



**Portugal Gove  
St. Philip's**

**INVITATION TO TENDER**

**For**

**DOGBERRY HILL ROAD UPGRADES**

**PORTUGAL COVE-ST. PHILIP'S**

**2023**

**PCSP-PW-2023-01**

**DOGBERRY HILL ROAD UPGRADES**

Tender Opening: September 7<sup>th</sup>, 2:30 pm Newfoundland Time

Tender Closing: September 7<sup>th</sup>, 2:00 pm Newfoundland Time

These project documents have been prepared for use with and require being read in conjunction with the Municipal Water, Sewer and Roads Master Construction Specifications, latest revision, as published by the Department of Municipal Affairs, Province of Newfoundland and Labrador. This publication is available on the Department's website under Publications at the following link:

[http://www.mae.gov.nl.ca/capital\\_works/road\\_specifications.html](http://www.mae.gov.nl.ca/capital_works/road_specifications.html)

This is a unit price contract and final quantities may vary. There shall be no adjustments of unit prices for quantities that exceed , or are less than those bids.

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## DESCRIPTION OF WORK

Work under this contract includes the repair of asphalt within the Town of Portugal Cove-St. Philip's. Some sites involve multiple areas for repair.

The scope of repairs includes the following:

- Removal and disposal of old asphalt.
- Removal of unsuitable subgrade, subbase, and base materials.
- Preparation of subgrade.
- Placement and preparation of subbase and base materials.
  - 200mm Class "B"
  - 100mm Class "A"
- Placement of base course and surface course asphalt (40mm lifts, 80mm total).
  - Paving width to be 7.5m, to match existing.
- All driveways to be saw cut in straight lines, uniform in width per driveway, no less than 0.5m
  - Finish grade of new asphalt to replicate existing, to prevent modifications to existing driveways.
- Repair of shoulder to 0.5m width and 0.5m rounding.
- Shouldering along the shoulder of roadway.
- No provision for curb, gutter, or sidewalk.
- Placement of speed hump at location to be identified. As per Transportation Association of Canadas Guidelines for Traffic Calming. Onto surface course asphalt, this item will not be placed onto base asphalt.
  - Placement not to take place on 1.5m walkway.
- All work performed must be inspected by a third party to ensure quality control of materials and construction processes.
  - This will include field and laboratory testing of materials such as but not limited to asphalt and granular materials.
  - All inspection work and reports must be sent to the Town representative for acceptance.
- Must provide all training and certificates to the Towns OHS representative prior to commencement of work. Failure to do so may result in no work being allowed until completed.
  - Must comply with NL OHS legislation during entirety of work being performed.

## INSTRUCTION TO BIDDERS

### 1. TENDERS

- a. Envelopes containing the Tender are to be clearly marked and forwarded to the Owner at the below address:

Tender for  
Town of Portugal Cove-St. Philip's  
1119 Thorburn Road Portugal Cove-St. Philip's, NL  
Attn: Public Works Manager  
Dogberry Hill Road Upgrades – PCSP-PW-2023-01

The name and address of the Bidder and the closing time must be shown on the envelope.

- b. Tenders must be received at the above address on or before the exact closing time, (2:00 p.m. NST) and date (September 7th, 2023) indicated in the advertisement. **TENDERS RECEIVED 2:00 p.m. NST WILL NOT BE TAKEN INTO CONSIDERATION.**
- c. The Form of Agreement is to be included with the Contract Documents at the time of tendering. This information is for Bidders and **shall not** be completed at the time of tendering.
- d. Before submitting a tender, tenderers shall carefully examine the Contract Documents and the site of the proposed work and fully inform themselves of the existing conditions and limitations. No subsequent allowance under the Contract Documents will be considered for any Bidder who had failed to become familiar with all aspects of the work.
- e. The Town will not defray any expenses incurred by the tenderers in the preparation and submission of their tenders.

### 2. TENDER DOCUMENTS

- a. The Tender Documents consist of the Instructions to Bidders, Tender Bid Form, Form of Agreement and any Amendments to the Contract Documents issued during the tender period.
- b. Every interpretation of or addition to the Contract Documents to be considered a valid part of the Contract Documents will be issued in the form of a written addendum.

### 3. TENDER SURETY AND BONDING

- a. Bidding Security

Every tenderer shall submit with their Tender, a bid bond issued by an approved Surety Company licensed to do business in the Province of Newfoundland and made out in favor of the Town of Portugal Cove-St. Philip's.

The bid bond shall be at least ten percent (10%) of the tendered amount. No bidding security will be required for a tendered amount of less than \$25,000 unless specifically called for elsewhere in the tender document. An approved certified cheque may be substituted in lieu of the bid bond. The bidding security will be returned upon receipt of the Performance and Labour and Materials Bonds.

The terms of the bid security will be invoked, and the amount retained by the Owner, if the Bidder fails to enter into an agreement when notified of the award of the work within the tender validity period; or fails to provide the required insurance and commence work within thirty (30) days; or fails to provide the Performance and Labour and Materials Bonds in the amount and within the period specified.

b. Performance Bond

A Performance Bond will be required in the amount of fifty percent (50%) of the contract price. The Performance Security is to be received not later than two (2) weeks after the award of the contract by the letter of intent and prior to the formal execution of the agreement. No work is to be undertaken until the Performance Security has been received. Performance Security will not be required for a contract value of less than \$25,000.

In lieu of the Performance Bond, the Town may accept at its sole discretion an approved certified cheque for ten percent (10%) of the tendered amount. The cheque will be retained until satisfactory completion of the work including the guarantee period, after which this amount will be returned to the Contractor together with the accrued interest thereon at the current bank rate.

c. Labour and Materials Payment Bond

A Labour and Materials Payment Bond will be required in the amount of fifty percent (50%) of the contract price. The Labour and Materials Payment Bond is to be received not later than two (2) weeks after the award of the contract by the letter of intent and prior to the execution of the formal agreement. No work is to be undertaken until the Labour and Materials security has been received. Labour and Materials security will not be required for a contract valued at less than \$25,000. For contracts under \$50,000 only, In lieu of the Labour and Materials Bond, the Town may accept at its sole discretion an approved certified cheque of ten percent (10%) of the tendered amount. The cheque will be retained until substantial completion of the work as defined by the Mechanics Lien Act and upon receipt of a completed and approved Statutory Declaration Form. This security, if in the form of a cheque, will be returned to the Contractor together with the accrued interest thereon at the current bank rate.

4. COMPLETION OF TENDER FORM

- a. The Tender Form is to be completed in its entirety and submitted in the envelopes provided and the name of the Tenderer entered in the "Name of Bidder" space on the tender envelope. The Tenderer should retain a copy of the tender for its records.
- b. Type or legibly print the information required on the Tender Form.

- c. Type or legibly print the Tenderer's full business name and address in the spaces provided on the Tender Form

- d. Sign the Tender Form in the space provided as indicated:

In the case of a Sole Proprietorship, the Sole Proprietor will sign where indicated in the presence of a witness who will also sign where indicated. Insert the words "Sole Proprietor" next to the signature.

In the case of a Partnership, all partners will sign where indicated in the presence of a witness who will also sign where indicated. Insert the word "Partner" next to signatures.

In the case of a Limited Company, authorized signing officers in the presence of a witness who will also sign where indicated, and the corporate seal will be affixed. Indicate next to signature the corporate title of each signer.

