



PROPOSAL FOR RESERVE ANALYSIS

Farmington POA

**Reserve Professionals
919-758-9788
205 S. Academy St. #3851
Cary, NC 27519
ReserveStudyCarolinas.com**

May 22, 2020

FAMILY OWNED AND OPERATED





Proposal and Agreement for Reserve Analysis

This Proposal and Agreement (“Agreement”) is entered into between Reserve Professionals (“RP”) and the following Client:

Client Name: Farmington POA (“Client”)

Client Address: 3720 Old Forest Rd Lynchburg, VA 24501

This Agreement sets forth those services will RP shall provide to Client in connection with an analysis of the reserves maintained by Client to defray the future repair or replacement of, or additions to, those major components which Client is obligated to maintain as part of the property described above.

This Agreement is subject to terms below and the attached Terms and Conditions, which are incorporated herein, and is made effective upon the execution of this Agreement by both parties (the “Effective Date”). RP shall perform the services for Client (the “Services”) that are described below and attached hereto from time to time by mutual written agreement of the parties in accordance with the terms and conditions of this Agreement (the “Schedule of Work”), and on the price, delivery dates and specifications described on the Schedule of Work. Should the parties mutually agree to amend the Schedule of Work, the parties shall attach hereto a revised, dated Schedule of Work, signed by both parties, which shall replace in full any previous Schedules of Work.

Scope of Work

SCOPE: RP shall provide to the client a reserve study that meets or exceeds the standards set by Community Association Institute’s National Reserve Study Standard and the standards set by Association of Professional Reserve Analysts Standards of Practice.

RP shall create a list of commonly owned property that should be funded through the capital reserve fund. Each component listed will be assigned a unit cost, quantity, and useful life. Based on these figures a reserve analysis for all components will be created, which will show the client how much should be saved each month to replace these components in the future. Inflation and interest on savings will be applied to these calculations to provide an accurate forecast of funding levels.

A level 1 (Full) reserve study will include a site visit. RP shall measure, inventory and review the condition of all visible, commonly owned property and perform financial analysis associated with reserve study. A level 2 (Update with Site Visit) reserve study will update an existing reserve study include the site visit and the condition assessment of the commonly owned property, financial analysis, but will omit measuring and inventorying. A level 3 (Update without Site Visit) reserve study will update component unit costs, inflation, reserve balance, and will include all the financial analysis included in the other levels of service. Client will be responsible for providing accurate quantities and measurements when RP performs a level 2 or 3 update study, unless RP performed the initial study. All studies will meet or exceed standards set by Community Association Institute and Association of Professional Reserve Analysts.

LIMITATIONS OF SERVICES: Study will include private alleyway, but will exclude nature trails, bridges, and boat storage. Study will include only existing HOA maintained buildings and existing common elements. Study will exclude common elements and HOA maintained buildings that are being constructed at the time of site visit or are planned in the future. Proposal excludes separately scheduled meeting before or after the day(s) of site visit. If community has more than one phase, Client will provide a map or other graphical information identifying each phase and age.

The scope of RP's service does not include forensic, invasive or destructive testing or analysis of an engineering or architectural nature, nor is it intended to cover budgeting for defective items (even though these may show on the report). Reserve Component condition assessments are based on visual observation. Client agrees that RP cannot accurately identify, measure or quantify, estimate useful life or cost for any assets that are partially or fully concealed or buried, and that RP is not responsible for any discrepancies that may exist between the study and actual conditions. The RP reserve study specifically is neither a Building Inspection nor an engineering or architectural evaluation of the suitability, quality or integrity of the design, construction or manufacture quality of the facilities, infrastructure and other components comprising Client's project.

RP will assume, unless otherwise advised by Client, that all reserve assets have been designed and constructed properly and each estimated useful life will approximate that of the norm per industry standards and/or manufacturer specifications used by RP. RP shall not be responsible for estimates used for reserve assets that, in RP's judgment, have been designed, constructed or maintained improperly. In connection with reserve assets which, by their nature, condition, or as a result of lack of information, possess an indeterminate status, RP may use arbitrary estimates based upon past history, direction from the Client, and RP's own experience. The decision whether or not to include such indeterminate assets in the reserve analysis shall be made by Client.

