



# KINGDOM

## S T R U C T U R A L

### **CONTRACT - GENERAL TERMS AND CONDITIONS**

#### 1. COMPENSATION AND PAYMENT

- a. Kingdom Structural LLC ("Consultant") compensation and rates for professional services on the project will be set forth in the contract with the Client. The Client agrees to pay those amounts as stated in the contract.
- b. If the scope of the project or professional services is changed materially, the amount of the Consultant's compensation and rates shall be equitably adjusted. If the project extends materially longer than the Consultant originally anticipated (other than because of Consultant's negligence or willful misconduct), the amount of the Consultant's compensation and rates shall be equitably adjusted. If the instruments of service provided under the contract are required to be transportation, travel, lodging, long distance calls and communications, fax charges, governmental fees and charges, copying, printing, reproduction, postage, courier services, delivery services, additional insurance coverage requested by the Client in excess of what the Consultant normally carries (provided the Client has approved the cost of such insurance), and other similar expenses relating to the project submitted to governmental entities and those entities change policies, procedures, rules, regulations, zoning, or laws relating to the project after the date of the contract, the Client shall pay the Consultant for any additional work that the Consultant must perform as a result of those changes pursuant to the applicable hourly rates.
- c. The Consultant can withhold instruments of service, suspend services, and/or terminate the contract if any invoice has not been paid within 30 days of the invoice date.
- d. If the project is suspended or terminated in whole or in part, the Consultant shall be compensated for all services performed and reimbursable expenses incurred prior to the Consultant's receipt of written notice of such suspension or termination. This includes all site visits, professional reviews, communications, and portions of construction documents in-progress.
- e. We may exercise the right to file a preliminary lien for the work authorized.

2. **SUSPENSION AND TERMINATION OF CONTRACT.** The contract may be suspended and/or terminated by any party on the grounds that the other party is in substantial breach of the contract. Among other potential breaches, the failure of the Client to make timely payments to the Consultant shall be considered a substantial breach of the contract. The party seeking to suspend or terminate the contract shall first give written notice to the other party specifying the alleged breach(es) and allow that other party seven days from the date of notice to cure the alleged breach(es). In the event of suspension or termination, the Client shall pay the Consultant for all services performed and reimbursable expenses incurred through the suspension or termination date, and any additional amounts to which the Consultant is entitled under this contract.

3. **WARRANTY.** The Consultant makes no warranties, express or implied, except that services will be performed consistent with the Standard of Care described in this Agreement.

4. **LIMITATION OF LIABILITY.** To the fullest extent permitted by law, the total liability of the Consultant and its employees for any and all claims arising out of services performed shall not exceed the total compensation received by the Consultant for the services rendered under this Agreement or \$50,000, whichever is greater.

5. This proposal is not intended as a bidding document, and any contractor reviewing this proposal must draw their own conclusions regarding specific construction techniques to be used on this project.

6. **CONSULTANT INDEMNIFICATION.** The Client agrees to indemnify, defend and hold harmless the Consultant and its owners, directors, officers, employees, and their spouses from and against any and all claims, actions, demands, judgments, damages, liability, costs, expenses, and/or attorney's fees (collectively "Claims") that relate and/or arise out of (in whole or in part) any errors, omissions, or breaches of duties by the Client in connection with this contract and/or project. This indemnification clause in favor of the Consultant is not intended to cover Claims to the extent they relate to and/or arise out of (in whole or in part) any errors, omissions, or breaches of duties by the Consultant. The Consultant's owners, directors, officers, employees, and their spouses are intended to be third-party beneficiaries of this indemnification clause.
7. **CLIENT INDEMNIFICATION.** The Consultant agrees to indemnify and hold harmless the Client and its owners, directors, employees, and their spouses from and against any claims, actions, demands, judgments, damages, liability, costs, expenses, and/or attorney's fees (collectively "Claims") that relate to and/or arise out of (in whole or in part) any errors, omissions, or breaches of duties by the Consultant in connection with this contract and/or the project. This indemnification clause in favor of the Client is not intended to cover Claims to the extent they relate to and/or arise out of (in whole or in part) any errors, omissions, or breaches of duties by the Client.
8. **CONSEQUENTIAL DAMAGES:** Kingdom Structural LLC and the Client waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Contract. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of the Contract.
9. **WAIVER OF SUBROGATION:** To the extent damages are covered by property insurance, the Client and Consultant waive all rights against each other and against the Contractors, Consultants, agents and employees of the other for damages. The Client, as appropriate, shall require of the Contractors, Consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.
10. **STANDARD OF CARE.** The Consultant shall perform services consistent with the professional skill and care ordinarily exercised by members of the structural engineering profession practicing under similar circumstances at the same time and location. No other warranty, express or implied, is made or intended.
11. **JURISDICTIONAL FEES.** Some projects may be subject to applications, business licenses, permitting fees, on-site pre-inspections, and written authorizations to proceed imposed by the local jurisdiction which may not be included in the proposed scope of work, or may arise from policy changes or discretionary practices by the jurisdiction. The Client agrees to pay all applicable fees.
12. **OTHER FEES.** If any party to the contract brings an action or proceeding relating to the contract, the prevailing party shall be entitled to its reasonable attorney' fees for matters arising out of contract.
13. **CHOICE OF LAW AND FORUM.** This Agreement shall be governed by the laws of the state in which the Client's principal place of business is located, unless otherwise agreed in writing by the parties. Subject to the mediation provision below, any legal action arising out of this Agreement shall be brought in the courts having jurisdiction in the state where the Client's principal place of business is located.
14. **DISPUTE RESOLUTION.** The Client and the Consultant agree that all disputes between them relating to the contract or the project shall be submitted first (prior to any litigation) to nonbinding mediation at or near the place of Consultant's principal office.
15. **ELECTRONIC DOCUMENTS.** Electronic files are provided for convenience and may not represent the final sealed documents. In the event of discrepancies, signed and sealed documents shall govern.
16. **ENTIRE AGREEMENT.** The contract represents the entire agreement between the parties and supersedes all prior negotiations, representations, and agreements between the parties.
17. **AMENDMENTS.** The contract may be amended only in writing executed by both the Client and the Consultant.
18. **CONSTRUCTION MEANS AND METHODS.** The Consultant shall not be responsible for construction means, methods, techniques, sequences, procedures, or jobsite safety. These responsibilities remain solely with the Contractor.
19. **INVALID CLAUSES.** If a court of competent jurisdiction determines that any clause of the contract is invalid or unenforceable, (1) the remainder of the contract shall be valid and enforceable and (2) the parties shall endeavor to have the court replace and/or rewrite the invalid or unenforceable provision with a valid and enforceable provision that resembles the original provision as close as possible as to the parties' intent.