

February 7, 2018  
Our File: 2321-90965-00

Ms. Lory Wiedeman, CAO (cao@queencharlotte.ca)  
Village of Queen Charlotte  
903A Ocean view Drive V0T1S0, PO Box 580

## **Proposed Sewer Treatment Facility, District Lot 18, Geotechnical Engineering Services, Village of Queen Charlotte, BC**

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### Introduction

McElhanney Consulting Services Ltd. (McElhanney) is pleased to submit this proposal to the Village of Queen Charlotte (VQC) to provide geotechnical engineering services to assess the suitability of the DL 18 for the proposed sewer treatment facility and possible subdivision development in VQC. The site is located within the VQC boundaries, at the southeast corner of the Graham Island, off the northwest coast of British Columbia.

### Proposed Development

It is McElhanney understanding that the VQC is proposing to construct of a sewer treatment plant, capable of supporting the majority of the municipality, including Skidegate Landing. A high level geotechnical assessment of the proposed land usage feasibility is required for further public referendum approval.

DL 18 is located at 4603 Martynuik Road. This approximately 78-acre property would become the site of a sewer treatment plant, with a potential subdivision for future housing development.

McElhanney is at present completing the construction of the sewage treatment plant in The Nisga'a Village of Gingolx at the mouth of the Nass River. As such McElhanney is well positioned to provide guidance for design, construction and costing for such projects located within northwest BC.

### Geotechnical Scope of Work

#### 1. Preliminary Geotechnical Assessment

McElhanney recommends a preliminary site assessment to refine location for roads, pipelines, utility corridors and effluent treatment facilities. Information from the assessment will be used by design team members to prepare preliminary drawings of the proposed facility. McElhanney proposes the following geotechnical scope of work and methodology based on our understanding of the project requirements.

- Complete a site-specific Health & Safety Plan for field work by McElhanney personnel.
- A desktop review of existing public data including surficial geology, bedrock, aerial imagery, water resources, seismic hazard, GIS, etc.



- Perform a high-level field assessment of DL 18 to identify the geotechnical site conditions that could affect the design and construction of the proposed development.
- Prepare a Geotechnical Assessment Memorandum summarizing the findings of the field assessment, and providing geotechnical comments relating to the proposed development, including:
  - Project description;
  - Summary of project background information; Desktop review including reports by others (if available) and publicly available information;
  - Results of the site reconnaissance including ground conditions, surficial soils, and bedrock, natural drainage, among others.
  - Discussion of the proposed development and expected conditions including:
    - Suitability of the District Lot 18 for the proposed developments;
    - Surface and anticipated subsurface materials based on surficial observations and geology mapping;
    - Excavation slopes and stability;
    - Foundation types and drainage;
    - Access roads;
    - Recommendations for further study if required.

The VQC requested McElhanney to estimate in relative terms the potential future phases of work required for the project. At present the treatment facility, support utilities, and access roads have not been designed. Thus, the following tasks should be considered preliminary and subject to change based on the results of the preliminary assessment and discussions with the design team.

## 2. Geotechnical Test Pit Assessment for Facility Development

Once the proposed development plan, including preliminary road, utility corridor and treatment facility layout is complete, McElhanney recommends a geotechnical test pit program be completed to confirm the subsurface conditions for detailed design. The expected soil conditions are shallow surficial soils over bedrock. For feasibility to the project test pits can be completed as preliminary road construction and access is created. Based on our experience the following would likely be required. We have allowed for 2 days of test pitting and associated reporting.

- Perform a test pit investigation to assess the subsurface conditions and identify the geotechnical site conditions that could affect the design and construction of the proposed development.
- Prepare a Geotechnical Assessment Memorandum summarizing the findings of the field assessment, and providing geotechnical comments relating to the proposed development, including:
  - Project description;
  - Site plan with test pit locations and test pit logs including soil and groundwater conditions;
  - Description of the test pit and laboratory results;
  - Discussion of the proposed development and expected subsurface conditions;
  - Geotechnical recommendations, including:



- Site preparation, temporary excavation slopes, engineered fill, and assessment of in-situ soils for re-use;
- Recommendations for access road construction;
- Site grading and drainage considerations;
- Cut slope angles;
- Detailed recommendations for excavation slopes and stability;
- Recommendations for shallow footings including bearing pressure, seepage/drainage consideration and lateral earth pressures;
- Site seismic classification;
- Recommendations for further study if required.

