

AGREEMENT BETWEEN OWNER AND CONTRACTOR

Stipulated Price

Contract Number: _____

This Agreement made on the _____ day of _____, 20_____

By and between

(hereinafter referred to as the " Owner")

address: _____

-AND-

(hereinafter referred to as the " CONTRACTOR")

address: _____

The *Owner* and the *Contractor* agree as follows:

Article 1: The Work

The Contractor shall:

1.1 Perform the *Work* required by the contract documents for _____

_____ *insert above the title of the Work*
located at _____ *insert above the Place of the Work*

which have been signed by the parties and

1.2 Do fulfill everything indicated in this Agreement, and

1.3 Commence the Work by the _____ day of _____ in the year _____

and, subject to adjustment in *Contract Time* as provided for in the *Contract Documents*, attain

substantial performance of the work, by the _____ day of _____, 20_____.

Article 2: Agreements and Amendments

2.1 The Contract shall **prevail** over any terms and conditions in the Owner's order and supercedes all prior negotiations, representations, or agreements, either written or oral, relating in any manner to the Work, including the bidding documents that are not expressly listed in Article 3 of the agreement – CONTRACT DOCUMENTS.

2.2 The Contract may be amended only as provided in the Contract Documents.

Article 3: Contract Documents

The following are the Contract documents referred to in Article 1 of the Agreement – The Work:

- Agreement between Owner and Contractor
- Definitions
- The General Conditions of the Stipulated Contract Price
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(attach separate list, if required identifying all other Contract Documents. i.e. Supplementary Conditions, Specifications, Drawings, Addenda).

Article 4: Contract Price

The contract Price, which includes/excludes Sales Taxes (if applicable), is:

_____ dollars and _____ cents.

\$ _____ In Canadian/US Funds.

These funds shall be subject to adjustments as provided in the Contract Documents.

Article 5: Payment

5.1 Subject to the provision of the Contract documents, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations so not exist or apply, subject to a holdback of ten percent (10%), the Owner shall in Canadian/US funds:

5.1.1 make progress payments to the Contractor on account of the Contract Price when due in the amount requested, subject to agreement that this fairly represents the percentage complete of the Project, together with such Value Added Taxes as may be applicable to such payment, and

5.1.2 upon Substantial Performance to the Work, pay to the Contractor the unpaid balance of the holdback amount when due together with such Value Added Taxes as may be applicable to such payment, and

5.1.3 upon issuance of the final certificate for payment, pay to the contractor the unpaid balance of the Contract Price when due together with such Value Added Taxes as may be applicable to such payment.

5.2 In the event of loss or damage occurring where payment becomes due under the property and boiler insurance policies, payments shall be made to the Contractor in accordance with the provisions of GC 11.1 – Insurance.

5.3 Interest

5.3.1 Should the Owner fail to make payments as they become due under the terms of the Contract or in an award of arbitration or court interest at _____ percent (____%) per annum shall also become due and payable until payment. Such interest shall be compounded on an annual basis.

5.3.2 Interest shall apply at the rate and in the manner prescribed by paragraph 5.3.1 of this Article on the amount of any claim settled pursuant to Part 8 of the General Conditions – *Dispute Resolution* from the date the amount would have been due and payable under the contract, had it not been in dispute, until the date it is paid.

Article 6: Receipt of and Addresses for Notices

Notices in writing between the parties shall be considered to have been received by the addressee on the date of delivery if delivered to the individual, or to a member of the firm, or to an officer of the corporation for whom they are intended by hand or by registered post; or if sent by regular post, to have been delivered within five (5) working days of the date of mailing when addressed as follows:

The Owner at _____
street and number and postal box, if applicable

post office or district, province/state, postal/zip code

The Contractor at _____
street and number and postal box, if applicable

post office or district, province/state, postal/zip code

Article 7: Language of the Contract

This agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.

Article 8 : Succession

The Contract Documents are to be read into and form part of this Agreement and the whole shall constitute the Contract between the parties, and subject to the law and provisions of the Contract Documents shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and assigns.

In witness whereof the parties hereto have executed this Agreement and by the hands of their duly authorized representatives.

SIGNED AND DELIVERED

In the presence of:

OWNER

name of owner

signature

name and title of person signing

signature

name and title of person signing

WITNESS (or Corporate Seal)

signature

name and title of person signing

CONTRACTOR

Company Name

Signature

name and title of person signing

WITNESS (or Corporate Seal)

signature

name and title of person signing

N.B. Where legal jurisdiction, local practise, or Owner or Contractor requirement call for:

- (a) proof of authority to execute this document, attach proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Agreement for and on behalf of the corporation or partnership; or*
- (b) the affixing of a corporate seal, this Agreement shall be properly sealed.*

DEFINITIONS

The following definitions shall apply to all Contract Documents.

1. **Contract:** The *Contract* is the undertaking by the parties to perform their respective duties, responsibilities, and obligations as prescribed in the Contract Documents and represents the entire agreement between the parties.
2. **Contract Documents:** The *contract documents* consist of those documents listed in Article 3 of the agreement – Contract Documents and amendments agreed upon by the parties.
3. **Owner:** The *owner* is the person or entity identified as such in the Agreement. The term Owner means the Owner of the Owner's authorized agent or representative as designated to the Contractor in writing.
4. **Contractor:** The *Contractor* is the person or entity identified as such in the Agreement. The term Contractor means the Contractor or the Contractor's authorized representative as designated to the Owner in writing.
5. **Subcontractor:** A *subcontractor* is a person or entity having a direct contract with the Contractor to perform a part or parts of the Work, or to supply Products worked to a special design for the Work.
6. **Supplier:** A *Supplier* is a person or entity having a direct contract with the Contractor to supply Products not worked tot a special design for the Work.
7. **Project:** The *project* means the total construction contemplated of which the Work may be the whole or a part.
8. **Work:** The *Work* means the total construction and related services required by the Contract Documents.
9. **Place of the Work:** The *Place of the Work* is the designated site or location of the Work identified in Article 1 of the Agreement – The Work.
10. **Product:** *Product* or *Products* means material, machinery, equipment, and fixtures forming the Work, but does not include machinery and equipment used to prepare, fabricate, convey or erect the Work, which are referred to as construction machinery and equipment.
11. **Provide:** *Provide* means to supply and install.
12. **Contract Price:** The *Contract Price* is the amount stipulated in Article 4 of the Agreement – Contract Price.
13. **Contract Time:** The *Contract Time* is the time stipulated in paragraph 1.3 of Article 1 of the Agreement – The Work from commencement of the Work to Substantial Performance of the Work.
14. **Working Day:** *Working Day* means a day other than a Saturday, Sunday, or a holiday which is observed by the construction industry in the area of the Place of Work.
15. **Supplemental Instruction:** A *Supplemental Instruction* is an instruction, not involving adjustment in the Contract Price or Contract Time, in the form of specifications, drawings, schedules, samples, models or written instructions, consistent with the intent of the Contract Documents. It is to be issued by the Owner to supplement the Contract Documents as required for the performance of the Work.

