



## CONDITIONS OF SERVICE

February 2018

### **1. FEE DETERMINATION**

The fee for services performed by Lamanna Engineering Consultants, LLC (LEC) for the Client shall be based on Time Spent Plus Expenses, a negotiated Lump Sum amount, or other arrangement as agreed. When based on Time Spent Plus Expenses, the following “**LIST OF CHARGES**” shall be used in determining the fee. On assignments for which a Lump Sum Fee has been negotiated, fees for additional services requested by Client shall be charged based on the “**LIST OF CHARGES**” or as otherwise agreed.

### **2. LIST OF CHARGES**

Personnel Rates shall be those that prevail at the time the services are rendered. Rates that prevail at the inception of this Agreement are attached.

Miscellaneous Expenses such as travel, subsistence, sub-consultant fees, reproduction, photography, long distance telephone/fax, express delivery services, and special equipment rental will be charged at cost plus 10%.

Travel Time at Client’s request will be charged at the Personnel Rates. The maximum traveling time charged per day shall be eight hours.

Overtime work performed at Client’s request or by special circumstances will be charged at 1.40 times the Personnel Rates.

### **3. TERMS OF PAYMENT**

Payment for services is due upon receipt of the invoice. Invoices will be generated monthly and based on time spent plus expenses; an estimated percentage of completion for lump sum services; or other arrangement as agreed. Except as otherwise provided by written agreement, invoices not paid within 30 days will be charged a late fee of \$40.00 or 10% (whichever is larger) and an interest charge of 1.5% per month. In the event of non-payment after 60 days, LEC may terminate its work at any time and recover payment for all work executed prior to the termination and for any proven loss including reasonable overhead, profit, and damages applicable to said work. Further, Client shall be responsible for all costs of collection, including reasonable attorney’s fees.



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### **4.0 RISK ALLOCATION**

In recognition of the relative risks, rewards, and benefits to both the Client and LEC, the risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, LEC's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claim expenses arising out of this Agreement from any cause or causes, shall not exceed two times LEC's fee or \$250,000, whichever is less. Higher limitations can be negotiated in the contract for an additional fee. Such causes include, but are not limited to, LEC's negligence, errors, omissions, strict liability, breach of contract, or breach of warranty.

Client agrees to pay LEC for assistance and testimony in connection with legal proceedings concerning the project on a Time Spent Plus Expenses basis in accordance with these Conditions of Service.

### **5.0 CONSTRUCTION PROCEDURES AND SAFETY**

LEC is not a Construction Contractor. LEC shall not be responsible for the acts or omissions of construction contractors or other parties on a construction site and shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, procedures, safety or for safety precautions and/or programs.

### **6.0 OWNERSHIP AND REUSE OF DOCUMENTS**

All documents produced by LEC for this assignment are instruments of service and shall remain the property of LEC and may not be used by Client for any other endeavor without the written consent of LEC. Because of the many pitfalls and great inherent dangers, reuse without the written consent of LEC shall be at the Client's risk and Client agrees to defend, indemnify, and hold harmless LEC from all claims, damages, and expenses including attorney's fees arising out of or resulting there from.

### **7.0 APPLICABLE LAWS**

This Agreement shall be governed by the laws of the State of Arizona