



The Corporation of the Town of Milton
Purchasing and Risk Services
Request for Tender No. 24-01-00517
Milton Town Hall & Fire Station No. 2
HVAC Equipment Replacement
Contract Documents and Specifications

The Corporation of the Town of Milton shall **ONLY** accept **ELECTRONIC TENDER SUBMISSIONS** submitted through the Town of Milton's Bidding System website. Tenders submitted and/or received by any other method shall be rejected, unless the Town of Milton has instructed otherwise by published Addendum.

ELECTRONIC TENDER SUBMISSIONS ONLY, shall be received by the Bidding System, no later than **11:00:00 a.m., local time, on October 23, 2024.**

Bid Inquiries: All questions/inquiries to be submitted in writing to Purchasing through the Town of Milton's website - Bids and Tenders using the "Submit a Question" link associated with this bid request. Questions concerning this bid must be received prior to the Question deadline to receive consideration.

Non-Mandatory Site Meeting:

Date: October 8, 2024 at 10:00 am

Location: Meeting will start at the lobby of Milton Town Hall (150 Mary Street). Afterwards the meeting will continue at Milton Fire Station No. 2 (2665 Reid Sideroad).

Tenders will be received for:

Milton Town Hall and Fire St. 2
HVAC Equipment Replacement

Contract No. 24-01-00517
The Corporation of the Town of Milton

September 2024

Consultant:

CK Engineering Inc.
2400 Industrial Street
Burlington, ON L7P 1A5

TENDER DIRECTORY

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Section No. 1

INFORMATION

FOR

BIDDERS

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1.0 Personal Knowledge

The Bidders shall have personal knowledge of the locations of the proposed Works and shall inform themselves as to the actual conditions and requirements thereof, and shall not claim at any time after the submission of the tender that there was any misunderstanding in regard to the conditions imposed by the Contract. A subsurface investigation was conducted by the Corporation of the Town of Milton (hereafter referred to as the “Town” or “Owner”) to determine the soil types likely to be encountered within the excavation and is provided only as a guide for the Bidder’s information.

1.1 Omissions, Discrepancies and Interpretations

Should a Bidder find omissions from or discrepancies in any of the tender documents or should they be in doubt as to the meaning of any part of such documents, they should notify the Town in writing. For the purposes of these tender documents, the term “Project Consultant” shall mean “the Engineer or Landscape Architect or other consultant designated by the Town as its representative for the purposes of the Work”. If the Town considers that a correction, explanation or interpretation is necessary or desirable, an addendum to all who have taken out tender documents will be issued. No oral explanation or interpretation shall modify any of the requirements or provisions of the tender documents.

1.2 Bidder's Ability and Experience

It is not the intention of the Town to award a Contract to any Bidder who does not furnish satisfactory evidence that he/she/it has the ability and experience to perform the various types of work involved, and that he/she/it has sufficient capital and plant to enable the Bidder to execute the same successfully and to complete them in the time named in the Contract.

1.3 Informal or Unbalanced Tenders

Tenders that contain prices which appear to be so unbalanced as likely to affect adversely the interest of the Town may be rejected.

1.4 Freedom of Information

The information collected in response to this document is collected under the authority of the Municipal Act RSO 1990, Chapter M45. The information collected will be used solely for the purpose stated herein.

1.5 Withdrawal or Qualifying of Tenders

A Bidder may withdraw their bid prior to the Submission Deadline through the Bidding System. The Town will not accept amendments to submitted bids. If a Bidder wishes to amend an already submitted bid prior to the Submission Deadline, the Bidder may withdraw the existing bid and submit a revised bid prior to the Submission Deadline

through the Bidding System. The Bidder is solely responsible to ensure the re-submitted bid is RECEIVED by the Bidding System by no later than the Submission Deadline/Closing Date.

1.6 Tender Submission

- .1 Each electronic tender submission shall include the following to be completed in the Bidding System:
 - a. Form of Tender - Quantity and Price Schedule(s) and Tender Summary
 - b. Digital Bid Bond (e-Bond)
 - c. Digital Agreement to Bond (e-Bond)
 - d. Statements A through C inclusive
 - e. Form of Tender declaration
 - f. Acknowledgement of all Addenda
- .2 The Corporation of the Town of Milton shall ONLY accept ELECTRONIC TENDER SUBMISSIONS submitted through the Town of Milton's Bidding System Website no later than the Submission Deadline/Closing Date. Tender submissions submitted and/or received by any other method shall be rejected.
- .3 HARD COPY BID SUBMISSIONS WILL NOT BE ACCEPTED
- .4 Bidders are cautioned that the timing of their Tender Submission is based on when the Bid is RECEIVED by the Bidding System, not when a Bid is submitted by a Bidder, as Bid transmission can be delayed in an "Internet Traffic Jam" due to file transfer size, transmission speed, etc.
- .5 For the above reasons, the Town of Milton recommends that Bidders allow sufficient time to complete their Tender Submission and to resolve any issues that may arise. The closing time and date shall be determined by the Town of Milton's Bidding System web clock.
- .6 Late Bids shall not be accepted by the Bidding System.

1.7 Completion of Statements

In order to aid the Town in determining the ability of each Bidder, the Bidder shall complete the following statement tables in the Bidding System:

- | | |
|---------------|---|
| Statement "A" | Stating the Bidder's experience in similar work which he/she/it has successfully completed (to be submitted as an upload file). |
| Statement "B" | Giving a list of the Bidder's senior supervisory staff with a summary of the experience of each. |
| Statement "C" | The Bidder shall give the name and address of each proposed Sub-Contractor used in making up his/her/its tender and shall state the |

portion of the Work allotted to each. Only one Sub-Contractor shall be named for each part of the Work to be subcontracted.

1.8 Tender Prices

The lump sum prices or unit prices quoted in the Form of Tender - Quantity and Price Schedule shall, unless otherwise stated or specified, include the furnishing of all materials, supplies and equipment and providing of all expertise, labour, construction tools and equipment, utility and transportation services necessary to perform and complete all the work required under the Contract, including all miscellaneous work, whether specifically included in the Contract Documents or not. It is the intention of the Drawings and Specifications to provide finished work. Any items omitted therefrom which are clearly necessary for the completion of the work or its appurtenances shall be considered a portion of the work though not directly specified and/or shown or called for on the Drawings.

In the event of an increase or decrease in the quantity of any particular item of work, the actual quantity executed will be paid for at the rate stated in the Form of Tender for that item, subject to the General Conditions for additions and deductions.

For tenders containing unit prices and/or lump sums as the basis of payment, the Bidder must submit details of how each lump sum item in the tender is made up before the execution of a contract, if required to do so by the Project Consultant.

Harmonized Sales Tax (HST) will apply to this Contract. The HST will be calculated and shall be shown as a separate total on the Quantity and Price Schedule Tender Summary Table. The Bidder will also be required to supply to the Town his/her/its HST Registration Number upon request.

Where a change in Canadian tax legislation occurs after the tender closing date for this Contract, and this change could not have been anticipated at the time of bidding, the Town will increase or decrease contract payments to account for the exact amount of tax change involved.

Claims for compensation for additional tax cost shall be submitted by the Contractor to the Project Consultant. Such claims for additional tax costs shall be submitted not later than 30 days after the date of acceptance of the Work.

Where the Contractor benefits from a change in Canadian taxes, the Contractor shall submit to the Project Consultant a statement of such benefits. This statement shall be submitted not later than 30 days after the date of acceptance of the Work.

The Project Consultant reserves the right to make deductions from regular progress payments to compensate for the estimated benefit from decreased tax costs. Such deductions will be set-off from contract payments pending receipt of the statement itemizing the benefits which have resulted from a decrease in tax costs, at which time the final payment adjustment will be determined.

1.9 Bonding Requirements

.1 Digital Bid Bond and Agreement to Bond Only:

Each submission must be accompanied by a digital Bid bond and a digital Agreement to Bond. The Town will only accept submissions that include both the Bid Bond and Agreement to Bond in an electronically verifiable/enforceable (e-Bond) format. For more information regarding e-bonds bidders are encouraged to contact their surety company or visit the Surety Association of Canada at the following link:

<https://www.surety-canada.com/en/ebonding/index.html>

Note: A scanned pdf copy of bonds are not acceptable.

Bidders shall upload their Bid Bond and Agreement to Bond to the Town of Milton's Bidding System accordingly in the bid submission files labelled "Bid Bond" and "Agreement to Bond".

All instruction details for accessing authentication should be included with the uploaded Bond.

Should the Surety Company or Broker provide both digital bonds together in one zipped file, the bidder should upload the same zipped file containing both bonds to the Owner's Bidding System "Bid Bond" submission file and the "Agreement to Bond" submission file. The one zipped file from the Surety company should not be taken apart or unzipped otherwise the bonds will not validate.

.2 Bonds shall be issued by a bonding company licensed to issue such instruments in the Province of Ontario.

.3 Bid Bond:

.1 Each *Bidder* shall submit with its bid a bid bond in an amount equal to **not less than 5%** of the total bid price, and naming the Town of Milton as the Obligee.

.2 The bid bond shall be valid for the *Bid Acceptance Period*.

.3 If the *Bidder* so notified refuses or neglects to comply with the said conditions, the *Town* may, at its sole discretion, claim against the bid bond, and the bid bond shall be subject to forfeiture, not as penalty, but as liquidated damages sustained. The *Town* shall then have the right to award the *Contract* to the *Bidder* submitting, in the *Town's* sole and absolute discretion, the next most appropriate bid, or to re-offer the invitation to submit bids.

- .4 No interest will be paid for the bid bond held or retained by the *Town*.
- .4 Agreement to Bond:
 - .1 Each *Bidder* shall submit with its bid an Agreement to Bond issued by a bonding company licensed to issue such instruments in the Province of Ontario, obliging bonding company to issue a performance bond and a labour and material payment bond, each substantially in the forms required under the *Construction Act*, RSO 1990, c C30 (the “**Construction Act**”), naming the Town of Milton as the Obligee, in the amounts and in the forms as follows:
 - .1 Performance Bond
Amount: **100%** of the bid price, inclusive of applicable taxes
 - .2 Labour and Material Payment Bond
Amount: **50%** of the bid price, inclusive of applicable taxes
 - .3 Maintenance security: (i). five percent (5%) of the bid price for contracts valued at one million dollars (\$1,000,000) or less OR (ii). two and one half percent (2.5%) of the bid price for contracts valued at greater than one million dollars (\$1,000,000). If Bidder elects to provide the maintenance security within the terms of the performance bond, notwithstanding section 1.9.4.1, the Performance Bond will be the form prescribed under the Construction Act, as amended to the satisfaction of Owner to meet the maintenance security requirements hereunder
 - .2 The Agreement to Bond shall be valid for the *Bid Acceptance Period*.
- .5 Costs for bonds shall be included in the stipulated price bid.

1.10 Addenda

Addendum, if required, shall form part of the bid documents. Bidders shall acknowledge receipt of any addenda when submitting their bid through the Bidding System. Bidders shall check a box for each addendum/addenda and any applicable attachments that issued before a bidder can submit their bid submission online.

If a bidder completes their electronic tender submission prior to an addendum being issued, the Bidding System shall WITHDRAW their bid submission and change their bid submission to an INCOMPLETE STATUS (not accepted by the Owner). The withdrawn bid submission can be viewed by the bidder in the “MY BIDS” section of the Bidding System. The bidder is solely responsible to:

- .1 review the status of their bid;

- .2 make any required adjustments to their bid;
- .3 acknowledge the addendum; and
- .4 ensure the re-submitted bid is RECEIVED by the Bidding System by no later than the Submission Deadline.

1.11 Opening of Bids

The names of the Bidders who submitted a bid and bid pricing will be made available on the Town of Milton's Bids and Tenders website in public after the closing date on the day of bid closing.

1.12 Workplace Safety and Insurance Board Coverage

Workplace Safety and Insurance coverage is applicable and required where Contractors engage in any form of work on Town premises. Contractors without Workplace Safety and Insurance coverage shall be required to submit a "Certificate of Clearance" to enable the Town to obtain a Workplace Safety and Insurance Board ruling to determine an "Independent Operator" status.