### 3. Geotechnical Input into Detailed Design

McElhanney expects that as design for the treatment facility progresses there may be a requirement for additional geotechnical assessment and input. As such we recommend an allowance for discussion and meetings. We have allowed for one teleconference meeting of 2 hours per week for a 5-week design period.

### 4. Construction Geotechnical Review

McElhanney expects that geotechnical review during construction will be required. Review could include some or all of the following:

- Subgrade review;
- Cut slope review;
- Blasting design review;
- Rock cut stability review

Materials testing such as concrete, soil compaction and gradation are not included in the above cost estimate. It may be possible to combine materials testing quality assurance work with some of the geotechnical engineering review. Construction materials testing will likely require significant equipment and time on site. Details can be refined once the design and construction are known.

### 5. Client Requirements

It is assumed that the following will be provided by the Client through the course of the assessment:

- Available site plans of the proposed development, including topographic survey, in digital format.
- Site access, permissions, and permits required to carry out the work.



## 6. Geotechnical Fee Estimate

Task	Cost Estimate
Preliminary Geotechnical Field Assessment (1 day on site)	\$11,000
Geotechnical Test Pit Assessment (2 days on site)	\$23,000
Geotechnical Review of Detailed Design (2 hours per week for 5 weeks)	\$3,000
Construction Geotechnical Review (1 day every two weeks for a 6 month construction period)	\$32,000
<b>Geotechnical Total</b>	<b>\$69,000</b>

McElhanney recommends revising this cost estimate as the project progresses and with input from the civil and structural facility designers. The construction cost estimate in particular should be revised after design is completed.

McElhanney offers these services on a time and materials basis at 2018 Standard Rates, rates can be provided upon request. Please note that taxes, if applicable, are not included in the above costs, and would be added at the time of invoicing. McElhanney would undertake the work by McElhanney's Full Terms and Conditions attached to this proposal, which describes our limitations of liability. The estimated costs would not be exceeded by more than 10% without prior client approval.

### Schedule

McElhanney can commence the geotechnical assessment upon receiving a signed copy of McElhanney's proposal. Field geotechnical assessment may be scheduled one week after project initialization. A draft geotechnical memorandum can be available two weeks following completion of the field assessment.

### Exclusions

- Cost for equipment to excavate test pits. We assume the client will provide suitable local equipment.
- Utility clearance with third-party locator
- Standby costs incurred due to unforeseen circumstances (such as changes in weather, work conditions, or land access issues) have not been accounted for in our budget estimate. Additional costs due to standby will be charged accordingly.

Subject to Client review and comment on the above assumptions and exclusions, McElhanney is prepared to update the proposal submission, if desired.



## Closure

This proposal is considered preliminary at present. Once the project progresses, McElhanney must be contacted to verify if the costs and/or scope will require adjustment.

We thank you for the opportunity of presenting this proposal (the "Proposal") and hope to have the pleasure of working with you on this project. The attached Full Terms & Conditions form an integral part of this proposal, which contains terms describing McElhanney's liability and insurance coverage. If you wish McElhanney to proceed with the assignment, please indicate your acceptance by signing below and returning a copy of the signed proposal to us.

If you require further information, have any questions or require adjustment of the scope of work presented in this proposal, please contact the undersigned.

Sincerely,

**McElhanney Consulting Services Ltd.**

Ben Singleton-Polster, P.Eng.  
Geotechnical Engineer  
[BSingleton-Polster@mcelhanney.com](mailto:BSingleton-Polster@mcelhanney.com)

Shiloh Carlson, P. Eng  
Senior Geotechnical Engineer  
[edavidson@mcelhanney.com](mailto:edavidson@mcelhanney.com)

**Client Acceptance:** Village of Queen Charlotte (the "Client") acknowledges and agrees that by signing this Proposal, or upon the commencement of any services to be provided by McElhanney under the Proposal, the Client is acknowledging that it has read, understood and accepted this proposal and the attached McElhanney Full Terms & Conditions.