If, as a result of the services or reports furnished by RP pursuant to this Agreement, it is determined by Client that an independent consultant is necessary for the proper determination of the present condition of a reserve asset and/or the future reserve liability of Client for that asset, then it shall be the responsibility of Client to make all

necessary arrangements for the hiring, supervision and compensation of such consultant.

Fees and Payment Timeline:

The fee to be paid to RP for its services pursuant to this Agreement shall be **\$1,072.00** for a Full Reserve Study with Site Visit. The Client has the option to purchase an annual subscription to the software for **\$1,000.00** the first year and **\$500.00** for every subsequent year. Purchase of software subscription is not required.

The fee is payable by Client as follows:

- 50% upon acceptance of this Agreement, and
- 50% upon initial delivery to Client of RP's report.

All billings are payable in full upon presentation. Amounts remaining unpaid 45 days after the invoice date will be subject to a monthly finance charge of 1.5% (18% APR) or \$5.00, whichever is greater. A revision to the report can be made for up to six months from the initial report date.

Additional services, not anticipated or specifically enumerated in this Agreement, requested by Client, shall be billed at RP's standard hourly rate for such services at the time they are rendered. Except for one incident of minor revisions or corrections, RP may bill for additional time and/or expenses associated with revisions, meetings and/or presentations. Such additional services requested by Client shall be considered as part of this Agreement, whether or not they are requested in writing.

In Witness hereof, the parties hereto have caused this Proposal and Agreement to be executed as of the Effective Date.

[CLIENT]

Reserve Professionals

By: _____

By: _____

Name:

Name: Alexander Liu

Title:

Title: President

Address:

Date:

Date:

FAMILY OWNED AND OPERATED

Alex Liu has over 8 years performing reserve studies for communities like your own. He has 10 years' experience in construction, having worked as a project engineer, field superintendent, field engineer, and project manager, Alex was a licensed home inspector and a HOA boardmember for 14 years, 10 years as a hands-on HOA President, overseeing community wide painting projects, roof replacement, retaining wall replacement, sealing of private streets, and other projects.

Alex maybe the only reserve professional in the state that has dual certifications: Professional Reserve Analyst (APRA), and Reserve Specialist (CAI).

Professional Designations:

Professional Reserve Analyst (PRA): Ass. Professional Reserve Analysts, Cert #2333
Reserve Specialist (RS): Community Associations Institute, Certification # 276
BS, Construction Management: East Carolina University
Stormwater BMP Inspection & Maintenance Prof., NC Coop Ext, Cert. # 3164
NC Home Inspector, License # 2972 (inactive)
NC General Contractor, License # 66871
HOA Board President, 12 years (Retired)

