HUNTER
GEOTECHNICAL SERVICES

Terms of Engagement

Effective Date: 21/10/2025

This is a controlled document and is valid and up-to-date only on the date of printing. Date printed: 21/10/2025

1 Introduction, Definitions and General Matters

1.1 These Terms of Engagement apply to the Services carried out by Hunter Geotechnical Services and should be read in conjunction with the Services Agreement.

1.2 These Terms of Engagement shall apply to any variations that Hunter Geotechnical Services may be directed to perform and, if a further Agreement has not been entered into by the parties, to any subsequent work that Hunter Geotechnical Services may be directed to perform in addition to the Services.

1.3 In the interpretation of this Agreement, no rule of construction applies to the disadvantage of one party on the basis that it put forward this Agreement or any part of it.

1.4 In these Terms of Engagement:

1.4.1 *"Acceptance of Services Agreement Form"* means the form signed by or on behalf of Hunter Geotechnical Services and the Client which identifies the documents that comprise the Agreement.

1.4.2 *"Agreement"* means these Terms of Engagement and the Services Agreement, as varied by the parties in writing from time to time.

1.4.3 *"Claim"* means all actions, suits, causes of action, arbitrations, debts, dues, costs, claims, cross-claims, demands, verdicts and judgments either at law or in equity or arising under a Statute, whether made by the Client or a third party, touching or concerning the provision of the Services.

1.4.4 *"Client/you/your/yourselves"* means the party set out in the Services Agreement, and to whom Hunter Geotechnical Services is contracted to provide the Services.

1.4.5 *"Confidential Information"* means any and all information (whether oral, written, recorded, or stored in electronic form), including any information relating to the business affairs, accounts, marketing plans, prospects, research or management of Hunter Geotechnical Services, together with all know-how, intellectual property, trade secrets, contracts, formulations, plans, designs, concepts, prototypes, drawings, specifications, statements of requirements, outlines of commercial conditions, techniques, procedures, prices, costings and strategies of Hunter Geotechnical Services (whether or not any such information was developed during the course of discussions between the parties concerning the Agreement).

1.4.6 *"Event of Insolvency"* means the Customer becoming bankrupt or insolvent (or otherwise being able to pay debts as and when they fall due), entering

into an arrangement under Part X of the Bankruptcy Act 1966 (Cth), entering into voluntary administration, entering into voluntary liquidation (whether provisional or otherwise), having a receiver or controller appointed within the meaning of the Corporations Act 2001 (Cth), to any of its property, being a party to or is bound by any compromise, assignment of property, scheme of the arrangement, composition of debts, or scheme of reconstruction.

1.4.7 *"GST"* has the meaning ascribed to it under the GST Law.

1.4.8 "GST Law" has the meaning given to it in A New Tax System (Goods and Services Tax) Act 1999 (Commonwealth).

1.4.9 *"Hazardous Substances"* includes synthetic mineral fibre, insulation materials, polychlorinated bi-phenyl, oil capacitors and indicative check of selected lead-painted surfaces.

1.4.10 *"Intellectual Property Right"* means any patent, registered design, trademark or name, copyright or other protected right arising in connection with any drawings, reports, specifications, bills of quantities, calculations and other documents produced by Hunter Geotechnical Services in connection with the Services.

1.4.11 *"Notice of Variation"* has the meaning given pursuant to clause 10.1

1.4.12 *"Project"* means the project described in the Services Agreement.

1.4.13 *"Reimbursable Expenses"* means any disbursement or other payment made to a third party by Hunter Geotechnical Services on behalf of the Client in connection with the carrying out of the Services.

1.4.14 *"Schedule of Rates"* means the Schedule of Rates set out in clause 4.4.1 as varied pursuant to the Agreement.

1.4.15 *"Services"* includes the professional services to be provided to the Client or environmental and engineering consulting and reporting concerning contamination and Hazardous Substances, geotechnical issues, drilling, sampling, and testing services, concreting, aggregating and consulting and the identification of dangerous goods or Hazardous Substances in the form of chemicals used, stored or manufactured by the Client and as described in the Services Agreement.

