

**GENERAL CONDITIONS  
OF STIPULATED PRICE CONTRACT**

## GENERAL CONDITIONS OF CONTRACT

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### **GC 1            DEFINITIONS**

#### **1.1    Amendment**

Modifications to the Open Call for Bids Documents identifying any required additions, deletions, clarifications or corrections.

#### **1.2    Business Day**

Any day other than a Saturday, Sunday or statutory holiday in the Province.

#### **1.3    Contract Documents**

The Contract Documents consist of the Instruction to Bidders, Electronic Bid Form, executed Agreement, General Conditions of Contract, Supplementary General Conditions of Contract, Specifications, Drawings and such other documents as are listed in Article A-2 of the Agreement, including all amendments thereto incorporated before their execution and subsequent amendments thereto made pursuant to the provisions of the contract or agreed upon between the parties. The Successful Bidder's bid, and any amendments to the Specification issued during the bidding period shall also form part of the Contract Documents.

#### **1.4    Contract Price**

The Contract Price means the amount stipulated in Article A3 of the Agreement, or as adjusted through approved changes under GC 19-VALUATION AND CERTIFICATION OF CHANGES IN THE WORK.

#### **1.5    Contractor**

The Contractor means the person, firm or corporation identified as such in the Agreement. The term Contractor means the Contractor or the Contractor's authorized representative as designated by the Contractor to the Owner in writing.

#### **1.6    Materials and Equipment**

The term Materials and Equipment means all materials, machinery, equipment and fixtures forming the completed work as required by the Contract Documents but does not include machinery and equipment used for preparation, fabrication, conveying and erection of the work and normally referred to as construction machinery and equipment.

#### **1.7    Other Contractor**

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The term Other Contractor means any person, firm or corporation employed by or having a separate contract directly or indirectly with the Owner for work other than that required by the Contract Documents.

1.8 Owner

The Owner is the person or entity identified as such in the Agreement. The term Owner means the Owner or the Owner's authorized representatives as designated by the Owner.

1.9 Owner's Representative

The Owner's Representative for the purposes of administrating this construction Contract shall be the designated representative of the Owner or their consultant.

1.10 Products

The term Products means all material, machinery, equipment and fixtures forming the completed work as required by the Contract Documents but does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work and normally referred to as construction machinery and equipment.

1.11 Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part.

1.12 Subcontractor

A Subcontractor is a person, firm or corporation having a direct contract with the Contractor to perform a part or parts of the Work included in the Contract, or to supply products worked to a special design according to the Contract Documents, but does not include one who merely supplies products not so worked.

1.13 Substantial Performance

A Contract shall be deemed to be substantially performed

- a) when the work or a substantial part thereof is ready for use or is being used for the purpose intended; and
- b) when the work to be done under the contract is capable of completion or correction at a cost of not more than:

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- (i) three per centum of the first two hundred and fifty thousand dollars (\$250,000) of the contract price,
- (ii) two per centum of the next two hundred and fifty thousand dollars (\$250,000) of the contract price, and
- (iii) one per centum of the balance of the contract price.

Where the work or a substantial part thereof is ready for use or is being used for the purpose intended and where the work cannot be completed expeditiously for reasons beyond the control of the contractor, the value of the work to be completed shall be deducted from the contract price in determining substantial performance.

### 1.14 Time

- a) The Contract Time is the time stated in Article A-1(c) of the Agreement for Substantial Performance of the Work.
- b) The date of Substantial Performance of the Work is the date certified by the Owner.
- c) The term day, as used in the Contract Documents, shall mean the calendar day.
- d) The term working day means any day observed by the construction industry in the area of the place of building.

### 1.15 Total Performance

Total Performance shall mean when the Work has been performed to the requirements of the Contract Documents and is so certified by the Owner.

### 1.16 Work

Work includes the whole of the works, materials, matters and things required to be done, furnished and performed by the Contractor under the Contract.

## GC 2 DOCUMENTS

- 2.1 The Contract Documents shall be signed by the Owner and the Contractor.
- 2.2 Words which have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.
- 2.3 In the event of conflicts between Contract Documents the following shall apply:

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- a) Drawings of a later date shall govern.
- b) Figured dimensions shown on the Drawings shall govern even though they may differ from scaled dimensions.
- c) Drawings of larger scale shall govern over those of smaller scale of the same date.
- d) Specifications shall govern over Drawings.
- e) The General Conditions of Contract shall govern over Specifications.
- f) Supplementary General Conditions shall govern over the General Conditions of the Contract.
- h) The Agreement Between Owner and Contractor shall govern over all documents.

### GC 3 ADDITIONAL INSTRUCTIONS AND SCHEDULE OF WORK

- 3.1 During the progress of the Work the Owner may furnish to the Contractor such additional instructions as may be necessary to supplement the Contract Documents. All such instructions shall be consistent with the intent of the Contract Documents.
- 3.2 Additional instructions may include minor changes to the Work which affect neither Contract Price nor the Contract Time.
- 3.3 Additional instructions may be in the form of drawings, samples, models or written instructions.
- 3.4 Additional instructions will be issued by the Owner with reasonable promptness and in accordance with any schedule agreed upon.
- 3.5 The Contractor shall, within fifteen (15) days of the signing of this contract provide the Owner with a schedule of work.

### GC 4 DOCUMENTS PROVIDED

- 4.1 The Contractor will be provided, without charge, a copy of Contract Documents or parts thereof, in electronic format, as are reasonably necessary for the performance of the Work.

### GC 5 DOCUMENTS ON THE SITE

- 5.1 The Contractor shall keep one copy of all current Contract Documents and shop drawings on the site, in good order and available to the Owner and/or their

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representatives. This requirement shall not be deemed to include the executed Contract Documents.

### **GC 6            OWNERSHIP OF DOCUMENTS AND MODELS**

- 6.1 All Contract documents and copies thereof, and all models are and shall remain the property of the Owner and are not to be used on other work.
- 6.2 Such documents are not to be revised in any manner without the written authorization of the Owner.
- 6.3 Models furnished by the Contractor or the Owner are the property of the Owner.

### **GC 7            OWNER'S DECISIONS**

- 7.1 The Owner, in the first instance, shall decide on questions arising under the Contract Documents and interpret the requirements therein. Such decisions shall be given in writing.
- 7.2 The Contractor shall notify the Owner in writing within five (5) days of receipt of a decision of the Owner referred to in GC 7.1 if the Contractor believes that a decision by the Owner is in error and/or at variance with the Contract Documents. Unless the Contractor fulfills this requirement subsequent claims by the Contractor for extra compensation, arising out of the decision, will not be accepted.
- 7.3 If the question of error and/or variance is not resolved immediately, and the Owner decides that the disputed work shall be carried out, the Contractor shall act according to the Owner's written decision.

Any question of change in Contract Price and/or extension of Contract Time due to such error and/ or variance shall be decided as provided in GC 16 - Settlement of Disputes and Claims.

### **GC 8            DELAY**

- 8.1 If it can be clearly shown that the Contractor is delayed in the performance of the work by any act or fault of the Owner or other Contractor, then the Contract Time shall be extended for such reasonable time as the Owner may decide in consultation with the Contractor. The Contractor shall be reimbursed for any costs incurred by the Contractor as a result of such a delay occasioned by the act or fault, provided that it can be clearly shown that the Contractor's forces cannot work efficiently elsewhere on the project and that the incurred cost is limited to that which could not reasonably have been avoided.

