



Technical Excellence  
Practical Experience  
Client Responsiveness

~~30 January 2018~~  
Revised 2 February 2018

Mr. Stuart Bienenstock  
Calverton Aviation & Technology  
One Meadowlands Plaza, 3<sup>rd</sup> Floor  
East Rutherford, NJ 07073

**Re: Proposal for Engineering and Environmental Services  
File Review and Initial Due Diligence  
EPCAL Redevelopment Project  
Enterprise Park at Calverton  
Town of Riverhead, Suffolk County, New York  
Langan Project No.: 100706500**

Dear Mr. Bienenstock:

Langan is pleased to submit this proposal for professional consulting services to assist you in your initial due diligence review of a ±1,650-acre portion of the 2,900-acre Enterprise Park at Calverton (EPCAL) Redevelopment Project site located in Riverhead, New York. Based on a cursory review of the Town's website, the project site was a Naval Weapons Industrial Reserve Plant used by the Grumman Corporation for final assembly and testing of military aircraft. The property was sold to the Town in 1998 to provide for future economic development to replace jobs lost by the closure of the Grumman facilities. Over the past several years the project site has been rezoned through a State Environmental Quality Review Act (SEQRA) process, cumulating in a Final Environmental Impact Statement (EIS) and adoption of a new zoning and subdivision for the EPCAL in 2016. The Town has formed the Riverhead Industrial Development Agency to oversee and manage this redevelopment area.

This proposal provides our recommended first steps in reviewing the extensive information about the project site and surrounding areas to identify major issues that likely will impact future land use and costs for redevelopment. The first step will be to acquire and review project site information available from the Town as well as other government sources. This review will establish existing conditions of the property and adjacent roads. The second step will be to understand the land use plan recently adopted by the Town and how your vision for the redevelopment of the property fits into this plan. The third step will be to identify what support infrastructure associated with the redevelopment project has already been completed, and what will be required to be built (by you and/or others). The final step as outlined in this proposal will be to identify future due diligence tasks based on the scope completed under this proposal. After our initial review, we will identify what the next steps might be as part of a formal due diligence review of the property and proposed redevelopment area. Our scope of services is presented in Attachment A. We would perform the services presented in this proposal for a lump sum fee of \$45 000.00, payable at the completion of our services, which

environmental site conditions. We are prepared to initiate work on this project upon receipt of your authorization and will tackle the issues in concert with you.

We thank you for the opportunity to submit this proposal and look forward to working with you on this project. If this proposal is acceptable, please sign the authorization sheet and return it to our office. Should you have any questions on any aspect of this proposal, please do not hesitate to contact us.

Sincerely,  
**Langan Engineering, Environmental, Surveying and  
Landscape Architecture, DPC.**



David Charette, PWS  
Principal



Bryan Waisnor, PE  
Principal

Enclosure(s): Attachment A - Scope of Services  
General Terms and Conditions

cc: David Gockel, Jerame Secaras - Langan

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## AUTHORIZATION

Receipt of this Proposal, including the General Terms and Conditions attached hereto, is hereby acknowledged and all of the terms and conditions contained herein are accepted.

Mr. Stuart Bienenstock  
Calverton Aviation & Technology  
One Meadowlands Plaza, 3<sup>rd</sup> Floor  
East Rutherford, NJ 07073

**Re: Proposal for Engineering and Environmental Services  
File Review and Initial Due Diligence Support  
EPCAL Redevelopment Project  
Enterprise Park at Calverton  
Town of Riverhead, Suffolk County, New York  
Langan Project No.: 100706500**

Company: Calverton Aviation & Technology ("Client")

By/Title: SYD G. Hermezian  
(Authorized representative)

Signature: 

Date: 2-14-2018

## **ATTACHMENT A**

### **SCOPE OF SERVICES – FILE REVIEW AND INITIAL DUE DILIGENCE SUPPORT EPCAL Redevelopment Project Riverhead, New York Langan Project No.: 100706500**

#### **SCOPE OF SERVICES**

Based upon our knowledge of the local, county, and state regulatory agencies and our experience with similar large-scale site development projects, we anticipate providing the following scope of services for an initial review to support your due diligence efforts. These services include a file review and an initial due diligence evaluation of the top-line land use, major infrastructure and environmental issues.