16. **Change Order:** A *Change Order* is a written amendment to the Contract prepared by the parties and signed by the Owner and Contractor stating their agreement upon:
 - a. A change in the work
 - b. The method of adjustment or the amount of the adjustment in the Contract Price, if any; and
 - c. The extent of the adjustment in the Contract Time, if any.
17. **Change Directive:** a *Change Directive* is a written instruction prepared and signed by the Owner directing a change in the Work within the general scope of the Contract Documents.
18. **Substantial Performance of the Work:** *Substantial Performance of the Work* is as defined in the lien legislation applicable to the Place of Work. If the legislation is not in force or does not contain such definition, Substantial Performance of the Work shall have been reached when the Work is ready for use or is being used for the purpose intended and is so agreed upon by both parties.
19. **Value Added Taxes:** *Value Added Taxes* means such sum as shall be levied upon the Contract by Federal or an Provincial Government and is computed as a percentage of the Contract Price and includes the Goods and Services Tax, the Quebec Sales Tax and any similar tax, the payment or collection of which is by the legislation imposing such tax as an obligation of the Contractor.

General Conditions of the Stipulated Price Contract

Part 1 – General Provisions

GC 1.1 Contract Documents

- 1.1.1 The intent of the Contract Documents is to include the labour, Products, and services necessary for the performance of the Work by the Contractor in accordance with these documents. It is not intended, however, that the contractor shall supply products or perform work not consistent with, not covered by, or not properly inferable from the Contract Documents.
- 1.1.2 Nothing containing in the Contract Documents shall create any contractual relationship between the Owner and a Subcontractor, a Supplier, or their agent, employee, or other person performing any of the work.
- 1.1.3 The contract Documents are complementary, and what is required by any one shall be binding as if required by all.
- 1.1.4 Words and abbreviations which have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.
- 1.1.5 References in the Contract Documents to the singular shall be considered to include the plural as the context requires.
- 1.1.6 The specifications are that portion of the Contract Documents, wherever located and whenever issued, consisting of the written requirements and standards for Products, systems, workmanship, and the services necessary for the performance of the Work.
- 1.1.7 The drawings are the graphic and pictorial portions of the Contract documents, wherever located and whenever issued, showing the design, location, and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.
- 1.1.8 Neither the organization of the specifications into divisions, sections, and parts nor the arrangement of drawings shall control the Contractor in dividing the work among Subcontractors and Suppliers or in establishing the extent of the work to be performed by a trade.
- 1.1.9 If there is a conflict within the contract Documents:
 - 1.1.9.1 The order of priority of documents, from highest to lowest, shall be:
 - The Agreement between the Owner and Contractor
 - the Definitions
 - Supplementary Conditions
 - The General Conditions
 - Division 1 of the Specifications
 - Division 2 through 16 of the specifications
 - material and finishing schedules,
 - drawings.
 - 1.1.9.2 drawings of larger scale shall govern over those of smaller scale of the same date.
 - 1.1.9.3 Dimension shown on drawings shall govern over dimensions scaled from drawings.
 - 1.1.9.4 Later dated documents shall govern over earlier dated documents of the same type.
- 1.1.10 The owner shall provide the Contractor, without charge, sufficient copies of the Contract Documents to perform the Work.

- 1.1.11 Specifications, drawings, models, and copies thereof furnished by the Contractor at the Owner's expense are the property of the Owner.

GC 1.2 Law of the Contract

The law of the Place of the Work shall govern the Contract.

GC 1.3 Rights and Remedies

- 1.3.1 Except as previously provided in the Contract Documents, the duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- 1.3.2 No action or failure to act by the Owner or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

GC 1.4 Assignment

Neither party to the Contract shall assign the Contract or a portion thereof without the written consent of the other, which consent shall not be unreasonably withheld.

Part 2 – Administration of the Contract

GC 2.1 Review and Inspection of the Work

- 2.1.1 The Owner shall have access to the Work at all times. The Contractor shall provide sufficient, safe, and proper facilities at all times for the review of the Work by the Owner, and the inspection of the Work by authorized agencies. If parts of the Work are in preparation at locations other than the Place of Work, the Owner shall be given access to such work whenever it is in progress, as is reasonable.
- 2.1.2 If work is designated for tests, inspections, or approvals in the Contract Documents or the laws or ordinances of the Place of Work, the Contractor shall give the Owner reasonable notice of when the work will be ready for review and inspection. The Contractor shall arrange for and shall give the Owner reasonable notice of the date and time of inspection by other authorities.
- 2.1.3 The contractor shall furnish promptly to the Owner one (1) copy of certificate(s) and inspection report(s) relating to the Work.
- 2.1.4 If the Contractor covers, or permits to be covered, work that has been designated for special tests, inspections, or approvals before such tests, inspections, or approvals are made, given or completed, the Contractor shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good covering work at the Contractor's expense, providing that notice of such requirements were given prior to the covering of said work, otherwise, the Owner shall cover the costs of re-covering said work.
- 2.1.5 The Owner may order any portion or portions of the Work to be examined to confirm that such work is in accordance with the requirements of the Contract Documents. If the work is not in accordance with the requirements of the Contract Documents, the Contractor shall correct the work and pay the cost of examination and correction. If the work is in accordance with the requirements of the Contract Documents, the Owner shall pay the cost of examination and restoration, plus reasonable mark-up.

GC 2.2 Defective Work

- 2.2.1 The Contractor shall promptly remove from the place of Work and replace or re-execute defective work that fails to conform to the Contract Documents whether or not the defective work has been incorporated in the Work and whether or not the defect is the result of poor workmanship, use of defective products, or damage through carelessness or other act or omission of the Contractor.
- 2.2.1.1 If there is a disagreement between the Contractor and Owner as to whether work is defective or not, then a mutually agreed upon Consultant shall be called upon to inspect the work in dispute. This neutral third party will then rule as to whether the work is defective or not. This decision shall be binding on both parties.
- 2.2.2 The Contractor shall make good promptly other contractors' work destroyed or damaged by removals or replacements of defective work at the Contractor's expense.
- 2.2.3 If it is not expedient, as agreed by both parties, to correct defective work or work not performed as provided in the Contract Documents, the Owner may deduct from the amount otherwise due to the Contractor the difference in value between the work as performed and that called for by the Contract Documents. If the Owner and the Contractor do not agree on the difference in value, they shall refer to a mutually agreed upon consultant for a determination.

Part 3 – Execution of the Work

GC 3.1 Control of the Work

- 3.1.1 The Contractor shall have total control of the Work and shall effectively direct and supervise the Work so as to ensure conformity with the Contract Documents.
- 3.1.2 The Contractor shall be solely responsible for construction means, methods, techniques, sequences, and procedures and for co-ordinating the various parts of the Work under the Contract/

GC 3.2 Construction by Owner or Other Contractors

- 3.2.1 The owner reserves the right to award separate contracts in connection with other parts of the Project to other contractors and to perform work with their own forces.
- 3.2.2 When separate contracts are awarded for other parts of the Project, or when work is performed by the Owner's forces, the Owner shall:
- 3.2.2.1 provide for the co-ordination of the activities and work of other contractors and Owner's own forces with the Work of the Contract;
 - 3.2.2.2 assume overall responsibility for compliance with the applicable health and construction safety legislation at the Place of Work;
 - 3.2.2.3 enter into separate contracts with other contractors under conditions of contract which are compatible with the conditions of the Contract;
 - 3.2.2.4 ensure that insurance coverage is provided to the same requirements as are called for in these General Contract Conditions (GC 11.1 – insurance) and co-ordinate such insurance with the insurance coverage of the Contractor, as it affects the work; and
 - 3.2.2.5 take all reasonable precautions to avoid labour disputes or other disputes on the Project arising from the work of other contractors or the Owner's own forces.

