

EnWin Performance Standards and Retainer Agreement

One of the primary objectives of *EnWin* is to ensure that it receives high quality, cost-effective engineering/legal/consulting services from its outside advisors /consultants (hereinafter referred to as `consultants'). The following reflects the expectations and requirements of *EnWin* in connection with consultant's services performed by outside firms engaged by *En Win*. Only consultants and/or firms licensed to practice in Ontario will be accepted by *En Win*. Consultants and/or firms must be members in good standing with their respective Professional Association and compliant with that Association's Code of Ethics at all times. Any consulting firm having questions or concerns should advise *EnWin* before accepting an assignment.

Policy Statement

The consultant acknowledges that it will undertake *EnWin's* work only if it has the appropriate level of skill and ability to perform the requisite services with the reasonable skill and diligence required by customarily accepted professional practices and procedures normally provided in the performance of the services at the time when and the location in which the services were performed. The consultant will act in good faith with respect to *EnWin*, and without any conflict of interest or reasonable potential for conflict of interest. The consultant recognizes *EnWin's* requirement that consulting services be provided in an efficient and cost effective manner. The consultant, in consultation with *EnWin*, will appoint a senior management member to act as the 'manager in charge' of the relationship between *EnWin* and the consultant. The manager in charge will periodically meet with representatives of *En Win*, without cost, from time to time to assess the relationship and consider ways to best achieve and maintain these goals.

Fixed Fees

It is *EnWin's* desire, whenever reasonably possible, to have services provided on a fixed fee basis. All services described in Schedule A (if any) to this document shall be performed for a fixed fee as described therein. With respect to any other services, upon receipt of a new request for service, the consultant will provide *EnWin* with a fixed fee quote. This quote should be in writing and include estimated disbursements. No work on a matter shall commence until *EnWin* approves the fixed fee in writing.

Budgeting

In any case where *EnWin* and the consultant agree that a fixed fee is inappropriate and it appears likely that fees plus disbursements will exceed

\$25,000, the consultant will, at no cost to *EnWin*, submit a budget estimating the fees and disbursements. The budget will include the following details (together with any other information which the consultant feels is appropriate): brief outline of work to be performed; name of each employee/partner/associate (the "professionals") assigned to the matter; his or her hourly rate (which shall be the lowest rate charged by that professional to any client of the consultant); year of call or accreditation; estimated hours required. The consultant will forthwith advise *EnWin*, without request, if it appears that the budget will be exceeded. The budget shall include the cost of providing a preliminary report on the work to be performed with expected outcomes as well as a written report at the conclusion of the assignment.

Staffing

The consultant will assign qualified professionals to do *EnWin's* work. The consultant will bear in mind the complexity of the matter, expertise of the professionals involved, significance of the matter to *EnWin*, and the need to perform the work in a timely, efficient and cost effective manner. The consultant will not charge *EnWin* for "learning time" or duplication of time. In particular, the consultant will not involve more than one professional in meetings, telephone conferences, or other proceedings unless required. It is also *EnWin's* position that internal office conferences and reviews of documents, opinions and other material by a number of people, are generally a duplication of time. While maintaining the standards set forth in this Agreement, the consultant will assign the fewest number of professionals possible to any matter or aspect thereof. There will be no changes to the professionals handling a particular matter without prior notice to *EnWin*.

Reports

(a) Usual Course Reports

The consultant agrees to provide a brief status report quarterly, or more frequently if needed, advising as to what steps were taken during the period covered by the report, results achieved, and what is expected to be done in the following period. A more detailed summary of the work done will be set forth in the time docket that are to accompany the consultant's accounts (as set out below). This report shall be received by *En Win* within 20 days of the end of the period to which the report relates.

The consultant agrees to provide the primary *EnWin* contact with notice when 75% of the set contract fee or budget (as the case may be) has been reached.

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The consultant agrees to provide copies to *EnWin* of all contracts, significant correspondence, memoranda and other materials; such copies to be in electronic format wherever possible.

(b) Urgent Reports

EnWin requires the consultant to immediately notify the primary *EnWin* contact (or delegate) if the consultant becomes aware of any matter that may have a material effect on *EnWin*. By way of example, any activity which could result in, adverse publicity, or media attention.

Billing

The following is applicable whether the consultant is charging on an hourly rate or fixed fee basis:

(a) Fees:

The account need not contain any detail of the work performed, but should summarize the number of hours and hourly rate of each professional whose work is covered by the account. The account should also identify the total fees and disbursements charged to date on the particular matter (including the account being rendered), the name of *EnWin* employee who retained the consultant. The consultant must also provide with the account its detailed time dockets showing the services performed, the date upon which they were performed, the professional who performed them, the length of time taken for each service, and the fee attributed to the particular service. The Firm understands that *EnWin* will not pay for the following charges without prior approval:

- *Charges to prepare the accounts to *EnWin* and to answer questions relating thereto
- *Travel time
- *Secretarial time, clerical time, or any other item that is overhead in nature *Increases to hourly rates
- *Prior research
- *Opening and organizing the file.

In addition, *EnWin* expects docketing to be in increments no greater than one-tenth of an hour and to accurately reflect the productive time spent.

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(b) Disbursements:

Unless specifically agreed in writing in advance by EnWin, disbursements will be charged at no more than the consultant's cost and photocopying charges shall not exceed 10 cents per page. Commercial printing services should be used when economical and prudent to do so. There shall be no charge for sending or receiving telefax communications or electronic mail other than the actual cost of long distance charges. Any travel on *EnWin's* business shall be undertaken in the most cost effective fashion taking into account discounts or special rates. Staff meals, staff taxis and any other cost that is overhead in nature shall not be charged to *En Win*. No first class travel may be undertaken at *EnWin's* expense. The account should reflect the total disbursements charged to date on a particular matter.

(c) Submission and Payment of Accounts:

All accounts should be submitted to the primary *EnWin* contact.

Insurance

The following are particulars of the consultant's errors and omissions coverage:

General Liability:

Professional Negligence / E&O:

The consultant will notify *EnWin* promptly of any changes in coverage.

Date

accepted on behalf of consultant