

BY-LAW NUMBER 31-14

- of -

THE CORPORATION OF THE COUNTY OF BRANT

To enter into an Ontario One Call Service Agreement

WHEREAS the Council of the Corporation of the County of Brant has agreed to enter into a service agreement with Ontario One Call for Call Centre services for the purposes of receipt and transmittal of requests for information.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS as follows:

1. **THAT** the Ontario One Call Service Agreement, attached hereto as Schedule A, between Ontario One Call and The Corporation of the County of Brant, is hereby approved.
2. **THAT** the Mayor and the Clerk are hereby authorized and directed to execute this Agreement on behalf of the Corporation.

READ a first and second time, this 25th day of March, 2014.

READ a third time and finally passed in Council, this 25th day of March, 2014.

THE CORPORATION OF THE COUNTY OF BRANT

Ron Eddy, Mayor

Heather Boyd, Clerk

ONTARIO ONE CALL SERVICE AGREEMENT

This Agreement is dated the 14 day of March, 2014.

BETWEEN:

Corporation of the County of Brant

A municipal corporation continued under the *Municipal Act, 2001*
(hereinafter referred to as the "Industry Member")

OF THE FIRST PART

- And -

ONTARIO ONE CALL

a Not-For-Profit Corporation registered in the Province of Ontario

(Hereinafter referred to as "One Call")

OF THE SECOND PART

This document is to be read in conjunction with the *Ontario Underground Infrastructure Notifications System Act 2012* (the Act) and its regulations. In the case of any variance or conflict in any area between any term and/or condition of this agreement and those of the Act and its regulations, this agreement shall be subordinate to the Act and its regulations in all such areas, and the Act and its regulations shall prevail; to which both parties shall acknowledge and agree to by signing this agreement where required on page 15.

WHEREAS One Call has established the Call Centre (as hereinafter defined) for the purposes of receipt and transmittal of requests for information concerning the location of the Industry Member's Plant (as hereinafter defined).

AND WHEREAS the Industry Member seeks to receive the Service from the Call Centre as hereinafter defined pursuant to the terms and conditions of this Agreement;

AND WHEREAS the parties hereto wish to establish the terms and conditions upon which One Call will provide the receipt and transmittal services to the Industry Member and the mutual and respective responsibilities of the parties in connection therewith;

THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. General Provisions

1.1 **Definitions** - The following words and phrases have the meaning set forth in this paragraph when they are used in this Agreement:

- (a) **"Call Centre"** means all facilities, equipment, machines, telephone lines, operators, laborers and all other things, assets and resources of One Call necessary or desirable for the purposes of performing the Service;

- (b) "**Excavator**" is to be broadly interpreted and its meaning shall include, but not be limited to, a person, an individual company or corporation, a municipal corporation, trust, government agency or department, Crown corporation, utility, unincorporated association, partnership, limited partnership, or other entity known at law who intends to do or has begun the Proposed Work;
- (c) "**Excavator Locate Request**" means notification by an Excavator of Proposed Work to the Call Centre, to be by way of facsimile, telephone, hand delivery, electronic transmission by computer, or such other means as One Call and the Industry Member may agree upon from time to time;
- (d) "**Industry Member's Plant**" means the Industry Member's underground facilities in existence during the currency of this Agreement;
- (e) "**Industry Member's Service Area**" means that geographical area identified by the Industry Member where it wishes to receive the Service;
- (f) "**Notification of Locate Request**" means the communication to the Industry Member of an Excavator Locate Request received by the Call Centre;
- (g) "**Pricing Structure**" is as set out in Exhibit "B" to this Agreement;
- (h) "**Primary Telephone Number**" means the telephone number designated by One Call from time to time to enable an Excavator to make an Excavator Locate Request by telephone, facsimile or such other means of communication which requires the use of a telephone number;
- (i) "**Proposed Work**" means any actual or intended excavation, demolition, drilling or blasting and includes, without limitation, any disturbance of the surface and/or subsurface of the earth by an Excavator;
- (j) "**Renewal Term**" is as defined in Section 3.1;
- (k) "**Service**" means the Call Centre's receipt, processing and recording of an Excavator Locate Request and communication of a related Notification of Locate Request to the Industry Member for the Industry Member's Service Area;
- (l) "**The Specifications**" means One Call's performance standards and specifications, which shall be delivered by One Call to the Industry Member along with this Agreement; and
- (m) "**Term**" is as defined in Section 3.1.