- e. Spaces or Appendices will be provided with the Tender Form if required for a list of sub-contractors, use of bid depository, contractor's experience, and list of equipment. All such spaces and appendices must be completed in their entirety legibly by typewriter or by printing in ink.
- f. If it becomes necessary to correct an error made on the Tender Form, such correction must be initialed and dated by the person or persons signing the Tender Form.
- g. Failure to acknowledge receipt of addenda shall be considered an incomplete tender.

#### 5. UNACCEPTABLE TENDERS

- a. Tenders not submitted on the Tender Form provided will not be considered.
- b. Faxed tenders will not be accepted.
- c. Tenders received after the Tender closing time will not be considered.
- d. Incomplete Tenders will be rejected.
- e. Tenders not accompanied by an approved security in the correct amount will be rejected.
- f. Tenders containing qualification or additional clauses to the Tender Form will be rejected.
- g. Incorrectly prepared tenders may be rejected.
- h. For unit prices in a Stipulated Contract and under a Unit Price Contract, bidders are required to enter a unit price for each and every item bid; this includes lump sum bid items. If any unit price or lump sum price as a unit is omitted by the bidder, then the bid shall be considered incomplete and automatically rejected.

## 6. AMENDMENTS TO TENDER

Properly documented amendments to the Tender will be permitted up to the Tender closing time. Amendments must be submitted either via courier or in-person and be contained in a sealed envelope marked AMENDMENT – Dogberry Hill Road Upgrades – PCSP-PW-2023-01. It is the responsibility of the bidder to ensure receipt of an amendment by the Town.

## 7. WITHDRAWAL OF TENDERS AND AMENDMENTS

Bids may be withdrawn without penalty by courier or email (procurement@pcsp.ca) request if received prior to the time fixed for the opening. It is the responsibility of the bidder to ensure receipt by courier, fax or in person, by the Town.

## 8. SUBSTITUTION OF MATERIALS

Tenders shall be based upon using the materials or products as specified without substitution. Where two or more brand names are specified, the choice shall be left to the Contractor. Where only one brand name is stated there shall be no substitution.

## 9. USE OF BID DEPOSITORY

The attention of the Bidder is drawn to the fact that the Bid Depository of the Newfoundland and Labrador Construction Association will be used for the Trade as listed in Appendix N/A.

## 10. ACCEPTANCE OF TENDER

- a. The Town will not necessarily accept the lowest price nor any tender and reserves the right to cancel this solicitation at any time.
- b. The Town reserves the right to remove a portion of the work identified within from the work to be completed.
- c. Upon written acceptance of the tender within the tender validity period, the Tender Form becomes part of the Contract Documents, and the successful tenderer becomes the Contractor. The Contractor will be required to execute a formal agreement (Appendix B - Form of Agreement) with the Owner within thirty (30) days of the date of the letter of intent.

## 11. CERTIFICATE OF RECOGNITION

The contractor and subcontractors shall within 14 calendar days of award of the contract, and prior to commencement of the work, provide a Letter of Good Standing under the Certificate of Recognition Program from the Newfoundland and Labrador Construction Safety Association.

## 12. PERIOD OF WORK

- a. Unless otherwise specified or approved by the Town, the contractor shall be mobilized and on the work site within 14 calendar days after execution of a signed contract agreement.
- b. No work is to commence before the date of the formal agreement.



**TENDER BID FORM**

Tender for: **Town of Portugal Cove-St. Philip’s**  
**1119 Thorburn Road**  
**Portugal Cove-St. Philip’s, NL**  
**Attn: Public Works Manager**  
**Dogberry Hill Road Upgrades – PCSP-PW-2023-01**

- a. Having carefully examined the site of the proposed work and all conditions affecting such, as well as the Contract Documents including the Description of Work, Instructions to Bidders, all Addenda, as well as any other documents included as part of the Tender package for this project.

WE, THE UNDERSIGNED, hereby offer to furnish all necessary labour, materials, superintendence, plant, tools and equipment, and everything else required to perform expeditiously and complete in a satisfactory manner the work as outlined in Appendix A.

\_\_\_\_\_

(\$ \_\_\_\_\_ )

\_\_\_\_\_

In lawful money of Canada which includes all prime costs, allowances and Government sales or excise taxes, including HST, in force at this date, except as otherwise provided in the tendering documents.

- b. The work will be substantially performed by October 27<sup>th</sup>, 2023.
- c. WE ENCLOSE HEREWITH if required by the Instructions to Bidders
  - i. A Bid Bond in an acceptable form and correct amount issued by a company licensed to carry on such a business in the Province of Newfoundland and Labrador or,
  - ii. A certified cheque in the correct amount.

In the event of this tender being accepted within the time stated in Section d) below and our failure to enter into a contract in the form hereinafter mentioned for the amount of our tender the said security may at the option of the Owner be forfeited. The forfeiting of the security does not limit the right of action of the Owner against us for our failure or refusal to enter into a contract.

d. IF NOTIFIED IN WRITING BY THE OWNER OF THE ACCEPTANCE OF THIS TENDER WITHIN 60 DAYS OF THE TENDER CLOSING DATE SUBJECT TO SUCH OTHER PERIOD AS MAY BE SPECIFIED IN THE TENDERING DOCUMENTS, WE WILL:

- i. Execute the Form of Agreement;
- ii. If specified, furnish the security for the proper completion of the work, the said security, if in the form of bonds, to be issued on an acceptable form;
- iii. Complete substantially all the work included in the contract within the time and under conditions specified.

e. WE understand that Performance Bond, Labour and Materials Bond and Insurance as required by the Contract Documents must be provided and in force prior to the commencement of any work and satisfactory proof of such be provided to the Owner.

f. WE declare that the rates and prices variously set forth in the Tender Price Table (Appendix A) have been correctly computed for the purposes of this Tender and that they include and cover all contingencies and provisional sums and all duties, taxes and handling charges and all transportation and all other charges.

g. WE confirm that the sums herein tendered include all sales taxes, royalties, custom duties, foreign exchange charges, transportation, travelling costs, all overhead and profit, all coordination fees, insurance premiums and all other charges.

h. WE understand and agree to list the name of sub-contractors and suppliers whose bids have been used in the preparation of this tender price on the List of Sub-Contractors Form. The list will be subject to the approval of the Owner. "By own forces" will be considered valid and satisfactory only if the tenderer is recognized by the Newfoundland and Labrador Construction Association or by the Road Builders Association as being a "bona fide" contractor or supplier of that particular trade or item.

WE agree to authorize the Owner to release the names of subcontractors used in our tender where such information is requested from the Owner.

WE reserve to us the right to substitute other sub-contractors for any trades in the event of any sub-contractor becoming bankrupt after the date hereof. Any such substitutions shall be subject to the approval of the Owner and contingent upon satisfactory evidence of bankruptcy.

i. WE understand and agree that the Owner may order changes to the work in the form of additions or deletions in accordance with the General Conditions, Supplementary General Conditions and the intent of the contract documents.

j. WE here acknowledge receipt of the following addenda, if applicable:

Addendum	No(s).
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k. For a Tender to be valid, it must be signed by duly authorized officials as indicated in the Instructions to Bidders.

**SIGNATURE OF TENDERER**

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Postal Code: \_\_\_\_\_ Email: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax #: \_\_\_\_\_

\_\_\_\_\_  
Signing Officer

\_\_\_\_\_  
Signing Officer

\_\_\_\_\_  
Witnessed By

\_\_\_\_\_  
Date:

Corporate Seal

**LIST OF SUB-CONTRACTORS**

The list of sub-contractors and/or manufacturers and/or suppliers that shall be employed on this project for each part of the work identified in the table below must be completed by the bidder. The use of these sub-contractors and/or manufacturers and/or suppliers is subject to the approval of the Owner. If the work identified below is to be done by own forces indicate by filling in “By own forces” in the Company Name column.