- 3.2.3 When separate contracts are awarded for other parts of the Project, or when work is performed by Owner's own forces, the Contractor shall:
- 3.2.3.1 afford the owner and other contractors reasonable opportunity introduce and store their products and use their construction machinery to execute their work;
 - 3.2.3.2 co-ordinate and schedule the work with the work of other contractors and Owner's own forces and connect as specified or shown in the Contract Documents;
 - 3.2.3.3 participate with other contractors and the Owner in reviewing their construction schedules when directed to do so;
 - 3.2.3.4 where part of the Work is affected by or depends upon for its proper execution the work of other contractors or Owner's own forces, promptly report to the Owner in writing, and prior to proceeding with that part of the Work, any apparent deficiencies in such work. Failure to report any deficiencies not then reasonably discovered shall not invalidate any claims against the Owner by reason of the deficiencies in the work of other contractors or Owner's own forces.
- 3.2.4 Where a change in the work is required as a result of the co-ordination and connection of the work of other contractors or Owner's own forces with the Work, the changes shall be authorized and valued as provided in GC 6.1 – Change Order and GC 6.3 change Directive.
- 3.2.5 Claims, disputes, and other matters in questions between the contractor and other contractors shall be dealt with as provided in part 8 of the General Conditions – Dispute Resolution provided that other contractors have reciprocal obligations.

GC 3.3 Temporary Supports, Structures and Facilities

- 3.3.1 The Contractor shall have sole responsibility for the design, erection, operation, maintenance, and removal of temporary supports, structures, and facilities and the design and execution of construction methods required in their use.
- 3.3.2 The contractor shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform those functions referred to in paragraph 3.3.1 where required by law or the Contract Documents and in all cases where such temporary supports, structures, and facilities and their method of construction are of such a nature that professional engineering skill is required to produce safe and satisfactory results.
- 3.3.3 Notwithstanding Provisions of GC 3.1 – Control of the Work, paragraph 3.3.1, and paragraph 3.3.2 or provisions to the contrary elsewhere in the Contract Documents where such contract documents include designs for temporary supports, structures, and facilities or specify a method of construction in whole or in part, such facilities and methods shall be considered to be part of the 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 as for the execution of the Work.

GC 3.4 Document Review

The Contractor shall review the Contract Documents and shall promptly report to the Owner and error, inconsistency, or omission the Contractor may discover, Such review by the contractor shall be to the best of the contractor's knowledge, information, and belief and in making such review the Contractor does not assume any responsibility to the Owner for the accuracy of the review. The Contractor shall not be liable for damage or costs resulting from such errors. Inconsistencies, or omissions in the Contract Documents, which the Contractor did not discover. If the Contractor does discover and error, inconsistency, or omission in the Contract Documents, the Contractor shall proceed with the work affected until the Contractor has received corrected or missing information form the Owner.

GC 3.5 Construction Schedule

3.5.1 The Contractor shall:

- 3.5.1.1 prepare and submit to the Owner prior to the first application for payment, a construction schedule that indicates the timing of the major activities or the Work and provides sufficient detail of the critical events and their inter-relationship to demonstrate the Work will be performed in conformity with the Contract Time;
- 3.5.1.2 monitor the progress of the Work relative to the construction schedule and update the schedule on a monthly basis or as a stipulated by the Contract Documents; and
- 3.5.1.3 advise the Owner of any revisions required to the schedule as the result of extensions of the Contract Time as provided in Part 6 of the General Conditions – Changes in the Work.

GC 3.6 Construction Safety

Subject to paragraph 3.2.2.2 of GC 3.2 – Construction by Owner or Other Contractors, the Contractor shall be solely responsible for construction safety at the place of the Work and for compliance with the rules, regulations, and practises required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Work.

GC 3.7 Supervision

The contractor employs a competent supervisor and necessary assistants who are in attendance at the Place of Work while work is being performed. This supervisor shall represent the Contractor at the Place of Work and notices and instructions given to the supervisor by the Owner shall be held to have been received by the Contractor. This supervisor is _____.

GC 3.8 Subcontractors and Suppliers

- 3.8.1 The Contractor shall preserve and protect the rights of the parties under the Contract with respect to work to be performed under subcontract, and shall:
 - 3.8.1.1 enter into contracts or written agreements with Subcontractors and Suppliers to require them to perform their work as provided in the Contract Documents;
 - 3.8.1.2 incorporate the terms and conditions of the Contract Documents into all contracts or written agreements with Subcontractors and Suppliers; and
 - 3.8.1.3 be fully responsible to the Owner for acts and omissions of Subcontractors, Suppliers, and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the Contractor.
- 3.8.2 The contractor shall indicate in writing, at the request of the Owner, those Subcontractors or Suppliers whose bids have been received by the Contractor which the Contractor would be prepared to accept for the performance of a portion of the Work. Should the owner not object before signing the Contract, the Contractor shall employ those Subcontractors or Suppliers so identified by the Contractor in writing for the performance of that portion of the Work to which their bid applies.
- 3.8.3 The owner may, for reasonable cause, at any time before the Owner has signed the Contract, object to the use of a proposed Subcontractor or Supplier and require the Contractor to employ one of the other subcontract bidders.
- 3.8.4 If the owner requires the contractor to change a proposed Subcontractor or Supplier, the contract Price and Contract Time shall be adjusted by the differences occasioned by such required change, provided there is an increase in Contractor cost or time required to complete the project.

- 3.8.5 The contractor shall not be required to employ as a Subcontractor or Supplier a person or firm to whom the Contractor may reasonably object.
- 3.8.6 The Owner may **not** provide to a Subcontractor or Supplier information as to the percentage of the Subcontractor's or Supplier's work which has been certified for payment.

GC 3.9 Labour and Products

- 3.9.1 The contractor shall provide and pay for labour, Products , tools, construction machinery and equipment, water, heat light, power, transportation, and other facilities and other services necessary for the performance of the Work in accordance with the Contract.
- 3.9.2 Products provided shall be new. Products which are not specified shall be of a quality consistent with those specified and their use acceptable to the Owner.
- 3.9.3 The Contractor shall maintain good order and discipline among the Contractor's employees engaged on the Work and shall not employ on the Work anyone not skilled in the tasks assigned.

GC 3.10 Documents at the Site

The Contractor shall keep one copy of current Contract Documents, submittals, reports, and records of meetings at the Place of Work, in good order and available to the Owner.

