

All Services provided by ONEC are subject to the following terms and conditions. All proposals and quotations issued by ONEC for Services are an offer to sell services pursuant to these terms and conditions.

### 1. Key Definitions:

“**Client Consultant**” means a registered or licensed professional engineer, architect, or other specialist engaged directly by the Client, other than ONEC or sub-consultants of ONEC.

“**Confidential Information**” means all documents, information, data, computer programs, know-how, knowledge and any other information designated by the Client as being of a proprietary or confidential nature provided to ONEC in connection with the performance of the Services.

“**Engineering Documents**” means drawings, plans, models, designs, specifications, reports, photographs, computer software if proprietary to ONEC, surveys, calculations and other data, including computer print outs, used in execution of the Services and which were prepared by or on behalf of ONEC.

### 2. Independent Contractor:

It is understood and agreed between the parties that ONEC is an independent contractor. Neither ONEC nor anyone employed by ONEC will be deemed for any purpose to be the agent, employee, servant or representative of Client in the performance of the Services. No provision in this Agreement shall be deemed or construed to create a joint venture, partnership or other such association between ONEC and Client. The Client acknowledges that ONEC is not a fiduciary and that it has no fiduciary duties to the Client.

### 3. Standard of Practice:

Services performed by ONEC hereunder shall be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the engineering profession currently practicing in Canada under similar conditions at the time and place of performance (the “Standard”). ONEC shall re-perform, at no additional cost to Client, any Services that do not meet the Standard provided that ONEC is notified in writing within one (1) year after the date the last of the Services are performed, abandoned or terminated, which ever shall occur first. Subject to Section 13 – Limitation of Liability, ONEC’s sole liability and obligation, and Client’s sole right and remedy, for any error, omission, defect or deficiency in the Services shall be ONEC’s obligation to re-perform the Services in accordance with this Section 3. No other representation, warranty, or guarantee of professional standards, whether expressed or implied, is included or intended in this Agreement, or in any report, opinion, document or other ONEC work product.

**4. Disclaimer of Warranties and Guarantees:**

ONEC makes no warranties or guarantees relating to costs of construction, modification or operation of Client's facilities, or any other warranties or guarantees, whether express or implied, and all implied warranties including, but not limited to, warranties of merchantability and fitness for a particular purpose, are expressly disclaimed and waived. Without limiting the generality of the foregoing, ONEC shall not in any way be liable or responsible for any performance or process guarantees of any kind.

**5. Estimate Disclaimer:**

The Client acknowledge that any cost, schedule or other estimates or forecasts provided by ONEC, are subject to change and are contingent upon factors, including without limitation, cost of labour, cost of materials or equipment, pricing methods used by third parties, availability of competitive bids and market conditions, over which ONEC has no control. Accordingly, ONEC cannot and does not guarantee or warranty the accuracy of such costs, schedules, estimates or forecasts nor does ONEC represent that other aspects of the Client's project will not vary from such estimates or forecasts.

**6. Construction Review Disclaimer:**

Construction review by ONEC does not constitute a warranty or guarantee of any type. Construction contractors engaged by the Client are wholly responsible for the quality of their own work and for adhering to all relevant plans and specifications. ONEC shall not be responsible to manage, direct, control, or supervise the work forces of the Client's construction contractors, including but not limited to the construction means, methods, techniques, sequences or safety procedures employed by the construction contractors to perform their work.

**7. Reliance on External Information:**

ONEC is entitled to rely upon the accuracy and completeness of information and data furnished by the Client, including, without limitation, information and data originating from a Client Consultant. ONEC is entitled to rely upon the accuracy and completeness of records, information, data, and specifications furnished by: (a) government authorities and public utilities, and (b) by manufacturers and suppliers of equipment, material or supplies. Should such records, information, data, and specifications prove to be inaccurate or incomplete, ONEC is entitled to make the necessary changes to the Engineering Documents at the expense of the Client.

**8. Interpretation of Building Codes and Bylaws:**

ONEC will interpret building codes and bylaws as they apply to the Services at the time of design to the best of ONEC's ability. As the Services progress, building codes and bylaws may change or the interpretation by an authority having jurisdiction may differ from the interpretation of ONEC. In this event, the Client will compensate ONEC for any additional Services of ONEC that are required in order to have the Services conform to such changes or interpretations.

