

## Engineering Services Agreement Instructions

### ***Please stop and read this before filling out the Engineering Services Agreement.***



The Engineering Services Agreement should be filled out and returned immediately, as we need it before scheduling an appointment. The Engineering Services Agreement must be neatly and completely filled out. Beginning on the first page, the specific steps you should follow are:

- On the first line, fill in the date that you sign the Agreement after the word *DATE*.
- On the second line, enter the name of all clients after the word *and*.
- At the beginning of the fifth line, fill in the address to be examined.
- At the end of the fifth line, fill in the price you were quoted.
- On the sixth line, sign your name after the X.
- On the seventh line, print your name and address after the words (*please print*).
- At the bottom of the page, initial after the X.
- At the bottom of the second page, initial after the X.
- Payment is required at the time services are rendered. If you want the Engineering Services billed to your credit card, complete the following or visit [epay.heimer.com](http://epay.heimer.com).

Credit Card:  American Express  Master Card  Visa  Discover

Name on Credit Card \_\_\_\_\_ Security Code \_\_\_\_\_

Credit Card Billing Address \_\_\_\_\_

Credit Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

Signature \_\_\_\_\_

- Set your fax machine resolution to fine, and fax this page and both pages of the Agreement to **631.858.5599**. There is no need to include a cover page. Alternatively, you can scan the signed agreement and email it to [orders@heimer.com](mailto:orders@heimer.com).
- If you have not confirmed the appointment, you must still call and confirm. Sending a signed agreement is **not** a confirmation of an otherwise unconfirmed appointment.

***If you have any questions, call 800.605.1500.***



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TOLL FREE: 800-605-1500 • FAX: 631-858-5599

WEB: www.heimer.com • EMAIL: info@heimer.com

ENGINEERS • CONSULTANTS • BUILDING INSPECTORS
LICENSED BY NEW YORK, NEW JERSEY, AND CONNECTICUT

- BRONX • 718-547-2000
NASSAU • 516-487-2100
QUEENS • 718-544-3000
BROOKLYN • 718-237-7777
MANHATTAN • 212-563-4777
STATEN ISLAND • 718-227-5000
WESTCHESTER • 914-576-6100
SUFFOLK (EAST) • 631-288-3900
SUFFOLK (WEST) • 631-858-5500
PUTNAM, ROCKLAND • 845-638-4900

CONTRACT FOR ENGINEERING CONSULTATION

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This contract (hereinafter CONTRACT) dated (DATE): \_\_\_\_\_ is between HEIMER ENGINEERING, P.C. (hereinafter ENGINEER) and \_\_\_\_\_ (hereinafter CLIENT)

for engineering services consisting of examination and review of limited aspects at the site (hereinafter INSPECTION) on DATE and the development of a summary report (hereinafter identified as REPORT) regarding certain discoverable aspects of the building at:

\_\_\_\_\_ for an initial fee of \$ \_\_\_\_\_ (hereinafter mutually identified as address of BUILDING, site, and exterior improvements to site) (hereinafter FEE)

Signed as CLIENT, or agent for CLIENT: X \_\_\_\_\_ for ENGINEER: \_\_\_\_\_

Signer's Name and Address (please print): \_\_\_\_\_

INSPECTION is subject to the following terms and conditions: IT IS MUTUALLY UNDERSTOOD AND AGREED THAT:

