

A&E SPECIFIC TERMS AND CONDITIONS

These A&E Specific Terms and Conditions apply to Qwest's purchase of architectural and engineering Services from Supplier.

1. DEFINITIONS:

- 1.1 "Completion Date" means the date on the Order by which Supplier is obligated to complete the Project.
- 1.2 "Construction Documents" means all construction drawings, Project specifications, manuals and other construction documents applicable to the Project and any deliverables to be provided by Supplier to Qwest in connection with the Project. Construction Documents are considered Documentation under these Terms.
- 1.3 "Contract Sum" means the total amount Qwest agrees to pay for the Project pursuant to the Order.
- 1.4 "Fixed Price" means the fixed sum set forth on the Order for the Project.
- 1.5 "Not to Exceed Price" means the "not to exceed" amount set forth in the Order for the Project.
- 1.6 "Project" means the architectural or engineering Services performed by or for Supplier in connection with the Order. If Services are referred to as "Work" on the Order, "Work" will mean the Project.
- 1.7 "Site" means the location of the Project.

2. DESCRIPTION OF THE PROJECT:

The Order will describe: (i) the Services to be performed by Supplier in connection with the Project; (ii) the method by which Supplier will be compensated; (iii) the Fixed Price or Not to Exceed Price, as applicable; (iv) the Completion Date; (v) the Site; and (vi) the Construction Documents.

3. CHANGE ORDERS:

3.1 Compliance with Change Orders.

At any time prior to completion of the Project, Qwest shall have the right to add, delete, change or terminate the Project by means of a Change Order. Unless Supplier provides to Qwest a good justification as to why it cannot comply with a Change Order (for example, a safety or liability problem), Supplier will comply with all Change Orders. If Qwest determines that additional Services to be performed on account of a Change Order require an increase in the Contract Sum, Qwest and Supplier may negotiate a lump sum price or an increase in the Not to Exceed Price for the additional Services. If Qwest and Supplier are unable to agree on a price for the additional Services, Qwest may perform the additional Services itself or engage another consultant to perform the additional Services.

3.2 Notification of Not to Exceed Price.

Supplier shall immediately notify Qwest in writing whenever it has reason to believe that the amount to be billed to Qwest during the next 45 calendar days of the Project, when added to all amounts previously billed to Qwest in connection with the Project, will exceed the Not To Exceed Price specified in the Order. Supplier shall include in the notice the estimated amount of additional funds needed to continue performance to completion along with a detailed rationale for the additional funds. Supplier shall not perform the additional hours of Services that will require the additional funds unless authorized in writing by Qwest in advance. Unless specifically agreed to in writing by Qwest in the Order or a Change Order, nothing contained in the Order shall be construed to have created a fixed fee agreement.

4. COMPLETION DATE:

4.1 Completion Date.

Supplier will complete the Project no later than the Completion Date set forth in the Order. If Supplier fails to complete the Project by the Completion Date, Qwest may at its option immediately terminate the Order and complete all or any part of the Project itself (by using its own employees or by hiring another supplier) and bill Supplier for all related costs.

4.2 Sufficient Personnel / Notification and Correction of Non-Compliance with Completion Dates.

Supplier will furnish sufficient forces (including night shifts and overtime operations if required), quantity of materials, tools, and equipment to complete the Project by the Completion Date and to make progress in the Project in accordance with any applicable work schedule that is part of the Construction Documents (a "Schedule of Work").

If the progress of the Project falls behind the Schedule of Work, or if the pace of the Project appears to Qwest to be inadequate to ensure completion of the Project by the Completion Date, Supplier will, within 7 calendar days after notice from Qwest, take appropriate steps to put the Project back on schedule including without limitation any steps directed by Qwest (such as increasing the number of shifts, overtime operations or days of work), at no additional cost to Qwest. If Supplier fails to institute appropriate measures, in Qwest's reasonable judgment, within such 7 calendar day period, or should the measures taken fail to put the Project back on schedule, Qwest may, but will not be required to, supplement Supplier's, materials, tools, equipment and/or forces with other, materials, tools, equipment and/or forces and bill Supplier for all related costs. Supplier will coordinate and work together with such forces, materials and/or equipment. Qwest's use of such supplemental forces, materials and/or equipment will not excuse Supplier from performing all of its obligations under the Order.