1.2 **Exhibits and Paramountcy** - Unless the context requires otherwise, references in this Agreement to Sections or Exhibits are to Sections or Exhibits of this Agreement. The Exhibits to this Agreement are Exhibits A, B and C. In the event of any inconsistency between the Sections and the Exhibits to this Agreement, the Sections shall prevail.

2. Scope of this Agreement

- (a) The Call Centre shall be made available by One Call to provide the Service to the Industry Member throughout the Term and the Renewal Term, if any.
- (b) The Call Centre's receipt of an Excavator Locate Request shall enable it to communicate a Notification of Locate Request to the Industry Member to allow the Industry Member to take whatever action is necessary to prevent damage to the Industry Member's Plant.
- (c) The Call Centre shall notify the Industry Member of all Notification of Locate Requests pursuant to the Specifications which Specifications may be amended or changed by One Call as it deems necessary under the circumstances at any time or times, with the Industry Member being notified in writing prior to any such changes.
- (d) The parties understand and agree that the Service is to be performed only by One Call, its agents and successors. This Agreement shall in no way vest the Industry Member with any proprietary interest in the Service, the Primary Telephone Number, or any trade name or trade work or data records or information relating thereto.

3. Term and Option to Renew

- 3.1 The term of this Agreement shall be for the period, commencing on March 14, 2014 and terminating on **December 31, 2014** (the Term"). The Industry Member shall have, while not in default of this Agreement, the option to renew this Agreement for a subsequent renewal term of three (3) years (the "Renewal Term") upon the same terms and conditions, save and except for the pricing structure.
- 3.2 This option to renew shall be exercised in writing by the Industry Member to One Call, not less than one (1) month prior to the expiry of the Term. One Call shall advise the Industry Member of the pricing structure for the Renewal Term forthwith upon it being established and in any event not less than two (2) months prior to the expiry of the Term. In the event that the Industry Member does not exercise its option to renew as set forth herein, said option shall be deemed to be null and void and of no further effect.
- 4. **Price** - The Industry Member shall pay for the Service performed in accordance with the Pricing Structure. The Pricing Structure does not quote any harmonized sales tax ("HST") whatsoever, which tax is in addition to the prices due from the Industry Member and shall be shown separately on the invoice to the Industry Member during the Term and Renewal Term, if applicable.
- 5. **One Call Obligation** - One Call agrees to:
 - (a) Provide and maintain, at its expense, the Call Centre, located within the Province of Ontario and operated pursuant to the terms of this Agreement utilizing the Primary Telephone Number;

- (b) Provide a Dictaphone recorder (or equivalent) to record all Excavator Locate Requests. The recording shall identify the date and time of each such recording and tapes of conversations containing Excavator Locate Requests shall be provided upon request of the Industry Member, the Industry Member to pay the cost of producing the tape;
- (c) Retain possession of all original tapes, facsimiles and all other records in its possession or control of Excavator Locate Requests relating to the Industry Member for the lesser of the duration of this Agreement or for the period specified in the Specifications. Said tapes, facsimiles and other records shall remain the property of One Call at all times;
- (d) In the event the testimony or evidence of any of One Call's employees or agents is required by any tribunal, arbitrator, hearing or court of law, compensation for time and expenses of any such witness for their testimony shall be negotiated between One Call and the Industry Member at that time but in any event, shall not be greater than the current rate of remuneration;
- (e) Provide reasonable and adequate security in connection with all information provided to One Call by the Industry Member and all communications from One Call to the Industry Member;
- (f) Ensure that any computer system which it will use to interface or communicate with any of the Industry Member's systems does not contain any pre-programmed devices which could affect the operation and performance of the Industry Member's computer system without the Industry Member's authorization. The foregoing includes, without limiting the generality of the foregoing, devices such as viruses, bugs, "time bombs", "drop dead devices", and "Trojan horses";
- (g) Ensure that any computer system which will interface or communicate with any of the Industry Member's systems will provide sufficient security to prevent any unauthorized access to the Industry Member's system through One Call's computer system; and
- (h) Ensure the Primary Telephone Number shall be a toll-free number.

