



7/30/2022

## TERMS AND CONDITIONS

Davido Consulting Group, Inc. (hereinafter referred to as "DCG") and CLIENT named on the Short Form Agreement or Proposal Letter combined with these Terms and Conditions (hereinafter referred to as "Agreement") for the Project named on the Short Form Agreement or Proposal Letter agree as follows:

**ARTICLE I – Work, Assumptions, and Deliverables.** DCG's scope of work ("Work"), Assumptions, and Deliverables are specified in the Agreement. DCG shall perform its Services with the same degree of care and skill ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality of the Project. DCG shall perform its Services as expeditiously as is consistent with the applicable professional standard of care.

**ARTICLE II - Payment Conditions.** DCG's charges are specified in the Agreement. Hourly fees shall be billed at the rate schedule at the time of invoicing. All charges shall be deemed to include all taxes and all other charges levied by any government agency on DCG relating to the Work. Unless otherwise specified, the frequency of invoicing shall be monthly. DCG agrees to provide such supporting documentation for each invoice as CLIENT may reasonably require. CLIENT shall pay each invoice properly submitted by and due DCG within 30 days of the date of invoice or as required by law. If payment is not maintained on a thirty (30) day current basis, DCG may suspend further performance until payments are current. CLIENT shall notify DCG of any disputed amount within fifteen (15) days from the date of invoice, give reasons for the objection, and promptly pay the undisputed amount. CLIENT shall pay an additional charge of one and one-half percent (1.5%) per month or the maximum percentage allowed by law, whichever is the lesser, for any past due amount. In the event of legal action for invoice amounts not paid, attorneys' fees, court costs, and other related expenses shall be paid by the prevailing party. Final payment shall be made upon completion and acceptance of the Work by CLIENT. In the event of a sale of the project the CLIENT will notify DCG of new owner (responsible party). If CLIENT fails to provide information, then the CLIENT is responsible for all charges accrued past the sale date.

**ARTICLE III – Notice to Proceed, Schedule and Delays.** Unless otherwise specified by Client in writing the Notice to Proceed shall be the date the Agreement is signed by the CLIENT. DCG will complete the Work in accordance with the Schedule specified in the Agreement, except to the extent modified by Article IX. DCG shall notify CLIENT immediately by telephone, e-mail, facsimile, or in writing of any event or condition impairing its ability to meet the Schedule, together with proposed revisions to the Schedule. Agreement end date shall be as specified on the Agreement.

**ARTICLE IV - Changes and Additional Compensation.** CLIENT, by written order (hereinafter referred to as "Change Order"), may make changes in the Work including, but not limited to, increasing or decreasing the Work or directing acceleration in the performance of the Work. CLIENT and DCG shall negotiate prior to the issuance of a Change Order the amount of any charge or Schedule change related to the Change Order, however, DCG has sole discretion to establish the charges due as a result of a Change Order.

**ARTICLE V - Insurance.** DCG agrees that it now carries, and will continue to carry during the performance of this Agreement, the applicable insurance policies indicated below with limits not less than those specified. Any insurance on a "claims made" basis shall be maintained for at least one year after completion of the Work.

- (1) General Liability            \$1,000,000 per occurrence**
- (2) Professional Liability       \$ 2,000,000 per occurrence**
- (3) Additional Liability         \$ 5,000,000 per occurrence**

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<b>Seattle</b>	<b>Mount Vernon</b>	<b>Whidbey</b>	<b>Federal Way</b>	<b>Spokane</b>
9706 4th Ave NE, Ste 300 Seattle, WA 98115 Tel 206.523.0024	2210 Riverside Dr, Ste 110 Mount Vernon, WA 98273 Tel 360.899.1110	1796 E Main St, Ste 105 Freeland, WA 98249 Tel 360.331.4131	31620 23rd Ave S, Ste 307 Federal Way, WA 98003 Tel 253.237.7770	601 Main Ave, Ste 617 Spokane, WA 99201 Tel 509.606.3600

**ARTICLE VI – Risk Allocation.** The liability of DCG, its employees, agents, subcontractors (referred to collectively in this Article as “DCG”), for CLIENT’s claims of loss, injury, death, damage, or expense, including, without limitation, CLIENT’s claims of contribution and indemnification, express or implied, with respect to third party claims relating to services rendered or obligations imposed under this Agreement shall not exceed in aggregate the total sum of \$50,000 or DCG’s total fees received under the Agreement, whichever is less, for claims in which DCG has any legal liability.