Village of Queen Charlotte

Per: \_\_\_\_\_

Date: \_\_\_\_\_

Authorized Signatory

### Attachments:

McElhanney Full Terms and Conditions



McElhanney and the client (the "Client") named in the attached proposal (the "Proposal") agree that any services to be provided by McElhanney to the Client with respect to the project described in the Proposal (the "Project"), regardless of when such services commenced, shall be performed in accordance with the Proposal and the following terms and conditions (collectively, the "Agreement"). By signing the Proposal, or upon the commencement of any services to be provided by McElhanney pursuant to the Proposal, the Client is acknowledging that it has read, understood and accepted these TERMS AND CONDITIONS INCLUDING THE LIMITATIONS OF LIABILITY CONTAINED HEREIN.

1. **Scope of Services.** McElhanney shall perform the work and services set forth in the Proposal, including any services performed prior to the date of this Agreement, subsequent changes to such services, or additional services related to the Proposal or the Project, that McElhanney agrees to perform for the Client (collectively, the "Services").

2. **Standard of Care.** McElhanney will perform the Services with the degree of care, skill and diligence as would reasonably be expected from a qualified member of the land surveying, engineering and science professions, as the case may be, providing similar services for similar projects, and under similar circumstances, to those contemplated by this Agreement at the time the Services are performed. No other warranty or guarantee expressed, implied or statutory is made or intended by this Agreement.

3. **Changes and Additional Services.** The Client may request a modification to the Services or request services in addition to the Services (collectively, "Changes"), and McElhanney may, but is not required to, perform such Changes. McElhanney and the Client agree that, unless otherwise agreed upon by the parties, the fees for any Changes will be rendered on a time and materials basis based on McElhanney's current rate schedule, in addition to any budget or lump sum amount provided for the Services, and an equitable adjustment will be made to the work schedule, as required. McElhanney may take instructions from the Client's representative, or any other agent authorized by the Client, with respect to Changes. If, during the course of performance of the Services, conditions or circumstances are discovered which were not contemplated by McElhanney at the commencement of this Agreement, McElhanney shall notify the Client of any newly discovered conditions or circumstances and their impact on this Agreement. The Client and McElhanney agree to negotiate in good faith any changes to the price, terms and conditions, or schedule of this Agreement as a result of such conditions or circumstances.

4. **Invoices and Payment.** The Client shall pay to McElhanney the fees for the Services described in the Proposal, or in the absence of specified consideration, on a time and materials basis in accordance with McElhanney's schedule of rates in effect at the time that the Services were performed. Unless otherwise set forth in the Proposal, McElhanney's invoices will be rendered monthly, with a final invoice on completion of Services, and shall be due and payable within 30 days of the date of invoice. The Client will, in addition to the fees, pay to McElhanney all taxes that are required to be paid or collected by McElhanney on or in respect of the Services. Unless otherwise set forth in the Proposal, the Client will also pay all charges for disbursements incurred on the Client's behalf as part of the Services, at cost plus 15%. Such expenses include, without limitation, all costs for rented equipment, document reproduction, communications, subconsultants and contractors. The Client hereby authorizes McElhanney to request and receive credit information related to the Client without further notice. If McElhanney is not able to obtain a current satisfactory credit report on the Client, McElhanney shall have the right to forthwith terminate the Services.

5. **Retainer.** Where a deposit or retainer amount is specified in the Proposal, the Client shall pay such retainer to McElhanney prior to McElhanney commencing the Services. McElhanney will hold the retainer in trust, without interest accruing thereon, and such retainer shall be applied by McElhanney in satisfaction of the final invoice rendered by McElhanney to the Client relating to the Services.

