



**EARTH
ENGINEERS**
An **RMA** Company

2411 Southeast 8th Avenue • Camas • WA 98607

Phone: 360-567-1806

www.earth-engineers.com

May 14, 2024

Salishan Leaseholders Incorporated
Attn: Katie Anderson, Aperion Management Group

Email: kanderson@aperionmgmt.com

**Subject: Proposal for Geotechnical Investigation and Revetment Design
 Proposed Shoreline Protection Structure
 Beach Grass Lane Common Area
 Gleneden Beach, Lincoln County, Oregon
 EE Proposal No. 10-24-P160**

Dear Katie

As requested, **Earth Engineers** (EE) is pleased to submit our proposal to provide geotechnical engineering services for the above referenced project. This proposal outlines our project understanding, proposed scope of services, schedule, fees, and General Conditions that will apply.

PROJECT UNDERSTANDING

Our current understanding of the project is based on correspondence between Salishan Leaseholders Incorporated (SLI) and EE Principal Engineering Geologist, Adam Reese, RG, CEG. Briefly, we understand that the subject lot (Beach Grass Lane common area) has beach frontage of approximately 400 linear feet. The shoreline is presently unprotected from coastal erosion.

We understand that you wish to construct a Shoreline Protection Structure (SPS) to mitigate impacts from anticipated future coastal erosion. Among SPS alternatives, we understand that you would prefer to construct a riprap revetment.

On February 9th, 2024, EEI Project Geologist, Matt Enos, R.G., visited the subject property for a preliminary reconnaissance and to assess the current extent of erosion that had recently occurred. While on site, we observed that major erosion had impacted the toe of the bluff (shown in Photo 1 below) and was presenting imminent risk to the adjacent developed properties and associated structures. We understand that the heavy erosion continued through February.



Photo 1: Looking south from Beach Grass Place across beach frontage of Beach Grass Lane common area. Older temporary rip-rap placed can be seen on the right side of the photo.

SCOPE OF SERVICES

Our scope of work is to provide a geotechnical investigation and design for a riprap revetment that protects the Beachgrass Lane common area (i.e. one structure along the 400 feet of shoreline to the west of the undeveloped common area). In order for us to provide geotechnical recommendations for the proposed Riprap Revetment structures, we propose to perform subsurface explorations to evaluate the sand/soil and bedrock conditions within the proposed footprint of the structure. Given the scope and size of the project, we recommend conducting 8 test pit explorations within the planned location of the structure at the subject property's shoreline. **This scope of work and fee proposal assumes that Dan Kauffman Excavation, Inc. will excavate the test pits, and their costs will be billed directly to Salishan Landowners Incorporated (SLI) (i.e. the costs for test pit excavation are not included in this lump sum budget).**

The explorations are planned for depths of up to 10 to 15 feet below the surface, or less if dense marine sedimentary bedrock is encountered. In addition, drive probe tests will be performed at select test pit locations to evaluate the subsurface soil strength. Grab samples will be obtained from the explorations at the discretion of the Geotechnical Engineer for laboratory testing.

In addition, in order to characterize the soils along the approximately 20-foot-high bluff above and behind the proposed riprap revetment structure, we recommend supplementing the test pits with hand tool explorations on the slope. This information will be used to assess the forces that may be affecting the land side of the revetment, as well as providing a limited assessment of bluff slope stability. We recommend advancing a minimum of 6 hand auger explorations with supplemental drive probe testing located along the bluff. The drive probe explorations will be advanced to depths of up to 16 feet bgs, or refusal (whichever occurs first). Disturbed samples will be obtained from the explorations at the discretion of the Geotechnical Engineer for laboratory testing.

Prior to performing the subsurface investigation, we will locate *public* underground utilities by contacting Oregon's Utility Notification Center. Our client will be responsible for locating all private underground utilities. We will not be responsible for damage caused by our subsurface investigation to unmarked underground utilities or structures.

It should be noted that once we begin the subsurface investigation and determine the soil and bedrock conditions present, it may be necessary to modify the planned number, type and depths of explorations to better evaluate the site conditions. If extremely poor conditions are encountered, we would contact you to discuss how to proceed and whether authorization is given to increase the project budget.