The Contractor clearly understands and agrees that he/she/it is not, nor is anyone hired or subcontracted by him/her/it, covered by the Town under the Workers' Compensation Act, and he/she/it shall be responsible for and shall pay all dues and assessments payable under the Workers' Compensation Act, the Unemployment Act, or any other Act, whether Provincial or Federal, in respect of his/her/itself, his/her/its employees and operations, and shall, upon request furnish the Town with such satisfactory evidence that he/she/it has complied with the provisions of any such acts. If the Contractor fails to do so, the Town shall have the right to withhold payment of such sum or sums of money due to the Contractor that would be sufficient to cover his/her/its default and the Town shall have the right to pay same.

Information on coverage under the Workers' Compensation Act can be obtained directly from the Workplace Safety and Insurance Board.

The Town is not and shall not be deemed to be the employer of the Contractor any subcontractor or their respective personnel under any circumstances whatsoever.

1.13 Assignment Subletting (Subcontractors)

The Bidder shall provide in Statement 'C' in the Bidding system the name and address of each proposed Subcontractor used in making up their tender and shall state the portion of the work allotted to each. Only one Subcontractor shall be named for each part of the Work to be subcontracted. The total value of the work sublet, shall not exceed 50% of the total tender. Indicate subcontracting values in 'Statement C'.

After the tender has been accepted by the Town, the Contractor shall not be allowed to substitute other contractors in place of those named in their tender without written approval from the Project Consultant.

1.14 Indemnification

The Contractor shall indemnify and save the Town harmless from any and all claims which may arise from the Contractor's operations under this Contract as provided for in the General Conditions.

1.15 Insurance

The Contractor shall provide and maintain at its own expense; policies of insurance acceptable to the Town, issued by an insurance company incorporated or licensed to conduct insurance business in the Province of Ontario which shall be in accordance with the insurance requirements provided for in the General Conditions 6.03. The insurance policy shall specify and include the Town and Project Consultant as an additional insured and loss payee. A copy of all insurance policies shall be provided to the Town.

1.16 Tender is Open to Acceptance and Irrevocable

Providing also that this tender is to continue open to acceptance and irrevocable until the formal Contract shall be executed by the successful Bidder for the Work, and the bond, or bonds, hereinafter mentioned shall be executed by the approved surety or sureties, and that the Town may, at any time within **90 days** of closing date, accept this tender without notice, whether any other tender has previously been accepted or not.

1.17 Performance Bond & Labour and Material Bond

Within 7 Working Days (as hereafter defined) after receipt of notification of the acceptance of his/her/its tender, the successful Bidder shall furnish, at his/her/its own expense, a performance bond in an amount equal to one hundred percent (**100 %**) of the tender sum, and a labour and material payment bond in an amount equal to fifty percent (**50 %**) of the tender sum, for the faithful performance of the Contract. These bonds shall secure the proper fulfillment of the Contract, shall be taken with a satisfactory guaranty surety company authorized to carry on business in the Province of Ontario, and shall be substantially in the forms required by the Construction Act.

1.18 Execution of Agreement and Bonds

If this tender is accepted, the successful Bidder shall forthwith furnish as approved surety for the proper fulfillment of the Contract Documents and shall execute the Agreement and Bonds, in triplicate, substantially in the forms required by the Construction Act where applicable, within **7 Working Days** after being notified so to do by the Town.

1.19 Bidder's Offer

By submission of the Tender, the Bidder acknowledges and confirms that he/she/it supply and do all or any part of that which is set out or called for in this tender, on the terms and conditions and under the provisions set out or called for in these Contract Documents at the unit and lump sum prices hereunder stated.

1.20 Formal Contract Required

This tender is subject to a formal contract in the form required by the Town incorporating the terms of these Contract Documents being prepared and executed.

1.21 Commencement & Completion of Work

The Work shall be started **within 7 Working Days of the written orders** to commence same and carried on to completion and full possession thereof given to the Town within the time period as indicated in the Contract documents. Unless an extension of time has been granted by the Project Consultant in writing, in which case it shall be carried out to completion and possession given to the Town within the additional time as allowed.

1.22 General

The General Conditions included in the Contract Documents which General Conditions shall apply to the Work and the Contract and shall be binding upon the Contractor except and only to the extent that the same are expressly amended, deleted or replaced in these provisions or the Special Conditions.

All terms used herein and not otherwise defined shall have the meanings given to such terms in the General Conditions included in the Contract Documents.

These provisions shall be deemed to be included within and treated as Supplemental General Conditions forming part of the Contract Documents.

The Contract shall be construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

1.23 Compliance with the Accessibility for Ontarians with Disabilities Act, 2005

When acquiring goods and services on behalf of the municipality, staff shall consider, and have regard for, accessibility issues as they pertain to the acquisition of such goods and services, and shall comply with the requirements set out in provincial regulations under the Accessibility for Ontarians with Disabilities Act, 2005, including the Accessibility Standards for Customer Service and the Integrated Accessibility Standards.

Accessible Customer Service

Vendors, including consultants and contractors, shall comply with the requirements set out under the Accessibility Standards for Customer Service (O.R. 429/07 under the Accessibility for Ontarians with Disabilities Act, 2005).

Contractors, consultants, and vendors shall ensure their employees, who are providing goods and services on behalf of the Town, complete the “Confirmation of Acceptance” form, which can be found on the Town’s website, which acknowledges that they have read and understood the Guidelines for Delivering Accessible Customer Service and the Integrated Accessibility Standards training brochure.

Accessible Digital Documents

Documents, provided by contracted vendors, which will be posted to the Town's website, shall be developed and/or designed using techniques and software that enables the author to create an accessible source document.

Microsoft Word, Excel, PowerPoint, or Adobe In-Design is the preferred software for creating accessible documents. Accessible Microsoft Office or In-Design documents shall:

- Include alternate text tags on all pictures, images, logos, and signatures
- Use contrasting color schemes (white text on a black background or vice versa)
- Avoid using clashing color schemes such as red text on a green background or red text on a black background
- Avoid using all caps and italics.
- Use a combination of upper and lower case lettering for titles and subtitles
- Comply with the corporate font style and size (Arial 12 pt.)
- Use the style features, in Microsoft Office applications, when inserting bullets, numbers, footers, and headers
- Spell out all acronyms
- Include a description of any link embedded within the text of the document.
- Avoid connecting a hyperlink to a specific word such as "here". A screen reader won't identify it as a link.
- Include accessible charts and tables
- Use proper heading structures
- Ensure the final document is saved properly. This will prevent the accessibility features to be lost in the conversion from source document to PDF.

Note: Information on how to create accessible documents in Microsoft Office 2007 and 2010 applications can be found at <http://adod.idrc.ocad.ca/>.

Contractors and consultants shall check for accessibility before submitting any document to the Town. Microsoft Word 2010 provides an internal accessibility checker.

Accessible Websites and Web Content

In accordance with section 14 of the Integrated Accessibility Standards (O.R. 191/11 under the AODA), new websites, or WebPages, created on behalf of the Town, shall conform to level A of the Web Content Accessibility Guidelines (WCAG) 2.0.

<http://www.w3.org/WAI/intro/wcag.php> (WCAG 2.0 Overview) will provide vendors with an understanding of the Web Content Accessibility Guidelines.

Any document, provided by a contractor or consultant that is posted to the Town's website shall contain the elements outlined in section 15.3 of these terms and conditions.

Self-Service Kiosks

When acquiring self-service kiosks, whereby information is provided or a point-of-sale occurs, the Town shall ensure the provision of this service offers accessibility features and options. Accessibility features may include, but are not limited to:

- Braille and tactile numbers and key commands
- An earphone plug-in for audio commands
- A large print interface or display
- Contrasting colored buttons
- Adequate space, under the kiosk, to easily maneuver a wheelchair, scooter, or other mobility device

Accessible Facilities

Contractors, consultants, and/or vendors providing goods and services, related to the construction of a new facility or upgrades to an existing facility, shall incorporate the requirements set out in the Design of Public Spaces Standards and the City of London's Facility Accessibility Design Standards into their site plan drawings and construction practices.

If it is not practical to incorporate a particular requirement into the site plan drawings or construction practices, documentation outlining the rationale for not meeting it shall be included in the project's log and any final reports to the Town.

1.24 Submitting Invoices to the Town:

In connection with the second phase of Ontario's Construction Act reform, legislation provides for new rules surrounding prompt payment and adjudication effective October 1, 2019. As a result, any contract for improvement or procurement process that was commenced on or after July 1, 2018 is now subject to these rules. Effective immediately, to ensure prompt payment to a contractor, the Town of Milton would request a proper invoice(s) be submitted as follows:

- (i) By email to: mcp@milton.ca
Copy: Project Manager (by email)

Example Subject line to read: MCP Project #23-01-00501\01

Explanation: Subject line to read: MCP or Milton Construction Project #[Enter Bid #\01, 02, 03,... etc. which indicates the first, second, third, etc. invoice you are submitting]

1.25 Tender Irregularities - Construction

Late Bids (by any amount of time)	Automatic Rejection. Electronic Bidding system shall not accept late Bid submissions.
The Corporation of the Town of Milton shall only accept Electronic Tender submissions submitted through the Town of Milton's Bidding System website.	Bids submitted and/or received by any other method - Automatic Rejection Bids submitted in Hard Copy - Automatic Rejection
Bid Form not signed	Automatic Rejection. The Electronic Bidding system shall not accept bids unless the Bidder has checked a box confirming authority to submit a bid on behalf of the Bidder.
All Addendum(s) not acknowledged (if issued).	Automatic Rejection, i. A Bidder's submission shall not be accepted by the Electronic Bidding system without acknowledgement of Addendum(s). ii. Addendum(s) that are issued, after a Bidder has submitted their Bid, are automatically withdrawn by the Electronic Bidding system and the Bidder is required to acknowledge the new addendum(s) and re-submit their submission prior to the closing date and time.
Execution of Agreement to Bond: <ul style="list-style-type: none"> • bond provided is not a digital bond • surety company not operating in the province of Ontario 	Automatic Rejection Automatic Rejection
Execution of Bid Bonds: <ul style="list-style-type: none"> • bond provided is not a digital bond • surety company not operating in the province of Ontario 	Automatic Rejection Automatic Rejection
Validation of Digital Bond(s) <ul style="list-style-type: none"> • Unable to validate digital bond(s) 	1 working day for the Town to validate with Surety Company Should the Bond(s) not validate - Automatic Rejection
Other Bid Security: <ul style="list-style-type: none"> • scanned copy of bond • any other form of bid security 	Automatic Rejection Automatic Rejection
Bid Pricing submitted in bidding system Pricing Table and also submitted in an uploaded file.	Bid Pricing submitted in the bidding system Pricing Table will prevail.
Alternate Items Bid in Whole or In Part	Available for further consideration unless specified otherwise in request
Other Mathematical Errors Which are Not Consistent with the Unit Prices	2 working days to initial corrections as made by the Purchasing, Corporate Services
Pages Are Missing	2 working days to supply unless specified otherwise in the request. Town reserves the right to waive the extra pages and accept bid or to reject bid outright
Bid Documents Which Suggest That the Bidder Has Made a Major Mistake in Calculations or bid	Reviewed on a case-by-case basis. may result in Automatic Rejection.

Section No. 2

General Conditions



OPSS MUNI GENERAL CONDITIONS OF CONTRACT

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SECTION GC 1.0 - INTERPRETATION

GC 1.01 Captions

.01 The captions appearing in these General Conditions have been inserted as a matter of convenience and for ease of reference only and in no way define, limit, or enlarge the scope or meaning of the General Conditions or any provision hereof.

