

## **SCHEDULE A - TERMS AND CONDITIONS**

### **SECTION 1. SERVICES - ASE will:**

- 1.1 Act for CLIENT in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of the profession practicing in the same or similar locality of THE PROJECT site.
- 1.2 Provide only those services, that, in the opinion of ASE, lie within the technical and professional areas of expertise of ASE and which ASE is adequately staffed and equipped to perform.
- 1.3 Perform all technical services under the general direction of a Registered Professional Engineer and in substantial accordance with the basic requirements of the appropriate Standard of The American Society for Testing and Materials, where applicable, or other standards designated by Client.
- 1.4 Promptly submit formal reports of all tests, inspections and services performed indicating, where applicable, compliance with THE PROJECT specifications or other contract documents. Such reports shall be complete and factual, citing the tests performed, methods employed, values obtained, parts of the structure or PROJECT area involved.
- 1.5 Employ testing machines which have been calibrated within a period not exceeding twelve (12) months from the time of use by devices of accuracy traceable to the National Bureau of Standards of the United States Department of Commerce, and upon request, submit to CLIENT or his authorized representative documentation of such calibration.
- 1.6 Consider all reports to be the confidential property of CLIENT, and distribute reports only to those persons, organizations or agencies specifically designated in writing by CLIENT or his authorized representative.
- 1.7 Retain all pertinent records relating to the services performed for a period of five years following submission of the report, during which period the records will be made available to CLIENT at all reasonable times.

### **SECTION 2. CLIENT's RESPONSIBILITIES - CLIENT or his authorized representative will:**

- 2.1 Provide ASE with all plans, specifications, addenda, change orders, approved drawings and other information for the proper performance of ASE.
- 2.2 Issue authorization in writing, giving ASE free access to THE PROJECT site, and to all areas where testing is to be performed.
- 2.3 Designate in writing a person or firm to act as CLIENT's representative with respect to ASE's services to be performed under this Agreement; such person or firm to have complete authority to transmit instructions, receive information and data, interpret and define CLIENT's policies and decisions with respect to THE PROJECT and to order, at CLIENT's expense, such technical services as may be requested by ASE.
- 2.4 Designate in writing those persons or firms who are authorized to receive copies of ASE's inspection and test reports.
- 2.5 Advise ASE sufficiently in advance of any operations so as to allow for assignment of personnel by ASE for completion of the required services. Such advance notice shall be in accordance with that established by mutual agreement of the parties.
- 2.6 Direct THE PROJECT contractor, either by the Construction Contract or direct written order to:
  - a. Secure and deliver to ASE, without cost to ASE, preliminary representative samples of those materials he proposes to use which require testing, together with any relevant data of the materials.
  - b. Furnish such casual labor and all facilities needed by ASE to obtain and handle samples at THE PROJECT and to facilitate the specified inspection and tests.
  - c. Provide and maintain for the use of ASE, adequate space at THE PROJECT for safe storage and proper curing of test specimens which must remain on THE PROJECT site prior to testing.

### **SECTION 3. GENERAL CONDITIONS:**

- 3.1 ASE, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities with regard to THE PROJECT customarily vested in THE PROJECT architects, design engineers, or any other design agencies or authorities.

- 3.2 ASE shall not be responsible for acts of omissions of any party or parties involved in the design of THE PROJECT or the failure of any contractor or subcontractor to construct any aspect of THE PROJECT in accordance with recommendations contained in any correspondence or verbal recommendation issued by ASE.
- 3.3 ASE is not authorized to revoke, alter, relax, enlarge or release any requirement of THE PROJECT specifications or other contract documents nor to approve or accept any portion of the work, unless specifically authorized in writing by CLIENT or his authorized representative. ASE shall not have the right of rejection or the right to stop the work, except for such periods as may be required to conduct the sampling, testing, or inspection of operations covered by the Agreement.
- 3.4 This Agreement may be terminated by either party on ten (10) days' written notice or by mutual agreement. If this Agreement is terminated by either party, ASE shall be paid in full for all services performed through the termination date, and the CLIENT shall be provided with a complete report of the results of tests and analysis conducted prior to termination.
- 3.5 Neither CLIENT nor ASE may delegate, assign, sublet, or transfer his duties or interest in this Agreement without the written consent of the other party.
- 3.6 The only warranty made by ASE in connection with its services performed hereunder is that it will use that degree of care and skill as set forth in Article 1.1 above. No other warranty, express or implied, is made or intended for services provided hereunder or furnishing oral or written reports of findings made.

#### **SECTION 4. INSURANCE:**

- 4.1 ASE shall secure and maintain throughout the full period of this Agreement sufficient insurance to protect it adequately from claims under applicable Workmen's Compensation Acts and from claims for bodily injury, death or property damage as may arise from the performance of services under this Agreement. ASE will, upon request, file certificate of such insurance coverage with CLIENT or his authorized representative.
- 4.2 No insurance, of whatever kind or type, which may be carried by ASE, is to be considered as in any way limiting the contractor's or subcontractor's responsibility for damages resulting from his operations or for furnishing work and materials to THE PROJECT. CLIENT agrees, therefore, to include or cause to be included in THE PROJECT's construction contract, such requirements for insurance coverage and performance bonds to be secured and maintained by THE PROJECT contractor as CLIENT deems adequate to indemnify CLIENT, ASE, and other concerned parties, against claims for damage and to insure compliance of work performance and materials with PROJECT requirements.

#### **SECTION 5. PAYMENT:**

- 5.1 CLIENT will pay ASE for services and expenses in accordance with the attached fee schedule (SCHEDULE B). ASE's invoices will be presented at the completion of work or monthly and will be paid within thirty (30) days of receipt by CLIENT or his authorized representative. If not paid within thirty (30) days from the date of invoice, a finance charge of 1-1/2% per month will be added to the unpaid balance (Annual percentage rate of 18%).
- 5.2 ASE shall be paid in full for all services under the Agreement, including any overruns of CLIENT's contract or any unforeseen need for ASE's services exceeding original contract requirements. Payment for such services shall be made irrespective of any claim by CLIENT for compensation for additional work conducted. Any such claim shall in no respect delay payment of fees for services performed by ASE.

#### **SECTION 6. EXTENT OF AGREEMENT:**

The Agreement, including these terms and conditions, represents the entire agreement between CLIENT and ASE and supersedes all prior negotiations, representations or agreements, written or oral. The Agreement may be amended only by written instrument signed by CLIENT and ASE.