1.4.16 *"Services Agreement"* means the written Services Agreement provided by Hunter Geotechnical Services to the Client in conjunction with these Terms and Conditions.

1.4.17 *"Hunter Geotechnical Services /we/us/our/ourselves"* means Valley Civilab Pty Limited, ABN 50 103 355 531, trading as Hunter Geotechnical Services.

2 Agreement

2.1 This Agreement shall become effective upon the earlier of:

2.1.1 The Acceptance of Services Agreement Form being signed by or on behalf of both parties;

2.1.2 Hunter Geotechnical Services receiving a written notice issued by or on behalf of the Client indicating its acceptance of the Services Agreement, or

2.1.3 Hunter Geotechnical Services otherwise being instructed by or on behalf of the Client to commence the performance of the Services that are the subject of the Services Agreement.

2.2 The Services Agreement and these Terms of Engagement record the entire agreement between the parties and may only be varied by the written agreement of both parties.

2.3 This Agreement is governed by the laws of the State of New South Wales.

3 Services

3.1 We will:

3.1.1 Provide the Services, and/or arrange for the Services to be performed, in accordance with the Agreement.

3.1.2 Perform the Services to the standard of reasonable care and skill to be expected of consultants who regularly act in the capacity in which we are engaged and who possess the knowledge, skill and experience of a consultant acting in that capacity.

3.1.3 Carry out the Services on the basis of information available to us at the time we carry out the Services.

3.1.4 Not be responsible, nor accept any liability, for damage arising out of matters relevant to the Services that arise due to circumstances that are revealed after the date of the Agreement.

3.1.5 Not be responsible for any damage or consequential loss resulting from any damage to any utility or service that was not identified by you prior to us undertaking any excavation work.

3.2 You will:

3.2.1 Pay us in accordance with the Agreement.

3.2.2 Provide us with information, documents, and other particulars that we believe are required to enable us to carry out the Services.

3.2.3 Provide us with access to such premises and/or sites that we believe is reasonably necessary to enable the Services to be provided.

3.2.4 Make available to us the equipment and facilities specified in the Services Agreement at the agreed time and place.

3.2.5 Advise us of any relevant Australian Standards of which you are aware which are relevant to the provision of the Services.

3.3 You acknowledge and agree that:

3.3.1 We are responsible for exercising reasonable care when giving directions to others involved in carrying out the Services, but that we are not responsible for the manner in which the directions are carried out by others.

3.3.2 You will supply a full copy of any document or report to a third party relevant to the carrying out the Services, and not merely an extract from, or an incomplete copy of, any such document or report.

3.3.3 Contaminated soil samples collected by us during the conduct of the Services shall remain on your property until properly disposed of according to your instructions.

3.3.4 We will only be responsible for any verbal advice or approval given by our site personnel if such advice or approval is confirmed to you in writing by us.

4 Professional Fees

4.1 Basis of Fees

4.1.1 The fees payable to us shall be as set out in the Services Agreement, together with any Reimbursable Expenses and any additional amounts payable by you pursuant to these Terms and Conditions.

4.2 Payment of Fees

4.2.1 Unless otherwise specified in the Services Agreement, you are liable to make payment to us within 14 days from receipt of a tax invoice from us.

4.2.2 Interest at the rate of 20% per annum, calculated daily, will be payable by you on any invoiced amounts that remain unpaid for 7 days or more after the due date.

4.2.3 You will be liable for all costs incurred with the recovery of any unpaid invoiced amounts, including but not limited to legal costs, collection agent's fees, court costs, interest and our fees for time incurred with the recovery process calculated on the basis of the Schedule of Rates.