GC 1.02 Abbreviations

.01 The abbreviations on the left below are commonly found in the Contract Documents and represent the organizations and phrases listed on the right:

"AASHTO"	-	American Association of State Highway Transportation Officials
"ACI"	-	American Concrete Institute
"ANSI"	-	American National Standards Institute
"ASTM"	-	ASTM International
"AWG"	-	American Wire Gauge
"AWWA"	-	American Water Works Association
"CCIL"	-	Canadian Council of Independent Laboratories
"CGSB"	-	Canadian General Standards Board
"CSA"	-	CSA Group - formerly Canadian Standards Association
"CWB"	-	Canadian Welding Bureau
"GC"	-	General Conditions
"ISO"	-	International Organization for Standardization
"MECP"	-	Ontario Ministry of the Environment, Conservation and Parks
"MTO"	-	Ontario Ministry of Transportation
"MUTCD"	-	Manual of Uniform Traffic Control Devices, published by MTO
"OHSAA"	-	Ontario Occupational Health and Safety Act
"OLS"	-	Ontario Land Surveyor
"OPS"	-	Ontario Provincial Standard
"OPSD"	-	Ontario Provincial Standard Drawing
"OPSS"	-	Ontario Provincial Standard Specification
"OTM"	-	Ontario Traffic Manual
"PEO"	-	Professional Engineers Ontario
"SAE"	-	SAE International
"SCC"	-	Standards Council of Canada
"SSPC"	-	The Society for Protective Coatings
"UL"	-	Underwriters Laboratories
"ULC"	-	Underwriters Laboratories Canada
"WHMIS"	-	Workplace Hazardous Materials Information System
"WSIB"	-	Workplace Safety & Insurance Board

GC 1.03 Gender and Singular References

.01 References to the masculine or singular throughout the Contract Documents shall be considered to include the feminine and the plural and vice versa, as the context requires.

GC 1.04

Definitions

.01 For the purposes of the Contract Documents the following definitions shall apply:

Abnormal Weather means an extreme climatic condition characterized by wind speed, air temperature, precipitation, or snow fall depth, that is less than or greater than 1-1/2 standard deviations from the mean determined from the weather records of the 25-year period immediately preceding the tender opening date.

Actual Measurement means the field measurement of that quantity within the approved limits of the Work.

Addenda means any additions or change in the Tender documents issued by the Owner prior to Tender closing.

Additional Work means work not provided for in the Contract Documents and not considered by the Contract Administrator to be essential to the satisfactory completion of the Contract within its intended scope.

Agreement means the agreement between the Owner and the Contractor for the performance of the Work that is included in the Contract Documents.

Base means a layer of Material of specified type and thickness placed immediately below the pavement, driving surface, finished grade, curb and gutter, or sidewalk.

Business Day means any Day except Saturdays, Sundays, and statutory holidays.

Certificate of Subcontract Completion means the certificate issued by the Contract Administrator in accordance with clause GC 8.02.04.02, Certification of Subcontract Completion.

Certificate of Substantial Performance means the certificate issued by the Contract Administrator at Substantial Performance.

Change Directive means any written instruction signed by the Owner, or by the Contract Administrator where so authorized, directing that a Change in the Work or Extra Work be performed.

Change in the Work means the deletion, extension, increase, decrease, or alteration of lines; grades; dimensions; quantities; methods; drawings; substantial changes in geotechnical, subsurface, surface, or other conditions; changes in the character of the Work to be done; or Materials of the Work or part thereof, within the intended scope of the Contract.

Change Order means a written amendment to the Contract signed by the Contractor and the Owner, or the Contract Administrator where so authorized, covering contingencies, a Change in the Work, Extra Work, Additional Work; and establishing the basis for payment and the time allowed for the adjustment of the Contract Time.

Completion means contract completion as set out in the Construction Act.

Completion Certificate means the certificate issued by the Contract Administrator at Completion.

Completion Payment means the payment described more particularly in clause GC 8.02.04.07.

Construction Act means as set out in the Construction Act, R.S.O. 1990, c. C.30, as amended.

Constructor means, for the purposes of, and within the meaning of the Occupational Health and Safety Act, R.S.O. 1990, c.O.1, as amended and amendments thereto, the Contractor who executes the Contract.

Contract means the undertaking by the Owner and the Contractor to perform their respective duties, responsibilities, and obligations as prescribed in the Contract Documents.

Contract Administrator means the person, partnership, or corporation designated by the Owner to be the Owner's representative for the purposes of the Contract.

Contract Documents mean the executed Agreement between the Owner and the Contractor, Tender, General Conditions of Contract, Supplemental General Conditions of Contract, Standard Specifications, Special Provisions, Contract Drawings, Addenda incorporated in a Contract Document before the execution of the Agreement, such other documents as may be listed in the Agreement, and subsequent amendments to the Contract Documents made pursuant to the provisions of the Agreement.

Contract Drawings or **Contract Plans** mean drawings or plans, any Geotechnical Report, any Subsurface Report, and any other reports and information provided by the Owner for the Work, and without limiting the generality thereof, may include soil profiles, foundation investigation reports, reinforcing steel schedules, aggregate sources list, Quantity Sheets, and cross-sections.

Contract Time means the time stipulated in the Contract Documents for Substantial Performance or Completion of the Work, including any extension of time made pursuant to the Contract Documents.

Contractor means the person, partnership, or corporation undertaking the Work as identified in the Agreement.

Control Monument means any horizontal or vertical (benchmark) monument that is used to lay out the Work.

Controlling Operation means any component of the Work that, if delayed, may delay the completion of the Work.

Cut-Off Date means the date up to which payment shall be made for Work performed.

Daily Work Records mean daily Records detailing the number and categories of workers and hours worked or on standby, types and quantities of Equipment and number of hours in use or on standby, and description and quantities of Material utilized.

Day means a calendar day.

Drawings or **Plans** mean any Contract Drawings or Contract Plans, or any Working Drawings or Working Plans, or any reproductions of drawings or plans pertaining to the Work.

End Result Specification means specifications that require the Contractor to be responsible for supplying a product or part of the Work. The Owner accepts or rejects the final product or applies a price adjustment that is commensurate with the degree of compliance with the specification.

Engineer means a professional engineer licenced by the Professional Engineers of Ontario to practice in the Province of Ontario.

Equipment means all machinery and equipment used for preparing, fabricating, conveying or erecting the Work and normally referred to as construction machinery and equipment.

Estimate means a calculation of the quantity or cost of the Work or part of it depending on the context.

Extra Work means work not provided for in the Contract as awarded but considered by the Contract Administrator to be essential to the satisfactory completion of the Contract within its intended scope, including unanticipated Work required to comply with legislation and regulations that affect the Work.

Final Acceptance means the date on which the Contract Administrator determines that the Work has passed all inspection and testing requirements and the Contract Administrator is satisfied that the Contractor has rectified all imperfect Work and has discharged all of the Contractor's obligations under the Contract Documents.

Final Acceptance Certificate means the certificate issued by the Contract Administrator at Final Acceptance of the Work.

Final Detailed Statement means a complete evaluation prepared by the Contract Administrator showing the quantities, unit prices, and final dollar amounts of all items of Work completed under the Contract, including variations in tender items and Extra Work, all as set out in the same general form as the monthly Estimates.

Geotechnical Report means a report or other information identifying soil, rock, and ground water conditions in the area of any proposed Work.

Grade means the required elevation of that part of the Work.

Hand Tools means tools that are commonly called tools or implements of the trade and include small power tools.

Highway means a common and public highway any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

Inclement Weather means weather conditions or conditions resulting directly from weather conditions that prevent the Contractor from proceeding with a Controlling Operation.

Lot means a specific quantity of Material or a specific amount of construction normally from a single source and produced by the same process.

Lump Sum Item means a tender item indicating a portion of the Work for which payment will be made at a single tendered price. Payment is not based on a measured quantity, although a quantity may be given in the Contract Documents.

Major Item means any tender item that has a value, calculated based on its actual or estimated tender quantity, whichever is the larger, multiplied by its tender unit price, which is equal to or greater than the lesser of,

- a) \$100,000, or
- b) 5% of the total tender value calculated based on the total of all the estimated tender quantities and the tender unit prices.

Material means Material, machinery, equipment and fixtures forming part of the Work.

Monument means either a Property Monument or a Control Monument.

Owner means the party to the Contract for whom the Work is being performed, as identified in the Agreement, and includes, with the same meaning and import, "Authority."

Pavement means a wearing course or courses placed on the Roadway and consisting of asphaltic concrete, hydraulic cement concrete, Portland cement concrete, or plant or road mixed mulch.

Performance Bond means the type of security furnished to the Owner to guarantee completion of the Work in accordance with the Contract and to the extent provided in the bond.

Plan Quantity means that quantity as computed from within the boundary lines of the Work as shown in the Contract Documents.

Project means the construction of the Work as contemplated by this Contract.

Proper Invoice has the meaning as set out in the Construction Act.

Property Monument means any property bar, concrete pillar, rock post, cut cross or other object that marks the boundary between real property ownership.

Quality Assurance (QA) means a system or series of activities carried out by the Owner to ensure that Work meets the specified requirements.

Quality Control (QC) means a system or series of activities carried out by the Contractor, Subcontractor, supplier, and manufacturer to ensure that Work meets the specified requirements.

Quantity Sheet means a list of the quantities of Work to be done.

Quarried Rock means Material removed from an open excavation made in a solid mass of rock that, prior to removal, was integral with the parent mass.

Quarry means a place where aggregate has been or is being removed from an open excavation made in a solid mass of igneous, sedimentary, or metamorphic rock or any combination of these that, prior to removal, was integral with the parent areas.

Rate of Interest means the prejudgment interest rate determined under subsection 127(2) of the *Courts of Justice Act* or, if the contract or subcontract specifies a different interest rate for the purpose, the greater of the prejudgment interest rate and the interest rate specified in the contract or subcontract.

Records mean any books, payrolls, accounts, or other information that relate to the Work or any Change in the Work, Extra Work, Additional Work or claims arising therefrom.

Roadway means that part of the Highway designed or intended for use by vehicular traffic and includes the Shoulders.

Shoulder means that portion of the Roadway between the edge of the travelled portion of the wearing surface and the top inside edge of the ditch or fill slope.

Special Provisions mean directions containing requirements specific to the Work.

Standard Drawing or Standard Specification means a standard practice required and stipulated by the Owner for performance of the Work.

Statutory Holdback means the holdbacks required under the Construction Act.

Subbase means a layer of Material of specified type and thickness between the Subgrade and the Base.

Subcontractor means a person, partnership or corporation undertaking the execution of a part of the Work by virtue of an agreement with the Contractor.

Subgrade means the earth or rock surface, whether in cut or fill, as prepared to support the pavement structure, consisting of Base, Subbase, and Pavement.

Substantial Performance has the meaning as set out in the Construction Act, R.S.O. 1990, c. C.30, as amended.

Subsurface Report means a report or other information identifying the location of Utilities, concealed and adjacent structures, and physical obstructions that fall within the influence of the Work.

Superintendent means the Contractor's authorized representative in charge of the Work and who shall be a "competent person" within the meaning of the definition contained in the Occupational Health and Safety Act, R.S.O. 1990, c. 0.1, as amended.

Surety means the person, partnership or corporation, other than the Contractor, licensed in Ontario to transact business under the Insurance Act, R.S.O. 1990, c.1.8, as amended, executing a bond provided by the Contractor.

Tender means an offer in writing from the Contractor, submitted in the format prescribed by the Owner, to complete the Work.

Time and Material means costs calculated according to clause GC 8.02.05, Payment on a Time and Material Basis.

Utility means an aboveground or underground facility maintained by a municipality, public utility authority or regulated authority and includes services such as sanitary sewer, storm sewer, water, electric, gas, oil, steam, data transmission, telephone, and cable television.

Warranty Period means the applicable time period according to clause GC 7.16.02, Warranty.

Work means the total construction and related services required by the Contract Documents.

Working Area means all the lands and easements owned or acquired by the Owner for the construction of the Work.

Working Day means any Day,

- a) except Saturdays, Sundays and statutory holidays;
- b) except a Day as determined by the Contract Administrator, on which the Contractor is prevented by inclement weather or conditions resulting immediately therefrom, from proceeding with a Controlling Operation. For the purposes of this definition, this shall be a Day during which the Contractor cannot proceed with at least 60% of the normal labour and Equipment force effectively engaged on the Controlling Operation for at least 5 hours;
- c) except a Day on which the Contractor is prevented from proceeding with a Controlling Operation, as determined by the Contract Administrator by reason of,
 - i. any breach of the Contract by the Owner or if such prevention is due to the Owner, another contractor hired by the Owner, or an employee of any one of them, or by anyone else acting on behalf of the Owner.
 - ii. non-delivery of Owner supplied Materials.
 - iii. any cause beyond the reasonable control of the Contractor that can be substantiated by the Contractor to the satisfaction of the Contract Administrator.