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- 8.2 If the Contractor is delayed in the performance of the Work by a Stop Work Order issued by any court or other public authority, and providing that such order was not issued as the result of any act or fault of the Contractor or of any one employed by the Contractor directly or indirectly, then the Contract Time shall be extended for such reasonable time as the Owner may decide, in consultation with the Contractor, and the Contractor shall be reimbursed for any on-site costs incurred by the Contractor as the result of such delay.
- 8.3 If the Contractor is delayed in the performance of the Work by civil disorders, labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized Contractor's Association, of which the Contractor is a member) fire, unusual delay by common carriers or unavoidable casualties or, without limit to any of the foregoing, by any cause of any kind whatsoever beyond the Contractor's control, then the Contract Time shall be extended for such reasonable time as may be decided by the Owner, in consultation with the Contractor, but in no case shall the extension of time be less than the time lost as the result of the event causing the delay, unless such shorter extension of time be agreed to by the Contractor.
- 8.4 No extension shall be made for delay unless written notice of claim is given to the Owner within fourteen (14) days of its commencement, providing that in the case of a continuing cause of delay only one notice shall be necessary.

### GC 9 OWNER'S RIGHT TO DO WORK

- 9.1 If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of the Contract, the Owner may notify the Contractor in writing that the Contractor is in default of the Contractor's contractual obligations and instruct the Contractor to correct the default within five (5) working days of receiving the notice.
- 9.2 If the correction of the default cannot be completed within the five (5) working days specified, the Contractor shall be considered to be in compliance with the Owner's instructions if the Contractor:
  - a) commences the correction of the default within the specified time, and
  - b) provides the Owner with an acceptable schedule for such correction, and
  - c) completes the correction in accordance with such schedule.
- 9.3 If the Contractor fails to comply with the provisions GC 9.1 and GC 9.2 the Owner may, without prejudice to any other right or remedy the Owner may have, correct

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such default and may deduct the cost thereof from the payment then or thereafter due the Contractor.

### GC 10 OWNER'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

- 10.1 If the Contractor should be adjudged bankrupt, or makes a general assignment for the benefit of creditors or if a receiver is appointed on account of the Contractor's insolvency, the Owner may, without prejudice to any other right or remedy the Owner may have, by giving the Contractor written notice, terminate the Contract.
- 10.2 The Owner may notify the Contractor in writing that the Contractor is in default of the Contractor's contractual obligations, if the Contractor:
  - a) fails to proceed regularly and diligently with the Work; or
  - b) without reasonable cause wholly suspends the carrying out of the Work before the completion thereof, or
  - c) refuses or fails to supply sufficient properly skilled workers or proper quality of work, products or construction machinery and equipment for the scheduled performance of the Work within five (5) working days of receiving written notice from the Owner, except in those cases provided in GC 8 - Delay; or
  - d) fails to make payments due to the Contractor's Subcontractors, suppliers or workers; or
  - e) persistently disregards laws or ordinances, or the Owner's instructions; or
  - f) otherwise violates the provisions of the Contract to a substantial degree.

Such written notice by the Owner shall instruct the Contractor to correct the default within five (5) working days from the receipt of the written notice.

- 10.3 If the correction of the default cannot be completed within the five (5) working days specified, the Contractor shall be considered to be in compliance with the Owner's instructions if the Contractor:
  - a) commences the correction of the default within the specified time,
  - b) provides the Owner with an acceptance schedule for such correction, and
  - c) completes the correction in accordance with such schedule.

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- 10.4 If the Contractor fails to correct the default within the time specified or subsequently agreed upon, the Owner may, without prejudice to any other right or remedy the Owner may have, stop the Work or terminate the Contract.
- 10.5 If the Owner terminates the Contract under the conditions set out above, the Owner is entitled to:
  - a) take possession of the premises and products and utilize the temporary buildings, plants, tools, construction machinery and equipment, goods, materials, intended for, delivered to and placed on or adjacent to the work and may complete the Work by whatever method the Owner may deem expedient but without undue delay or expense;
  - b) withhold any further payments to the Contractor until the Work is finished.
  - c) upon Total Performance of the Work, charge the Contractor the amount by which the full cost of finishing the Work including compensation to the Owner for the Owner's additional services and a reasonable allowance to cover the cost of any corrections required by GC 31 - Warranty, exceeds the unpaid balance of the Contract Price; or if such cost of finishing the Work is less than the unpaid balance of the Contract Price, pay the Contractor the difference.
  - d) on expiry of the warranty period, charge the Contractor the amount by which the cost of corrections under GC 31 - Warranty exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the Contractor the difference.

### GC 11 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

- 11.1 If the Owner should be adjudged bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Owner's insolvency, the Contractor may, without prejudice to any other right or remedy the Contractor may have, by giving the Owner written notice, terminate the Contract.
- 11.2 If the Work should be stopped or otherwise delayed for a period of thirty (30) calendar days or more under an order of any court, or other public authority, and providing that such order was not issued as the result of any act or fault of the Contractor or of any one directly or indirectly employed by the Contractor, the Contractor may, without prejudice to any other right or remedy the Contractor may have, by giving the Owner fifteen (15) calendar days written notice, terminate the Contract.
- 11.3 The Contractor may notify the Owner in writing that the Owner is in default of the Owner's contractual obligations if:

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- a) The Owner fails to issue a certificate in accordance with GC 21 - Certificates and Payments;
- b) The Owner fails to pay to the Contractor when due any amount certified by the Owner and verified by the audit of the Owner.

Such written notice shall advise the Owner that if such default is not corrected within fifteen (15) calendar days from the receipt of the written notice the Contractor may, without prejudice to any other right or remedy the Contractor may have, stop the work and/ or terminate the contract.

11.4 If the Contractor terminates the Contract under the conditions set out above, the Contractor shall be entitled to be paid for all Work performed and for any loss sustained upon products and plant supplied with reasonable overhead, profit and damages.

### GC 12 OTHER CONTRACTORS

- 12.1 The Owner reserves the right to let separate contracts in connection with the project of which the Work is part.
- 12.2 The Owner shall co-ordinate the work and insurance coverages of Other Contractors as it affects the Work of this Contract.
- 12.3 The Contractor shall coordinate the Contractor's work with that of Other Contractors and connect as specified or shown in the Contract Documents. Any change in the costs incurred by the Contractor in the planning and performance of such work which was not shown or included in the Contract documents as of the date of signing the Contract, shall be evaluated as provided under GC 19 - Valuation and Certification of Changes in the Work.
- 12.4 The Contractor shall report to the Owner any apparent deficiencies in other Contractor's work which would affect the Work of this Contract immediately when they come to the Contractor's attention and shall confirm such report in writing. Failure by the Contractor to so report shall invalidate any claims against the Owner by reason of the deficiencies of Other Contractor's work except as to those of which the Contractor was not reasonably aware.

### GC 13 ASSIGNMENT

- 13.1 The Contractor shall not assign the Contract or any part thereof or any benefit or interest therein or thereunder with/out the written consent of the Owner.

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### GC 14 SUBCONTRACTORS

14.1 The Contractor agrees to preserve and protect the rights of the Owner under the Contract with respect to any work to be performed under subcontract. The Contractor shall:

- require the Contractor's Subcontractors to perform their work in accordance with and subject to the terms and conditions of the Contract Documents, and
- be fully responsible to the Owner for acts and omissions of the Contractor's Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the Contractor.

The Contractor therefore agrees that the Contractor will incorporate all the terms and conditions of the Contract Documents into all Subcontract Agreements the Contractor enters into with the Contractor's Subcontractors.

14.2 The Contractor shall employ those Subcontractors proposed by the Contractor in writing and accepted by the Owner prior to the signing of the Contract for such portions of the work as may be designated in the bidding requirements.

14.3 The Owner may, for reasonable cause, object to the use of a proposed Subcontractor and require the Contractor to employ another.

14.4 In the event that the Owner requires a change from any proposed Subcontractor the Contract Price shall be adjusted by the difference in cost occasioned by such required change.

14.5 The Contractor shall not be required to employ as a Subcontractor any person or firm to whom the Contractor may reasonably object.

14.6 The Owner may, upon reasonable request and at the Owner's discretion, provide to a Subcontractor information as to the percentage of the Subcontractor's work which has been certified for payment.