GC 3.11 Shop Drawings

- 3.11.1 Shop drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures, Products and other data which the Contractor provides to illustrate details of a portion of the Work.
- 3.11.2 The contractor shall provide shop drawings as described in the Contract Documents or as the Owner may reasonably request.
- 3.11.3 The contractor shall review all shop drawings prior to submission to the Owner. The Contractor represents by this review that the Contractor has determined and verified all field measurements and field construction conditions, or will do so; Product requirements; catalogue numbers; and similar data and that the Contractor has checked and co-ordinated each shop drawing with the requirements of the Work and of the Contract documents. The contractor shall confirm shop review of each shop drawing by stamp, date, and signature of the person responsible. At the time of submission the Contractor shall notify the Owner in writing of any deviations on the shop drawings from the requirements of the Contract Documents.
- 3.11.4 The Contractor shall submit shop drawings to the Owner to review in orderly sequence and sufficiently in advance so as to cause no delay in the Work or in the work of other contractors. Upon request of the Contractor they shall jointly prepare a schedule of the dates for submission and return of shop drawings. Shop drawings which require approval of any legally constituted authority having jurisdiction shall be submitted to such authority by the Contractor for approval.
- 3.11.5 The Contractor shall submit shop drawings in the form specified or as the Owner may direct. The Owner will review and return shop drawings in accordance with the schedule agreed upon, or otherwise with reasonable promptness so as to cause no delay. The Owner's review is for conformity to the design concept and for general arrangement only. The Owner's review shall not relieve the Contractor of responsibility for errors or omissions in the shop drawings or for meeting all requirements of the Contract Documents, unless the Owner expressly notes the acceptance of a deviation on the shop drawings.

- 3.11.6 Upon the Owner's request, the Contractor shall revise and resubmit shop drawings which the Owner rejects as inconsistent with the Contract Documents unless otherwise directed by the Owner. The Contractor shall notify the Owner in writing of any revisions to the resubmission other than those requested by the owner. Should there be a disagreement as to the interpretation of these documents, an outside Consultant may be called upon to arbitrate, as agreed by both parties.

GC 3.12 Use of the Work

- 3.12.1 The Contractor shall confine construction machinery and equipment, storage of Products, and operations of employees to limits by laws, ordinance, permits, or the Contract Documents and shall not unreasonably encumber the Work with Products.
- 3.12.2 The contractor shall not load or permit to be loaded any part of the Work with a weight or force that will endanger the safety of the Work.

GC 3.13 Cutting and Remedial Work

- 3.13.1 The Contractor shall do the cutting and remedial work required to make the several parts of the Work come together properly.
- 3.13.2 The contractor shall co-ordinate the Work to ensure that this requirement is kept to a minimum.
- 3.13.3 Should the Owner, other contractors, or anyone employed by them be responsible for ill-timed work necessitating cutting or remedial work to be performed, the cost of such cutting or remedial work shall be valued as provided in GC 6.1 – Changes, GC 6.2 – Change Order, and GC 6.3 – Change Directive.
- 3.13.4 Cutting and remedial work shall be performed by specialists familiar with the Products affected and shall be performed in a manner to neither damage for endanger the Work.

GC 3.14 Cleanup

- 3.14.1 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.
- 3.14.2 The Contractor shall remove waste products and debris, other than that resulting from the work of the Owner, other contractors or their employees, and shall leave the Work clean and suitable for occupancy by the Owner before attainment of Substantial Performance of the Work. The contractor shall remove products, tools, construction machinery, and equipment not required for the performance of the remaining work.
- 3.14.3 Prior to application for the final certificate for payment, the Contractor shall remove products, tools, construction machinery and equipment, and waste products and debris, other than that resulting from the work of the Owner, other contractors or their employees.

Part 4 – Allowances

GC 4.1 Cash Allowances

- 4.1.1 The Contract Price includes cash allowances stated in the Contract Documents, which allowances shall be expended as the Owner directs in consultation with the Contractor.
- 4.1.2 Cash allowances cover the net cost to the Contractor of services, Products, construction machinery and equipment, freight, unloading, handling, storage, installation, and other authorized

expenses incurred in performance of the work stipulated under the cash allowances, but do not include any Value Added Taxes payable by the Owner to the Contractor.

- 4.1.3 The contract Price, and not the cash allowances, includes the Contractor's overhead and profit in connection with such cash allowances.
- 4.1.4 Where costs under a cash allowance exceed the amount of the allowances, the Contractor shall be compensated for any excess incurred and substantiated plus an amount for overhead and profit as set out in the Contract Documents.
- 4.1.5 The Contract price shall be adjusted by Change Order to provide for any difference between the actual cost and each cash allowance.
- 4.1.6 The value of the work performed under a cash allowance is eligible to be included in progress payments.
- 4.1.7 The Contractor and the Owner shall jointly prepare a schedule that shows when the Owner must authorize ordering of items called for under cash allowances to avoid delay in the progress of the Work.

GC 4.2 Contingency Allowance

- 4.2.1 The Contract Price includes the contingency allowance, if any, stated in the Contract Documents.
- 4.2.2 Expenditures under the contingency allowance shall be authorized as provided in GC 6.1 – Changes, GC 6.2 – Change Order, and GC 6.3 Change Directive.
- 4.2.3 The Contract Price shall be adjusted by Change Order to provide for any difference between the expenditures authorized under paragraph 4.2.2 and the contingency allowance.

Part 5 – Payment

GC 5.1 Financing Information Required of the Owner

- 5.1.1 The Owner shall, at the request of the Contractor, prior to the execution of the Agreement, and/or promptly from time to time thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfil the Owner's obligations under the Contract.
- 5.1.2 The Owner shall notify the Contractor in writing of any material change in the Owner's financial arrangements during the performance of the Contract.

GC 5.2 Applications for Progress Payment

- 5.2.1 Applications for payment on account as provided in Article 5 of the Agreement – Payment may be made monthly as the Work progresses.
- 5.2.2 Applications for payment shall be dated the last day of the agreed monthly payment period and the amount claimed shall be for the value, proportionate to the amount of the Contract, of work performed and Products delivered to the Place of the Work at that date.
- 5.2.3 The contractor shall submit to the Owner, at least 14 days prior to the first application for payment, a schedule of values for the parts of the Work, as applicable, aggregating the total amount of the Contract Price, so as to facilitate evaluation of applications for payment.

- 5.2.4 The schedule of values shall be made out in such form and supported by such evidence as the Owner may reasonably direct and when accepted by the Owner, shall be used as the basis for applications for payment, unless it is found to be in error.
- 5.2.5 The contractor shall include a statement based on the schedule of values with each application for payment.
- 5.2.6 Claims for Products delivered to the Place of Work 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.

GC 5.3 Progress Payment

The Owner shall make payment to the Contractor on account as provided in Article 5 of the Agreement – Payment no later than 30 days after the Invoice date, or as otherwise stipulated on the Invoice. If the Owner disputes the Invoice, dispute shall be made in writing no later than seven (7) days from the date of the Invoice, and may be amended upon agreement of both parties or as arbitrated by a neutral Consultant agreed upon by both parties. Regardless of disagreement on the Progress amount, the dispute shall be resolved so that payment will still be received by the Invoice due date. If payment is not made by this date, interest, as provided in Article 5.3 – Interest, will be applied, due and payable once the Invoice amount is agreed upon.