4.3 You acknowledge and agree that:

4.3.1 The quantum of field investigations included in the Services Agreement is not a fixed quote, and is based on our best estimate of the work required at the time the Services Agreement is prepared;

4.3.2 As the carrying out of the Services proceeds, different site conditions from those anticipated may be discovered which may result in a required change and/or increase in the Services and, consequently, a change and/or increase in the costs and fees payable by you;

4.3.3 You shall indemnify us in respect of all loss, damage, cost, or expense resulting from such site conditions;

4.3.4 We will endeavour to identify any such changes and increases in fees and costs and as soon as practicable after discovering such differing conditions, and advise you of such changes or increase; and

4.3.5 You will be liable for any and all reasonable increases in fees or costs pursuant to this clause, and payment of same shall not be refused by you.

4.4 Schedule of Rates Fees

4.4.1 The following schedule of rates applies for the purposes of this clause:

<u>Schedule of Rates per hour</u>

Principal Geotechnical Engineer / Engineering Geologist	$378.00
Senior Geotechnical Engineer / Engineering Geologist	$264.00
Geotechnical Engineer / Engineering Geologist	$234.00
Undergraduate Geotechnical Engineer / Engineering Geologist	$198.00
Senior Technician	$159.60
Solid Flight Drill Rig / Concrete Coring	$240.00

Technician Establishment (upto 90km)	$76.80
Vehicle Travel (per kilometre for distances exceeding 90km return)	$2.60
Disbursements	At cost plus 10% handling fee

4.4.2 Where any work has not been identified in the Services Agreement but, in the opinion of Hunter Geotechnical Services, is required to be performed as part of the Services (including but not limited to work arising pursuant to clause 5.3 and/or clause 10) then, in the absence of a specific lump sum fee being agreed to in writing by the parties, such work shall be performed and invoiced by us on the basis of the Schedule of Rates.

4.4.3 Where any variations to the Services Agreement are requested by the Client, and a specific lump sum fee has not been agreed in writing by the parties within 7 days of such a request, such work shall be performed by us and invoiced on the basis of the Schedule of Rates.

4.4.4 Where there is any delay in the carrying out of the Services pursuant to Clause 12.1 then, in the absence of a specific lump sum fee being agreed to in writing by the parties within 7 days of the delay arising, the time associated with such delay will be calculated and invoiced on the basis of the Schedule of Rates.

4.4.5 Unless otherwise specified in the Services Agreement, travelling time will be charged and invoiced on the basis of the Schedule of Rates.

4.4.6 Unless otherwise specified in the Services Agreement, any work associated with legal proceedings (including preparation of reports, attending conferences, conclaves, or hearings and so on) will be charged and invoiced on the basis of the Schedule of Rates plus a 25% loading.

4.4.7 The Schedule of Rates shall remain current for a period of 2 months from the date of the Agreement and, thereafter, may be varied once in each 6-month period at the sole discretion of Hunter Geotechnical Services.

4.4.8 All rates in the Schedule of Rates exclude GST.

5 Assignment and Engagement of Sub-Contractors

5.1 If circumstances arise that require the services of a specialist or expert outside of our field of expertise then, either in accordance with the Services Agreement or after obtaining your prior written consent, we are authorised to engage the appropriate consultant on your behalf, at your expense, as your disclosed Agent.

5.2 Nothing in either clause 6.1 or any other part of this Agreement shall prevent us from engaging, at our cost, such persons, or companies as we consider appropriately skilled and qualified to assist us in the carrying out of the Services as your disclosed Agent.

5.3 For the avoidance of doubt, the engagement of any third party by Hunter Geotechnical Services in your name as your disclosed Agent, with the authority given pursuant to this Agreement, will create a contract between you and that third party and Hunter Geotechnical Services will:

5.3.1 Not be a party to any such contract;

5.3.2 Not have any liability whatsoever in connection with any such contract; and

5.3.3 Not have any liability whatsoever in connection with any goods or services provided by the third party pursuant to any such contract.

5.4 You are not permitted to assign or transfer any benefit or obligation under this Agreement.

5.5 It is specifically acknowledged and agreed that Hunter Geotechnical Services may at its absolute discretion engage at its cost the services of any other entity to obtain an opinion and give expertise in assisting Hunter Geotechnical Services to provide the Services.