After completion of the field investigation, we will perform laboratory testing that will include moisture content and particle size analyses (#200 Wash). Atterberg Limits testing will also be performed if cohesive samples are encountered.

At the conclusion of our field and laboratory work, the data will be analyzed by our designated project Geotechnical Engineer and a report will be prepared. The report will include the following:

- A discussion of subsurface conditions encountered including pertinent soil and rock properties (and groundwater conditions, if encountered).
- Geotechnical related recommendations and design for the proposed riprap revetment.
- 2019 Oregon Structural Specialty Code seismic design criteria (if required).
- Recommendations for the overall suitability of the in-situ soils for use as utility backfill and structural fill.
- Qualitative assessment of bluff slope stability (i.e. a visual reconnaissance combined with our limited hand tool exploration data). In addition, quantitative slope stability modeling using our SLIDE2 slope modeling software will be performed, where required.
- Structural fill requirements, including gradation and compaction.
- Recommendations for revetment foundation subgrade preparation.
- Wet and dry weather construction recommendations.
- Discussions on geotechnical issues that may impact the project

Our investigation and design will address only the shoreline area in which the SPS has been proposed, not the site in its entirety. As part of our report, we will include a site plan sketch (overlay of SPS layout on a Google Earth image) and also simple, non-scaled cross-section sketches for the recommended SPS. It should also be noted that our current scope does not include any surveying, structural engineering, or the preparation of scaled drawings (e.g., CAD drawings, site plan, etc.). If other detailed construction/design drawings are required for permitting, these can be provided at an additional fee. Unless requested otherwise, our report will be distributed electronically in PDF format.

Please note that this proposal is for the geotechnical investigation and design of the riprap revetment and our proposed scope of services will be concluded upon submittal of our finalized investigation-design report. Additional services required to support permitting of the structure (e.g., providing additional information to address OPRD application evaluation criteria, such as assessment of location-specific erosion or coastal processes, hazard avoidance alternatives, detailed alternatives assessment, etc.) are not included in this proposal, but can be provided on a time and materials basis subsequent to submittal of our geotechnical investigation report and design.

Our currently proposed scope does not include a detailed seismic hazard study or liquefaction analysis. We are available to provide these services upon request.

SCHEDULE AND FEE

We are available to start your project about 2 weeks after we receive written authorization to proceed and the requested deposit below. Our fieldwork is estimated to take one day on site; however, a Beach Access Permit will need to be submitted by Dan Kauffman Excavation, Inc. and approved by OPRD before conducting the test pit explorations. In addition, OPRD is now requiring submittal of an Ocean Shore Permit Application to perform test pit explorations on the beach, requiring additional EE level of effort and adding substantial additional time to the approval process. This permit preparation and approval process can take several weeks to more than a month. Once these preliminary permits have been approved and our explorations have been completed, the final written report will be submitted within approximately 4-6 weeks of completing the exploration program.

Our geotechnical investigation report will be completed for a base lump sum fee of \$18,750.00. Additional fees to attend meetings, support permitting, and construction inspection fees would be charged on a time and material basis according to the following 2024 unit rates:

Principal Engineer/Geologist	\$210.00 per hour
Project Engineer/Geologist	\$160.00 per hour
Engineering or Geology Staff	\$130.00 per hour

Geotechnical Special Inspector	\$120.00 per hour
Sample Pickup	\$95.00 per hour
Mileage	\$0.80 per mile
Proctor Lab Test	\$305.00 each
Nuclear Density Gauge	\$80.00 per day

Note that these rates are applicable through December 31, 2024. After that date, our standard unit rates for the current year will apply.

Construction inspection services have a 3-hour minimum charge. Overtime rates (1.5 times the normal rates) apply to inspection services provided on weekends, holidays and after exceeding 8 hours in a work day. To be clear, our lump sum fee above does not include SPS permit support and geotechnical construction inspection services during construction.

PROPOSAL ACCEPTANCE

By signing below, you hereby authorize Earth Engineers, an RMA Company to proceed with services outlined in this proposal or requested by you and agree that all services and anything arising out of or in any way related to this proposal will be governed by Earth Engineers, an RMA Company's General Conditions which are attached hereto and are incorporated herein by reference. This authorization to proceed constitutes an agreement between you and Earth Engineers, an RMA Company and is made in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

Thank you for the opportunity to submit this proposal. We look forward to working with you on this project. If you have any questions regarding this proposal, please contact the undersigned.