GC 5.4 Substantial Performance of the Work

- 5.4.1 When the Contractor considers that the Work is substantially performed, or if permitted by the lien legislation applicable to the Place of the Work a designated portion thereof which the Owner agrees to accept separately is substantially performed, the contractor shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected and apply for a review by the Owner to establish substantial Performance of the Work or substantial performance of the designated portion of the Work. Failure to include an item on the list does not alter the responsibility of the Contractor to complete the Contract.
- 5.4.2 No later than ten (10) days after the receipt of the Contractor's list and application, the Owner will review the Work to verify the validity of the application, and no later than seven (7) days after completing the review, will notify the Contractor whether the Work or the designated portion of the Work is substantially performed.
- 5.4.3 Immediately following the review of Substantial Performance of the Work, the contractor, in consultation with the Owner, will establish a reasonable date for the finishing the Work.

GC 5.5 Payment of Holdback Upon Substantial Performance of the Work

- 5.5.1 After verification of Substantial Performance of the Work, the Contractor shall:
 - 5.5.1.1 submit an application for payment of the holdback amount;
 - 5.5.1.2 submit a sworn statement that all accounts for labour, subcontracts, Products, construction machinery and equipment, and 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 for amounts properly retained as a holdback or as an identified amount in dispute.
- 5.5.2 Where the holdback amount has not been placed in a separate holdback account, the Owner shall, 10 days prior to the expiry of the holdback period stipulated in the lien legislation applicable

to the Place of the Work, place the holdback amount in a bank account in the joint names of the Owner and the Contractor.

- 5.5.3 The holdback amount authorized for payment is due and payable on the day following the expiration of the holdback period stipulated in the lien legislation to the Place of Work. Where lien legislation does not exist or apply, the holdback amount shall be due and payable with other legislation, industry practise, or provision which may be agreed to between the parties. The owner may retain out of the holdback amount any sums required by law to satisfy any liens against the Work or, if permitted by the lien legislation applicable to the Place of the Work, other third party monetary claims against the Contractor which are enforceable against the Owner.

GC 5.6 Progressive Release of Holdback

- 5.6.1 Where legislation permits and where, upon application by the Contractor, the work of a subcontractor or Supplier has been substantially performed, the Owner shall pay the Contractor the holdback amount retained for such subcontract work, or for the Products supplied by such Supplier, on the day following the expiration of the holdback period for such work stipulated in lien legislation applicable to the Place of the Work.
- 5.6.2 Notwithstanding the provisions of the preceding paragraph, the Contractor shall ensure that such subcontract work or Products is protected, pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed, regardless of whether or not such was apparent at the time of the Subcontractor's or Supplier's Substantial Completion.

GC 5.7 Final Payment

- 5.7.1 When the Contractor considers that the work is completed, the Contractor shall submit an application for final payment.
- 5.7.2 The owner will, no later than ten (10) days after the receipt of an application form the Contractor for final payment, review the Work to verify the validity of the application. The owner will, no later than seven (7) days after reviewing the Work, notify the Contractor that the application is valid or give reasons why it is not valid. Failure to do so will assume that the work is completed satisfactorily and all payment becomes due and payable subject to Invoice conditions.
- 5.7.3 Subject to the provision of paragraph 10.4.1 of GC 10.4 – Workers' Compensation, and any lien legislation applicable to the Place of the Work, the Owner shall no later than five (5) days after finding the Contractor's application for final payment valid, issue final payment as provided in Article 5 of the Agreement – Payment.

GC 5.8 Withholding of Payment

If because of climatic or other conditions reasonably beyond the control of the Contractor, there are items of work that cannot be performed, payment in full for that portion of the Work which has been performed shall not be withheld or delayed by the Owner on account thereof, but the Owner may withhold, until remaining portion of the Work is finished, only such amount that the Owner and Contractor jointly determine is sufficient and reasonable to cover the cost of performing such remaining work.

GC 5.9 Non-Conforming Work

No payments by the Owner under the Contract nor partial or entire use or occupancy of the Work by the Owner shall constitute an acceptance of any portion of the Work or Products which are not in accordance with the requirements of the Contract Documents.

Part 6 – Changes in the Work

GC 6.1 Changes

- 6.1.1 The Owner, without invalidating the contract, may make changes in the Work consisting of additions, deletions, or other revisions to the Work by Change order or Change Directive.
- 6.1.2 The Contractor shall not perform a change in the Work without a Change Order or a Change Directive

GC 6.2 Change Order

- 6.2.1 When a change in the Work is proposed or required, the owner shall provide a notice describing the proposed change in the Work to the Contractor. The Contractor shall present, in a form acceptable to the Owner, a method of adjustment or an amount of adjustment for the Contract Price, if any, and the adjustment in the Contract Time, if any, for the proposed change in the Work.
- 6.2.2 When the Owner and Contractor agree to the adjustments in the contract Price and Contract Time or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a Change Order, signed by the Owner and Contractor. The value of the work performed as the result of a Change Order shall be included in applications for progress payment.

GC 6.3 Change Directive

- 6.3.1 If the Owner requires the Contractor to proceed with a change in the Work prior to the Owner and the Contractor agreeing upon the adjustment in the Contract Price and Contract Time, the Owner shall issue a Change Directive.
- 6.3.2 Upon receipt of a Change Directive, the Contractor shall proceed promptly with the change in the Work. The Adjustment in the Contract Price for a change carried out by way of a Change Directive shall be determined on the basis of the cost of expenditures and savings to perform the work attributable to the change. If a change in the Work results in a net increase in the Contract Price, an allowance for overhead and profit shall be included.
- 6.3.3 If a change in the Work results in a net decrease in the Contract Price, the amount of the credit shall be the net cost, without deduction for overhead or profit.
- 6.3.4 The Contractor shall keep and present, in such form as the Owner may require and request in advance, an itemized accounting of the cost of expenditures and savings referred to in paragraph 6.3.2 together with supporting data, The cost of performing the work attributable to the Change Directive shall be limited to the actual cost of all of the following:
 - 6.3.4.1 wages and benefits paid for labour in the direct employ of the Contractor;
 - 6.3.4.2 salaries, wages, and benefits of the Contractor's office personnel engaged in a technical capacity and other personnel at shops or on the road, engaged in expediting the production or transportation of materials and equipment;
 - 6.3.4.3 contributions, assessments, or taxes incurred fro such items as unemployment insurance, provincial health insurance, workers' compensation, and Canada or Quebec Pension Plan, insofar as such cost is based on wages, salaries, or other remuneration paid to employees of the Contractor and included in the cost of the work as provided in paragraphs 6.3.4.1 and 6.6.4.2;
 - 6.3.4.4 travel and sustenance expenses of the Contractor's personnel described in paragraphs 6.3.4.1 and 6.3.4.2;

