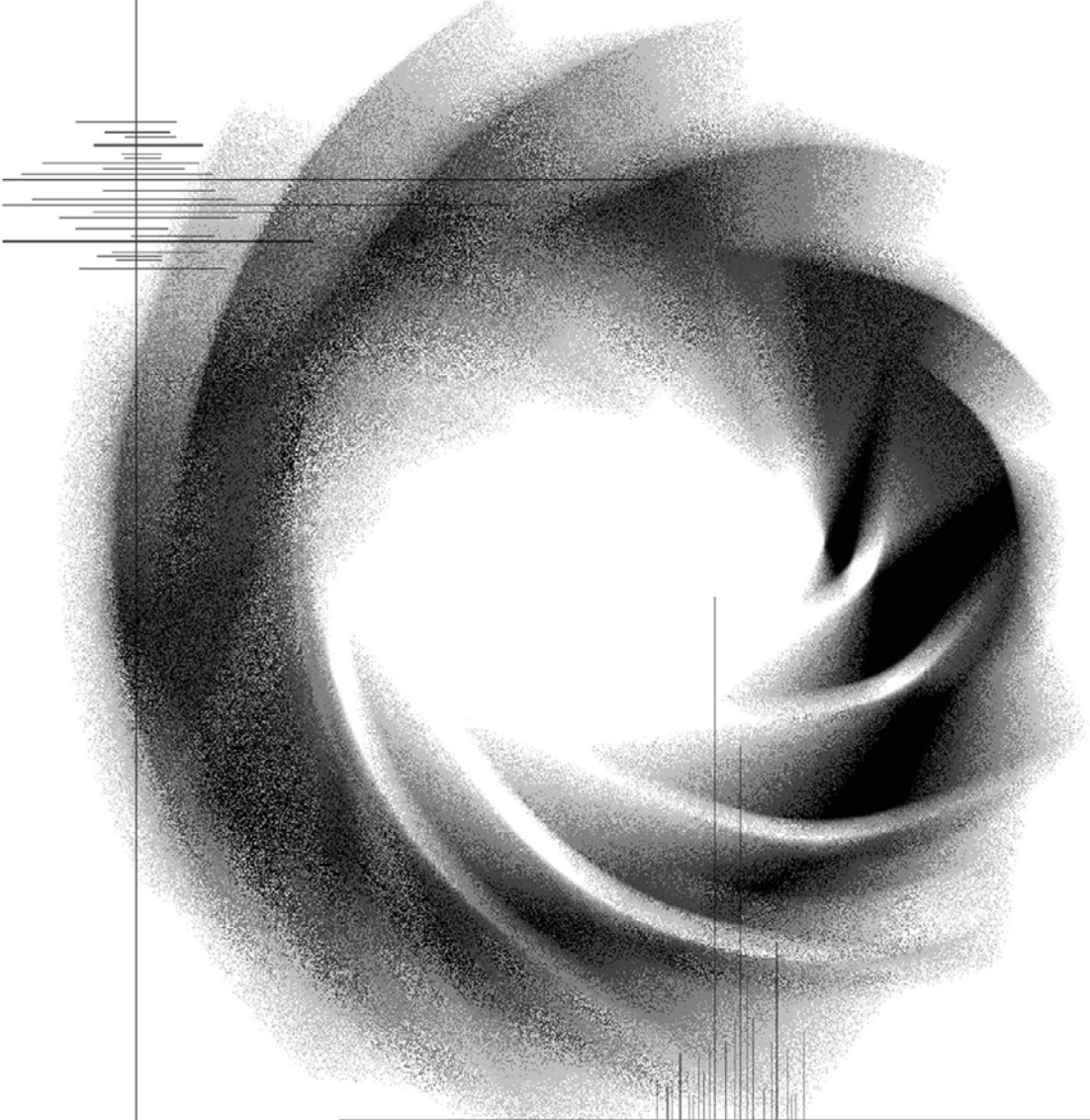


SERVICES, RESPONSABILITIES AND FEE  
BETWEEN THE CLIENT AND

# *the Architect*



Approved by  
The Ordre des architectes du Québec  
January 2001



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# GENERAL CONDITIONS OF THE AGREEMENT

## 1. DEFINITIONS

The following definitions apply to this Agreement.

**Completion of the Work.** *Completion of the work* shall have been reached when the *Work* has been performed and is ready for use for the purpose intended. Compare with *Substantial Performance of the Work*.

**Contract Documents.** Set of documents consisting of the executed Agreement between the Client and the *Contractor*, the General Conditions, the drawings, the specifications and other documents identified in the Agreement as *Contract Documents*.

**Construction Budget.** Client's budget for the *Construction Cost*, including contingencies for cost increases.

**Construction Contract.** Agreement executed between the Client and the *Contractor* to perform their respective obligations as described in the *Contract Documents*.

**Construction Cost.** Sum of the following amounts: contract price (or prices) for all *Project* elements designed or specified by or on behalf of the Architect, permit fees, amounts for contingency, all applicable taxes, including value added taxes such as GST, whether recoverable or not. Where there is no contract price for all or part of the *Project*, the *Construction Cost* shall be the estimated cost of construction as determined by the Architect, at market rates at the anticipated time of construction. *Construction Cost* does not include: compensation of the Architect, Engineers and other Consultants; land cost; other costs to be borne by the Client.

In the event that the Client furnishes labour or material below market cost or that old materials are re-used, the *Construction Cost* for purpose of establishing the Architect's fees, is the cost of all materials and labour necessary to complete the *Work* as if all materials had been new and as if all labour has been paid for at the market prices at the time of construction or, in the event that the construction does not proceed, at existing market prices at the anticipated time of construction.

**Contractor.** Person or entity contracting with the Client to provide labour, materials and equipment for the execution of the *Work*.

**General Review.** Visits to the *Place of the Work* at intervals appropriate to the stage of the construction that the Architect considers necessary to become familiar with the progress and quality of the *Work*, and to determine that the *Work* is in general conformity with the *Contract Documents*.