- 1. This CONTRACT sets forth the entire understanding between ENGINEER and CLIENT relating to the subject matter contained in it and merges all prior discussions and agreements, if any, between them as to that subject matter. This CONTRACT form is and has been available for review at any time at the ENGINEER's web site www.heimer.com/.
2. ENGINEER in entering into this CONTRACT and by performing service hereunder does not assume, abridge, abrogate, or undertake to discharge any duty or responsibility of CLIENT to any other party or parties. No party or entity other than CLIENT shall have any right to rely on REPORT or other representation or conduct of ENGINEER or agents thereof, and ENGINEER disclaims any obligations of any nature whatsoever with respect to such parties or entities.
3. REPORT represents the opinion of ENGINEER at the time of issuance of REPORT and is furnished to help CLIENT understand reported engineering aspects of the BUILDING. CLIENT does not and will not seek indemnity by this CONTRACT from ENGINEER against any losses or damages except to the extent provided herein.
4. INSPECTION and REPORT apply only to safely accessible and observable areas at BUILDING and to conditions only at time of INSPECTION.
5. Only those limited aspects of BUILDING specifically discussed in REPORT have been evaluated.
6. Unless otherwise specified herein, nothing in REPORT shall be deemed to imply, impute, suggest, or mean anything beyond what is specifically stated therein.
7. Prior to the signing of this CONTRACT, there has been no agreement between ENGINEER and CLIENT except that ENGINEER agreed to arrive at BUILDING for purposes of finalizing CONTRACT and presenting CONTRACT to CLIENT for signature, and, subsequent services if, and only if, CONTRACT is signed.
8. REPORT is for the exclusive use of CLIENT, and REPORT is not to be used by anyone other than CLIENT, even on behalf of CLIENT, under any circumstances for any purpose whatsoever including, but not limited to, use in advertising to the general public or in any publicity material or in any other manner without prior written approval of ENGINEER. CLIENT agrees to hold ENGINEER harmless and to protect, defend and indemnify ENGINEER, its subsidiaries and affiliates and its and their officers, directors, shareholders and agents against any claim, loss, expense, liability or damage, including reasonable attorney's fees arising out of any violation by CLIENT of the terms and conditions hereof.
9. CONTRACT is not assignable without prior written consent of ENGINEER. Any attempt to assign any of the rights, duties, or obligations of CONTRACT without such consent is void.
10. Unless otherwise specifically stated, REPORT is not to be construed as a guarantee or warranty or implication that BUILDING meets local building, plumbing, structural, electrical and zoning codes or ordinances.
11. FEE is based on up to two (2) hours of engineering time (both on-site and off-site after the inspection) unless agreed otherwise prior to INSPECTION. Additional engineering time is payable at the rate of \$285 per hour.
12. ENGINEER will not issue REPORT until all necessary information has been gathered, the REPORT is complete, and all fees have been paid in full. ENGINEER cannot promise delivery of the report at any specific time.
13. CLIENT acknowledges that this CONTRACT was available to CLIENT by computer from the COMPANY'S web site prior to its execution by CLIENT. In the event of any litigation regarding any aspect of INSPECTION, the liability of ENGINEER, their agents, employees, subcontractors, and stockholders (personally), is strictly limited to FEE regardless of perceived or actual errors, omissions, negligence, oral representations, breach of contract (implied, oral or otherwise), malpractice, and delay by either ENGINEER, their agents, subcontractors, employees or stockholders (personally), when these result in personal, financial or medical injury or damage to any person or persons who are (and/or may become) parties interested in (or are otherwise affected by) the contents of REPORT and/or BUILDING, its site, and/or site improvements. It is understood and agreed that FEE is the maximum liability of ENGINEER in any event and that FEE is based on this level of liability. It is agreed that no litigation may be commenced by CLIENT against ENGINEER more than one (1) year after DATE.
14. Should any buyer or entity disclaim authority of CONTRACT signer to act as agent of any or all buyers, then the signer of CONTRACT herein indemnifies ENGINEER for all costs, damages, judgments, and expenses incurred by ENGINEER, including reasonable attorney's fees, regarding any claims against ENGINEER made by buyer or entity that relies on REPORT or other representation or conduct of ENGINEER or agents thereof.
15. INSPECTION and REPORT specifically relate to limited aspects of the BUILDING and do not include anything beyond limited aspects of the BUILDING.
16. INSPECTION is specifically of limited aspects of the BUILDING viewing limited aspects of the BUILDING from positions exclusively on the subject property or nearby public roads. INSPECTION does not include examination of existing, past, or potential problems relating to community drainage characteristics, community sewer and local water supply problems (chemical or otherwise), flood plain area characteristics, acid rain problems, soil salt problems, community environmental problems, property history, proposed roads, impending legislation, or past or ongoing legislation regarding the site and area.
17. Only those limited aspects of BUILDING specifically stated in REPORT as being examined were inspected and evaluated. In some cases, inspected aspects may be outside the BUILDING itself.
18. ENGINEER does walk on flat roofs, if necessary, when access is provided by means of either an interior or exterior staircase, door, or roof hatch under which a permanently mounted ladder is located.
19. ENGINEER does enter attics, if necessary, when the attics are fully floored and the headroom is more than four feet. However, if there is no flooring in the attic, then ENGINEER will inspect it visually from the point of access if access is no higher than eight feet above the top floor (and assuming that climbing is not required). Inspection of the subterranean crawl spaces, if necessary, is conducted in the same manner (presuming the head room is more than four feet and access is possible without climbing).
20. Although BUILDING or equipment may be in good condition at the time of INSPECTION, that condition may change thereafter. REPORT is not to be construed as a guarantee or warranty or policy of insurance regarding BUILDING, or of its fitness for alteration, decoration, rehabilitation or refurbishment, restoration, renovation, remodeling, or revision; or adequacy of lighting, soundproofing or insulation; or fitness during flood, windstorm, fire, high tide, earthquakes, hurricane, ice, and rainstorm; or subsurface environmental contamination; or level and degree of obsolescence (functional or otherwise).
21. REPORT encompasses the entire results of INSPECTION and specifically does not include expenses of upkeep, and maintenance. CLIENT will not form conclusions regarding BUILDING or aspects thereof which are not stated in REPORT except at CLIENT's own risk.