- 6.3.4.5 the cost of all Products including transportation thereof;
 - 6.3.4.6 the cost of materials, supplies, equipment, temporary services and facilities, and hand tools not owned by the workers, including transportation and maintenance thereof, which are consumed; and cost less salvage value on such items used but not consumed, which remain property of the Contractor;
 - 6.3.4.7 rental costs of all tools, machinery, and equipment, exclusive of hand tools, whether rented from or provided by the Contractor or others, including installation, minor repairs and replacements, dismantling, removal, transportation and delivery thereof;
 - 6.3.4.8 deposits lost;
 - 6.3.4.9 the amounts of all subcontracts;
 - 6.3.4.10 the cost of quality assurance such as independent inspection and testing services;
 - 6.3.4.11 charges levied by authorities having jurisdiction at the Place of the Work;
 - 6.3.4.12 royalties, patent license fees, and damages for infringement or patents and cost of defending suits therefore subject always to the Contractor's obligations to indemnify the Owner as provided in paragraph 10.3.1 of GC 10.3 – Patent Fees;
 - 6.3.4.13 any adjustment in premiums for all bonds and insurance which the Contractor is required, by the Contract documents, to purchase and maintain;
 - 6.3.4.14 any adjustment in taxes and duties for which the Contractor is liable;
 - 6.3.4.15 charges for long distance telephone and facsimile communications, courier services, expressage, and petty cash items incurred;
 - 6.3.4.16 the cost of removal and disposal of waste products and debris;
 - 6.3.4.17 cost incurred due to emergencies affecting the safety of persons or property;
- 6.3.5 Pending determination of the final amount of a Change Directive, the undisputed value of the work performed as the result of a Change Directive is eligible to be included in progress payments.
- 6.3.6 If the Owner and Contractor do not agree on the proposed adjustment in the Contract Time or the method of determining it, the adjustment shall be referred to a Consultant for determination.
- 6.3.7 If at any time after the start of the work directed by a Change Directive, the Owner and the Contractor reach an agreement on the adjustment to the Contract Price and to the Contract Time, this agreement shall be recorded in a Change Order signed by the Owner and Contractor.

GC 6.4 Concealed or Unknown Conditions

- 6.4.1 If the Owner or Contractor discover conditions at the Place of the Work which are:
- 6.4.1.1 subsurface or otherwise concealed physical conditions which existed before the commencement of the Work which differ materially from those indicated in the Contract Documents, or
 - 6.4.1.2 physical conditions of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents,
- then the observing party shall notify the other party in writing before conditions are disturbed and in no event later than five (5) working days after first observance.
- 6.4.2 If upon a mutual investigation there is a finding that the conditions differ materially and this would cause an increase or decrease in the Contractor's cost or time to perform the Work, the Owner shall issue appropriate instructions for a change in the Work as provided in GC 6.2 – Change Order or HC 6.3 – Change Directive.
- 6.4.2.1.1 If it is necessary to call in outside consultation in order to determine the materiality of such conditions, then the Owner shall pay for the costs of such Consultant.

- 6.4.3 If the findings show that the conditions at the Place of the Work are not materially different or that no change in the Contract Price or the Contract Time is justified, these shall be recorded for both parties in writing. In the event that such finding is determined by an outside consultant, then this report shall be made available to the Contractor, but shall belong to the Owner.

GC 6.5 Delays

- 6.5.1 If the Contractor is delayed in the performance of the Work by an action or omission of the Owner, or any one employed or engaged by them directly or indirectly, contrary to the provisions of the Contract Documents, the Contract Time shall be extended for such reasonable time as may be required in consultation between the Owner and Contractor. The Contractor shall be reimbursed by the Owner for reasonable costs incurred by the Contractor as the result of such delay.
- 6.5.2 If the contractor is delayed in the performance of the Work by a stop work order issued by a court or other public authority and providing that such work order was not issued as a result of an act or fault of the Contractor or any person employed or engaged by the Contractor directly or indirectly, then the Contract Time shall be extended for such reasonable time as may be recommended in joint consultation between the Contractor and Owner. The Contractor shall be reimbursed by the Owner for reasonable costs incurred by the Contractor as the result of such delay.
- 6.5.3 If the Contractor is delayed in the performance of the Work by labour disputes, strikes, lock-outs (including lock-outs decreed or recommended by its members by a recognized contractors' association, of which the Contractor is a member or to which the Contractor is otherwise bound), fire, unusual delay by common carriers or unavoidable casualties, or without limit of any of the foregoing, by a cause beyond the Contractor's control, then the Contract Time shall be extended for such reasonable time as the Contractor shall recommend in consultation with the Owner. The extension shall not be less than the time lost as the result of the event causing the delay, unless the Contractor agrees to a shorter extension. The Contractor shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the Owner.
- 6.5.4 No extension shall be made for delay unless notice in writing of claim is give to the Owner not later than 10 working days after the commencement of delay, providing however, that in the case of a continuing cause of delay only one notice of claim shall be necessary.

Part 7 – Default Notice

GC 7.1 Owner's Right to Perform the Work, Stop the Work, or Terminate the Contract

- 7.1.1 If the contractor should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the Contractor's insolvency, or if a receiver is appointed because of the Contractor's insolvency, the Owner may, without prejudice to any other right or remedy the Owner may have, by giving the Contractor or receiver or trustee notice in writing, terminate the contract.
- 7.1.2 If the Contractor should neglect to prosecute the Work properly or otherwise fails to comply with the requirements of the Contract to a substantial degree and if the Owner has given written notice to the Contractor that sufficient cause exists to justify such action, the Owner may, without prejudice to any other right or remedy the Owner may have, 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 in five (5) working days immediately following the receipt of such notice.
- 7.1.3 If the default cannot be corrected in the five (5) working days specified, the Contractor shall be in compliance with the Owner's instructions if the Contractor:
- 7.1.3.1 Commences the correction of the default within the specified time, and

- 7.1.3.2 Provides the Owner with a reasonable schedule for such correction, and
- 7.1.3.3 Corrects the default in accordance with such schedule.
- 7.1.4 If the Contractor fails to correct the default in the time specified or subsequently agreed upon, without prejudice to any other right or remedy the Owner may have, the Owner may:
 - 7.1.4.1 Correct such default and deduct the cost thereof from any payment then or thereafter due the Contractor provided that certification of such costs are provided to the Contractor, or
 - 7.1.4.2 Terminate the Contractor's right to continue with the Work in whole or in part or terminate the Contract.
- 7.1.5 If the owner terminates the contractor's right to continue with the Work as provided in paragraphs 7.1.1 and 7.1.4, the Owner shall be entitled to:
 - 7.1.5.1 Take possession of the Work and Products; utilize the construction machinery and equipment; subject to the rights of third parties, finish the Work by whatever method the Owner may consider expedient, but without undue delay or expense, and
 - 7.1.5.2 Withhold further payment to the Contractor until a final Invoice for payment is issued, and
 - 7.1.5.3 Charge against the Contract the amount by which the full cost of finishing the Work as certified by an outside consultant, including costs for such Consultant's services and a reasonable allowance as determined by the Consultant to cover the cost of corrections to work performed by the Contractor that may be required under GC 12.3 – Warranty; however, if the cost of finishing the Work is less than the unpaid balance of the Contract Price, the Owner shall pay the contractor the difference, and
 - 7.1.5.4 On expiry of the warranty period if the cost of such corrections is less than the allowance, pay the Contractor the difference.
- 7.1.6 The contractor's obligation under the Contract as to quality, correction, and warranty of the Work performed by the Contractor up to the time of termination shall continue in force after such termination.