6. **Overdue Accounts.** The Client agrees to pay interest on any past due invoices, which shall accrue at a rate of 19.6% per annum (1.5% per month), together with all legal fees and other collection costs incurred by McElhanney in pursuit of past due payments. The Client agrees that payments made by the Client will be applied firstly against accumulated interest, if any, and secondly against principal. All invoices are payable in full when due and, regardless of any claim or potential claim advanced by the Client or a third party, the Client has no rights of set-off as against any invoices for fees and disbursements owed by the Client to McElhanney for the Services. In the event the Client neglects to pay or withholds any fees or payment owed to McElhanney, the Client acknowledges that McElhanney is entitled to curtail, terminate or suspend the Services at its sole discretion, including, without limitation, withdrawing necessary certifications, letters of assurance, drawings or documents related to the Project, unless and until the Client has made full payment to McElhanney of outstanding amounts and accrued interest.

7. **Insurance.** McElhanney carries and shall maintain worker's compensation insurance, commercial general liability insurance, professional liability insurance and automobile liability insurance, with limits that McElhanney deems prudent and appropriate for the Services. Insurance certificates evidencing such policies can be provided by McElhanney to the Client upon request.

8. **Limitation of Liability.** THIS SECTION CONTAINS THE LIMITATIONS UPON ANY LIABILITY THAT MAY BE IMPOSED IN LAW UPON McELHANNEY ARISING FROM ANY AND ALL SERVICES McELHANNEY MAY PROVIDE TO THE CLIENT, INCLUDING SERVICES ADDITIONAL TO THE SERVICES SET FORTH HEREIN:

a. The Client acknowledges and agrees that the total aggregate liability of any and all claims that the Client may have against McElhanney, its professional staff, employees, directors, officers, shareholders, agents, consultants and subcontractors, whether in contract, negligence or otherwise known to law, arising out of all services provided to the Client by McElhanney (referred to in this section 8 as a "claim" or "claims") shall be limited to the lesser of two times McElhanney's total fees for the Services provided under this Agreement and \$100,000. If this limit of liability is insufficient for the Client's purposes, McElhanney can discuss a different limit with the Client that may result in a higher fee for the Services.

b. The Client expressly agrees not to bring any proceedings in any court of any jurisdiction advancing any claim against McElhanney's individual professional staff, employees, directors, officers or shareholders, or against any company that is an affiliate (as defined in the BC *Business Corporations Act*), parent or subsidiary of McElhanney.

c. The Client expressly agrees that any liability that McElhanney may have to the Client shall not be joint and several with any other party, but



shall be several, and limited to the percentage or degree of McElhanney's fault in proportion to the fault or wrongdoing of all persons who contributed to the loss.

d. To the greatest extent permitted by law, the Client agrees that McElhanney's liability for any and all claims the Client may have or bring in connection with any services rendered arising out of or ancillary to this Agreement shall absolutely cease to exist after a period of two (2) years from the earlier of a) substantial performance of the Services; b) suspension or abandonment of this engagement; and c) termination of the Services, whichever shall occur first, regardless of whether the Client was aware of the potential for making a claim against McElhanney within such period. Following the expiration of such period, the Client agrees that it shall have no claim whatsoever, nor bring any proceeding, against McElhanney.

e. Notwithstanding the foregoing provisions, McElhanney shall not be liable to the Client for any incidental, indirect, consequential, punitive or special damages, including without limitation, loss of revenue or profits, business interruption, loss of property use, loss of business opportunities, increased operating costs or increased financing costs, arising out of or connected in any way to the Project or this Agreement, even if specifically informed of the possibility thereof.

f. If McElhanney retains independent contractors or subconsultants required to perform any of the Services, the Client expressly agrees that such independent contractors or subconsultants are retained for and on behalf of the Client and that McElhanney shall have no liability for any breach of contract, tort and/or any other cause of action at law or in equity caused or contributed to by such independent contractor or subconsultant. As such independent contractors or subconsultants (including, without limitation, drilling, excavation and laboratory services) are retained for the Client's benefit, the Client agrees to indemnify and hold McElhanney harmless from and against all claims arising through such retainers to the extent that the Client would incur had it retained such services directly.

9. **Project Information.** The Client shall make available to McElhanney all relevant information or data in the Client's possession or control reasonably required or requested by McElhanney to plan or carry out the Services. McElhanney shall be entitled to rely upon the accuracy and completeness of such information furnished by the Client, the Client's agents, contractors, suppliers and other consultants. To the extent the Client knows or suspects that hazardous materials may exist at the Project site, the Client warrants that it has so informed McElhanney.