14.7 Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the Owner.

### GC 15 EMERGENCIES

15.1 The Owner has authority in an emergency to stop the progress of the Work whenever in the Owner's opinion such stoppage may be necessary to ensure the safety of life, or the Work, or neighbouring property. This includes authority to make

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changes in the Work, and to order, assess and award the cost of such work, extra to the Contract or otherwise, as may in the Owner's opinion be necessary. The Owner shall, within two (2) business days, confirm in writing any such instructions. In such a case if work has been performed under direct order of the Owner, the Contractor shall keep the Contractor's right to claim the value of such work.

- 15.2 Should the Work be stopped by civil pickets, or other disorder, neither the Owner nor the Contractor shall have claim for change in the price of the Contract.
- 15.3 When requested in writing by the Owner, the Contractor shall, at no additional cost to the Owner, make appropriate alterations in the method, Product, or work force at any time the Owner considers the Contractor's actions to be unsafe, or damaging to either the Work or existing facilities or the environment.

### GC 16 SETTLEMENT OF DISPUTES AND CLAIMS

- 16.1 In the case of any dispute or claim arising between the Owner and the Contractor as to their respective rights and obligations under the Contract, either party hereto may give the other written notification of such dispute or claim. The notification of dispute or claim shall be made within fourteen (14) calendar days of the dispute or cause of action arising. If the dispute or claim cannot be resolved to the satisfaction of both parties, either party may refer the matter to such judicial tribunal as the circumstances require.
- 16.2 Legal proceedings shall not take place until after the performance or the substantial performance of the disputed work except:
  - a) when the dispute concerns a certificate for payment.
  - b) where either party can show that the matter in dispute requires immediate consideration while evidence is available.
  - c) in the case of legal proceedings, where the action may become prescribed by reason of delay.

### GC 17 INDEMNIFICATION

- 17.1 Except as provided in GC 17.2, the Contractor shall be liable for, and shall indemnify and hold harmless the Owner against all claims, demands, losses, costs, damages, actions, suits or proceedings, whatsoever arising under any statute or Common Law:
  - a) in respect of personal injury to or the death of any person whomsoever arising out of or in the course of or caused by the carrying out of the Work; and

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- b) in respect of any injury or damage whatsoever to any property, real or personal or any chattel real, insofar as such injury or damage arises out of or in the course of or by reason of the carrying out of the Work.

17.2 The Contractor shall not be liable under GC 17.1 if the injury, death, loss or damage is due to any act or neglect of the Owner.

### GC 18 CHANGES IN THE WORK

18.1 The Owner may make changes by altering, adding to, or deducting from the Work, with the Contract Price and the Contract Time being adjusted accordingly.

18.2 Except as provided in GC 15 - Emergencies, no change shall be made without a written order from the Owner and no claim for an addition or deduction to the Contract Price or change in the Contract Time shall be valid unless so ordered and at the same time valued or agreed to be valued as provided in GC 19 - Valuation and Certification of Changes in the Work.

### GC 19 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK

19.1 The value of any change shall be determined in one or more of the following methods:

- a) by unit prices subsequently agreed upon
- b) by estimate and acceptance in a lump sum
- c) by cost and a fixed or percentage fee.

In the case of changes in the Work valued as outlined in GC 19.1 (a), where Unit Prices are provided in the Contract for Work to be done, those Unit Prices shall be used in determining the value of the change. If any Unit Price is not provided in the Contract for the Work, a Unit Price shall be subsequently agreed upon or an alternate method of determining the value of the Work shall be used.

In the case of changes in the Work valued as outlined in GC 19.1 (b), the Contractor shall submit an itemized estimate for all materials and labour to complete the extra work.

In the case of changes in the Work valued as outlined in GC 19.1 (c), the Contractor shall submit detailed invoices, vouchers and time sheets for all materials and labour to complete the extra work.

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Subject to the provisions of GC 19.2, when work is performed by the Contractor's own forces the Contractor's markup for overhead shall be ten (10) percent and the Contractor's profit ten (10) percent of the agreed or actual cost of the change. When work is performed by one of the Contractor's Subcontractors, the Subcontractor's markup for overhead shall be ten (10) percent of the agreed or actual cost of the change plus five (5) percent for profit. The Contractor's markup for overhead and profit shall be ten (10) percent of the Subcontractor's total price.

- 19.2 Notwithstanding the provisions of GC 19.1, in case of changes in the Work, the amount charged for equipment rentals shall be that provided in the Contract and no additional amount shall be paid as markup for overhead or profit for the Contractor or Subcontractor.
- 19.3 Notwithstanding the provisions of GC 19.1, in case of purchase of left over product or materials, the Contractor's profit shall be ten (10) percent of the cost as supported by invoices or vouchers, or agreed upon price. No markup for overhead shall be added. This applies to material or product that are supplied only and not installed on site.
- 19.4 When a change in the Work is proposed or required the Contractor shall present to the Owner for approval the Contractor's claim for any change in the Contract Price and/or change in the Contract Time. The Owner shall be satisfied as to the correctness of such claim and, when approved shall issue a written order to the Contractor to proceed with the change. The value of work performed in the change shall be included for payment with the regular certificate for payment.
- 19.5 In the case of changes in the Work to be paid for under GC 19.1, the form of presentation of costs and methods of measurement shall be agreed to by the Owner and Contractor before proceeding with the change. The Contractor shall keep accurate records, as agreed upon, of quantities or costs and present an account of the cost of the change in the Work, together with vouchers where applicable.
- 19.6 If the method of valuation, measurement and the change in Contract Price and/or change in Contract Time cannot be promptly agreed upon, and the change is required to be proceeded with then the Owner shall determine the method of valuation, measurement and the change in Contract Price and/or Contract Time subject to final determination in the manner set out in GC 16 - Settlement of Disputes and Claims. In this case the Owner shall issue a written authorization for the change setting out the method of valuation and if by lump sum the Owner's valuation of the change in Contract Price and/or Contract Time.
- 19.7 In the case of a dispute in the valuation of a change authorized in the Work pending final determination of such value, the Owner shall certify the value of work performed and include the amount with the regular certificates for payment.

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- 19.8 It is intended in all matters referred to above that both the Owner and Contractor shall act promptly.
- 19.9 Credits will be based on the net cost of material and labour or the net difference in unit price quantities.

### GC 20 APPLICATION FOR PAYMENT

- 20.1 Applications for payment on account as provided for in Article A-4 of the Agreement may be made monthly as the Work progresses.
- 20.2 Application for payment shall be made monthly on a date to be agreed between the Owner and the Contractor and the amount claimed shall be for the value, proportionate to the amount of the Contract, of work performed and products delivered to the site at that date.
- 20.3 If requested by the Owner, due to the use of Fixed Price items, the Contractor shall submit to the Owner, before the first application for payment, a schedule of values of the various parts of the Work, aggregating the total amount of the Contract Price and divided so as to facilitate evaluation of applications for payment.
- 20.4 The revised schedule, if required, shall be made out in such form, and supported by such evidence as to its correctness, as the Owner may reasonably direct, and when approved by the Owner shall be used as the basis for application for payment.
- 20.5 When making application for payment, the Contractor shall submit a statement based upon this schedule. Claims for products delivered to the site but not yet incorporated into the Work shall be supported by such evidence as the Owner may reasonably require to establish the value and delivery of the products.
- 20.6 Applications for release of holdback monies following the Substantial Performance of the Work and the application for final payment shall be made at the time and in the manner set forth in GC 21 - Certificates and Payments.

### GC 21 CERTIFICATES AND PAYMENTS

- 21.1 The Owner shall, within ten (10) days of receipt of an application for payment from the Contractor submitted in accordance with GC 20 - Application for Payment, issue a certificate for payment in the amount applied for or such other amount as the Owner shall determine to be properly due. If the Owner amends the application the Owner shall promptly notify the Contractor in writing, giving the Owner's reasons for the amendment.

