



## Standard Terms and Conditions (Engineering)

The following terms and conditions apply to all work performed by the company ("VPI"), unless specifically exempted, in writing, by an authorized representative of VPI.

1. **CONSTRUCTION.** By requesting services described herein, the client ("Client") acknowledges it is transacting with VPI, at its principal places of business in the State of Utah.
2. **OFFER; AGREEMENT; ACCEPTANCE.** The terms and conditions outlined herein together with any associated definition of work from VPI for such Services constitutes an offer by VPI to perform Services and constitutes the entire agreement ("Agreement"). Client's ordering of any such Services constitutes Client's acceptance. VPI may withdraw its offer at any time prior to Client's acceptance. Notice is hereby given, and Client acknowledges, that different or additional terms in Client's order will be considered material alterations of this Agreement and are expressly rejected, unless such have written approval of an authorized VPI representative.
3. **SERVICES.**
  - 3.1. **GENERAL.** The Agreement governs all services provided by VPI as desired by the Client and as may be outlined in a definition of work (collectively the "Services"). Services are provided and VPI will invoice on a time and materials (T&M) basis including labor, expenses, and other fees as identified in a definition of work unless otherwise agreed by both parties.
  - 3.2. **SCHEDULE.** VPI will make all reasonable efforts to meet the expected schedule provided in a definition of work, if any. However, any schedule provided is an estimate only, to be used solely for guidance, is not to be considered binding in any way, and begins once all needed information for the Services has been provided by Client to VPI.
4. **PRICE TERMS.** All prices quoted by VPI are stated in U.S. dollars, and are valid for sixty (60) days unless otherwise specified therein. Prices and related quotes are based on specifications and other information provided to VPI by Client. VPI reserves the right to adjust any quoted price based on changes in requirements provided by Client. In the event that VPI issues conflicting oral and written quotes, the written quote will supersede.
5. **PAYMENTS**
  - 5.1. **PAYMENT TERMS.** From time to time, VPI will issue an invoice to Client for the Services provided including any Other Expenses and Advance Payments ("Invoice"). Invoices will specify the payment terms for that Invoice. Any amount that is not paid when due will accrue interest at a rate of one and fifty hundredths percent (1.50%) per month until payment is received in full. VPI has the right to suspend all Services to the Client upon Client's failure to pay any amount due. All payments are to be made to VPI at the address provided by VPI to Client. Client shall pay all expenses incurred for collection of past due amounts including reasonable attorneys' and paralegals' fees, costs, and expenses.
  - 5.2. **OTHER EXPENSES.** Client shall pay VPI for all direct expenses incurred by VPI in connection with the Services, including all shipping, delivery, messenger, materials, travel costs, and any other expenses that are not considered normal operating expenses and are specific to meeting the Client's needs (collectively the "Expenses"). VPI may require Client to pay any unusual or extraordinary Expenses directly.
  - 5.3. **ADVANCE PAYMENTS.** VPI may require Client to pay an advance payment or retainer for Services to be rendered. This payment is to be received prior to the start of such Services. VPI may request that the retainer be replenished and may stop performing the Services until such retainer is replenished. Any amount that is unused is refundable upon completion of all work related to the Agreement.
6. **INTELLECTUAL PROPERTY**
  - 6.1. **PROJECT INFORMATION.** All reports, designs, information, inventions, discoveries, and materials ("Project Information") developed for Client by VPI will be the property of VPI until the completion or termination of the Services and payment in full of all amounts due to VPI, at which time all Project Information will become property of Client. In the event that all Fees and Expenses due to VPI from Client are not paid within one-hundred twenty (120) days following completion of the Services or termination of this Agreement and Client's receipt of a final Invoice, VPI will have no obligation to transfer ownership of the Project Information to Client. Following completion or termination of the Services and payment by Client of all amounts due to VPI, VPI shall deliver to Client all Project Information, data, drawings, specifications, reports, estimates, summaries, and other information and materials that were created or obtained by VPI in performing the Services. VPI has the right to retain for its records copies of all such Project Information, data, drawings, specifications, reports, estimates, summaries, and other information and materials.
  - 6.2. **PATENT, TRADEMARK, AND COPYRIGHT.** At Client's sole cost and expense including VPI's time at applicable hourly rates, any attorneys' fees, and all expenses, VPI will perform all lawful and necessary acts, including signing patent, trademark, and copyright applications and assignments, to perfect Client's property rights in Project Information.
7. **HAZARDOUS MATERIALS.** All hazardous materials to be submitted to VPI for Services must be pre-approved by VPI and must be accompanied by a Material Safety Data Sheet or similar safety information. VPI will add a handling fee for Services performed on or with hazardous materials. In the event VPI incurs costs in connection with the disposal of any hazardous materials, such costs will be invoiced to the Client. In the event any item shipped to VPI was, prior to shipping, used in any clinical or other similar setting wherein it was placed in contact with any organism or foreign contaminant or potentially exposed to any substance that may be considered dangerous to human health by any government authority, the packing for such item must clearly state so, and such item



must be accompanied by a certification from Client that such item has been cleaned, sterilized, and decontaminated and that no such contaminants remain on such item.