6 Intellectual Property and Use of Documents

6.1 Subject only to clause 7.2, any and all Intellectual Property Rights, together with any Confidential Information, shall remain vested in Hunter Geotechnical Services.

6.2 Provided the client pays Hunter Geotechnical Services in full for the Services, any other work performed pursuant to clause 5, and any Reimbursable Expenses, the Client shall:

6.2.1 Subject to 7.2.2, have a license to use the Intellectual Property Rights for the purpose of completing the Project.

6.2.2 Be entitled to retain hard copies of final drawings, reports, and other documents (or electronic copies of same in .pdf format).

6.2.3 Shall not be entitled to retain copies of any draft or working documents, or electronic copies of final documents in a file format other than .pdf (including but not limited to .dwg format).

6.3 The Client:

6.3.1 Must hold any Confidential Information securely and in strict confidence, and not disclose, use, publish or disseminate, or permit the disclosure, use,

publication, or dissemination of, the Confidential Information (whether directly or indirectly) without the prior written consent of Hunter Geotechnical Services unless compelled to do so by law;

6.3.2 Must use any Confidential Information only in relation to the provision of the Services; and

6.3.3 Must not make use of any Confidential Information to the commercial, financial, or competitive disadvantage of Hunter Geotechnical Services.

6.4 The Client acknowledges that it has no rights or proprietary interest in respect of any Confidential Information, that nothing in this clause is to be construed as granting the Client any licence or other rights in relation to any Confidential Information, and that the Confidential Information is the sole and exclusive property of Hunter Geotechnical Services.

6.5 Hunter Geotechnical Services may, with the prior consent of the Client, publish (either alone or in conjunction with others) articles, photographs and other illustrations relating to the Project.

7 Scope of Liability

7.1 The Client accepts the provision of the Services at its own risk and, to the fullest extent permitted by law, will indemnify, and keep indemnified, Hunter Geotechnical Services in respect of any Claim of any type whatsoever that may be made against Hunter Geotechnical Services touching or concerning the provision of the Services.

7.2 The Client hereby disclaims any right to rescind or cancel this Agreement, or to make any Claim arising out of any alleged misrepresentation made to it by Hunter Geotechnical Services, and specifically acknowledges and agrees that:

7.2.1 It has entered into the Agreement relying solely upon its own skill and judgment;

7.2.2 It has had a full and proper opportunity to consider the nature and quality of the Services being provided by Hunter Geotechnical Services;

7.2.3 Hunter Geotechnical Services does not warrant that the proposed use or purpose of the Services is or will remain suitable or adequate for all of the purposes of the Client;

7.2.4 Any warranties as to the suitability and adequacy of the Services that may be implied by law are expressly negatived to the fullest extent permitted by law;

7.2.5 There are substances or conditions which may be hidden and non-discoverable by any comprehensive sampling and testing program carried out by Hunter Geotechnical Services; and

7.2.6 Contaminant movement within the soil and within groundwater can follow paths of high permeability and it is possible that sampling will not have intersected these preferential pathways.

7.3 To the fullest extent permitted by law, Hunter Geotechnical Services shall not be liable to the Client for any Claim in connection with:

7.3.1 Any increase in the costs and fees payable by the Client that, pursuant to clause5.3, may result from the discovery of different site conditions from those known to Hunter Geotechnical Services at the time the Services Agreement is prepared;

7.3.2 The acts, omissions or defaults of other contractors or consultants engaged by you (including consultants or contractors engaged by Hunter Geotechnical Services on your behalf as your disclosed agent);

7.3.3 Any changes, alterations or additions to the Services made by you or any other person without the express approval of Hunter Geotechnical Services;

7.3.4 Any part of the Services that is not performed in accordance with this Agreement, unless Hunter Geotechnical Services is notified in writing of the non-performance within 1 year of the provision of the Services;

7.3.5 The accuracy of any quantity and cost estimates provided in good faith;

7.3.6 Any indirect or consequential losses, including but not limited to any loss of use, loss of opportunity, loss of production, loss of interest, loss of earnings, loss of profit, holding or financial costs, or costs associated with business interruption); and/or

7.3.7 Any loss, damage or Claim to the extent that such loss, damage, or Claim was caused or contributed to by the Client or its employees, agents, consultants and/or contractors.

