



## GENERAL TERMS AND CONDITIONS

### 1. Applicability.

(a) These general terms and conditions for services (these “**Terms**”) are the only terms that shall govern the provision of services by Tampa Bay Septic, Inc., a Florida corporation with its principal place of business at 2003 Country Club Court, Plant City, Florida 33566 (“**Tampa Bay Septic**”) to the customer named in the applicable Order Confirmation. (“**Customer**”).

(b) The accompanying order confirmation (the “**Order Confirmation**”) and these Terms (collectively, this “**Agreement**”) comprise the entire agreement between the parties and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, regarding their subject matter. In the event of any conflict between these Terms and the Order Confirmation, these Terms shall govern and control unless the Order Confirmation expressly states otherwise.

(c) These Terms shall prevail over any of Customer’s general terms and conditions regardless of whether or when Customer has submitted its request for proposal, order and/or such terms. Provision of services to Customer does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms.

2. Services. Tampa Bay Septic shall provide the services to Customer as described in the Order Confirmation (the “**Services**”) in accordance with these Terms. All Services are to be performed in accordance with Florida Administrative Code Chapter 62-6.001 *et seq.*, “Standards for Onsite Sewage Treatment And Disposal Systems,” as the provisions of the Chapter may apply and as permits and/or inspections may be required by the Florida Department of Health. Tampa Bay Septic shall furnish all materials and equipment required to perform the Services, as stated in the applicable Order Confirmation. Prices charged for Services are subject to change based upon any specifications set forth in permits that are related to and/or required by the Services. If sod is required as a result of permitting requirements, Customer alone is responsible for the purchase and proper and timely installation of sod, which should be installed within seventy-two (72) hours of system final grade. Should complimentary grass seed be provided by Tampa Bay Septic, in its sole discretion, the seed may or may not produce growth, which is not guaranteed, and there shall be no substitutions or exchanges related to such seed. If additional septic sand is required for the Services, the Order Confirmation may be updated accordingly and Customer shall be responsible to pay such additional amount.

3. Performance Dates. Customer understands that Tampa Bay Septic cannot guarantee a performance date of the Services. Any performance dates specified in the Order Confirmation shall be estimates only.

4. Customer's Obligations. Customer shall:

(a) Pay to Tampa Bay Septic fifty percent (50%) of the total cost of the Services as set forth on the applicable Order Confirmation and on the date that customer signs the Order Confirmation. Customer shall pay the remaining fifty percent (50%) of the total cost of the Services to Tampa Bay Septic within twenty-four (24) hours after inspection is passed by the appropriate governmental entit(ies) and before the system contemplated by the Services is covered.

(b) Cooperate with Tampa Bay Septic in all matters relating to the Services and provide such access to Customer's premises, and such other facilities as may reasonably be requested by Tampa Bay Septic, for the purposes of performing the Services.

(c) Respond within twenty-four (24) hours to any Tampa Bay Septic request to provide direction, information, approvals, authorizations or decisions, and to provide all documents related to the foregoing, that are reasonably necessary for Tampa Bay Septic to perform the Services in accordance with the requirements of this Agreement.

(d) Provide such Customer materials or information as Tampa Bay Septic may reasonably request to carry out the Services in a timely manner and to ensure that such Customer materials or information are complete and accurate in all material respects.

(e) Obtain and maintain all necessary consents and comply with all applicable laws in relation to the Services before the date on which the Services are to commence.

(f) Customer shall permit Tampa Bay Septic, its employees or person(s) employed or engaged by Tampa Bay Septic, without compensation or consideration to Customer, to take photographs of the Services for purposes including, but not limited to, publication in newspapers, magazines and other print media, use in broadcast media, publication on the Internet and use in marketing material used by Tampa Bay Septic.

