

NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS
SERVICES AGREEMENT

This Services Agreement ("AGREEMENT") is made and entered into this 16th day of May 1996 by and between the NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS ("CLIENT") and EMCON, Inc. (CONTRACTOR).

In consideration of the undertakings and agreements hereinafter set forth, the parties agree as follows:

ARTICLE I - SERVICES

The specific services (the "Services") to be performed by CONTRACTOR on behalf of CLIENT are as described by the attached Technical Specifications. All Services authorized by referencing this AGREEMENT shall be subject to the terms of this AGREEMENT except as otherwise modified in writing by mutual consent.

ARTICLE II - COMPENSATION FOR SERVICES

CLIENT shall compensate CONTRACTOR in accordance with the provisions of the attached Cost Schedule. CLIENT agrees to pay all sales, use, excise, gross receipts or other taxes, including any waste fees or taxes, imposed upon the Services rendered by CONTRACTOR; any taxes shall be added to the total compensation due CONTRACTOR.

ARTICLE III - INVOICES AND PAYMENTS

(a) Invoices shall be submitted once a month or upon completion of the Services, whichever occurs first. Invoices shall be due and payable upon receipt. Any unpaid balances shall draw interest at the lesser of one and one-half percent (1 1/2%) per month or the highest rate allowed by law commencing ninety (90) days after date of receipt of invoice. All invoices not contested in writing within ten (10) business days of receipt are deemed accepted by CLIENT as true and accurate and are payable in full.

(b) Invoices shall provide the following information: (i) total number of hours worked in performing the Services; (ii) total labor costs; and (iii) listing of reimbursable expenses itemized by type of charge.

- (c) All payments should be remitted to the address indicated by the CONTRACTOR in the invoice.

ARTICLE IV - TERM

(a) This AGREEMENT shall become effective as of the date of execution and the initial term shall be for 1 year.

(b) This AGREEMENT shall automatically renew for additional periods of one (1) year unless either party notifies the other, at least sixty (60) days prior to the expiration of the then current term, of its desire to terminate the AGREEMENT.

ARTICLE V - CONFIDENTIALITY

Each party shall retain as confidential all information and data delivered to it by the other party, which are designated in writing as confidential at the time of delivery (collectively the "Confidential Information"). Confidential Information shall not be disclosed to any third party, unless required by law or regulation. However, nothing herein is meant to preclude either party from disclosing and/or otherwise using Confidential Information (i) when the Confidential Information is actually known to the receiving party before being obtained or derived from the transmitting party; or (ii) when Confidential Information is generally available to the public without the receiving party's fault at any time before or after it is acquired from the transmitting party; or (iii) where the Confidential Information is obtained or acquired in good faith at any time by the receiving party from a third party who has the same in good faith and who is not under any obligation to the transmitting party in respect thereof; or (iv) where a written release is obtained by the receiving party from the transmitting party.

ARTICLE VI - PERMIT ASSISTANCE

CONTRACTOR shall be responsible for identifying all required permits, obtaining all necessary governmental permits, licenses, approvals, and documents required for the performance of the Services.

ARTICLE VII - COMPLIANCE WITH LAWS AND PROFESSIONAL STANDARDS

CONTRACTOR shall perform the Services in accordance with prevailing professional standards and ethics, and in compliance with valid and applicable governmental laws, rules and regulations. If CONTRACTOR believes compliance with CLIENTS's directions could violate applicable professional standards or ethics, or applicable governmental laws, rules or regulations, then CONTRACTOR shall so advise CLIENT. CLIENT and CONTRACTOR shall immediately enter into discussions to arrive at a mutually satisfactory solution.

ARTICLE VIII - STANDARD OF CARE

The Services will be performed on behalf of and solely for the exclusive use of CLIENT and for no other project. The Services performed by CONTRACTOR shall be conducted in a manner consistent with level of care and skill ordinarily exercised by members of the engineering and consulting professions in the same locale acting under similar circumstances and conditions. CONTRACTOR may employ such CONTRACTOR's consultants as CONTRACTOR deems necessary to assist in the performance or furnishing of services hereunder.

ARTICLE IX - DELIVERABLES

All deliverables including, but not limited to, any and all reports and drawings, prepared by CONTRACTOR hereunder shall become CLIENT's property upon payment for CONTRACTOR's Services. CONTRACTOR shall retain copies of all deliverables for its files.

ARTICLE X - INSURANCE

CONTRACTOR shall maintain during the term of this AGREEMENT, at least the following insurance coverage:

	<u>Coverage</u>	<u>Limits</u>
(a)	Worker's Compensation	Statutory
(b)	Employer's Liability	\$500,000
(c)	Commercial General Liability	\$1,000,000 each occurrence \$2,000,000 aggregate
(d)	Comprehensive Automobile Liability each occurrence (combined single limit)	\$1,000,000
(e)	Professional Liability	\$1,000,000 any one claim \$1,000,000 aggregate

Prior to commencement of work, the CONTRACTOR shall furnish copies of insurance certificates evidencing it maintains at least the above insurance coverage. NCBCC shall be named as additional insured for Items (c) and (d) of this Article.