**Place of the Work.** Designated site or location of the *Work* identified in the *Contract Documents*.

**Project.** Total construction contemplated of which the *Work* may be the whole or a part.

**Project Budget.** Client's estimated total expenditure for the entire *Project*. It includes, but is not limited to, the *Construction Budget*, professional fees, cost of land, rights of way, and all other costs that the Client shall incur for the *Project*.

**Subcontractor.** Person or entity having a direct contract with the *Contractor* to perform a part or parts of the *Work* or to supply products worked to a special design for the *Work*.

**Substantial Performance of the Work.** *Substantial Performance of the Work* shall have been reached when the *Work* is ready for use, or is being used, for the purpose intended and is so certified by the Architect. Compare with *Completion of the Work*.

**Supplier.** Person or entity having a direct contract with the *Contractor* to supply products not worked to a special design for the *Work*.

**Work.** Total construction and related services required by the *Contract Documents*.

## **2. OBLIGATIONS OF THE ARCHITECT IN ACCORDANCE WITH BASIC SERVICES**

### **2.1 Schematic Design Phase**

**2.1.1 Review of program and site.** The Architect shall review the program of requirements furnished by the Client and the characteristics of the site.

**2.1.2 Relation of Construction Budget to program.** The Architect shall review and comment on the Client's *Construction Budget* to the Client's program of requirements.

**2.1.3 Alternative approaches and types of construction contracts.** The Architect shall review with the Client alternative approaches to the design of the *Project* and the type of *Construction Contract* most appropriate to the *Project*.

**2.1.4 Regulations and codes.** Architect shall review applicable statutes, regulations, codes and by-laws and, where necessary, review the same with the authorities having jurisdiction.

**2.1.5 Schematic Design documents preparation.** Based on program of requirements, schedule and budget mutually agreed upon, the Architect shall prepare for the Client's approval Schematic Design documents to illustrate the scale and character of the *Project*.

**2.1.6 Construction Cost estimate.** The Architect shall prepare and submit to the Client a *Construction Cost* estimate based on current area or volume unit costs.

### **2.2 Design Development Phase**

**2.2.1 Preparation.** Based on the approved Schematic Design documents and *Construction Cost* estimate, the Architect shall prepare for the Client's approval, Design Development documents consisting of drawings and other documents appropriate to the size of the *Project*, to describe the size and character of the entire *Project* including the architectural, structural, mechanical, and electric systems, materials and such other elements as may be appropriate.

**2.2.2 Construction Cost estimate.** The Architect shall submit to the Client for approval a revised *Construction Cost* estimate.

**2.2.3 Regulations and codes.** The Architect shall continue to review statutes, regulations, codes and by-laws applicable to the *Project*.

### **2.3 Construction Documents Phase**

**2.3.1 Preparation.** Based in the Client approved Design Development documents and *Construction Cost* estimate, the Architect shall prepare, for the Client's review and approval, Construction Documents consisting of drawings and specifications setting forth in detail the requirements for the construction of the *Project*.

**2.3.2 Final Construction Cost estimate.** The Architect shall advise the Client of any adjustments to the *Construction Cost* estimate, including adjustments indicated by changes on requirements and general market conditions.

**2.3.3 Regulations and codes.** The Architect shall review statutes, regulations, codes and by-laws applicable to the *Project* and, when necessary, review the same with the authorities having jurisdiction in order that the Client may obtain all permits, approvals, and other necessary documents.

**2.3.4 Preparation for bidding.** Following the Client's approval of the Construction Documents and the latest *Construction Cost* estimate, the Architect shall obtain from and advise the Client in the preparation of bidding information, form of contract between the Client and the *Contractor*, and any other necessary documents.

### **2.4 Bidding or Negotiation Phase**

Following the Client's approval of the Construction Documents and the latest *Construction Cost* estimate, the Architect shall issue bidding documents and addenda whenever necessary, assist the Client on obtaining bids or negotiated proposals and advise accordingly on awarding *Construction Contract*.

### **2.5 Construction Contract Administration Phase**

**2.5.1 Condition for the modification of Construction Contract.** The extent of the duties, responsibilities and limitations of authority of the Architect as the Client's representative during the *Construction Contract* administration phase shall be modified or extended only with the written consent of the Client and the Architect.

### 2.5.2 2.5.2 Duties and obligations of the Architect.

During this phase, the Architect shall

1. be a representative of the Client;
2. advise and consult with the Client;
3. have the authority to act on the Client's behalf to the extent provided on this Agreement and the Construction Documents;
4. have access to the *Work* at all times whether it is preparation or progress;
5. forward all instructions from the Client to the *Contractor*;
6. carry out the *General Review* of the *Work*;
7. examine, evaluate and report to the Client upon representative samples of the *Work*;
8. keep the Client informed of the progress and quality of the *Work*, and report to the Client defects and deficiencies on the *Work* observed during the course of the site reviews;
9. determine the amounts owing to the *Contractor* under the Contract based on the Architect's observations and evaluation of the *Contractor's* applications for payment;
10. issue certificates for payment in the value proportionate to the progress of the *Work* and the amount of the Contract;
11. in the first instance, interpret the requirements of the *Contract Documents* and make findings as to the performance thereunder by both the Client and the *Contractor*;
12. render interpretations in written or graphic form as may be required with reasonable promptness on the written request of either the Client or the *Contractor*;
13. render written findings within a reasonable time, on all claims, disputes and other matters in question between the Client and the *Contractor* relating to the execution or performance of the *Work* or the interpretation of the *Contract Documents*;
14. render impartial interpretations and findings, consistent with the intent of and reasonably inferable from the *Contract Documents*; but shall not be liable for the result of any interpretation or finding rendered on good faith on such capacity;
15. have the authority to reject work which does not conform to the *Contract Documents*, and whenever, in the Architect's opinion, it is necessary or advisable for the implementation of the intent of the *Contract Documents*, have the authority to require special inspection or testing of work, whether or not such work has been fabricated, installed or completed;
16. review and take other appropriate action with reasonable promptness upon such *Contractor's* submittals as shop drawings, product data, and samples, for conformance with the general design concept of the *Work* as provided in the *Contract Documents*;
17. prepare change orders and change directives for the Client's approval and signature in accordance with the *Contract Documents*;
18. have the authority to order minor adjustments in the *Work* which are consistent with the intent of the *Contract Documents* when these do not involve an adjustment in the contract price or an extension of the contract time;
19. furnish supplemental instructions to the *Contractor* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the Architect and the *Contractor*;
20. determine the dates of *Substantial Performance of the Work* and *Completion of the Work*;
21. receive from the *Contractor* and forward to the Client for the Client's review the written warranties and related documents;
22. verify the *Contractor's* application for final payment and issue a certificate for final payment;
23. prior to the end of the period of one year following the date of *Substantial Performance of the Work*, review any defects or deficiencies which have been reported or observed during that period, and notify the *Contractor* in writing of those items requiring attention by the *Contractor* to complete the *Work* in accordance with the *Construction Contract*.