(g) Customer shall not publish reviews in written publications, on the internet, on social media websites, or any other similar media that (1) contains confidential or private information, (2) that is defamatory, libelous, slanderous, harassing, abusive, obscene, vulgar, sexually explicit, or is inappropriate with respect to race, gender, sexuality, ethnicity, or other intrinsic characteristics, (3) that is unrelated to Tampa Bay Septic's products or services, or (4) that is clearly false or misleading.

5. Customer's Acts or Omissions. If Tampa Bay Septic's performance of the Services and/or its related obligations under this Agreement are prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Tampa Bay Septic shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or

indirectly from such prevention or delay. Further, Tampa Bay Septic shall not be liable to Customer for any delays for the Services caused by governmental entities, review of the Services by an engineer or related professional, or any other circumstances outside of the control of Tampa Bay Septic. Tampa Bay Septic shall not be liable for damage to any driveway, sidewalk, sprinkler system, water line, electrical line, cable line, sod or turf, or other element that is present at Customer's property. Prior to Tampa Bay Septic providing Services to Customer, Customer warrants that all sprinkler systems, water lines, electrical lines, cable lines, sod or turf, or other elements are removed from the yard where the septic tank and drain field will be located and within a five-foot diameter of where the septic tank and drain field will be located. Customer shall be responsible for the good working order and compatibility of any and all plumbing, electrical and/or other systems related to any installation that is performed by Tampa Bay Septic in connection with the Services. Customer shall also be responsible for ensuring that any septic installation area or other area where the Services are performed is free of debris prior to commencement of the Services; if such area is not free of debris when Tampa Bay Septic arrives to provide the Services, Customer shall be charged a one-time \$500.00 rescheduling fee in consideration for the administrative and related costs incurred by Tampa Bay Septic when unable to perform the Services because of the Customer's failure to remove the debris. The parties hereto intend that the \$500.00 rescheduling fee constitutes compensation and is not a penalty, and acknowledge and agree that the harm caused by Customer's failure to honor and observe the terms of the Order Confirmation and these General Terms and Conditions would be either impossible or very difficult to accurately estimate as of the date of the Order Confirmation, and \$500.00 rescheduling fee is a reasonable estimate of the anticipated or actual harm that might arise. Customer's payment of the \$500.00 rescheduling fee in such case shall be Customer's sole liability and obligation with respect to the breach, and Tampa Bay Septic's exclusive and sole remedy in such case.

6. Change Orders.

(a) If Customer wishes to change the scope or performance of the Services, it shall submit details of the requested change(s) to Tampa Bay Septic in writing. Tampa Bay Septic shall, within a reasonable time after such request, provide a written estimate to Customer of:

- (i) The likely time required to implement the change(s).
- (ii) Any necessary updates to the fees and other charges for the Services arising from the change(s).
- (iii) The likely effect of the change(s) on the Services, if any.
- (iv) Any other impacts that the change(s) might have on the performance of this Agreement.

(b) Promptly after receipt of the written estimate, the parties shall negotiate and agree in writing on the terms of such change(s) (in each such case, a "**Change Order**"). Neither party shall be bound by any Change Order unless mutually agreed upon in writing in accordance with Section 24 of this Agreement.

(c) Notwithstanding Section 6(a) and Section 6(b), Tampa Bay Septic may from time to time unilaterally change the Services without the consent of Customer, provided that such changes do not materially affect the nature or scope of the Services, nor materially affect the fees or performance dates that are set forth in the Order Confirmation.

(d) Tampa Bay Septic may charge for any time that it spends assessing and documenting a change request from Customer, on a time and materials basis in accordance with the terms set forth in the applicable Order Confirmation.

7. Fees and Expenses; Payment Terms; Interest on Late Payments.

(a) In consideration of the provision of the Services by Tampa Bay Septic and the rights granted to Customer under this Agreement, Customer shall pay the fees set forth in the Order Confirmation. Any and all estimates provided to Customer prior to provision of Services shall remain valid for sixty (60) days only.

(b) Customer agrees to reimburse Tampa Bay Septic for all reasonable, directly related expenses incurred by Tampa Bay Septic in connection with the performance of the Services, consistent with the applicable Order Confirmation.