5. INVOICES AND PAYMENTS:

In addition to the terms and conditions in the Section titled "Invoices and Payments" in the General Terms and Conditions, the following terms and conditions apply to the Project performed under these Specific Terms and Conditions:

5.1 Amounts to be paid for Project.

Subject to Qwest's acceptance of the Project, Qwest agrees to pay Supplier the Contract Sum, which amount will be either (i) an hourly rate (the "Rates") based on the rate schedule contained in the Order, but never greater than the Not to Exceed Price; or (ii) the Fixed Price. The Contract Sum may only be modified by a Change Order.

5.2 Rates.

The Rates include compensation for all costs incurred by Supplier including: direct and indirect labor costs; materials, supplies and equipment; office tools and equipment; bonds, fees and insurance; payments to Subcontractors; taxes; and employee benefits. The Rates do not include (although all such amounts shall be limited by the Not to Exceed Price and by the Fixed Price) transportation, lodging and meal expenses for travel approved in writing by Qwest in advance and required because Supplier's employees necessarily are away from their residences overnight performing the Services. Supplier shall be reimbursed for the actual costs of such expenses or shall be reimbursed at a per diem rate per employee if approved by Qwest in writing in advance.

5.3 Invoices.

Supplier will submit invoice(s) (each an "Invoice") at intervals no more frequently than monthly indicating (i) for Projects paid for on an hourly basis, the hours worked by each employee or agent of Supplier since the last Invoice and the hourly rate charged for each person, (ii) for Fixed Price Projects, the percentage of the Project completed since the last Invoice, and (iii) for both kinds of Projects, the percentage of the Project completed as of the date of the Invoice. Supplier shall submit, with each Invoice, any reports, forms and supporting data (such as copies of invoices from Subcontractors) reasonably requested by Qwest. Language included or inserted on an Invoice or on any other document submitted by Supplier with an Invoice that conflicts with the terms and conditions contained in the Order will not be binding and is null and void.

5.4 Payment of Invoices.

If Supplier submits an Invoice in accordance with this section and the Invoice is undisputed by Qwest, Qwest will pay the Invoice within the time period set forth in the Section of the General Terms and Conditions titled "Payment Due Date; Acceptance of Payment." Qwest may, at its option, issue joint checks to Supplier and any Subcontractor.

5.5 Correction of Services.

If Qwest disputes the Invoice for any reason including:

- (a) unsatisfactory performance or prosecution of the Services by Supplier or defective Services;
- (b) liens or claims filed or reasonable evidence indicating the possible filing of claims;
- (c) failure of Supplier to make payments promptly to any Subcontractor; or
- (d) improper Invoice,

Qwest will notify Supplier of the problem, which notification will describe the problem in enough detail for Supplier to correct the problem and will contain a date by which Qwest would like the problem corrected.

Supplier will, at its own expense, remedy any defects in the Services and pay for all damages resulting from the defects, including, but not limited to, additional testing, inspections, compensation for services, and expenses of Qwest made necessary by the nonconforming Services within the time period set forth in Qwest's notice. This procedure will be repeated until Qwest finally approves or disapproves the Invoice in its sole discretion. Any final disapproval of an Invoice by Qwest will constitute a breach of the Order by Supplier.

5.6 Waiver of Claims.

In no event will Supplier be compensated for more than the Contract Sum, as modified by any Change Order. Supplier will bring any claim for amounts Supplier claims are due and owing from Qwest within 1 year after the issuance of the relevant Invoice. Any claim(s) not brought by Supplier within this 1 year period will be waived.

5.7 Payment Claims.

Supplier warrants that no Payment Claim will be filed or maintained by it, its Subcontractors or other third party against any Qwest equipment, real estate or other property, including property of third parties, on account of the Services. Qwest reserves the right, prior to making any payments or at any other time, to require Supplier and any Subcontractor to furnish a Lien Waiver. Any failure by Supplier or its Subcontractor to submit a Lien Waiver requested by Qwest will be a breach of the Order.