ARTICLE XI - LIMITATION OF LIABILITY TO CLIENT

Except for circumstances caused by the willful misconduct of CONTRACTOR, all claims for damages asserted against by CLIENT, including claims against CONTRACTOR's directors, officers, shareholders, employees and agents, are limited to the greater of (i) fifty thousand dollars (\$50,000); or (ii) the total dollar value of the work. CONTRACTOR is responsible for any special, incidental, indirect, or consequential damages (including loss of profits), incurred by CLIENT as a result of CONTRACTOR's performance or nonperformance of Services. Any claim shall be deemed waived unless made by CLIENT in writing and received by CONTRACTOR within one (1) year after completion of the Services with respect to which the claim is made.

ARTICLE XII - CONTRACTOR INDEMNIFICATION OF CLIENT

Except as provided in or limited by Article XI, CONTRACTOR shall indemnify and hold harmless CLIENT and its directors, officers, employees and agents from and against any and all losses, damages, claims, liability and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorney's fees) which any or all of them may hereafter incur, be responsible for or pay out as a result of bodily injuries (including death) to any person, or damage (including loss of use) to any property (public or private) which arise out of or are caused by any negligent acts, negligent omissions or willful misconduct of CONTRACTOR in the performance of the Services.

ARTICLE XIII - CLIENT'S INDEMNIFICATION OF CONTRACTOR

CLIENT shall indemnify and hold harmless CONTRACTOR, and its shareholders, directors, officers, employees and agents from and against any and all losses, damages, claims, liability and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorney's fees) which any or all of them may hereafter incur, be responsible for or pay out as a result of bodily injuries (including death) to any person, or damage (including loss of use) to any property (public or private) which arise out of or are caused by any negligent acts, negligent omissions or willful misconduct of CLIENT or CLIENT's employees, agents or subcontractors.

ARTICLE XIV - SAFETY OF CONTRACTOR EMPLOYEES

If at any time during the performance of the Services, CONTRACTOR believes the safety of its employees, agents, subcontractors or any other person is in jeopardy, CONTRACTOR reserves the right to immediately suspend the performance of the Services until such condition is remedied, or if such condition cannot be remedied to the satisfaction of CONTRACTOR, CONTRACTOR may terminate this AGREEMENT in accordance with Article XX.

ARTICLE XV - REQUIRED DISCLOSURE BY CLIENT

(a) CLIENT shall provide CONTRACTOR all information, which is known or readily accessible to CLIENT, which may be reasonable and/or necessary for completion of the Services by CONTRACTOR.

(b) Prior to the commencement of the Services on a Project, or at any time thereafter when new information becomes available to CLIENT, CLIENT will provide prompt, full and complete disclosure to CONTRACTOR of known or potential hazardous conditions or risks to the health or safety of CONTRACTOR's employees, agents and subcontractors which may be encountered at the Project site or in connection with the performance of the Services.

ARTICLE XVI - CLIENT RESPONSIBILITIES

Except as otherwise provided, CLIENT shall do the following in a timely manner so as not to delay the services of CONTRACTOR and shall bear all costs incident thereto:

- (a) Designate in writing a person to act as CLIENT representative with respect to the services to be performed or furnished by CONTRACTOR under this Agreement. Such person will have complete authority to transmit instructions, receive information, interpret and define CLIENT's policies and decisions with respect to CONTRACTOR's services for the project.
- (b) Provide criteria and information as to CLIENT's requirements for the Project.
- (c) Assist CONTRACTOR by placing at CONTRACTOR's disposal all available information pertinent to the Project including previous reports and any other data relative to the successful completion of the Project.

CLIENT shall not be responsible for the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. CONTRACTOR may use such reports, data and information in performing or furnishing services under this Agreement, but assumes responsibility for the use thereof. The identity of any individual or entity employed who performed prior services will be disclosed to CONTRACTOR.

ARTICLE XVII - MODIFICATIONS TO WORK ORDERS

CLIENT or CONTRACTOR may request modifications or changes in the scope of Services to be performed under this Agreement. Any changes which are mutually agreed upon shall be incorporated into a written modification to this Agreement and shall be signed by both CONTRACTOR and CLIENT.