### 2.5.3 Limitations of Architect's Obligations

1. The Architect shall not be responsible for the acts or omissions of the *Contractor*, *Subcontractors*, *Suppliers* or any other persons performing any part of the *Work*, or for the failure of any of them to carry out the *Work* in accordance with the *Contract Documents*.
2. The Architect shall not have control, charge of supervision of, or responsibility for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs required in connection with the *Work*.

**2.5.4 Additional Review of the Work.** If, at *Substantial Performance of the Work* or at the *Completion of Work*, the Architect, due to the negligence of the *Contractor*, is obliged to carry out reviews of the *Work* in addition to the number normally required, the Architect shall be owing additional fees on hourly rate basis. (*The Architect may, to enable the Client to recover such amounts, include in the Construction Contract a supplementary clause specifying that the Client may withhold same amounts from payments owing to the Contractor.*)

## 2.6 Construction Budget and Construction Cost

**2.6.1 Opinion and estimate.** The Architect shall review and comment on the Client's *Construction Budget* and shall prepare the *Construction Cost* estimates as set out in this Agreement.

**2.6.2 Limitations of the Architect's obligations.** Neither the Architect nor the Client has control over the cost of labour, material and equipment, over the *Contractor's* methods of determining bid prices, or over competitive bidding, market, or negotiating conditions and therefore the Architect cannot and does not warrant nor represent that bids or negotiated prices will not vary from the *Construction Cost* estimate.

**2.6.3 Budget and fees.** Variance from the *Construction Budget* or *Project Budget* established under this Agreement shall not constitute grounds for the Client to withhold fees owing to the Architect.

**2.6.4 Adjustment of budget due to delay of bidding.** If the bidding or negotiation phase has not commenced within three months after the Architect submits the *Construction Documents* to the Client, the *Construction Budget* shall be adjusted to reflect changes in the general level of prices in the construction industry which may have occurred

between the date of submission of the *Construction Documents* and the date on which bids or proposals are sought.

**2.6.5 Excess by more than 15%.** If the lowest bona fide bid or the lowest negotiated proposal exceeds the latest approved *Construction Cost* estimate by more than 15%, the Client shall adopt one of the following measures:

1. give written approval of an increase of the *Construction Budget*;
2. authorize re-bidding or re-negotiating of the proposal;
3. cooperate with the Architect in revising the *Project* scope or quality as necessary to reduce *Construction Cost*;
4. terminate this Agreement in accordance with Sub-section 5.8 if the *Project* is abandoned.

**2.6.6 Revision of the Project.** If the Client adopts measure set forth under paragraph 3 above, the Architect, unless the excess is due to extraordinary market conditions, shall at no additional fee modify the *Construction Documents* or provide other services necessary to reduce the *Construction Cost* to within 15% of the latest approved estimate. The Architect's obligations in accordance with quoted paragraph are limited to the modification of the *Construction Documents*. Having done so, the Architect shall be entitled to compensation in accordance with this Agreement, for all services performed, whether or not the construction phase is commenced.

## 2.7 Certificates for Payment

**2.7.1 Representation of the Certificate.** The issuance of a certificate for payment shall constitute a representation by the Architect to the Client, based in the Architect's *General Review* and upon review of the *Contractor's* schedule of values and application for payment that the *Work* has progressed to the value indicated; that to the best of the Architect's knowledge, information and belief, the *Work* observed during the course of *General Review* is in general conformity with the *Contract Documents*; and that the *Contractor* is entitled to payment in the amount certified.

**2.7.2** Such certification is subject to:

1. *general review* and evaluation of the *Work* as it progresses for general conformity as provided in paragraphs 6, 7 and 8 of Article 2.5.2;
2. the results of any subsequent tests required by or performed under the *Contract Documents*;
3. minor deviations from the *Contract Documents* being corrected prior to completion;
4. any specific qualifications stated in the certificate for payment.

**2.7.2 Limitations to the representation of the certificate.** The issuance of the certificate for payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the *Contractor* has used the monies paid on account of the *Construction Contract*, or that the *Contractor* has discharged the obligations imposed by him by law under the Worker's Compensation Act, or other applicable statute, non-compliance with which may render the Client personally liable for the *Contractor's* default.

## **2.8 Coordination**

The basic services of the Architect include the coordination necessary for the integration of the consultations of Engineers or Consultants.

## **3. OBLIGATIONS OF THE CLIENT**

### **3.1 Elements to Provide**

**3.1.1 Requirements and program.** The Client shall provide complete information regarding the requirements for the *Project*, including a program setting forth the Client's *Project* objectives, constraints, schedules, and criteria, including:

1. spatial and functional requirements and relationships;
2. flexibility and expandability;
3. special equipment and systems;
4. site requirements.