This form was completed and submitted by:

Name:	
Address:	
Date:	

This form is an integral part of the Tender and shall be submitted as part of the Tender bid if sub-contractors are to be used.

Work	Category: Sub-contractor or Manufacturer or Supplier	Company Name	Address

For each category identified in the table above, work experience references may be required by the Owner.

Mobilization & Demobilization (1010)		Mobilization & Demobilization (1010)				
Code	Description	Code	Unit	Quantity	Price	Total Cost
1010	1. Mobilization & Demobilization (not greater than 5% if on the Island, or 10% if in Labrador, or 15% north of Cartwright, of Sub-Total before HST)	1010	L.S	1		
<b>Traffic Regulations (1570)</b>		<b>Traffic Regulations (1570)</b>				
1560	1. Silt Fence	1560	L.S	2		
<b>Traffic Regulations (1570)</b>		<b>Traffic Regulations (1570)</b>				
1570	1. Flagpersons Wages	1570	Hour	300		
<b>Roadway Excavation (2224)</b>		<b>Roadway Excavation (2224)</b>				
2224	Removal of unsuitable material	2224	m <sup>3</sup>	1300		
<b>Scarifying &amp; Reshaping (2231)</b>		<b>Scarifying &amp; Reshaping (2231)</b>				
2231	1. Scarifying & Reshaping incl. Compaction	2231	m <sup>2</sup>	4300		
<b>Selected Granular Base &amp; Sub Base Materials (2233)</b>		<b>Selected Granular Base &amp; Sub Base Materials (2233)</b>				
2233	1. Class "A" Granular Base (including reinstating road shoulders)	2233	m <sup>3</sup>	430		
2233	2. Class "B" Granular Sub-Base	2233	m <sup>3</sup>	860		
<b>Asphalt Tack Coat (2547)</b>		<b>Asphalt Tack Coat (2547)</b>				
2547	1. Supply & Placement of Asphalt Tack Coat	2547	m <sup>2</sup>	3225		
<b>Hot Mix Asphalt Concrete Paving (2552)</b>		<b>Hot Mix Asphalt Concrete Paving (2552)</b>				
2552	1.1 Asphaltic Concrete - Base Course	2552	Tonne	315		
2552	1.2 Asphaltic Concrete - Surface Course	2552	Tonne	315		
<b>Reshaping &amp; Patching Asphalt Pavement (2574)</b>		<b>Reshaping &amp; Patching Asphalt Pavement (2574)</b>				
2574	1. Removal of Asphalt Pavement (including driveways)	2574	m <sup>2</sup>	60		
2574	2. Patching of Asphalt Pavement (including driveways 50 mm thickness)	2574	m <sup>2</sup>	60		
2574	3. Cutting of Asphalt Pavement and Concrete	2574	m	180		
<b>Pavement Marking (2580)</b>		<b>Pavement Marking (2580)</b>				
2580	1. Pavement Marking	2580	L.S	860		
<b>Manholes, Catch Basins, Ditch Inlets &amp; Valve Chambers (2601)</b>		<b>Manholes, Catch Basins, Ditch Inlets &amp; Valve Chambe</b>				
2601	Adjust manhole covers prior to base course placement (2023)	2601	Each	8		
2601	Adjust manhole covers prior to surface course placement (2024)	2601	Each	8		
<b>Water Mains (2713)</b>		<b>Water Mains (2713)</b>				
2713	Adjust valve boxes to grade (base course 2023)	2713	Each	2		
2713	Adjust valve boxes to grade (surface course 2024)	2713	Each	2		
<b>Quality Control / Inspection</b>		<b>Quality Control / Inspection</b>				
<b>Harmonized Sales Tax (HST)</b>		<b>Harmonized Sales Tax (HST)</b>				
HST	Harmonized Sales Tax (HST)	HST		1		
				<b>Group Total :</b>		
				<b>Project Total :</b>		

**Notes:**

1. For the purposes of the Public Tender Act and the evaluation of tenders received, the bid shall be the Total Tender Amount.
2. Costs associated with the Unit Price work will vary depending upon the quantities authorized by the Engineer/Architect during the course of construction and the final contract amount will be adjusted accordingly, upwards or downwards, based upon the quoted unit rate.
3. The specifications required for this project are outlined in the 2023 Municipal Water Sewer and Roads Construction Specification, and must be followed through the duration of the project.
  - A representative of the Town must be notified during each phase.
  - Failure to meet the specifications outlined in the 2023 Municipal Water Sewer and Roads Construction Specification may result in material being replaced properly at expense of contractor, or termination of contract.

**APPENDIX B: FORM OF AGREEMENT**

**AGREEMENT BETWEEN OWNER AND CONTRACTOR**

THIS AGREEMENT made in duplicate the \_\_\_\_\_ day of \_\_\_\_\_ in the year Two thousand and \_\_\_\_\_

BY AND BETWEEN

The Town of Portugal Cove-St. Philip’s, herein called the “Owner”

AND

\_\_\_\_\_  
\_\_\_\_\_

herein called the “Contractor”

WITNESSETH: that the Owner and Contractor undertake and agree as follows:

**ARTICLE A-1 THE WORK**

The Contractor shall:

Perform all the Work required by the Contract Documents for Tender Dogberry Hill Road Upgrades – PCSP-PW-2023-01 which have been signed in duplicate by both the parties. Do and fulfill everything indicated by this Agreement, and Commence the Work by the 17<sup>th</sup> day of September 2023 and substantially perform the Work of this Contract by the 27<sup>th</sup> day of October 2023.

**ARTICLE A-2 CONTRACT DOCUMENTS**

The contract documents include all drawings, specifications and any addenda issued as part of the tender package.

**ARTICLE A-3 CONTRACT PRICE**

The Owner shall pay to the Contractor in lawful money of Canada for the performance of the Contract, the amounts determined for each of the items of work completed at the unit price stated in the unit price table, subject to the adjustments provided herein and in the General conditions of the contract. The quantities contained in the tender price table are approximate only, and the final payment shall be made for the actual quantities that are incorporated in or made necessary by the work covered by the Contract.

The Contract Price is \_\_\_\_\_

\_\_\_\_\_ Dollars,

(\$ \_\_\_\_\_) HST included, in Canadian funds.

**ARTICLE A-4 PAYMENT**

- a. Subject to applicable legislation and, in accordance with prescribed regulations and in accordance with the provisions of the General Conditions of the Contract, the Owner shall:
  - iii. Make monthly payments to the Contractor on account of the Contract Price;
  - iv. Upon Substantial Performance of the work pay to the Contractor any unpaid balance of holdback monies then due; and
  - v. Upon Total Performance of the Work pay to the Contractor any unpaid balance of the Contract Price then due.

**ARTICLE A-5 ADDRESSES FOR NOTICES**

All communications in writing between the parties shall be deemed to have been received by the addressee if delivered to the individual or to a member of the firm or to an officer of the Corporation for whom they are intended or if sent by post or by telegram addressed as follows:

The Owner at 1119 Thorburn Road, Portugal Cove-St. Philip's, NL A1M 1T6

The Contractor at \_\_\_\_\_

The Project Manager at \_\_\_\_\_

**ARTICLE A-6 SUCCESSION**

The General Conditions of the contract, and all other aforesaid contract documents, are all to be read into and form part of this Agreement and the whole shall constitute the contract between the parties and subject to law and the provisions of the contract documents shall ensure 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 under their respective corporate seals and by the hands of their proper officers thereunto duly authorized.

