

## Standard Terms and Conditions for Engineering, Testing and Consulting Services

These Standard Terms and Conditions, together with our proposal, make up the Agreement between the named Client and GTX. Before countersigning the Proposal or verbally authorizing work, be sure you read and understand its contents, which deal with the allocation of risks and duties between the Client and GTX.

1. **Services.** *We'll do what we agreed we would do.* GTX will perform the services defined in its Proposal and any amendments or change orders accepted by both parties. Any request from the Client that requires extra work, or additional time, or increases GTX's costs will require an amendment or change order agreeable to both parties.
2. **Standard of Care.** *We'll try to do the work right. If we mess up, we'll try to fix it.* GTX will perform the services with the skill and care ordinarily used by qualified professionals performing the same type of services at the same time under similar conditions in the same or similar locality. No other standards or warranties, expressed or implied, including warranties of marketability or fitness for a particular purpose apply. The Client will notify GTX in writing of any deficiencies in the services within 15 days of their discovery but not later than 120 days after substantial completion of the services. The Client will give GTX a reasonable opportunity to correct these deficiencies. The Client understands that GTX's services may entail risk of personal injury and property damage (including cross contamination) that cannot be avoided, even with the exercise of due care. The Client acknowledges and accepts any risk resulting from the fact that geotechnical and environmental conditions can vary from those found by GTX at the times, locations and conditions of its work.
3. **Client's Responsibilities.** *You'll help us where you can.* Client will provide permits, licenses, approvals and consents necessary for performance of the services, except those maintained by GTX for its ordinary conduct of business. Client will provide GTX with all reasonably available documents that are related to the services, including information related to hazardous materials or other environmental and geotechnical conditions at the site. Before GTX performs any subsurface activities, the Client will provide all available information concerning underground services, conduits, pipes, tanks, other facilities and obstructions at the site. GTX will rely on the documents and information provided by the Client. The Client grants GTX and its subconsultant(s) permission to enter the site to perform the services. If the site is owned by others, the Client represents and warrants that the owner has granted permission for GTX to enter the site and perform the services. Client will provide GTX with written verification of site access permission upon request.
4. **Payment.** *You'll pay us fairly and quickly.* Except as expressly provide in the Proposal, Client will compensate GTX for the services at its standard rates, reimburse its expenses, and pay any taxes applicable thereto. GTX will submit periodic invoices that are due upon receipt. The Client will notify GTX in writing within 10 days of any disputed item on the invoice and pay all undisputed items within 30 days from invoice date. Overdue payments will accrue interest at the lower of 1½ percent per month or the maximum lawful rate. GTX may terminate its services upon 10 days written notice any time payment is overdue on any account with the Client. Client agrees to pay for all services through termination, plus termination and collection costs, including reasonable attorneys' fees and expenses.
5. **Underground Utilities and Site Restoration.** *We'll use our best efforts to limit damage to the site.* Where appropriate, GTX will contact local governmental authorities and private firms who coordinate underground utility information for information about conditions at the site. GTX will review plans and information provided by these entities and the Client. GTX will not be liable for any damage to underground services or structures not accurately identified in such plans and information. Client agrees to indemnify GTX against all liabilities and costs arising out of such damage and its repair, except to the extent caused by GTX's negligence. GTX will conduct its on-site activities to limit damage to existing conditions to the extent possible. Client acknowledges that damage may occur to facilities such as paving, landscaping, utilities, structures, other improvements and existing conditions, by the work, even with due care. Client agrees to compensate GTX for all costs to perform restoration work required by the Client.
6. **Samples.** *We only know conditions for what and where we test. You'll pay us for special sample handling.* GTX will store samples for at least 30 days after submitting test results to the Client, unless requested in writing for them to be held longer or shipped. Client will compensate GTX for storage beyond 30 days, special storage conditions, and costs to ship samples. Client will pay GTX for all special disposal costs, including the cost to return samples to the Client. Test results obtained by GTX on samples apply only to the samples tested for the conditions under which they were tested.
7. **Hazardous Materials.** *We won't own hazardous materials from your site.* GTX does not provide assessments of the presence of environmental contaminants unless expressly indicated in our written agreement. Client will advise GTX of any and all known contaminants and hazardous materials before GTX provides any services involving those materials. Before any hazardous or contaminated materials are removed from the site for GTX use, the Client will sign a manifest that names the Client as the generator of the waste (or will arrange for the generator to sign). GTX will not be the generator or owner of, nor will it take title to or assume legal liability for any hazardous or contaminated materials at or removed from the site. GTX will not undertake, arrange for, or control the handling, treatment, storage, removal, shipment, transportation or disposal of any hazardous or contaminated materials at or removed from the site, other than samples collected for laboratory testing.
8. **Limits on GTX Responsibility.** *We aren't responsible for things we don't do or control.* GTX will not be responsible for the acts or omissions of any others, except for its employees and subconsultant(s). GTX will not supervise, direct or have control over any contractor's work. GTX will not have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction, for work site health or safety precautions or programs, or for any failure of contractors to comply with contracts, plans, specifications or laws. Any estimates or opinions of GTX of probable quantities or costs of labor, materials, equipment or services to be furnished by others are strictly estimates and are not a guaranty or representation that actual quantities or costs will be consistent with those estimates or opinions. Client acknowledges that GTX does not warrant or guarantee the approval or receipt of any governmental permits or approvals, or the time to obtain such permits or approvals.
9. **Changed Conditions.** *You will pay us to do approved extra work required by unforeseen conditions or events.* The Client acknowledges that geotechnical and environmental services involve uncertainties, which often require a phased or staged investigation with the need for additional services becoming apparent as the work progresses. The Client acknowledges that encountered conditions may differ considerably from those anticipated, that laws and regulations are subject to change, and that regulatory requirements may be unpredictable. GTX will notify the Client if additional services, costs or time become