10. **Permits and Access.** Unless otherwise set forth in the Proposal, the Client shall obtain all required approvals, licenses and permits from authorities having jurisdiction. The Client agrees that it shall make all necessary arrangements for right of entry to provide McElhanney with access for equipment and personnel to public and private properties as necessary for McElhanney to perform the Services at no cost to McElhanney.

11. **Safety and Emergencies.** McElhanney shall be responsible only for its activities and that of its employees and nothing shall imply that McElhanney has any responsibility for job site safety or the supervision of others at the job site, which activities are the responsibility of the Client or its contractors. Any circumstance which, in McElhanney's sole opinion, is an emergency requiring immediate action, McElhanney will have the authority to issue any order and take any steps on behalf of and at the expense of the Client, as McElhanney deems necessary or desirable.

12. **Estimates.** The Client acknowledges and agrees that any cost and duration estimates provided by McElhanney with respect to the Project or the Services are estimates based on McElhanney's experience but that actual costs and schedules are subject to change and are contingent upon factors over which McElhanney has no control. The Client acknowledges that schedules, costs, bids and negotiated prices may vary from any time, budget or construction cost estimates provided by McElhanney, and therefore McElhanney cannot and does not guarantee or warrant the accuracy of such estimates, and the Client expressly releases McElhanney from any liability related thereto.

13. **Delays.** In the event McElhanney's Services are interrupted due to any event of force majeure including, without limitation, any act of God, inclement weather, war, riot, labour dispute, change in law, government order, terrorism, civil unrest, flood, strike, fire or any cause beyond the control of McElhanney (except financial inability), or by unexpected site conditions, suspensions or delays caused by the Client or other contractors, McElhanney shall not be in breach of this Agreement or responsible for damages caused by such delay or failure to perform in full or in part its obligations hereunder as a result. In such an event, McElhanney shall also be entitled to an equitable adjustment of this Agreement, which may include an increase in price, extension of time or other equitable relief as is reasonable and appropriate. In the event the Client suspends the Services, McElhanney shall be compensated for Services performed to the date of suspension and, based on McElhanney's current fee schedule, for the additional labour or other charges associated with maintaining its work force for the Client's benefit during the suspension, or at the option of the Client, for charges incurred by McElhanney for demobilization and subsequent remobilization.

14. **Work Product and Deliverables.** McElhanney will retain ownership of all work product and deliverables produced by or on behalf of McElhanney, including all copyright and intellectual property rights thereto. McElhanney grants to the Client a royalty-free, non-transferable, non-exclusive license to use such work product and deliverables for the purpose for which they were intended for the life of the Project, and for no other purposes or project. All work product and deliverables prepared by or on behalf of McElhanney are for the sole use of the Client, and only for the specific intended purpose agreed to by McElhanney. McElhanney shall have no liability for any consequences resulting from the unauthorized use of the work product and deliverables, any changes made to same without McElhanney's consent, or resulting from the use thereof or reliance thereon by a third party without McElhanney's prior written consent.

15. **Confidential Information.** The parties agree to treat as confidential all information, concepts, ideas, business data, models, technical processes and data (the "Confidential Information") which either party obtains from the other. McElhanney may disclose the Confidential Information to third parties that need to know such Confidential Information in order to perform the Services. Confidential Information shall not include information which is in the public domain, or was already in the receiving party's knowledge or possession, or became available to the receiving party from a third party who did not acquire such Confidential Information under an obligation of confidentiality either directly or indirectly from the disclosing party. The provisions of this section shall survive the termination of this Agreement.