Working Drawings or Working Plans means any Drawings or Plans prepared by the Contractor for the execution of the Work and may, without limiting the generality thereof, include formwork, falsework, and shoring plans; Roadway protection plans; shop drawings; shop plans; or erection diagrams.

GC 1.05 Ontario Traffic Manual

- .01 All references in the Contract Documents to the MUTCD, including all Parts and Divisions thereof, or MTO Traffic Control Manual for Roadway Work Operations, or Traffic Control Manual for Roadway Operations Field Edition are hereby deleted and replaced by all currently available books which make up the Ontario Traffic Manual.

GC 1.06 Final Acceptance

- .01 For the purposes of determining whether Final Acceptance has occurred, the Contract Administrator shall not take into account, in determining the discharge of the Contractor's obligations, any warranty obligation of the Contractor to the extent that the warranty extends beyond 12 months after Substantial Performance.

GC 1.07 Interpretation of Certain Words

- .01 The words "acceptable," "approval," "authorized," "considered necessary," "directed," "required," "satisfactory," or words of like import, shall mean approval of, directed, required, considered necessary, or authorized by and acceptable or satisfactory to the Contract Administrator, unless the context clearly indicates otherwise.

SECTION GC 2.0 - CONTRACT DOCUMENTS

GC 2.01 Reliance on Contract Documents

- .01 The Owner warrants that the information furnished in the Contract Documents can be relied upon with the following limitations or exceptions:
- a) Based on available information at the time of the contract, the location of all mainline underground Utilities that may affect the Work shall be shown to a tolerance of:
 - i. 1 m horizontal, and
 - ii. 0.3 m vertical
- .02 The Owner does not warrant or make any representation with respect to:
- a) interpretations of data or opinions expressed in any Subsurface Report available for the perusal of the Contractor, that are not included as part of the Contract Documents, and
 - b) other information specifically excluded from this warranty.

GC 2.02 Order of Precedence

- .01 In the event of any inconsistency or conflict in the contents of the following documents, such documents shall take precedence and govern in the following descending order:
- a) Agreement
 - b) Addenda
 - c) Special Provisions
 - d) Contract Drawings
 - e) Standard Specifications
 - f) Standard Drawings
 - g) Tender
 - h) Supplemental General Conditions
 - i) OPSS.MUNI 100 General Conditions of Contract
 - j) Working Drawings

Later dates shall govern within each of the above categories of documents.

- .02 In the event of any conflict among or inconsistency in the information shown on Drawings, the following rules shall apply:
- a) Dimensions shown in figures on a Drawing shall govern where they differ from dimensions scaled from the same Drawing;
 - b) Drawings of larger scale shall govern over those of smaller scale;
 - c) Detailed Drawings shall govern over general Drawings; and

- d) Drawings of a later date shall govern over those of an earlier date in the same series.
- .03 In the event of any inconsistency or conflict in the contents of Standard Specifications the following descending order of precedence shall govern:
- a) Owner's Standard Specifications
 - b) Ontario Provincial Standard Specifications
 - c) Other standards referenced in OPSSs and OPSDs (e.g., CSA, CGSB, ASTM, and ANSI).
- .04 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all.

SECTION GC 3.0 - ADMINISTRATION OF THE CONTRACT

GC 3.01 Contract Administrator's Authority

- .01 The Contract Administrator shall be the Owner's representative during construction and until the issuance of the Completion Certificate or the issuance of the Final Acceptance Certificate, whichever is later. All instructions to the Contractor, including instructions from the Owner, shall be issued by the Contract Administrator. The Contract Administrator shall have the authority to act on behalf of the Owner only to the extent provided in the Contract Documents.
- .02 All claims, disputes and other matters in question relating to the performance and the quality of the Work or the interpretation of the Contract Documents shall be referred to the Contract Administrator in writing by the Contractor.
- .03 The Contract Administrator may inspect the Work for its conformity with the Contract Documents, and to record the necessary data to establish payment quantities under the schedule of tender quantities and unit prices or to assess the value of the Work completed in the case of a lump sum price Contract.
- .04 The Contract Administrator shall provide an estimate of the amounts owing to the Contractor under the Contract as provided for in section GC 8.0, Measurement and Payment.
- .05 The Contract Administrator, to not cause delay in the schedule, shall, with reasonable promptness, review and take appropriate action upon the Contractor's submissions such as shop drawings, product data, and samples in accordance with the Contract Documents .
- .06 The Contract Administrator shall investigate all allegations of a Change in the Work made by the Contractor and issue appropriate instructions.
- .07 The Contract Administrator shall prepare Change Directives and Change Orders for the Owner's approval.
- .08 Upon written application by the Contractor, the Contract Administrator and the Contractor shall jointly conduct an inspection of the Work to establish the date of Substantial Performance of the Work or the date of Completion of the Work or both.
- .09 The Contract Administrator shall be, in the first instance, the interpreter of the Contract Documents and the judge of the performance thereunder by both parties to the Contract. Interpretations and decisions of the Contract Administrator shall be consistent with the intent of the Contract Documents and, in making these decisions, the Contract Administrator shall not show partiality to either party.
- .10 The Contract Administrator shall have the authority to reject any part of the Work or Material that does not conform to the Contract Documents.
- .11 In the event that the Contract Administrator determines that any part of the Work performed by the Contractor is defective, whether the result of poor workmanship the use of defective Material or damage through carelessness or other act or omission of the Contractor and whether or not incorporated in the Work or otherwise fails to conform to the Contract Documents, then the Contractor shall if directed by the Contract Administrator promptly, as directed by the Contract Administrator, remove the Work and replace, make good, or re-execute the Work at no additional cost to the Owner.
- .12 Any part of the Work destroyed or damaged by such removals, replacements, or re-executions shall be made good, promptly, at no additional cost to the Owner.

- .13 If, in the opinion of the Contract Administrator it is not expedient to correct defective Work or Work not performed in accordance with the Contract Documents, the Owner may deduct from monies otherwise due to the Contractor the difference in value between the Work as performed and that called for by the Contract Documents amount that will be determined in the first instance by the Contract Administrator.
- .14 Notwithstanding any inspections made by the Contract Administrator or the issuance of any certificates or the making of any payment by the Owner, the failure of the Contract Administrator to reject any defective Work or Material shall not constitute acceptance of defective Work or Material.
- .15 The Contract Administrator shall have the authority to temporarily suspend the Work for such reasonable time as may be necessary:
 - a) to facilitate the checking of any portion of the Contractor's construction layout;
 - b) to facilitate the inspection of any portion of the Work; or
 - c) for the Contractor to remedy its non-compliance with any provisions of the Contract Documents.

The Contractor shall not be entitled to any compensation for suspension of the Work in these circumstances.
- .16 The Owner has the right to terminate the Contract for wilful or persistent violation by the Contractor or its workers of any applicable laws or bylaws, including but not limited to, the Occupational Health and Safety Act legislation and regulations, Workplace Safety and Insurance Board Act, and Regulation 347 of the Environmental Protection Act.
- .17 If the Contract Administrator determines that any worker employed on the Work is incompetent, as defined by the Occupational Health and Safety Act, or is disorderly, then the Contract Administrator shall provide written notice to the Contractor and the Contractor shall immediately remove the worker from the Working Area. Such worker shall not return to the Working Area without the prior written consent of the Contract Administrator.

GC 3.02 Working Drawings

- .01 The Contractor shall arrange for the preparation of clearly identified and dated Working Drawings as called for by the Contract Documents.
- .02 The Contractor, to not cause delay in the Work, shall submit Working Drawings to the Contract Administrator with reasonable promptness and in orderly sequence . If either the Contractor or the Contract Administrator so requests, they shall jointly prepare a schedule fixing the dates for submission and return of Working Drawings. Working Drawings shall be submitted in printed form. At the time of submission, the Contractor shall notify the Contract Administrator in writing of any deviations from the Contract Documents that exist in the Working Drawings.
- .03 The Contract Administrator shall review and return Working Drawings in accordance with an agreed upon schedule, or otherwise, with reasonable promptness so as not to cause delay.
- .04 The Contract Administrator's review shall be to check 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 Working Drawings or of responsibility for meeting all requirements of the Contract Documents, unless a deviation on the Working Drawings has been approved in writing by the Contract Administrator.

- .05 The Contractor shall make any changes in Working Drawings that the Contract Administrator may require to make the Working Drawings consistent with the Contract Documents and resubmit, unless otherwise directed by the Contract Administrator. When resubmitting, the Contractor shall notify the Contract Administrator in writing of any revisions other than those requested by the Contract Administrator.
- .06 Work related to the Working Drawings shall not proceed until the Working Drawings have been signed and dated by the Contract Administrator.
- .07 The Contractor shall keep one set of the reviewed Working Drawings, marked as above, at the site at all times.

GC 3.03 Right of the Contract Administrator to Modify Methods and Equipment

- .01 The Contractor shall, when requested in writing, make alterations in the method, Equipment, or work force at any time the Contract Administrator considers the Contractor's actions to be unsafe, or damaging to either the Work or existing facilities or the environment.
- .02 The Contractor shall, when requested in writing, alter the sequence of its operations on the Contract so as to avoid interference with work being performed by others.
- .03 Notwithstanding the foregoing, the Contractor shall ensure that all necessary safety precautions and protection are maintained throughout the Work.

GC 3.04 Emergency Situations

- .01 The Contract Administrator has the right to determine the existence of an emergency situation and, when such an emergency situation is deemed to exist, the Contract Administrator may instruct the Contractor to take action to remedy the situation. If the Contractor does not take timely action or, if the Contractor is not available, the Contract Administrator may direct others to remedy the situation.
- .02 If the emergency situation was the fault of the Contractor, the remedial Work shall be done at the Contractor's expense. If the emergency situation was not the fault of the Contractor, the Owner shall pay for the remedial Work.

GC 3.05 Layout Information

- .01 The Contract Administrator shall provide background information, including without limitation, baseline and benchmark information, to facilitate the general location, alignment, elevation and layout of the Work.
- .02 The Contract Administrator shall provide pre and post construction inventories of all Monuments, etc. that are located within the Working Area.
- .03 The Owner shall be responsible only for the correctness of the layout information provided by the Contract Administrator.

GC 3.06 Extension of Contract Time

- .01 An application for an extension of Contract Time shall be made in writing by the Contractor to the Contract Administrator as soon as the need for such extension becomes evident and at least 15 Days prior to the expiration of the Contract Time. The application for an extension of Contract Time shall enumerate the reasons and state the length of extension required.

- .02 Circumstances suitable for consideration of an extension of Contract Time include the following:
 - a) Delays, subsection GC 3.07.
 - b) Changes in the Work, clause GC 3.10.01.
 - c) Extra Work, clause GC 3.10.02.
 - d) Additional Work, clause GC 3.10.03.
- .03 The Contract Administrator shall, in reviewing an application for an extension to the Contract Time, consider whether the delays, Changes in the Work, Extra Work, or Additional Work involve a Controlling Operation.
- .04 The Contract Time shall be extended for such additional time as may be recommended by the Contract Administrator and deemed fair and reasonable by the Owner.
- .05 The terms and conditions of the Contract shall continue for such extension of Contract Time.

GC 3.07 Delays

- .01 If the Contractor is delayed in the performance of the Work by,
 - a) war, blockades, and civil commotions;
 - b) errors in the Contract Documents;
 - c) an act or omission of the Owner or Contract Administrator, or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the Contract Documents;
 - d) a stop work order issued by a court or public authority, provided that such order was not issued as the result of an act or omission of the Contractor or anyone employed or engaged by the Contractor directly or indirectly;
 - e) the Contract Administrator giving notice under section GC 7.0, Suspension of Work;
 - f) Abnormal Weather; or
 - g) archaeological finds, in accordance with subsection GC 3.15, Archaeological Finds,then the Contractor shall be reimbursed by the Owner for reasonable costs incurred by the Contractor as the result of such delay, provided that in the case of an application for an extension of Contract Time due to Abnormal Weather, the Contractor shall, with the Contractor's application, submit evidence from Environment Canada in support of such application. Extension of Contract Time may be granted in accordance with subsection GC 3.06, Extension of Contract Time.
- .02 If the Work is delayed by labour disputes, strikes or lock-outs, including lock-outs decreed or recommended to its members by a recognized contractor's association, of which the Contractor is a member or to which the Contractor is otherwise bound, which are beyond the Contractor's control, then the Contract Time shall be extended in accordance with subsection GC 3.06, Extension of Contract Time.
- .03 In no case shall the extension of Contract Time be less than the time lost as the result of the event causing the delay, unless a shorter extension is agreed to by the Contractor. The Contractor shall not be entitled to payment for costs incurred as the result of such delays unless such delays are the result of actions by the Owner.

