



GENERAL TERMS AND CONDITIONS

1. **SCOPE OF SERVICES:** Unified Testing Services, Inc. ("UTS") agrees to provide testing and consulting services to the Client (The term "Client" shall refer to that person, firm, corporation or other legal entity requesting the work to be performed by UTS.) If the Client is ordering the work for another party hereinafter referred to as the "Principal", the Client warrants that the Client is the duly authorized agent for the Principal for the purpose of ordering and directing the work. The Client assumes sole responsibility for determining whether the quantity and nature of the work ordered is adequate and sufficient for the Client's or the Principal's purpose. UTS shall have no obligation to any third party other than specified in the UTS Proposal. The ordering of work from UTS shall constitute acceptance of the terms of the UTS Proposal and these *General Terms and Conditions*.
2. **SCHEDULING OF WORK:** The work performed by UTS will be accomplished in a timely, workmanlike, professional manner at the prices quoted in the UTS Proposal, which is attached hereto and incorporated herein by reference. The Client shall arrange and provide access to the work site as necessary for UTS to perform the work. If UTS is required to delay commencement of the work, is required to stop or interrupt the work progress due to Client's request or a change in the scope of work, additional charges will be applicable and payable by the Client.
3. **SAMPLE & REPORT DISPOSITION:** Unless otherwise agreed, test specimens or samples submitted for laboratory analysis will be disposed of immediately upon completion of testing. UTS will retain a copy of any reports generated from the testing services performed by UTS for a period of three (3) years from the date of completion of the testing.
4. **RESPONSIBILITY:** The work performed by UTS shall not include determining, supervising or implementing the means, methods, techniques, sequences, or procedures of construction or fabrication. UTS shall not be responsible for evaluating, reporting or affecting job conditions concerning health, safety or welfare.
5. **WARRANTY:** The UTS services will be performed in accordance with its Proposal and these *General Terms and Conditions*. UTS will use that degree of care and skill ordinarily exercised under similar circumstances by members of its profession in the same locality. Statements or findings made in UTS reports are opinions based on the tests conducted and are not to be construed as representations of fact. Due to the limitations of testing methods in evaluating all of the factors that determine the overall component quality, no guarantee is made nor liability assumed by UTS for the component quality or serviceability.
6. **EXCULPATORY PROVISION:** The Client agrees to limit the UTS liability to the Client or to any third party arising from negligent professional acts, errors or omissions, such that the UTS total aggregate liability shall not exceed \$50,000.00 or the total fee paid UTS for the work performed with respect to the project, whichever is less.
7. **INDEMNIFICATION:** Subject to the foregoing limitation of liability as stated in paragraph six (6), UTS agrees to indemnify and hold harmless the Client from and against any and all claims, suits, costs, and expenses including reasonable attorney's fees and court costs arising out of UTS's negligence to the extent of UTS's negligence. The Client hereby agrees to indemnify and hold harmless UTS from and against any and all claims, suits, costs, and expenses including reasonable attorney's fees and court costs arising out of the Client's negligence to the extent of the Client's negligence. In the event that the Client or Client's Principal shall bring any suit, cause of action, claim or counterclaim against UTS, the party initiating such action shall pay to UTS the costs and expenses incurred by UTS to investigate, answer and defend same, including the payment of UTS's reasonable attorney's fee, expert witness fees and court costs, provided that UTS shall prevail in such suit.
8. **PAYMENT:** The Client shall be invoiced as detailed in the UTS Proposal or once each week for work performed during the preceding period. The Client agrees to pay each invoice within thirty (30) days of the invoice date. The Client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause within said thirty (30) day period at the rate of eighteen (18) percent per annum until paid. The Client agrees to pay the UTS costs of collection of all amounts due and unpaid after ninety (90) days, including court costs and reasonable attorney's fee. Failure to make payment within ninety (90) days of invoice shall constitute a release of UTS from any and all claims which the Client may have, either in tort or contract, and whether known or unknown at the time. Payment to UTS for services rendered shall not be conditioned upon the Client's receipt of payment from the Client's Principal or any other third party.
9. **TERMINATION:** This agreement may be terminated by either party upon ten (10) days prior written notice. In the event of termination, UTS shall be compensated by the Client for all services performed and costs incurred, up to and including the termination date and for any post termination activities such as demobilization.
10. **ARBITRATION:** In the event of any claim or dispute between UTS and the Client, the parties hereby agree that such claims or disputes shall be resolved by binding arbitration in accordance with the rules and regulations promulgated by the American Arbitration Association ("AAA"). The claimant shall be responsible for payment of the filing fee required by the AAA. The parties further agree that the Arbitrator shall award costs and a reasonable attorney's fee to the prevailing party. The parties further agree that the site for all arbitration hearings shall be in Birmingham, Jefferson County, Alabama.
11. **CHOICE OF LAW:** These *General Terms and Conditions* shall be interpreted and construed in accordance with the laws of the State of Alabama.
12. **VENUE:** The parties hereby agree that venue for the filing of any claim or action arising out of or related to the services performed by UTS for the Client or any other matters contemplated by these *General Terms and Conditions* shall be in Birmingham, Jefferson County, Alabama.
13. **SEVERABILITY:** In the event that any term or condition of these *General Terms and Conditions* shall be held invalid or unenforceable by a court of law or an arbitrator, such invalidity or unenforceability shall not affect the other terms or conditions of this agreement, but this agreement will nevertheless remain in full force and effect and be construed as though such invalid or unenforceable term or condition had not been contained herein.
14. **COMPLETE AGREEMENT:** These *General Terms and Conditions* along with the UTS Proposal which is attached hereto and incorporated herein constitutes the whole and complete agreement of the parties and there are no representations, warranties, or undertakings made other than as set forth herein. This agreement may be modified only in writing, signed by each of the parties hereto.