First Choice Surveying, Inc.
GENERAL CONDITIONS

SECTION 1: RESPONSIBILITIES 1.1 *First Choice Surveying, Inc.*, and its subsidiaries and affiliated companies ("FCS"), is responsible for providing the services described under the Scope of Work, Appendix "A" in the incorporated Agreement. The term "FCS" as used herein includes all of FCS's agents, employees, professional staff, and subcontractors. **1.2** The Client or a duly authorized representative is responsible for providing FCS with a clear understanding of the project nature and scope. The Client shall supply FCS with sufficient and adequate information, including, but not limited to, maps, site plans, reports, prior surveys, plans and specifications, any applicable easements, and designs, to allow FCS to properly complete the specified services. The Client shall also communicate changes in the nature and scope of the project as soon as possible during performance of the work so that the changes can be incorporated into the work product. **1.3** The Client acknowledges that FCS's responsibilities in providing the services described under the Scope of Work in Appendix "A." is limited to those services described therein, and the Client hereby assumes any collateral or affiliated duties necessitated by or for those services. Such duties may include, but are not limited to, reporting requirements imposed by any third party such as federal, state, or local entities, the provision of any required notices to any third party, or the securing of necessary permits or permissions from any third parties required for FCS's provision of the services so described, unless otherwise agreed upon by both parties in writing.

SECTION 1: STANDARD OF CARE 1.1 Services performed by FCS under this Agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of FCS's profession practicing contemporaneously under similar conditions in the locality of the project. No other warranty, express or implied, is made. **1.2** Execution of this document by FCS is not a representation that FCS has visited the site, become generally familiar with local conditions under which the work is to be performed, performed any research with local governmental entities as to specific building or permitting requirements, or applicable easements, or correlated personal observations with the requirements of the Scope of Work in Appendix "A." It is the Client's responsibility to provide FCS with all information necessary for FCS to provide the services described under the Scope of Work in Appendix "A," and the Client assumes all liability for information not provided to FCS that may affect the quality or sufficiency of the services so described.

SECTION 2: SITE ACCESS AND CONDITIONS AFFECTING BOUNDARY LINES 2.1 Client will grant or obtain free access to the site for all equipment and personnel necessary for FCS to perform the work set forth in this Agreement. The Client will notify any possessors of the project site that Client has granted FCS free access to the site. FCS will take reasonable precautions to minimize damage to the site, but it is understood by Client that, in the normal course of work, some damage may occur, and the correction of such damage is not part of this Agreement unless so specified in the Scope of Work in Appendix "A." **2.2** The Client is responsible for providing any and all easements or other conditions that affect the legal boundary lines of the applicable property where FCS is performing surveying services. Client agrees to defend, indemnify, and hold FCS harmless from any claim or liability for injury or loss, including costs of defense, arising from damage resulting from FCS's work described in the Scope of Work in Appendix "A." In addition, Client agrees to compensate FCS for any time spent or expenses incurred by FCS in defense of any such claim with compensation to be based upon FCS's prevailing fee schedule and expense reimbursement policy.

SECTION 3: BILLING AND PAYMENT 3.1 FCS shall perform the Services for the amount described in the Agreement. (the "Fees") and shall be completed within approximately 15 business days receipt from (i) payment of the Fees and (ii) any other information necessary to commence the Services, weather permitting. **3.2** Payment of the Fees is due prior to the scheduling of, or the commencement of, performing of the Services. If FCS incurs any expenses to collect overdue billings on invoices, the sums paid by FCS for reasonable attorneys' fees, court costs, FCS's time, FCS's expenses, and interest will be due and owing by the Client.

SECTION 4: OWNERSHIP AND USE OF DOCUMENTS 4.1 All reports, field data, field notes, calculations, estimates, and other documents prepared by FCS, as instruments of service, shall remain the property of FCS. Neither Client nor any other entity shall change or modify FCS's instruments of service. **4.2** Client agrees that all reports and other work furnished to the Client or his agents, which are not paid for, will be returned upon demand and will not be used by the Client for any purpose. **4.3** FCS will retain all pertinent records relating to the services performed for a period of five years following submission of the report or completion of the Scope of Services, during which period the records will be made available to the Client in a reasonable time and manner. **4.4** All reports, field data, field notes, calculations, estimates, and other documents prepared by FCS, are prepared for the sole and exclusive use of Client, and may not be given to any other entity, or used or relied upon by any other entity, without the express written consent of FCS. Client is the only entity to which FCS owes any duty or duties, in contract or tort, pursuant to or under this Agreement.