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ENGINEER'S INITIALS

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(continued on reverse side)

22. INSPECTION is a walk-through visual inspection of limited aspects of BUILDING. ENGINEER reports what is found based on the visual discoverable conditions observed during the walk-through. Should CLIENT wish the places which are inaccessible and/or unobservable to be examined, ENGINEER recommends that CLIENT make this known to ENGINEER so as to obtain suggestions as to how this may be accomplished, if at all possible, and to determine what the additional fee would be.
23. In the event that it is necessary for ENGINEER to return to the BUILDING to complete INSPECTION or REPORT as a result of unforeseeable circumstances, CLIENT is responsible to obtain additional access to BUILDING for ENGINEER during normal business hours. ENGINEER has no obligation to develop or deliver REPORT to CLIENT until such additional access is obtained. If CLIENT fails to obtain additional access for ENGINEER to BUILDING, CLIENT remains responsible for payment of FEE. If CLIENT obtains additional access for ENGINEER, CLIENT is responsible for payment of FEE, plus any others fees due under the terms of this contract or any other mutually agreed fees.
24. INSPECTION and REPORT are specifically not intended to be used for the purpose of evaluating the value of BUILDING. INSPECTION and REPORT are specifically not intended to be used as the basis for a decision to purchase or lease BUILDING or any portion of BUILDING. INSPECTION and REPORT are specifically not a specification for repair.
25. REPORT is to be read by CLIENT in its entirety. It is agreed that if CLIENT has any questions regarding any aspect of REPORT after fully reading it, CLIENT will notify ENGINEER in writing before making firm decisions and/or undertaking expense or commitment.
26. In the event that CLIENT or CLIENT's agent requests ENGINEER to delay completing REPORT beyond sixty (60) days after INSPECTION, or fails to provide all required information so REPORT cannot be completed until more than sixty (60) days after INSPECTION, additional review and revision will be required. If this additional review can be accomplished without a new site visit, the additional fee for the additional review and revision will be based on the time spent, with a minimum additional fee of \$285. In the event a new site visit is required, the additional fee will be at least an additional TOTAL FEE.
27. The payment terms are NET CASH. It is also understood and agreed that payment of TOTAL FEE (by check, credit card, money order, or cash) will be rendered upon completion of the INSPECTION and prior to release of REPORT. If INSPECTION is cancelled, or stopped for any reason, at any time following the arrival of ENGINEER at BUILDING, full TOTAL FEE is due and payable at the time of cancellation. Any additional services requested by CLIENT are billable at \$285 per hour, with a two-hour minimum. Should any litigation develop, then it is mutually agreed that CLIENT will pay ENGINEER'S reasonable attorney's fees involved in the litigation and collection of TOTAL FEE.
28. This CONTRACT shall be construed and enforced as a contract under seal in accordance with the laws of New York State. In the event CLIENT has a claim of breach of warranty, or for negligent inspection, CLIENT shall provide ENGINEER with three (3) working days to re-inspect BUILDING before the client repairs or replaces the subject of the claim.
29. Should any litigation (including, but not limited to, small claims, professional arbitration, hearings, etc.) arise (with ENGINEER as a defendant) as a result of INSPECTION, REPORT, or CONTRACT, it is mutually agreed that CLIENT is obligated to pay ENGINEER's reasonable attorney's fees if court finds substantially in ENGINEER's favor.