6. **Industry Member's Obligations** - The Industry Member hereby agrees to:

- (a) Supply and maintain, at Industry Member's sole cost and expense, compatible receiving equipment as specified in the Specifications and to promptly notify One Call of any proposed or actual actions to relocate, move or disconnect any of the Industry Member's receiving equipment;
- (b) Pay the cost of installing communication lines on the Industry Member's premises to ensure supply and maintenance of compatible receiving equipment;
- (c) Pay all costs associated with dedicated communication lines to receive Notifications of Locate Requests if the Industry Member so chooses to install such facility or facilities;

- (d) Make necessary appointments with Excavators for each Notification of Locate Request from the Call Centre within a reasonable period of time following receipt of such Notification of Locate Request (except as required by law or in accordance with the terms of this Agreement);
- (e) Pay the costs set out in the Pricing Structure and other relevant provisions of this Agreement;
- (f) Furnish to the Call Centre the telephone number(s) of the Industry Member's receiving location or locations to direct and verify Notification of Locate Requests to the Industry Member and for verbal transmission in the event of failure of One Call's equipment and the Industry Member hereby agrees to update this information upon One Call's request or when otherwise necessary or appropriate;
- (g) Provide to the Call Centre forthwith upon execution hereof and at all necessary times thereafter, with all necessary Industry Member's Plant location information necessary to complete and maintain One Call's mapping system of the Industry Member's Plant and the Industry Member shall be solely responsible for maintaining such Industry Member's Plant location information;
- (h) Update, when necessary or periodically, any changes to the Industry Member's Service Area;
- (i) Pay for the individual services provided to the Industry Member by One Call, including all taxes and other charges or levies pursuant to Federal, Provincial or Municipal laws or by regulatory authorities in accordance with the terms of this Agreement;
- (j) Pay any other charges (including applicable taxes) incurred by the Industry Member as a result of the Service provided by One Call to such Industry Member in accordance with this Agreement;
- (k) Accept sole responsibility for the accuracy and adequacy of any and all information the Industry Member provides to One Call and/or the Call Centre pursuant to this Agreement;
- (l) Acknowledge that One Call has all right, title or interest and shall not at any time, either directly or indirectly, make any claim that it has any right, title or interest in the Primary Telephone Number;
- (m) In the event of the expiry or termination of this Agreement the Primary Telephone Number shall remain with One Call and the Industry Member hereby acknowledges that both during the Term, the Renewal Term (if any) and thereafter, it shall have no rights whatsoever with respect thereto and this covenant shall survive the expiry or termination of this Agreement; and
- (n) Acknowledge that all information and other data associated with the Service, save and except for the Industry Member's confidential information as set out in Section 10, pursuant to this Agreement shall remain the sole exclusive property of One Call.