SIGNED, SEALED AND DELIVERED

In the presence of:

OWNER

CONTRACTOR

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **Additional Notes**

**Due to COVID – 19** the Town has changed some of the operating practices to ensure safety of staff and public. During this time electronic submissions will be accepted for this process, as well as a digital opening at ID #678-000-1119 (<https://us02web.zoom.us/j/6780001119>). Upon awarding of the contract, the proponent will have to ensure that the public health guidelines on COVID-19 are met for work completion.

We know this is a challenging time and we thank you for your co-operation and understanding.

## **Provincial Supplier Allowance**

In the evaluation of submissions, the Town must apply a ten per cent (10%) reduction to the bid price of a provincial supplier prior to the evaluation based on the thresholds for the Canadian Free Trade Agreement (CFTA). The 10% reduction only needs to be applied when the evaluation includes suppliers that are not provincial suppliers.

The submission with the lowest price, following the application of the provincial supplier reduction allowance if required, and that meets all the requirements will ultimately be determined to be the preferred supplier and be awarded a contract if an award is made.

## **ATIPPA**

The financial value of a contract resulting from this procurement process will be publicly released as part of the award notification process. This procurement process is subject to the Access to Information and Protection of Privacy Act, 2015 (the *ACT*). The bidder agrees that any specific information in its bid that may qualify for an exemption from disclosure under subsection 39(1) of the Access to Information and Protection of Privacy Act, 2015 has been identified. If no specific information has been identified it is assumed that, in the opinion of the bidder, there is no specific information that qualifies for an exemption under subsection 39(1) of the Access to Information and Protection of Privacy Act, 2015.

GENERAL CONDITIONS  
OF  
UNIT PRICE CONTRACT

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## GENERAL CONDITIONS OF CONTRACT

### GC1 DEFINITIONS

#### 1.1 Contract Documents

The Contract Documents consist of the Instruction to Bidders, 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 tender, and any addenda to the Specification issued during the bidding period shall also form part of the Contract Documents.

#### 1.2 Owner, Engineer/Architect, Contractor

The Owner, Engineer/Architect and Contractor are the persons, firms or corporation identified as such in the Agreement and referred to throughout the Contract Documents as if singular in number and masculine in gender. The Term Owner, Engineer/Architect and Contractor means the Owner, Engineer/Architect or Contractor or their authorized representatives as designated by each party in writing.

#### 1.3 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.

#### 1.4 The Project

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

#### 1.5 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.

#### 1.6 The 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.

#### 1.7 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.

1.8 Other Contractor

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.

1.9 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 Engineer/Architect.
- 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.

1.10 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:
  - (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.

1.11 Total Performance

Total Performance shall mean when the entire work has been performed to the requirements of the Contract Documents and is so certified by the Engineer/Architect.

GC 2 DOCUMENTS

2.1 The Contract Documents shall be signed in duplicate 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:

- a) Documents of 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.
- g) The Agreement shall govern over all documents.

### GC 3 ADDITIONAL INSTRUCTIONS AND SCHEDULE OF WORK

- 3.1 During the progress of the Work the Engineer/Architect shall 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 the 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 Engineer/Architect with reasonable promptness and in accordance with any schedule agreed upon.
- 3.5 The Contractor shall, within thirty (30) 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 reasonable number of Contract Documents or parts thereof 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 Engineer/Architect and/or his representatives. This requirement shall not be deemed to include the executed Contract Documents.

### GC6 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 copied or 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 ENGINEER/ARCHITECT'S DECISIONS

- 7.1 The Engineer/Architect, 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 Engineer/Architect in writing within five (5) days of receipt of a



decision of the Engineer/Architect referred to in 7.1 should he hold that a decision by the Engineer/Architect is in error and/or at variance with the contract Documents. Unless the Contractor fulfills this requirement subsequent claims by him 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 Engineer/Architect decides that the disputed work shall be carried out, the Contractor shall act according to the Engineer/Architect'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.

#### 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 Engineer/Architect may decide in consultation with the Contractor. The Contractor shall be reimbursed for any costs incurred by him 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.
- 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 him directly or indirectly, then the Contract Time shall be extended for such reasonable time as the Engineer/Architect may decide, in consultation with the Contractor, and the Contractor shall be reimbursed for any on-site costs incurred by him 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 Engineer/Architect in consultation with the Owner and 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 Engineer/Architect 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 he is in default of his contractual obligations and instruct him 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 he:
- 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 9.1 and 9.2 the Owner may, without prejudice to any other right or remedy he may have, correct 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 his insolvency, the Owner may, without prejudice to any other right or remedy he may have, by giving the Contractor written notice, terminate the Contract.

10.2 The Owner may notify the Contractor in writing that he is in default of his 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 workmen or proper workmanship, products or construction machinery and equipment for the scheduled performance of the Work within five (5) working days of receiving written notice from the Engineer/Architect, except in those cases provided in GC 8 - Delay; or
- d) fails to make payments due to his Subcontractors, his suppliers or his workmen; or
- e) persistently disregards laws or ordinances, or the Engineer/Architect'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 he:

- 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.

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 he may have, stop the Work or terminate the Contract.

10.5 If the Owner terminates the Contract under the conditions set out above, he 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 he 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 Engineer/Architect for his 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 his insolvency, the Contractor may, without prejudices to any other right or remedy he 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 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 him, the Contractor may, without prejudice to any other right or remedy he may have, by giving the Owner fifteen (15) days written notice, terminate the Contract.
- 11.3 The Contractor may notify the Owner in writing that the Owner is in default of his contractual obligations if:
  - a) the Engineer/Architect 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 Engineer/Architect 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) days from the receipt of the written notice the Contractor may, without prejudice to any other right or remedy he may have, stop the work and/ or terminate the contract.

- 11.4 If the Contractor terminates the Contract under the conditions set out above, he 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 his 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 Engineer/Architect any apparent deficiencies in other Contractor's work which would affect the Work of this Contract immediately they come to his 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 he 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.

#### 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:
- a) require his Subcontractors to perform their work in accordance with and subject to the terms and conditions of the Contract Documents, and
  - b) be fully responsible to the Owner for acts and omissions of his Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by him.

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

- 14.2 The Contractor shall employ those Subcontractors proposed by him 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 one of the other Subcontractor Bidders.
- 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 he may reasonably object.
- 14.6 The Engineer /Architect may, upon reasonable request and at his 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 Engineer/Architect has authority in an emergency to stop the progress of the Work whenever in his opinion such stoppage maybe necessary to ensure the safety of life, or the Work, or neighbouring

property. This includes authority to make changes in the Work, and to order, assess and award the cost of such work, extra to the Contract or otherwise, as may in his opinion be necessary. The Engineer/Architect shall, within two (2) working days, confirm in writing any such instructions. In such a case if work has been performed under direct order of the Engineer/Architect, the Contractor shall keep his 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.

#### 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) 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 17.2, the Contractor shall be liable for, and shall indemnify and hold harmless the Owner and the Engineer/Architect, their agents and employees from and 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
- 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 17.1 if the injury, death, loss or damage is due to any act or neglect of the Owner or Engineer/Architect, their agents or employees.

#### GC 18 CHANGES IN THE WORK

18.1 The Owner may make changes by altering, adding to, or deducting from the Work, with the amount due under the Contract 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 Engineer/Architect and no claim for an addition or deduction from the amount due under the contract 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 as provided in Article A-3 of the Agreement
- b) by unit prices subsequently agreed upon
- c) by cost and a fixed or percentage fee.

