



BRAGG CREEK EXCAVATING Ltd.

PO Box 1346 Bragg Creek, AB T0L 0K0 | (403) 949-2756 | Cell: (587) 968-7720

BRAGG CREEK EXCAVATING

STANDARD TERMS AND CONDITIONS

These Terms and Conditions constitute the full and binding agreement governing all work performed by Bragg Creek Excavating (BCX).

Any summaries, descriptions, or informational materials published on BCX's website are provided for general transparency only and do not constitute a contract, quotation, or commitment. No reliance may be placed on website materials for pricing, scheduling, or performance obligations. In the event of any inconsistency, these Standard Terms and Conditions shall govern.



TERMS AND CONDITIONS

The below enclosed paragraphs shall define the terms and conditions upon which the work agreement between Bragg Creek Excavating ("BCX") and the client and/or client's representative ("Owner") is based.

These Terms and Conditions apply to all work performed by BCX, whether arising from a written contract, quotation, approved change order, verbal, email, or text authorization, or emergency or site-driven work. These provisions apply notwithstanding project completion, suspension, or termination. Relevance of any provision shall be determined by industry convention and the scope of work performed, not by the Owner's interpretation.

In the event of any conflict, the following order of precedence shall apply: (a) an executed written work agreement or approved change order; (b) these Standard Terms and Conditions. Website materials shall not govern. If any provision of these Terms and Conditions is found unenforceable, the remaining provisions will continue in full force and effect. By signing or approving the quotation, the Owner confirms that they have read, understood, and agree to these Terms and Conditions.

1. Schedule and Weather

- 1.1 Work schedules are dependent on weather and site conditions.
- 1.2 BCX reserves the right to postpone, delay, suspend or resequence work due to inclement or unfavourable weather conditions or site conditions, including delays caused by groundwater, frozen ground, or other site-specific environmental conditions.
- 1.3 BCX shall not be liable for delays arising from weather or site conditions. No damages, penalties, extended overhead, standby, acceleration, or liquidated damages shall apply to such delays.

2. Force Majeure

- 2.1 Bragg Creek Excavating shall not be liable for failure to perform under circumstances beyond its reasonable control, including but not limited to acts of God, natural disasters, war, labour disputes, pandemics, government restrictions, utility delays, permitting delays, supply chain disruptions, or other events beyond BCX's reasonable control. Time for performance shall be extended for the duration of the Force Majeure event.
- 2.2 BCX shall not be responsible for any costs, losses, or damages arising from a Force Majeure event.



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3. Additional Work/Cost-Plus

- 3.1 Any work outside the contract inclusions ("Extra Work") may be completed on a cost-plus (time and materials) basis unless otherwise agreed in writing.
- 3.2 Requests for Extra Work will be documented in writing and approved by a BCX manager or supervisor. Where BCX has made reasonable efforts to notify the Owner of newly discovered required work, BCX may authorize such work without prior written Owner approval if delaying the work would jeopardize project quality, safety, regulatory compliance, or the construction schedule. BCX will maintain detailed records of the work performed and the rationale for proceeding. The Owner acknowledges that such authorization constitutes approval of the associated costs.
- 3.3 Where Extra Work is undertaken in accordance with this section, the Owner waives any right to dispute authorization, scope, or pricing of such work. All such work shall be deemed approved and payable in accordance with BCX's standard invoicing terms, regardless of project completion status.
- 3.4 Extra Work will be billed at BCX's then-current hourly labour and equipment rates, plus materials, subcontractors, and applicable mark-ups (if any), unless otherwise agreed.

4. Utilities

- 4.1 The Owner must accurately locate, mark, and disclose all private underground utilities prior to commencement of work.
- 4.2 BCX is not responsible for incorrectly located or undisclosed private utilities.
- 4.3 Costs to repair damage caused by incorrect utility information will be billed to the Owner on a cost-plus basis, including labour, materials, and equipment.
- 4.4 The Owner shall indemnify and hold harmless BCX from all claims, losses, fines, damages, or expenses arising from incorrect, incomplete, or undisclosed private utility information.

5. Site Access

- 5.1 The Owner is responsible for providing clear, safe, and unobstructed access suitable for the equipment planned for mobilization, for the duration of the project.
- 5.2 BCX is not liable for damage to access routes except to the extent caused by BCX's negligence. Delays due to access complications may result in standby charges or cost-plus billings.



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- 5.3 BCX retains sole discretion to determine whether site access is adequate and safe for the specific equipment required for the work. BCX may suspend or refuse to commence work where access is inadequate or unsafe without liability for resulting delay.

6. Drainage

- 6.1 BCX does not guarantee drainage performance unless drainage design and specific performance criteria are expressly included in the written scope of work. BCX does not guarantee positive drainage or water shedding on lands with an overall slope of less than two percent (2%). No implied warranty or representation is made regarding drainage performance outside the written scope of work.

