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## STANDARD TERMS AND CONDITIONS

Customer agrees to be bound to these Standard Terms and Conditions (“Terms and Conditions”), which shall govern the relationship between Penhall Company (“Penhall”) and Customer for all purposes during the provision of services by Penhall to Customer. Customer’s request, approval, or consent, in any form, for Penhall to commence or proceed with any provision of services will irrevocably be deemed to be acceptance by Customer of all of the following terms and conditions, and any subsequent version thereof.

## CREDIT TERMS

1. Original invoices will be mailed to the billing address stated on Customer’s credit application. Payment is due upon receipt. Any invoice not paid according will accrue interest at a rate of 18% per annum (1½ % per month), or the maximum amount allowed by law, whichever is higher. Retention is not allowed. A \$50.00 fee shall be assessed for each returned check. Customer shall pay all costs of collection, including, without limitation, reasonable attorneys’ fees and costs of court. Should any account become past due, Customer’s ability to purchase on credit may be suspended at the sole discretion of Penhall.
2. To set up an account, and upon request thereafter, Customer will provide updated credit information on Penhall’s standard form. Any and all credit, financial and other information submitted to Penhall shall be true, correct, and complete on the date submitted. Penhall may at any time obtain credit information about Customer from any credit bureau or third party in connection with any of Customer’s credit application and Penhall may disclose (automatically or upon request) credit information about Customer to credit bureaus and to persons with whom Customer has or proposes to have financial dealings or if Penhall believes disclosure is required by law. Customer hereby consents to the collection, use, and disclosure of any personal information disclosed to Penhall, if any, in order for Penhall to determine Customer’s credit worthiness, to meet Customer’s requests for services, to administer accounts, and to comply with legal requirements, including, without limitation, disclosure of personal information to third parties to obtain credit reports and credit references and to otherwise determine credit worthiness.
3. If, at any time, Penhall owes credits, refunds, or other monies to Customer, Penhall may, at its sole discretion, set off these amounts against any unpaid invoices.
4. Penhall reserves the right to supply labor, materials, and services on credit in its sole discretion.
5. Upon request, Customer will provide Penhall with all information necessary for Penhall to protect its statutory lien and payment rights and remedies.

## SERVICES

6. Customer represents that it will comply with all state, federal, and local laws, statutes, ordinances, codes, orders, rules, and regulations (collectively, “Applicable Laws”) with respect to safety, accident prevention, property damage prevention, and safe work practices. Customer represents that it has or will conduct inspections to determine if safe working conditions and equipment exist. Customer further represents that, when appropriate, it has obtained all required permits and authorizations for any work to be performed, including, without limitation, any notices of planned excavations in accordance with Applicable Law.
7. Unless otherwise agreed to in writing prior to Penhall’s performance of services, and subject to general industry practice, the services provided by Penhall do not include: layout, flagging and barricades, traffic control, dust and water control, utilities (cut, cap and demo), protective covers, shoring, scaffolding, work with hazardous materials, ventilation, earthwork, repair of pavement scarring, pile extraction, salvage for others, delays or accelerations, testing inspections, permits, sales and use tax, bonds, and surface preparation.
8. Unless otherwise agreed to in writing prior to Penhall’s arrival on site, it is Customer’s responsibility to locate, identify, mark, and de-energize any buried or hidden utility services; provide layout for areas to be drilled, sawcut, broken-out, excavated, or x-rayed; and provide safety rails, covers, hoarding, platforms, etc., all in accordance with Applicable Law.
9. Certain government agencies and project owners specify that concrete slurry created during the cutting process be collected, removed from the job site, and properly disposed of. Slurry collection and disposal is not included in the price of services provided by Penhall and will be performed when required by Applicable Laws or when requested by Customer at standard hourly rates. In the event Customer desires to perform the slurry clean up with its own crews and equipment, Customer shall so indicate by notifying Penhall in writing.

10. Penhall shall have no duty or obligation to defend or indemnify Customer or any third party for any and all claims, allegations, actions, suits, arbitrations, administrative proceedings, regulatory proceedings, or other legal proceedings, causes of action, demands, costs, judgments, liens, stop payment notices, penalties, liabilities, damages, losses, anticipated losses of revenue, and expenses (including, but not limited to, any fees of accountants, attorneys, experts, or other professionals, or investigation expenses), or losses of any kind or nature whatsoever, whether actual, threatened, or alleged, arising out of, resulting from, or in any way (either directly or indirectly) related to the work or services provided by Penhall, except to extent caused by Penhall.