**3.1.2 Construction Budget for the Project.** The Client shall also provide information, surveys, reports and services as set forth below, the accuracy and completeness of which the Architect shall be entitled to rely upon and such contracts for the provision of information, surveys, reports and services, whether arranged by the Client or the Architect, shall be considered direct contracts with the Client unless explicitly provided otherwise:

1. surveys describing physical characteristics, legal limitations and utility locations for the site; a written legal description of the site and adjoining properties as necessary showing the following survey and legal information, as applicable: grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights of way; restrictions, easements, encroachments, zoning, deed restrictions; boundaries and contours of the site; locations, dimensions, and data pertaining to existing buildings, and other existing improvements and trees; description concerning utility services, both public and private, above and below grade, including inverts and depths;
2. subsurface investigation and related reports which include, but are not limited to, test borings, test pits, determination of soil boring values, percolation tests, a list and evaluations of toxic and hazardous substances and material present at the *Place of the Work*, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations;
3. reports and appropriate professional recommendations of specialist consultants when required by the Architect;
4. Investigation, laboratory and field tests, and related reports, as required by the Architect, the Architect's consultants, Construction Documents or as prescribed by authorities having jurisdiction in following: air and water pollution tests, tests for toxic and hazardous substances and materials, tests on structural, mechanical, chemical or environmental characteristics;
5. legal, accounting and insurance counseling services as may be necessary at any time for the *Project*, including such auditing services as the Client may require to verify the *Contractor's* application for payment or to ascertain how or what purpose the *Contractor* uses the monies paid by or in behalf of the Client.

## 3.2 Other Obligations of the Client

**3.2.1 Examination, decisions and approvals.** The Client shall examine documents submitted by the Architect and give the Architect decisions or approvals as necessary.

**3.2.2 Authorities.** The Client shall obtain and pay the cost of all required approvals and permits from authorities having jurisdiction.

**3.2.3 Fault or discrepancies.** The Client shall immediately notify the Architect in writing if the Client observes or otherwise becomes aware of any defect in the *Project* or any discrepancies with the *Contract Documents*.

**3.2.4 Promptness.** The Client shall promptly fulfill his responsibilities for the orderly progress of the Architect's services and of the *Work*.

**3.2.5 Authorization.** The Client shall authorize in writing a person to act on his behalf and define that person's scope of authority with respect to the *Project* when necessary.

## 4. PAYMENTS TO THE ARCHITECT

### 4.1 Payments

**4.1.1 General principle.** The Client shall pay professional fees and reimbursable expenses as set forth in the Special Conditions and in this Section 4.

**4.1.2 Initial payment.** Initial payment as set forth in the Special Conditions is the minimum payment which the Client may pay the Architect under this Agreement.

**4.1.3 Payment for basic services.** Subsequent payments for the Architect's basic services shall be paid monthly, and shall be in proportion to services performed within each phase of the service.

**4.1.4 Payment for additional services and reimbursable expenses.** Payment on account of additional services and for reimbursable expenses shall be made monthly upon submittal of the Architect's invoice for services rendered or expenses incurred.

**4.1.5 Delay for payment.** An invoice submitted by the Architect under this Agreement shall be paid by the Client within thirty days after submittal of the invoice to the Client.

**4.1.6 Interest.** An unpaid invoice shall bear interest at 5% per annum above the bank rate 30 days after the date that the Architect submits an invoice for fees, reimbursable expenses, and applicable taxes. Bank rate means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to the chartered banks.

**4.1.7 Non-deductibility.** No deductions shall be made by the Client from the amounts payable to the Architect on account of penalty, liquidated damages, other sums withheld from payments to the *Contractor*, or on account of the cost of changes in the *Work* other than those for which the Architect is proven to be legally responsible or has agreed to pay.

### 4.2 Hourly Rates

**4.2.1 Principals.** The hourly rate of principals is the latest such rate published by the Quebec Association of Architects in Private Practice.

**4.2.2 Personnel.** The hourly rate chargeable for the Architect's personnel is "the cost of hourly salary" multiplied by a 2.5 coefficient. The cost of hourly salary is equal to the annual salary paid to the employee, divided by the number of hours that the employee works during a year (i.e. by subtracting Saturdays, Sundays, statutory holidays, vacation and sick days) to which are added the employer's contributions for employment insurance, government pension, health insurance, Labour Health and Safety Commission, worker's compensation, as well as all other direct charges paid by the employer.

**4.2.3 Budget of fees.** Whenever a budget of fees has been agreed upon between the Client and the Architect, the Architect, if he foresees that the budget of fees may be exceeded, shall so inform the Client when 80% of fees have been spent.

**4.2.4 Overtime.** The Architect may invoice to the Client additional costs due to overtime provided that such costs have been authorized in advance by the Client.



### 4.3 Reimbursable Expenses

Reimbursable expenses include, but are not limited to, the following expenses incurred in the interest of the *Project* (plus the percentage of such actual expenditure for administrative services, as set forth in the Special Conditions):

1. transportation in connection with the *Project* for travel, e.g., for transportation, lodging and meal;
2. communication and shipping, e.g., for long distance phone calls and facsimile messages, courier services, postage and electronic conveyances;
3. reproduction of plans, sketches, drawings, graphic representations, specifications and other documents;
4. renderings, models, and mock-ups specifically requested by the Client;
5. fees, levies, duties or taxes for permits or approvals from authorities having jurisdiction.
6. additional insurance coverage or limits, including that of professional liability insurance, requested by the Client on excess of that normally carried by the Architect and the Architect's consultants.

### 4.4 Right of the Architect to Stop Rendering Services

**4.4.1 Notice of cessation of rendering services.** If any invoice submitted by the Architect remains unpaid by the Client for sixty days or more from the date the invoice was submitted, then the Architect will give seven days' notice to the Client that the Architect will stop rendering services.