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

When work is performed by the Contractor's own forces his markup for overhead shall be ten (10) percent and his profit ten (10) percent of the agreed or actual cost of the change. When work is performed by one of his 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 19.1, in case of changes in the Work, (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 any change and (b) 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 When a change in the Work is proposed or required the Contractor shall present to the Engineer/Architect for approval his claim for any change in the Contract Price and/or change in the Contract Time. The Engineer/Architect shall satisfy himself 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.

19.4 In the case of changes in the Work to be paid for under methods (b) and (c) of 19. 1, the form of presentation of costs and methods of measurement shall be agreed to by the Engineer/Architect 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.

19.5 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 Engineer/Architect 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. In this case the Engineer/Architect shall issue a written authorization for the change setting out the method of valuation and if by lump sum his valuation of the change in Contract Price and/or Contract Time.

19.6 In the case of a dispute in the valuation of a change authorized in the Work pending final determination of such value, the Engineer/Architect shall certify the value of work performed and include the amount with the regular certificates for payment.

19.7 It is intended in all matters referred to above that both the Engineer/Architect and Contractor shall act promptly.

## GC 20 APPLICATION FOR PAYMENT

- 20.1 Applications for payment on account as provided for in Article A-4 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 of work performed and products delivered to the site at that date.
- 20.3 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 Engineer/Architect 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 he shall determine to be properly due. If the Engineer/Architect amends the application he shall promptly notify the Contractor in writing, giving his reasons for the amendment.
- 21.2 The Owner shall within twenty-one (21) days of the issuance of a certificate for payment by the Engineer/Architect, make payment to the Contractor on account, in accordance with the provisions of the Agreement.
- 21.3 If payment is not made within sixty (60) days of issuance of a certificate for payment by the Engineer/Architect the Owner will be liable for interest on the amount owing at the rate of 9% 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 Engineer/Architect 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) Where legislation permits and where, upon application by the Contractor, the Engineer/Architect has certified that a Subcontract has been totally performed to his satisfaction prior to the Substantial Performance of this Contract, the Owner shall pay the Contractor the holdback retained for such Subcontractor on the day following the expiration of the Statutory Limitations Period stipulated in the Mechanics' Lien Act applicable to the place of building.

The 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 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 Engineer/Architect 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 Engineer/Architect shall within seven (7) days of his inspection notify the Contractor of his approval or disapproval of the application. When the Engineer/Architect finds the Work to be Substantially Performed he 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 Engineer/Architect, 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 Engineer/Architect 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 building, 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 Engineer/Architect 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 Engineer/Architect shall within seven (7) days of his inspection notify the Contractor of his approval or disapproval of the application. When the Engineer/Architect finds the Work to be totally performed to his satisfaction he 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.
- 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 his application for payment upon Total Performance of the Contract and still unsettled, if any.

- 21.12 The holdback to be used by the Engineer/Architect when issuing certificate of 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 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 Engineer/Architect, 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 Unless otherwise stated in Supplementary General Conditions the Contractor shall pay all government sales taxes, customs duties and excise taxes with respect to the Contract.

- 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. If the Owner so desires the Contractor is to co-operate with the Engineer/Architect and 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 his estimates of and actual cost to him of the Work together with all proper tender calls, 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 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 building 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 tender 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 tender submission, any resulting change in the cost shall constitute a corresponding change in the Contract Price. The Contractor shall notify the Engineer/Architect in writing requesting direction immediately any such variance or change is observed by him.
- 23.5 If the Contractor fails to notify the Engineer/Architect in writing and obtain his 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, he shall be responsible for and shall correct any violations thereof and shall bear all costs, expense and damages, attributable to his failure to comply with the Provisions of such laws, ordinances, rules, regulations, codes and orders.

#### 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. He 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 he 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 WORKMEN'S COMPENSATION

- 25.1 Prior to commencing the Work 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 of the place of building with respect to workmen's compensation including payments due thereunder.
- 25.2 At any time during the term of Contract, when requested by the Engineer/Architect, the Contractor shall provide such evidence of compliance by himself and any or all of his Subcontractors.

#### GC 26 LIABILITY INSURANCE

- 26.1 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 his existing policy, Comprehensive General Liability insurance acceptable to the Owner and subject to limits set out in detail in the Supplementary General Conditions inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof.

- b) The insurance shall be in the joint names of the Contractor and the Owner, shall also cover as Unnamed Insureds all Subcontractors and anyone employed directly or indirectly by the Contractor or his Subcontractors to perform a part or parts of the Work but excluding suppliers whose only function is to supply and or transport products to the project site.
- c) The insurance shall also include as Unnamed Insureds the architectural and engineering consultants of the Owner and Engineer/Architect.
- d) The insurance shall preclude subrogation claims by the Insurer against anyone insured thereunder.
- e) 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) cross liability
  - 5) elevator and hoist liability
  - 6) contingent employer's liability
  - 7) personal injury liability arising out of false arrest, detention or imprisonment or malicious prosecution, libel, slander or defamation of character, invasion of privacy, wrongful eviction or wrongful entry.
  - 8) shoring, blasting, excavating, underpinning, demolition, pile driving and caisson work, work below ground surface, tunneling and grading as applicable.
  - 9) liability with respect to non-owned licensed vehicles.

#### 26.2 Automobile Liability Insurance

The Contractor shall provide and maintain liability insurance in respect of owned licensed vehicles subject to limits set out in detail in the Supplementary General Conditions inclusive.

#### 26.3 Aircraft and or Watercraft Liability Insurance

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 detail in the Supplementary General Conditions inclusive. Such insurance shall be in the joint names of the Contractor, the Owner, the Engineer/Architect and those parties defined in 26.1(b) (c) where they have an interest in the use and operation of such aircraft or watercraft. The insurance shall preclude subrogation claims by the Insurer against anyone insured thereunder.

26.4 All liability insurance shall be maintained continuously until twelve (12) months after the date the Engineer/Architect issues a certificate of Substantial Performance.

26.5 The Contractor shall provide the Owner with evidence of all liability insurance prior to the commencement of the work and shall promptly provide the Owner with a certified true copy of each insurance policy.

26.6 All liability insurance policies shall contain an endorsement to provide all Named Insureds with prior notice of changes and cancellations. Such endorsements shall be in the following form:

"It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way nor cancelled until thirty (30) days after written notice of such change or cancellation shall have been given to all Named Insureds"

## GC 27 PROPERTY INSURANCE

- 27.1 The Contractor shall provide and maintain property insurance, acceptable to the Owner, insuring the full value of the Work in the amount of the Contract Price and the full value as stated of products for incorporation into the Work. The insurance shall be in the joint names of the Contractor, the Owner, the Subcontractors and all others having an insurable interest in the Work. The policies shall include all Subcontractors as Unnamed Insureds or, if they specifically request, as Named Insureds. The Policies shall preclude subrogation claims by the Insurer against anyone insured thereunder.
- 27.2 Such coverage shall be provided for by EITHER an ALL Risks Builder's Risk Policy OR by a combination of a standard Builders' Risk Fire Policy including Extended Coverage and Malicious Damage Endorsements and a Builders' Risk Difference in Conditions Policy providing equivalent coverage, of Piers, Wharves & Docks Government Structures Policy.
- 27.3 The policies shall insure against all risks of direct loss or damage subject to the exclusion specified in the Supplementary General Conditions. 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 responsibility, to be used in or pertaining to the site preparations, demolition 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.