#### **1.0 FILE REVIEW AND LAND USE EVALUATION**

We will collect and catalog project site information available on the Town's website as well as from other governmental websites to document existing conditions and characteristics of the project site with respect to different government regulatory programs. We will perform a review of any previously issued permits/approvals and any developer agreements associated with the redevelopment area. We anticipate that your office will provide us with any available permits, approvals, and associated correspondence previously issued to the Town so we can assess and evaluate the proposed redevelopment project.

We will evaluate what the current redevelopment plan and related subdivision plan and zoning plan adopted by the Town in 2016 allows for in terms of uses and development density. We will review your vision of redevelopment/land uses on the project site and evaluate how that "fits" into the current zoning and subdivision plan, or whether changes would be required. We will also describe the process that would be required to make those changes both at the Town level as well as through the SEQRA process.

We will review the Town zoning ordinance that will govern the proposed redevelopment. We will provide a preliminary summary of critical development standards, including minimum setbacks for principal and accessory structures, maximum building coverage/FAR, maximum impervious coverage, required number and dimensions for parking and loading spaces, allowable fence heights, and landscape and lighting requirements. We recommend that you have a code review performed by an experienced Architect and Land-Use Attorney before proceeding with your project.

#### **2.0 SITE-CIVIL ENGINEERING**

Preliminary Site Evaluation – Langan will review the existing site features and evaluate the civil engineering issues that will be critical paths for the site development. Our review will include

Preliminary Stormwater Management Evaluation – Langan will perform a review of over-arching stormwater management issues affecting the redevelopment area, including the applicability of the city, state and federal stormwater management requirements. Our review will include the materials developed during the SEQRA process and as identified in the EIS and any other available online information obtained from the Town.

Preliminary Sanitary Sewer Evaluation – We will make a request to the governing Sewer Authority for available plans showing the Town’s planning intent on how the site will be served with sanitary sewer as well as any as-built plans that show what has been constructed. We will review any prior approvals secured by the Town, including any agreements regarding conveyance and treatment of the effluent generated from the site to evaluate how sewer service will be provided to the site.

Preliminary Water Service Evaluation – We will request maps of the existing water infrastructure and, if applicable, will request hydrant flow tests to verify the available water pressure and flow. We will review available water infrastructure to evaluate how water service will be provided to the site. Our review will include the materials developed during the SEQRA process and as identified in the EIS and any other online available information obtained from the Town such as prior approvals or agreements.

### **3.0 TRAFFIC ENGINEERING**

Preliminary Traffic Evaluation – We will review the traffic study associated with the FEIS and the proposed mitigation recommendations (i.e., local and offsite road improvements) to identify specific improvements required for the redevelopment project, and to what extent the improvements have been completed. We will identify what improvements might be required for the developer to complete in the future, and at a macro-level how your redevelopment vision compares to the Town’s analyzed development scenario.

### **4.0 NATURAL RESOURCES REVIEW**

Natural Resources Mapping Review - We will complete a review of the FEIS and current applicable mapping resources to identify the extents of mapped wetlands, streams, floodplains, tidelands, threatened and endangered species habitats, historic resources, and other environmentally sensitive natural features that may be present on or near the redevelopment site. A series of figures will be created to identify potential regulatory constraints and land use permitting issues and areas of concern.

Regulatory Constraints Assessment – Upon completion of the mapping review and permit

## **5.0 ENVIRONMENTAL REMEDIATION REVIEW**

We will complete a desktop review of the site investigation work performed by the Naval Facilities Command as part of the closure of the Naval Weapons Industrial Reserve Plan and existing groundwater, soils and sediment conditions reported in the FEIS. Our review will assess compliance with NYS regulations and will identify pertinent environmental issues that would be required for the redevelopment of the subject property. This task is anticipated to be a high-level review and does not include research or review of referenced documents that may be identified but not included in the EIS, nor does it include site visits, or completion of a Phase 1 Environmental Site Assessment. We anticipate those tasks may be completed as part of the formal due diligence phase.

## **6.0 INITIAL EVALUATION WRITE UP**

We will prepare a write up that summarizes the topics identified above. We will compile and summarize the key issues for each technical discipline as appropriate. Upon completion of this task we will attend a meeting to review our findings and to discuss the next steps to be completed during a formal due diligence review of the property. This task assumes attendance of up to 2 meetings with you and 2 conference calls for coordination/progress reporting.