7.4 To the fullest extent permitted by law, Hunter Geotechnical Services shall not be liable in any way to any third party for any Claim arising out of or in connection with the Services, and the Client hereby agrees to indemnify Hunter Geotechnical Services, and keep Hunter Geotechnical Services indemnified, against any such Claim.

7.5 To the fullest extent permitted by law, any warranties implied by statute or otherwise are hereby excluded. In the event of a breach by Hunter Geotechnical Services of a warranty implied under the *Competition and Consumer Act 2010* (Cth) which cannot

be contractually excluded, Hunter Geotechnical Services' liability to the Client for such breach shall be limited to the cost of supplying the Services again.

7.6 To the fullest extent permitted by law, Hunter Geotechnical Services shall be deemed to have been discharged from any liability in respect of the Services, whether under the law of contract, tort or otherwise, at the expiration of one year from the completion of the Services and the Client (and persons claiming through or under the Client) shall not be entitled to commence any action or Claim whatsoever against Hunter Geotechnical Services (or any employee contractor or sub-consultant of Hunter Geotechnical Services in respect of the Services after that date.

7.7 The parties acknowledge that:

7.7.1 Hunter Geotechnical Services has a serious regard for safety issues, and takes its obligations under the Work Health and Safety Act 2011 and the Work Health and Safety Regulations 2011 extremely seriously;

7.7.2 The Client will comply with the provisions of the Work Health and Safety Act 2011 and the Work Health and Safety Regulations 2011 so far as the carrying out of the Services is concerned.

7.8 Without in any way limiting the operation of any other clause of these Terms and Conditions, and in the event that one or more of them are found by a Court of competent jurisdiction to be invalid, the maximum liability of Hunter Geotechnical Services for any Claims arising out of the performance or non-performance of the Services, whether under the law of contract, tort or otherwise, shall be the lesser of the cost of supplying the Services again, the amount paid by the Client to Hunter Geotechnical Services in connection with the carrying out of the Services, or $20,000,000.00.

7.9 The Client will provide to Hunter Geotechnical Services any previous reports or information which may provide information on hazardous materials or suspected hazardous materials on-site and are in the possession or control of the Client.

8 Indemnity

8.1 The Client indemnifies Hunter Geotechnical Services from and against all liability, loss, claims, costs, expenses, and demands arising out of or in connection with:

8.1.1 A breach by the Client of any provisions of this Agreement;

8.1.2 Any act or omission of the Client which causes Hunter Geotechnical Services to be in breach of this Agreement; and

8.1.3 Any;

8.1.3.1 Loss of or damage to, or loss of use of, property of Hunter Geotechnical Services; or

8.1.3.2 Liability to or claims by a third party in respect of any personal injury (including death) to any person or loss of or damage to, or loss of use of, any property of the person;

caused by or arising out of or in connection with the activities of the Client or negligent act or omission or breach of this Agreement by the Client.

9 Variations

9.1 Without limiting the effect of clause 5.3, if we discover any work that we consider will change the scope of the Services, we shall so advise you in writing ("the Notice of Variation").

9.2 Any Notice of Variation shall, if practicable, include details of the applicable fees for carrying out the additional Services. If you accept our Notice of Variation in writing, we shall carry out the variation in accordance with the Notice of Variation.

9.3 If you do not provide written acceptance of the Notice of Variation within 7 days of receipt of the Notice of Variation then we may, at our discretion, either:

9.3.1 Deem the Notice of Variation to be accepted; or

9.3.2 Cease work on the project, without penalty or prejudice to our rights, until such time as the issue is resolved.

10 GST

10.1 If any fee or other money payable to us under this Agreement incurs GST, then GST is payable in addition to that fee or payment and the amount payable will be calculated without regard to GST.