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21.2 The Owner shall within twenty-one (21) calendar days of the issuance of a certificate for payment by the Owner, make payment to the Contractor on account, in accordance with the provisions of the Agreement.

21.3 If payment is not made by the Owner within sixty (60) calendar days of issuance of a certificate for payment, the Owner will be liable for interest on the amount owing at the rate of Bank of Canada Prime rate +1 % per annum from the sixty-first (61st) day to the date of payment.

21.4 Notwithstanding any other provisions of this Contract:

- a) If on account of climatic or other conditions reasonably beyond the control of the Contractor there are items of work that cannot be performed, the payment in full for that which has been performed as certified by the Owner shall not be withheld or delayed by the Owner on account thereof, but the Owner may withhold from the Contract Price until the remaining work is finished an amount sufficient to cover the cost to the Owner of performing such remaining work and to adequately protect the Owner from claims.
- b) Holdbacks will be released on the following conditions:
  - i) a copy of the contract between the Subcontractor and the Contractor, or some other suitable Document satisfactory to the Owner, must be presented to the Owner,
  - ii) the Subcontract is completed without deficiencies;
  - iii) the warranty for the Subcontract will not start until Substantial Performance of the General Contract;
  - iv) the Contractor provides an approved statutory declaration that all monies have been paid to the Subcontractors;
  - v) the Owner will, at that time, release the total amount specified on the Sub-contractor's Contract.

21.5 Notwithstanding the provisions of GC 21.4 (b) and notwithstanding the wording of such certificate the Contractor shall ensure that such work is protected pending the Total Performance of the Contract and be responsible for the correction of any defects in it regardless of whether or not they were apparent when such certificates were issued.

21.6 The Owner shall, within ten (10) days of receipt of an application from the Contractor for a Certificate of Substantial Performance, make an inspection and assessment of the work to verify the validity of the application. The Owner shall within seven (7) days of Owner's inspection notify the Contractor of the Owner's

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approval or disapproval of the application. When the Owner finds the Work to be Substantially Performed the Owner shall issue such a certificate. The date of this certificate shall be the date of Substantial Performance of the Contract. Immediately following the issuance of the Certificate of Substantial Performance, the Owner, in consultation with the Contractor shall establish a reasonable date for the Total Performance of the Contract.

- 21.7 Following the issuance of the Certificate of Substantial Performance and upon receipt from the Contractor of all documentation called for in the Contract Documents the Owner shall issue a certificate for payment of holdback monies. The release of holdback monies authorized by this certificate shall become due and payable on the day following the expiration of the Statutory Limitation Period stipulated in the Mechanics' Lien Act applicable to the place of Work, providing that no lien or privilege claims against the Work exist and the Contractor has submitted to the Owner a sworn statement that all accounts for labour, subcontracts, products, construction machinery and equipment and any other indebtedness which may have been incurred by the Contractor in the Substantial Performance of the Work and for which the Owner might in any way be held responsible have been paid in full except holdback monies properly retained.
- 21.8 The Owner shall, within ten (10) days of receipt of an application from the Contractor for payment upon Total Performance of the Contract, make an inspection and assessment of the Work to verify the validity of the application. The Owner shall within seven (7) days of the Owner's inspection notify the Contractor of the Owner's approval or disapproval of the application. When the Owner finds the Work to be totally performed to the Owner's satisfaction the Owner shall issue a Certificate of Total Performance and certify for payment the remaining monies due to the Contractor under the Contract less any holdback monies which are required to be retained. The date of this certificate shall be the date of Total Performance of the Contract. The Owner shall, within thirty (30) days of issuance of such certificate, make payment to the Contractor in accordance with the provisions of Article A-4 of the Agreement.
- 21.9 The release of any remaining holdback monies shall become due and payable on the day following the expiration of the Statutory Limitation Period stipulated in the Mechanics' Lien Act applicable to the place of building or where such legislation does not exist or apply in accordance with such other legislation, regulations governing privileges, industry practice or such other provisions which may be agreed to between the parties, provided that no claims against the Work exist and the Contractor has submitted to the Owner a sworn statement that all accounts for labour, Subcontracts, products, construction machinery and equipment and any other indebtedness which may have been incurred by the Contractor in the Total Performance of the Work and for which the Owner might in any way be held responsible, have been paid in full except holdback monies properly retained.

## GENERAL CONDITIONS OF CONTRACT

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21.10 No certificate for payment, or any payment made thereunder, nor any partial or entire use of occupancy of the Work by the Owner shall constitute an acceptance of any work or products not in accordance with the Contract Documents.

21.11 The issuance of the Certificate of Total Performance shall constitute a waiver of all claims by the Owner against the Contractor except those previously made in writing and still unsettled, if any, and those arising from the provisions of GC 31 - Warranty, or those arising from negligence on the part of the Contractor.

The acceptance of the Certificate of Total Performance or of the payment due thereunder shall constitute a waiver of all claims by the Contractor against the Owner except those made in writing prior to the Contractor's application for payment upon Total Performance of the Contract and still unsettled, if any.

21.12 The holdback to be used by the Owner when issuing certificate for payment will be ten (10) percent of the value of the Work completed at the date of the Contractor's claim.

21.13 Notwithstanding the provisions of GC 21.3 or any other provision of this Contract, the Owner may:

- a) in the event of a claim by the Owner against the Contractor for damages arising out of the performance or non-performance of the Contract, withhold payment of any amount equal to the alleged damages until the liability for damages is established and no amount of interest will be paid on amounts held under this clause;
- b) set-off amounts owing by the Contractor to the Owner,
- c) following the issuance of the Certificate of Substantial Performance, withhold payment of an amount equal to twice the cost, as estimated by the Owner, of remedying deficiencies until the issuance of a Certificate of Total Performance and no amount of interest will be paid on amounts held under this clause.

## GC 22 TAXES AND DUTIES

22.1 The Contractor shall pay all government sales taxes, customs duties and excise taxes with respect to the Contract. All taxes and duties shall be added according to this GC.

Contractors are advised that the Owner is not exempt from the Harmonized Sale Tax (HST). The Owner will pay the HST to the Contractor with each regular progress billing.

## GENERAL CONDITIONS OF CONTRACT

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- 22.2 Any increase or decrease in costs to the Contractor due to changes in such taxes and duties after the date of the Agreement and up to the agreed date of completion shall increase or decrease the Contract Price accordingly. The Contractor is to co-operate with the Owner and permit access to books and records in order to establish the amount of such taxes involved.
- 22.3 The Contractor shall maintain full records of the Contractor's estimates of and actual cost to the Contractor of the Work together with all proper open call for bids, quotations, contracts, correspondence, invoices, receipts and vouchers relating thereto, shall make them available to audit and inspection by the Owner, the Auditor General for Newfoundland and Labrador or by persons acting on their behalf, shall allow them to make copies thereof and to take extracts therefrom, and shall furnish them with any information which they may require from time to time in connection with such records.