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.

- 27.4 The Contractor shall provide the Owner with evidence of all insurance prior to commencement of the Work and shall promptly provide the Owner with a certified true copy of each insurance policy.

Policies provided shall contain an endorsement to provide all Named Insureds with prior notice of changes and cancellations. Such endorsements shall be in the following form: "It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way or cancelled until thirty 30 days after written notice of such change or cancellation shall have been given to all Named Insureds".

Engineer/Architect issues a certificate to Total Performance. All such insurance shall provide for the Owner to take occupancy of the Work or any part thereof during the terms of this insurance. Any increase in the cost of this insurance arising out of such occupancy shall be at the Owner's expense.

- 27.6 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 himself 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 the restoration proceeds and in accordance with the Engineer/Architect'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 Engineer/Architect may decide.

- 27.7 The Contractor and/ or his Subcontractors as may be applicable shall be responsible for any deductible amounts under the policies and for providing such additional insurance as may be required to protect the insureds against loss on items excluded from the policies.

#### 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 his 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 his 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, his agents, employees or Other Contractors.

- 28.3 Should any damage occur to the Work and/or Owner's property for which the Contractor is responsible he shall make good such damage at his 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 Owner's property for which the Contractor is not responsible as provided in GC 17 he 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.

The Codes that must be followed and enforced for safety are:

- a) The National Building Code, Construction Safety Measures (Latest Edition);
- b) The Workmen's Compensation Board Accident Prevention Regulations (Latest Edition);
- c) Canadian Code for Construction Safety (Latest Edition) as issued by the Associate Committee of the National Building Code.

- 28.6 Any person not following the stipulated safety regulations 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 him then he 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 he 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 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 tender documents for acceptance of the tender 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.
- 30.3 If bonds are called for in the tender documents or supplementary general conditions or instructions to bidders, the costs attributable to providing such bonds shall be included in the tender price.
- 30.4 Should the Owner require the provision of a bond or bonds by the Contractor other than those provided for under 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.

#### GC 31 WARRANTY

- 31.1 Without restricting any warranty or guarantee implied or stipulated by law the Contractor shall at his 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 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 31.1.
- 31.3 Neither the Engineer/Architect's final certificate nor payment thereunder shall relieve the Contractor from his responsibility hereunder.
- 31.4 The Owner and/or the Engineer/Architect shall give the Contractor written notice of observed defects

promptly.

#### 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. He shall effectively direct and supervise the Work using his best skill and attention. He 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 paragraphs 32.1 and 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 he is responsible for the execution of the Work.
- 32.4 The Contractor shall carefully examine the Contract Documents and shall promptly report to the Engineer/Architect any error, inconsistency or omission he 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 Engineer/Architect and shall not be changed except for good reason and only then after consultation with an agreement by the Engineer/Architect.
- 33.3 The superintendent shall represent the Contractor at the Work site and directions given to him by the Engineer/Architect shall be held to have been given to the 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 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 Engineer/Architect.

- 34.3 The Contractor shall at all times maintain good order and discipline among his employees engaged on the Work and shall not employ on the Work any unfit person nor anyone not skilled in the task assigned to him.

#### GC 35 SUBSURFACE CONDITIONS

- 35.1 The Contractor shall promptly notify the Engineer/Architect in writing if, in his opinion, the subsurface conditions at the Project site differ materially from those indicated in the Contract Documents or as may have been represented to him by the Owner or Engineer/Architect before the time of tender submission.
- 35.2 After prompt investigation, should the Engineer/Architect determine that conditions do differ materially, he 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 his apparatus, the storage of products and the operations of his workmen to limits indicated by laws, ordinances, permits or by directions of the Engineer/Architect and shall not unreasonably encumber the premises with his 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 Engineer/Architect's instructions regarding signs, advertisements, fires and smoking.
- 36.4 Unless otherwise provided the Contractor shall, at his 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 Engineer/Architect.
- 36.5 The Contractor shall provide and maintain at his own expense such fences, barriers, signs, lights and watchmen 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 his surplus products, tools, construction machinery and equipment not required for the performance of the remaining work. He 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 his surplus products, tools, construction machinery and equipment. He 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 him 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.

#### GC 39 INSPECTION OF WORK

- 39.1 The Owner and his 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 Engineer/Architect's instructions or the laws or ordinances of the place of building the Contractor shall give the Engineer/Architect timely notice requesting inspection. Inspection by the Engineer/Architect shall be made promptly. The Contractor shall arrange inspection by other authorities and shall notify the Engineer/Architect 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 Engineer/Architect, the Contractor shall uncover the Work, have the inspection satisfactorily completed and make good the Work at his own expense.
- 39.4 Examination of any questioned work maybe ordered by the Engineer/Architect. 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 Engineer/Architect two (2) copies of 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 Engineer/Architect as failing to conform to the Contract Documents shall be removed promptly from the premises by the Contractor and placed and/or reexecuted 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 Engineer/Architect 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 Engineer/Architect.

#### 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 Engineer/Architect may reasonably request.
- 41.3 Prior to Submission to the Engineer/Architect the Contractor shall review all shop drawings. By this review the Contractor represents that he has determined and verified all field measurements, field construction criteria, materials, catalogue numbers and similar data or will do so and that he 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 Engineer/Architect for his 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 Engineer/Architect so requests they shall jointly prepare a schedule fixing the dates for submission and return of shop drawings. Shop drawings shall be submitted in the form of a responsible transparency or prints as the Engineer/Architect may direct. At the time of submission, the Contractor shall notify the Engineer/Architect in writing of any deviations in the shop drawings from the requirements of the Contract Documents.
- 41.5 The Engineer/Architect 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 Engineer/Architect'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 Engineer/Architect.
- 41.6 The Contractor shall make any changes in shop drawings which the Engineer/Architect may require consistent with the Contract Documents and resubmit unless otherwise directed by the Engineer/Architect. When resubmitting the Contractor shall notify the Engineer/ Architect in writing of any revisions other than those requested by the Engineer/Architect.

#### GC 42 SAMPLES

- 42.1 The Contractor shall submit for the Engineer/Architect's approval such standard manufacturers' samples as the Engineer/Architect 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.
- 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 Engineer/Architect test results and mix designs as may be requested. The testing company must first be approved by the Engineer/Architect.

- 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 MATERIALS AND SUBSTITUTIONS

- 44.1 Materials, described and named in the specifications with "or approved equal" clause after the Manufacturer's name, or so described as to establish quality only and substitutions of a similar material may be made after award of the contract provided the Engineer/Architect's approval is obtained.
- 44.2 Requests for substitutions must be accompanied by sufficient information in the form of shop drawings, manufacturer's literature, samples and other data to permit proper investigation of the substitutes proposed. Also, indicate the increase or decrease in price.
- 44.3 Whenever a substitute is proposed for approval the Contractor shall guarantee that such proposed substitute will not adversely affect the space requirements allocated on the drawings for the material specified, and he shall agree to bear any additional expense incurred due to his use of the proposed substitute.
- 44.4 The Engineer/Architect may accept or reject any or all of the proposed substitutions as he sees fit, and his decision on a question of equality shall be final.

#### GC 45 LABOUR

- 45.1 In carrying out his duties under this contract, the Contractor should 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.
- 45.2 The Contractor and Subcontractors shall maintain and keep available for inspection by the Owner, a record of the names and addresses of all men employed on the Project.
- 45.3 All work shall be done by workmen skilled in their various trades.
- 45.4 There shall be no discrimination in the selection of workers for employment on the project in respect of race, religious views or political affiliation, and the office of the Canada Manpower will be used in the recruitment of workers wherever practicable.
- 45.5 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.