ARTICLE XVIII - FORCE MAJEURE

Neither the CLIENT nor CONTRACTOR shall hold the other responsible for damages or delays in performance caused by Force Majeure or other events beyond the control of the other party and which could not reasonably have been anticipated or prevented. For purposes of this AGREEMENT, Force Majeure shall include, but not necessarily be limited to, adverse weather conditions, floods, epidemics, war, riot, strikes, lockouts and other industrial disturbances; unknown site conditions, accidents, sabotage, fire; court orders; acts of God; acts, orders, laws or regulations of any governmental agency. Should such acts or events occur, the parties to this AGREEMENT shall mutually agree on the terms and conditions upon which the Services may be continued. Failing achievement of such an agreement, either party may terminate this AGREEMENT in accordance with Article XX.

ARTICLE XIX - PROJECT DELAYS

If CONTRACTOR is delayed at any time in the progress of the Services for any specific activity under this Agreement (i) by an act, failure to act, or neglect of CLIENT or CLIENT's employees or any other party; (ii) by changes in the scope of Services; or (iii) by delay authorized by CLIENT and agreed to by CONTRACTOR; then the time for completion shall be extended and an equitable adjustment made to the compensation if delays caused by any of the above events result in additional costs to CONTRACTOR. Failing achievement of such a revision may terminate this AGREEMENT in accordance with Article XX.

ARTICLE XX - TERMINATION

(a) This AGREEMENT may be terminated by either party upon thirty (30) days written notice (i) should the other party fail substantially to perform in accordance with the terms of this AGREEMENT through no fault of the terminating party; or (ii) whenever the right to terminate is otherwise provided in this AGREEMENT.

(b) CLIENT shall, within sixty (60) days of termination, compensate CONTRACTOR for costs incurred up to the time of termination.

ARTICLE XXI - LEGAL PROCEEDINGS

(a) In the event legal action is brought by either party against the other, the successful party shall be entitled to recover, as part of its damages, its reasonable legal costs and expenses for bringing and maintaining any such action.

~~(b) CLIENT shall be responsible for and pay CONTRACTOR at its prevailing rates for all time spent and other direct costs incurred by CONTRACTOR employees in connection with any court, administrative or other legal proceedings with a third party, arising from or relating to Services provided under this AGREEMENT, regardless of whether or not CONTRACTOR is subpoenaed to appear at such proceedings by CLIENT or any third party.~~

(b) Venue shall be in Nassau County, Florida.

(c) Prior to any party initiating litigation, the parties must first attend mediation in Nassau County, Florida. The mediator shall be chosen from the Florida Supreme Court approved list and mutually agreed upon. If no mutual agreement, Nassau County shall choose the mediator.

ARTICLE XXII - SITE ACCESS AND CONTROL

(a) CLIENT grants to CONTRACTOR the right of entry to the Project site by CONTRACTOR, its employees, agents and subcontractors, to perform the services. If CLIENT does not own the Project site, CLIENT warrants and represents to CONTRACTOR that CLIENT has the authority and permission of the owner and occupant of the Project site to grant this right of entry to CONTRACTOR.

(b) If CONTRACTOR damages or alters a Project site, owned by a third party or owned by the CLIENT, CONTRACTOR agrees to pay the cost of restoring the Project site to the condition of the Project site prior to the performance of the services.

ARTICLE XXIII - INDEPENDENT CONTRACTOR

CONTRACTOR shall have the status of an independent contractor, not of an agent or employee. CONTRACTOR shall be solely responsible for the compensation, benefits, contributions and taxes, if any, of its employees, agents and subcontractors.

ARTICLE XXIV - ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and agreement between the parties relating to the Services provided by CONTRACTOR to CLIENT and supersedes any and all prior agreements, whether written or oral, which may exist between the parties regarding the Services. This AGREEMENT may be amended only by a written instrument signed by each party.

ARTICLE XXV - PRECEDENCE

This AGREEMENT shall take precedence over any inconsistent or contradictory provisions contained in any CLIENT-issued purchase order, requisition, notice to proceed, or like document regarding the Services.

ARTICLE XXVI - GOVERNING LAW

This AGREEMENT shall be governed by, construed and interpreted in accordance with the laws of the State of Florida, excluding any choice of law rules which may direct the application of the laws of any other jurisdiction.

ARTICLE XXVII - SEVERABILITY

If any provision of this AGREEMENT is deemed invalid, illegal, or unenforceable in any jurisdiction, (i) such provision will be deemed amended to conform to applicable laws of such jurisdiction so as to be valid and

enforceable, or if it cannot be so amended without materially altering the intention of the parties, it will be stricken, (ii) the validity, legality and enforceability of such provision will not in any way be affected or impaired thereby in any other jurisdiction, and (iii) the remainder of this AGREEMENT will remain in full force and effect.

ARTICLE XXVIII - SURVIVAL

All obligations arising prior to the termination of this AGREEMENT and all provisions of this AGREEMENT allocating responsibility or liability between CLIENT and CONTRACTOR shall survive the completion of Services hereunder and the termination of this AGREEMENT.