Authorized By:

Respectfully submitted,

Client

**Earth Engineers, an RMA
Company**

Mailing Address: _____

Telephone: _____

E-mail: _____

Signed By (print): _____

Title: _____

Date Signed: _____

GENERAL CONDITIONS

AGREEMENT. This agreement is made by and between Earth Engineers, an RMA Company ("RMA") and the party that accepted RMA's proposal or requested that RMA perform Services ("Client"). RMA shall include said company, its engineers, employees, insurers, or authorized representative. This "Agreement" includes RMA's proposal and any exhibits or attachments noted in the proposal or incorporated by reference including but not limited to these General Conditions. Requesting Services from RMA shall constitute acceptance of the terms of these General Conditions.

1. SCOPE OF SERVICES. Services means the service(s) performed by RMA for Client or at Client's direction. RMA's findings, opinions, and recommendations are based upon data and information obtained by and furnished to RMA at the time of the Services. RMA may rely upon information provided by the Client or third parties. Client may request additional work or changes beyond the scope of Services described in RMA's Proposal. If any alteration or addition of Services are requested by the Client, RMA may provide a written notification detailing the additional scope of work, time extension and associated fees for Client's review. Client shall provide written acceptance of such. If Client does not follow these procedures, but instead directs, authorizes, or permits RMA to perform the changed or additional work, the Services are changed accordingly and RMA will be paid for this work according to its written notification or current fee schedule.

2. DELAYS. RMA shall be entitled to an equitable adjustment to the project schedule and compensation to compensate RMA for any increase in time or costs necessary to perform the Services under this Agreement due to any cause beyond its reasonable control. All promises of services time are approximations by RMA and are subject to the Client and contractor's schedules, weather conditions, travel conditions, disputes with workmen or parties, accidents, strikes, natural disasters, health emergencies, discovery of hazardous materials, differing or unforeseeable site conditions or project conditions, acts of governmental agencies or authorities, or other causes. In no event shall RMA be responsible for any damage or expense due to delays from any cause, other than to the extent the damage or expense is directly caused by RMA's own proven negligence after having been warned in writing by the Client of the damage or expense which may result from the delay.

3. RMA RESPONSIBILITIES. Services performed by RMA under this Agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the same profession currently providing the same or similar services under similar circumstances in the same locality and in accordance with applicable standards in effect at the time the Services are performed. RMA MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED. Testing or inspection services may require the destruction of a sample or sample location. Client understands that, in the normal course of performing the Services, some damage may occur, and understands that RMA is not responsible for the correction of any such damage or for replacing samples. Client acknowledges that opinions, data, interpretations and recommendations prepared by RMA are based on limited data and recognizes that subsurface conditions or other actual

conditions may vary from those encountered at the location where inspections, tests, borings, surveys, or explorations are made by RMA and may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. There is an inherent risk that samples or observations may not be representative of materials or locations not sampled or seen and that conditions may change over time. Variations between inspected or tested discrete locations may occur and the risk of such occurrence is understood and accepted by Client. Client is responsible for notifying the appropriate party or professional regarding the correction of any deviations or deficiencies noted by RMA and RMA accepts no liability in connection therewith. RMA shall not be responsible for the interpretation by others of information developed by RMA and makes no guarantee that RMA's recommendations are properly implemented by any party. RMA shall not be held liable for problems that may occur if RMA's recommendations are not followed.

4. SUBSURFACE EXPLORATIONS. Client understands RMA's layout of boring and test locations is approximate and that RMA may deviate a reasonable distance from those locations. Client acknowledges that it is impossible for RMA to know the exact composition of a site's subsurface, even after conducting a comprehensive exploratory program. There is a risk that drilling and sampling may result in contamination of certain subsurface areas. Client waives any claim against, and agrees to defend, indemnify and save RMA harmless from any claim or liability for injury or loss which may arise as a result of subsurface contamination caused by drilling, sampling, or monitoring well installation. Client also agrees to adequately compensate RMA for any time spent and expenses incurred in defense of any such claim.

