









**16. Electronic File Compatibility.** All electronically-transmitted output must be compatible with existing Port software. The Port currently operates Microsoft Office, AutoCad 2012 and Adobe Acrobat. Consultants shall check with the Port for software application and system compatibility. Consultant shall transfer data via drawings saved as zip files using etransmit to bundle CAD support files accompanied by Adobe .pdf files. Large files can be transmitted via CD or in DVD format.

**17. Pollution.** Port acknowledges that the Consultant is not responsible for the creation or presence of contamination or pollution, if any, at the property except to the extent that such a discharge, release or escape is caused by the negligent act or failure to act of the Consultant. For the purpose of this clause, contamination conditions shall mean the actual or alleged existence, discharge, release or escape of any irritant, pollutant, contaminant, or hazardous substance into or upon the atmosphere, land, groundwater, or surface water of or near the property. The Consultant will promptly notify the Port of contamination conditions, if identified. Notwithstanding the foregoing, the Port does not herein waive any cause of action for damages resulting from the Port's reliance on any misrepresentation (made either knowingly or negligently) by the Consultant with regard to the presence of any contamination or pollution.

**18. Payment of Sub-Contractors.** Markup on work performed by first-tier Sub-consultants shall not exceed four (4%) percent; markups are not allowed on work performed by lower-tier Sub-consultants. The Port may request the Consultant certify that it has paid all sub-contractors for all work encompassed by the project that the Port has paid. The Consultant shall be solely responsible for the performance and payment to its sub-consultants. All sub-consultants shall possess all licenses and insurance as required by the laws of the State of Washington.

**Non-Discrimination.** In connection with the performance of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, national origin, age, marital status, genetic information, honorably discharged veteran or military status, presence of a sensory, mental or physical disability, or use of a trained dog guide or service animal. The Consultant shall take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, creed, religion, sex, sexual orientation, national origin, age, marital

status, genetic information, honorably discharged veteran or military status, presence of a sensory, mental or physical disability, use of a trained dog guide or service animal or any other protected class.

**20. Jurisdiction.** This Agreement is made and delivered in the State of Washington and shall be construed and enforced in accordance with the laws thereof. All claims concerning or arising out of this Agreement shall be resolved in the Superior Court for Whatcom County, Washington. Consultant expressly waives the right of removal to federal court. Both parties hereby waive the right to a jury trial in any such dispute.

**21. Entire Agreement.** This is the entire agreement between the parties. It may not be altered or modified except by a written amendment to the agreement that references the intent of the parties to amend the agreement. There is no other oral or written understanding between the parties concerning this matter. The Consultant specifically understands that no Port employees other than the designated representative or their supervisors are authorized to direct the work of the Consultant. This agreement may be executed in counterparts, each of which shall constitute an original, and all of which will be deemed a single agreement. Signature of an email or other electronic transmittal copy of this agreement, and transmission of a signature page by email or other electronic transmittal, shall bind the signing party to the same degree as delivery of a signed original.

**Signing Authority.** Anyone signing this Agreement on behalf of the Consultant personally certifies that they have the authority to execute said document on behalf of the Consultant and that their signature is binding upon the Consultant.