- .04 The Contractor shall not be entitled to payment for the cost of delays incurred as a result of a dispute between the Contractor and Owner. The Contractor shall execute the Work and may pursue resolution of the dispute in accordance with subsection GC 3.13, Claims, Negotiations, Mediations.

GC 3.08 Assignment of Contract

- .01 The Contractor shall not assign the Contract, either in whole or in part, without the prior written consent of the Owner.

GC 3.09 Subcontracting by the Contractor

- .01 Subject to clause GC 3.09.03, Subcontracting by the Contractor, the Contractor may subcontract any part of the Work, in accordance with the Contract Documents and any limitations specified therein.
- .02 The Contractor shall notify the Contract Administrator in writing in 10 Days prior to the start of construction of the intention to subcontract. Such notification shall identify the part of the Work, and the Subcontractor with whom it is intended.
- .03 The Contract Administrator shall, within 5 Days of receipt of such notification, accept or reject the intended Subcontractor. The rejection shall be in writing and shall include the reasons for the rejection.
- .04 The Contractor shall not, without the written consent of the Owner, change a Subcontractor who has been engaged in accordance with this subsection.
- .05 The Contractor shall preserve and protect the rights of the Owner under the Contract Documents with respect to that part of the Work to be performed under subcontract and shall,
- a) enter into agreements with the intended Subcontractors to require them to perform their Work in accordance with the Contract Documents; and
 - b) be as fully responsible to the Owner for acts and omissions of the Contractor's Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the Contractor.
- .06 The Owner's consent to subcontracting by the Contractor shall not be construed to relieve the Contractor from any obligation under the Contract and shall not impose any liability upon the Owner. Nothing contained in the Contract Documents shall create a contractual relationship between a Subcontractor and the Owner.

GC 3.10 Changes

GC 3.10.01 Changes in the Work

- .01 The Owner, or the Contract Administrator where so authorized, may, by order in writing, make a Change in the Work without invalidating the Contract. The Contractor shall not be required to proceed with a Change in the Work until in receipt of a Change Order or Change Directive. Upon the receipt of such Change Order or Change Directive the Contractor shall proceed with the Change in the Work.
- .02 The Contractor may apply for an extension of Contract Time according to the terms of clause GC 3.06, Extension of Contract Time.

- .03 If the Change in the Work relates solely to quantities, payment for that part of the Work shall be made according to the conditions specified in clause GC 8.01.02, Variations in Tender Quantities. If the Change in the Work does not solely relate to quantities, then either the Owner or the Contractor may initiate negotiations upwards or downwards for the adjustment of the Contract price in respect of the Change in the Work pursuant to subsection GC 3.13, Claims, Negotiations, Mediation or payment may be made according to the conditions contained in clause GC 8.02.05, Payment on a Time and Material Basis.

GC 3.10.02 Extra Work

- .01 The Owner, or Contract Administrator where so authorized, may instruct the Contractor to perform Extra Work without invalidating the Contract. The Contractor shall not be required to proceed with the Extra Work until in receipt of a Change Order or Change Directive. Upon receipt of such Change Order or Change Directive the Contractor shall proceed with the Extra Work.
- .02 The Contractor may apply for an extension of Contract Time according to the terms of clause GC 3.06, Extension of Contract Time.
- .03 Either the Owner or Contractor may initiate negotiations upwards or downwards for the payment for the Extra Work pursuant to subsection GC 3.13, Claims, Negotiations, Mediation, or payment may be made according to the conditions contained in clause GC 8.02.05, Payment on a Time and Material Basis.

GC 3.10.03 Additional Work

- .01 The Owner, or Contract Administrator where so authorized, may request the Contractor to perform Additional Work without invalidating the Contract. If the Contractor agrees to perform Additional Work, the Contractor shall proceed with such Additional Work upon receipt of a Change Order.
- .02 The Contractor may apply for an extension of Contract Time according to the terms of subsection GC 3.06, Extension of Contract Time.
- .03 Payment for the Additional Work may be negotiated pursuant to subsection GC 3.13, Claims, Negotiations, Mediation, or payment may be made according to the conditions contained in clause GC 8.02.05, Payment on a Time and Material Basis.

GC 3.11 Notices

- .01 Any notice permitted or required to be given to the Contract Administrator or the Superintendent in respect of the Work shall be deemed to have been given to and received by the addressee on the date of delivery if delivered by hand, email, or by facsimile transmission and on the fifth Day after the date of mailing, if sent by mail.
- .02 The Contractor and the Owner shall provide each other with the mail and email addresses; cell phone, and telephone numbers for the Contract Administrator and the Superintendent at the commencement of the Work, and update as necessary.
- .03 In the event of an emergency situation or other urgent matter the Contract Administrator or the Superintendent may give a verbal notice, provided that such notice is confirmed in writing within 2 Days.
- .04 Any notice permitted or required to be given to the Owner or the Contractor shall be given in accordance with the notice provision of the Contract.

GC 3.12 Use and Occupancy of the Work Prior to Substantial Performance

- .01 Where it is not contemplated elsewhere in the Contract Documents, the Owner may use or occupy the Work or any part thereof prior to Substantial Performance, provided that at least 30 Days written notice has been given to the Contractor.
- .02 The use or occupancy of the Work or any part thereof by the Owner prior to Substantial Performance shall not constitute an acceptance of the Work or parts so occupied. In addition, the use or occupancy of the Work shall not relieve the Contractor or the Contractor's Surety from any liability that has arisen, or may arise, from the performance of the Work in accordance with the Contract Documents. The Owner shall be responsible for any damage that occurs because of the Owner's use or occupancy. Such use or occupancy of any part of the Work by the Owner does not waive the Owner's right to charge the Contractor liquidated damages in accordance with the terms of the Contract.

GC 3.13 Claims, Negotiations, Mediation

GC 3.13.01 Continuance of the Work

- .01 Unless the Contract has been terminated or completed, the Contractor shall in every case, after serving or receiving any notification of a claim or dispute, verbal or written, continue to proceed with the Work with due diligence and expedition. It is understood by the parties that such action shall not jeopardize any claim it may have.

GC 3.13.02 Record Keeping

- .01 Immediately upon commencing Work that may result in a claim, the Contractor shall keep Daily Work Records during the course of the Work, sufficient to substantiate the Contractor's claim, and the Contract Administrator shall keep Daily Work Records to be used in assessing the Contractor's claim, all in accordance with clause GC 8.02.07, Records.
- .02 The Contractor and the Contract Administrator shall attempt to reconcile their respective Daily Work Records on a daily basis, to simplify review of the claim, when submitted. If the Contractor and the Contract Administrator fail to reconcile their respective Daily Work Records, then the Contractor shall submit its Daily Work Records as part of its claim, whereby the resolution of the dispute about the Daily Work Records shall not be resolved until there is a resolution of the claim.
- .03 The keeping of Daily Work Records by the Contract Administrator or the reconciling of such Daily Work Records with those of the Contractor shall not be construed to be acceptance of the claim.

GC 3.13.03 Claims Procedure

- .01 The Contractor shall give verbal notice of any situation that may lead to a claim for additional payment immediately upon becoming aware of the situation.
- .02 The Contractor shall provide written notice within 7 Days of the commencement of any part of the Work that may be affected by the situation.
- .03 The Contractor shall submit detailed claims as soon as reasonably possible and in any event no later than 30 Days or such time as mutually agreed after completion of the Work affected by the situation. The detailed claim shall:
 - a) identify the item or items in respect of which the claim arises;
 - b) state the grounds, contractual or otherwise, upon which the claim is made; and

- c) include the Records maintained by the Contractor supporting such claim.
- .04 Within 30 Days of the receipt of the Contractor's detailed claim, the Contract Administrator may request the Contractor to submit any further and other particulars as the Contract Administrator considers necessary to assess the claim. The Contractor shall submit the requested information within 30 Days of receipt of such request.
- .05 Within 90 Days of receipt of the detailed claim, the Contract Administrator shall advise the Contractor, in writing, of the Contract Administrator's opinion regarding the validity of the claim.

GC 3.13.04 Negotiations

- .01 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, open and timely disclosure of relevant facts, information, and documents to facilitate these negotiations.
- .02 Should the Contractor disagree with the opinion given in clause GC 3.13.03.05, with respect to any part of the claim, the Contract Administrator shall enter into negotiations with the Contractor to resolve the matters in dispute. Where a negotiated settlement cannot be reached and it is agreed that payment cannot be made on a Time and Material basis in accordance with clause GC 8.02.05, Payment on a Time and Material Basis, the parties shall proceed in accordance with clause GC 3.13.05, Mediation, or subsection GC 3.14, Arbitration.
- .03 Prior to the expiry of 30 Business Days from the date of receipt of the Contractors claim, the Contract Administrator shall provide a written response to the Contractor stating the Contract Administrator's final price for the Change Order and an explanation of the rationale and basis of the Contract Administrator's position which shall be deemed to be the initial site response.

GC 3.13.05 Mediation

- .01 If a claim is not resolved satisfactorily through the negotiation stage noted in clause GC 3.13.04, Negotiations, within a period of 30 Days following the opinion given in clause GC 3.13.03.05, and the Contractor wishes to pursue the issue further, the parties may, upon mutual agreement, utilize the services of an independent third-party mediator.
- .02 The mediator shall be mutually agreed upon by the Owner and Contractor.
- .03 The mediator shall be knowledgeable regarding the area of the disputed issue. The mediator shall meet with the parties together or separately, as necessary, to review all aspects of the issue. In a final attempt to assist the parties in resolving the issue themselves prior to proceeding to arbitration the mediator shall provide, without prejudice, a non-binding recommendation for settlement.
- .04 The review by the mediator shall be completed within 90 Days following the opinion given in clause GC 3.13.03.05.
- .05 Each party is responsible for its own costs related to the use of the mediation process. The cost of the third-party mediator shall be equally shared by the Owner and Contractor.

GC 3.13.06 Payment

- .01 Payment of the claim shall be made no later than 28 Days after the date of resolution of the claim or dispute. Such payment shall be made according to the terms of section GC 8.0, Measurement and Payment.

GC 3.13.07 Rights of Both Parties

- .01 It is agreed that no action taken under subsection GC 3.13, Claims, Negotiations, Mediation, by either party shall be construed as a renunciation or waiver of any of the rights or recourse available to the parties, provided that the requirements set out in this subsection are fulfilled.
- .02 It is further agreed that the parties may at any time resort to the adjudication procedure contained in the Construction Act.

GC 3.14 Arbitration

GC 3.14.01 Conditions of Arbitration

- .01 If a claim is not resolved satisfactorily through the negotiation stage noted in clause GC 3.13.04, Negotiations, or the mediation stage noted in clause GC 3.13.05, Mediation, either party may invoke the provisions of subsection GC 3.14, Arbitration, by giving written notice to the other party.
- .02 Notification that arbitration shall be implemented to resolve the issue shall be communicated in writing as soon as possible and no later than 60 Days following the opinion given in clause GC 3.13.03.05. Where the use of a third-party mediator was implemented, notification shall be within 120 Days of the opinion given in clause GC 3.13.03.05.
- .03 The parties shall be bound by the decision of the arbitrator.
- .04 The rules and procedures of the Arbitration Act, 1991, S.O. 1991, c.17, as amended, shall apply to any arbitration conducted hereunder except to the extent that they are modified by the express provisions of subsection GC 3.14, Arbitration.

GC 3.14.02 Arbitration Procedure

- .01 The following provisions are to be included in the agreement to arbitrate and are subject only to such right of appeal as exist where the arbitrator has exceeded his or her jurisdiction or have otherwise disqualified him or herself:
 - a) All existing actions in respect of the matters under arbitration shall be stayed pending arbitration;
 - b) All outstanding claims and matters to be settled are to be set out in a schedule to the agreement. Only such claims and matters as are in the schedule shall be arbitrated; and
 - c) Before proceeding with the arbitration, the Contractor shall confirm that all matters in dispute are set out in the schedule.