5. CLIENT PARTICIPATION. Client will make available to RMA all information in its possession regarding existing and proposed conditions at the site. Such information shall include, but not be limited to engineering reports, plot plans, topographic surveys, hydrographic data, soil data including borings, field and laboratory tests and written reports. Client shall immediately transmit to RMA any new information concerning site condition which becomes available, and any change in plans or specifications concerning the project. RMA shall not be liable for any inaccurate or incorrect advice, judgment or decision which is based on any inaccurate information furnished by Client and Client shall indemnify RMA against claims, demands, or liability arising out of, or contributed to, by such inaccurate information. In the event Client, the project owner, or other party makes any changes in the plans and specifications, Client agrees to hold RMA harmless from any liability arising out of such changes, and Client assumes full responsibility unless Client has given RMA prior notice and has received RMA's written consent for such changes. RMA does not assume responsibility for any conditions at the Client's site(s) that may present a danger, either potential or real, to health, safety, or the environment. Client hereby agrees that it is the Client's responsibility to notify any and all appropriate federal, state, or local authorities, as required by law, of the existence of any such potential or real danger and otherwise to disclose to all appropriate or affected individuals or entities, in a timely manner, any information that may be necessary to prevent any danger to health, safety, or the environment. Client assumes sole responsibility for determining whether the quantity and the nature

of services ordered by Client is adequate and sufficient for Client's intended purpose.

6. THIRD PARTIES To the fullest extent permitted by law and to the extent not resulting from RMA's proven negligence, Client agrees to defend, indemnify and hold RMA harmless from any claims, demands, suits, losses, charges, expense (including attorney fees and costs at trial and appeal), and/or allegations of responsibility by any and all third parties including but not limited to, contractors, subcontractors, agents, employees, assignees transferees, successors, invitees, neighbors, and the public relating in any way to this Agreement, the services, or the project. It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to the Client and RMA. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any third person. It is the express intent of the Client and RMA that any such person or entity, other than Client or RMA, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary. Neither party may assign this Agreement or any right or obligation hereunder without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that no consent shall be necessary in the event of an assignment to a successor entity resulting from a merger, acquisition or consolidation by or of RMA or an assignment to an affiliate or subsidiary of RMA.

7. SAMPLE DISPOSAL. Samples are consumed in testing or disposed of upon completion of tests or upon report completion (unless stated otherwise in the Services). Client acknowledges that contaminated drill cuttings, sample spoils, wash water, and other materials may be produced as a result of encountering hazardous materials at the site. In such event, Client shall be responsible for their proper transportation and disposal. RMA may be able to arrange for the transportation and disposal of hazardous materials at Client's request. In no event shall RMA be required to sign a hazardous waste manifest or take title to any hazardous materials. Contaminated samples delivered to or taken to RMA's laboratory for testing shall remain the property of Client and Client is responsible for ultimate disposal of any samples which are found to be contaminated. On request, Client shall retrieve contaminated samples from RMA's laboratory and dispose of them in an approved manner.

8. DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS. Client shall furnish to RMA all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials prior to commencement of the Services. Client warrants that it has made reasonable efforts to disclose known or suspected hazardous materials on or near the project site. Client agrees that the discovery of such unanticipated hazardous materials constitutes a changed condition which may require either a re- negotiation of the scope of RMA's Services or termination of such Services or this Agreement. Client recognizes that the discovery of hazardous materials may necessitate immediate protective measures to safeguard the public health and safety and agrees to compensate RMA for measures that in RMA's professional opinion are justified to preserve and protect the health and safety of site personnel and the public. Client agrees to compensate RMA for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials. Client agrees that in the event

of the discovery of hazardous materials at the site it will report such discovery to the proper authorities as required by federal, state, and local regulations. Client also agrees to inform the project site owner in the event that hazardous materials are encountered at the site. Notwithstanding any other provision of the agreement, Client waives any claim against RMA, and to the maximum extent permitted by law, agrees to defend, indemnify, and save RMA harmless from any claim, liability and/or defense costs for injury or loss arising from the presence of hazardous materials on the project site.

