

ATTACHMENT B

Infinite Engineering, LLC

Standard Terms and Conditions (STCs)

These Standard Terms and Conditions (“STCs”) are incorporated by reference into the foregoing agreement, or proposal, as the case may be, between Infinite Engineering, LLC (“we” or “us” or “our”) and its client (“you” or “your”) for the performance of the services specified in the agreement or proposal (“Services”). These STCs, together with the foregoing agreement or proposal, are fully binding upon you just as if they were fully set forth in the body of the agreement or proposal and shall supersede any term or provision that conflicts with these STCs. These STCs, together with the foregoing agreement or proposal, constitute the “Agreement.”

1. **Period of Offer.** If we have provided you with a proposal, you have 90 days from our proposal date to accept our proposal, unless we agree in writing to extend that acceptance period. We have the right to withdraw the proposal at any time before you accept. Delivery of a signed proposal—whether original or copy—to us constitutes your acceptance of the proposal, including any attachments thereto. The signed proposal, incorporated attachments, and these STCs shall constitute the entire agreement between you and us. If you request us to render Services before you deliver a signed proposal to us, and we render Services in accordance with the proposal, you will be deemed to have accepted the proposal, the attachments, and these STCs.

2. **Scope of Services.** In exchange for the fee set forth in the Agreement, you agree that we shall only be obligated to render the Services expressly described in the Agreement. Unless the Agreement expressly requires, in no event do we have any obligation, responsibility, or liability for:

- a. The correctness and completeness of any document which was prepared by another entity;
- b. The correctness and completeness of any drawing prepared by us, unless it was properly sealed by a professional on our behalf;
- c. Favorable or timely comment or action by any governmental entity on the submission of any construction documents, land use or feasibility studies, appeals, petitions for exceptions or waivers, or other requests or documents of any nature whatsoever;
- d. Consideration of off-site circumstances other than those clearly visible and actually known to us;
- e. The actual location (or characteristics) of any portion of a utility which is not entirely visible from the surface;
- f. Furnishing or verifying specifications or requirements related to PCB transformer removal, disposal, or related services;
- g. The correctness of any geotechnical services performed by others, including our subcontractors; or
- h. The accuracy of earth work estimates and quantity take-offs, or the balance of earth work cut and fill.

Should shop drawing review be incorporated into the Services, we shall pass upon the shop drawings with reasonable promptness. Checking and approval of shop drawings will be general, for conformance with the design concept of the project to which the Agreement pertains (“Project”) and compliance with the information given in the construction documents, and will not include quantities, detailed dimensions, nor adjustments of dimensions to actual held conditions. Our approval of shop drawings shall not be construed as a waiver or modification to any contract requirements, nor as relieving the preparer of the drawings of liability for any error in details, dimensions, or otherwise. We do not provide legal, accounting, or insurance services.

3. **Your Oral Decisions and Directions.** You, or any of your directors, officers, partners, members, managers, employees or agents having apparent authority from you, may orally: (a) make decisions or issue directions to us relating to Services or the Agreement; (b) request a change in the scope of Services under the Agreement, subject to our approval; or (c) request us to render additional services under the Agreement, subject to our right to require you to submit the request in writing and further subject to our approval. You may, at any time, limit the authority of any or all persons to act orally on your behalf under this Paragraph 3, by giving us seven (7) days advance written notice.