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necessary due to any of these factors and the parties will negotiate appropriate changes to the scope of services, compensation and schedule. If the parties are unable to reach agreement, GTX will be entitled to terminate its services with 5 days notice and to be equitably and immediately compensated for services already performed. In the event of an emergency, GTX may take immediate steps to protect public safety, health and the environment, and will be equitably compensated for its work by the Client. GTX will not be responsible for delays, failures to perform or extra costs due to weather, labor disputes, intervention by or inability to get approvals from public authorities, acts or omissions by the Client, or any other causes beyond GTX's reasonable control. The Client will compensate GTX for any increase in its costs resulting from any of these factors.

10. **Documents and Information.** *We own our work and give you limited permission to use it for what you paid us for.* All documents, data, calculations and work papers prepared or furnished by GTX are instruments of service and will remain GTX's property. Designs, reports, data and other work product delivered to or on behalf of the Client are for Client's use only for the limited purposes disclosed to GTX and subject to Client paying for the services to provide said work product. Any delayed use, use at another site, use on another project, or use by a third party will be at the user's sole risk and Client agrees to indemnify and defend GTX against any liabilities resulting there from. Any technology, methodology, or technical information learned or developed by GTX will remain its property.
11. **Confidentiality and Subpoenas.** *We won't tell anybody about this work unless someone's health or safety is in danger, or the Sheriff delivers a demand.* Information about this Agreement and GTX's services and information provided by the Client about the services will be maintained in confidence and will not be disclosed to others without the Client's consent, except as GTX believes is necessary to perform its services, comply with professional standards to protect public safety, health and the environment, and to comply with laws and court orders. GTX will make reasonable efforts to notify the Client prior to any disclosure except as necessary to perform its services. Information available to the public and unprotected information acquired from third parties will not be considered confidential. The Client will reimburse GTX to respond to any subpoena or governmental inquiry or audit related to the services at GTX's standard rates then in effect.
12. **Insurance.** *This is all we have.* During the work, GTX will maintain workers' compensation, commercial general liability, automobile liability, and professional liability insurance in the following minimum amounts:
 

Workers compensation	statutory amount
General liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Auto liability	\$1,000,000 per accident
Professional liability	\$1,000,000 aggregate

 GTX will furnish certificates of insurance upon request. GTX will purchase project specific insurance at Client request if it is commercially available and Client pays the premium and our costs to obtain the additional coverage.
13. **Indemnification.** *You won't blame us for anything except our own negligence.* Client agrees to hold harmless, indemnify, and defend GTX and its affiliates and subconsultants and their employees, officers, directors and agents against all claims, suits, fines and penalties, attorneys' fees and other costs of settlement and defense, which claims, suits, fines, penalties or costs arise out of or are related

to this Agreement or the services, except to the extent they are caused by the indemnified party's negligence.

14. **Limitation of Liability.** *We won't pay any more on a claim than what's fair, or covered by our insurance.* To the fullest extent permitted by law and notwithstanding anything else in this Agreement to the contrary, the aggregate liability of GTX and its affiliates and subconsultants and their employees, officers, and directors for all claims arising out of this Agreement or the services is limited to the greater of \$25,000 or the compensation received by GTX under this agreement. This limitation applies to all injuries, damages, claims, losses, expenses and defense costs, whether based in contract, negligence, strict liability, statutory, trespass, indemnity, misrepresentation or any other theory of liability. No claim will be valid if presented to GTX more than three years after substantial completion of the services or, if shorter, the applicable statute of limitations period. GTX will not be liable for lost profits, loss of use of property, diminution of value of property or goods, delays, cost to obtain replacement samples, or other special, indirect, incidental, consequential, punitive, exemplary or multiple damages. GTX will not be liable to anyone for injuries or deaths of any persons, except to the extent that such liability is covered by the insurance in Article 12.
15. **Disputes.** *We want disputes settled quickly and fairly.* All disputes between the Client and GTX shall be subject to non-binding mediation. Either party may demand mediation by serving written notice stating the essential nature of the dispute, the amount of time or money claimed, and requiring the matter be mediated within forty-five days of service of notice. The mediation shall be administered by the American Arbitration Association in accordance with their most recent Construction Mediation Rules, or by such other person or organization as the parties may agree on. No action or suit may be commenced unless mediation has occurred but did not resolve the dispute, or unless a statute of limitation period would expire if suit were not filed prior to such forty-five days after service of notice.
16. **Other.** *Legal details about this Agreement.* This Agreement shall be governed by Massachusetts law. The above terms and conditions regarding Limitation of Liability and Indemnification shall survive the completion of the services under this Agreement and the termination of the contract for any cause. Any amendment to this Agreement must be in writing signed by both parties. This Agreement supersedes any contract terms, purchase orders or other documents issued by the Client. These Terms and Conditions shall govern over any inconsistent terms in the Proposal, except those specifically identified in the proposal section-Modifications to Standard Terms and Conditions. If these Terms and Conditions have been provided to you, your verbal authorization to commence services constitutes your acceptance of them. The provisions of this Agreement are severable; if any provision is unenforceable, it shall be appropriately limited and given effect to the extent that it is enforceable. Headings in these Terms and Conditions are for convenience only and do not form a part of the agreement. Nothing in this Agreement shall be construed to give any rights or benefits to third parties.

**Project:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_