7. **Changes in Provision of Service** - The Industry Member may, at any time, without invalidating this Agreement order extra service or make changes to the Service upon receipt of the prior written consent of One Call. Any changes to this Agreement shall be made in writing between the parties and it shall be the responsibility of the Industry Member to obtain prior written authorization from One Call for extra service or changes or alterations to the existing Service.
8. **Assignment** – One Call reserves the right, in its sole discretion and without any prior notice to the Industry Member, to subcontract the entirety or any part or parts of its responsibilities and obligations pursuant to this Agreement provided that any subcontractor or assignee shall be bound by all the obligations under this Agreement.
9. **Billing and Invoices**
 - 9.1 One Call shall invoice the Industry Member for the Service provided during the previous month, on a monthly basis. The Industry Member shall pay the amount set forth in the invoice in full within thirty (30) days from date of receipt of the particular invoice (hereinafter the "invoice period"). If there are corrections or inaccuracies in the invoice, it is the obligation of the Industry Member to contact One Call.
 - 9.2 Interest shall be charged and payable by the Industry Member on all amounts remaining unpaid after the invoice period and interest shall be calculated monthly at the rate of 1.5% per month, which is equivalent to an effective annual rate of 19.56% per annum or maximum permitted by law.
10. **Ethics and Confidentiality**
 - 10.1 Each of the parties agrees that all information obtained as a result of this Agreement relating to the business or affairs of the other party hereto, which at the time is of a confidential nature, whether or not specifically identified as confidential, other than information generally available to the public is strictly confidential and is to be held in strictest confidence, and shall cause its Representatives (as defined below), to hold all confidential information in strictest confidence. "Representatives" with respect to any party means its affiliates and their respective directors, officers, employees, agents and other representatives and advisors.
 - 10.2 Furthermore the parties agree as follows:
 - (a) To hold all confidential information as obtained as a result of this Agreement in strict confidence. No party shall disclose any information pertaining to or regarding the other party to any other Industry Member of One Call or third party unless otherwise agreed to in writing by the relevant party or unless compelled to do so by process of law, in which case the party wishing to disclose the confidential information shall notify the party that provided it with the confidential information and permit it the opportunity to prevent or limit such disclosure, or if such information is publicly available or is rightfully obtained by third parties;
 - (b) To make no use of any confidential information except as expressly contemplated in this Agreement;

- (c) Upon the expiry or termination of this Agreement, each party shall deliver to the other all information owned by the respective party, including any written materials and any copies of information in the immediate form pertaining or relating to such information;
- (d) One Call shall be entitled to perform statistical analysis of the Industry Member's information in its possession provided that no report, compilation or statistical analysis shall reveal the Industry Member's account or otherwise identify the Industry Member;
- (e) The Industry Member agrees to keep all information relating to the Service, program, any manuals or procedures, or documentation relating thereto strictly confidential unless compelled to do so by process of law in which case the Industry Member shall notify One Call and permit it the opportunity to prevent or limit such disclosure;
- (f) Each party acknowledges and agrees that the breach by it of any of the provisions of this Section 10 would cause serious irreparable harm which could not be adequately compensated for in damages and, in the event of a breach or threatened breach of any such provisions, each party hereby consents to an injunction being issued against it restraining it from any further breach of such provisions, but such actions shall not be construed so as to be in derogation of any other remedy which any other party may have in the event of such breach; and
- (g) This Section 10 shall survive the expiry or termination of this Agreement.

11. **Personnel** - In the event that One Call's personnel are unable to perform the Service as a result of any job action by the Industry Member's personnel, One Call shall then advise the Industry Member on the nature, form and substance of Service to be provided.

12. **Quality Assurance**

12.1 In the event the Industry Member is in any way dissatisfied with any aspect of the Service, it may make a formal written complaint to One Call, which written complaint shall include the causes of the deficiency or complaint and One Call shall forthwith investigate said complaint and take immediate steps to prevent any recurrence. One Call shall advise the Industry Member upon completion of its internal investigation.

12.2 In the event that either party considers the performance or the obligations of the other hereunder to be unsatisfactory or deficient but not necessarily in default, the complaining party may issue a written complaint to the other party, (the "Receiving Party") setting forth any problems or deficiencies and upon receipt of said complaint, the Receiving Party shall investigate the complaint and take immediate steps to deal with all of the said problems and deficiencies in a commercially reasonable manner to prevent a recurrence.

13. Care of Property

The Industry Member and One Call agree that each shall take proper care of any and all property owned by one party which is, from time to time, in the custody, care or control of the other party and each party shall be responsible for any loss of, or damage to, such property until such time as it is returned to the custody, care or control of its rightful owner.