9. SITE CONDITIONS. Client shall secure all necessary approvals, notices, permits, licenses, and consents from all owners, lessees, contractors, and other possessors of the Project, necessary to commence and complete the Services, and will provide RMA access to the project site for all equipment and personnel necessary for the performance of the Services. RMA shall be allowed free access to the site. Client understands and agrees that RMA shall only be responsible for losses which directly result from RMA's negligence. Client is responsible for the accuracy of locations for all subterranean structures and utilities. Client waives any claim against RMA, and agrees to defend, indemnify, and hold RMA harmless from any claim or liability for injury or loss of any party, including costs of defense, arising from damage done to subterranean structures and utilities not identified or accurately located. In addition, Client agrees to compensate RMA for any time spent or expenses incurred by RMA in defense of any such claim.

10. ENVIRONMENTAL LIABILITY. Neither this Agreement nor the providing of services will operate to make RMA an owner, operator, generator, transporter, treater, storer, or arranger for disposal or treatment within the meaning of the Resource Conservation Recovery Act, Comprehensive Environmental Response Compensation and Liability Act, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous materials. Client will indemnify, defend and hold RMA harmless from and against any and all losses, damages, costs and expenses, including attorney's fees, from third party claims, demands and causes of action arising or claimed to arise from violations by Client of any and all environmental laws, rules and regulations relating to the existence, generation of, current or future ownership, storage, transport or disposal of pre-existing hazardous substances and wastes, but this indemnity shall not cover such loss, damage, cost or expense to the extent caused by RMA's proven negligence in performing the Services under this Agreement. For purposes of this Agreement, a pre-existing hazardous substance is any hazardous substance or hazardous waste having been generated by Client or existing on Client's premises prior to the date of this Agreement.

11. OWNERSHIP AND LEGAL USE OF DOCUMENTS. All notes, data, reports, original final reproducible drawings, plans, specifications, calculations, and studies memoranda assembled or prepared by RMA are instruments of service with respect to the subject project, and RMA shall retain an ownership and property interest therein, whether or not the project is completed. The Client may make and retain copies for information and reference in connection with the subject project; however, such documents are not intended or represented to be suitable for re-use by the Client or others. Any modification, changes, or reuse without written verification or adaptation by RMA for the specific purpose

intended will be at the Client's sole risk and without liability or legal exposure to RMA, and the Client agrees to indemnify and hold harmless RMA against any and all costs, expenses, fees, losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or resulting therefrom.

12. ALLOCATION OF RISK AND LIMITATION OF LIABILITY.

The parties have evaluated the respective risks and remedies under this Agreement and agree to allocate the risks and restrict the remedies to reflect that evaluation. Notwithstanding any other provision to the contrary in this Agreement and to the fullest extent permitted by law, Client agrees to restrict its remedies under this Agreement against RMA, its parents, affiliates and subsidiaries ("RMA Covered Parties"), so that the total aggregate liability of RMA Covered Parties shall not exceed \$50,000 or the actual paid compensation for the services performed by RMA under this Agreement, whichever is greater. This restriction of remedies shall apply to all suits, claims, actions, losses, costs (including attorney fees) and damages of any nature arising from or related to this Agreement without regard to the legal theory under which such liability is imposed. Claims must be brought within one calendar year from performance of the Services.

13. LIABILITY FOR OTHERS. RMA shall not be responsible for supervising or overseeing the Client's contractors or for their means and methods, procedures, performance, or site safety. RMA shall not be responsible for the acts or omissions of the Client, owner, architect, architect's other consultants, contractor, subcontractors, other third parties or their respective agents, employees, assigns, successors, or any other persons ("Others"). RMA shall have no authority to control Others regarding their work or their safety practices. RMA does not control or guarantee the work of Others. RMA has no duty to inspect or correct health and safety deficiencies of Others. RMA will not be responsible for the failure of Others to perform in accordance with their undertakings and the providing of RMA's services shall not relieve Others of their responsibilities to the Client or Others. RMA reserves the right to report to the Client any unsafe conditions observed at the Project without altering the foregoing.

14. CONSEQUENTIAL DAMAGES WAIVER. Notwithstanding anything to the contrary in this agreement and to the fullest extent permitted by law, Client and RMA waive against each other any and all claims for or entitlement to special, incidental, indirect, consequential, delay, punitive, or similar losses or damages arising out of, resulting from, or in any way related to the project or this Agreement.