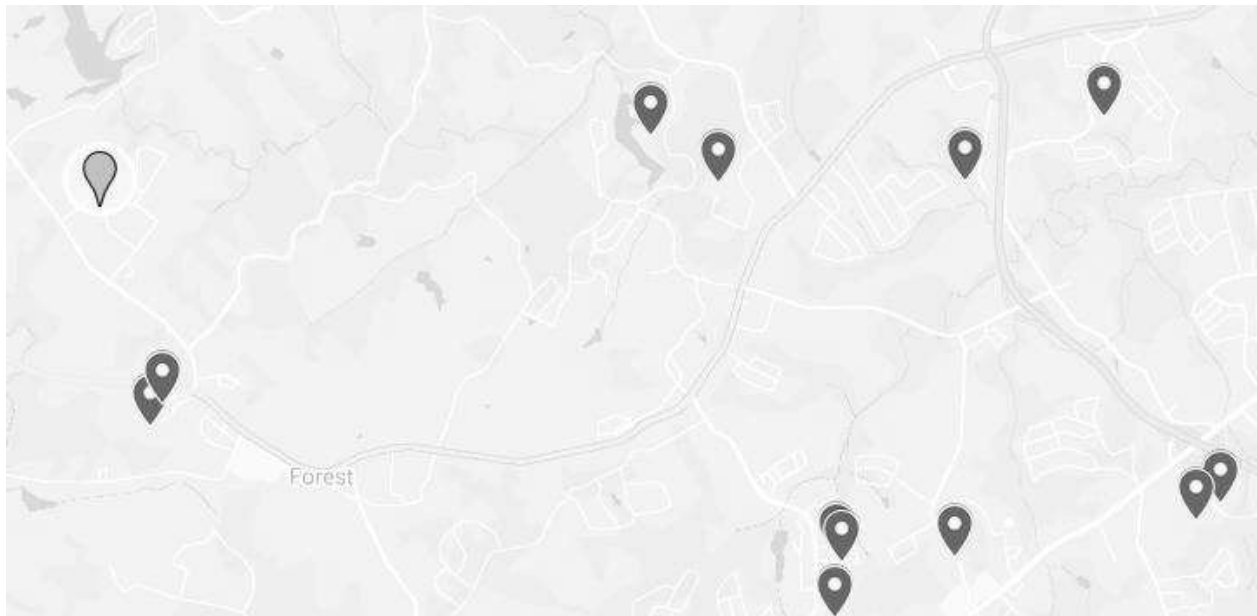


Would you rather hire prestige over competence? Ever wonder why public construction projects are frequently over budget and behind schedule? Construction management positions in government routinely require an engineering or architecture background, extolling prestige over competence. The so called experts are so inexperienced in construction that it is now commonplace to hire 3rd party construction management firms, who drain enormous resources from public funds. Simply hiring a construction manager would save 90% what construction management firms charge: \$75,000 vs \$750,000. THERE IS ABSOLUTELY NO ENGINEERING INVOLVED WITH RESERVE STUDIES!

WHY HIRE RESERVE PROFESSIONALS?

1. We specialize in reserve studies, unlike engineering companies that generalize with many various services. See our article below about moonlighting engineers.
2. We use proprietary software designed specifically for reserve studies. It is our single largest expense. Of course, we could use an Excel spreadsheet, but you would lose an extra layer of detail that other providers can't provide.
3. Our studies project out 30 years, not the minimum 20 year CAI standard. It is likely that at least one of your proposals only projects out 20 years.
4. Our updates cost a fraction of the original study, saving your community money in the long run.
5. You can own the software and update your own studies.
6. We rely on referrals. Our business depends on your satisfaction, NOT the size of our advertising budget.

Here are some projects we have completed near your community:



“Alex, Thank you and the board appreciates your thoroughness and detail in the study. I love the way the report is laid out and it is very easy to refer to the specific needs for each year’s reserve expenses and recommended contribution. Additionally, I am able to send a contractor 1 page of the report which defines what needs to be repaired or replaced and makes the RFQ and bid process much easier.

The Stonemoor-Linville Club Study identified all the concerns and issues and need for more Reserve funding which was a big help in getting the much needed increase in the annual contribution for 2018! Thanks and look forward to working with you on the next Study!”

Lynn Peed, AMS
Senior Manager, PPM, Professional Property Management Inc. of Raleigh

“Thank you for providing such a great report. I will certainly use you in the future as needed.”

Casey Ferrara
Manager, William Douglas

“Hi Alex, You were awesome. You made our deadline, and it’s easy to understand. I will always recommend your company!”

William Alexander, CMCA
Senior Association Manager, Priestley Management

“We give Alex Liu and Reserve Professionals our highest recommendation. His price was the most competitive of the other 5 companies. Alex was very prompt in his service and extremely helpful in advising us throughout the process... and his service was number one.”

David W. Foster, CMCA, AMS
Seapath Tower Building Manager

Hello Alex, I want to let you know that the Reserve Study you conducted was a key component of our Annual HOA Meeting on August 13. The Reserve Study provided support for our 5-year plan, and the dues increase was approved by a 2 to 1 margin. And, barring an unforeseen disaster, we will not need Special Assessments for the next 5 years. Thank you, again, for your assistance.