#### GC 46 PROVINCIAL PREFERENCE POLICY

- 46.1 Preference will be given to Newfoundland and Labrador Contractors and Subcontractors and to products manufactured, processed or supplied in Newfoundland and Labrador, in accordance with the Provincial Preference Act, associated regulations and guidelines.

#### GC 47 TIME OF ESSENCE

47.1 Time is of the essence of the Contract.

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SGC 1.0 HARMONIZED SALES TAX

In reference to: **GC 22 TAXES AND DUTIES**

For a Stipulated Price Contract, all taxes and duties shall be added according to GC 22 of the General Conditions and the HST, payable by the Owner under this contract, shall be deemed to be included in the tendered amount in Clause 1 of the Tender Form. HST is applicable to all municipal projects.

SGC 2.0 CONTRACTOR'S LIABILITY FOR ENGINEERING SUPERVISION COSTS

Add article: **GC 48 ASSESSMENT AND DAMAGES FOR LATE COMPLETION**

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 Consultant, completion of the work was delayed for reasons beyond the control of the Contractor.

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.

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

SGC 3.0 WORK PLACE NL CERTIFICATE

Before entering into a contract the successful bidder is required to submit to the Owner a certificate from the Worker's Compensation Commission to the effect that the bidder is in good standing with the Commission. The Contractor is required to provide the Owner with a similar certificate before approval of the final payment.

SGC 4.0 INTEREST ON LATE PAYMENT

In reference to: **GC 21 CERTIFICATES & PAYMENTS**

In reference to article 21.3 change the interest rate from “9% per annum” to “prime +1% per annum”.

SGC 5.0 INSURANCE

In reference to: **GC 26 LIABILITY INSURANCE and GC 27 PROPERTY INSURANCE**

The existing GCs are to be replaced with the following:

**GC 26 LIABILITY INSURANCE**

**26.1 Commercial 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 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 the Owner and Department. The Contractor shall not commence any work until he obtains, at their expense, all required insurances as specified. Such insurance must have the approval of the Prime Consultant 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. To avoid duplication of coverage, if the work of the subcontractor requires insurance specific to the operations of the subcontractor, such as items outlined in clause 26.1(d) 10), it will be sufficient for the General Contractor to be named as additional insureds on the policy of the subcontractor for the duration of the contract awarded to the subcontractor.
- (c) The insurance shall also include as Unnamed Insureds the architectural and engineering consultants of the Owner and Department where applicable with respect to work performed by the Contractor, but excluding professional liabilities associated with such architectural and engineering consultants.
- (d) The Commercial General Liability Insurance will not be limited to, but shall include coverage for:

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- 1) premises and operations liability
  - 2) products or completed operations liability
  - 3) blanket contractual liability
  - 4) broad form property
  - 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 only**

### 26.2 Automobile Liability Insurance

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 the Certificate of Insurance Form in the contract and Supplementary General Conditions inclusive.

### 26.3 Aircraft and Watercraft Liability Insurance

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 the Supplementary General Conditions inclusive. Such insurance shall be in the names of the Contractor, Her Majesty the Queen in the right of Newfoundland, the Owner and the Architect/Engineer as defined in 26.1(b) and (c) where they have an insurable interest in the use and operation of such aircraft and watercraft.

26.4 Completed operations insurance shall be maintained continuously until twelve (12) months after the date the Architect/Engineer issues a Certificate of Substantial Performance.

26.5 All insurance policies shall contain an endorsement requiring notification of the Named Insured, Her Majesty and the Owner, 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, acceptable to Her Majesty the Queen in the Right of Newfoundland and the Owner insuring the full value of the work in the amount of the contract price and the full value as stated of products for incorporation into the work. The insurance shall include as additional insured Her Majesty the Queen in the Right of Newfoundland and the Owner.

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

27.3 The policies shall insure on a Broad Form basis direct loss or damage subject to any exclusions specified in the Supplementary General Condition. 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 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.

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.

27.4 Policies provided shall contain an endorsement requiring notification of the Named Insured, Her Majesty and the Owner, 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.

27.5 All such insurance shall be maintained continuously until the date the Architect/Engineer issues a Certificate of Substantial Performance. 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.

27.6 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 himself 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 Engineer/Architect'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 Engineer/Architect may decide.

27.7 The Contractor shall be responsible for any deductible amounts under the policies and for providing such additional insurance as may be required to protect the insureds against loss on items excluded from the policies.



Contractors are also advised that tender documents contain a Certificate of Insurance indicating type and limit of liability of insurance required for this project. The successful bidder will be required to have the Certificate of Insurance completed by their insurance company and deliver it to the Owner and/or the Department within 30 days after the award of the contract or before construction commences.

### SGC 6.0 INSURANCE REQUIREMENTS

In reference to: **GCs 26, 27 and Insurance Certificate**

(a) The Contractor shall not commence any work until he obtains, at their expense, all required insurances as specified. Such insurance must have the approval of the Engineer 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 such subcontractors.

(b) The Contractor shall provide certification from an Insurance Company, licensed to do business in the Province of Newfoundland & Labrador, or its agent giving the following details of a Comprehensive or General Liability Policy:

1. Company's Name;
2. Policy Number;
3. Minimum limit of \$2,000,000.00 inclusive for all claims for Bodily Injury or Property Damage arising from one accident. Reduced limits for any part of the coverage is not acceptable.
4. 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.
5. The policy shall include the Consultant, Her Majesty the Queen in right of Newfoundland & Labrador and the Owner (where applicable) as additional Insureds and shall also include the Cross Liability Clause.

(c) The Contractor shall provide certification from an Insurance Company, licensed to do business in the Province of Newfoundland & Labrador, or its agent, giving the following details of a Standard Automobile Policy Liability Coverage:

1. Company's Name;
  2. Policy Number;
  3. Occupation or business described in the policy;
  4. A minimum limit of \$2,000,000.00 inclusive for all claims for Bodily Injury or Property Damage arising from one accident.
  5. Schedule of vehicles or a statement taken from the policy that all vehicles are covered.
- (d) 1. On all applicable structures in the Contract, the Contractor shall provide the original of a "Broad Form Builders' Risk Policy" to the value of the structures. Such insurance may have a deductible clause but amount of deductible shall not exceed \$2,500.00.
2. 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."
3. The policy is to be written to expire no sooner than the completion date specified in the Contract and shall be extended and kept in force during any Period of Delay.
4. The Contractor further agrees that so much of the money due to him 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.
5. 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.

**SGC 7.0 TENDER SURETY AND BONDING FOR MATERIALS SUPPLY ONLY CONTRACTS**

In reference to: **GC 30 BONDS**

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- 30.6.1) 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 on contracts for supply of materials. Labour and Material Payment security is not required. The Performance security may be released 30 days after the date of substantial performance of a material supply contract.
- 30.6.2) 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 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.
- 30.6.3) No bid security or bonding will be required for the supply of vehicles or earth moving equipment.

#### SGC 8.0 SUBSTANTIAL PERFORMANCE

In reference to: **GC 1 DEFINITIONS**

Add the following paragraph to 1.10, Substantial Performance: 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.