**9. Use and Disclosure:**

Where the Services include inspection services, studies or other services where ONEC is required to assess or report on the conditions of facilities, structures or other things, ONEC's obligations with respect thereto shall be qualified by, and ONEC shall be entitled to include in its reports, a disclaimer in a form acceptable to ONEC. Services provided under this Agreement, including all reports, information or recommendations prepared or issued by ONEC, are for the exclusive use of the Client and in connection with the Client's project. No other use is authorized under this Agreement. Client will not distribute or convey ONEC's reports or recommendations to any person or organization other than those additional entities, if any, identified in this Agreement without ONEC's written consent. Client hereby releases ONEC from liability and agrees to defend, indemnify, protect and hold harmless ONEC from any and all claims, liabilities, damages or expenses (including solicitor-client costs) arising, in whole or in part, from such unauthorized distribution.

**10. Changes:**

The parties may make changes to the Services by a written change order agreed by each of them. The change order shall specify the change to the Services and the impact on the remuneration and the time for performance. No changes shall be performed until a written change order is issued. Changes required by the Client shall be within the general scope of the Services. The Client shall make changes to this Agreement in the event circumstances arise which are beyond the control of ONEC and which impact on ONEC's cost of or time for performance. Such changes shall change the scope of the Services, the remuneration and the time for performance, as may be appropriate and equitable in the circumstances.

**11. Indemnity:**

Subject to the disclaimers and other limitations of liability set out in this Agreement, each party will indemnify the other party, to the extent of the fault or negligence of the indemnifying party, for all claims, losses, damages and costs (including solicitor-client costs) resulting from: (a) claims of third parties; or (b) a breach of contractual obligations under this Agreement by the indemnifying party or anyone for whom that party is responsible; or (c) negligent or faulty acts or omissions of the indemnifying party or anyone for whom that party is responsible.

**12. Ownership of Intellectual Property:**

All Engineering Documents are the property of ONEC, and ONEC retains ownership of all patents, trademarks, copyrights, industrial, or other intellectual property rights resulting from the Services or from concepts, products, or processes which are developed or first reduced to practice by ONEC in performing the Services (the "ONEC Work Product"). The Client will not use, infringe, or appropriate such proprietary rights without the prior consent and compensation of ONEC. Provided that ONEC has been fully paid its fees and reimbursable expenses for the Services, the Client will have a non-exclusive license to use the ONEC Work Product resulting from the Services, solely for the purposes of maintenance and repair of the Client's property. Client releases ONEC from liability and agrees to indemnify, protect, defend and hold harmless ONEC from any and all liabilities, damages or expenses (including solicitor-client costs) arising, in whole or in part, from the Client's modification of the ONEC Work Product or use of the ONEC Work Product for other purposes or projects.

**13. Limitation of Liability:**

ONEC's liability for claims which the Client has or may have against ONEC or ONEC's employees, agents, representatives and subconsultants under this Agreement, whether these claims arise in contract, tort, negligence or under any other theory of liability, will be limited, notwithstanding any other provision of this Agreement: (a) to claims brought within the limitation period prescribed by Alberta law in the jurisdiction in which the Project is located or, where permitted by law, within two (2) years of completion or termination of the Services, whichever occurs first; and (b) to re-performance of defective Services by ONEC, plus: (i) where claims are covered by insurance specified herein, to the policy limits specified for such insurance policies; or (ii) where claims are not covered by insurance specified herein, to the lesser of the compensation actually paid to ONEC for the Services and the amount of two hundred fifty thousand dollars (\$250,000).

**14. Mutual Waiver of Consequential Damages:**

The liability of each party with respect to a claim against the other is limited to direct damages only and neither party will have any liability whatsoever for consequential, special, incidental or indirect loss or damage (including, but not limited to, claims for loss of profit, revenue, production, business, contracts, or opportunity, and increased cost of capital, financing, or overhead) incurred by the other party or punitive or exemplary damages of any nature whatsoever.

**15. Insurance:**

ONEC shall maintain the following types of insurance policies: (a) commercial general liability covering bodily injury and property damage, with policy limits of not less than one million dollars (\$1,000,000) per occurrence; (b) professional errors & omissions liability with policy limits of not less than five hundred thousand (\$500,000) per claim; (c) automobile liability covering bodily injury and property damage, with policy limits of not less than one million dollars (\$1,000,000) per accident. Evidence of such insurance coverage, outlined in an insurance certificate, will be provided to the Client upon request. In the event that the Services are to be incorporated into a Client project for which project-specific insurance coverage (such as wrap-up liability or course of construction insurance) has been arranged, the Client shall ensure that ONEC is added as additional insured under such project policies.