5.8 Final Invoice.

Upon completion of the Project, Supplier will notify Qwest in writing that the Project is complete and will deliver to Qwest a final Invoice for the Project (the "Final Invoice"). The Final Invoice shall include:

- (a) A Lien Waiver covering all Services included in the Project, including that of all Subcontractors;
- (b) Records specified by Qwest including record drawings, design and engineering prints and as-built drawings, if applicable, on paper and electronically in AutoCAD format;
- (c) An affidavit that payrolls, bills for materials and equipment and other indebtedness connected with the Services for which Qwest might be responsible or Qwest's property might be encumbered have been paid or otherwise satisfied;
- (d) All Documentation or other items provided to Supplier by Qwest in connection with the Services;
- (e) All other deliverables required in the Order as amended by any Change Order;
- (f) Written evidence that all performance tests required in connection with the Project have been successfully completed; and
- (g) Certification by Supplier that the Project has been completed in accordance with the Order.

6. ADDITIONAL DUTIES OF SUPPLIER:

6.1 Representatives.

All Services will be performed in accordance with the Order. Supplier will supervise and direct the Services using Supplier's best skill and attention. To that end, Supplier will keep on the Site workers who are trained and skilled at their jobs. "Qwest's Representative" is Qwest's project manager assigned to the

Project as set forth in the Order for the Project or otherwise designated by Qwest from time to time. "Supplier's Representative" is Supplier's representative for the Project as set forth in the Order or otherwise designated by Supplier from time to time. Qwest's Representative and Supplier's Representative will act in such capacity only for the individual Project. Qwest shall have the right, but not the duty, to enter upon any location where Services are being performed to conduct inspections of the Services at any time to ensure compliance with the Order. Supplier will coordinate the Services with Qwest's Representative and will work with Qwest's Representative to establish acceptable communication lines. Supplier shall promptly respond to all concerns, issues and questions raised by Qwest's Representative.

6.2 Review of Schedules of Values and Applications for Payment.

If requested by Qwest, Supplier shall be responsible for the review and approval or disapproval of any "Schedule of Values" and "Application for Payment" received from Qwest's construction contractors ("Contractors"). Such documents shall be reviewed and responded to within the time period required by Qwest's contracts with its Contractors (the "Construction Contracts") to ensure that no Schedule of Values or Application for Payment is deemed accepted or approved on account of the passage of time. Upon receipt of an Application for Payment, Supplier will survey the Site, review all information available to Supplier including the progress of the work performed by the Contractor (the "Construction Work"), the quality of the Construction Work and whether all lien waivers and other Documentation required from the Contractor have been furnished. If the Application for Payment accurately reflects the state of the Construction Work and if, pursuant to the Construction Contract, the Contractor is entitled to payment as set forth in the Application for Payment, Supplier shall issue a "Certificate for Payment" instructing Qwest to pay the Contractor.

6.3 Administration of Construction Documents.

If requested by Qwest, Supplier shall assist in the administration of Construction Contracts. Unless directed otherwise by Qwest, if Supplier is directed in the Order or otherwise to assist with the administration of a Construction Contract, Supplier shall perform all functions to be performed by consultants as set forth in the Construction Contract. In such case, Qwest will provide to Supplier contact information for the Contractor. Whenever practical, Qwest will endeavor to include Supplier in all communications with the Contractor. Notwithstanding the foregoing, Supplier shall have no authority regarding any modification and/or Change Order of any Construction Contract. Qwest approval must be obtained for all decisions related to Construction Contracts, except with respect to clarifications or interpretations of plans, specifications and other construction documents prepared by Supplier and related to Construction Work ("Project Documents"). Supplier will be, in the first instance, the interpreter of requirements contained in the Project Documents and the judge of a Contractor's proper performance of Construction Work. Supplier shall have the authority to reject any Construction Work which does not conform to the requirements of a Construction Contract, and to reject any Application for Payment. If requested by Qwest, Supplier shall provide an opinion with respect to a claim, dispute or disagreement between Qwest and a Contractor, and with respect to a Contractor's proper execution of or the progress of Construction Work. In such case, Supplier will render its opinion in writing as quickly as possible. Qwest will not be bound by any Supplier opinion. In all circumstances, any information, communication, or directive of Qwest to a Contractor will supersede any conflicting information, communication or directive of Supplier.