## **EXCLUSIONS**

The listing of services included in the Scope of Services is based on our assessment of the redevelopment project site based on a cursory review of the information available on the Town's website for the preparation of the proposal. Any work not specifically included in the Scope of Service is excluded. We anticipate that during this initial work, we will be working with you to identify more detailed future due diligence work that will be the subject of a separate proposal. We will attend additional meetings on an as-requested basis which will be billed on an hourly basis in addition to the lump sum fee.

## **CONDITIONS OF SERVICE**

The lump sum fee is based on an anticipated 4 week schedule. Services rendered will be invoiced upon completion of our services. All services will be provided in accordance with the attached General Terms and Conditions.

## GENERAL TERMS AND CONDITIONS

### A. SCOPE OF SERVICES AND ADDITIONAL SERVICES

All services provided by "Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C.", or "Langan Engineering and Environmental Services, Inc.", or "Langan International, LLC", or "Treadwell & Rollo, a Langan Company", or "Langan Treadwell Rollo", or "Langan Engineering and Environmental Services, Inc., PC", or "Langan CT, Inc." (collectively "LANGAN"), regardless of commencement date, will be covered by this Agreement (which includes the LANGAN proposal and these General Terms and Conditions). Unless modified in writing by the parties, the duties of LANGAN shall not be construed to exceed those Services specifically set forth in the proposal. However, if requested by the CLIENT and agreed to by LANGAN in writing, LANGAN will perform additional services ("Additional Services"), and such Additional Services shall be governed by these provisions. Unless otherwise agreed in writing, the CLIENT shall pay LANGAN for the performance of any Additional Services an amount based upon LANGAN's then-current hourly rates. For avoidance of doubt, email will constitute written notice.

### B. STANDARD OF CARE

LANGAN's services will be performed in accordance with this Agreement and in a manner consistent with the generally accepted standard of care and skill ordinarily exercised by professionals performing similar services under similar circumstances at the place and time the services are being performed (the "Standard of Care"). LANGAN will exercise reasonable professional care in its efforts to comply with codes, regulations, laws, rules, ordinances, and such other requirements in effect as of the date of execution of this Agreement. The CLIENT agrees that no other representation, warranty or guarantee, expressed or implied, is provided by LANGAN or is presumed given by LANGAN under this Agreement or in any report, opinion, or any other document prepared by LANGAN or otherwise.

### C. CLIENT RESPONSIBILITIES

In addition to other responsibilities described herein, the CLIENT shall: (i) provide all information and criteria as to the CLIENT's requirements, objectives, and expectations for the project, including all numerical criteria that are to be met and all standards of development, design, or construction and all other information reasonably necessary for completion of the Services; (ii) provide prompt, complete disclosure of known or potential hazardous conditions or health and safety risks; (iii) provide to LANGAN all previous studies, plans, or other documents pertaining to the project and all new data reasonably necessary in LANGAN's opinion for completion of its services; (iv) review all documents or oral reports presented by LANGAN and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of LANGAN; (v) furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary for completion of LANGAN's services; (vi) give prompt written notice to LANGAN whenever the CLIENT becomes aware of any development that affects the scope and timing of LANGAN's services or any defect or noncompliance in any aspect of the project; and (vii) bear all costs incident to the responsibilities of the CLIENT. LANGAN will have the right to reasonable reliance upon the accuracy and completeness of all information furnished by the CLIENT.

### D. INVOICING AND SERVICE CHARGES

LANGAN will submit monthly invoices to the CLIENT and a final bill upon completion of Services. The CLIENT shall notify LANGAN within two weeks of receipt of invoice of any dispute with the invoice. The CLIENT and LANGAN will promptly resolve any disputed items. Payment on undisputed invoice amounts is due upon receipt of invoice by the CLIENT and is past-due thirty (30) days from the date of the invoice. Any unpaid balances shall accrue late charges of 1.5% per month, or the highest rate allowed by law, whichever is lower, and the CLIENT agrees to pay all fees and expenses incurred by LANGAN in any collection action. In the event of a suspension of services or termination of the Agreement by LANGAN in accordance with Section P of these General Terms and Conditions, LANGAN will have no liability for any delay or damage of any kind actually or allegedly caused by such suspension of services or termination. CLIENT shall not withhold amounts from LANGAN'S compensation to impose a penalty or damages on LANGAN, or to offset sums requested by or paid to contractors for the cost of changes in their work unless LANGAN agrees or has been found liable for the amounts.