### GC 23 LAWS, NOTICES, PERMITS AND FEES

- 23.1 The laws of the place of Work shall govern the Work.
- 23.2 The Contractor shall obtain all permits, licenses and certificates and pay all fees required for the performance of the Work which are in force at the date of the Open Call for Bids submission (but this shall not include the obtaining of permanent easements or rights of servitude).
- 23.3 The Contractor shall give all required notices and comply with all laws, ordinances, rules, regulations, codes and order of all authorities having jurisdiction relating to the Work, to the preservation of the public health and construction safety which are or become in force during the performance of the Work.
- 23.4 The Contractor shall not be responsible for verifying that the Contract Documents are in compliance with the applicable laws, ordinances, rules, regulations and codes relating to the Work. If the Contract Documents are at variance therewith, or changes which require modification to the Contract Documents are made to any of the laws, ordinances, rules, regulations and codes by the authorities having jurisdiction subsequent to the date of the Open Call for Bids submission, any resulting change in the cost shall constitute a corresponding change in the Contract Price. The Contractor shall notify the Owner in writing requesting direction immediately any such variance or change is observed by the Contractor.
- 23.5 If the Contractor fails to notify the Owner in writing and obtain the Owner's direction as required in GC 23.4 and performs any work knowing it to be contrary to any laws, ordinances, rules, regulations, codes and orders of any authority having jurisdiction, the Contractor shall be responsible for and shall correct any violations thereof and shall bear all costs, expense and damages, attributable to the

## GENERAL CONDITIONS OF CONTRACT

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Contractor's failure to comply with the Provisions of such laws, ordinances, rules, regulations, codes and orders.

23.6 The Contractor may be required to carry the cost of a municipal permit related to performance of the Work. If a municipal permit is requested, the Contractor shall advise the Owner of the request and where directed by the Owner, shall pay for and obtain a permit related to the conduct of the Work and the Owner will issue a change order to allow for payment of the cost of obtaining the permit. Nothing in this clause relieves the Contractor of its obligation to make such filings and to submit such documents and notices with respect to the Work on behalf of the Owner as are otherwise required by the municipality. All other permits are to remain the responsibility of the contractor.

### GC 24 PATENT FEES

24.1 The Contractor shall pay all royalties and patent license fees required for the performance of the Contract and such royalties or fees shall be deemed to have been included in the contract price. The Contractor shall hold the Owner harmless from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor's performance of the Contract which are attributable to an infringement or an alleged infringement of any patent or invention by the Contractor or anyone for whose acts the Contractor may be liable.

24.2 The Owner shall hold the Contractor harmless against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the Contractor's performance of the Contract which are attributable to an infringement or an alleged infringement of any patent or invention in executing anything for the purpose of the Contract, the model, plan or design of which was supplied to the Contractor by the Owner.

### GC 25 WORKPLACE NL

25.1 At the time of bid submission, and prior to receiving payment on Substantial and Total Performance of the Work, the Contractor shall provide evidence of compliance with all requirements of the Province in the place of the Work with respect to worker's compensation including payments due thereunder.

25.2 At any time during the term of Contract, when requested by the Owner, the Contractor shall provide such evidence of compliance by the Contractor and any or all of the Contractor's Subcontractors.

25.3 Non incorporated companies i.e.: partnerships, sole proprietorships, and independent operators must provide coverage for any employees and personal coverage for the principal(s).

## GENERAL CONDITIONS OF CONTRACT

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### GC 26 LIABILITY INSURANCE

26.1 Contractors are advised that the Bid Documents contain a Certificate of Insurance indicating the type and limit of liability (GC 26) and property insurance (GC 27) required for this project. The successful bidder will be required prior to commencement of work, to have the Certificate of Insurance completed by the Contractor's insurance company and delivered to the Owner not later than 30 days after the award of the contract. The Contractor shall not commence any work until they obtain, at their expense, all required insurances as specified on the Certificate of Insurance. Such insurance must have the approval of the Owner and be to the limits, form and amounts specified.

26.2 The Contractor's Insurance Company or its agent shall be licensed to do business in the Province of Newfoundland & Labrador.

26.3 The Contractor will not permit any Subcontractor to commence work on this Project until the same insurance requirements have been complied with by such Subcontractors.

26.4 If the Contractor should fail to effect and keep in force the policies referred to, or any other insurance which may be required to effect under the terms of the Contract, the Owner may effect and keep in force any such insurance and pay the premiums necessary for the purpose and from time to time deduct the amount so paid from any payments due to the Contractor to recover the same as a debt due from the Contractor.

26.5 Comprehensive General Liability Insurance

- a) Without restricting the generality of GC 17 - Indemnification, the Contractor shall provide and maintain, either by way of a separate policy or by an endorsement to their existing policy, Commercial Liability Insurance acceptable to the Owner and subject to limits set out in detail in the Certificate of Insurance inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof.
- b) This insurance shall include as an additional insured His Majesty the King in Right of Newfoundland and Labrador, the Owner, and the Occupant/Operator of the property. Such insurance must have the approval of the Owner and be to the limits, form and amounts specified. The Contractor will not permit any Subcontractor to commence work on this Project until the same insurance requirements have been compiled with by the Subcontractor.

## GENERAL CONDITIONS OF CONTRACT

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- c) The insurance shall also include as Unnamed Insureds the Owner Representative of the Owner with respect to work performed by the Contractor, but excluding professional liabilities associated with such architectural and engineering consultants.
- d) The Comprehensive General Liability Insurance will not be limited to, but shall include coverage for:
  - 1) premises and operations liability
  - 2) products or completed operations liability
  - 3) blanket contractual liability
  - 4) broad form property damage
  - 5) cross liability
  - 6) elevator and hoist liability
  - 7) contingent employer's liability
  - 8) personal injury liability
  - 9) liability with respect to non-owned licensed vehicles
  - 10) shoring, blasting, excavating, underpinning, demolition, pile driving and caisson work, work below ground surface, tunneling and grading as applicable.
- e) The insurance shall include a minimum limit of \$5,000,000.00 inclusive for all claims for Bodily Injury or Property. Reduced limits for any part of the coverage is not acceptable.
- f) A deductible up to a maximum amount of \$5,000.00 will be permitted on blasting and demolition with the Contractor paying the deductible amount of each claim.
- g) Completed operations liability shall be maintained continuously until twelve (12) months from the date the Owner issues a Certificate of Substantial Performance.

### 26.6 Automobile Liability Insurance

- a) The Contractor shall provide and maintain liability insurance in respect of (i) owned licensed vehicles and (ii) leased vehicles, subject to limits set out in this Contract.
- b) This insurance shall include a minimum limit of \$2,000,000.00 inclusive for all claims for Bodily Injury or Property Damage arising from one accident.
- c) This insurance shall include a schedule of vehicles or a statement taken from the policy that all vehicles are covered.

### 26.7 Aircraft and or Watercraft Liability Insurance

## GENERAL CONDITIONS OF CONTRACT

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The Contractor shall provide and maintain liability insurance with respect to owned and non-owned aircraft and watercraft, as may be applicable, subject to limits set out in this Contract. Such insurance shall be in the names of the Contractor, His Majesty the King in Right of Newfoundland and Labrador, and the Owner as defined in 26.5 (b) and (c) where they have an insurable interest in the use and operation of such aircraft and watercraft.

### 26.8 Airport Contractor Liability Insurance

The Contractor shall provide and maintain liability insurance with respect to work completed on the tarmac side of an airport and/or inside an airport and the area outside an airport if this is not provided within the Contractor's Commercial General Liability Insurance.

### 26.9 Environmental Impairment Liability Insurance

- a) The Contractor shall provide and maintain liability insurance with respect to environmental contamination/remediation at a work site.
- b) The insurance shall include a minimum limit of \$2,000,000.00

### 26.10 All insurance policies shall contain an endorsement requiring notification of His Majesty the King and the Named Insured, in writing, thirty (30) days prior to cancellation of any policy or material change, except in the event of non- payment where policy conditions dealing with termination will apply.

## GC 27 PROPERTY INSURANCE

### 27.1 The Contractor shall provide and maintain property insurance for contracts over \$25,000, acceptable to the Owner, insuring the full value of the Work in the amount of the Contract Price (excluding of HST) and the full value as stated of products for incorporation into the work. The insurance shall include as additional insured the Owner and His Majesty the King in Right of Newfoundland and Labrador.

### 27.2 The Contractor's Insurance Company or its agent shall be licensed to do business in the Province of Newfoundland & Labrador.

### 27.3 Such coverage shall be provided for by **either** Broad Form Builders' Risks Policy or an Installation Floater **or** Piers, Wharves, and Docks Rider.