Larry Green, Board Member

Your level of customization was simply unprecedented from the beginning all the way through to the final report. Both I and the other Board members sincerely appreciate the time you devoted to explaining the final report and the special issues we face as an aging community. The final report was laid out clearly and each area of concern was noted along with photographs. This helped us tremendously when presenting it to the Association

Kimberly Jones, President

Association Management Companies that trust us and have worked with us:

**Associa - HRW
Association Management-
Tidewater
Association Mangement
Group
Blue Ridge Companies
Braesael Management
Brownstone Properties, Inc.
CAMS - Community
Association Management
Services
CAS - Community
Association Services, Inc.
Cedar Management Group
CEPCO
Chesapeake Bay
Management
Community Association
Management
Community First
Management
Cusick Community
Management
Delta Property Management
Gallimore Management
Grace Properties of Virginia
Harbour Town Yacht Club
Henderson Properties**

**Holder Properties
Homeowners Association
Management, Inc.
Keystone Property
Management
Moose Maintenance &
Service
Myrtle Beach Yacht Club
NC National Guard
OMNI management services
Paradygm Consulting
Pindell-Wilson
PPM
Priestley Management
Priority One Properties
Property Management
Associates
Ravenel Associates
RPM Property Pros
RS Fincher
Seapath Yacht Club
SECU Family House
Towne Properties
Village Realty &
Management Services, Inc.
William Douglas
Management**

Reserve Study's Dirty Little Secret

Why do we pay more for less?

Fear of the unknown.

Once, when leaving from O'Hare Airport I discovered that my security checkpoint had been shut down. I had 2 options: a checkpoint, which I could see and had quite a long line, or another checkpoint somewhere unseen.

After waiting for a bewildering length of time at the nearby checkpoint, I happened to pass by the 2nd checkpoint on the way to my gate. It was almost completely empty! What does this have to do with reserve studies? Stick with me for a moment....

Naturally, when faced with uncertainty, we err on the side of caution. Even more so, when advising a board and a little bit of reputation is at stake. Unlike landscaping, the quality and value of a reserve study is difficult to ascertain (even for managers). We choose what is familiar, even after reviewing more attractive alternatives.

On the East Coast, where reserve studies are still relatively new, it is commonly believed that reserve studies are

a facet of engineering. But this really couldn't be further from the truth. In fact, the **first (and largest for decades) reserve study company in the nation was actually started by an association manager!**

There is absolutely NO engineering involved in reserve studies.

There are 3 broad tasks required to complete a reserve study: 1. reviewing the condition of the community, 2. estimating replacement costs, and 3. projecting costs into the future.



1. Engineers rarely perform inspections. Engineering firms know that income is generated when engineers work at their desk, so "Engineering Techs" with associate's degrees, perform the vast majority of inspections. Many engineers

performing reserve studies have a background in unrelated fields, like aeronautics or chemical, and thus have no pertinent expertise.



Of course, there are many capable engineers, but their inspection prowess is no better than your typical home inspector. All engineering is outside the scope of a reserve study and is an additional cost.

2. Expertise in construction cost estimating requires construction experience, not engineering. This is a simple fact. Ever wonder why public construction projects are frequently over budget and behind schedule? Construction management positions in government routinely require an engineering or architecture background, extolling prestige over competence. The so called experts are so inexperienced in construction that it is now commonplace to hire 3rd party

construction management firms, who drain enormous resources from public funds. Simply hiring a construction manager would save 90% what construction management firms charge: \$75,000 vs \$750,000.

All reserve companies rely on national cost guides, and anybody can find a unit cost. The crucial difference is knowing when and how to adjust that cost appropriately.

3. Software handles all forecasting and financial calculations. There is nothing magical here. My child could learn which buttons to hit. When hiring an engineer, you may get a qualified reserve professional, but why pay extra? You're certainly not getting more.



The key to evaluating various reserve proposals:

Who is really doing your study? It is quite common to list the owner(s), not the person

actually performing the work. **Many national companies actually use outside subcontractors** to perform the fieldwork. In this system, a 2nd person unfamiliar with the community is likely performing the data entry. It is quite common for several names to appear on a report, giving the impression it's a joint effort, but this is rarely the case.

Is the reserve provider certified? BE ADVISED: **Stay clear of engineers that dabble in reserve studies.** Every single study that I've reviewed from moonlighting engineers has been abysmal. That's the honest and ugly truth. It's a testament to the reserve study enigma that otherwise very competent managers don't realize how little value these studies contain. They rarely meet any pertinent standard and frequently omit quantities.