14. Termination

- (a) The Industry Member, while not in default of any of its payment obligations pursuant to this Agreement, may terminate this Agreement upon delivery of thirty (30) days' prior written notice to One Call.
- (b) In the event either party is deemed to be in default under any of the terms and conditions of this Agreement, including the provisions of Section 15 hereof, then the following provisions shall apply:
 - (i) The party taking the position the other party is deemed to be in default (the "Complaining Party") shall notify the party it deems to be in default (the "Defaulting Party"), in writing, as to the Defaulting Party's default and upon receipt of such notice, the Defaulting Party shall satisfactorily cure said default within ten (10) days of receipt of written notice; and
 - (ii) In the event the Defaulting Party does not satisfactorily cure the default of which it has been notified, then the Complaining Party may, upon delivery of thirty (30) days prior written notice, terminate this Agreement. In the event that the Industry Member is the Defaulting Party, it agrees to be responsible for and it shall pay immediately all outstanding invoices, amounts, surcharges, charges, costs, expenses, fees or taxes due by the Industry Member up to and including the effective date of termination of this Agreement.
- (c) Notwithstanding the receipt by any party of a written notice of termination, the parties agree that the Agreement shall continue and all obligations, rights and responsibilities of each party thereto shall survive intact until the end of the applicable notice period. On the last day of the notice period, the Defaulting Party shall reconcile and pay in full all outstanding invoices, amounts, surcharges, charges, costs, expenses, fees or taxes due to the date of termination, including all invoices issued and due during the applicable notice period and return all confidential information.

15. Deemed Default

The parties hereto shall be deemed in default upon the occurrence of any of the following events (and the termination provisions of Section 14 shall apply):

- (a) If any party becomes insolvent or makes an assignment for the general benefit of creditors;

- (b) Any proceedings are commenced by or against a party under any bankruptcy or insolvency laws for proceedings for the appointment of a custodian, receiver or a receiver-manager or any other official with similar powers for a party, which proceedings are not dismissed or withdrawn within sixty (60) days; or
- (c) If a party ceases to carry on business.

16. Mutual Indemnity

Each of the parties shall fully indemnify and save harmless the other, their shareholders and respective directors, officers and employees in respect of any claim, demand, action, cause of action, loss, liability, damages, cost charge or expense which may be made or brought against the other or which it may suffer or incur or indirectly as a result of, in respective of and arising out of:

- (a) Any incorrectness in or breach of any representation or warranty of the party hereunder;
- (b) Any breach of or any non-fulfillment of any covenant or agreement on the part of the party hereunder; or
- (c) The negligence or willful misconduct of the party, except to the extent of any contributory negligence or willful misconduct of the other party.

17. Proprietary Rights

One Call assumes no liability for infringement of patent or copyright claims based upon: (i) non-One Call supplied equipment into which a computer system is incorporated; (ii) any assembly, circuit, combination, method or process in which any of the computer systems may be used other than those specified by One Call; (iii) any compliance with the Industry Member's detailed specifications against the advice of One Call; or (iv) the modification of any computer system or any part thereof, unless such modification was made or authorized by One Call. One Call represents and warrants that its services and any intellectual property contained herein do not infringe or violate any third party intellectual property rights.

18. Insurance By Industry Member

The Industry Member shall, during the Term and Renewal Term (if any), maintain a policy of comprehensive general liability insurance with a minimum coverage against bodily injury and property damage caused by the negligence of the Industry Member in an amount of not less than two million dollars (\$2,000,000.00) per occurrence. The Industry Member shall, after entering in this Agreement and from time to time thereafter, at One Call's request, furnish forthwith to One Call a Memorandum of Insurance or an Insurance Certificate setting out the terms and conditions of each policy maintained by the Industry Member in order to satisfy the requirements of this section.