GC 7.2 Contractor's Right to Stop the Work or Terminate the Contract

- 7.2.1 If the owner should be adjudged bankrupt, or makes a general assignment for the benefit of creditor because of the Owner's insolvency, or if a receiver is appointed because of the Owners insolvency, the Contractor may, without prejudice to any other right or remedy the Contractor may have, by giving the Owner r receiver or trustee in bankruptcy notice in writing, terminate the Contract.
- 7.2.2 If the Work should be stopped or otherwise delayed for a period of 21 days or more under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the Contractor or of anyone directly or indirectly employed or engaged by the Contractor, the Contractor may, without prejudice to any other right or remedy the Contractor may have, by giving the Owner notice in writing, terminate the contract.
- 7.2.3 The Contractor may notify the Owner in writing that the Owner is in default of the Owner's contractual obligations if:
 - 7.2.3.1 the Owner fails to furnish, when so requested by the Contractor, reasonable evidence that financial arrangements have been made to fulfil the Owner's obligations under the Contract, or
 - 7.2.3.2 the Owner fails to pay the Contractor when due the amounts Invoiced as per **GC 5.3 Progress Payment or awarded by arbitration or court, or**
 - 7.2.3.3 the Owner violates the requirements of the Contract to a substantial degree.
- 7.2.4 The contractor's notice in writing to the Owner provided under paragraph 7.2.3 shall advise that if the default is not corrected within five (5) working days following the receipt of the notice in

writing, the contractor may, without prejudice to any other right or remedy the Contractor may have, stop the Work or terminate the Contract.

- 7.2.5 If the Contractor stops work under the conditions set out above, the Contractor shall be entitled to be paid for all work performed including reasonable profit, for loss sustained upon Products and construction machinery and equipment, and other such damages as the Contractor may have sustained as a result of the stop work action, including extra cost for re-hiring and/or increases in manpower and/or material costs due to delay of Contract Time. Contract Time shall be adjusted accordingly, as per GC 6.5.1 – Delays.
- 7.2.6 If the Contractor terminates the Contract under the conditions set out above, the Contractor shall be entitled to be paid for all work performed including reasonable profit, for loss sustained upon Products and construction machinery and equipment, and other such damages as the Contractor may have sustained as a result of the termination of the Contract.

Part 8 – Dispute Resolution

GC 8.1 Negotiation, Mediation, and Arbitration

- 8.1.1 If a dispute is not resolved promptly, the Owner and Contractor may agree to continue work to continue work so as to prevent delays pending settlement of the dispute. In such case, Owner's instructions shall be followed. The parties shall act immediately according to such instructions, it being understood that neither party will jeopardize any claim the party may have. If it is subsequently determined that such instructions were in error or in variance with the contract documents, then the Owner shall pay the Contractor costs incurred by the Contractor in carrying out such instructions which the Contractor was required to do beyond what the contract documents correctly understood and interpreted would have required, including costs from interruption of the Work.
- 8.1.2 The parties shall appoint a Project Mediator
- 8.1.2.1 within 30 days after the Contract was awarded, or
 - 8.1.2.2 if the parties neglected to make an appointment within the 30 day period, within 15 days after either party by notice in writing requests that the Project Mediator be appointed.
- 8.1.3 Within fifteen (15) working days after the finding of an item of dispute, the party disputing such finding must send a notice of dispute in writing to the other party, which contains the particulars of the matter in dispute and the relevant provisions of the Contract Documents. The responding party shall send a notice of reply in writing within ten (10) working days after receipt of the notice of dispute, setting out particulars of this response and any relevant provisions of the Contract Documents.
- 8.1.4 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information, and documents to facilitate these negotiations.
- 8.1.5 After a period of ten (10) working days following receipt of a responding party's notice of reply under paragraph 8.1.3, the parties shall request the Project Mediator to assist the parties to reach agreement on any unresolved dispute.
- 8.1.6 If the dispute has not been resolved within 10 working days after the Project Mediator was requested under paragraph 8.1.5 or within such further period agreed by the parties, the Project Mediator shall terminate the mediated negotiations by giving notice in writing to both parties.

- 8.1.7 By giving notice in writing to the other party, not later than 10 working days after the date of termination of the mediated negotiations under paragraph 8.1.6, either party may refer the dispute to be finally resolved by arbitration. The arbitration shall be conducted in the jurisdiction of the Place of the Work.
- 8.1.8 On expiration of the 10 working days, the arbitrations agreement under 8.1.7 is not binding on the parties and, if a notice is not given under paragraph 8.1.7 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.
- 8.1.9 If neither party requires by notice in writing given within 10 working days of the date of notice requesting arbitration in paragraph 8.1.7 that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.1.7 shall be
- 8.1.9.1 held in abeyance until
- substantial Performance of the Work,
 - the Contract has been terminated, or
 - The contractor has abandoned the Work,
- Whichever is earlier, and
- 8.1.9.2 Consolidated into a single arbitration under the rules governing arbitration under paragraph 8.1.7

GC 8.2 Retention of Rights

- 8.2.1 It is agreed that no act by either party shall be construed as a renunciation or waiver of any rights or recourses, provided the party has given notices required under Part 8 of the General Conditions – Dispute Resolution and has carried out the instructions as provided in paragraph 8.1.1, should such instructions exist.
- 8.2.2 Nothing in Part 8 of the General Conditions – Dispute Resolution shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the Place of the Work and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.1.7 to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

Part 9 – Protection of Persons and Property

GC 9.1 Protection of Work and Property

- 9.1.1 The contractor shall protect the Work and the Owner's property and property adjacent to the Place of the Work from damage which may arise as the result of the Contractor's operations under the Contract, and shall be responsible for such damage, except damage which occurs as the result of:
- 9.1.1.1 errors in the Contract Documents;
- 9.1.1.2 acts or omissions by the Owner, other contractors, their agents and employees, and any outside agencies not directly employed by the Contractor.
- 9.1.2 Should the Contractor in the performance of the Contract damage the Work, the Owner's property, or property adjacent to the Place of the Work, the Contractor shall be responsible for making good such damage at the contractor's expense.
- 9.1.3 Should damage occur to the Work or Owner's property for which the Contractor is not responsible, as provided in paragraph 9.1.1, the contractor shall make good such damage to the Work and, if the Owner so directs, to the Owner's property. The Contract Price and Contract Time

shall be adjusted as provided in GC 6.1 – Changes, GC 6.2 – Change Order, and GC 6.3 – Change Directive.

GC 9.2 Damages and Mutual Responsibility

- 9.2.1 If either party to the Contract should suffer damage in any manner because of any wrongful act or neglect of the other party or of anyone for whom the other party is responsible in law, then that party shall be reimbursed by the other party for such damage. The reimbursing 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.
- 9.2.2 Claims for damages under paragraph 9.2.1 shall be made in writing to the party liable within reasonable time after the first observance of such damage and if undisputed shall be confirmed by Change Order. Disputed claims shall be resolved as set out in part 8 of the General Conditions – Dispute Resolution.
- 9.2.3 If the Contractor has caused damage to the work of another contractor on the Project, the Contractor agrees upon due notice to settle with the other contractor by negotiation or arbitration. If the other contractor makes a claim against the Owner on account of damage alleged to have been so sustained, the Owner shall notify the Contractor and may require the Contractor to defend the action at the Contractor's expense. The Contractor shall satisfy a final order or judgement against the Owner and pay costs incurred by the Owner arising from such action.
- 9.2.4 If the contractor becomes liable to pay or satisfy a final order, judgement, 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 judgement to any and all courts of competent jurisdiction.