8. **GUARANTEE.** VPI guarantees to the Client that the Services provided will be in accordance with industry standards (the "Guarantee"). The Guarantee will not apply if the Client has breached any of the terms of this Agreement. The Guarantee is limited to redoing Services as necessary and appropriate. **THE GUARANTEE IS IN LIEU OF ANY AND ALL OTHER GUARANTEES AND WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** All Guarantee claims for Services rendered hereunder shall be deemed unconditionally waived by Client unless Client notifies VPI in writing of a claim within ninety (90) days after completion and delivery of any portion of the Services. VPI will not be liable for incidental, special, exemplary, consequential, or punitive damages; and VPI's liability under this Agreement will in no event exceed the amount of fees actually received by VPI for the specific Services rendered.
9. **DISCLAIMERS.** VPI makes no representations or warranties (1) regarding any actual or potential infringement of any invention, discovery, design, or product produced pursuant to the Services (collectively, the "Products") on any intellectual property or other rights of any person or entity, or (2) regarding any prior development or the current existence of any invention, discovery, design, or product similar to the Products. VPI expressly disclaims all liability and responsibility regarding (A) safety testing or warnings necessary or desirable in connection with any of the Products, and (B) compliance with any federal, state, or local laws with respect to the Products. VPI shall have no liability or responsibility to conduct any investigation or inquiry with respect to the foregoing; however, VPI shall disclose to the Client any infringements upon the rights or patents of others or violations of federal, state, or local laws of which (infringements or violations) VPI has actual knowledge.
10. **RELEASE/INDEMNIFICATION.** Client hereby releases and forever discharges VPI and shall indemnify, protect, defend, and hold VPI and its shareholders, directors, officers, employees, and agents harmless from and against any and all claims, actions, suits, proceedings, obligations, liabilities, orders, damages, costs, and expenses (including attorneys' and paralegals' fees and expenses) resulting from, arising out of, relating to, or in connection with (1) any violation or infringements upon the rights or patents, trademarks, trade designs, copyrights, or any other intellectual property rights of any individual or entity, or (2) any bodily injury or property damage with respect to the Services, provided, however, that the foregoing indemnity shall not apply in the event that such claims, actions, suits, proceedings, obligations, liabilities, orders, damages, costs, or expenses were caused by the gross negligence or willful misconduct of VPI in performing the Services. This release and indemnification will continue indefinitely following VPI's provision of the Services to the Client.
11. **DELIVERIES.** All deliveries from VPI to Client shall be F.O.B. shipping point, and title and risk of loss with respect to such deliveries will pass to Client at the shipping point.
12. **PERSONNEL.** Client acknowledges and agrees that VPI has invested significant time and resources in the recruitment and training of its employees. Therefore, to the extent permitted by law, Client agrees that while VPI is providing the Services and for a period of three years thereafter, Client will not directly or indirectly solicit or seek to employ any person who is or has been an employee of VPI at any time during the term of this agreement except with the written permission of VPI. In the event that Client breaches the foregoing restriction, Client will pay to VPI, as liquidated damages and not a penalty, within thirty (30) days of receipt of a notice of breach, a sum equal to three (3) times the employee's annual salary, bonuses, and any other compensation prior to the breach.
13. **WAIVER.** Any waiver by any party of its rights under this Agreement must be in writing and signed by the party waiving such right. The failure of either party to enforce any of the provisions of this Agreement or any rights in respect thereto, or to exercise any election herein provided, will not waive such provisions, rights, or elections or subsequent breaches thereof.
14. **FORCE MAJEURE.** VPI will not be liable for delays in or non-performance of the Services as a result of Strikes, lockouts, fires, acts of terrorism or war conditions, accidents, foreign or domestic government controls or other actions (including controls or actions related to heightened terrorism alert status), embargoes, or other causes beyond VPI's control.
15. **NOTICE.** Any notice, demand, request, or other communication permitted or required under these Terms and Conditions must be in writing and will be deemed to have been given as of the date so delivered, if personally served; as of the date so sent if transmitted by facsimile and receipt is confirmed by the facsimile operator of the recipient; as of the date so sent if sent by electronic mail and receipt is acknowledged by the recipient; one day after the date so sent if delivered by overnight courier service; or three days after the date so mailed if mailed by certified mail, return receipt requested, addressed to the company's main place of business or such other addresses, facsimile numbers, or electronic mail address as furnished in writing by any party in the manner for giving notices.
16. **GOVERNING LAW; ATTORNEY'S FEES AND COST.** The provision of the Services and all documents, instruments, and transactions in connection therewith will be governed and construed in accordance with the laws of the State of Utah, without regard to its principles of conflicts of laws. In the event of any dispute, action, or proceeding in connection with this Agreement, the Services or any documents, instruments, or transactions in connection therewith, the non-prevailing party shall pay all costs and expenses (including reasonable attorneys' and paralegals' fees and expenses and arbitration fees and expenses) incurred by the prevailing party in connection with such dispute, action, arbitration, or proceeding.
17. **ARBITRATION.** Any dispute arising out of this Agreement will be fully and finally settled first by mediation and, if unsuccessful within thirty (30) days of the commencement thereof, then by binding arbitration administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules. The arbitration will be heard and determined by one (1) Arbitrator appointed in accordance with said Rules, with the arbitration to take place at Salt Lake City, Utah, United States. All proceedings will be conducted in the English language.