Further, One Call shall, during the Term and Renewal Term (if any) maintain Professional Liability Insurance with limits of no less than two million dollars (\$2,000,000.00). When Professional Liability Insurance policies are renewed or replaced, One Call shall make commercially reasonable efforts to cause the policy retroactive date to coincide with, or precede, the commencement date of the Service in connection herewith.

19. Interruption of Service

The Industry Member acknowledges that telephone and facsimile communications may, from time to time, be partially or wholly interrupted or inaccurate as a result of a telecommunication interruption. In that event the parties agree that:

- (a) One Call shall not be required to maintain the Service at levels set forth in the Specifications;
- (b) One Call shall execute measures and practices designed to aid the Industry Member and to provide timely and accurate restoration of the Service; and
- (c) One Call shall not be liable for any loss or damage of any kind whatsoever arising as a result of such telecommunication interruption.

20. Improvements

In order to continuously improve the quality of service to the Industry Member, One Call reserves the right to make changes to the Service and Specifications or any part thereof, including without limitation, changes to rules of operation, accessibility periods, customer identification procedures and types of equipment.

21. Excusable Delays

Except as otherwise expressly provided for in this Agreement, neither of One Call nor the Industry Member shall be responsible for delays or failures to perform resulting from acts beyond its reasonable control. The dates and times for performance (other than for the payment of money) shall, in conformity herewith, be postponed to the extent and for the period of time that One Call or the Industry Member, as the case may be, is prevented from meeting them by reason of the above-mentioned causes.

If a party relies on this Section 21 to excuse its delay or failure to perform any of its obligations under this Agreement, it shall use commercially reasonable efforts to remedy the situation or remove so far as possible with reasonable dispatch the cause of its delay or inability to perform any of its obligations under this Agreement. If a party relies upon this Section 21 to excuse its delay or failure to perform with any of its obligations under this Agreement and such reliance continues for a period of more than one (1) day, or for more than three (3) days in aggregate in any period of one hundred eighty (180) successive days, the other party may terminate this Agreement upon written notice to the defaulting party.

Notwithstanding the foregoing or any other provision in this Agreement, the performance of the parties' respective obligations hereunder shall be subject to force majeure, including, but not limited to, insurrections, riots, wars and warlike operations, explosions, governmental acts, epidemics, failure of contractors and subcontractors to perform, strikes, fires, accidents, acts of any public enemy, inability to obtain required materials, qualified labour or transportation, or any similar occurrence beyond the reasonable control of the party affected ("Force Majeure"). Should either party be temporarily excused from performance hereunder by any such circumstances it shall use its best efforts to avoid, remove or cure such circumstances and shall resume performance with utmost dispatch when such circumstances are removed or cured. Where either the Industry Member or One Call claims Force Majeure as an excuse for delay in performance, that party so claiming Force Majeure shall give prompt written notice thereof to the other party.

22. Limitation of Liability

Except as specifically provided in this Agreement, there are no warranties or conditions, expressed or implied, including but not limited to any implied warranties or conditions as to quality or fitness for a particular purpose, made by One Call with respect to the Service or any other items provided hereunder or any transaction contemplated herein.

The Industry Member acknowledges that One Call does not warrant the accuracy of any information provided by an Excavator, be it contained in any Excavator Locate Request or any other information provided by an Excavator whatsoever and One Call shall not be liable for any loss to the Industry Member as a result of inaccuracies provided by an Excavator in any such information.

One Call shall not be in any manner liable whatsoever to the Industry Member or any party claiming through the Industry Member for any losses, costs or damages due to errors in or failing of mapping software licenses from independent third parties which is used by One Call in the provision of Service under this Agreement.

In no event shall either One Call be liable or the Industry Member have a remedy for the recovery of any special, indirect or consequential damages, even if One Call has been advised of the possibility thereof, including but not limited to, loss of profit, loss of revenue, failure to realize expected savings, other commercial or economic losses of any kind or any damages caused by the Industry Member's failure to meet the Industry Member's responsibilities.