**4.4.2 Cessation of rendering services.** If within seven days of delivery of the notice mentioned on Article 4.1.1, the Client has not paid the Architect's invoice, or the Architect and the Client have not agreed in writing on terms for payment of the invoice, the Architect may stop rendering services on the *Project*, and in that event the Client shall not have any claim whatsoever against the Architect for any loss, cost, damage, or expense incurred or anticipated to be incurred by the Client as a result.

**4.4.3 Rights of the Architect.** The rights of the Architect given by this Sub-section 4.4 are in addition to and not in substitution for any other rights the Architect may have under this Agreement or otherwise for non-payment of the Architect's invoices by the Client.

### 4.5 Percentage-Based Fees

**4.5.1 Method for computing.** The basis for computing the fees for each phase of the Architect's basic services shall be as follows:

1. Schematic Design Phase: the approved *Construction Budget* estimate at the commencement of the phase.
2. Design Development Phase: the approved *Construction Cost* estimate at the commencement of the phase.
3. Construction Documents Phase: the approved *Construction Cost* estimate at the commencement of the phase.
4. Bidding or Negotiation Phase: the approved *Construction Cost* estimate at the commencement of the phase.
5. *Construction Contract* Administration Phase: the *Construction Cost*, including change orders and additional *Project* cost approved during the construction of the Work.

**4.5.2 Adjustment of fees after partial deletion of construction.** For the Architect's basic services relative to the portions of the *Project* that are designed but then deleted or otherwise not constructed, the fees for those portions of the *Work* shall be proportionate to the extent of services in accordance with the Special Conditions of this Agreement and shall be based on the lowest bona fide or negotiated proposal, the latest approved *Construction Cost* estimate.

**4.5.3 Building categories and fee for complete services.** For computing the fees according to the percentage-based method,

- a) buildings are classified as set forth in Schedule 2.
- b) fees which vary according to categories and *Construction Cost*, are those set forth in Schedule 3.

**4.5.4 Architects on Joint Ventures.** When Architects who are not in partnership, are commissioned in joint venture by the Client, the fees are increased by 25%. If however, the *Construction Cost* exceeds 15 000 000 \$, the increase shall be based in that amount.

**4.5.5 Consulting Architect.** When the Owner has retained the services of another architect as a consultant, the fees of the principal architect shall not be decreased accordingly.

**4.5.7 Multiple Construction Contracts.** When the *Work* is awarded in several contracts between the Client and general contractors, the fees of the Architect, for the construction documents phase, are increased as follows:

for 2 contracts	5%
for 3 contracts	9%
for 4 contracts	12%
for any additional contract a further increase by contract of	2%

**4.5.8 Project Management.** When the *Work* is performed by specialized contractors acting as project managers, the Architect's fees shall be increased by 20% of the cost of *Work* for the Construction Documents phase and for the Construction Contract Administration phase.

**4.5.9 Services limited to the construction phase only.** When the Architect's services are limited to the construction phase only, drawings and specifications being furnished by others, the Architect's fees shall be equal to 40% of the fees for complete services.

**4.5.10 Renovations, Alterations, Recycling, Redevelopment and Extensions.** For renovations, alterations, recycling, redevelopment and extensions, fees for applicable category shall be increased by 50%. The increase applies to the first 200 m<sup>2</sup> of floor area, for each case of vertical extension and for each case of horizontal extension.

## 4.6 Fees for Additional Services

For additional services as set forth in Schedule 1 and when revisions and additions are made to the program of requirements or previously approved documents prepared by the Architect and such revisions or additions require services beyond those already provided, the fees for such additional services shall be based in the rates on Article A3.3 or as otherwise mutually agreed with the Client.

## 4.7 Changes and Adjustments

**4.7.1 General principle.** If the scope of the *Project* or of the Architect's basic services is changed, the fees shall be equitably adjusted.

**4.7.2 Fees for extension of Construction time.** If and to the extent that the contract time initially established in the *Construction Contract* is exceeded or extended through no fault of the Architect, fees for services required for such extension period of the *Construction Contract* administration shall be paid to the Architect, and computed as set forth on Article A3.3.

## 4.8 Suspension or Abandonment of the Project

If the *Project* is suspended or abandoned in whole or in part for more than a total of 60 days whether consecutive or not, the Architect shall be paid within 30 days of the date that an invoice is submitted for all services performed, together with reimbursable expenses then due and suspension expenses calculated in the same manner as termination expenses in Article 5.8.4; if the *Project* is resumed after being suspended or abandoned in whole or in part for more than 60 days whether consecutive or not, the Architect's fees shall be equitably adjusted.

## 4.9 Taxes

**4.9.1 New Taxes.** In the event that new or additional taxes in respect of the services included on this Agreement are required by federal or provincial legislation after the Agreement is executed, the amount under this Agreement shall be adjusted to include such levies.

**4.9.2 Value Added Taxes.** Fees and reimbursable expenses may be subject to such value added taxes as the Federal Goods and Services Tax. The Client shall pay to the Architect, together with and in addition to any fees and reimbursable expenses that become payable, any value added taxes that become payable in relation to the fees and reimbursable expenses as required by legislation.

## 4.10 Accounting Records for Some Expenses

The Architect shall maintain, by generally accepted accounting methods, records of reimbursable expenses, of expenditures pertaining to the Architect's additional services and of services for which the fee is computed as a multiple of direct personnel expenses. These records shall be available to the Client at mutually convenient times.

## 4.11 Multiple Use

### 4.11.1 Group of Buildings

1. When the *Project* consists of a group of buildings in which a typical building is repeated on the same site, at the same time and for the same client, the Architect shall be paid for the preparation of plans and specifications of the first building according to the applicable fees as set forth in Schedule 3, based in the cost of the first building, plus, for each repetition, 10% of the total fees as set forth in Schedule 3.
2. For any change to the Documents for the first building, the Architect shall be paid according to the hourly basis.
3. For the *Construction Contract* administration phase, the Architect shall be paid 30% of the total fee, based in the total cost of the entire work.