**16. Confidential Information:**

ONEC will: (a) take reasonable steps to safeguard all Confidential Information which it may acquire in connection with or as a result of performance of this Agreement whether relating to the subject matter of the Services or the business of the Client; (b) not publish, communicate, divulge or disclose to any third party or parties during the duration of the performance of this Agreement, without the prior written consent of the Client; (c) transfer and deliver to the Client on completion or termination of this Agreement (or earlier if the Client so requests), all documents and electronic media in the possession or control of ONEC pertaining to the Confidential Information. ONEC shall only use or make use of the Confidential Information for the sole purpose of fulfilling its obligations under this Agreement.

**17. Client Obligations:**

The Client will: (a) promptly provide ONEC all documents and data that it has in its possession or control that are reasonably required for the performance of the Services; (b) review and provide complete comments to ONEC on submissions made by ONEC with the time reasonably requested by ONEC for the performance of the Services; (c) provide ONEC with such access to Client's site as ONEC shall reasonably request or require for the performance of the Services. If required for the Services, Client shall provide on-site office facilities, equipment storage and parking areas as reasonably necessary for ONEC to perform the Services efficiently.

**18. Occupational Health & Safety:**

Pursuant to Occupational Health & Safety regulations, the Client is responsible as prime contractor and may transfer this responsibility via contract to its construction contractor or other party. The Client will promptly confirm to ONEC the party responsible to fulfill prime contractor obligations. Prior to proceeding with any on-site work, ONEC and its subconsultants will report to the prime contractor for safety orientation.

**19. Payment:**

The Client will pay to ONEC, without set off or deduction, the fees, costs and expenses as billed pursuant to Schedule A – Proposal for Engineering Services. Unless otherwise noted, all amounts payable hereunder shall be invoiced monthly by ONEC and shall be due within thirty (30) days of the date when such invoices are rendered. Invoices not paid when due shall bear interest, from the date due until paid, at the rate per annum equal to 3%. In addition, the Client shall be responsible for the payment of any collection fees, reasonable lawyer fees, court costs and other related expenses incurred by ONEC in the collection of delinquent Client invoices.

**20. Suspension:**

If the Client is unwilling or unable to proceed with the Services, the Client may suspend or terminate all or part of the Services by providing thirty (30) days' notice in writing to ONEC. Upon receipt of such notice, ONEC will perform no further Services other than those reasonably required to suspend or terminate that portion of the Services for which ONEC is responsible. If the Client suspends the Services at any time for more than thirty (30) consecutive or non-consecutive days through no fault of ONEC, then ONEC may choose to terminate the Agreement upon notice in writing to the Client. ONEC shall, without limit to any of its other rights and remedies, have the right to suspend performance of this Agreement on written notice to the Client in the event that the Client has failed to make any payment when due under the terms of this Agreement and has failed to correct the breach within two (2) days of receiving notice of such non-payment. In any of the foregoing events, the Client will pay all fees incurred by ONEC up to the date of suspension or termination Services, plus those costs reasonably incurred by ONEC as a direct result of the termination of this Agreement, the Services, or any portion thereof including its reasonable demobilization and cancellation costs, without prejudice to any other rights or recourses of ONEC. In the event of any suspension, ONEC shall have the right to re-allocate to other projects or assignments any and all personnel providing Services under this Agreement.

**21. Termination:**

Termination of this Agreement will occur on the earliest of: a) date of completion of the Services; or b) date of termination, if it occurs in accordance with this Section. If ONEC is in default in the performance of any of ONEC's obligations under this Agreement, the Client may notify ONEC in writing that the default must be corrected. If ONEC does not correct the default within thirty (30) days of receipt of this notice, or if ONEC does not take reasonable steps to correct the default if the default is not susceptible of immediate correction, the Client may terminate this Agreement upon further written notice to ONEC without further prejudice to any other rights or recourses of the Client. Such termination will not release the Client from its obligations to pay all fees and reimbursable expenses incurred by ONEC up to the date of termination. If the Client is in default in the performance of any of the Client's obligations, including but not limited to the non-payment of fees, ONEC may notify the Client that the default must be corrected. If the Client does not correct the default within thirty (30) days of receipt of notice, ONEC may terminate the Agreement and the Client will promptly pay all fees that are incurred and unpaid as of the date of such termination, plus those costs reasonably incurred by ONEC as a direct result of the termination of this Agreement, the Services, or any portion thereof including its reasonable demobilization and cancellation costs, without prejudice to any other rights or recourses of ONEC.

