

ATTACHMENT 1 - PROFESSIONAL SERVICES TERMS AND CONDITIONS

Billings/Payments: Invoices for services and reimbursable expenses shall be submitted on a monthly basis. Invoices shall be payable within 15 days of receipt. A service charge of 1.5% (or the legal rate) per month will be applied to the unpaid balance after 30 days. **Retainers shall be credited to the final invoice.** The Client agrees to pay all costs of collection, including reasonable attorney's fees.

Access to Site: Unless otherwise stated, Gossens Bachman Architects will have access to the Site for activities necessary for the performance of the services, such access will be arranged by the Client. The Client understands that use of testing or other equipment may unavoidably cause some damage, Gossens Bachman Architects will take precautions to minimize damage due to these activities, but shall not be held responsible for the restoration of any resulting damage.

Information Provided by Others: The Client shall furnish, at their own expense, all information, requirements, reports, data, surveys and instructions required by this agreement. Gossens Bachman Architects may use all such information, requirements, reports, data, surveys and instructions in performing its services and is **entitled to rely upon the accuracy and completeness thereof.**

Jobsite Safety: Neither the professional activities of Gossens Bachman Architects, nor the presence of the Gossens Bachman Architects or its employees and subconsultants at a construction site, shall relieve the General Contractor/Construction Manager and any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequence, techniques, or procedures necessary for performing,

superintending, or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Gossens Bachman Architects and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.

Hidden Conditions and Hazardous Materials: A condition is hidden if it cannot be investigated by reasonable visual observation or records reviewed as customary in the performance of the services being rendered. If Gossens Bachman Architects has reason to believe that such a condition may exist, Gossens Bachman Architects shall notify the Client who shall authorize and pay for costs associated with the investigation of such a condition and, if necessary, costs necessary to correct said condition. If (1) the Client fails to authorize such investigation or correction after due notification, or (2) Gossens Bachman Architects has no reason to believe that such a condition exists, the Client is responsible for all risks associated with this condition, and Gossens Bachman Architects shall not be responsible for the existing condition nor any resulting damages to persons or property. Unless specifically agreed upon prior to the commencement of service Gossens Bachman Architects shall have no responsibility for the discovery, presence, handling, removal, disposal, or exposure of persons to hazardous materials of any form.

Indemnifications: Gossens Bachman Architects and the Client mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damage, liability or cost (including reasonable attorneys' fees and defense costs) to the extent caused by their own negligent acts, errors or omissions and those of anyone for whom they are legally liable, and arising from the project that is the subject of this agreement. Neither party is obligated to indemnify the other in any manner whatsoever for the other's own



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negligence.

Risk Allocation: To the maximum extent permitted by law, Gossens Bachman Architects'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 the total amount of \$35,000 or Gossens Bachman Architects's fee for initial study. Such causes include, but are not limited to, the Gossens Bachman Architects's negligence, errors, omissions, strict liability, breach of contract, or breach of warranty.

Consequential Damages: Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Client or Gossens Bachman Architects, their employees, agents, subconsultants, or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

Dispute Resolution: In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, Gossens Bachman Architects and the Client agree to attempt to resolve such disputes in the following manner. First, the parties agree to attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party. Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining dispute by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by the parties. Last, if the parties cannot agree to a mutual solution through mediation, both parties reserve the right to litigate the matter.

Ownership of Documents: All documents produced by the Gossens Bachman



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Architects under this Agreement shall remain the property of Gossens Bachman Architects and will not be used by the Client for any other endeavor without the consent of the Gossens Bachman Architects. The documents shall not be used by the Client on other projects, for additions to the project, or for completion of the project by others, Gossens Bachman Architects is not in default under this Agreement, except by Agreement in writing and with appropriate compensation to Gossens Bachman Architects. Client agrees to indemnify and hold harmless Gossens Bachman Architects from any claims that arise due to the reuse, or misuse of the work documents.

Drawings, reports, specifications and other documents provided on disk are delivered with the understanding that such data is subject to error due to format and disk problems and such data must be checked before use.

Unauthorized Changes: In the event that the Client consents to, allows, authorizes, or approves of changes to any plans, specifications, or other documents, and the Gossens Bachman Architects does not approve these changes in writing, the Client recognizes that such changes and results thereof are not the responsibility of Gossens Bachman Architects. Therefore, the Client agrees to release Gossens Bachman Architects any liability arising from the construction, use, or result of such changes.

Termination: Either party may terminate this Agreement upon 10 calendar day's written notice. In the event of termination, the Client shall pay Gossens Bachman Architects for all services rendered to the date of termination, all reimbursable expenses, and reasonable termination expenses. Non-payment is a cause for termination and Gossens Bachman Architects shall have no liability to the Client for costs, damages, or delays due to suspension or termination caused by any breach of this agreement by the Client. If the Client terminates the Agreement or suspends Gossens Bachman Architects work on the project



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for more than 30 days, an equitable adjustment in fees may be required to resume work.

Severability: Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect.

Timeliness: Gossens Bachman Architects will perform its services with due and reasonable diligence consistent with sound professional practices. Gossens Bachman Architects is not responsible for delays caused by factors beyond Gossens Bachman Architect's reasonable control. When such delays beyond Gossens Bachman Architects's reasonable control occur, the Client agrees Gossens Bachman Architects is not responsible for damages, nor shall Gossens Bachman Architects be deemed to be in default of this Agreement.



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