6.4 Progress Reports.

Supplier will provide periodic progress reports, as requested by Qwest, on the performance and completion of the Project. If the Project will be paid for by Qwest on an hourly basis, Supplier shall maintain for audit by Qwest or Qwest's agents signed time sheets for hourly work performed in connection with the Project, and shall provide copies of the time sheets to Qwest upon request. For Order related questions, Supplier will contact the Qwest buyer who issued the Order.

6.5 Emergency Contacts.

Supplier will maintain and provide to Qwest in connection with the Project an emergency contact list with names and phone numbers for both business and non-business hours. In the event Qwest experiences an emergency situation impacting service or safety, Supplier will respond and will cause its employees,

agents and Subcontractors and their respective employees and agents to respond in an expedited manner to assist Qwest in recovering from the emergency condition.

6.6 Acts or Omissions.

Supplier will be responsible to Qwest for acts and omissions of Supplier's employees, its Subcontractors, their agents and employees and any other persons performing portions of the Services on behalf of Supplier.

6.7 Quality Control Program.

Supplier will have in place an effective quality control program that complies, at a minimum, with standards common in the industry, to ensure that all aspects of the Services are completed in compliance with the Construction Documents and the other Specifications. Supplier is solely responsible for quality control. Supplier will submit its quality control program manual to Qwest for review or information, if requested.

6.8 Compliance with Policies.

Supplier will comply, and will cause its employees, agents and Subcontractors and their respective employees and agents to comply, with all Qwest rules and regulations pertaining to the Site, and all amendments or supplements thereto, including without limitation rules regarding cellular telephone use. Supplier also will comply and will cause Supplier's employees, agents and Subcontractors and their respective employees and agents to comply with all health and safety directives issued by Qwest while present at the Site, which will be made available to Supplier by Qwest, including the following sections of the Qwest Fire Life Safety Policy (QFLSP):

No smoking policy

QFLSP-D1 "Fire Protection During Construction"

QFLSP-E3 "Fire Stopping Requirements"

QFLSP-A6 "Fire Protection Impairment Program"

6.9 Use of Information.

No information or material provided to Supplier in connection with the Services may be used in connection with any other job or project, even if such job or project is for Qwest or its affiliates, without the prior written consent of Qwest's Representative.

7. USE OF SUBCONTRACTORS:

7.1 Submission of Subcontractor List.

Supplier will submit to Qwest a list of proposed Subcontractors prior to the execution by Supplier of any subcontractor agreement. Qwest will have 10 days after receipt of Supplier's list of proposed Subcontractors to reject all or any proposed Subcontractors. Any proposed Subcontractor not rejected by Qwest within such 10 period will be deemed to have been accepted. Any acceptance or rejection of a proposed person or entity by Qwest will not relieve Supplier of responsibility for the Services.

7.2 Contracts with Subcontractors.

Supplier will require all Subcontractors to assume in writing all obligations, liabilities and responsibilities under the Order jointly and severally with Supplier prior to Subcontractor beginning any of the Services. All provisions of the Order will apply to Subcontractors with the same force and effect as they apply to Supplier. Supplier will make available to each proposed Subcontractor, prior to entering into a subcontract, copies of the relevant portions of the Order (including, in every instance, a copy of the Construction Documents); provided, that Supplier is not required to provide to any Subcontractor the financial terms of the Order. Supplier will require each Subcontractor to agree that the Subcontractor is bound by and will comply with all terms and conditions contained in the Order including, by specific reference, all indemnification, confidential information, compliance with laws, limitation of liability, dispute resolution, insurance and warranty provisions contained in the Order. No subcontracting of any of the Services will release Supplier from any of its obligations contained in the Order.

