

Standard Terms & Conditions

1. **AGREEMENT:** The attached documents and these terms and conditions shall constitute the complete Agreement between Geotechnical Consulting & Testing Systems, L.L.C. (hereinafter referred as “GCTS”) and Buyer for all products and services to be provided to Buyer, and no other terms and conditions and no modification or amendment thereof shall be binding upon the parties unless consented to in writing by GCTS.

Buyer may use its standard form of purchase order to place orders for products and services, but any terms and conditions of such standard form which are in addition to or inconsistent with the terms and conditions of this Agreement shall be deemed stricken from such order.

2. **DELIVERY:** GCTS will use its best effort in the ordinary course of its business to affect deliveries as specified, but in no event shall GCTS be liable for any damage, consequential or otherwise, arising from any failure of GCTS to meet any delivery date.

3. **RISK OF LOSS:** Title and risk of loss with respect to the products furnished under this Agreement shall pass to the Buyer at the time of delivery of the products to the carrier for shipment. F.O.B. points shall be the GCTS plant otherwise specified.

4. **PAYMENT:** GCTS shall invoice Buyer for the purchase price of each of the products shipped and services rendered pursuant to this Agreement (which invoice may also reflect charges for freight, handling, taxes and other amounts payable to GCTS hereunder). All amounts specified in any such invoice shall be paid by Buyer to GCTS within thirty (30) days from the date of the invoice. GCTS may require payment in advance of all or any part of the purchase price of any product or service. Any amount due hereunder from Buyer and not paid within (30) days from the due date hereon shall bear interest at the rate of one and one half percent (1-1/2%) per month or the maximum rate permitted by applicable law. Such interest shall be in addition to and without limitation of any other right or remedies which GCTS may have under this Agreement or at law or in equity. Buyer agrees to pay any attorneys fees and costs incurred by GCTS in the collection of any delinquent amounts due to under this Agreement. Buyer shall be responsible for all taxes arising out of or related to the provisions of products and services under this Agreement, including but not limited to sales, use and excise taxes. Such taxes shall be in addition to the sales price unless otherwise specified.

5. **TERMINATION:** Buyer may not terminate this Agreement except by giving GCTS fifteen (15) days prior written notice. In the event of termination, Buyer and GCTS shall be relieved of all further obligations hereunder except Buyer’s obligation to pay GCTS the total cost of GCTS’s costs incurred as of the date of termination and total expected profit under the agreement, including without limitation, all costs expenses and liabilities, (including cancellation charges) incurred by GCTS as a result of such termination, plus costs incurred in the orderly shutting down of the work, plus any amounts withheld by Buyer to settle claims against or to pay indebtedness of GCTS in accordance of the provisions of this agreement, less payments already made to GCTS.

6. **RETURNS:** New unused materials currently stocked by GCTS may, but only with GCTS’s prior written consent, be returned for credit. Each returned item is subject to a handling fee equal to greater of (i) \$50 or (ii) 25% of the purchase price of the product. Non-stocked or used material may not be returned for credit under the foregoing procedure, but GCTS may agree, at its sole discretion, to repurchase such materials at a negotiated price. Errors in order processing a shipment by GCTS must be reported within fifteen (15) days after receipt for credit or replacement to be permitted.

7. **ACCEPTANCE BY BUYER:** The products shall be deemed accepted by Buyer of the date of receipt of the products by Buyer unless within fifteen (15) days after such date Buyer gives GCTS written notice that the products are not accepted and specifies in detail the reasons therefore. GCTS may then, at its sole election, proceed to make any necessary corrections, in which case such corrective action by GCTS shall be Buyer’s sole remedy for non-acceptance of a product. Upon completion and acceptance of such corrections, the products will be deemed accepted by Buyer. Under no circumstances shall Buyer be entitled to revoke acceptance of any product subsequent to acceptance thereof.

8. **LIMITED WARRANTY:** GCTS warrants to the original Buyer only, that the equipment of its manufacture will be free from defects in material or workmanship for a period of 12 months after shipment from its factory or 12 months from acceptance in the case of GCTS installation. In no case shall warranty be extended beyond a period of 15 months past day of shipment date (allowing a maximum of 3 months for installation and acceptance). GCTS shall, at its option, repair or replace free of charge within the warranty period any components or assemblies supplied by GCTS which prove to be defective in workmanship or materials, subject to the following:
- GCTS reserves the right to request the prepaid return of such defective items to its factory for inspection and evaluation.
 - Expendable items (oil, seals, filters, etc.) and items subject to normal wear and/or replacement will not be covered under warranty if their failure is the result of normal wear.
 - Items supplied by GCTS but not of its manufacture (computers, oscilloscopes, commercial software packages, etc.) carry the original manufacturer's warranty which is passed on to the customer who is responsible to deal directly with the manufacturer on warranty issues.
 - This warranty does not apply to damage due to accident, improper use, negligence, or modification of any part of the testing system.
 - This warranty is extended only to the original Buyer of the equipment.

This warranty is expressly in lieu of all other warranties expressed or implied, statutory or otherwise, including any implied warranty of merchantability or fitness or suitability for a specific purpose. No warranties are expressed or implied which extend beyond the description of the face hereof. In no event shall GCTS be held responsible or liable to the Buyer for collateral, indirect, incidental or consequential damages of any kind.

GCTS assumes no liability for damages arising from the use of the equipment by the Buyer or any third party. By purchasing GCTS equipment, the Buyer assumes all liability for any damages of any kind which may result from its use or misuse by the Buyer, Buyer's employees, agents, contractors or any other third party unknown to GCTS or the Buyer, including damages due to failure of the equipment.

9. **CONSEQUENTIAL DAMAGES:** Notwithstanding anything in this agreement to the contrary, GCTS shall have no liability whether arising in tort, or otherwise, for loss of capital, loss of product, loss of profit, loss of use, loss of power, power outages, cost of replacement power, or any indirect, special, incidental or consequential damages.
10. **LOCATION REQUIREMENTS:** The customer should perform a detailed review of the machine specifications to assure that the facility where the machine will be installed has an appropriate sized dock to accommodate the dimensions of the GCTS equipment being purchased. The customer should have appropriate moving equipment available to position the machine. The customer will provide suitable equipment and personnel to unload and set in place all items in the contract, prior to the arrival of the GCTS installation engineer. It is the customer's responsibility to ensure the equipment is not damaged during such unloading and installation. Isolated and stable electrical ground is required. A 1 m long copper pipe buried 2 m into the ground nearby the lab can be used. Electrical power for GCTS supplied equipment will be provided by the customer. This electrical supply should be free from power transients caused by other equipment on the circuit. This includes appropriate electrical power for the hydraulic power supply as well as a fused disconnect when a hydraulic power supply is purchased. The desired hydraulic power supply voltage must be specified at the time of the order. The customer also requires supplying 700-1,000 kPa clean compressed dry air, and clean water.
11. **SPECIMENS:** For installation, demonstration, and training, the customer will provide suitable specimens and other materials appropriate for use with the equipment described in this quotation.
12. **GOVERNING LAW & COMPLIANCE:** This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona and the exclusive forums for the resolution of any disputes hereunder shall be Arizona state courts in the County of Maricopa or federal district courts in the District of Arizona.
13. **SEVERABILITY OF PROVISIONS:** In the event any provisions hereof are found invalid or unenforceable pursuant to judicial decree or decision, the remainder of this agreement shall remain valid and enforceable according to its terms.