### 4.11.2 Re-use of plans and specifications

1. For any building or group of buildings, when the Architect agrees on the re-use of his plans and specifications, the fees for such re-use shall be equal to 20% of the total fee as set forth in Schedule 3, based on the *Construction Cost* at the time of the re-use. Such fee shall be payable at the time of the signature of the Architect's Agreement. The re-use of the Architect's Documents constitute a recognition of the Architect's right for such fee.
2. For any change to his documents due to a change of site or to any other reason beyond the Architect's control, the Architect shall be paid additional fees according to the hourly basis.
3. For the construction contract administration phase, the Architect shall be paid 30% of the total fee based on the *Construction Cost* at the time of the re-use.

## 5. MISCELLANEOUS CONDITIONS

### 5.1 Copyright

**5.1.1 General principle.** Copyright for the design and drawings prepared by or on behalf of the Architect belong to the Architect. Plans, sketches, drawings, graphic representations and specifications, including computer generated designs, are instruments of the Architect's services and shall re-main the property of the Architect whether the *Project* for which they are made is executed or not.

**5.1.2 Limitation.** Submissions or distribution of the Architect's plans, sketches, drawings, graphic representations and specifications to meet official regulatory requirements or for other purposes in connection with the *Project* shall not be construed as publication in derogation of the Architect's reserved rights.

## 5.2 Use of Documents

**5.2.1 General principle.** The Client may retain copies, including reproducible copies, of plans, sketches, drawings, graphic representations and specifications for information and reference in connection with the Client's use and occupancy of the *Project*. Except for reference purposes, the plans, sketches, drawings, graphic representations and specifications shall not be used for additions or alterations to the *Project* or on any other project.

**5.2.2 Prior payment of fees.** As a condition precedent to the use of the plans, sketches, drawings, graphic representations and specifications for the *Project*, all fees and reimbursable expenses of the Architect are required to be paid on full.

**5.2.3 Models and renderings.** The Client shall be entitled to keep original models or architectural renderings the Client specifically commissioned.

## 5.3 Project Identification

**5.3.1 Building signature.** The Architect shall be entitled to sign the building by inscription or otherwise on a suitable and reasonably visible part of the permanent fabric of the building.

**5.3.2 Project sign.** The Architect shall be entitled to include as part of the *Contract Documents* a provision to erect a sign identifying the Architect and the Architect's consultants on the *Place of the Work*.

## 5.4 Dispute Resolution

**5.4.1 Definition.** For the purpose of this Sub-section 5.4, "dispute" means a disagreement arising out of or in connection with this Agreement or in respect of any legal relationship associated with it or derived from it and includes any failure to reach agreement where agreement is required.

**5.4.2 Obligations of parties about information.** The parties shall make all reasonable efforts to resolve a dispute by amicable negotiations and agree to provide, on a without prejudice basis, frank and timely disclosure of relevant facts, information and documents to facilitate these negotiations.

**5.4.3 Recourse to a mediator.** If the parties have been unable to resolve a dispute, either party may, by written notice, require the appointment of a mediator in accordance with the latest edition and date of execution of this Agreement of the Rules of Mediation and Arbitration of Construction Disputes (Document CCDC 40), to assist the parties to reach agreement. Unless the parties agree otherwise, the mediated negotiations shall be conducted with those Rules as amended as follows:

1. all references to "the Contract" are to be considered references to "this Agreement".
2. for references in CCDC 40 for Schedule; time; extension of time period; and termination if no agreement; the time period shall be adjusted from "10 Workings Days" to "15 calendar days".

**5.4.4 Failure of the mediation.** If the dispute has not been resolved within 15 calendar days after a mediator was appointed under Article 5.4.3, or within such further period agreed to by the parties, the mediator shall terminate the mediated negotiations by giving written notice.

## 5.5 Liability of the Architect

**5.5.1 Nature of claims.** For the purposes of this Sub-section 5.5, a claim may be contractual in nature or non-contractual in nature.

**5.5.2 Limitation of claims.** The Client agrees that any claim and all claims which the Client has or hereafter may have against the Architect in any way arising out of or related to the Architect's duties and responsibilities pursuant to this Agreement, shall be limited to the amount indicated on the Architect's professional civil responsibility insurance policy.

## **5.6 Toxic or Hazardous Substances or Materials**

**5.6.1 Definition.** For the purposes of Article 3.1.3 and this Sub-section 5.6 "toxic or hazardous substances or materials" means any solid, liquid, gaseous, thermal or electromagnetic irritant or contaminant and includes, without limitation, pollutants and hazardous or special wastes whether or not defined in any federal, provincial or municipal, statutes and regulations.

**5.6.2 Limitation of Architect's Responsibility.** Unless otherwise specifically provided in this Agreement, the Architect shall have no responsibility whatsoever with respect to toxic or hazardous substances or materials, in any form, on the *Place of the Work* for:

1. the discovery, reporting, analyses, evaluation, presence, handling, removal or disposal thereof;
2. the advice of any independent expert selected by the Architect on behalf of the Client and the *Contractor* under the Contract in respect thereof;
3. the exposure of persons, property or the environment to those substances or materials.

## **5.7 Termination of the Agreement**

Unless otherwise stated in this Agreement, the Architect's services terminate one year after certification of *Completion of the Work*.

## **5.8 Rescinding of the Agreement**

**5.8.1 Procedure for rescinding.** This Agreement may be rescinded by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms through no fault of the party initiating the rescinding. Refer also to Sub-section 4.4.

**5.8.2 Rescinding on case of abandonment.** This Agreement may be rescinded by the Client upon at least seven days' written notice to the Architect in the event that the *Project* is permanently abandoned.

**5.8.3 Payment to Architect.** In the event of rescinding, the Architect shall be paid within 30 days of the date that an invoice is submitted for all services performed to the effective rescinding date, together with reimbursable expenses and applicable taxes then due and all rescinding expenses as defined in Article 5.8.4.