### E. RIGHT OF ENTRY

The CLIENT shall provide for right of entry in order for LANGAN to perform its services. While LANGAN will take all reasonable precautions to minimize any damage to the property, the CLIENT acknowledges and agrees that in the normal course of work some damage may occur, the correction of which is not part of this Agreement unless specifically provided in the proposal.

### F. JOBSITE SAFETY AND CONTROL OF WORK

LANGAN will take reasonable precautions to safeguard its own employees and those for whom LANGAN is legally responsible. Unless expressly agreed to in writing by LANGAN under separate contract, LANGAN will have no responsibility for the safety program at the Project or the safety of any entity or person other than LANGAN and its employees. Neither the professional activities of LANGAN nor the presence of LANGAN's employees and subcontractors at the Project site will be construed to confer upon LANGAN any responsibility for any activities on site performed by personnel other than LANGAN's employees and subcontractors. The CLIENT agrees that LANGAN will have no power, authority, right or obligation to supervise, direct, stop the work of or control the activities of any other contractors or subcontractors or construction manager, their agents, servants or employees.

### G. EXISTING CONDITIONS AND SUBSURFACE RISKS

Special risks occur whenever engineering or related disciplines are applied to identify subsurface conditions. Even a comprehensive sampling and testing program implemented in accordance with a professional Standard of Care may fail to detect certain conditions. The environmental, geologic, geotechnical, geochemical, and hydrogeologic conditions that LANGAN interprets to exist between sampling points will differ from those that actually exist. The CLIENT recognizes that actual conditions will vary from those encountered at the locations where borings, sampling, surveys, observations or explorations are made by LANGAN and that the data, interpretation, and recommendations of LANGAN are based solely on the information available to it. Furthermore, the CLIENT recognizes that passage of time, natural occurrences, and/or direct or indirect human intervention at or near the site may substantially alter discovered conditions. LANGAN shall not be responsible for interpretations by others of the information it develops or provides to the CLIENT.

## **I. INDEMNIFICATION**

Subject to the provisions of Section J of these General Terms and Conditions, LANGAN agrees to indemnify, hold harmless and, except for professional liability claims, defend the CLIENT and CLIENT's parent companies, subsidiaries, affiliates, partners, officers, directors, shareholders, and employees for any and all damage obligations, liabilities, judgments, and losses for personal injury and/or property damage including reasonable attorney's fees and other expenses and disbursements, asserted by any third parties to the extent determined to have been caused by the negligent acts, errors or omissions or willful misconduct of LANGAN in the performance of its services under this Agreement. LANGAN will not be responsible for any loss, damage, or liability arising from any acts by the CLIENT or any of its agents, employees, staff, or other consultants, subconsultants, contractors or subcontractors. In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by an applicable statute of repose or statute of limitations.

To the fullest extent permitted by law, the CLIENT agrees to indemnify and hold harmless LANGAN and LANGAN's parent companies, subsidiaries, affiliates, partners, officers, directors, shareholders, and employees for any and all, damage obligations, liabilities, judgments and losses, including reasonable attorneys' fees and all other expenses and disbursements, to which LANGAN may be subject, arising from or relating to (i) any unknown site condition or subterranean structures of which LANGAN does not have actual knowledge; (ii) any errors, omissions or inconsistencies in any data documents, records or information provided by the CLIENT on which LANGAN reasonably relied; (iii) any breach of contract, tort, error, omission, wrong, fault, or failure to comply with law by the CLIENT or third party over whom LANGAN has no control; (iv) the transport, treatment, removal or disposal of all Samples; and (v) the CLIENT's unauthorized use or copyright violation of plans, reports, documents and related materials prepared by LANGAN.

In connection with any construction project, CLIENT agrees to insert the following wording into any General Contract, Construction Management Agreement, or foundation contractor's contract: "To the extent permitted by law, and to the extent not proven to be caused in whole or in part by an indemnitee's own negligence, the contractor and its subcontractors of any tier shall indemnify, defend, save and hold harmless the CLIENT and LANGAN from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever (including reasonable attorneys' fees and litigation costs) which arise out of or are connected with or are claimed to arise out of or claimed to be connected with the design (to the extent the design is based on calculations, plans and drawings by contractor or anyone acting by, through or under contractor for which contractor is responsible) and performance of work by the contractor, or any act or omission of the contractor. Without limiting the generality of the foregoing, such defense and indemnity shall include all liability, damages, loss, claims, demands and actions on account of personal injury, death, property damage or any other economic loss to any indemnitee, any of indemnitees' employees, agents, contractors or subcontractors, licensees or invitees, or sustained by any other persons or entities, whether based upon, or claimed to be based upon, statutory (including, without limiting the generality of the foregoing, workers' compensation), contractual, tort or other liability of any indemnitee, contractor, subcontractor or any other persons."