4. **Proprietary Rights.** The drawings, specifications and other documents prepared by us are our instruments of service for use solely in connection with the Project and, unless otherwise provided by us in writing, we are the author of these documents and we shall retain all common law, statutory, equitable and all other intellectual property rights in and to them, including the copyright. You shall be permitted to retain copies, including reproducible copies of our instruments of service for information and reference for the Project. Our drawings, specifications, and other documents prepared by us shall not be used by you or others on other projects or for completion of this Project by other professionals, unless we expressly consent to the same in writing. Notwithstanding the foregoing, submission or distribution of documents prepared by us for the purpose of satisfying regulatory requirements or for similar purposes in connection with the Project shall not constitute a violation of this Section 4.
5. **Additional Fees and Compensation.** The fees payable for our Services are specified in the Agreement. If you request us to render services not specifically described in the Agreement, or, if we are called upon to be deposed or testify in a matter in which we are not a named party that relates to our Services, you shall compensate us for such services or testimony in accordance with the hourly rates as set forth on Attachment A hereto (as the same may be amended from time to time by us in our sole discretion), unless a written agreement has been signed by both you and us indicating the fee basis of such additional services. If no compensation rate is set forth on Attachment A, or through written agreement between you and us, we shall be compensated for such services at our then-current hourly rates. We may unilaterally increase our lump sum or unit billing rates on each anniversary of your acceptance of this Agreement as much as five percent or the percentage increase in the CPI-W (U.S. Department of Labor Consumer Price Index-Washington), whichever is greater. Hourly rates are subject to periodic revision at our discretion.
6. **Period of Service.** The provisions of this Agreement and the compensation provided for herein have been established in anticipation of the orderly and continuous progress of the Project. Our obligation to render services will extend only for that period which may reasonably be required to complete the Services in an orderly and continuous manner. Upon completion of the Services, we may, at our sole option, terminate the Agreement.
7. **Construction Costs.** Construction costs are defined as the total actual cost or estimated cost to you of all elements of the project designed or specified by us excluding our fees. We assume no responsibility for any Project or construction cost estimates or opinions given to you by any third party as we have no control over the cost of labor, materials, equipment, or services furnished by others, or over competitive bidding or market conditions.
8. **Reimbursable Expenses.** Unless the Agreement otherwise provides, you shall reimburse us, or our affiliates, for all expenses we incur to render the Services for you under this Agreement, plus fifteen percent. We may submit invoices for reimbursable expenses separately from invoices for Services.
9. **Payment Terms.** We may submit invoices at any time to you for Services and for reimbursable expenses incurred. Invoices are payable within 30 days of the invoice date, and you agree to pay a finance charge of one- and one-half percent per month on any unpaid balance not received by us within 30 days of the invoice date. Invoices may be based either upon our estimate of the portion of the total Services actually completed at the time of billing for lump sum or fixed fee services. In the case of hourly services, invoices shall be based upon time actually incurred in performing Services. If any invoice is not paid within 30 days of the invoice date, we shall have the right either to suspend the performance of our Services until all invoices more than 30 days past due are fully paid or to terminate the Agreement and to initiate proceedings to recover amounts owed by you. Additionally, we shall have the right to withhold from you the possession or use of any drawings or documents prepared by us until all delinquent invoices are paid in full. You shall not offset payments of our invoices by any amounts due, or claimed to be due for any reason. If you do not give us written notice disputing an invoice within 20 days of the invoice date, the invoice shall conclusively be deemed correct. All payments made by you shall specify the invoice number(s) being paid. If we receive payments that do not specify the invoices being paid, we may apply payments in our sole discretion. Time is of the essence with respect to your payment obligations and your failure to make full and timely payment shall be deemed a material breach of this Agreement.
10. **Information From You and Public Sources.** You shall furnish us with all plans, drawings, surveys, deeds and

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other documents in your possession related to the Services and shall inform us in writing about all special criteria or requirements related to Services (collectively, "Information"). We may obtain deeds, plats, maps and any other information filed with or published by any governmental entity (together, "Public Information"). We may rely on Information and Public Information in rendering Services. We shall not be responsible for errors or omissions or additional costs arising out of our reliance on Information or Public Information. We shall not be responsible for any special criteria or requirements related to our Services not expressly stated in the Agreement. You agree to give prompt notice to us of any development or occurrence that affects the scope or timing of Services, any claimed defect in the final work submitted by us, or errors or omissions of others as they are discovered. We shall not be responsible for any adverse consequence arising in whole or in part from your failure to provide accurate or timely information, approvals and decisions, as required for the orderly progress of the Services.

11. **Plan Processing.** We may submit plans and related or other documents to public agencies for approval. It may be necessary for us to perform special processing, such as attending meetings and conferences with different agencies, hand carrying plans or other documents from agency to agency, and other special services. These special services are not included in the basic fee and shall be performed as additional services on an hourly fee basis in accordance with our applicable hourly rate schedule.

12. **Meetings and Conferences.** To the extent the Agreement provides, we will attend meetings and conferences that you, or your representatives, reasonably require. Furthermore, we will meet on an as-needed basis with public agencies that might be involved in the Project. Because we cannot forecast the scope and nature of these meetings and conferences, we will perform meeting and conference services on an hourly fee basis in accordance with our applicable hourly rate schedule.