10.2 The Client must pay to Hunter Geotechnical Services an amount equal to the GST determined to be payable under the GST Law in respect of any taxable supply made by Hunter Geotechnical Services under this Agreement and such amount is payable at the same time that the relevant payment for fees is payable.

10.3 Hunter Geotechnical Services will provide a tax invoice that complies with the GST Law for any GST payable.

11 Delay and Extensions of Time

11.1 If we are delayed in the performance of the Services, where the cause of the delay is an act or omission beyond our control, you shall pay us such extra costs as are necessarily incurred by us by reason of the delay.

12 Dispute Resolution

12.1 If a dispute occurs between the parties arising out of the Agreement, the party alleging the existence of the dispute shall give the other party a written notice identifying and providing details of the dispute.

12.2 If a dispute has not been resolved within 14 days after receipt of a notice of dispute by a party, then we may, without penalty or prejudice to any rights we otherwise have, elect to suspend the provision of Services until such time as the dispute is resolved.

12.3 Nothing herein shall prejudice our right to claim interest on, or institute proceedings to enforce payment, of an amount due under the Agreement.

13 Termination

13.1 This Agreement may be terminated at any time by:

13.1.1 Mutual agreement, in which case we will confirm any such mutual agreement in writing to you;

13.1.2 By us giving you 30 days written notice of our intention to terminate the Agreement; or

13.1.3 By us pursuant to clause 14.2.

13.2 Without limiting the effect of any other clause in the Agreement, if:

13.2.1 You are in breach of any term of the Agreement, and the breach is not, in our opinion, remedied within seven (7) days of you receiving notice from us asking you to rectify the breach;

13.2.2 You refuse to allow us to carry out work pursuant to clause 5.4.2;

13.2.3 You commit an Event or Insolvency; or

13.2.4 You cease, or threaten to cease, conducting your business in the usual manner;

we may, without penalty any without prejudice to any rights we otherwise have under the Agreement, terminate the Agreement immediately by giving you notice in writing.

13.3 For the avoidance of doubt, if Hunter Geotechnical Services terminates this Agreement pursuant to this clause then, without prejudice to any other remedies available to Hunter Geotechnical Services at law, the Client must immediately pay to Hunter Geotechnical Services any fees and/or Reimbursable Expenses associated with the part of the Services that have been carried out as at the date of termination (including the costs of any materials on the Site or that have already been ordered from suppliers in connection with the Services), any costs associated with leaving the site or premises at which the Services are being carried out, and any other harm or damage incurred by Hunter Geotechnical Services.

13.4 Any term of this Agreement that creates a right or obligation on any of the parties which are capable of continuing after the completion or after the termination of this Agreement shall do so, and any rights or remedies accrued by Hunter Geotechnical Services will not be affected by such termination.

14 Severability

14.1 If any provision of this agreement is illegal, void, invalid or unenforceable for any reason, all other provisions which are self-sustaining and capable of separate enforcement shall, to the fullest extent permitted by law, be, and continue to be, valid and enforceable.

15 Death / Insolvency of Client

15.1 Subject to Hunter Geotechnical Services electing to exercise its rights pursuant to clause 14, the Agreement shall survive the death, or any Event of Insolvency committed by the Client, and the Client's rights and obligations shall pass to its successors, receiver, administrator, or liquidator (as the case may be).

15.2 For the avoidance of doubt, clause 16.1 will not prevent Hunter Geotechnical Services from immediately terminating the Services in the event of the death or any Event of Insolvency committed by the Client, in which case any and all fees and costs incurred in connection with the Services as at the date of termination shall immediately become due and payable.

15.3 The Client hereby charges and mortgages in favour of Hunter Geotechnical Services payment of all or any monies required to be paid to Hunter Geotechnical Services pursuant to the Agreement all of its freehold, leasehold, personal or other property owned now or at any time in the future and agrees that Hunter Geotechnical Services is irrevocably authorised to lodge a caveat over any real property owned by the Client.