**5.8.4 Computing of rescinding expenses.** Rescinding expenses mean expenses directly attributable to suspension or abandonment of the *Project* or rescinding of this Agreement for which the Architect is not otherwise compensated, and in addition, an amount computed as a percentage of the total fees for the Architect's basic services and additional services earned to the time of rescinding, as follows:

1. 20% if suspension or rescinding occurs during the Schematic Design Phase;
2. 10% if suspension or rescinding occurs during the Design Development Phase;
3. 5% if suspension or rescinding occurs during a phase subsequent to the Design Development Phase.

## **5.9 Law Governing the Agreement**

Unless otherwise specified, the Agreement shall be governed by the law of the principal place of business of the Architect.

## **5.10 Successors and Assigns**

Both parties to the Agreement bind themselves, their partners, successors, assign and legal representatives to the other party to the Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of the Agreement. Except as otherwise provided herein, neither party shall assign, sublet, or transfer an interest in the Agreement without the written consent of the other.

## **5.11 Extent of the Agreement**

The agreement represents the entire and integrated Agreement between the Client and the Architect and supersedes all prior negotiations, representations, or agreements, either written or oral. The Agreement may be amended only in writing signed by both Client and Architect.

## Schedule 1. Additional Services

The additional services described in this Schedule are not included in the Architect's basic services unless so identified on A2.3 of Special Conditions of the Agreement.

1. Providing more exhaustive or continuous on site review or representation.
  - .1 If more extensive representation at the site than described in paragraph 6 of Article 2.5.2 is required, the Architect shall provide one or more project representatives to assist in carrying out such additional site review responsibilities.
  - .2 Such project representatives shall be selected, employed, and directed by the Architect, and the Architect shall be compensated as agreed by the Client and Architect.
2. Providing analyses of the Client's needs and programming requirements for the *Project*.
3. Providing financial feasibility, *Project Budget* or special costing studies.
4. Providing site evaluations, planning surveys, or comparative studies of prospective site.
5. Providing special surveys, environmental studies and submissions and other related services required for approval by authorities having jurisdiction over the *Project*, except for those set forth in Section 2, but including submissions for zoning changes, variances from by-laws or site development plan approvals.
6. Providing services relating to future facilities, systems and equipment.
7. Providing services to investigate existing conditions of facilities such as preparing measured drawings or verifying the accuracy of drawings or other information furnished by the Client.
8. Providing detailed estimates of *Construction Cost*, detailed quantity surveys, inventories of material and equipment, or analyses of owning and operating costs.
9. Providing interior design, graphic design, signage and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings, and related equipment.
10. Providing tenant layout and design services.
11. Providing models or architectural renderings specifically by the Client.
12. Providing documents for alternative, separate or sequential bids or providing extra services in connection with bidding, negotiation, or construction prior to the completion of the Construction Document Phase.
13. Coordinating construction work performed by separate contractors or by the Client's own forces and coordinating the services required in connection with construction performed and equipment supplied by the Client.
14. Providing services in connection with the *Work* of a construction manager, or separate consultants retained by the Client.
15. Providing services after the date of *Substantial Performance of the Work*, except those described in Section 2.
16. Providing services after expiry of the period of one year following the date of *Substantial Performance of the Work*.
17. Revising or providing additional drawings, specifications and other documents which are:
  1. caused by instructions which are inconsistent with instructions or written approvals previously given by the Client, including revisions made necessary by adjustments on the Client's program or *Project Budget*;
  2. caused by the enactment or revisions of statutes, regulations, codes and by-laws, subsequent to the preparation of such documents;
  3. caused by an interpretation by the authorities having jurisdiction which differ from the Architect's interpretation of statutes, regulations, codes and by-laws, which difference the Architect could not have been reasonably anticipated;
  4. due to changes required as a result of the Client's failure to render decisions in a timely manner.

## Schedule 1. Additional Services

18. Providing services required because of significant changes in the *Project* including, but not limited to size, quality, complexity, the Client's schedule, or the chosen method of awarding (bidding or negotiating) and type of contract, except for services required under Article 2.5.2.
19. Preparing drawings, specifications and supporting data, evaluating *Contractor's* proposals, and providing other services in connection with changes to the *Project*.
20. Providing services in connection with evaluating substitutions proposed by the *Contractor* and making subsequent revisions to *Contract Documents* resulting from them.
21. Making investigations, inventories of materials and equipment, valuations and detailed appraisals of existing facilities.
22. Providing services made necessary by the default of the *Contractor*, by major defects or deficiencies on the *Work* of the *Contractor*, or by failure of performance by either the Client or *Contractor* under the *Construction Contract*.
23. Providing consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such work.
24. Providing services in evaluating an extensive or unreasonable number of claims submitted by the *Contractor* or others in connection with the *Work*.
25. Preparing record drawings showing changes in the *Work* made during construction based on marked-up prints, drawings, and other data furnished by the *Contractor* to the Architect; the accuracy of such information shall be the sole responsibility of the *Contractor*.
26. Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance and consultation during operation.
27. Providing services to the Client in connection with any public hearing, mediation, arbitration proceeding, or legal proceeding.
28. Providing for services of consultants for other than architectural, structural, mechanical and electrical engineering portions of the *Project* provided as part of the Architect's basic services.
29. Translating documents into a language other than the language of this Agreement.
30. Research about legal hypothecs.
31. Providing or arranging for any services not otherwise included in this Agreement.

## Schedule 2. Categories of Buildings

### 1<sup>st</sup> Category

Simple buildings including only large vacant spaces, such as:

1. Industrial or agricultural buildings including large vacant spaces;
2. Warehouses;
3. Stables, drill halls;

### 2nd Category

1. Commercial buildings;
2. Elementary schools and kindergarten;
3. Motels;
4. Barracks;
5. Vehicle maintenance and repair workshops;
6. Base building portion of office buildings;
7. Industrial buildings housing mechanical engineering works such as water filtration;
8. Manufacturing plants;
9. Parking garages;
10. Stadiums and arenas;
11. More complex buildings of the 1<sup>st</sup> category.