Your community would be much better served by utilizing the services of a PROFESSIONAL RESERVE ANALYST (Association of Professional Reserve Analysts) or RESERVE SPECIALIST (Community Association Institute).

Are the community's components broken down into

useful measurements? This is my pet peeve. In my estimate, roughly 1/2 the reserve studies routinely violate CAI's Reserve Study Standard, by omitting quantities. Allowances and lump sums are used too often.

I have seen gutters, downspouts, and roofing into 1 unit cost! By a firm that routinely presents at CAI conferences! I'll give them the benefit of the doubt and say that it is laziness, not an attempt to hide the quantities, but both are common motivators. If you look closely it's easy to see the difference in detail.

What's the big deal? **Unit costs and quantities are the basis of the entire study!** Is the study accurate? What if we only replace roofs on building X and Y? Without unit costs and quantities there is no way to know.

Additionally, it is also prevents another reserve professional from updating your study, shackling your community to that specific firm. Why would you want your vendor to obstruct your options? With quantities and unit costs, the board can make more informed decisions and can communicate better with contractors performing the work.

TERMS AND CONDITIONS

In consideration of the mutual promises and obligations enumerated in this Agreement, RP and Client agree as follows:

1. Services.

a. RP shall prepare a listing of the major components which Client is obligated to maintain as a part of the property. Such major components are referred to in this Agreement as "reserve assets." The listing of reserve assets shall be based upon a review by RP of Client's current schedule of reserve assets for the property, Client's budget for the property, property declaration and/or other documents detailing maintenance responsibilities of Client for the property and upon such site visit as may be necessary or desirable, in the opinion of RP, to verify the existence and/or condition of reserve assets. Each reserve asset item will then be separated by development phase, when appropriate, and the following information will be identified: (i) Quantity; (ii) Salvage Value (if applicable); (iii) Useful and Remaining Life; (iv) Current Replacement Cost; (v) Percentage of Replacement; and (vi) Accumulated Reserves to Date.

b. Based upon assumptions determined and agreed upon by RP and Client regarding cost inflation, scheduled future assessment increases, investment yields and taxes paid on those yields, RP will determine and provide to Client a report ("Report" or "report") regarding the following: (i) Replacement Year; (ii) Future Replacement Cost; (iii) Monthly Contribution to Reserves Requires; (iv) Anticipated Interest Contribution Based Upon the Accumulated Reserves and Monthly Contributions for One Year; and (v) 30-year contribution, interest, expenditure and ending balance projections.

2. Client Responsibilities.

a. Client shall provide to RP a current schedule of reserve assets for the property, Client's current budget for the property, all laws, rules, regulations and/or declarations defining Client's reserve and/or maintenance responsibilities relating to the property and such other information as may be necessary to RP in the performance of its services under this Agreement. Client shall provide to RP and its personnel access to the property at all reasonable times. RP shall not be responsible for, and Client will indemnify RP against, any claims or liability arising from any inaccurate information furnished to RP by Client or any other negligent act or omission on the part of Client, its agents, employees or other consultants employed by Client.

b. Client shall respond to RP's requests for, and provide all, additional information as may be necessary for RP to perform its obligations under this Agreement. Client's approval of the draft Report and any changes thereto, if any, shall be confirmation of Client's representations as to the accuracy of the content of all documents and other information provided to the RP for purposes of this engagement and the preparation of the Report including, without limitation, the list of

components required to be maintained by Client included in the Report.

c. Client must review and approve preliminary draft copy for errors and omissions prior to a final report being issued.

3. Ownership and Use of Reports and Data. All reports and data developed by RP and the right to reproduce the same are exclusively reserved to RP until RP is paid in full for its services under this Agreement. If any service or material provided by RP to Client pursuant to this Agreement is not paid for in full, then Client agrees upon demand to return to RP all reports and/or other data or material furnished to Client pursuant to this Agreement and Client further agrees it shall not use such report data or material for any purpose whatsoever. Any Data Management Software or other proprietary material furnished by RP to Client shall be used by Client subject to, and in conformity with, all copyrights, licenses or other proprietary rights retained by RP in such material. Client shall not release copies of the completed report, or of any of the information contained therein, to third parties without the express written approval of RP. Client shall have the right to reproduce and distribute copies of the report, or information contained therein, as may be required for Client's compliance with laws, regulations, and requirements made known by Client to RP. RP shall have the right to use and disseminate, in connection with other analysis and reports prepared by RP, the data utilized by RP in the preparation of any report prepared pursuant to this Agreement. RP is granted the right to compile photographic images and audio/video recordings of any and all portions of the property for use in the report and/or creating and disseminating educational, marketing or other materials for any and all legal purposes.