#### TERMS SPECIFIC TO SCANNING SERVICES

11. The following terms and limitations apply for all ground penetrating radar (“GPR”) scanning and X-Ray services provided by Penhall.
- a. Penhall uses electromagnetic, magnetic, and radiographic (X-Ray) equipment for the purpose of non-destructive testing, damage prevention, and hazard location (“NDT”) to assist in the requests of Customer or Customer’s representative(s).
  - b. Analysis provided by Penhall to the Customer is based on collected data and is imperfect and incomplete due to the limitations of the technology used for GPR scanning or xray imaging. As such, Penhall will provide advice, but no express or implied warranty, on the probable location of embedments that may be detected by the technology used by Penhall.
  - c. The final determination for the location of any destructive testing or penetration is at the sole discretion of the Customer, not Penhall.
  - d. GPR is a form of NDT used by Penhall. GPR can produce false positives and false negatives. Additionally, results can vary when utilizing GPR depending on several factors, including, but not limited to, inadequate working space (e.g., GPR data cannot be collected within 6” of any vertical obstruction for concrete inspection), depth of signal penetration, extreme temperatures, subsurface distribution/geometry, classification, conductivity and moisture content of subsurface material, spatial placement of objects within, or obstructions within the examination area, such as reinforcing steel, steel mesh, metallic filings, conduits, metal fencing, catch basins, and railway lines among others. X-Ray is also a form of NDT used by Penhall. Results can vary when utilizing x-ray depending on several factors, including, but not limited to, inadequate working space or obstructions within the examination area that would prevent adequate access to both sides of the material being inspected such as conduits or track, among others. When X-Ray services are performed, Penhall provides x-ray images (digital or by print) in addition to markings. The final interpretation of the image including the location of any embedments and the decision on where to cut the target is the responsibility of the customer only.
  - e. Based on the above limitations, Customer is advised, and hereby agrees, to corroborate GPR data and X-Ray images and markings with other sources (engineering plans, schematics, building history) before making a determination for the location of any destructive testing or penetrations through the material.
  - f. All markings Penhall makes as a result of GPR scanning or X-Ray imaging represent the inferred center point of the object and do not in any way designate the size of the object. Penhall advises Customer against making any cut within 2 inches of the edge of any probable rebar, 6 inches of the edge of any probable post tension cable, and 3 inches of the edge of all other probable embedments (including but not limited to conduit, and other utility lines). We advise against cutting within 3 inches of the edge of the line on either side. However, 6 inches from the edge of the line is the preferred distance for cutting/coring near post tension cable when possible. For utility locating, follow state and federal laws associated with digging near utilities. Local protocols may vary. For utilities deeper than 12 inches, Penhall advises hand digging only (non mechanized) within 36 inches horizontally of field markings.
  - g. Penhall may employ a fixed frequency Utility Locating device which can be severely affected by competing magnetic fields from sources including, but not limited to, nearby-metal objects, utility/service congestion and electronic equipment. Results from this equipment may be distorted and/or unattainable. Magnetic/Electromagnetic fields which propagate from linear conductors from either passive or active induction, including, but not limited to reinforcing steel bars and nearby services or railway lines, can lead to false markings and inconclusive results. Direct access to ‘detectable’ services is required with this equipment to generate (or induce) current to flow on specific services.
  - h. Customer must locate and mark all services/utilities that are publicly owned and within the work area through an appropriate contractor before Penhall commences its scanning services.
  - i. The approximate location of all objects detect by GPR or x-ray are for the convenience of the Customer only. Customer shall defend, indemnify and hold harmless Penhall for any property damage or personal injury, including death, to any person arising out of, or relating to, the result of the information provided by Penhall’s GPR scanning or x-ray imaging.
  - j. At customer’s request Penhall may mark a target area with the location of probable embedments. After Penhall leaves the target area worksite, Customer is responsible for the maintenance and integrity of the markings for future use.
  - k. When provided, written communications as a submitted report and/or a site mark-up take precedence and supersede any verbal advice provided by Penhall to the Customer.