(c) One (1) free “pump-out” of a septic system installed by Tampa Bay Septic is provided at no charge to Customer, after the date of the execution of the Order Confirmation but before the date of the septic system installation up to a maximum septic tank pump out of 1,000 gallons. Additional pump-outs, if needed, shall not be free of charge and the Order Confirmation shall be updated to reflect any related additional costs, payment of which shall be the responsibility of Customer.

(d) Should Customer cancel the Services called for in the Order Confirmation more than seventy-two (72) hours after to the execution of the Order Confirmation, Customer agrees to pay to Tampa Bay Septic a one-time, one thousand US dollar (\$1,000.00) cancellation fee (the "**Liquidated Damages**") in consideration of the breach by Customer and the administrative and related costs incurred by Tampa Bay Septic when preparing to provide the Services. However, if the Order Confirmation provides for a septic system requiring engineered drawings or related engineering work, the Liquidated Damages shall be three thousand five hundred US dollars (\$3,500.00). The parties hereto intend that the Liquidated Damages constitute compensation and are not a penalty, and acknowledge and agree that the harm caused by Customer’s failure to honor and observe the terms of the Order Confirmation and these General Terms and Conditions would be either impossible or very difficult to accurately estimate as of the date of the Order Confirmation, and the Liquidated Damages are a reasonable estimate of the anticipated or actual harm that might arise. Customer’s payment of the Liquidated Damages in such case shall be Customer’s sole liability and obligation with respect to the breach, and Tampa Bay Septic’s exclusive and sole remedy in such case.

(e) Customer shall pay all amounts due to Tampa Bay Septic consistent with Section 4(a) of this Agreement. Customer shall make all payments hereunder in US dollars by credit card,

check or in cash, with a receipt to be provided to Customer in each case. All credit card payments are subject to a four percent (4%) processing fee.

(f) In the event payments are not timely received by Tampa Bay Septic upon becoming due, Tampa Bay Septic may:

(i) charge interest on any such unpaid amounts at a rate of eighteen percent (18%) per annum, from the date such payment was due until the date paid; and

(ii) in Tampa Bay Septic's sole discretion, suspend performance for all remaining Services related to any property owned or managed by Customer, its agents, or assigns, until all outstanding payments have been made in full.

8. Taxes. Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and/or charges of any kind that may be imposed by any federal, state or local governmental entity on any amounts payable by Customer hereunder.

9. Representations and Warranties.

(a) Tampa Bay Septic represents and warrants to Customer that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner, in accordance with generally recognized industry standards for similar services, and shall devote adequate resources to meet its obligations under this Agreement. Tampa Bay Septic further warrants to Customer that, for a period of three (3) years from the date of installation of any septic system, that the septic system will materially conform to any specifications set forth in the Order Confirmation and will be free from any material defects in material and workmanship. Such three (3)-year warranty as aforesaid shall only commence at such time as full payment is made by Customer under the applicable Order Confirmation and the septic system installed is covered with sand, graded, and grass seed and hay is placed over the area affected by the installation.

(b) Tampa Bay Septic shall not be liable for a breach of the warranty set forth in Section 9(a) unless Customer provides written notice of the defective Services, described in reasonable detail, to Tampa Bay Septic within thirty (30) days of the date when Customer discovers or ought to have discovered that the Services were defective. No septic system warranty in Section 9(a) shall be honored if damage is caused to the septic system by fats, oils and/or grease introduced into the septic system, if the system collapses due to excessive weight as a result of measures not taken by Tampa Bay Septic, if any improper maintenance is performed by a party other than Tampa Bay Septic, if any root intrusion occurs, or if the system is subject to hydraulic overload.

(c) Subject to Section 9(b) Tampa Bay Septic shall, in its sole discretion, either:

(i) repair or re-perform such Services (or the defective part thereof); or

(ii) credit or refund the price of such Services to Customer at the pro rata contract rate less any costs incurred by Tampa Bay Septic; or

(iii) do nothing.