30. All Notices regarding litigation shall be sent to ENGINEER at 2171 Jericho Turnpike, Suite 230, Commack, NY 11725, and not to any other address. The venue for any litigation is mutually agreed to be Nassau County, New York. In the event of a refund of FEE or portion thereof, or any other sum, such refund shall be a full and final settlement of all present and future claims and causes of actions, and ENGINEER shall be thereupon generally and fully released.
31. It is mutually agreed that if ENGINEER is requested by CLIENT or subpoenaed by CLIENT or adversary of CLIENT in any litigation involving a third party, where INSPECTION, REPORT, BUILDING, notes on INSPECTION and/or REPORT preparation, notes on INSPECTION and/or REPORT preparation, courtroom time, and/or other time is sought, CLIENT shall pay ENGINEER's prevailing litigation rates or \$6000 per day or portion thereof, whichever is less, or obtain a protective order prohibiting said adversary or third-party from obtaining appearance, services, or information at CLIENT'S sole cost and expense.
32. The fee for each extra copy of the report is \$175. The fee for separate copies of the photographs is \$100 for the first photograph plus \$10 for each additional photograph. Separate copies of the photographs must be ordered as a complete set.
33. The time involved to review and/or prepare any affidavits or other legal documents based on REPORT, INSPECTION, and/or BUILDING are payable at \$285 per hour with a two-(2)-hour minimum. A retainer of \$570 must be paid to ENGINEER prior to initiating review and/or preparation of any affidavits and/or other legal documents.
34. If any provisions (or provision clauses) of this CONTRACT shall be held to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions (and provision clauses) shall not in any way be affected or impaired thereby. Facsimile and scanned copies shall be treated as original documents for all purposes. Initials shall be treated as signatures for all purposes.
35. It is mutually agreed that CLIENT will not institute any action against ENGINEER with any disciplinary entity or body unless a verdict in a court of law specified ENGINEER as grossly negligent. If such an action is started by CLIENT before such a verdict, CLIENT is fully responsible for ENGINEER's reasonable legal fees in defending the claim(s).
36. This CONTRACT can only be modified by a written consent agreement duly signed by persons authorized to sign it.
37. Unauthorized reproduction or alteration of REPORT or any part thereof, without express written permission of ENGINEER, is a violation of law and is prohibited. Copies of REPORT not bearing the corporation or Professional Engineer's original inked seal or embossed seal shall not be considered to be a valid true copy. No part of REPORT may be reproduced or utilized in any form or by any means, electronic or mechanical, including photocopying, recording or by any informational retrieval system, without permission in writing. All rights are reserved by ENGINEER.
38. All changes to REPORT after the final report is mailed is payable at \$285 per hour.
39. If CLIENT fails to provide HEIMER with information necessary to complete REPORT within sixty (60) days of INSPECTION, CLIENT agrees to pay ENGINEER for additional time required to review initial INSPECTION notes.
40. The information in REPORT is fully restricted for use exclusively by CLIENT and/or ENGINEER. No rights regarding extension of the use of REPORT is granted to assigns, successors, or others nor is reliance upon REPORT by any other individual corporation, company, or other entity granted without the express written permission of ENGINEER. By accepting REPORT and or using REPORT and/or relying upon contents of REPORT, and/or paying for REPORT, CLIENT accepts the terms, notes, disclosures, conditions, inspection limitations, liability limitations, and general limitations specified therein.

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       ENGINEER'S INITIALS

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Revised: 1/4/2010