8. ADDITIONAL WARRANTIES:

In addition to the representations and warranties contained in the General Terms and Conditions, the following warranties apply to the Services:

8.1 Minimum 18 Month Warranty.

- (a) In addition to any other express or implied obligations and assurances under the Order, Supplier hereby warrants for a period of 18 months (or longer, if so provided by law, and to the extent provided by law) from and after the later of (i) the date of payment by Qwest of the Final Invoice for the Project or (ii) the date that the defect was reasonably discoverable, that all labor, workmanship, components, materials and other parts of the Services in or covered by the Project will be free from defects in material and workmanship under normal use and service and will conform in all respects with the Order.
- (b) **Repair or Replacement.** Upon notice from Qwest, Supplier will immediately, at its own expense, repair, correct, or replace:
 - (i) any defective materials supplied by Supplier or any Subcontractor; or
 - (ii) any defects in the Services occurring during the warranty period whether observed before or after payment of the Final Invoice for the Services and whether or not the Services are already installed or completed.
- (c) **Additional Warranty Period.** Any repaired or replacement materials will have a warranty period equal to the greater of: (i) 1 year from the date of incorporation in the Services, or (ii) the remainder of the original warranty period.
- (d) **Payment of Costs to Remedy.** Supplier will pay all reasonable costs (including attorneys' fees, additional testing and inspection, and Qwest's own costs or compensation paid to third parties) incurred by or on behalf of Qwest in identifying and correcting a defect in Services or materials found to be the responsibility of Supplier.
- (e) **Non-Exclusive Remedy.** Establishment of the 18 month period in the subsection above relates only to the specific obligation of Supplier to correct the Services, and has no relationship to the time within which Qwest may seek to enforce Supplier's obligations under the Order.

8.2 Correction by Qwest.

At Qwest's sole option, Qwest may elect, rather than having Supplier correct any defective Services, to have the Services corrected by Qwest's employees or other consultants. If Qwest or its consultant performs the correction, Qwest will invoice Supplier for Qwest's costs, including without limitation labor costs, and Supplier will pay Qwest for such costs within 30 calendar days after receipt of an invoice.

9. ADDITIONAL INDEMNIFICATION OBLIGATIONS OF SUPPLIER.

In addition to the indemnification provided in the Section titled "Indemnification" of the General Terms and Conditions, and subject to its procedures, Supplier will indemnify, defend and hold harmless Qwest (including its officers, directors, employees and agents) and its affiliates and customers from and against all suits, actions, fines, damages or claims of any character:

- (a) for any personal injuries or property damage received or sustained by any person or property arising in whole or in part from the acts or omissions of Supplier, its Subcontractors and/or their respective officers, employees, agents or affiliates in the performance of Services;
- (b) because of any actual or alleged act or omission of Supplier, its Subcontractors and/or their respective officers, employees, agents or affiliates;
- (c) under the Workers Compensation Act, or any other law, regardless of whether such injuries or damages are caused in part by the negligence of the parties indemnified hereunder; and
- (d) in connection with any breach or default by Supplier of the Order.

Supplier will reimburse any indemnified party for any and all costs, settlements, judgments, or expenses incurred by them in defending or investigating any such claim, including attorneys' fees, expert witness fees, investigative and court costs.

10. ADDITIONAL INSURANCE REQUIREMENTS:

In addition to the requirements in the Section titled "Insurance" in the General Terms and Conditions, and subject to the procedures set forth therein, Supplier shall carry and maintain the insurance coverage listed below.

10.1 Commercial General Liability Insurance.

Commercial General liability insurance providing coverage for bodily injury, death, personal injury and property damage occurring or arising out of the performance of the Order, including coverage for premises operations and contractual liability with respect to liability assumed by Supplier under the Order. The limits of liability for this coverage will be not less than the limits stated below:

Each Occurrence	\$1,000,000
General Aggregate Limit	\$2,000,000

10.2 Professional or Error & Omissions Liability Insurance.

Professional or Errors and Omissions Liability Insurance in an amount not less than \$1,000,000 each claim and in the aggregate and shall be extended to cover resulting bodily injury and property damage. Such insurance shall provide (a) a retroactive date of not later than the effective date of the Order and (b) either be maintained for or have an extended claims reporting period of not less than 2 years after termination of the Order.