16. **Field Services.** Where applicable, the provision of field reviews or field services for the Project will be necessary to reasonably determine that construction is being undertaken in general conformance with McElhanney's design and recommendations. The Client expressly acknowledges that such field reviews comprise a random sampling of the construction, and that unless McElhanney has been engaged on a full-time basis to supervise the construction or otherwise ensure 100% conformance with the design, McElhanney shall not be liable for any loss arising from any defects or deficiencies in the construction that would not have been obvious to a reasonable and prudent professional carrying out such field reviews on the same basis. The Client acknowledges that the Services do not include supervision or direction of the means, methods or actual work of any contractor engaged on the Project and that McElhanney's presence in the field shall not relieve such contractor of its responsibilities in the performance of any work. McElhanney shall not be liable for the acts or omissions of the Client, other subcontractors of the Client, or any other person performing any of the construction, or for the failure of any of them to carry out the construction in accordance with applicable contracts, final plans and specifications, including without limitation, the implementation of detours and traffic management plans, such liabilities and responsibilities resting solely with the Client or parties other than McElhanney. The Client agrees to indemnify and hold McElhanney harmless from and against any and all losses, expenses, claims, demands and causes of action asserted against McElhanney by any person (including without limitation, the Client's and McElhanney's employees; the Client's subcontractors, consultants and agents; employees of such subcontractors, consultants and agents; or any third party) for injury to persons, including death, or for loss of or damage to property, loss of use of property, or failure of the completed work to perform as required by this Agreement, arising out of the construction of the Project, including any construction services which were provided or should have been provided by the Client or the Client's contractors for the construction of the Project.

17. **Subsurface Risks.** Special risks occur whenever engineering or related disciplines are applied to identify subsurface conditions. Even a comprehensive sampling and testing program implemented in accordance with an appropriate standard of care may fail to detect certain conditions. The environmental, geological, geotechnical, geochemical and hydrogeological conditions that McElhanney interprets to exist between sampling points may differ from those that actually exist. Furthermore, the Client recognizes that passage of time, natural occurrences, and direct or indirect human intervention at or near the site may substantially alter discovered conditions. In the performance of the Services, McElhanney will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities. The Client agrees to defend, indemnify and hold McElhanney harmless for any damage to subterranean structures or utilities and for any impact that such damage may cause, except to the extent such damage is caused by McElhanney's negligence. Subsurface sampling may result in unavoidable contamination of certain subsurface areas not known to be previously contaminated such as, but not limited to, a geologic formation, the groundwater or other hydrous body. McElhanney will adhere to an appropriate standard of care during the conduct of any subsurface investigation. Because subsurface sampling is a necessary aspect of the work which McElhanney may perform on the Client's behalf, the Client waives any claim against McElhanney, and agrees to defend, indemnify and hold McElhanney harmless from any claim or liability for injury or loss which may arise as a result of alleged cross-contamination

caused by any subsurface investigation. The Client further agrees to compensate McElhanney for any time spent or expenses incurred by McElhanney in defence of any such claim, in accordance with our prevailing fee schedule and expense reimbursement policy.

18. **Underground Utilities.** Unless otherwise agreed to in writing, the Client shall also provide McElhanney with the location of all underground utilities and structures in the vicinity of the work area. McElhanney may rely upon the Client's or other third party sources in order to determine the existence and approximate location of any underground structures and utilities of any kind. The Client acknowledges that McElhanney is not responsible for the accuracy or completeness of information provided by the Client or other third parties, and agrees to indemnify and hold McElhanney harmless from any damage or any consequential damages done to the property, any subsurface structures or utilities as a result of the reliance upon, and any inaccuracies or errors in, the information provided by the Client and/or third parties. While McElhanney will take reasonable precautions to minimize any damage to the property resulting from McElhanney's access or performance of the Services, the Client acknowledges that in the normal course of work, some surface damage may occur, but unless expressly stated otherwise, McElhanney will not be liable for the cost of any damage or resulting restoration, which is not part of the Services.

19. **Independent Judgments.** The information, interpretations and conclusions in any report prepared by McElhanney are based on McElhanney's interpretation of conditions revealed through limited investigations conducted within a defined scope of services. McElhanney shall not undertake any Services which would result in any recommendations, advice or direction by McElhanney as to whether the Client should or should not proceed to purchase or sell the site in question, but it is understood that the Client intends to utilize the data provided by McElhanney to make its own independent judgment in this respect. McElhanney will not be responsible for the independent conclusions, interpretations, interpolations and/or decisions of the Client, or others, who may come into possession of any report prepared by McElhanney, or any part thereof, which may be based on information contained in any report prepared by McElhanney. This restriction of liability includes decisions made to either purchase or sell land.

