



**Braun Intertec Corporation**  
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La Crosse, WI 54603

Phone: 608.781.7277  
Fax: 608.781.7279  
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Revised April 16, 2019

Quotation QTB066626

Mr. Kevin Bills  
I & S Group, Inc.  
201 Main Street, Suite 1020  
La Crosse, Wisconsin 54601  
Sent via email: [Kevin.Bills@is-grp.com](mailto:Kevin.Bills@is-grp.com)

Re: Proposal for a Geotechnical Evaluation  
Proposed La Crosse Center Expansion and Renovations  
300 Harborview Plaza  
La Crosse, Wisconsin

Dear Mr. Bills:

We respectfully submit this proposal to complete a geotechnical evaluation for the proposed La Crosse Center Expansion and Renovations located at 300 Harborview Plaza in La Crosse, Wisconsin.

## **Our Understanding of Project**

Based on the information you provided to us in the Request for Proposal, dated April 8, 2019, we understand this project includes the design and construction of a new expansion along with renovations to the existing La Crosse Center facility. Construction will include a new ballroom and renovations to the existing facility with the necessary grading, utilities, and stormwater management.

We understand the estimated foundation loading is 3,500 kips for pile caps, 200 kips for typical building column loads, and 4 kip per linear foot for typical wall loads. Based on these loads, and our knowledge of the soil conditions in the La Crosse area, we estimated 12-inch pipe piles would need to be driven to depths of 100-plus feet. For this reason, we have assumed that some of the building borings will need to be drilled to depths of at least 120 feet. In addition, we understand the project team is looking at using helical piers for support of new foundations next to the existing structure.

## **Purpose**

The purpose of our geotechnical evaluation will be to characterize subsurface geologic conditions at selected exploration locations, evaluate their impact and provide geotechnical recommendations for the design and construction of the proposed foundations, ground-supported concrete slabs, below-grade walls, pavements underground utilities, and storm water drainage systems.

## **Scope of Services**

The following tasks are proposed to help achieve the stated purpose. If unfavorable or unforeseen conditions are encountered at any point during the completion of the tasks that lead us to recommend an expanded scope of services, we will contact you to discuss the conditions before resuming work.

### **Site Access, Staking and Utility Clearance**

Based on our knowledge of the site, it appears that the site and prospective exterior boring locations will be accessible with a truck-mounted drill rig. Borings located within the existing building will need to be accessed with a GeoProbe rig mounted for standard penetration test borings due to restrictions on ceiling height.

We will stake prospective subsurface exploration locations and obtain surface elevations at those locations using GPS (Global Positioning System) technology. For purposes of linking the GPS data to an appropriate reference, we request that you provide CAD files indicating location/elevation references appropriate for this project, or contact information for the consultant that might have such information.

Prior to drilling or excavating, we will contact Digger's Hotline and arrange for notification to the appropriate utility vendors to mark and clear the exploration locations of public underground utilities.

We have also provided costs to subcontract or private utility locator to mark and clear the exploration locations of privately own utilities.

### **Penetration Test Borings**

We propose to drill ten (10) standard penetration test borings for the proposed building expansions, extending four (4) borings to a depth of 120 feet, three (3) borings to a depth of 80 feet, and three (3) to a depth of 50 feet within the existing building. Penetration tests will be performed at 2 ½-foot vertical intervals to a depth of 16 feet, and at 5-foot intervals at greater depths (in general accordance with ASTM Method D1586). We also propose to drill four (4) continuous sample test borings to a depth of 20 feet each for the proposed storm water drainage systems.

If existing fill, organic materials or other structurally unfavorable soils are not penetrated above the intended boring termination depths, we will extend the borings to obtain at least five feet of penetration into more competent materials at greater depths. The additional information will help evaluate such issues as excavation depth, consolidation settlement, and foundation alternatives, among others. If deeper borings (or additional borings) are needed, we will contact you prior to increasing our total estimated drilled footage and submit a Change Order summarizing the anticipated additional effort and the associated cost, for your review and authorization.

### **Groundwater Measurements**

If groundwater is encountered in the boreholes during or immediately after drilling, the depth where it is observed will be recorded on the boring logs.

### **Borehole Abandonment**

Wisconsin Administrative Code NR 141.25 requires us to seal any boring greater than 10 feet deep or any boring that intersects the water table. Boreholes greater than 4-inches in diameter that are less than 250 feet deep and have less than 150 feet of standing water may be abandoned using 3/8-inch bentonite chips.

Based on the intended exploration depths, we have made provisions to seal 950 lineal feet of borehole with 3/8-inch bentonite chips, and prepare associated Wisconsin borehole abandonment forms.