15. INSURANCE. RMA will maintain the following insurance coverages and amounts: (1) Workers Compensation insurance as required by law, (2) Employer's Liability insurance with coverage of \$1,000,000 per each accident/employee, (3) Commercial General Liability insurance with coverage of \$1,000,000 per occurrence/aggregate, (4) Automobile Liability insurance with coverage of \$1,000,000 combined single limit, and (5) If RMA is providing professional services, Professional Liability insurance with coverage of \$1,000,000 per claim/aggregate. Client shall name RMA as additional insured on its Builder's Risk policy. Client shall require any general contractors working on the project site to include RMA in any indemnity that the Client requires such contractors to provide to the Client and as an additional insured under any such contractor's general liability insurance policy.

Client shall provide RMA with a certificate of insurance evidencing the required insurance.

16. RESOLUTION OF DISPUTES. Client shall not be entitled to assert a Claim against RMA based on any theory of professional negligence unless and until Client has obtained the written opinion from an independent and reputable Professional Engineer (P.E.), licensed architect (A.I.A.), or Registered Geologist (R.G.) that RMA has violated the standard of care applicable to RMA's performance of the Services. Such party shall be currently practicing in the same discipline as RMA and be licensed in the state where the project is located. This written opinion shall specify the acts or omissions that the independent engineer, architect, or geologist contends are not in conformance with the standard of care for professional services performed by local consultants under similar circumstances; and state in detail the basis for their independent opinion that such acts or omissions do not conform to that standard of care. Client shall provide this opinion to RMA and the parties shall endeavor to resolve the dispute within 30 days. This Agreement shall be governed by and construed in accordance with the laws of the state where the RMA office originating the work or proposal is located. Exclusive of lien claims, any legal action or proceeding brought to enforce or otherwise arising out of or relating to this Agreement shall be brought in the county where the RMA office originating the work or proposal is located. Each party waives its right to a jury trial in any court action arising between the parties, whether under this Agreement or otherwise related to the work being performed under this Agreement.

17. COMPENSATION AND PAYMENT TERMS. Client agrees that an invoice amount is due when received unless otherwise agreed. A service charge of one and one-half percent (1-1/2%) per month (but not exceeding the maximum allowable by law) will be added to any account not paid within 30 days after the invoice date. In the event that any portion of the account remains unpaid 30 days after the invoice date, RMA may immediately discontinue Services on any and all projects for Client, or withhold any final report or instrument of service, or demand prepayment of fees at RMA's option. Client shall pay all costs incurred by RMA in collecting any delinquent amount, including staff time, court costs and attorney fees. Failure to make payment within sixty (60) days of invoice shall constitute a release of RMA from any and all claims which Client may have, either in tort or contract, and whether known or unknown at the time. Should Services based on a fee schedule be performed beyond the end of the calendar year, RMA's current fee schedule shall apply unless otherwise negotiated in advance.

18. TERMINATION. This Agreement may be terminated without cause by either party upon thirty (30) days written notice, and at any time by either party if the other party defaults in the performance of any material provision of this Agreement and such default continues for a period of seven (7) days after written notice thereof. In the event of termination, RMA will be paid for Services performed through the date of termination, plus reasonable termination expenses, including the cost of completing analyses, demobilization, records and reports necessary to document job status at the time of termination.

19. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and shall supersede other prior agreements and representations. No amendments to this

Agreement shall be valid unless made in writing and signed by the parties. If Client uses its standard business forms all pre-printed terms and conditions contained in or on such forms shall be deemed stricken and null and void. If the terms and conditions of this Agreement conflict with the terms and conditions of any other agreement or document this Agreement shall govern and control over any such conflict. The invalidity or unenforceability of any portion(s) of this Agreement shall in no way affect the validity or enforceability of any other portion(s) hereof. Any invalid or unenforceable portion shall be severed from the Agreement and the balance of the Agreement shall be construed and enforced as

if the Agreement did not contain a particular portion held to be invalid or unenforceable. This Agreement may be executed in several counterparts, each of which shall be deemed an original having identical legal effect. The titles, captions and headings of this Agreement are included for ease of reference only and will be disregarded in interpreting or construing this Agreement. RMA shall not be bound by any language incorporating by reference any contract or term of any contract unless the term or terms incorporated by reference are specifically furnished to RMA and are expressly agreed to in a writing signed by RMA.