GC 3.14.03 Appointment of Arbitrator

- .01 The arbitrator shall be mutually agreed upon by the Owner and Contractor to adjudicate the dispute.
- .02 Where the Owner and Contractor cannot agree on a sole arbitrator within 30 Days of the notification of arbitration noted in clause GC 3.14.01.02, the Owner and the Contractor shall each choose an appointee within 37 Days of the notice of arbitration.
- .03 The appointees shall mutually agree upon an arbitrator to adjudicate the dispute within 15 Days after the last appointee was chosen or they shall refer the matter to the ADR Institute of Ontario (ADRIO), which may select an arbitrator to adjudicate the dispute within 7 Days of being requested to do so.
- .04 The arbitrator shall not be interested financially in the Contract nor in either party's business and shall not be employed by either party.

- .05 The arbitrator may appoint independent experts and any other persons to assist him or her.
- .06 The arbitrator is not bound by the rules of evidence that govern the trial of cases in court but may hear and consider any evidence that the arbitrator considers relevant.
- .07 The hearing shall commence within 90 Days of the appointment of the arbitrator.

GC 3.14.04 Costs

- .01 The arbitrator's fee shall be equally shared by the Owner and the Contractor.
- .02 The fees of any independent experts and any other persons appointed to assist the arbitrator shall be shared equally by the Owner and the Contractor.
- .03 The arbitration hearing shall be held in a place mutually agreed upon by both parties or in the event the parties do not agree, a site shall be chosen by the arbitrator. The cost of obtaining appropriate facilities shall be shared equally by the Owner and the Contractor.
- .04 The arbitrator may, in his or her discretion, award reasonable costs, related to the arbitration.

GC 3.14.05 The Decision

- .01 The reasoned decision shall be made in writing within 90 Days of the conclusion of the hearing. An extension of time to make a decision may be granted with consent of both parties. Payment shall be made in accordance with clause GC 3.13.06, Payment.

GC 3.15 Archaeological Finds

- .01 If the Contractor's operations expose any items that may indicate an archaeological find, such as but not limited to building remains, hardware, accumulations of bones, pottery, or arrowheads, the Contractor shall immediately notify the Contract Administrator and suspend operations within the area identified by the Contract Administrator. Notification may be verbal provided that such notice is confirmed in writing within 2 Days. Work shall remain suspended within that area until otherwise directed by the Contract Administrator in writing, in accordance with subsection GC 7.09, Suspension of Work.
- .02 Any delay in the completion of the Contract that is caused by such a suspension of Work shall be considered to be beyond the Contractor's control in accordance with clause GC 3.07.01.
- .03 Any Work directed or authorized in connection with an archaeological find shall be considered as Extra Work in accordance with clause GC 3.10.02, Extra Work.
- .04 The Contractor shall take all reasonable action to minimize additional costs that may accrue as a result of any work stoppage.

SECTION GC 4.0 - OWNER'S RESPONSIBILITIES AND RIGHTS

GC 4.01 Working Area

.01 The Owner shall acquire all property rights that are deemed necessary by the Owner for the construction of the Work, including temporary working easements, and shall indicate the full extent of the Working Area on the Contract Drawings.

GC 4.02 Approvals and Permits

.01 The Owner shall pay for all plumbing and building permits.

.02 The Owner shall obtain and pay for all permits, licences, and certificates solely required for the design of the Work.

GC 4.03 Management and Disposition of Materials

.01 The Owner shall identify in the Contract Documents the Materials to be moved within or removed from the Working Area and any characteristics of those Materials that necessitates special Materials management and disposition.

.02 In accordance with regulations under the Occupational Health and Safety Act, R.S.O. 1990, c.O.1, as amended, the Owner advises that,

- a) the designated substances silica, lead, and arsenic are generally present throughout the Working Area occurring naturally or as a result of vehicle emissions;
- b) the designated substance asbestos may be present in cement products, asphalt, and conduits for Utilities;
- c) the following hazardous materials are ordinarily present in construction activities: limestone, gypsum, marble, mica, and Portland cement; and
- d) exposure to these substances may occur as a result of activities by the Contractor such as sweeping, grinding, crushing, drilling, blasting, cutting, and abrasive blasting.

.03 The Owner shall identify in the Contract Documents any designated substances or hazardous materials other than those identified above and their location in the Working Area.

.04 If the Owner or Contractor discovers or is advised of the presence of designated substances or hazardous Materials that are in addition to those listed in clause GC 4.03.02, or not clearly identified in the Contract Documents according to clause GC 4.03.03, then verbal notice shall be provided to the other party immediately with written confirmation within 2 Days. The Contractor shall stop Work in the area immediately and shall determine the necessary steps required to complete the Work in accordance with applicable legislation and regulations.

.05 The Owner shall be responsible for any reasonable additional costs of removing, managing and disposing of any Material not identified in the Contract Documents, or where conditions exist that could not have been reasonably foreseen at the time of tendering. All work under this paragraph shall be deemed to be Extra Work.

- .06 Prior to commencement of the Work, the Owner shall provide to the Contractor a list of those products controlled under the Workplace Hazardous Materials Information System (WHMIS), that the Owner may supply or use on the Contract, together with copies of the Safety Data Sheets for these products. All containers used in the application of products controlled under WHMIS shall be labelled. The Owner shall notify the Contractor in writing of changes to the list and provide relevant Safety Data Sheets.
- .07 Unless expressly permitted in the Contract Documents, the Contractor shall not bring onto the Work Area any designated substance or hazardous Material per OHSA without the prior written authorization of the Contract Administrator.
- .08 The Contractor shall use all reasonable care to avoid spilling or disturbing any designated substances or hazardous Material per OHSA.

GC 4.04 Construction Affecting Railway Property

- .01 The Owner shall pay the costs of all flagging and other traffic control measures required and provided by the railway company unless such costs are solely a function of the Contractor's chosen method of completing the Work.
- .02 Every precaution shall be taken by the Contractor to protect all railway property at track crossings; or otherwise, on which construction operations are to take place in accordance with the terms of this Contract.
- .03 The Contractor shall be required to conduct the construction operations in such a manner as to avoid a possibility of damaging any railway property in the vicinity of the Works. Every reasonable precaution shall be taken by the Contractor to ensure the safety of the workers, Subcontractors, and Equipment, as well as railway property throughout the duration of the Contract.

GC 4.05 Default by the Contractor

- .01 If the Contractor fails to commence the Work within 14 Days of a formal order to commence Work signed by the Contract Administrator or, upon commencement of the Work, should neglect to prosecute the Work properly or otherwise fails to comply with the requirements of the Contract and, if the Contract Administrator has given a written statement to the Owner and Contractor that sufficient cause exists to justify such action, the Owner may, without prejudice to any other right or remedy the Owner may have, notify the Contractor in writing that the Contractor is in default of the Contractor's contractual obligations and instruct the Contractor to correct the default in the 5 Working Days immediately following the receipt of such notice.
- .02 If the Contractor is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the Contractor's insolvency or if a receiver is appointed because of the Contractor's insolvency, the Owner may, without prejudice to any other right or remedy the Owner may have, by giving the Contractor or receiver or trustee in bankruptcy notice in writing, terminate the Contract.

GC 4.06 Contractor's Right to Correct a Default

- .01 The Contractor shall have the right within the 5 Working Days following the receipt of a notice of default to correct the default and provide the Owner with satisfactory proof that appropriate corrective measures have been taken.
- .02 If the Owner determines that the correction of the default cannot be completed within the 5 Working Days following receipt of the notice, the Contractor shall not be in default if the Contractor,
 - a) commences the correction of the default within the 5 Working Days following receipt of the notice;

- b) provides the Owner with a schedule acceptable to the Owner for the progress of such correction; and
- c) completes the correction in accordance with such schedule.

GC 4.07 Owner's Right to Correct Default

- .01 If the Contractor fails to correct the default within the time specified in subsection GC 4.06, Contractor's Right to Correct a Default, or subsequently agreed upon, the Owner, without prejudice to any other right or remedy the Owner may have, may correct such default and deduct the cost thereof, as certified by the Contract Administrator, from any payment then or thereafter due to the Contractor.

GC 4.08 Termination of Contractor's Right to Continue the Work

- .01 Where the Contractor fails to correct a default within the time specified in subsection GC 4.06, Contractor's Right to Correct a Default, or subsequently agreed upon, the Owner, without prejudice to any other right or remedy the Owner may have, may terminate the Contractor's right to continue the Work in whole or in part by giving written notice to the Contractor.
- .02 If the Owner terminates the Contractor's right to continue with the Work in whole or in part, the Owner shall be entitled to,
 - a) take possession of the Working Area or that portion of the Working Area devoted to that part of the Work terminated;
 - b) utilize any Material within the Working Area;
 - d) withhold further payments to the Contractor with respect to the Work or the portion of the Work withdrawn from the Contractor until the Work or portion thereof withdrawn is completed;
 - d) charge the Contractor the additional cost over the Contract price of completing the Work or portion thereof withdrawn from the Contractor, as certified by the Contract Administrator and any additional compensation paid to the Contract Administrator for such additional service arising from the correction of the default;
 - e) charge the Contractor a reasonable allowance, as determined by the Contract Administrator, to cover correction to the Work performed by the Contractor that may be required under subsection GC 7.16, Warranty;
 - f) charge the Contractor for any damages the Owner sustained as a result of the default; and
 - g) charge the Contractor the amount by which the cost of corrections to the Work under subsection GC 7.16, Warranty, exceeds the allowance provided for such corrections.

GC 4.09 Final Payment to Contractor

- .01 If the Owner's cost to correct and complete the Work in whole or in part is less than the amount withheld from the Contractor under subsection GC 4.08, Termination of Contractor's Right to Continue the Work, the Owner shall pay the balance to the Contractor as soon as the final accounting for the Contract is complete.

GC 4.10 Termination of the Contract

- .01 Where the Contractor is in default of the Contract the Owner shall, without prejudice to any other right or remedy the Owner may have, terminate the Contract by giving written notice of termination to the Contractor, the Surety, and any trustee or receiver acting on behalf of the Contractor's estate or creditors.
- .02 If the Owner elects to terminate the Contract, the Owner shall provide the Contractor and the trustee or receiver with a complete accounting to the date of termination.

GC 4.11 Continuation of Contractor's Obligations

- .01 The Contractor's obligation under the Contract as to quality, correction, and warranty of the Work performed prior to the time of termination of the Contract or termination of the Contractor's right to continue with the Work in whole or in part shall continue to be in force after such termination.

GC 4.12 Use of Performance Bond

- .01 If the Contractor is in default of the Contract and the Contractor has provided a Performance Bond, the provisions of section GC 4.0, Owner's Responsibilities and Rights, shall be exercised in accordance with the conditions of the Performance Bond.

GC 4.13 Payment Adjustment

- .01 If any situation should occur in the performance of the Work that would result in a Change in the Work, the Owner shall be entitled to an adjustment and those adjustments shall be managed in accordance with clause GC 3.10.01, Changes in the Work.

SECTION GC 5.0 - MATERIAL

GC 5.01 Supply of Material

- .01 All Material necessary for the proper completion of the Work, except that listed as being supplied by the Owner, shall be supplied by the Contractor. The Contract price for the appropriate tender items shall be deemed to include full compensation for the supply and delivery of such Material.