4. Independent Agreement. For all purposes under this Agreement, RP shall be and act as an independent contractor, and under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture or employment between RP and Client. RP shall be solely responsible for the conduct and supervision of its employees and contractors in connection with the performance of its obligations hereunder..

5. Limited Warranty. RP will diligently proceed with the services enumerated in this Agreement and report to Client in a timely manner, except for delays occasioned by factors beyond RP's control, by factors that were not reasonably foreseeable, or by factors initiated or occasioned by Client. Data and information used in RP's analyses are a matter of opinion only based on RP's best judgment and experience. Client acknowledges that RP has no control over the costs of labor, material or equipment, over contractor's methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, RP cannot and does not warrant that

bids or actual costs will not vary substantially from any statement or estimate of probable cost. Services or reports may contain information about safety, but offer no assurances to the safety conditions of the community's assets at the time of visit or any time thereafter. Client acknowledges that RP's services do not involve assessing, reviewing, or communicating safety conditions of the community or its assets, including but not limited to fall or tripping hazards, electrical components, drowning. Additionally, RP does not warrant estimated useful life as set forth in the Report. RP will perform all services enumerated in this Agreement in accordance with current standards of practice, except as otherwise provided herein. No other warranty, expressed or implied, is made concerning services performed under this Agreement, including RP's findings, recommendations or professional advice. EXCEPT AS STATED IN THIS SECTION, RP MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, INTENDED USE, MERCHANTABILITY, OR NON-INFRINGEMENT WITH RESPECT TO THE SERVICES OR THIS AGREEMENT.

6. Hold Harmless and Indemnification. RP shall not be responsible for, and Client shall defend, hold harmless and indemnify RP, its officers, directors, agents, employees, and representatives from and against all claims, damages, losses, and expenses (including reasonable attorneys' fees and court costs) arising out of or resulting in whole or in part from (i) any inaccurate information furnished to RP by Client, (ii) the negligence, gross negligence, willful misconduct or omission of Client, its employees, agents, or principals, (iii) defective or mismanaged work performed by Client or any third party, including but not limited to construction or management consulting or any work performed by construction trades, or iv) common property that is partially or completely buried or concealed from RP's view.

7. Limitation of Liability. EXCEPT WITH RESPECT TO AMOUNTS PAYABLE PURSUANT TO ITS INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL RP BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES OF ANY KIND, OR FOR LOST PROFITS, DATA OR BUSINESS, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. IN ADDITION, IN NO EVENT SHALL RP'S LIABILITY TO CLIENT IN THE AGGREGATE FOR ANY AND ALL CLAIMS OR DAMAGES ARISING UNDER THIS AGREEMENT BE GREATER THAN THE SUM OF TEN THOUSAND DOLLARS (\$10,000) OR THE TOTAL AMOUNT PAID TO RP BY CLIENT PURSUANT TO THIS AGREEMENT DURING THE SIX (6) MONTHS PRIOR TO THE MONTH IN WHICH THE CLAIM AROSE, WHICHEVER IS LESS.

8. Assignment; Successors and Assigns. Neither party may assign or transfer any part of this Agreement without the written consent of the other party. All of the terms and provisions of this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns (each of which successors and assigns will be deemed to be a party for all purposes of this Agreement).

9. Notices. Any notice or other communications required under this Agreement shall be addressed as follows:

If to Client, to the address indicated on the first page of this Agreement.