### 27.4 The policies shall insure on a Broad Form basis direct loss or damage subject to any exclusions specified in the Contract. Such coverage shall apply to:

- a) all products, labour, and supplies of any nature whatsoever, the property of the Insureds or of others for which the Insureds may have assumed

## GENERAL CONDITIONS OF CONTRACT

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responsibility, to be used in or pertaining to the site preparations, demolitions of existing structures, erections and/or fabrication and/or reconstruction and/or repair of the insured project, while on the site or in transit, subject to the exclusion of the property specified.

- b) the installation, testing and any subsequent use of machinery and equipment including boilers, pressure vessels or vessels under vacuum.
- c) damage to the Work caused by an accident to and/or the explosion of any boiler(s) or pressure vessel(s) forming part of the work.
- d) damage to Work caused by earthquake or flooding.

Such insurance may have a deductible clause but the amount of the deductible shall not exceed \$2,500.00.

Such coverage shall exclude construction machinery, equipment, temporary structural and other temporary facilities, tools, and supplies used in the construction of the work and which are not expendable under the Contract.

- 27.5 Policies provided shall contain an endorsement requiring notification of His Majesty the King and the Named Insured, in writing, thirty (30) days prior to cancellation of any policy or material change of coverage except in the event of non-payment where policy conditions dealing with termination will apply.
- 27.6 All such insurance shall be maintained continuously until the date the Owner issues a Certificate of Total Performance and be extended and kept in force during any Period of Delay. All such insurance shall provide for the Owner to take occupancy of the work or any part thereof during the term of the insurance. Any increase in the cost of this insurance arising out of such occupancy shall be at the Owner's expense.
- 27.7 The policies shall provide that in the event of a loss, payment for damage to the Work shall be made to the Owner and the Contractor as their respective interests may appear. The Contractor shall act on behalf of the Owner and the Contractor for the purpose of adjusting the amount of such loss with the Insurers. On the determination of the extent of the loss, the Contractor shall immediately proceed to restore the Work and shall be entitled to receive from the Owner (in addition to any sum due under the Contract) the amount at which the Owner's interest in the restoration work has been appraised, such amount to be paid as the work of restoration proceeds and in accordance with the Owner's certificates for payment. Damage shall not affect the rights and obligations of either party under the Contract except that the Contractor shall be entitled to such reasonable extension of time for Substantial and Total Performance of the work as the Owner may decide.

## GENERAL CONDITIONS OF CONTRACT

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- 27.8 The Contractor shall be responsible for any deductible amounts under the policies and the payment of monies up to the deductible amount made in a satisfaction of a claim shall be borne by the Contractor.
- 27.9 The Contractor shall be responsible for providing such additional insurance as may be required to protect the insured against loss on items excluded from the policies referred to in the Contract. The provisions of the insurance coverage requirements contained in the Contract are not intended to cover all of the Contractor's obligations under GC 17 Indemnification. Any additional risk management measures or additional insurance coverages the Contractor may deem necessary to fulfill the Contractor's obligations under GC 17 shall be at the Contractor's discretion and expense.
- 27.10 The successful bidder will be required prior to commencement of work, to have the Certificate of Insurance completed by the Contractor's insurance company and delivered to the Owner not later than 30 days after the award of the contract. Such insurances must have the approval of the Owner and be to the limits, form and amounts specified. The Contractor will not permit any Subcontractor to commence work on this Project until the same insurance requirements have been complied with by the Subcontractor.
- 27.11 The interest of the Subcontractors are to be specifically included in the policy and the policy shall contain the following clause:  
"Loss, if any, payable to the Owner and the Insured, as their respective interests may appear."
- 27.12 The Contractor further agrees that so much of the money due to them under and by virtue of this Contract as shall be considered necessary by the Owner may be retained by the Owner until all such suits or claims for damages shall have been settled and evidence to that effect furnished to the satisfaction of the Owner.
- 27.13 If the Contractor should fail to effect and keep in force the policies referred to, or any other insurance which may be required to effect under the terms of the Contract, the Owner may effect and keep in force any such insurance and pay the premiums necessary for the purpose and from time to time deduct the amount so paid from any payments due to the Contractor to recover the same as a debt due from the Contractor.

## GC 28 PROTECTION OF WORK AND PROPERTY

- 28.1 The Contractor shall protect the property adjacent to the Project site from damage as the result of the Contractor's operations under the Contract.
- 28.2 The Contractor shall protect the Work and the Owner's property from damage and shall be responsible for any damage which may arise as the result of the

## GENERAL CONDITIONS OF CONTRACT

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Contractor's operations under the Contract except damage which occurs as the result of:

- a) errors in the Contract Documents, and/or
- b) acts or omissions by the Owner, the Owner's agents, employees or Other Contractors.

28.3 Should any damage occur to the Work and/or the Owner's property for which the Contractor is responsible, the Contractor shall make good such damage at the Contractor's own expense or pay all costs incurred by others in making good such damage.

28.4 Should any damage occur to the Work and/or the Owner's property for which the Contractor is not responsible as provided in GC 17 - Indemnification the Contractor shall make good such damage to the Work, and, if the Owner so directs to the Owner's property, and the Contract Price and Contract Time shall be adjusted in accordance with GC 18 - Changes in the Work.

28.5 The Contractor shall be completely responsible for the safety of the work as it applies to protection of the public and property and the construction of the work. All applicable Codes and Standards for the area and location of the Work shall apply to the project.

28.6 Any person not following the stipulated safety regulations or procedures shall be dismissed.

### GC 29            DAMAGES AND MUTUAL RESPONSIBILITY

29.1 If either party to this Contract should suffer damage in any manner because of any wrongful act or neglect of the other party or anyone employed by that party then that party shall be reimbursed by the other party for such damages. The party reimbursing the other party shall be subrogated to the rights of the other party in respect of such wrongful act or neglect if it be that of a third party.

29.2 Claims under this GC shall be made in writing to the party liable within reasonable time after the first observance of such damage and not later than the time limits stipulated in GC 21 - Certificates and Payments, and may be adjusted by agreement or in the manner set out in GC 16 - Settlement of Disputes and Claims.

29.3 If the Contractor has caused damage to any Other Contractor on the work, the Contractor agrees upon due notice to settle with such Other Contractor by agreement or arbitration, if the Other Contractor will so settle. If such Other Contractor sues the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor and may require the Contractor to

## GENERAL CONDITIONS OF CONTRACT

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defend the action at the Contractor's expense. If any final order or judgment against the Owner arises therefrom the Contractor shall pay or satisfy it and pay all costs incurred by the Owner.

29.4 If the Contractor becomes liable to pay or satisfy any final order, judgment or award against the Owner then the Contractor, upon undertaking to indemnify the Owner against any and all liability for costs, shall have the right to appeal in the name of the Owner such final order or judgment to any and all courts of competent jurisdiction.

### GC 30 BONDS

30.1 The Owner shall have the right during the period stated in the Bid Documents for acceptance of the bid to require the Contractor to provide and maintain in good standing until the fulfillment of the Contract, bonds covering the faithful performance of the Contract including the requirements of the Warranty provided for in GC 31 - Warranty, and the payment of all obligations arising under the Contract.

30.2 All such bonds shall be issued by a duly incorporated surety company approved by the Owner and authorized to transact a business or surety-ship in the Province of Newfoundland and Labrador.

30.3 If bonds are called for in the Bid Documents or instructions to bidders, the costs attributable to providing such bonds shall be included in the bid price.

30.4 Should the Owner require the provision of a bond or bonds by the Contractor other than those provided for under GC 30.3, the Contract Price shall be increased by all costs attributable to providing such bonds.