GC 5.02 Quality of Material

- .01 All Material supplied by the Contractor shall be new, unless otherwise specified in the Contract Documents.
- .02 Material supplied by the Contractor shall conform to the requirements of the Contract.
- .03 As specified in the Contract Documents or as requested by the Contract Administrator, the Contractor shall make available, for inspection or testing, a sample of any Material to be supplied by the Contractor.
- .04 The Contractor shall obtain for the Contract Administrator the right to enter onto the premises of the Material manufacturer or supplier to carry out such inspection, sampling, and testing as specified in the Contract Documents or as requested by the Contract Administrator.
- .05 The Contractor shall notify the Contract Administrator of the sources of supply sufficiently in advance of the Material shipping dates to enable the Contract Administrator to perform the required inspection, sampling, and testing.
- .06 The Owner shall not be responsible for any delays to the Contractor's operations where the Contractor fails to give sufficient advance notice to the Contract Administrator to enable the Contract Administrator to carry out the required inspection, sampling, and testing before the scheduled shipping date.
- .07 The Contractor shall not change the source of supply of any Material without the written authorization of the Contract Administrator.
- .08 Material that is not specified shall be of a quality best suited to the purpose required, and the use of such Material shall be subject to the approval of the Contract Administrator.
- .09 All Material inspection, sampling, and testing shall be carried out on random basis in accordance with the standard inspection or testing methods required for the Material. Any approval given by the Contract Administrator for the Materials to be used in the Work based upon the random method shall not relieve the Contractor from the responsibility of incorporating Material that conforms to the Contract Documents into the Work or properly performing the Contract and of any liability arising from the failure to properly perform as specified in the Contract Documents.

GC 5.03 Rejected Material

- .01 Rejected Material shall be removed from the Working Area expeditiously after the notification to that effect from the Contract Administrator. Where the Contractor fails to comply with such notice, the Contract Administrator may cause the rejected Material to be removed from the Working Area and disposed of, in what the Contract Administrator considers to be the most appropriate manner, and the Contractor shall pay the costs of disposal and the appropriate overhead charges.

GC 5.04 Substitutions

- .01 Where the Contract Documents require the Contractor to supply a Material designated by a trade or other name, the Tender shall be based only upon supply of the Material so designated, that shall be regarded as the standard of quality required by the Contract Documents. After the acceptance of the Tender, the Contractor may apply to the Contract Administrator to substitute another Material identified by a different trade or other name for the Material designated as aforesaid. The application shall be in writing and shall state the price for the proposed substitute Material designated as aforesaid, and such other information as the Contract Administrator may require.
- .02 Rulings on a proposed substitution shall not be made prior to the acceptance of the Tender. Substitutions shall not be made without the prior approval of the Contract Administrator. The approval or rejection of a proposed substitution shall be at the discretion of the Contract Administrator.
- .03 If the proposed substitution is approved by the Contract Administrator, the Contractor shall be entitled to the first \$1,000 of the aggregate saving in cost by reason of such substitution and to 50% of any additional saving in cost in excess of such \$1,000. Each such approval shall be conveyed to the Contractor in writing or by issuance of a Certificate of Equality on the Owner's standard form of "Certification of Equality" and, if any adjustment to the Contract price is made by reason of such substitution, a Change Order shall be issued as well.

GC 5.05 Owner Supplied Material

GC 5.05.01 Ordering of Excess Material

- .01 Where Material is supplied by the Owner and where this Material is ordered by the Contractor in excess of the amount specified to complete the Work, such excess Material shall become the property of the Contractor on completion of the Work and shall be charged to the Contractor at cost plus applicable overheads.

GC 5.05.02 Care of Material

- .01 The Contractor shall, in advance of receipt of shipments of Material supplied by the Owner, provide adequate and proper storage facilities acceptable to the Contract Administrator, and on the receipt of such Material shall promptly place it in storage, except where it is to be incorporated forthwith into the Work.
- .02 The Contractor shall be responsible for acceptance of Material supplied by the Owner, at the specified delivery point and for its safe handling and storage. If such Material is damaged while under the control of the Contractor, it shall be replaced or repaired by the Contractor at no expense to the Owner, and to the satisfaction of the Contract Administrator. If such Material is rejected by the Contract Administrator for reasons that are not the fault of the Contractor, it shall remain in the care and at the risk of the Contractor until its disposition has been determined by the Contract Administrator.
- .03 Where Material supplied by the Owner arrives at the delivery point in a damaged condition or where there are discrepancies between the quantities received and the quantities shown on the bills of lading, the Contractor shall immediately report such damage or discrepancies to the Contract Administrator who shall arrange for an immediate inspection of the shipment and provide the Contractor with a written release from responsibility for such damage or deficiencies. Where damage or deficiencies are not so reported, it shall be assumed that the shipment arrived in good condition and order, and any damage or deficiencies reported thereafter shall be made good by the Contractor at no extra cost to the Owner.

- .04 The full amount of Material supplied by the Owner in each shipment shall be accounted for by the Contractor and such Material shall be at the risk of the Contractor after taking delivery. Such Material shall not, except with the written permission of the Contract Administrator, be used by the Contractor for purposes other than the performance of the Work under the Contract.
- .05 Empty reels, crates, containers, and other type of packaging from Material supplied by the Owner shall become the property of the Contractor when they are no longer required for their original purpose and shall be disposed of by the Contractor at the Contractor's expense unless otherwise specified in the Contract Documents.
- .06 Immediately upon receipt of each shipment, the Contractor shall provide the Contract Administrator copies of bills of lading, or such other documentation the Contract Administrator may require to substantiate and reconcile the quantities of Material received.
- .07 Where Material supplied by the Owner is ordered and stockpiled prior to the award of the Contract, the Contractor shall, at no extra cost to the Owner, immediately upon commencement of operations, check the Material, report any damage or deficiencies to the Contract Administrator and take charge of the Material at the stockpile site. Where damage or deficiencies are not so recorded by the Contractor, it shall be assumed that the stockpile was in good condition and order when the Contractor took charge of it, and any damage or deficiencies reported thereafter shall be made good by the Contractor at no extra cost to the Owner.

SECTION GC 6.0 - INSURANCE, PROTECTION AND DAMAGE

GC 6.01 Protection of Work, Persons and Property

- .01 The Contractor, the Contractor's agents, and all workers employed by or under the control of the Contractor, including Subcontractors, shall protect the Work, persons, and property from damage or injury. The Contractor shall be responsible for all losses and damage that may arise as the result of the Contractor's operations under the Contract, unless indicated to the contrary below.
- .02 The Contractor is responsible for the full cost of any necessary temporary protective Work and the restoration of all damage where the Contractor damages the Work or property in the performance of the Contract. If the Contractor is not responsible for the damage that occurs to the Work or property, the Contractor shall restore such damage, and such Work and payment shall be administered according to these General Conditions.
- .03 The Contractor shall immediately inform the Contract Administrator of all damage and injuries that occur during the term of the Contract. The Contractor shall then investigate and report back to the Contract Administrator within 15 Days of occurrence of incident, or as soon as possible. The Contract Administrator may conduct its own investigation and the Contractor shall provide all assistance to the Contract Administrator as may be necessary for that purpose.
- .04 The Contractor shall not be responsible for loss and damage that occurs as a result of,
 - a) war;
 - b) blockades and civil commotions;
 - c) errors in the Contract Documents; or
 - d) acts or omissions of the Owner, the Contract Administrator, their agents and employees, or others not under the control of the Contractor, but within the Working Area with the Owner's permission.
- .05 The Contractor and the Contractor's Surety shall not be released from any term or provision of any responsibility, obligation, or liability under the Contract or waive or impair any of the rights of the Owner, except by a release duly executed by the Owner.

GC 6.02 Indemnification

- .01 The Contractor shall indemnify and hold harmless the Owner and the Contract Administrator, their elected officials, agents, officers, and employees from and against all claims, demands, losses, expenses, costs, damages, actions, suits, or proceedings by third parties, hereinafter called "claims", directly or indirectly arising or alleged to arise out of the performance of or the failure to perform the Work, provided such claims are,
 - a) attributable to bodily injury, sickness, disease, or death or to damage to or destruction of tangible property;
 - b) caused by negligent acts or omissions of the Contractor or anyone for whose acts the Contractor may be liable; and
 - c) made in writing within a period of 6 years from the date of Substantial Performance of the Work as set out in the Certificate of Substantial Performance of the Work or, where so specified in the Contract Documents, from the date of certification of Final Acceptance.

- .02 The Contractor shall indemnify and hold harmless the Owner from all and every claim for damages, royalties or fees for the infringement of any patented invention or copyright occasioned by the Contractor in connection with the Work performed or Material furnished by the Contractor under the Contract.
- .03 The Owner expressly waives the right to indemnity for claims other than those stated in clauses GC 6.02.01 and GC 6.02.02.
- .04 The Owner shall indemnify and hold harmless the Contractor, their elected officials, agents, officers, and employees from and against all claims, demands, losses, expenses, costs, damages, actions, suits, or proceedings arising out of the Contractor's performance of the Contract that are attributable to a lack of or defect in title or an alleged lack of or defect in title to the Working Area.
- .05 The Contractor expressly waives the right to indemnity for claims other than those stated in clause GC 6.02.04.

GC 6.03 Contractor's Insurance

GC 6.03.01 General

- .01 Without restricting the generality of subsection GC 6.02, Indemnification, the Contractor shall provide, maintain, and pay for the insurance coverages listed under clauses GC 6.03.02 and GC 6.03.03. Insurance coverage in clauses GC 6.03.04, GC 6.03.05, and GC 6.03.06 shall only apply when so specified in the Contract Documents.
- .02 The Contractor shall provide the Contract Administrator with an original Certificate of Insurance for each type of insurance coverage that is required by the Contract Documents. The Contractor shall ensure that the Contract Administrator is, at all times in receipt of a valid Certificate of Insurance for each type of insurance coverage, in such amounts as specified in the Contract Documents. The Contractor will not be permitted to commence Work until the Contract Administrator is in receipt of such proof of insurance. The Contract Administrator may withhold payments of monies due to the Contractor until the Contractor has provided the Contract Administrator with original valid Certificates of Insurance as required by the provisions of the Contract Documents.

GC 6.03.02 Commercial General Liability Insurance

- .01 Commercial General Liability Insurance shall be in the name of the Contractor, with the Owner and the Contract Administrator named as additional insureds, with limits of not less than five million dollars inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof. The insurance shall be provided in a form acceptable to the Owner.
- .02 Approval of this insurance shall be conditional upon the Contractor obtaining the services of an insurer licensed to underwrite insurance in the Province of Ontario and obtaining the insurer's certificate of equivalency to the required insurance.
- .03 The Contractor shall submit annually to the Owner, proof of continuation of the completed operations coverage and, if the Contractor fails to do so, the limitation period for claiming indemnity described in clause GC 6.02.01 c), shall not be binding on the Owner.
- .04 Should the Contractor decide not to employ Subcontractors for operations requiring the use of explosives for blasting, pile driving or caisson work, removal or weakening of support of property building or land, the Commercial General Liability Insurance shall include the appropriate endorsements.
- .05 The policies shall be endorsed to provide the Owner with not less than 30 Days written notice in advance of cancellation, termination, or material change.

.06 "Claims Made" insurance policies shall not be permitted.

GC 6.03.03 Automobile Liability Insurance

.01 Automobile liability insurance in respect of licensed vehicles shall have limits of not less than five million dollars inclusive per occurrence for bodily injury, death and damage to property, in the following forms endorsed to provide the Owner with not less than 30 Days written notice in advance of any cancellation, termination, or material change.

- a) standard non-owned automobile policy including standard contractual liability endorsement, and
- b) standard owner's form automobile policy providing third party liability and accident benefits insurance and covering licensed vehicles owned or operated by the Contractor.

GC 6.03.04 Aircraft and Watercraft Liability Insurance

GC 6.03.04.01 Aircraft Liability Insurance

.01 Aircraft liability insurance with respect to owned or non-owned aircraft used directly or indirectly in the performance of the Work, including use of additional premises, shall be subject to limits of not less than five million dollars inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof, and limits of not less than five million dollars for aircraft passenger hazard. Such insurance shall be in a form acceptable to the Owner. The policies shall be endorsed to provide the Owner with not less than 30 Days written notice in advance of cancellation, change, or amendment restricting coverage.

GC 6.03.04.02 Watercraft Liability Insurance

.01 Watercraft liability insurance with respect to owned or non-owned watercraft used directly or indirectly in the performance of the Work, including use of additional premises, shall be subject to limits of not less than five million dollars inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof. Such insurance shall be in a form acceptable to the Owner. The policies shall be endorsed to provide the Owner with not less than 30 Days written notice in advance of cancellation, change, or amendment restricting coverage.

GC 6.03.05 Property and Boiler Insurance

GC 6.03.05.01 Property Insurance

.01 All risks property insurance shall be in the name of the Contractor, with the Owner and the Contract Administrator named as additional insureds, insuring not less than the sum of the amount of the Contract price and the full value, as may be stated in the Contract Documents, of Material that is specified to be provided by the Owner for incorporation into the Work.

