNDER THIS AGREEMENT, THE CONTENT, AND EACH PARTY'S COMPUTING AND DISTRIBUTION SYSTEM. IF ANY PROVISION OF THIS AGREEMENT SHALL BE UNLAWFUL, VOID, OR FOR ANY REASON UNENFORCEABLE, THEN THAT PROVISION SHALL BE DEEMED SEVERABLE FROM THIS AGREEMENT AND SHALL NOT AFFECT THE VALIDITY AND ENFORCEABILITY OF ANY REMAINING PROVISIONS. CLIENT ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY COMPANY, OR ANY OTHER PERSON ON COMPANY'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION OF THIS AGREEMENT
- p. Limited Liability. IN NO EVENT SHALL COMPANY BE LIABLE TO CLIENT FOR ANY INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE, LOST PROFITS, WHETHER OR NOT FORESEEABLE OR ALLEGED TO BE BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE OR STRICT LIABILITY, ARISING UNDER THIS AGREEMENT, LOSS OF DATA, OR ANY PERFORMANCE UNDER THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY

LIMITED REMEDY PROVIDED HEREIN. THERE SHALL BE NO REFUNDS. COMPANY MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH REGARD TO ANY THIRD-PARTY PRODUCTS, THIRD-PARTY COMPONENTS, THIRD-PARTY CONTENT OR ANY SOFTWARE, EQUIPMENT, DATA OR HARDWARE OBTAINED FROM THIRD-PARTIES.

- q. Confidentiality. The parties agree to hold each other's Proprietary or Confidential Information in strict confidence. "Proprietary or Confidential Information" shall include, but is not limited to: any document marked as confidential, written or oral contracts, trade secrets, know-how, business methods, business policies, memoranda, reports, records, computer retained information, notes, or financial information. Proprietary or Confidential Information shall not include any information which: (i) is or becomes generally known to the public by any means other than a breach of the obligations of the receiving party; (ii) was previously known to the receiving party or rightly received by the receiving party from a third party; (iii) is independently developed by the receiving party; or (iv) is subject to disclosure under court order or other lawful process. The parties agree not to make each other's Proprietary or Confidential Information available in any form to any third party or to use each other's Proprietary or Confidential Information for any purpose other than as specified in this Agreement. Each party's proprietary or confidential information shall remain the sole and exclusive property of that party. The parties agree that in the event of use or disclosure by the other party other than as specifically provided for in this Agreement, the non-disclosing party may be entitled to equitable relief. Notwithstanding termination or expiration of this Agreement, Company and Client acknowledge and agree that their obligations of confidentiality with respect to Proprietary or Confidential Information shall continue after and survive the expiration of the Term.
- r. Force Majeure. With the exception of any liability for Client's non-payment of amounts owed, neither party will be liable for, or will be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any causes or conditions that are beyond such Party's reasonable control and that such Party is unable to overcome through the exercise of commercially reasonable diligence. If any force majeure event occurs, the affected Party will give prompt written notice to the other Party and will use commercially reasonable efforts to minimize the impact of the event.
- s. Relationship of Parties. Company, in rendering performance under this Agreement, shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. In no way is Company to be construed as the agent or to be acting as the agent of Client in any respect and vice versa, any other provisions of this Agreement notwithstanding.
- t. Notice and Payment. Any notice required to be given under this Agreement shall be in writing and delivered personally to the other designated party, mailed by certified, registered or Express mail, return receipt requested or by Federal Express to the party's address listed on the Service Agreement or Proposal. Either party may

change its address to which notice or payment is to be sent by written notice to the other under any provision of this paragraph.

- u. **Non-Solicitation.** During the Term of the Agreement and for 24 months after any expiration or termination of the Agreement, Client will not, without the prior written consent of Company, either directly or indirectly, on Client's own behalf or in the service or on behalf of others, solicit or attempt to solicit, divert or hire away any person employed by the Company.
- v. **Jurisdiction/Disputes.** This Agreement shall be governed in accordance with the laws of the State of Michigan. All disputes under this Agreement shall be resolved by litigation in the courts of the State of Michigan including the federal courts therein and the Parties all consent to the jurisdiction of such courts, agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to it.
- w. **Venue.** The parties (a) irrevocably submit to the jurisdiction of the Oakland County Circuit Court, and the District Courts located in Oakland County, (b) agree that all claims in any action may be decided in either court, and (c) waive, to the fullest extent that they may effectively do so, the defense of an inconvenient forum. The parties also agree that a final judgment in any such action will be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
- x. **Waiver of Jury Trial.** Client, after consulting or having had the opportunity to consult with counsel, knowingly, voluntarily and intentionally waives any right it may have to a trial by jury in any litigation based on or arising out of this Agreement, the Services, or any of the transactions contemplated by this Agreement. Client will not seek to consolidate, by counterclaim or otherwise, any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.
- y. **Rights and Remedies Cumulative.** Company's rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by Company shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights Company may have by law, statute, ordinance or otherwise.
- z. **Agreement Binding on Successors.** The provisions of the Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, administrators, successors and assigns.
- aa. **Assignability.** Client may not assign this Agreement or the rights and obligations thereunder to any third party without the prior express written approval of Company. Company reserves the right to assign subcontractors as needed to this project to ensure on-time completion. Client acknowledges that the Services contemplated under the Agreement may be completed by Company's principal, its employees, its agents, its assignees, or its sub-contractors.