GC 9.3 Toxic and Hazardous Substances and Materials

- 9.3.1 For the purposes of applicable environmental legislation, the Owner shall be deemed to have control and management of the Place of the Work with respect to existing conditions.
- 9.3.2 Prior to the Contractor commencing the Work, the Owner shall:
- 9.3.2.1 take all reasonable steps to determine whether any toxic or hazardous substances or materials are present at the Place of the Work, and
 - 9.3.2.2 provide the Contractor with a written list of any such substances and materials.
- 9.3.3 The Owner shall take all reasonable steps to ensure that no person suffers injury, sickness, or death and that no property is injured or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances or materials which were at the Place of the Work prior to the Contractor commencing the Work.
- 9.3.4 Unless the Contract expressly provides otherwise, the Owner shall be responsible for taking all necessary steps, in accordance with legal requirements, to dispose of, store or otherwise render harmless toxic or hazardous materials or substances which were present at the place of the Work prior to the Contractor commencing the Work.
- 9.3.5 If the Contractor
- 9.3.5.1 Encounters toxic or hazardous substances or materials at the Place of the Work, or
 - 9.3.5.2 Has reasonable grounds to believe that toxic or hazardous substances or materials are present at the Place of the Work,

which were not disclosed by the Owner, as required under paragraph 9.3.2, or which were disclosed but have not been dealt with as required under paragraph 9.3.4, the Contractor shall

9.3.5.3 take all reasonable steps, including stopping the Work, to ensure that no person suffers injury, sickness, or death and that no property is injured or destroyed as a result of exposure to or the presence of the substances or materials, and

9.3.5.4 immediately report the circumstances to the Owner in writing.

9.3.6 If the Contractor is delayed in performance of the Work or incurs additional costs as a result of taking steps required under paragraph 9.3.5.3, the Contract Time shall be extended for such reasonable time as the Contractor shall recommend in consultation with the Owner and the Contractor shall be reimbursed for reasonable costs incurred as a result of the delay as a result of taking those steps, including, but not limited to, increases in labour costs due to delays.

9.3.7 If necessary, the Owner and Contractor may select and rely upon the advice of an independent expert in dispute under paragraph 9.3.6 and, in that case, the expert shall be deemed to have been jointly retained by the Owner and the Contractor and shall be jointly paid by them.

9.3.8 The Owner shall indemnify and hold harmless the Contractor, their agents and employees, from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of or resulting from exposure to, or from the presence of, toxic or hazardous substances or materials which were at the Place of the Work prior to the Contractor commencing the Work. This obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity set out in GC 12.1 – Indemnification or which otherwise exist respecting a person or party described in this paragraph.

9.3.9 GC 9.3 – Toxic and Hazardous Substances and Materials shall govern over the provisions of paragraph 1.3.1 of GC 1.3 – Rights and Remedies or GC 9.2 – Damages and Mutual Responsibility.

Part 10 Governing Regulations

GC 10.1 Taxes and Duties

10.1.1 The contract price shall include all taxes and custom duties in effect at the time of the bid closing except for Value Added Taxes payable by the Owner to the Contractor as stipulated in Article 4 of the Agreement – Contract Price.

10.1.2 Any increase or decrease in costs to the Contractor due to changes in such including taxes and duties after the time of the bid closing shall increase or decrease the Contract Price accordingly.

GC 10.2 Laws, Notices, Permits and Fees

10.2.1 The laws of the Place of the Work shall govern the Work

10.2.2 The owner shall obtain and pay for the building permit, permanent easements, and rights of servitude. The contractor shall be responsible for permits, licenses, or certificates necessary for the performance of the Work which were in force at the date of bid closing.

10.2.3 The Contractor shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the Work and which relate to the Work, to the preservation of the public health, and to construction safety.

10.2.4 The contractor shall not be responsible for verifying that the contract documents are in compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the Work.

If the Contract Documents are at variance therewith, or if, subsequent to the date of bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the contract Documents, the Contract shall notify the Owner in writing requesting direction immediately upon such variance or change become known. The owner will make the changes required to the Contract Documents as provided in GC 6.1 – Changes, GC 6.2 – Change Order, and GC 6.3 – Change Directive.

- 10.2.5 If the contractor fails to notify the Owner and fails to obtain direction as required in paragraph 10.2.4, and performs work knowing it to be contrary to any laws, ordinances, rules, regulations, or codes, the Contractor shall be responsible for and shall correct the violations thereof; and shall bear the costs, expenses, and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations, or codes.

GC 10.3 Patent Fees

- 10.3.1 The Contractor shall pay the royalties and patent license fees required for the performance of the Contract. 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 a patent invention by the Contractor or anyone whose acts the Contractor may be liable.
- 10.3.2 The Owner shall hold the Contractor 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 a patent invention in executing anything for the purpose of the Contract, the model, plan, or design of which was supplied as part of the Contract Documents.

GC 10.4 Worker's Compensation

- 10.4.1 Prior to commencing the Work, Substantial Performance of the Work, and the issuance of the final payment, The Contractor shall provide evidence of compliance with workers' compensation legislation at the Place of the Work, including payments due thereunder.
- 10.4.2 At any time during the term of the Contract, when requested by the Owner, the Contractor shall provide such evidence of compliance by the Contractor and Subcontractors.

Part 11 – Insurance – Bonds

GC 11.1 Insurance

- 11.1.1 Without restricting the generality of GC 12.1 – indemnification, the Contractor shall provide, maintain, and pay for the insurance coverages specified in GC 11.1 – Insurance. Unless otherwise stipulated, the duration of each insurance policy shall be from the date of commencement of the Work and until the date of the final invoice for payment. Prior to commencement of the Work and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the Contractor shall promptly provide the Owner with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer with copies of amending endorsements.

11.1.1.1 General liability Insurance:

General liability insurance shall be in the joint names of the Contractor and the Owner, with limits of not less than \$2,000,000 per occurrence and with a property damage deductible not exceeding \$2,500. The insurance coverage shall not be less than the insurance required by IBC Form 2100, or its equivalent replacement, provided that IDC Form 2100 shall contain the latest edition of the relevant CCDC endorsement form. To achieve the desired limit, umbrella,

or excess liability insurance may be used. All liability coverage shall be maintained for completed operations hazards from the date of Substantial Performance of the Work, as set out in the Certificate of Substantial Performance of the Work. Where the contractor maintains a single, blanket policy, the addition of the Owner and the Consultant is limited to liability arising out of the Project and all operations necessary or incidental thereto. The policy shall be endorsed to provide the owner with not less than 30 days notice in writing in advance of any cancellation, and of change or amendment restricting coverage.

11.1.1.2 Automobile Liability Insurance:

Automobile liability insurance in respect of licensed vehicles shall have limits of not less than \$2,000,000 inclusive per occurrence for bodily injury, death, and damages to property, covering all licensed vehicles owned or leased by the Contractor.

11.1.1.3 Property and Boiler and Machinery Insurance:

11.1.1.4 "All risks" property insurance held by the contractor shall insure for no less than the sum amount of the Contract Price and the full value, as stated in the Supplementary Conditions, of Products that are specified to be provided by the Owner of incorporation into the Work, with a deductible not exceeding \$2500. The insurance coverage shall be maintained continuously until 10 days after the date of the final invoice for payment.