### **Sample Review and Laboratory Testing**

Soil samples will be returned to our laboratory, where they will be visually classified and logged by a geotechnical engineer in general accordance with ASTM D2487. To help classify the materials encountered and estimate/measure the engineering properties necessary to our analyses, we have budgeted to perform the following laboratory tests:

- *(10) Moisture content tests (ASTM D2216)* – intended to aid in classification, evaluation of moisture condition, and estimation of engineering parameters.
- *(10) Percent passing the #200 sieve tests (ASTM C117)* – intended to aid in classification and to determine the percentage of silt/clay-sized (fines) particles.
- *(5) Organic content tests (ASTM D2974)* – intended to aid in classification and evaluation of the organic content of soils for engineering parameters.
- *(1) Direct shear test (ASTM D3080)* – intended to aid in evaluation of the deep foundations.
- *(3) Sieve Analyses through the #200 sieve (ASTM C136)* – intended to aid in classification and determination of the gravel- and sand-sized particle distribution.

It is our intention to only perform laboratory tests that will be necessary to complete our analyses. If after review it appears that additional testing would provide potential cost-benefits to the project, we will request authorization for the additional testing through a Change Order.

### **Reporting**

Data obtained from the borings and laboratory tests will be used to evaluate the subsurface profile and groundwater conditions, perform engineering analyses related to structure design and performance and prepare a report, including:

- A CAD-generated sketch showing project components, limits, and exploration locations.
- Logs of the borings describing the materials encountered and presenting the results of our groundwater measurements and laboratory tests.
- A summary of the subsurface profile and groundwater conditions.
- Discussion identifying the site conditions that will impact structure design and performance, qualifying the nature of their impact, and outlining alternatives for mitigating their impact.
- Discussion regarding the reuse of on-site materials during construction and the impact of groundwater on construction.
- Provide storm water design infiltration rates for soil horizons encountered per the Wisconsin DNR, Technical Standard 1002.
- Recommendations for preparing structure subgrades, including excavation support, if applicable, and the selection, placement and compaction of excavation backfill and other structural fill.
- Recommended net allowable bearing pressures for the design of spread footing foundations, intermediate foundations, and deep foundations with estimated settlements.
- Recommendations for below-grade walls and temporary shoring systems (if required).
- Recommendations for pavement subgrade preparation and pavement thicknesses.
- Recommendations for underground utilities and soil corrosivity.
- Recommended seismic site classification and parameters.

We will submit, via email, an electronic PDF copy of our final report when it is completed.

## **Cost**

We will furnish the services described in this proposal for a lump sum fee of **\$32,455.00**. An itemization of our estimated costs is provided at the end of this proposal on the Cost Estimate sheet. We will not exceed this estimated fee without your authorization through a Change Order.

Our work may extend over multiple invoicing periods. As such, for work that is performed during the course of each invoicing period, we will submit partial progress invoices.

### **Alternative Option – CPT Exploration**

If the project team feels it would be beneficial, we propose to drill three (3) borings to 120 feet, and the remaining five (7) structural borings be explored with a Cone Penetrometer (CPT) rig. This will save field exploration time by about 5 days. The CPT soundings are performed by advancing an instrumented probe with a cone tip through the subsurface; tip resistance ( $Q_t$ ), sleeve friction ( $F_s$ ) and pore pressure ( $U_2$ ) are measured continuously as the probe is advanced. This information is particularly valuable where potentially weak and/or compressible soils are exposed to heavy and/or concentrated loads. CPT soundings can also be performed more expediently than standard penetration test borings; CPT soundings, however, do not produce samples for classification purposes – soil type is inferred based on behavior during cone penetration (which is why they are being proposed in conjunction with standard penetration test borings).

With this approach we estimate the proposal for a lump sum fee of **\$25,170.00** including our utility clearance, staking exploration locations, laboratory testing, sampling, engineering evaluation, and reporting. An itemization of our estimated costs is provided at the end of this proposal on the Alternate Cost Estimate sheet.

### **Additional Services**

We have not included potential costs due to the need for snow plowing, towing, stand-by time or work that is not included in the above Scope of Services. Costs for snow plowing or towing (if necessary) will be charged at a rate of 1.15x the actual cost. Costs for stand-by time (defined as time spent by our field crew due to circumstances that are beyond the control of our field crew or its equipment, or beyond the scope of services indicated above) will be charged at a rate of \$250 per hour.

If borings must be extended beyond their intended termination depths, we will charge an additional \$20.00 per lineal foot beyond the originally intended termination depth plus \$4.00 per lineal foot to abandon with bentonite grout.

## Schedule

We anticipate our work can be performed according to the following schedule:

- *Drill rig mobilization* – within 1 to 2 weeks following receipt of written authorization;
- *Field exploration* – 8 to 10 days on-site to complete the work. Alternatively, with the CPT rig, we estimate the field exploration will take 3 to 5 days to complete;
- *Classification and laboratory testing* – within 1 week following completion of the field exploration;
- *Preliminary results* – as the samples are obtained and reviewed;
- *Report submittal* – Completed within approximately 4 to 5 weeks following authorization.