30.5 The Contractor shall promptly provide the Owner with any bonds that are required.

30.6 Tender Surety and Bonding for Materials Supply Only Contracts

.1 On contracts for supply of materials:

- a) Bid Security in the amount of 10% of the contract price and Performance Security in the amount of 50% of the contract amount is required. The Performance Security may be released 30 days after the date of substantial performance of a material supply contract.
- b) Labour and Material Payment Security is not required.

.2 In lieu of a Performance Bond or Bid Bond, the Minister may, at their sole discretion, approve the acceptance of a certified cheque for 10% of the tendered amount. The cheque will be deposited by the Owner until satisfactory completion

## GENERAL CONDITIONS OF CONTRACT

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of the work including the 30 day Mechanics Lien period, after which this amount will be returned to the contractor with the accrued interest thereon. There will be no limit on the value of a tender for which certified cheques may be used.

.3 No bid security or bonding will be required for the supply of vehicles or earth moving equipment.

### GC 31 WARRANTY

- 31.1 Without restricting any warranty or guarantee implied or stipulated by law the Contractor shall at the Contractor's own expense rectify and make good any defect or fault however caused appearing within a period of one year from the date of Substantial Performance of the Work, unless otherwise stated in the Contract, provided that the Contractor shall not be responsible for any defect or fault resulting from the design of the Work.
- 31.2 The Contractor shall correct and/or pay for any damage to other work resulting from any corrections required under the conditions of GC 31.1.
- 31.3 Neither the Owner's final certificate nor payment thereunder shall relieve the Contractor from the Contractor's responsibility hereunder.
- 31.4 The Owner shall give the Contractor written notice of observed defects promptly.
- 31.5 In any case where the Contractor states that they are not responsible for a defect or fault because such a defect or fault is the result from a design of the work by the Owner, the onus to establish the defect or fault in the design of the work shall be on the Contractor.
- 31.6 The Contractor shall, subject to the procedures for Settlement of Disputes contained in GC 16 – Settlement of Disputes and Claims, abide by the direction and decisions of the Owner made pursuant to the General Conditions and in particular GC 7 – Owner's Decisions regarding the correction by the Contractor of any defect or fault in the work discovered during the warranty period referenced in GC 31.1 hereof.
- 31.7 The Contractor shall submit a schedule, acceptable to the Owner, for the completion of the warranty work in respect of the defect or fault referenced in GC 31.1, within thirty (30) days of the Owner requesting in writing such a schedule from the Contractor.
- 31.8 Where the Contractor rectifies and makes good any defect or fault for which the Contractor is responsible under this Warranty, the Contractor shall warrant the portion of the work that is corrected for a period equal to the original warranty period, from the date that the correction was done.

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### GC 32 CONTRACTOR'S RESPONSIBILITIES AND CONTROL OF THE WORK

- 32.1 The Contractor shall have complete control of the Work except as provided in GC 15 - Emergencies. The Contractor shall effectively direct and supervise the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all parts of the Work under the Contract.
- 32.2 The Contractor shall have the sole responsibility for the design, erection, operation, maintenance and removal of temporary structural and other temporary facilities and the design and execution of construction methods required in their use. The Contractor shall engage and pay for registered professional engineering personnel skilled in the appropriate discipline to perform these functions where required by law or by the Contract Documents and in all cases where such temporary facilities and their method of construction are of such a nature that professional engineering skill is required to produce safe and satisfactory results.
- 32.3 Notwithstanding the provisions of GC 32.1 and GC 32.2 above, or any provisions to the contrary elsewhere in the Contract Documents where such Contract Documents include designs for temporary structural and other temporary facilities and methods shall be deemed to comprise part of the overall design of the Work and the Contractor shall not be held responsible for that part of the design or the specified method of construction. The Contractor shall, however, be responsible for the execution of such design or specified method of construction in the same manner that the Contractor is responsible for the execution of the Work.
- 32.4 The Contractor shall carefully examine the Contract Documents and shall promptly report to the Owner any error, inconsistency or omission the Contractor may discover. The Contractor shall not be held liable for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents.

### GC 33 SUPERINTENDENCE

- 33.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Work site at all times while work is being performed.
- 33.2 The superintendent shall be satisfactory to the Owner and shall not be changed except for good reason and only then after consultation with and agreement by the Owner.
- 33.3 The superintendent shall represent the Contractor at the Work site. Directions given to the superintendent by the Owner shall be held to have been given to the

## GENERAL CONDITIONS OF CONTRACT

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Contractor. Important directions shall be confirmed to the Contractor in writing, other directions will be so confirmed if requested.

### GC 34 LABOUR AND PRODUCTS

- 34.1 Unless otherwise stipulated elsewhere in the Contract Documents, the Contractor shall provide and pay for all labour and products, tools, construction equipment and machinery, water, heat, light, power, transportation and other facilities and services necessary for the proper performance of the Work.
- 34.2 All products provided shall be new unless otherwise specified in the Contract Documents. Any products which are not specified shall be of a quality best suited to the purpose required and their use subject to the approval of the Owner.
- 34.3 The Contractor shall at all times maintain good order and discipline among the Contractor's employees engaged on the Work and shall not employ on the Work any unfit person nor anyone not skilled in the task assigned to that person.

### GC 35 SUBSURFACE CONDITIONS

- 35.1 The Contractor shall promptly notify the Owner in writing if, in the Contractor's opinion, the subsurface conditions at the Project site differ materially from those indicated in the Contract Documents or as may have been represented to the Contractor by the Owner before the time of Open Call for Bids submission.
- 35.2 After prompt investigation, should the Owner determine that conditions do differ materially, the Owner shall issue appropriate instructions for changes in the Work as provided for in GC 18 - Changes in the Work.

### GC 36 USE OF PREMISES

- 36.1 The Contractor shall confine the Contractor's apparatus, the storage of products and the operations of the Contractor's workers to limits indicated by laws, ordinances, permits or by directions of the Owner and shall not unreasonably encumber the premises with the Contractor's products.
- 36.2 The Contractor shall not load or permit to be loaded any part of the Work with a mass that will endanger its safety.
- 36.3 The Contractor shall enforce the Owner's instructions regarding signs, advertisements, fires and smoking.

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- 36.4 Unless otherwise provided the Contractor shall, at the Contractor's own expense, and without extra cost to the Owner, make suitable provision to accommodate all traffic either pedestrian or vehicular, over or around, the project upon which work is being performed, in a manner satisfactory to the Owner.
- 36.5 The Contractor shall provide and maintain at the Contractor's own expense such fences, barriers, signs, lights and security as may be necessary to prevent avoidable accidents to residents or to the public generally.

### GC 37        CLEANUP AND FINAL CLEANING OF WORK

- 37.1 The Contractor shall maintain the Work in a tidy condition and free from the accumulation of waste products and debris, other than that caused by the Owner, other Contractors or their employees.
- 37.2 When the Work is Substantially Performed the Contractor shall remove all of the Contractor's surplus products, tools, construction machinery and equipment not required for the performance of the remaining work. The Contractor shall also remove any waste products and debris and leave the Work clean and suitable for occupancy by the Owner unless otherwise specified.
- 37.3 When the Work is Totally Performed, the Contractor shall remove all of the Contractor's surplus Products, tools, construction machinery and equipment. The Contractor shall also remove any waste products and debris, other than that caused by the Owner, other Contractors or their employees.

### GC 38        CUTTING AND REMEDIAL WORK

- 38.1 The Contractor shall do all cutting and remedial work that may be required to make the several parts of the Work come together properly.
- 38.2 The Contractor shall co-ordinate the schedule for the Work to ensure that this requirement is kept to a minimum.
- 38.3 Should the Owner or anyone employed by the Owner be responsible for ill-timed work necessitating cutting and/or remedial work shall be valued as provided in GC 19 Valuation and Certification of Changes in the Work and added to the Contract Price.
- 38.4 Cutting and remedial work shall be performed by specialists familiar with the materials affected and shall be performed in a manner to neither damage nor endanger any Work.