#### SGC 9.0 LIQUID ASPHALT COST ADJUSTMENT

- (a) Adjustments will be made to progress estimates to compensate for changes in liquid asphalt prices at time of tender and prices in effect during construction. Increases or decreases in excess of 5% of the Benchmark Tender Price will be paid or deducted accordingly. The governing price will be the average price quoted by local suppliers on the 20<sup>th</sup> of each month. This adjustment will include any changes in taxes outlined in GC 22.2.
- (b) The benchmark price shall be the average monthly price quoted by local suppliers for the month in which the tender closed. The adjustments shall be computed based on changes in the average monthly price in excess of or less than this benchmark at time of production. The Engineer shall then calculate the adjustment to be stated in the Monthly Progress Estimates.

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- (c) The liquid asphalt cost adjustment shall be calculated using the quantity of the item added to the progress estimate since the last estimate. In cases where liquid asphalt is included in the price of Asphalt Concrete, the liquid asphalt quantity will be determined using the mix design.

#### SGC 10.0 FEDERAL/PROVINCIAL FUNDED PROJECTS

For Federal/Provincial funded projects the following should apply:

- (a) No former Federal public office holder who is not in compliance with the post-employee code for public office holders shall be permitted to benefit on this project.
- (b) No member of the House of Commons or Senate of Canada or the House of Assembly of Newfoundland shall be permitted to benefit on this project.
- (c) Her Majesty the Queen in right of Canada shall be added as an additional named insured in GC 26.1.a and 26.1.b Commercial General Liability Insurance and in GC 27.1 Property Insurance and in SGC 6.2.5 Insurance Requirements.

#### SGC 11.0 PETROLEUM PRODUCTS COST ADJUSTMENT

Adjustment will be made to progress estimates to compensate for changes in fuel prices at time of tender closing and prices in effect during construction. Increases or decreases in excess of 10% of the Benchmark Tender Price will be paid or deducted accordingly. The governing price will be the price, for the zone in which the majority of the contract is being carried out, established by the Petroleum Products Pricing Commissioner on the 15th of each month and will apply for the period from the 21st of that month to the 20th of the following month. This adjustment will include any changes in taxes outlined in GC 22.2.

The adjustment for fuel cost variation shall apply only to those items given in the accompanying list. For other tender items, there will be no fuel cost adjustments.

The benchmark price shall be the price established by the Petroleum Products Pricing Commissioner at time of tender. The adjustments shall be computed based on changes in the monthly price in excess of or less than this benchmark at time of production. The Engineer shall then calculate the adjustment to be stated in the Monthly Progress Estimate.

For the contract items included in the accompanying list, the fuel cost adjustment shall be calculated using the quantity of the item added to the progress estimate since the last estimate.

The fuel cost adjustment shall be credited to, or debited from, the progress estimate depending on whether the prices during construction are higher than, or less than, the benchmark at time of tender closing.

- (a) Mass Excavation Common Material shall include: site work and grading; excavation, trenching and backfilling; and roadway excavation, embankment and compaction.
- (b) Mass Excavation Solid Rock shall also include: Ditching Solid Rock; Quarried Rock; Rock Fill in Place; and Excavation for Foundation Solid Rock.
- (c) If the granular material or asphalt aggregate is produced from a rock quarry source, an additional 1.0 l/t of clear diesel fuel will be added to the quantity shown in the table.

Contract Item	NOMINAL FUEL CONSUMPTION RATE (liters)		
	Clear Diesel Fuel	Furnace Oil	Marked Diesel Fuel
Mass Excavation Common & Imported Common (1)	2.0/m <sup>3</sup>	N/A	N/A
Mass Excavation Solid Rock (2)	4.0/m <sup>3</sup>	N/A	N/A
Trench Excavation: Common Material (3)	5.0 l/m <sup>3</sup>	N/A	N/A
Trench Excavation: Rock (4)	10.0 l/m <sup>3</sup>	N/A	N/A
Granular Material	1.0/t	N/A	1.0/t
Asphaltic, Base Surface & Levelling Courses (5)	1.0/t	11.0/t	2.0/t

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# CERTIFICATE OF INSURANCE

THIS CERTIFICATE OF INSURANCE SHOULD BE DELIVERED TO CONSULTANT, THE DEPARTMENT, AND/OR THE OWNER WITHIN 30 DAYS OF THE AWARD OF THE CONTRACT AND BEFORE CONSTRUCTION BEGINS.

DESCRIPTION & LOCATION OF WORK		
PROJECT NO.	AWARD DATE	VALUE \$
<b>INSURER</b>	Name:	
	Address:	
<b>BROKER</b>	Name:	
	Address:	
<b>INSURED</b>	Name:	
	Address:	
<b>ADDITIONAL INSURED</b>	___ HER MAJESTY THE QUEEN IN RIGHT OF NEWFOUNDLAND AND LABRADOR AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS	
	___ THE OWNER	
	___ ARCHITECTURAL AND ENGINEERING CONSULTANTS OF THE OWNER (EXCLUDING PROFESSIONAL LIABILITIES)	

THIS DOCUMENT CERTIFIES THAT THE FOLLOWING POLICIES OF INSURANCE AND INDICATED COVERAGE ARE AT PRESENT IN FORCE SUBJECT TO THE TERMS, CONDITIONS AND EXCLUSIONS AS CONTAINED THEREIN COVERING THE OPERATIONS OF THE INSURED IN CONNECTION WITH THE ABOVE NOTED CONTRACT MADE BETWEEN THE NAMED INSURED AND THE OWNER \_\_\_\_\_.

POLICY TYPE	NUMBER	INCEPTION DATE	EXPIRY DATE Y/M/D	LIMITS OF LIABILITY
1.1 COMMERCIAL GENERAL LIABILITY 1.2 WRAP-UP LIABILITY INCLUDING WHERE INDICATED: A. BLASTING B. PILE DRIVING OR CAISSON WORK C. REMOVAL OR WEAKENING OF SUPPORT	1.1 1.2  A (Y/N) B (Y/N) C (Y/N)	1.1 _____ 1.2 _____	1.1 _____ 1.2 _____	MINIMUM \$2,000,000.00
2A. BUILDERS' RISK "BROAD FORM" OR 2B. INSTALLATION FLOATER "BROAD FORM" OR 2C. PIERS, WHARVES, & DOCKS RIDER COVERAGE MAINTAINED UNTIL ARCHITECT/ENGINEER ISSUES CERTIFICATE OF SUBSTANTIAL PERFORMANCE	2A _____ OR 2B _____ OR 2C _____ (Y/N)	2A _____ 2B _____ 2C _____	2A _____ 2B _____ 2C _____	100% OF THE VALUE OF WORK COVERED
3. AUTOMOBILE LIABILITY INSURANCE				MINIMUM \$2,000,000.00
4. AIRCRAFT AND/OR WATERCRAFT WATERCRAFT LIABILITY (IF APPLICABLE)				MINIMUM \$2,000,000.00
5.				

"THE INSURER AGREES TO NOTIFY THE NAMED INSURED, HER MAJESTY AND/OR THE OWNER, IN WRITING, THIRTY (30) DAYS PRIOR TO CANCELLATION OR MATERIAL CHANGE OF ANY POLICY EXCEPT IN THE EVENT OF NON-PAYMENT WHERE POLICY CONDITIONS DEALING WITH TERMINATION WILL APPLY."

NAME OF INSURER'S OFFICER OR AUTHORIZED REPRESENTATIVE:	SIGNATURE:	DATE:
		TELEPHONE NO.:

ISSUANCE OF THIS CERTIFICATE SHALL NOT LIMIT OR RESTRICT THE RIGHT OF THE OWNER TO REQUEST, AT ANY TIME, DUPLICATE CERTIFIED COPIES OF SAID INSURANCE POLICIES