7. Invoices and Payment

- 7.1 BCX shall issue proper invoices every 31 calendar days in accordance with the Alberta's Prompt Payment and Construction Lien Act (PPCLA).
- 7.2 Payment is due within 28 days of receipt, without set-off or deduction, except as expressly permitted under the PPCLA.
- 7.3 Late payments accrue interest at a rate of three percent (3%) per month (36% per annum), calculated monthly and compounded monthly, until paid in full.
- 7.4 In the event of non-payment, the Owner shall provide written notice of non-payment in strict compliance with the PPCLA, including the disputed amount and detailed reasons for non-payment, within 14 days of issuance of a proper invoice. Failure to do so within the prescribed timeline constitutes acceptance of the invoice as payable.
- 7.5 In the event of non-payment when payment is due in accordance with the PPCLA, all warranties, guarantees, and remedial obligations of BCX are suspended until the account is paid in full.
- 7.5.1 The Owner expressly waives any right to claim warranty service, remedial work, or damages for any deterioration, damage, or defect arising or worsening during period of non-payment.
- 7.5.2 During any period of non-payment, BCX shall have no obligation to mitigate loss, prevent deterioration, or attend the site.
- 7.5.3 Upon payment in full, warranty obligations shall resume only with respect to defects unrelated to the period of non-payment and shall not apply to conditions resulting from delayed maintenance, site exposure, third-party interference, normal wear and tear, or project delays caused by the Owner.
- 7.5.4 BCX shall not be responsible for costs, losses, or damages arising from enforcement or collection actions.



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- 7.6 BCX reserves the right to require payment in advance for any warranty work or remedial site attendance where the Owner has previously been in material breach of payment terms.
- 7.7 If payment for an outstanding invoice is not rendered within 50 days of issuance of the proper invoice, a lien may be filed against the property and all costs associated with preparing and registering the lien will be billed to the Owner.
- 7.8 BCX may suspend or stop work for nonpayment without penalty or liability for resulting delay.

8. Owner Responsibilities

- 8.1 The Owner must request clarification on any unclear contract items before work begins. Failure to do so means BCX will not be responsible for misunderstandings where the Owner did not request clarification and BCX performed the work in accordance with the agreed scope of work.
- 8.2 Costs to remedy discrepancies or Owner-requested changes will be billed to the Owner.
- 8.3 Any concerns or claims must be submitted in writing as soon as reasonably discovered. Failure to comply with the notice and inspection requirements in this section constitutes a waiver of the Owner's claim to the extent permitted by law. BCX must be given a reasonable opportunity to inspect and, if applicable, remedy the issue before corrective work is undertaken by others. Verbal communications or informal site discussions do not constitute written notice.

9. Natural Materials

- 9.1 Natural materials such as gravel, soil, wood, and rock possess inherent variability. BCX is not responsible for variations or differences inherent in these materials.

10. Workmanship & Compliance

- 10.1 BCX agrees to complete work in a workmanlike manner consistent with industry standards and in accordance with all applicable laws and regulations.
- 10.2 BCX agrees all work is to be completed in accordance with the BCX health and safety management system, and COR guidelines.

11. Warranty

- 11.1 Unless otherwise stipulated, the duration of warranty for completed services shall be one year from the date of substantial completion. Applicability of a warranty claim shall be assessed by an authorized Bragg Creek Excavating representative.



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12. Unsafe Conditions

- 12.1 BCX is not responsible for failure to perform if unsafe work conditions exist or if work is requested under unsafe conditions by the Owner. The Owner indemnifies BCX for any damages, claims, or losses arising from such work.

13. Cancellation by Owner

- 13.1 The cancellation fees set out herein represent a genuine pre-estimate of BCX's losses and are not a penalty.
- 13.2 Lump Sum Contracts: Owner pays 10% of the quoted contract value plus payment for work completed to date.
- 13.3 Time and Material Contracts: Owner pays for all work completed to date plus a non-refundable cancellation fee of 20% of the remaining estimated contract value or \$2500.00, whichever is greater.

14. Owner Caused Delays/Standby Charges

- 14.1 Delays caused by the Owner exceeding two (2) days will result in non-refundable standby charges.
- 14.1.1 Lump Sum Contracts: 5% of the quoted contract value per day of delay.
- 14.1.2 Time and Material Contracts: 10% of the sum of equipment hourly billings per day. One business day shall count as eight billable standby hours.

15. Subsurface/Site Conditions

- 15.1 BCX is not responsible for unforeseen subsurface conditions (e.g., rock, clay, groundwater) that differ materially from information provided by the Owner.
- 15.2 Costs to address these conditions are the Owner's responsibility.
- 15.3 Cancellation resulting from these findings will not incur standard cancellation fees. However, expenses incurred for demobilization resulting from cancellation will be the sole responsibility of the Owner.

16. Limitation of Liability

- 16.1 BCX's total aggregate liability for all claims arising from the project is limited to the contract value, to the maximum extent permitted by law. Indirect, consequential, incidental, or punitive damages are excluded, regardless of the legal theory advanced.



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17. Insurance

- 17.1 BCX maintains commercial general liability insurance and workers' compensation insurance. Proof of insurance is available upon request.
- 17.2 BCX maintains means of providing bid and project securities if requested or required by the Owner. All expenses incurred in procurement of project specific securities will be billed to the Owner.

18. Dispute Resolution

- 18.1 Mediation or arbitration in Alberta shall be a condition precedent to the commencement of any court proceedings. This agreement shall be governed by the laws of the Province of Alberta.
- 18.2 In the event of a dispute, costs arising from mediation and/or arbitration, including administrative fees, shall be allocated as determined by the mediator or arbitrator, having regard to the conduct of the parties and the outcome of the dispute.
- 18.3 In the event an Owner bypasses the contractual dispute resolution process, all associated solicitor, court, filing, and administrative expenses incurred by BCX shall be the sole responsibility of the Owner.

Acknowledgement

By entering into an agreement with BCX, the Owner confirms they have read and understood all Terms and Conditions, and voluntarily agree to be bound by them. The Owner represents that they have full authority to enter into this agreement on behalf of themselves or their organization and that they are entering this agreement without duress, coercion, or undue influence.