23. Industry Member Assignment

The Industry Member agrees that it may not assign or subcontract in whole or in part any of this Agreement without the prior written consent of One Call, which consent shall not be unreasonably withheld.

24. Survival and Non Merger

Notwithstanding the termination or expiration of this Agreement for any reason whatsoever, including expiry at the end of the Term or Renewal Term, as applicable, those clauses pertaining to price, billing and invoices, insurance, indemnity, ethics, confidentiality and limitation of liability shall forever survive the expiration or termination of this Agreement, in addition to any other clause which survives by operation of law or which expressly or by implication remain in full force and effect on and after the termination or expiration of this Agreement.

25. Time of the Essence

Time is of the essence in any matter relating to the performance of this Agreement.

26. Governing Law

This Agreement shall be governed and interpreted in accordance with the provisions of the laws of the Province of Ontario.

27. Notice

Any notice to the Industry Member shall be given at the address of the Industry Member as shown in Exhibit "A". Any notice to be given to One Call is to be given at its office below, or such other address designated by One Call from time to time.

ONTARIO ONE CALL
806 Gordon St, Suite 201
Guelph ON N1G 1Y7
Fax Number: 519 265 7619

Any notice required under this Agreement shall be given in writing and delivered by registered mail, by facsimile, or by hand delivery to any address of which either party may notify the other in accordance with this paragraph or to any other person or address which either party may designate from time to time. Notice shall be deemed to have been delivered upon the date of personal delivery or of receipt of facsimile or by hand of the same, and on the next business day after mailing by registered mail.

28. Severability and Waiver

In the event that any one or more of the provisions contained in this Agreement shall be held to be unenforceable under the laws in force in the Province of Ontario, such provision(s) shall be deemed not to have been written and shall not affect any other provisions of the Agreement.

The failure of either party to insist upon strict performance of this Agreement, or to exercise any option herein, shall not act as a waiver of any right, proviso or option but the same shall continue to be in full force and effect. No waiver by One Call and/or Industry Member of any breach shall be effective unless expressed in writing.

29. Entire Agreement

This Agreement, including the attached Exhibits and other documents incorporated by reference, shall constitute the entire agreement between One Call and the Industry Member with respect to subject matter hereof, and shall replace any and all prior written or verbal promises, representations, collateral agreements or undertakings.

This Agreement supersedes all prior agreements between and among the parties hereto regarding the subject matter herein and all prior and concurrent agreements are merged herewith, there being no other agreements except as expressed herein.

30. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or faxed form and the parties adopt any signatures of the parties; provided however, that any party providing its signature in such manner shall promptly forward to the other party an original of the signed copy of this Agreement which was so faxed.

IN WITNESS WHEREOF the undersigned have hereunto affixed their hands and seals on the date first mentioned above.

SIGNED, SEALED AND DELIVERED

) Ontario One Call
)
) Per: _____
)
) **Lloyd Chiotti**
) *Executive Director*
)
) Corporation of the County of Brant
)
) Per: _____
)
) Name: Ron Eddy
)
) Title: Mayor
)
) Per: _____
)
) Name : Heather Boyd
)
) Title: Manager of Council Services,
) Clerk

Exhibit "A"

Address of Industry Member

Corporate Name: ____ County of Brant _____

Address: ____ 126 Park Ave. P.O. Box 160

City and Postal Code: ____ Burford, N0E 1A0 _____

Contact Name: _____

Telephone Number: ____ 519-449-2451 _____

Fax Number: ____ 519-442-3382 _____

E-Mail Address: _____

Please provide following information for billing (if different than above)

Address: _____

City and Postal Code: _____

Contact Name: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address: _____

Exhibit "B"

Ontario One Call (ON1Call) fee structure as at May 27, 2013. Please note, HST is additional.

Initial set-up fees:

Include: defining the member's database information; consulting assistance regarding the appropriate mapping design for the member; creation of the necessary mapping layer(s); system programming; and database validation (with the member). Set-up fees are billed at the end of the first month of service

Standard systems: \$1,000.00, up to a maximum of 2 days' work; any additional work – if needed – will be charged at the current Mapping consulting/GIS assistance rate (see below).