### 3rd Category

1. Administration buildings;
2. Complete office buildings;
3. Banks, court houses and embassies;
4. Places of worship;
5. Funeral homes and crematoriums;
6. Studios, buildings housing radio and television transmitting equipment, telephone and computer exchanges;
7. Museum, libraries;
8. Theaters, concert halls, movie-houses, entertainment hall, casinos, clubs;
9. Laboratories, hospitals, clinics, out-patient facilities, orphanages, homes for the aged, community health care centres, day care centres;
10. Hotels, restaurants;
11. Airports; harbour, river, road and railway stations; subway stations;
12. Fire and police stations;
13. Educational buildings for other than elementary grades;
14. Penal institutions;
15. Industrial slaughter-houses;
16. Sport centres, swimming pools and arenas;
17. Detached and semi-detached houses; repetitive row housing; duplexes;
18. Apartment buildings (rental or in co-ownership or in condominium);
19. More complex buildings of the second category.

### 4th Category

Buildings and specialized work such as:

1. Family dwellings, villas and residences;
2. Decoration or interior design;
3. Public gardens, drives, zoos, aquariums;
4. Commemorative and funerary monuments, crypts;
5. Exhibition pavilions;
6. Furniture design;
7. More complex buildings of the third category.

**Note.** Buildings not listed in any of those categories shall belong in the category which they most closely resemble.



**Schedule 3. Fees for Complete Services on Percentage-Basis  
(notes 1 and 2)**

Classification	Cost of Work (C)	Schedule of fees				
		1 <sup>st</sup> Categorie	2 <sup>nd</sup> Categorie	3 <sup>rd</sup> Categorie	4 <sup>th</sup> Categorie	
1	\$ 0 ≤ C < \$ 150 000	Note 3	—	—	—	—
2	\$ 150 000 ≤ C < \$ 300 000	Note 3	—	—	—	—
3	\$ 300 000 ≤ C < \$ 600 000	For the first \$ 300 000 : Plus, for exceeding amount :	\$ 13 500 4,50 %	\$ 16 500 5,50 %	\$ 19 500 6,50 %	\$ 30 000 10,00 %
4	\$ 600 000 ≤ C < \$ 1 250 000	For the first \$ 600 000 : Plus, for exceeding amount :	\$ 27 000 4,00 %	\$ 33 000 4,25 %	\$ 39 000 5,25 %	\$ 60 000 7,50 %
5	\$ 1 250 000 ≤ C < \$ 2 500 000	For the first \$ 1 250 000 : Plus, for exceeding amount :	\$ 53 000 3,50 %	\$ 60 625 3,90 %	\$ 73 125 4,70 %	\$ 108 750 6,60 %
6	\$ 2 500 000 ≤ C < \$ 5 000 000	For the first \$ 2 500 000: Plus, for exceeding amount :	\$ 96 750 3,25 %	\$ 109 375 3,80 %	\$ 131 875 4,50 %	\$ 191 250 6,00 %
7	\$ 5 000 000 ≤ C < \$ 10 000 000	For the first \$ 5 000 000 Plus, for exceeding amount :	\$ 178 000 3,00 %	\$ 204 375 3,70 %	\$ 244 375 4,30 %	\$ 341 250 5,50 %
8	\$ 10 000 000 ≤ C < \$ 50 000 000	For the first \$ 10 000 000 : Plus, for exceeding amount :	\$ 328 000 2,75 %	\$ 389 375 3,60 %	\$ 459 375 4,25 %	\$ 616 250 5,00 %
9	\$ 50 000 000 ≤ C	Note 4	—	—	—	—

**Notes**

1. The percentage-based method is used only for basic services (for additional services, the ourly-based method is usually used).
2. Percentages set fort correspond to fees which normally enable the Architect to provide adequate services. They are neither maximuns nor minimums.
3. To be paid on an hourly basis (rates to be negotiated).
4. To be negotiated, taking into account the complexity of the program requirements, the nature of the Project, the duration of the Project, a.nd the unexpected or unpredictable features of the Projet.

### Schedule 4. Scheduling of Fees for Complete Services

Phase		Percentage of Total Fees		Cumulative Percentage	Remarks
Design Phase	Schematic Desing	15 %	30 %	30 %	For partial services, fees shall be computed on hourly basis.
	Design Development	15 %			
Construction Documents		43 %	45 %	75 %	Fees may be pro-rated on the basis of progress of services.
Tender Calls		2 %			
Administration of Construction Contrat		25 %		100 %	

### Schedule 5. Admissible Hourly Rates for Architectural Services

Class	Experience	Fixed hourly rates	Fixed hourly <sup>1</sup> rate for principals
		04-04-28	04-04-28
<b>ARCHITECTS<sup>2</sup></b>			
- Senior principal	15 years and over	\$ 160,80	\$ 209,05
- Senior	10 to 15 years	1 27,65	165,90
- Intermediate	5 to 10 years	106,75	138,70
- Junior	3 to 5 years	87,85	114,15
<b>GRADUATE ARCHITECTS<sup>3</sup></b>			
- Senior principal	15 years and over	\$ 135,10	
- Senior	10 to 15 years	1 07,25	
- Intermediate	5 to 10 years	89,60	
- Junior	3 to 5 years	73,80	
<b>TECHNICIANS<sup>4</sup></b>			
- Senior principal	15 years and over	\$ 112,35	
- Senior	10 to 15 years	84,20	
- Intermediate	5 to 10 years	72,10	
- Junior	3 to 5 years	61,95	
<b>AUXILIARY PERSONNEL</b>	w.o.	\$ 45,00	

#### Notes of Schedule 5

- 1 Hourly rate for Ph.Ds in architecture is similar to that of Principal Architect.
- 2 Experience of architects is cumulative with that of graduate architects.
- 3 Shall hold a degree recognized by the Bureau of the Ordre des Architectes du Québec.
- 4 Includes personnel working on direct production of architectural services.