13. **Warranty and Claims.** We warrant that the Services will be completed in compliance with this Agreement and in a workmanlike manner according to generally-accepted industry standards and practices in the area in which the Project is taking place. All other warranties, express or implied, including the warranties of habitability, merchantability, and fitness for a particular purpose. You release us from, and waive, all claims of any nature for any and all errors or omissions by us in the performance of this Agreement, as this Agreement may from time to time be amended, or in the performance of any supplementary services in any way related to this Agreement, unless you have strictly complied with all of the following procedures for asserting a claim, time being of the essence:

a. You shall give us written notice within ten (10) days of the date that you discover, or should discover in the exercise of ordinary care, that you have, or may have, a claim against us. If you fail to give us written notice within such ten (10) days, then such claim shall forever be barred and waived.

b. If we accept the claim, we shall have a reasonable time to cure any error or omission and any damage. This shall be your sole remedy. If it is determined that you caused the error or omission, or any damage resulting from the error or omission, we will have no obligation to cure it and we will not be liable for such claim or any resultant damage.

c. If we reject the claim, we shall give you written notice of such rejection within 30 days of our receipt of the notice of claim from you. You shall then have 60 days within which to furnish us with an opinion from a recognized expert in the appropriate discipline, corroborating your claim that we committed an error or omission, and establishing that the error or omission arose from our failure to use the degree of care ordinarily used by professionals in that discipline in the jurisdiction local to the Project. If you fail to furnish us with such an opinion within 60 days from the date we send you notice of our rejection of the claim, then such claim shall forever be barred and waived.

d. We shall have 60 days from receipt of the written opinion of your expert within which to reevaluate any claim asserted by you. If we again reject such claim, or if the 60-day period from receipt of the written opinion of your expert elapses without action by us, then you may have recourse to such other remedies as may be provided under this Agreement.

14. **Hazardous or Toxic Wastes or Substances, Pollution or Contamination.** You acknowledge that the Services may involve or be affected by hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances (collectively, "Hazardous Material"). To induce us to enter into this Agreement, you agree to indemnify and hold us harmless from liability, loss and damages of any nature, including actual attorney's fees and related costs and expenses, arising out of claims made against us that relate, in any way, to (a) Hazardous Material, or (b) the performance by us of our obligations under the Agreement to the

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extent such performance relates to, touches upon, or involves interaction with Hazardous Material, regardless of whether such performance by us is claimed to have been, or was, or may have been, negligent. Unless otherwise expressly set forth in this Agreement, we shall have no responsibility for searching for, or identifying, any Hazardous Material. If we discover or suspect the presence of any Hazardous Material, then we, in our sole discretion, and at any time, may stop work under, or terminate, this Agreement, in which event we will have no further liability to you for performance under this Agreement, and you shall make the payments to us required by Paragraph 15 of the STCs.

14. **Termination.** In addition to other termination rights as provided in the Agreement, we or you may terminate the Agreement if the other party materially breaches the Agreement and such breach is not cured within ten (10) days of written notice of breach to the other party. We or you may also terminate the Agreement for any reason or no reason upon 30 days written notice to the other party. In any event of termination, you shall immediately pay us for our Services rendered and expenses incurred through the termination date, including fees and expenses that we incur as a result of the termination.

15. **Payment of Other Professionals.** If this Agreement includes continuation of services begun by other architects, engineers, planners, surveyors, or other professionals, we may suspend our Services until you make arrangements satisfactory to such other professionals for payment. If satisfactory arrangements have not been made within a time determined by us to be reasonable, then we may in our sole discretion terminate this Agreement.

16. **Assignment and Third-Party Beneficiaries.** Neither party shall assign or transfer any rights, interests or claims arising under this Agreement without the written consent of the other. This Agreement shall not confer any benefit or right upon any person or entity other than you, us and our partners, members, managers, directors, officers, employees, agents and subcontractors. Our partners, members, managers, directors, officers, employees, agents and subcontractors shall have and shall be entitled to the protection afforded us under Paragraphs 10, 13, 14, 21 and 22 of this Agreement. Despite anything in this Paragraph 16 to the contrary, we may employ independent consultants, associates, and subcontractors as we may deem necessary to render the Services and we may assign our right to receive compensation under this Agreement.

17. **Applicable Law and Forum Selection.** The Commonwealth of Pennsylvania's laws shall govern this Agreement in all respects, including matters of construction, validity, and performance, without regard to conflict of laws principles. Except as provided in Paragraph 18, the parties agree that the state courts situated in Butler County, Pennsylvania ("Courts") shall have exclusive jurisdiction over any controversy, including matters of construction, validity, and performance, arising out of this Agreement. The parties consent to the jurisdiction of the Courts and waive any objection either party might otherwise be entitled to assert regarding jurisdiction. The parties irrevocably waive all right to trial by jury in any action, proceeding, or counterclaim arising out of or related to this Agreement.

18. **Arbitration of Our Claims for Compensation.** Instead of proceeding in court, we, in our sole and absolute discretion, may submit any claim for compensation due us under this Agreement to arbitration in Butler County, Pennsylvania in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the arbitration award may be entered in any court having jurisdiction. You agree not to assert any counterclaim or any defense by way of setoff in such arbitration, and that the arbitrator or panel shall have no authority to consider, or to render, an award based upon any such counterclaim or defense by way of set-off. We shall have the right to withdraw our demand for arbitration at any time before the arbitration hearing starts by giving written notice to the arbitrator or panel and you; and upon the giving of such notice by us, the arbitration shall terminate, no award shall be rendered, and we may then pursue our remedies in accordance with Paragraph 17 above.