ARTICLE XXIX - WAIVER OF CONTRACT BREACH

The waiver by one party of any breach of this AGREEMENT, or the failure by one party to enforce at any time, or for any period of time, any of the terms and conditions of this AGREEMENT, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of this AGREEMENT and shall not be construed to be a waiver of any other provision, except for the particular instance.

ARTICLE XXX - SPECIAL CONDITIONS FOR SERVICES

- (a) CONTRACTOR does not guarantee any specific results from sampling or analytical activity.
- (b) CONTRACTOR is liable for loss and/or damage to subsurface due to subsurface sampling, and for loss and/or damage to the surface due to subsurface damages, resulting from CONTRACTOR's gross negligence or willful misconduct.
- (c) CONTRACTOR will not be liable for loss or damage to wells as a result of subsurface trespass or from operation services including, but not limited to, pollution, contamination or loss of equipment in the well.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT by their duly authorized agents as of the day and year first above written.

Client: Nassau County Board of County
Commissioners

CONTRACTOR:

By: _____

By: Edward L. Griffith

Name: _____

Name: Edward L. Griffith, P.E.

Title: _____

Title: Vice President

Telephone: _____

Telephone: (904) 636-9360

Address: _____

Address: 8021 Phillips Hwy, Ste 12
Jacksonville, Florida 32256

Date: _____

Date: May 16, 1996

RECEIVED
MAY 20 1998
9/17/96

ADDITIONAL CERTIFICATE OF INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS OR BENEFITS ON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
COMPANIES AFFORDING COVERAGE
A Reliance National Indemnity Company
B Genesis Insurance Company
C Indemnity Ins Co of N. America
D Ins Co of the State of PA

EMCON
(Formerly EMCON Southeast Inc)
8021 Phillips Highway, Ste 12
Jacksonville, FL 32256
PRODUCER
RHH of Northern California
One Market
Spear Street Tower Ste. 2100
San Francisco, CA 94105
415-543-9360
MAILED

COVERAGE
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO	LT	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
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A	X	GENERAL LIABILITY	NGB20 15 12704	1/01/96	1/01/97	GENERAL AGGREGATE \$ 2000000 PRODUCTS-COMP/OP AGG \$ 2000000 PERSONAL & ADV INJURY \$ 1000000 FIRE DAMAGE (Any one fire) \$ 100000 MED EXP (Any one person) \$ 5000
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B	X	ANY AUTO	YXB300371	1/01/96	1/01/97	COMBINED SINGLE LIMIT \$ 2000000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
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		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY \$ EACH ACCIDENT \$ AGGREGATE \$
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D	X	UMBRELLA FORM	4296-8735	1/01/96	1/01/97	EACH OCCURRENCE \$ 5000000 AGGREGATE \$ 5000000
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C		WORKERS COMPENSATION AND EMPLOYERS LIABILITY	NMCC33322665-AOS	1/01/96	1/01/97	STATUTORY LIMITS X EACH ACCIDENT \$ 1000000 DISEASE - POLICY LIMIT \$ 1000000 DISEASE - EACH EMPLOYEE \$ 1000000
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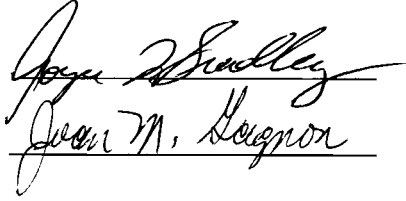
A		OTHER A) Consult Env. Lib. B) Pollution Legal	NTF125942805	1/01/96	1/01/97	\$2,000,000 Each Claim \$2,000,000 Agg Claims Made Form
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DESCRIPTION OF OPERATION/LOCATION/VEHICLE/EQUAL ITEMS
Certificate holder is an additional insured on General Liability and Business Auto Liability only.

CERTIFICATE HOLDER

Nassau County Board of County Commissioners
Attn: Robert McIntyre
Route 1, Box 178
Callahan, FL 32011
ACORD 25-B (6/88)
096345628
AUTHORIZED REPRESENTATIVE
EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.
CANCELLATION

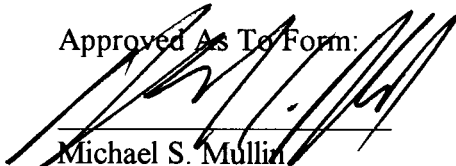
Signed, Sealed and Delivered
on Our Presence at Witness:


John M. Hagnon

NASSAU COUNTY BOARD OF
COUNTY COMMISSIONERS


J. B. Higginbotham, Chairman

Approved As To Form:


Michael S. Mullin
Nassau County Attorney


T.J. "Jerry" Greeson
Ex Officio Clerk