If our proposed scope of services cannot be completed according to this schedule due to circumstances beyond our control, we may need to revise this proposal prior to completing the remaining tasks.

## General Remarks

We appreciate the opportunity to present this proposal to you. ***If you find this proposal acceptable, please return the signed copy in its entirety.***

The proposed fee is based on the scope of services described and the assumptions that our services will be authorized within 30 days and that others will not delay us beyond our proposed schedule. We include the Braun Intertec General Conditions, which provide additional terms and are a part of our agreement. To have questions answered or schedule a time to meet and discuss our approach to this project further, please contact Ben Sullivan at 608.781.7277 or [bsullivan@braunintertec.com](mailto:bsullivan@braunintertec.com).

Sincerely,

BRAUN INTERTEC CORPORATION



Benjamin Sullivan, PE  
Project Engineer



Mark Gretebeck  
Principal

### Attachments:

Base Bid Cost Estimate  
Alternate Bid Cost Estimate  
General Conditions (1/1/18)

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The proposal is accepted, and you are authorized to proceed.

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**Authorizer's Firm**

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**Authorizer's Signature**

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**Authorizer's Name (please print or type)**

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**Authorizer's Title**

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**Date**



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# Project Proposal

QTB066626

## Proposed La Crosse Center Expansion & Renovations

<b>Client:</b> I & S Group, Inc. Kevin Bills 201 Main Street, Suite 1020 La Crosse, WI 54601	<b>Work Site Address:</b> 300 Harborview Plaza La Crosse, WI 54601	<b>Service Description:</b> Geotechnical Evaluation
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	Description	Quantity	Units	Unit Price	Extension
<b>Base Bid</b>	<b>Geotechnical Evaluation</b>				
<b>Activity 1.1</b>	<b>Site Layout - Staking - Utility Clearance - CADD</b>				<b>\$970.00</b>
205	Site layout and utility clearance	3.00	Hour	70.00	\$210.00
1862	Utility Trip Charge	1.00	Each	5.00	\$5.00
371	CADD/Graphics Operator	1.00	Hour	120.00	\$120.00
5099	Trimble R8 Rover (horizontal and vertical), per hour	3.00	Each	45.00	\$135.00
SUB2	Private Locate	1.00	Each	500.00	\$500.00
<b>Activity 1.2</b>	<b>Drilling Services (Exterior Borings)</b>				<b>\$19,150.00</b>
SUB1	Truck-Mounted Drill Rig	1.00	Each	19,150.00	\$19,150.00
<b>Activity 1.3</b>	<b>GeoProbe Drill Rig and Crew (Interior Borings)</b>				<b>\$6,540.00</b>
9400	GeoProbe SPT Boring Services, per hour	26.00	Each	240.00	\$6,240.00
PERDIEM	Per Diem	2.00	Each	150.00	\$300.00
<b>Activity 1.4</b>	<b>Geotechnical Soil Tests</b>				<b>\$1,985.00</b>
1166	200 wash (ASTM C 117), per sample	10.00	Each	70.00	\$700.00
1190	Direct shear, granular soil (3 point test) (ASTM D 3080), per sample	1.00	Each	500.00	\$500.00
1174	Organic content (ASTM D 2974), per sample	5.00	Each	75.00	\$375.00
1152	Moisture content (ASTM D 2216), per sample	10.00	Each	5.00	\$50.00
1162	Sieve analysis with 200 wash (ASTM C 136 and C 117), per sample	3.00	Each	120.00	\$360.00
<b>Activity 1.5</b>	<b>Evaluation/Analysis/Reports</b>				<b>\$3,810.00</b>
138	Project Assistant	5.00	Hour	70.00	\$350.00
126	Project Engineer	20.00	Hour	120.00	\$2,400.00
128	Senior Engineer	4.00	Hour	140.00	\$560.00
125	Project Manager	5.00	Hour	100.00	\$500.00
<b>Base Bid Total:</b>					<b>\$32,455.00</b>