## GENERAL CONDITIONS OF CONTRACT

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### GC 39 INSPECTION OF WORK

- 39.1 The Owner and the Owner's authorized representatives shall have access to the Work for inspection wherever it is in preparation or progress. The Contractor shall co-operate to provide reasonable facilities for such access.
- 39.2 If special tests, inspections or approvals are required by the Contract Documents, the Owner's instructions or the laws or ordinances of the place of building the Contractor shall give the Owner timely notice requesting inspection. Inspection by the Owner shall be made promptly. The Contractor shall arrange inspection by other authorities and shall notify the Owner of the date and time.
- 39.3 If the Contractor covers or permits to be covered any of the Work that is subject to inspection or before any special tests and approvals are completed without the approval of the Owner, the Contractor shall uncover the Work, have the inspection satisfactorily completed and make good the Work at the Contractor's own expense.
- 39.4 Examination of any questioned Work may be ordered by the Owner. If such Work be found in accordance with the Contract the Owner shall pay the cost of examination and replacement, together with the cost of subsequent verification testing. If such Work be found not in accordance with the Contract through the fault of the Contractor, the Contractor shall pay such cost.
- 39.5 The Contractor shall furnish promptly to the Owner all certificates and inspection reports relating to the Work.

### GC 40 REJECTED WORK

- 40.1 Defective Work, whether the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the Contractor, and whether incorporated in the Work or not, which has been rejected by the Owner as failing to conform to the Contract Documents shall be removed promptly from the premises by the Contractor and replaced and/or executed promptly in accordance with the Contract Documents at the Contractor's expense.
- 40.2 Other Contractor's work destroyed or damaged by such removals or replacements shall be made good promptly at the Contractor's expense.
- 40.3 If in the opinion of the Owner it is not expedient to correct defective work not done in accordance with the Contract Documents, the Owner may deduct from the Contract Price the difference in value between the Work as done and that called for by the Contract, the amount of which shall be determined in the first instance by the Owner.

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### GC 41        SHOP DRAWINGS

- 41.1 The term "shop drawings" means drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data which are to be provided by the Contractor to illustrate details of a portion of the Work.
- 41.2 The Contractor shall arrange for the preparation of clearly identified shop drawings as called for by the Contract Documents or as the Owner may reasonably request.
- 41.3 Prior to Submission to the Owner the Contractor shall review all shop drawings. By this review the Contractor represents that the Contractor has determined and verified all field measurements, field construction criteria, materials, catalogue numbers and similar data or will do so and that the Contractor has checked and coordinated each shop drawing with the requirements of the Work and of the Contract Documents. The Contractor's review of each shop drawing shall be indicated by stamp, date and signature of a responsible person.
- 41.4 The Contractor shall submit shop drawings to the Owner for the Owner's review with reasonable promptness and in orderly sequence so as to cause no delay in the Work or in the Work of Other Contractors. If either the Contractor or the Owner so requests they shall jointly prepare a schedule fixing the dates for submission and return of shop drawings. Shop drawings shall be submitted in electronic format (PDF) or prints as the Owner may direct. At the time of submission the Contractor shall notify the Owner in writing of any deviations in the shop drawings from the requirements of the Contract Documents.
- 41.5 The Owner will review and return shop drawings in accordance with any schedule agreed upon, or otherwise with reasonable promptness so as to cause no delay. The Owner's review shall be for conformity to the design concept and for general arrangement only and such review shall not relieve the Contractor of responsibility for errors or omissions in the shop drawings or of responsibility for meeting all requirements of the Contract Documents unless a deviation on the shop drawings has been approved in writing by the Owner.
- 41.6 The Contractor shall make any changes in shop drawings which the Owner may require consistent with the Contract Documents and resubmit unless otherwise directed by the Owner. When resubmitting the Contractor shall notify the Owner in writing of any revisions other than those requested by the Owner.

### GC 42        SAMPLES

- 42.1 The Contractor shall submit for the Owner's approval such standard manufacturers' samples as the Owner may reasonably require. Samples shall be labelled as to origin and intended use in the Work and shall conform to the requirements of the Contract Documents.

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42.2 The Contractor shall provide samples of special products, assemblies, or components when so specified. The cost of such samples not specified shall be authorized as an addition to the Contract Price as provided in GC 18 - Changes in the Work.

### GC 43 TESTS AND MIX DESIGNS

43.1 The Contractor shall furnish to the Owner test results and mix designs as may be requested. The testing company must first be approved by the Owner.

43.2 The cost of tests and mix designs beyond those called for in the Contract Documents or beyond those required by laws, ordinances, rules and regulations relating to the work and the preservation of public health, shall be authorized as an addition to the Contract Price as provided in GC 18 - Changes in the Work.

### GC 44 LABOUR

44.1 In carrying out the Contractor's duties under this contract, the Contractor shall comply with all Provincial and Federal legislation respecting labour and the employment of labour, where applicable, including the labour standards code and shall not operate in conflict with the Human Rights legislation. In the employment of labour, preference should be given to persons normally resident in Newfoundland and Labrador.

44.2 The Contractor and Subcontractors shall maintain and keep available for inspection by the Owner, a record of the names and addresses of all workers employed on the Project.

44.3 All Work shall be done by workers skilled in their various trades.

44.4 There shall be no discrimination in the selection of workers for employment on the project in respect of gender, race, religious views or political affiliation.

44.5 The Contractor shall pay fair wages and shall pay rates of wages and allowances to the various classes of labour not less favourable than those prevailing in the area where the Work is being performed.

44.6 The Contractor shall ensure that all employees (including owners, management, and subcontracted employees) are aware that workplace violence and harassment will not be tolerated. Allegations of workplace violence and harassment perpetrated against employees of the Department of Transportation and Infrastructure will be investigated and addressed as per the Department of Transportation and Infrastructure's Workplace Violence and Harassment

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Prevention Program, and may result in correction actions aimed at individuals or the Contractor. The Contractor hereby agrees to be bound by the Department of Transportation and Infrastructure's Workplace Violence and Harassment Prevention Program and shall cooperate fully in any resulting investigations and shall ensure compliance with any subsequent corrective actions.

### GC 45 TIME OF ESSENCE

45.1 Time is of the essence of the Contract.

### GC 46 ASSESSMENT AND DAMAGES FOR LATE COMPLETION

46.1 For purposes of this General Condition

- a) The Work shall be deemed to be completed on the date that a Certificate of Substantial Performance referred to in GC 21.6 is issued, and
- b) "Period of delay" means the number of days commencing on the day fixed by the Articles of Agreement for completion of the Work and ending on the day immediately preceding the day on which the Work is completed but does not include any day in which, in the opinion of the Owner, completion of the Work was delayed for reasons beyond the control of the Contractor.

46.2 If the Contractor does not complete the Work by the day fixed for its completion by the Articles of Agreement but completes it thereafter, the contractor shall pay the Owner an amount equal to the aggregate of

- a) all salaries, wages and travelling expenses incurred by the Owner in respect of persons overseeing the performance of the Work during the period of delay, and
- b) all other expenses and damages incurred or sustained by the Owner during the period of delay as a result of the Work not being completed by the day fixed for its completion.

46.3 Substantial Performance of part of the work shall not relieve the Contractor of their liabilities under this clause.

### GC 47 CERTIFICATE OF RECOGNITION FOR CONTRACTS

47.1 The Contractor shall, at the time of bid submission, submit a Letter of Good Standing stating Certificate of Recognition (COR) certified from the Newfoundland and Labrador Construction Safety Association (NLCSA), or equivalent. The Letter of Good Standing stating COR Certified must be valid at the Submission Deadline (Closing Date).

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47.2 At any time during the term of the Contract, when requested by the Owner, the Contractor shall provide such evidence of compliance by any or all of their Subcontractors.