**ARTICLE VII - Disputes.** After first attempting to resolve disputes through good faith negotiations, the parties may pursue their respective remedies at law or equity for any claim, controversy, or dispute relating to this Agreement. Jurisdiction and venue for any claim or dispute between the parties shall be the King or Island County Superior Court and any dispute shall be determined by immediate reference of the matter to mandatory arbitration as provided by RCW 7.06 et seq., the Superior Court Mandatory Arbitration Rules and the applicable Local Rules of the King or Island County Superior Court. The fact that the amount in controversy may exceed the maximum otherwise subject to arbitration will not divest the arbitrator of the power to hear and determine the issues and any such limitations are waived. Neither party shall have the right to trial de novo, and the parties agree that the arbitrator’s decision will be final and binding.

**ARTICLE VIII - Ownership of Documents, Patents and Copyrights.** All intellectual property developed in the performance of the Work, and all records relating to the Work, including, without limitation, all drawings, specifications, reports, summaries, samples, photographs, memoranda, notes, calculations, and other documents shall be deemed equal property of DCG and the CLIENT. DCG will retain possession of the originals and the CLIENT shall have the right to obtain copies or reproduction at CLIENT’s cost. Client agrees that DCG will not have any liability to Client, or any third party, for any revision or addition to, alteration or deviation from DCG’s Work Product occurring subsequent to DCG’s completion of services under this Agreement or earlier termination of this Agreement, or for use of DCG’s Work Product on another project by or on behalf of Client, and Client shall defend, indemnify and hold DCG harmless from and against all liability, loss, damages, costs and expenses, including reasonable attorneys’ fees and disbursements, which DCG may at any time sustain or incur by reason of any such use, revision, addition, alteration or deviation by or on behalf of Client. Notwithstanding the transfer of ownership set forth above, DCG shall retain ownership rights to its standard, non-project specific details, design and specifications.

**ARTICLE IX – Force Majeure.** Neither party shall be responsible for damages or delays caused by Force Majeure or other events beyond the control of the party and could not reasonably be anticipated or prevented. For purposes of this Agreement Force Majeure includes, but is not limited to, adverse weather conditions, floods, epidemics, war, riots, strikes, lockouts, and other industrial disturbances, unknown site conditions, accidents, sabotage, fire, loss of or failure to obtain permits, unavailability of labor, materials, fuel, or services, court orders, acts of God, acts, orders, laws, or regulations of the government of United States or any foreign country, or any governmental agency. Should Force Majeure occur, the parties shall mutually agree on the terms and conditions upon which the Work may be continued.

**ARTICLE X - Notices.** Notices shall be deemed to have been sufficiently given if in writing and delivered either personally or by mail to the authorized representative of the other party; notices given by mail shall also be transmitted by facsimile or e-mail at the time of mailing. In the absence of specifically-designated authorized representatives, the signatories to this Agreement shall be authorized representatives. Each party shall have the sole responsibility to provide written notice of a change in its authorized representative.

**ARTICLE XI - Integrated Writing.** This Agreement constitutes the entire agreement between CLIENT and DCG and supersedes all prior or contemporaneous communications, representations, or agreements, oral or written, with respect to its subject matter. No agreement hereafter made between the parties shall be binding on either party unless reduced to writing and signed by the parties authorized representatives. There shall be no oral modification of this clause.

**ARTICLE XII – Lien Rights.** The CLIENT is hereby notified that DCG by statute has the right to place a lien on real property for services performed on and for the benefit of real property for nonpayment of fees.