- bb. Waiver. No waiver by either party of any default shall be deemed as a waiver of prior or subsequent default of the same of other provisions of this Agreement.
- cc. Severability. If any provision of this Agreement is deemed not to be enforceable by a court of competent jurisdiction because it is deemed overly broad in terms of time or the geographic area covered, this Agreement will not be void but will be modified to extend through a reasonable time period and/or reasonable geographic area. If any provision of this Agreement cannot be so modified, and if the provision is deemed invalid, unenforceable, illegal or unconstitutional in a court of law, then that section shall be severed from this Agreement. The severing of any section shall in no way affect the validity of the other sections and they shall continue in full force and effect as if the part(s) of the Agreement that were removed never existed.
- dd. No Inference Against Author. No provision of this Agreement shall be interpreted against any party because such party or its legal representative drafted such provision.
- ee. Non-Payment of Amounts Owed. To assure prompt payment and to induce Company to continue or complete any Services, Client consents to and does hereby grant a lien, at any time, (including the right to file a notice of lis pendens with any register of deeds office) on all property (both real and personal) that Client now or subsequently owns, and to have a judicial lien conferred on Client's assets as part of any judgment that is entered in any legal proceeding. If Company initiates a breach of contract proceeding, accounts stated proceeding, post-judgment proceeding, or any other collection proceeding against Client for *any* unpaid balance owed, Client will be liable for payment of Company's *actual* attorney fees and costs incurred in connection with that proceeding. All attorney fees will be billed at Company's attorney's hourly rate of \$350.00 an hour. Company and Client hereby acknowledge and agree that this a reasonable hourly rate. Actual costs include but are not limited to court filing fees, deposition costs, service of process fees, copying costs, postage fees, garnishment fees and post-judgment filing fees. Any balance not paid in full within 10 days of the due date will be subject to a \$250 service charge (which the parties agree is not a penalty), and the entire open balance will thereafter accrue interest at a rate of 7 percent per year (or the highest amount allowable by law, whichever is greater). Returned checks are subject to a \$75.00 returned check fee.

EXHIBIT A

[Client Responsibilities]

In addition to other responsibilities of Client as set forth in the Agreement, Client shall at its expense and whenever appropriate:

1. Provide Company with all criteria and full information as to Client's requirements for any project for which it engages Company via an accepted Proposal ("Project"), including design objectives and constraints, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design, manufacturing, and construction standards which Client will require to be included in any drawings and specifications; and furnish copies of Client's standard forms, conditions, and related documents, when applicable.
2. Furnish to Company any other available information pertinent to the Project including reports and data relative to previous designs, or investigations.
3. Following Company's assessment of initially-available Project information and data and upon Company's request, furnish, include in the Company's scope of work, or otherwise make available such additional Project related information and data as is reasonably required to enable Company to complete its scope of work.
4. Give prompt written notice to Company whenever Client observes or otherwise becomes aware of any concern, or of any other development that affects the scope or time of performance of Company's services, or any defect or nonconformance in Company's services, the work, deliverables, or in the performance of any Company contractor.
5. Arrange for safe access to and make all provisions for Company to enter any facility required for Company to perform services under the Agreement.
6. Examine all alternate solutions, studies, reports, sketches, drawings, specifications, proposals, and other documents presented by Company (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Client deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
7. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Company and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
8. Recognizing and acknowledging that Company's services and expertise do not include the following services, provide, as required for the Project: (a) Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services; and (b) Legal

services with regard to issues pertaining to any Project as Client requires, a contractor raises, or Company reasonably requests.

9. Advise Company of the identity and scope of services of any independent consultants employed by Client to perform or furnish services in regard to any Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
10. Furnish to Company data as to Client's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Client so that Company may assist Client in collating the various cost categories which comprise total Project costs.
11. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Agreement, Proposal and/or Change Order(s), or to evaluate the performance of materials, equipment, deliverables and facilities of Client, prior to their incorporation into the scope of work with appropriate professional interpretation thereof.
12. Provide Company with the findings and reports generated by the entities providing services to Client related to Company's scope of work.
13. Inform Company in writing of any specific requirements of safety or security programs or requirements that are applicable to Company or to the scope of work.
14. Client shall make such decisions and clarifications and give such direction to Company as are required for Company's timely execution of Company's work.
15. Client shall pay Company for services defined and compensation shown in each Proposal Change Order or other Amendment to the Agreement.
16. Client acknowledges and understands that, while Company will use every reasonable attempt to perform its services using then-current best practices, the definition of those best practices is difficult to define and changes rapidly in response to forces outside of either party's control. Thus, Company does not and cannot guarantee any result.