In connection with any damages, loss, suit, claim or proceeding arising from or otherwise related to the execution of excavation, support of excavation, foundations, or underpinning activities, CLIENT agrees to use all reasonable efforts to seek defense and indemnification from the Contractor and Subcontractor responsible for the work, and, to the extent the CLIENT is entitled to be or is otherwise indemnified by contractors/subcontractors, CLIENT shall not seek indemnification from LANGAN.

In the event any part of this indemnification is determined to be void as a matter of law, then the clause shall automatically be reformed to be consistent with the law and apply the parties' intent to the maximum extent permissible by law.

## **J. LIMITATION OF LIABILITY**

To the fullest extent permitted by law, the total liability, in the aggregate, of LANGAN and its officers, directors, partners, employees, agents, and subconsultants, to CLIENT, and anyone claiming by, through, or under CLIENT, and to any third parties granted reliance, for any claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way relating to this Project or Agreement, from any cause or causes, including but not limited to tort (including negligence and professional errors and omissions), strict liability, breach of contract, or breach of warranty, shall not exceed the total compensation received by LANGAN or \$100,000, whichever is greater. The CLIENT may negotiate a higher limitation of liability for an additional fee, which is necessary to compensate for the greater risk assumed by LANGAN.

To the extent damages are covered by property insurance, LANGAN and the CLIENT 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. LANGAN and the CLIENT, as appropriate, shall require of the contractors, subcontractors, consultants, subconsultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

## **K. WAIVER OF CONSEQUENTIAL DAMAGES**

LANGAN and the CLIENT waive all consequential or special damages, including, but not limited to, loss of use, profits, revenue, business opportunity, or production, for claims, disputes, or other matters arising out of or relating to the services provided by LANGAN regardless of whether such claim or dispute is based upon breach of contract, willful misconduct or negligent act or omission of either of them or their employees, agents, subconsultants, or other legal theory. This mutual waiver shall survive termination or completion of this Agreement.

## **L. INSURANCE**

LANGAN agrees to maintain workers' compensation insurance as required by law and general liability, automobile and professional liability insurance with minimum limits of \$1,000,000. Certificates of insurance will be issued to the CLIENT upon written request. The CLIENT agrees that it will require the construction manager, general contractor and, the contractor(s) responsible for performing the work reflected by or relating to LANGAN's services on the Project, to name LANGAN as an additional insured on its Commercial General Liability and Excess/Umbrella insurance policies for as long as construction manager, general contractor and contractor(s) are obligated to maintain coverage.

To the fullest extent permitted by law, Client hereby waives all rights of recovery under subrogation against LANGAN and its consultants.

## **M. FORCE MAJEURE**

#### **N. OPINION OF COST**

Consistent with the Standard of Care in Section B of these General Terms and Conditions, any opinions rendered by LANGAN as to costs, including, but not limited to, opinions as to the costs of construction, remediation and materials, shall be made on the basis of its experience and shall represent its judgment as an experienced and qualified professional familiar with the industry. LANGAN cannot and does not guarantee that proposals, bids, or actual costs will not vary from its opinions of cost. LANGAN's services required to bring costs within any limitation established by the CLIENT will be paid for as Additional Services.

#### **O. PROJECT DELIVERABLES**

All reports, opinions, notes, drawings, specifications, data, calculations, and other documents prepared by LANGAN and all electronic media prepared by LANGAN are considered its project Deliverables to which LANGAN retains all rights. The CLIENT acknowledges that electronic media are susceptible to unauthorized modification, deterioration, and incompatibility; and therefore, the CLIENT cannot rely upon the electronic media version of LANGAN's Deliverables. All Deliverables provided by LANGAN to the CLIENT as part of the Services are provided for the sole and exclusive use of the CLIENT with respect to the Project. Reliance upon or reuse of the Deliverables by third parties without LANGAN's prior written authorization is strictly prohibited. If the CLIENT distributes, reuses, or modifies LANGAN's Deliverables without the prior written authorization of LANGAN, or uses LANGAN's Deliverables to complete the project without LANGAN'S participation, the CLIENT agrees, to the fullest extent permitted by law, to release LANGAN, its officers, directors, employees and subconsultants from all claims and causes of action arising from such distribution, modification or use, and shall indemnify and hold LANGAN harmless from all costs and expenses, including the cost of defense, related to claims and causes of action arising therefrom or related thereto.