20. **Environmental Issues and Disposal of Hazardous Materials and Contaminated Materials.** McElhanney's field investigation, laboratory, air or field testing, engineering, and other consulting services do not address or evaluate contamination of soil, surface or subsurface groundwater unless environmental evaluation of air, soil and groundwater are specifically identified in the Services. All uncontaminated samples obtained by McElhanney in performance of the Services shall remain the property and responsibility of the Client and will be disposed of 30 days following submission of any report to the Client. Upon written request, McElhanney will store samples for a longer period of time or will deliver the samples to the Client for an appropriate charge. All contaminated or potentially contaminated samples and materials, contaminated water, and/or other wastes obtained by McElhanney in the performance of the Services shall remain the Client's property and responsibility. McElhanney may directly provide any contaminated materials, samples, and/or equipment to a licensed hazardous waste disposal facility at the Client's expense. The Client agrees to indemnify and hold McElhanney harmless from and against all loss, damage, expense and claims arising out of the



disposal of all such samples, materials and equipment. If hazardous materials or suspected hazardous materials are discovered on the subject site or any property adjacent to the subject site, the Client agrees that it will be its responsibility to notify the owner of any such affected property of such discovery. The Client waives any claim against McElhanney and agrees to defend, indemnify and hold McElhanney harmless from any claim or liability for the injury or loss of any type arising from the discovery of hazardous materials or suspected hazardous materials on any property, even if such property is not owned by the Client. The Client acknowledges that the discovery of unanticipated hazardous materials shall constitute a change to the Services for which McElhanney may claim further compensation.

21. **Termination.** In addition to any termination rights by McElhanney provided for herein, either party shall be entitled to terminate this Agreement on thirty days prior written notice to the other. If this Agreement is terminated, the Client shall forthwith pay McElhanney for all Services performed to the date of such termination, including all expenses and other charges payable that are associated with obligations incurred by McElhanney for the Project and all reasonable costs of demobilization. The work product and deliverable ownership, intellectual property, confidentiality, payment, limitation of liability, and indemnity obligations contained in this Agreement shall remain binding notwithstanding any termination of this Agreement.

22. **Notices.** All notices required or permitted to be given hereunder shall be deemed to be provided on the date that such notice is delivered by hand, courier or emailed to the receiving party at the respective address set forth in the Proposal.

23. **Disputes.** Any dispute arising under this Agreement shall first be resolved by taking the following steps. A successive step shall be taken if the issue is not resolved at the preceding step: 1) by the technical and contractual personnel for each party, 2) by executive management of each party, 3) by mediation, the mediator to be appointed by agreement of the parties, 4) by arbitration, if both parties agree, with the arbitration to take place in the Province where the contracting branch of McElhanney is located, with the arbitrator to be appointed by agreement of the parties, or 5) through the court system in the Province where the contracting branch of McElhanney is located.

24. **General.** This Agreement represents the entire agreement between the parties with respect to the Services and supercedes all prior negotiations, representations, understandings or agreements, whether written or oral, between the parties. These terms and conditions shall be applicable, irrespective of any other terms and conditions which may be contained in any document issued by the Client in connection with the performance of the Services, including without limitation, any purchase order, field ticket, or any other form of contract, whether specific reference is made to this Agreement or not. The Client may not assign this Agreement except with the prior written consent of McElhanney, which consent shall not be unreasonably withheld. This Agreement shall be governed by the laws of the Province or Territory in which McElhanney's contracting office is located. Neither McElhanney nor the Client will, in relation to the Services, be deemed to be the employee, agent, partner or co-venturer of the other and neither will hold themselves out as such. No waiver by either party hereto of any breach of any of the covenants contained herein shall take effect or be binding upon that party unless the same is expressed in writing and any such waiver will relate only to the GA-1087 (2013/11)

specific identified breach and not any future breach(es). The invalidity of any provision or unenforceability thereof shall not affect the validity or enforceability of any other provisions hereof.