SECTION 5: RISK ALLOCATION 5.1 Client agrees that FCS's liability for any damage on account of any breach of contract, error, omission, or professional negligence will be limited to a sum not to exceed $50,000 or FCS's fee, whichever is greater. **5.2** Client shall not be liable to FCS and FCS shall not be liable to Client for any incidental, special, or consequential damages (including lost profits, loss of use, and lost savings) incurred by either party due to the fault of the other, regardless of the nature of the fault, or whether it was committed by Client or FCS, their employees, agents, or subcontractors; or whether such liability arises in breach of contract or warranty, tort (including negligence), statutory, or any other cause of action. **5.3** As used in this Agreement, the terms "claim" or "claims" mean any claim in contract, tort, or statute alleging negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, or any other act giving rise to liability. **5.4** Client agrees to defend, indemnify and hold harmless FCS from any claims against FCS related to the services FCS provided at the property described in the Agreement and Scope of Work by any third party, including but not limited to the owner or a prospective owner of the property described in the Agreement and Scope of Work.

SECTION 6: INSURANCE 6.1 FCS represents it and its agents, staff and consultants employed by FCS, is and are protected by worker's compensation insurance and that FCS has such coverage under public liability and property damage insurance policies which FCS deems to be adequate. Certificates for all such policies of insurance shall be provided to Client upon request in writing. Within the limits and conditions of such insurance, FCS agrees to indemnify and save Client harmless from and against loss, damage, or liability arising from negligent acts by FCS, its agents, staff, and consultants employed by it. FCS shall not be responsible for any loss, damage or liability beyond the amounts, limits, and conditions of such insurance or the limits described in Section 7, whichever is less. The Client agrees to defend, indemnify, and save FCS harmless for loss, damage or liability arising from acts by Client, Client's agents, staff, and others employed by Client. **6.2** Under no circumstances will FCS indemnify Client from or for Client's own actions, negligence, or breaches of contract. **8.3** To the extent damages are covered by property insurance, Client and FCS waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance.

SECTION 7: DISPUTE RESOLUTION 7.1 All claims, disputes, and other matters in controversy between FCS and Client arising out of or in any way related to this Agreement will be submitted to mediation or non-binding arbitration, before and as a condition precedent to other remedies provided by law. **9.2** If a dispute arises and that dispute is not resolved by mediation or non-binding arbitration, then: (a) the claim will be brought in the state or federal courts having jurisdiction where the FCS office which provided the service is located; and (b) the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees, expert witness fees, and other claim related expenses.

SECTION 8: TERMINATION 8.1 This agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or in the case of a force majeure event such as terrorism, act of war, public health or other emergency. Such termination shall not be effective if such substantial failure or force majeure has been remedied before expiration of the period specified in the written notice. In the event of termination, FCS shall be paid for services performed to the termination notice date plus reasonable termination expenses. **8.2** In the event of termination, or suspension for more than three (3) months, prior to completion of all reports contemplated by the Agreement, FCS may complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed to the date of notice of

termination or suspension. The expense of termination or suspension shall include all direct costs of FCS in completing such analyses, records, and reports.

SECTION 9: ASSIGNS Neither Client nor FCS may delegate, assign, sublet, or transfer its duties or interest in this Agreement without the written consent of the other party.

SECTION 10: GOVERNING LAW AND SURVIVAL **10.1** This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction in which the FCS office performing the services hereunder is located. **10.2** In any of the provisions of this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired and will survive. Limitations of liability and indemnities will survive termination of this agreement for any cause.

SECTION 11: INTEGRATION CLAUSE **11.1** This Agreement represents and contains the entire and only agreement and understanding among the parties with respect to the subject matter of this Agreement, and supersedes any and all prior and contemporaneous oral and written agreements, understandings, representations, inducements, promises, warranties, and conditions among the parties. No agreement, understanding, representation, inducement, promise, warranty, or condition of any kind with respect to the subject matter of this Agreement shall be relied upon by the parties unless expressly incorporated herein. **11.2** This Agreement may not be amended or modified except by an agreement in writing signed by the party against whom the enforcement of any modification or amendment is sought.

SECTION 12: WAIVER OF JURY TRIAL Both Client and FCS waive trial by jury in any action arising out of or related to this Agreement.

SECTION 13: INDIVIDUAL LIABILTY PURSUANT TO FLORIDA STAT. 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF FCS MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.