Smaller systems: \$500.00, up to a maximum of 1 days' work.

Also included in each year following registration for all systems is additional Mapping consulting/GIS assistance at no extra charge, up to a maximum of 4 hours per calendar year. Any additional work will be charged at the current Mapping consulting/GIS assistance rate (see below).

Notification fees:

<i>Notification type transmitted or "cleared"</i>	<i>Fee</i>
• Standard locate notification	\$1.60
• Alternate Locate Agreement notification	\$1.60
• Suppressed notification	\$1.60
• Geographically cleared request	\$2.10
• System filter cleared request	\$2.10

Options:

• Confirmation phone call, typically used in emergencies	\$2.75
• Analytical reports, per hour; 1 hour minimum	\$55.00
• Mapping consulting/GIS assistance in excess of the standard members' allowance; per hour.	\$65.00

Special terms for members owning/operating systems in areas with low digging activity:

Member organizations that receive less than 400 billable notifications and/or cleared requests (“clears”) in a calendar year will be rebated the notification costs for that year at the beginning of the next.

If ON1Call has a reasonable expectation that the member will receive substantially less than that number (up to a maximum of 300) in the following year, the member will not be billed during the following year(s).

ON1Call reserves the right to re-institute billing – in any subsequent year – for a member benefiting from this special fee arrangement if local digging activity increases to the point that the member receives >400 locates and/or clears in a calendar year.

Special terms for municipalities:

These terms refer specifically to costs that would apply only to the following services supplied by the infrastructure owner:

- Water distribution
- Sewer lines
- Street lighting
- Traffic control systems and other signaling
- Internal communication lines used only for and by the municipality

Definition:

ON1Call views the following types of organization as Municipalities for the purposes of these special terms:

- Incorporated municipalities
- Boards, agencies, and commissions established by the municipality and referenced in the Municipal Acts of Ontario.
- Local service boards providing services to (unincorporated) areas
- Business Improvement Areas

Note: Business Improvement Associations are not considered as municipalities by ON1Call for the purpose of these special terms

Forgiveness of fees:

ON1Call will not charge qualifying municipalities either set-up fees or notification fees until January 1, 2015, subject only to:

1. The initial set-up work being accomplished within the 1-day or 2-day period for which the municipality qualifies (please see the note in this schedule regarding what is included in **Initial set-up fees**). Additional work will be charged at the current rate.
2. Any additional reports the member requires will be charged at the reporting rate shown above.

The fees to be charged to municipal members after January 2015 will be the standard fees for all members in force at that time. For budgetary purposes today, municipalities are advised to use the fees shown in this document as a guide to their likely 2015 ON1Call costs.

Early registration incentive:

To enable ON1Call to better manage the intake of new registrants over the next year, ON1Call will forgive the monthly notification fees after January 2015 for any municipality that is **initially** registered with ON1Call before December 18, 2013. The incentive continues, with decreasing future credit, for new first-time municipal registrations between December 18, 2013 and June 18, 2014.

“Registered” above means: all mapping and other subscription data is programmed into the ON1Call system, ON1Call has received the municipality’s signed copy of the ON1Call Standard Agreement, and a date for service commencement has been defined and agreed.

The forgiveness period will run from January 1, 2015 for each full month prior to June 18, 2014 that the Municipality was registered.

Example: Registration is completed September 30, 2013 (the municipality will qualify for the maximum of 6 months credit; the municipality will not be billed notification fees until July 1, 2015).

Note: the Board of ON1Call reserves the right to amend the fee structure of the corporation, from time to time, so as to ensure the corporation is able to discharge its obligations under the *Ontario Underground Infrastructure Notification System Act 2012*.

Schedule B to the SA May 23, 2013 v4.docx

Exhibit "C"

Industry Member's Non-Disclosure Agreement

(See attached)

- Required – Attached
- Not Required