**22. Dispute(s):**

Any dispute arising out of or in connection with this Agreement or the interpretation or breach thereof ("Dispute") shall be referred by either party to the parties' respective senior representatives, as designated by each party for such purpose, who shall meet and attempt in good faith to resolve the Dispute within a period of not more than ten (10) days from the date of the reference or such other time as the parties may mutually agree to in writing. If the Dispute between the parties cannot be resolved, then the Dispute shall be referred to and finally resolved by arbitration in accordance with the National Arbitration rules of the ADR Institute of Canada, Inc. then in effect. The place of arbitration shall be the city in which ONEC's office providing the Services is located and the language of the arbitration shall be English. The arbitrator(s) shall determine the dispute in accordance with the law of the Province of Alberta. The arbitration award shall be final and binding on the parties, and may be entered in any court having jurisdiction thereof. In no event shall the demand for arbitration be made after the date when institution of legal, equitable or other proceedings based on such claim, dispute or other matter in question would be barred by the limitation period set out in Section 13 – Limitation of Liability. Despite the foregoing, either party may apply to a court of competent jurisdiction for injunctive or other equitable relief without having first followed the procedure outlined above.

**23. Survival:**

Any provisions of this Agreement which by its nature must survive termination or expiration in order to achieve the fundamental purposes of this Agreement shall survive termination or expiration of this Agreement, including but not limited to: Standard of Practice; Disclaimer of Warranties and Guarantees; Estimates Disclaimer; Construction Review Disclaimer; Reliance on External Information; Interpretation of Building Codes and Bylaws; Use and Disclosure; Indemnity; Ownership of Intellectual Property; Limitation of Liability; and Mutual Waiver of Consequential Damages.

**24. Assignment:**

Neither party shall sell, assign or in any manner transfer its interests herein, in whole or in part, without the written consent of the other party except that ONEC may assign its interest in the Agreement to an affiliated company and may subcontract portions of the Services to a qualified subcontractor without the consent of Client. This Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of the Parties. Except as specifically provided in this Agreement, the provisions of this Agreement are for the exclusive benefit of the Parties hereto and no other person or entity shall be a third party beneficiary or have any rights by virtue of this Agreement.

**25. Force Majeure:**

Subject to the Client's obligation to pay for Services performed, ONEC's obligations to perform the Services and the Client's obligations with respect to such Services shall be suspended during an event of Force Majeure. An event of "Force Majeure" occurs when an event beyond the control of the party claiming Force Majeure prevents such party from fulfilling its obligations. Events of Force Majeure include, without limitation, acts of God (including floods, hurricanes and other adverse weather), war, threats or acts of terrorism, riot, civil disorder, disease, epidemic, strikes and other labor disputes, acts or orders of government or other authorities. Lack of finances, for whatever reason, is not an event of Force Majeure.

**26. Notice:**

Any notice required or permitted to be given under this Agreement shall be sent to the receiving party in writing at the address for service set out on second page of the Form of Agreement. Such service shall be effective: (a) five (5) calendar days after written notice is deposited in the federal mail, postage prepaid; (b) two (2) calendar days after written notice is deposited for overnight delivery with an established courier service; or (c) upon completed transmission if the written notice is sent by facsimile or email, properly directed and addressed (provided that the sending party has an electronic acknowledgement that the facsimile or email has been received).

**27. General Terms:**

Headings in this Agreement are for convenience of reference only and shall not be considered in the interpretation hereof. Words importing the singular number include the plural and *vice versa*, and words importing gender shall include all genders or a body corporate where the context requires. This Agreement is deemed to have been made in the Province of Alberta and shall be governed by and interpreted in accordance with the law of the Province of Alberta and the parties hereby irrevocably attorn to the jurisdiction of the courts of the Province of Alberta. The provisions of this Agreement shall be deemed severable and the partial or complete invalidity of any provision of this Agreement shall not affect the validity or continuing force and effect of any other provision. The waiver or the failure of either party to claim a breach of any provision of this Agreement shall not be deemed to constitute a waiver or estoppel with respect to any continued or subsequent breach or with respect to any other provision thereof.