19. **Severability.** If any part, term, or provision of this Agreement is held to be illegal or unenforceable, the validity and enforceability of the remaining parts, terms, and provisions of this Agreement shall not be affected, and each party's rights shall be construed and enforced as if the Agreement did not contain the illegal or unenforceable part, term, or provision.

20. **Limitations on Liability.** Our liability for any loss, property damage or bodily injury of or to you caused in whole or in part by us in the performance of this Agreement, as this agreement may from time to time be amended, or in the performance of any supplementary services in any way related to this Agreement, shall be limited in the

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aggregate to the amount of fees that you have paid to us for the Services, or \$50,000.00., whichever is less. The parties intend that the foregoing limitation on liability shall apply to all claims, whether sounding in tort, in contract, or in warranty. You release, waive, and shall not seek contribution from, or indemnification by, us for any claims of any nature made against you by any other person who may suffer any loss, property damage or bodily injury in any manner associated with our services, or our partners, members, managers, directors, officers, employees, agents, and subcontractors under this Agreement, as this Agreement may from time to time be amended, or any supplementary services in any way related to this Agreement. We shall not be liable to you, in any event or for any amount, for delays, or for consequential, special or incidental damages, or for punitive or exemplary damages, or for damages, losses, or claims caused by circumstances and events beyond our reasonable control (*force majeure*). Should you find the terms of this Paragraph 21 unacceptable, we are prepared to negotiate, in our sole and absolute discretion, a modification in consideration of an equitable surcharge to pay our additional insurance premiums and risk.

21. **Payment of Attorney's Fees.** The losing party shall pay the winning party's reasonable attorney's fees and expenses for the prosecution or defense of any cause of action, claim or demand arising under this Agreement in any court or in arbitration. The "winning party" shall be the party that is awarded all, or substantially all, of the relief requested from the "losing party." The attorneys' fees payable to us for the collection of compensation you owe us shall be twenty-five percent of any judgment or award against you and our attorney's fees, expenses, and collection costs.

22. **Indemnification.** You agree to indemnify and hold us and our partners, members, managers, directors, officers, employees, agents and subcontractors (collectively, "Indemnitees") harmless from and against any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, arising out of: (a) work undertaken on the Project by you, or your contractor, subcontractor or other independent company or consultant employed by you to work on the Project, or their respective partners, members, managers, directors, officers, employees, agents or assigns (collectively, "Your Representatives"); (b) any other operation, no matter by whom performed, for and on behalf of you or Your Representatives, whether or not due in part to errors or omissions by us in the performance of Services, or in the performance of any supplementary service in any way related to this Agreement; or (c) any act of negligence, willful misconduct, or breach of this Agreement by you or Your Representatives. Notwithstanding the foregoing, you are not required to indemnify and hold Indemnitees harmless under this Paragraph 22 in the event of our sole negligence or willful misconduct.

23. **Integration Clause.** The Agreement represents the entire agreement between you and us. No prior representations, statements, or inducements made by either us, you, or the respective agents of either, that is not contained in the Agreement shall enlarge, modify, alter, or otherwise vary the written terms of the Agreement unless they are made in writing and made a part of the Agreement by attachment, incorporated by reference in the Agreement or signed or initialed on behalf of both parties.

24. **Confidential Information.** All non-public, confidential or proprietary information of us, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by us to you ("Infinite's Confidential Information"), whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by us in writing. You may share Infinite's Confidential Information only with those employees of yours who have a need to know such information in order to perform Services or provide Goods. You shall treat our Confidential Information with the same degree of care and security that it treats its own but in no event with less than a commercially-reasonable degree of care. Upon our request, you shall promptly return all Infinite Confidential Information received from us. We shall be entitled to injunctive relief for any violation of this Section. You shall immediately notify us if at any time you are made aware of a court order or other legal requirement to disclose Infinite's Confidential Information, and in such event, you shall reasonably cooperate with us if we decide to engage in efforts to prevent or protect such Infinite's Confidential Information from disclosure. This Section does not apply to information that is: (a) in the public domain; (b) known to you at the time of disclosure; or (c) rightfully obtained by you on a non-confidential basis from a third party.

25. **Survival.** The following Paragraphs of these STCs shall survive termination of this Agreement: 2, 4, 5, 7, 9,

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10, 13, 14, 16, 17, 18, 19, 20, 21, and 22.