## GENERAL

12. Penhall will warrant its services will be performed in a first class, good and workman like manner, consistent with industry standards, and will conform to the specifications, drawings or descriptions that have been provided to Penhall, for a period of one (1) year from the completion of Penhall's work. In addition, if Penhall's work contains goods, such goods shall be new, of good quality, and free from apparent defects. Penhall will assign any manufacturer's warranties and assist in the enforcement of such warranties. If notified of defect or breach of warranty in writing during the warranty period, Penhall will reperform or replace defective services at its cost and expense. Notwithstanding the foregoing, in no event shall any warranty obligation of Subcontractor extend to the portion of the Work related to GPR, X-Ray or NDT services. Notwithstanding anything to the contrary in any agreement provided by the Customer, Penhall makes no other warranties, whether statutory, express or implied. All other warranties are disclaimed, including, without limitation, the warranty of merchantability or fitness for a particular purpose.
13. Notice of any delay or damage claims must be delivered in writing to Penhall within forty-eight (48) hours of occurrence of the event giving rise to such claim. Customer waives all rights to assert a claim unless such notice is given as required by this paragraph. Penhall's liability for a claim that results from the provision of any services to Customer is limited to the amount charged by Penhall for the specific service involved in the claim.
14. Under no circumstances will Penhall be liable, whether in warranty, contract or tort, for special, indirect, incidental, punitive, liquidated, or consequential damages, including, but not limited to, loss of profits, revenue, or use.
15. The invalidity of any provision or provisions herein contained shall not affect the other provisions, and these other provisions shall be construed in all respects as if the invalid provision or provisions were omitted.
16. These Terms and Conditions shall be governed by the laws of the State of Texas, without regard to its choice of law provisions. The venue and jurisdiction for any dispute arising hereunder shall be the county where the services are provided to Customer, or, at , at Penhall's sole discretion, Dallas County, Texas.
17. These Terms and Conditions govern the relationship between Penhall and Customer concerning the provision of services and may not be amended or replaced by any terms or conditions of any purchase order, work order, or other agreement generated by Customer without Penhall's written acknowledgment. These terms and conditions supersedes all prior or contemporaneous agreements, negotiations, or understandings, verbal or written, with respect to said subject matter. Unless accepted by Penhall in writing, in no event shall the terms and conditions of any other agreement, including, without limitation, any agreement between the Customer and any third party, be incorporated herein or prevail over these terms and conditions.
18. 5% Environmental/Compliance Fee. The Environmental/Compliance Fee is intended to cover Penhall Penhall's overall nationwide costs for our Penhall operating companies to operate in a safe and environmentally responsible manner. The environmental surcharge fee is not regulated nor collected by or for any government agency. Such environmental costs include, among other things, handling & disposal of slurry, OSHA compliance with Silica, the disposal of tires, batteries, oils and fluids and the monitoring and management of vehicle emissions. Environmental/Compliance Fees are common in the transportation industry and are charged by waste haulers, trucking companies, rental companies, crane companies and suppliers.
19. 5% Fuel Surcharge. The fuel surcharge allows us to keep up with the changing costs of diesel, natural gas and other hydrocarbon-based fuels and products that we use on a nationwide basis. This fee may be adjusted as the cost of fuel rises or lowers.
20. Due to the circumstances presented by COVID-19, Penhall Company reserves the right to require an extension of schedule or additional compensation in the event that local, state or federal mandates or customer requirements impose additional requirements with respect to Penhall's work. This may include, without limitation, schedule adjustments required by requirements that Penhall only supply employees with proof of vaccination. Penhall can make no guaranty that it will be able to maintain project schedules under such circumstances. In addition, in the event that COVID-19 testing is required, Penhall will require that the costs of such testing, as well as downtime or non-productive time related to such testing, be billed on a time and material basis.

**THESE TERMS AND CONDITIONS MAY BE AMENDED BY PENHALL AT ANY TIME OR FROM TIME TO TIME, IN WRITING AND/OR ON PENHALL'S WEBSITE. CUSTOMER SHALL BE BOUND TO THE TERMS AND CONDITIONS IN EFFECT AT THE TIME CUSTOMER AGREES TO BE BOUND.**