11. COMPUTER SYSTEMS:

11.1 Use of System.

Supplier acknowledges that in order to perform the Services it may be required to use Qwest's computer systems to access drawings or for other reasons necessary for the performance of the Services (collectively, the "Computer Systems"). Supplier will comply with Qwest's system, security and network requirements in connection with the Computer Systems as they may be revised from time to time. Supplier and all of Supplier's employees, agents and Subcontractors that will be using the Computer Systems (collectively, "Authorized Users") shall be appropriately trained in the Computer Systems in accordance with Qwest's requirements.

11.2 Providing Computer Equipment.

Supplier shall be solely responsible for providing and maintaining all hardware, software, electrical and other physical requirements for Supplier's and its Authorized Users' use of the Computer Systems, including, without limitation, telecommunications and digital transmission connections and links, routers, local area network servers, virus software, firewalls, or other equipment and services required to access and use the Computer Systems. Supplier shall ensure that all such items are compatible with the Computer Systems. Supplier shall be solely responsible for the security, confidentiality and integrity of all messages and content Supplier or any Authorized User receives, transmits through or stores on, through or via the Computer Systems.

11.3 Security of Systems; No Service Levels.

Supplier agrees to bear all responsibility for the confidentiality of any account or password issued to Supplier or any Authorized User by Qwest and all use of such account or password. Supplier shall notify Qwest immediately of any suspected misuse or unauthorized access to the Computer Systems, and other Qwest computer system or any password. Qwest does not guarantee any service level with respect to the Computer Systems. Qwest does not guarantee any specific level of service with respect to data connectivity from Supplier's site to Qwest used by Supplier to access the Computer Systems. Connection options exist, but they are the sole responsibility of Supplier. Qwest makes no representation or warranty that use of the Computer Systems will not cause Supplier or any Authorized User to experience a virus or other harmful feature.

11.4 No License.

These Terms do not grant to Supplier or any Authorized User any license or assignment of a right, title or interest in the Computer Systems or any other computer system of Qwest. The copying, redistribution, reselling or publication of any part of the Computer Systems without the prior written consent of Qwest is prohibited.

11.5 Termination of Use.

Upon expiration or termination of the Order for any reason, Supplier and all Authorized Users immediately shall cease access to and use of the Computer Systems and shall, at Qwest's option, destroy or return to Qwest all copies of any software or other materials related to the Computer Systems in Supplier's or any Authorized User's possession.

11.6 Representations and Warranties.

Supplier represents and warrants that neither it nor any Authorized User shall:

- (a) Access or attempt to access any part of any Qwest network or computer for which Supplier has not been granted authorized access;
- (b) Undermine or circumvent any Qwest security device, procedure or access restriction within the Computer Systems or any other system via the Computer Systems;
- (c) Use the Computer Systems to copy, send, receive, print, display or otherwise disseminate data that contains or includes confidential, trade secret or proprietary information of Qwest or its customers without authorization or to any person or entity who is not pre-authorized by Qwest in writing to receive such data;
- (d) Install or use any encryption algorithm or software program in connection with the Computer Systems if such algorithm or software program is not authorized by Qwest, or encrypt or encode data without the express permission of Qwest and without taking precautionary measures to ensure that Qwest: (i) has copies of all encryption software used and the specific code, key, password and seed used to encrypt the data; and (ii) will be able to access the encrypted or encoded data;
- (e) Service, alter, modify or tamper with the Computer Systems or permit any other person to do so;
- (f) Disaggregate, make deletions from, reverse engineer, decompile, adapt, edit or modify the Computer Systems in any manner; or
- (g) Disable, disrupt or impair the functioning of the Computer Systems.

11.7 Indemnification for Breach.

Any breach of this Section 11 (Computer Systems) shall be deemed a breach of the Order. All information received by Supplier or any Authorized User via the Computer Systems shall constitute Confidential Information. Supplier shall be responsible for any damages to Qwest and shall indemnify and defend Qwest in accordance with the "Indemnification" section of these Terms upon any breach of this section or any unauthorized access to, or misuse of, any information obtained through Supplier's access to, the Computer Systems or any other Qwest system or network.

12. SURVIVAL:

The provisions of these A&E Specific Terms and Conditions regarding "Additional Warranties," "Additional Indemnification Obligations of Supplier" and all others that by their sense and context are intended to survive the expiration of the Order will survive.