If to RP, to: 205 S. Academy St. #3851, Cary, NC 27519C

Such notices or other communications will be deemed given and delivered (i) on the date delivered, if delivered personally, (ii) two business days after being sent by courier, if sent by courier, (iii) one business day after being delivered, if delivered by facsimile or email, and (iv) three business days after being sent, if sent by registered or certified mail. The parties will be entitled to specify a different address by delivering notice to the other party

10. Taxes. Each party shall be independently responsible for the payment of any and all associated taxes, including by way of illustration but not limited to local taxes, Federal and state income taxes, Social Security taxes, Workers Compensation and Unemployment Insurance taxes, and/or any other taxes or business license fees as required to perform their respective obligations under this Agreement.

11. Force Majeure. Neither party will be liable for any delay or related damages or penalties when such delay is due to causes beyond its reasonable control, including without limitation, acts of God, acts of civil or military authority, fires, floods, epidemics, quarantine restrictions, war or riots.

12. Survival. Client's payment obligations under this Agreement, along with Sections 3 (Ownership), 6 (Hold Harmless and Indemnification), 7 (Limitation of Liability), 9 (Notices), 12 (Survival), 13 (Severability), and 14 (General Provisions), shall survive the termination of this Agreement.

13. Severability. In the event that any provision of this Agreement would, under applicable law, be invalid or unenforceable in any respect, such provision will (to the extent permitted under applicable law) be construed by modifying or limiting it so as to be valid and enforceable to the maximum extent compatible with, and possible under, applicable law. The provisions of this Agreement are severable, and in the event any provision of this Agreement should be held invalid or unenforceable in any respect, it will not invalidate, render unenforceable or otherwise affect any other provision of this Agreement

14. General Provisions.

a. This Proposal and Agreement shall be construed in accordance with the laws of the State of North Carolina without regard to its conflicts of laws principles, and any claim or conflict arising out of this Agreement shall be adjudicated in Wake County, North Carolina. Client agrees to provide RP written notification of any claim within seven days of discovery, in sufficient detail and with sufficient supporting documents and provide immediate access to the premises. Failure to comply with these conditions releases RP from liability. All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this agreement, including but not limited to breach thereof, shall be referred to mediation before, and as a condition precedent to, the initiation of any adjudicative action or proceeding, including arbitration. If, during the mediation, a party ("offering party") makes a written offer of compromise to another party which is not accepted by said party ("refusing party") and the refusing party fails to obtain a more favorable judgment or award, the refusing party shall pay the offering party all costs and expenses, including reasonable attorney's fees, incurred from the time the offer is refused. If agreement through mediation is not reached within six (6) months with respect to any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The prevailing party in any such action shall be entitled to recover from the other party reasonable attorneys' fees and costs of such action.

b. If RP is compelled by subpoena or judicial order to testify at a deposition or trial, or to produce documents regarding work performed by RP for Client, Client agrees to compensate RP, at RP's standard hourly rate, for all time spent by RP responding to such legal process, including all time spent in preparation for, and travel to and from, such testimony. Client shall also pay RP's reasonable attorneys' fees and expenses incurred with the foregoing. In the event of such subpoena or judicial order, RP will give prompt notice to Client to allow Client to object to any such testimony or production of documents.

c. No waiver of this Agreement shall be effective unless in writing and signed by the waiving party. All obligations and duties which by their nature survive the expiration or termination of this Agreement shall remain in effect beyond any expiration or termination of this Proposal.

d. RP may state to third parties that Client is a customer of RP, but may not make any statements regarding the Client's experience with it without Client's prior written consent.

e. The parties represent that they have carefully read this Agreement, understand the contents within, have been represented by an attorney or have chosen not to be

represented by an attorney, enter this agreement out of their own free will, and are not relying upon any representation or inducements, express or implied, from any other party except as expressly set forth herein.

f. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute but one and the same instrument. Any facsimile shall be deemed an original.

15. This Agreement, along with the Statements of Work issued pursuant to it, constitutes the complete agreement between RP and Client with respect to its subject matter and supersedes all prior proposals, understandings, agreements and other communications between the parties, whether oral or written. This Proposal and Agreement may be amended or modified only by a signed writing executed by both parties. Each party acknowledges that it is not relying on any statement or information made or given, directly or indirectly, orally or in writing, by the other party or its representatives, except as specifically set forth herein.

End