LANGAN will not sign any documents that certify the existence of conditions whose existence LANGAN cannot ascertain, or execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

#### **P. CONFLICTS OF INTEREST**

LANGAN provides engineering and other services on behalf of many companies and individuals; thus, during the time LANGAN is providing services to CLIENT it may also provide engineering and other services, unrelated to the services LANGAN is providing to CLIENT, to other present or future clients of LANGAN with interests adverse to CLIENT'S interests. CLIENT agrees that LANGAN'S services to CLIENT will not disqualify LANGAN from providing services to other clients in matters that are unrelated to the services LANGAN is providing to CLIENT, and CLIENT hereby waives any conflict of interest with respect to those services. LANGAN agrees not to use or disclose any proprietary or other confidential information of a nonpublic nature concerning CLIENT, which is acquired by LANGAN as a result of its service to CLIENT, in connection with any other matter, unless required to do so by law.

#### **Q. TERMINATION**

Except as otherwise provided in this Agreement, this Agreement may be terminated by either party upon not less than seven (7) calendar days' written notice should the other party fail substantially to perform in accordance with the terms and conditions of this Agreement through no fault of the party initiating the termination. If the defaulting party fails to cure its default within the seven (7) calendar day notice period or fails to commence action to cure its default if the cure cannot reasonably be completed within the seven (7) days, the non-defaulting party may terminate the Agreement. Failure of the CLIENT to make payments to LANGAN in accordance with this Agreement shall be considered substantial non-performance and grounds for termination or suspension of services at LANGAN's option after such seven (7) day notice period or anytime thereafter. In the event of termination, LANGAN will be compensated for all services performed and reimbursable expenses incurred prior to such termination and all termination expenses.

#### **R. DISPOSAL OF SAMPLES**

All samples, contaminated or otherwise ("Samples"), collected by LANGAN while performing services under this agreement remain the property and responsibility of the CLIENT. LANGAN may dispose of Samples in its possession after ninety (90) calendar days unless otherwise required by law or other arrangements are mutually agreed to in writing by the parties. At all times, any and all rights, title and responsibility for Samples shall remain with the CLIENT. Under no circumstances shall these rights, title and responsibility be transferred to LANGAN, and nothing contained in this Agreement shall be construed as requiring LANGAN to assume the status of an owner, operator, generator, storer, transporter or person who arranges for disposal, under any federal or state law or regulation.

#### **S. RIGHT TO REFERENCE PROJECT**

The CLIENT agrees that LANGAN has the authority to use its name as the CLIENT and a general description of the Project as a reference for other prospective clients.

#### **T. SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon the parties hereto and their respective successors and assigns. Neither party may assign or transfer this Agreement without the prior written consent of the other party. The parties agree that this Agreement is not intended to give any benefits, rights, actions or remedies to any person or entity not a party to this Agreement, as a third-party beneficiary or otherwise under any theory of law.

#### **U. DISPUTE RESOLUTION**

LANGAN and the CLIENT agree that any disputes arising under this Agreement and the performance thereof shall be subject to non-binding mediation as a prerequisite to further legal proceedings, which proceeding must be brought in a court of competent jurisdiction in the state in which the office of LANGAN that issued the Proposal is located. LANGAN and CLIENT waive any right to a trial by jury.

All actions by CLIENT against LANGAN, and by LANGAN against CLIENT whether for breach of contract, tort or otherwise, shall be brought within the period specified by applicable law, but in no event more than five (5) years following substantial completion of LANGAN'S services. CLIENT and LANGAN unconditionally and irrevocably waive all claims and causes of action not commenced in accordance with this paragraph.

If the CLIENT asserts a claim against LANGAN relating to allegations of professional negligence in performance of LANGAN'S services under this Agreement, LANGAN will be entitled to reimbursement of any costs incurred by LANGAN in the defense of the professional negligence claim, including any expenses incurred as part of LANGAN'S professional liability insurance deductible, to the extent LANGAN is successful in its