**(d) THE REMEDIES SET FORTH IN SECTION 9(c) SHALL BE THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND TAMPA BAY SEPTIC'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 9(a).**

10. Disclaimer of Warranties. **EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 9(a), TAMPA BAY SEPTIC MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES INCLUDING ANY GOODS THAT ARE PROVIDED IN CONNECTION THEREWITH, INCLUDING BUT NOT LIMITED TO ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

11. Limitation of Liability.

**(a) IN NO EVENT SHALL TAMPA BAY SEPTIC BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY REMEDY OF ITS ESSENTIAL PURPOSE.**

**(b) IN NO EVENT SHALL TAMPA BAY SEPTIC'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED TWICE THE AGGREGATE AMOUNTS PAID OR PAYABLE TO TAMPA BAY SEPTIC PURSUANT TO THIS AGREEMENT AND THE APPLICABLE ORDER CONFIRMATION.**

(c) The limitation of liability set forth in Section 11(b) above shall not apply to

(i) liability resulting from Tampa Bay Septic's gross negligence or willful misconduct, or

(ii) death or bodily injury resulting from Tampa Bay Septic's negligent acts or omissions.

12. Termination. In addition to any remedies that may be provided for under this Agreement, Tampa Bay Septic may terminate this Agreement with immediate effect upon written notice to Customer, if Customer:

- (a) fails to pay any amount promptly when due under this Agreement;
- (b) has not otherwise performed or complied with any of the material terms of this Agreement, in whole or in part; or
- (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it any proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

13. Waiver. No waiver by Tampa Bay Septic of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Tampa Bay Septic. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

14. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Customer to make payments to Tampa Bay Septic hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)": (a) acts of God; (b) flood, fire, earthquake, hurricane, epidemic, pandemic or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns or other industrial disturbances; (h) shortage of adequate power or transportation facilities; and (i) any other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within three (3) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of thirty (30) consecutive days following written notice given under this Section 14, either party may thereafter terminate this Agreement upon three (3) days' written notice thereof.

15. Assignment. Customer shall not assign any of its rights nor delegate any of its obligations under this Agreement without the prior written consent of Tampa Bay Septic. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under this Agreement.

16. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

17. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Florida.

18. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Florida, in each case located in the City of Tampa and County of Hillsborough, and each party hereto irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

19. Jury Trial Waiver. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION BASED ON OR ARISING OUT OF THIS AGREEMENT. Each party certifies and acknowledges that (a) no representative of the other party has represented, expressly or otherwise, that such other party would not seek to enforce the foregoing waiver in the event of a legal action, (b) such party has considered the implications of this waiver, (c) such party makes this waiver voluntarily, and (d) such party has been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this section.

20. Litigation Costs and Expenses. If any party institutes any legal suit, action or proceeding against the other party to enforce this Agreement or obtain any other remedy regarding any breach of this Agreement and/or arising out of or relating to this Agreement, including but not limited to contract, equity, tort, fraud and statutory claims, each party agrees to pay its own attorney's fees.

21. Notices. All notices, requests, consents, claims, demands, waivers and/or other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth in the Order Confirmation, or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or email, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party and (b) if the party giving the Notice has complied with the requirements of this Section.

22. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any



other term or provision of this Agreement, nor invalidate or render unenforceable such term or provision in any other jurisdiction.

23. Survival. Provisions of these Terms, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of this Agreement, including but not limited to the following provisions: Governing Law, Submission to Jurisdiction and Survival.

24. Amendment and Modification. This Agreement may only be amended or modified in a writing that specifically states that it amends this Agreement and is signed by an authorized representative of each party hereto.

By purchasing any goods and/or services from or on behalf of Tampa Bay Septic, Customer agrees and consents to these General Terms and Conditions as set forth herein, and agrees that any electronic signature provided by Customer is as authentic and binding as would be a physical signature.

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