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# Project Proposal

QTB066626

## Proposed La Crosse Center Expansion & Renovations

<b>Alternate Bid</b>		<b>Geotechnical Evaluation Using CPT Exploration</b>				
<b>Activity 2.1</b>	<b>Site Layout - Staking - Utility Clearance - CADD</b>				<b>\$970.00</b>	
205	Site layout and utility clearance	3.00	Hour	70.00	\$210.00	
1862	Utility Trip Charge	1.00	Each	5.00	\$5.00	
371	CADD/Graphics Operator	1.00	Hour	120.00	\$120.00	
5099	Trimble R8 Rover (horizontal and vertical), per hour	3.00	Each	45.00	\$135.00	
SUB2	Private Locate	1.00	Each	500.00	\$500.00	
<b>Activity 2.2</b>	<b>Drilling Services</b>				<b>\$10,330.00</b>	
SUB1	Truck-Mounted Drill Rig	1.00	Each	10,330.00	\$10,330.00	
<b>Activity 2.3</b>	<b>CPT Drill Rig and Crew</b>				<b>\$8,360.00</b>	
9500	CPT Services, per hour	22.00	Each	380.00	\$8,360.00	
<b>Activity 2.4</b>	<b>Geotechnical Soil Tests</b>				<b>\$1,460.00</b>	
1166	200 wash (ASTM C 117), per sample	5.00	Each	70.00	\$350.00	
1162	Sieve analysis with 200 wash (ASTM C 136 and C 117), per sample	3.00	Each	120.00	\$360.00	
1174	Organic content (ASTM D 2974), per sample	3.00	Each	75.00	\$225.00	
1152	Moisture content (ASTM D 2216), per sample	5.00	Each	5.00	\$25.00	
1190	Direct shear, granular soil (3 point test) (ASTM D 3080), per sample	1.00	Each	500.00	\$500.00	
<b>Activity 2.5</b>	<b>Evaluation/Analysis/Reports</b>				<b>\$4,050.00</b>	
138	Project Assistant	5.00	Hour	70.00	\$350.00	
126	Project Engineer	22.00	Hour	120.00	\$2,640.00	
128	Senior Engineer	4.00	Hour	140.00	\$560.00	
125	Project Manager	5.00	Hour	100.00	\$500.00	
<b>Alternate Bid Total:</b>					<b>\$25,170.00</b>	



## Section 1: Agreement

**1.1** Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization ("Agreement"). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

**1.2** The words "you," "we," "us," and "our" include officers, employees, and subcontractors.

**1.3** In the event you use a purchase order or other documentation to authorize our scope of work ("Services"), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

## Section 2: Our Responsibilities

**2.1** We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

**2.2** In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

**2.3** We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and further that site conditions may vary over distance or change over time.

**2.4** Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

**2.5** We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

**2.6** You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

**2.7** Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

## Section 3: Your Responsibilities

**3.1** You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

**3.2** You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

**3.3** You agree to provide us, in a timely manner, with information that you have regarding buried objects at the site. We will not be responsible for locating buried objects at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, losses, penalties and expenses (including attorney fees) involving buried objects that were not properly marked or identified or of which you had knowledge but did not timely call to our attention or correctly show on the plans you or others furnished to us.*

**3.4** You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site or in a sample provided to us. You agree to provide us with information in your possession or control relating to such materials or samples. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

**3.5** Neither this Agreement nor the providing of Services will operate to make us an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of the Resource Conservation Recovery Act, as amended, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous substances. *You agree to hold us harmless, defend, and indemnify us from any damages, claims, damages, penalties or losses resulting from the storage, removal, hauling or disposal of such substances.*

**3.6** Monitoring wells are your property, and you are responsible for their permitting, maintenance, and abandonment unless expressly set forth otherwise in this Agreement.

**3.7** You agree to make all disclosures required by law. In the event you do not own the project site, you acknowledge that it is your duty to inform the owner of the discovery or release of contaminants at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, penalties, or losses and expenses, including attorney fees, related to failures to make disclosures, disclosures made by us that are required by law, and from claims related to the informing or failure to inform the site owner of the discovery of contaminants.*

## Section 4: Reports and Records

**4.1** Unless you request otherwise, we will provide our report in an electronic format.

**4.2** Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval. *You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

**4.3** If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

**4.4** Samples and field data remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are and continue to be your property. They may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

**4.5** Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

## Section 5: Compensation

**5.1** You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

**5.2** You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

**5.3** If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

**5.4** Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

**5.5** If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

**5.6** You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

**5.7** If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

**5.8** If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

**5.9** In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

## Section 6: Disputes, Damage, and Risk Allocation

**6.1** Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s)

attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

**6.2** *Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of business opportunity, loss of profit or revenue, loss of product or output, or business interruption.*

**6.3** You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

**6.4** *For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or \$50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken.* This increased fee is not the purchase of insurance.

**6.5** *You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.*

**6.6** This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of laws rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

**6.7** No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

## Section 7: General Indemnification

**7.1** *We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.*

**7.2** To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

**7.3** You agree to indemnify us against losses and costs arising out of claims of patent or copyright infringement as to any process or system that is specified or selected by you or by others on your behalf.

## Section 8: Miscellaneous Provisions

**8.1** We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

**8.2** You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

**8.3** Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

**8.4** This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

**8.5** If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

**8.6** No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.