GC 6.03.05.02 Boiler Insurance

.01 Boiler insurance insuring the interests of the Contractor, the Owner and the Contract Administrator for not less than the replacement value of boilers and pressure vessels forming part of the Work, shall be in a form acceptable to the Owner.

GC 6.03.05.03 Use and Occupancy of the Work Prior to Completion

.01 Should the Owner wish to use or occupy part or all of the Work prior to Substantial Performance, the Owner shall give 30 Days written notice to the Contractor of the intended purpose and extent of such use or occupancy. Prior to such use or occupancy, the Contractor shall notify the Owner in writing of

the additional premium cost, if any, to maintain property and boiler insurance, which shall be at the Owner's expense. If because of such use or occupancy the Contractor is unable to provide coverage, the Owner upon written notice from the Contractor and prior to such use or occupancy shall provide, maintain, and pay for property and boiler insurance insuring the full value of the Work, including coverage for such use or occupancy, and shall provide the Contractor with proof of such insurance. The Contractor shall refund to the Owner the unearned premiums applicable to the Contractor's policies upon termination of coverage.

- .02 The policies shall provide that in the event of a loss or damage, payment shall be made to the Owner and the Contractor as their respective interests may appear. The Contractor shall act on behalf of both the Owner and the Contractor for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the Contractor shall proceed to restore the Work. Loss or 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 Contract Time relative to the extent of the loss or damage as the Contract Administrator may decide in consultation with the Contractor.

GC 6.03.05.04 Payment for Loss or Damage

- .01 The Contractor shall be entitled to receive from the Owner, in addition to the amount due under the Contract, the amount at which the Owner's interest in restoration of the Work has been appraised, such amount to be paid as the restoration of the Work proceeds, and in accordance with the requirements of section GC 8.0, Measurement and Payment. In addition, the Contractor shall be entitled to receive from the payments made by the insurers the amount of the Contractor's interest in the restoration of the Work.
- .02 The Contractor shall be responsible for deductible amounts under the policies, except where such amounts may be excluded from the Contractor's responsibility by the terms of this Contract.
- .03 In the event of a loss or damage to the Work arising from the action or omission of the Owner or others, the Owner shall pay the Contractor the cost of restoring the Work as the restoration of the Work proceeds and in accordance with the requirements of section GC 8.0, Measurement and Payment.

GC 6.03.06 Contractor's Equipment Insurance

- .01 All risks Contractor's Equipment insurance covering construction equipment used by the Contractor for the performance of the Work, including boiler insurance on temporary boilers and pressure vessels, shall be in a form acceptable to the Owner and shall not allow subrogation claims by the insurer against the Owner. The policies shall be endorsed to provide the Owner with not less than 30 Days written notice in advance of cancellation, change, or amendment restricting coverage. Subject to satisfactory proof of financial capability by the Contractor for self-insurance of the Contractor's Equipment, the Owner agrees to waive the equipment insurance requirement, and for the purpose of this Contract, the Contractor shall be deemed to be insured. This policy shall be amended to provide permission for the Contractor to grant prior releases with respect to damage to the Contractor's Equipment.

GC 6.03.07 Insurance Requirements and Duration

- .01 Each insurance policy as noted in the Contract Documents shall be in effect from the date of commencement of the Work until 10 Days after the date of Final Acceptance of the Work, as set out in the Final Acceptance Certificate.
- .02 The Contractor shall provide the Owner, on a form acceptable to the Owner, proof of insurance prior to commencement of the Work and signed by the underwriter or the broker.

- .03 The Contractor shall, on request, promptly provide the Owner with a certified true copy of each insurance policy exclusive of information pertaining to premium or premium bases used by the insurer to determine the cost of the insurance. The certified true copy shall include the signature of an officer of the insurer.
- .04 Where a policy is renewed, the Contractor shall provide the Owner, on a form acceptable to the Owner, renewed proof of insurance immediately following completion of renewal.
- .05 Unless specified otherwise, the Contractor shall be responsible for the payment of deductible amounts under the policies.
- .06 If the Contractor fails to provide or maintain insurance as required in subsection GC 6.03, Contractor's Insurance, or elsewhere in the Contract Documents, then the Owner shall have the right to provide and maintain such insurance and give evidence thereof to the Contractor. The Owner's cost thereof shall be payable by the Contractor to the Owner on demand.
- .07 If the Contractor fails to pay the cost of the insurance placed by the Owner within 28 Days of the date on which the Owner made a formal demand for reimbursement of such costs, the Owner may deduct the costs thereof from monies which are due or may become due to the Contractor.

GC 6.04 Bonding

- .01 The Contractor shall provide the Owner with the surety bonds in the amount required by the Contract Documents.
- .02 Such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the Province of Ontario and shall be to the satisfaction of the Owner. The bonds shall be maintained in good standing until the Final Acceptance.

GC 6.05 Workplace Safety and Insurance Board

- .01 The Contractor shall provide the Contract Administrator with a copy of a Certificate of Clearance indicating the Contractor's good standing with the Workplace Safety and Insurance Board, as follows:
 - a) Immediately prior to the Contract Administrator authorizing the Contractor to commence Work.
 - b) Prior to issue of the Certificate of Substantial Performance.
 - c) Prior to expiration of the Warranty Period.
 - d) At any other time when requested by the Contract Administrator.

SECTION GC 7.0 - CONTRACTOR'S RESPONSIBILITIES AND CONTROL OF THE WORK

GC 7.01 General

GC 7.01.01 Site Visit

- .01 The Contractor warrants that the site of the Work has been visited during the preparation of the Tender and the character of the Work and all local conditions that may affect the performance of the Work are known.

GC 7.01.02 Commencement of Work

- .01 The Contractor shall not commence the Work nor deliver anything to the Working Area until the Contractor has received a written order to commence the work from the Contract Administrator.

GC 7.01.03 Control and Responsibility

- .01 The Contractor shall have complete control of the Work and shall effectively direct and supervise the Work so as to ensure conformity with the Contract Documents. The Contractor shall be responsible for construction means, methods, techniques, sequences, and procedures and for coordinating the various parts of the Work.
- .02 The Contractor shall provide adequate labour, Equipment, and Material to ensure the completion of the Contract in accordance with the Contract Documents. The Work shall be performed as vigorously and as continuously as weather conditions or other interferences may permit.
- .03 The Contractor shall have the sole responsibility for the design, erection, operation, maintenance, and removal of temporary structures and other temporary facilities and the design and execution of construction methods required in their use.
- .04 Notwithstanding clause GC 7.01.03, where the Contract Documents include designs for temporary structures and other temporary facilities or specify a method of construction in whole or part, such facilities and methods shall be considered to be part of the design of the Work, and the Contractor shall not be held responsible for that part of the design or the specified method of construction. The Contractor shall, however, be responsible for the execution of such design or specified method of construction in the same manner that the Contractor is responsible for the execution of the Work.
- .05 The Contractor shall comply with and conform to all statutes, laws, by-laws, regulations, requirements, ordinances, notices, rulings, orders, directives and policies of the municipal, provincial and federal governments and any other lawful authority and all court orders, judgments and declarations of a court of competent jurisdiction (collectively referred to as the "Laws"), applicable to the Work to be provided by, and the undertakings and obligations of, the Contractor under this Contract.

GC 7.01.04 Compliance with the Occupational Health and Safety Act

- .01 The Contractor shall execute the terms of the Contract in strict compliance with the requirements of the Occupational Health and Safety Act, R.S.O. 1990, c.O.1, as amended, (the "Act") and Ontario Regulation 213/91, as amended, (that regulates Construction Projects) and any other regulations as amended under the Act (the "Regulations") that may affect the performance of the Work, as the "Constructor" or "employer," as defined by the Act, as the case may be. The Contractor shall ensure that:
- a) worker safety is given priority in planning, pricing, and performing the Work;

- b) its officers and supervisory employees have a working knowledge of the duties of a "Constructor" and "employer" as defined by the Act and the provisions of the Regulations applicable to the Work, and a personal commitment to comply with them;
 - c) a copy of the most current version of the Act and the Regulations are available at the Contractor's office within the Working Area, or, in the absence of an office, in the possession of the supervisor responsible for the performance of the Work;
 - d) workers employed to carry out the Work possess the knowledge, skills, and protective devices required by law or recommended for use by a recognized industry association to allow them to work in safety;
 - e) its supervisory employees are "Competent Persons" as defined in the OHSA, and carry out their duties in a diligent and responsible manner with due consideration for the health and safety of the workers;
 - f) all Subcontractors and their workers are properly protected from injury while they are at the Working Area; and
 - g) following execution of the Contract and prior to the issuance of the order to commence by the Owner, upon request the Contractor submits to the Contract Administrator a copy of the Notice of Project issued to the Ministry of Labour.
- .02 The Contractor, when requested, shall provide the Owner with a copy of its health and safety policy and program at the pre-start meeting and shall respond promptly to requests from the Owner for confirmation that its methods and procedures for carrying out the Work comply with the Act and Regulations. The Contractor shall cooperate with representatives of the Owner and the inspectors appointed to enforce the Act and the Regulations in any investigations of worker health and safety in the performance of the Work. The Contractor shall indemnify and save the Owner harmless from any additional expense that the Owner may incur to have the Work performed as a result of the Contractor's failure to comply with the requirements of the Act and the Regulations.
- .03 Prior to commencement of the Work, the Contractor shall provide to the Contract Administrator a list of those products controlled under the Workplace Hazardous Materials Information System or "WHMIS", which the Contractor expects to use on the Contract. Related Safety Data Sheets shall accompany the submission. All containers used in the application of products controlled under "WHMIS" shall be labelled. The Contractor shall notify the Contract Administrator in writing of changes in the products to be used and provide relevant Safety Data Sheets.
- .04 During the course of the Work, the Contractor shall furnish forthwith to the Contract Administrator a copy of all correspondence, reports, orders or charges respecting occupational health and safety, including under the Act, Technical Standards and Safety Act, 2000, S.O. 2000, c.16 as amended, and the Criminal Code, R.S.C., 1985, c. C-46 as amended, which are received by, or which come to the notice of, the Contractor that apply or are relevant to any of the Work or activities conducted under the terms of the Contract.
- .05 Nothing in this Contract shall be construed as requiring the Owner to monitor or approve the workplace health and safety practices of the Contractor.

GC 7.01.05 Contractor's Representatives

- .01 The Contractor shall have an authorized representative on the site while any Work is being performed, to supervise the Work and act for or on the Contractor's behalf. Prior to commencement of construction, the Contractor shall notify the Contract Administrator of the names, addresses, positions, and cell phone, and telephone numbers of the Contractor's representatives who can be contacted at any time to deal with matters relating to the Contract, and update as necessary.

- .02 The Contractor shall designate a person to be responsible for traffic control and work zone safety. The designated person shall be a competent worker who is qualified because of knowledge, training, and experience to perform the duties; is familiar with Book 7 of the Ontario Traffic Manual; and has knowledge of all potential or actual danger to workers and motorists. Prior to the commencement of construction, the Contractor shall notify the Contract Administrator of the name; address; position; cell phone, and telephone numbers of the designated person, and update as necessary. The designated person may have other responsibilities, including other construction sites, and need not be present in the Working Area at all times.

GC 7.01.06 Assistance to the Contract Administrator

- .01 The Contractor shall, at no additional cost to the Owner, furnish all reasonable aid, facilities, and assistance required by the Contract Administrator for the proper inspection and examination of the Work or the taking of measurements for the purpose of payment.

GC 7.01.07 Schedule

- .01 The Contractor shall prepare and update, as required, a construction schedule of operations, indicating the proposed methods of construction and sequence of Work and the time the Contractor proposes to complete the various items of Work within the time specified in the Contract Documents. The schedule shall be submitted to the Contract Administrator within 14 Days from the Contract award. If the Contractor's schedule is materially affected by changes in the work, the Contractor shall submit an updated construction schedule, if requested by the Contract Administrator, within 7 Days of the request. This updated schedule shall show how the Contractor proposes to perform the balance of the Work, to complete the Work within the time specified in the Contract Documents.
- .02 For Contracts with a specified number of Working Days, the construction time shown on the initial schedule shall not exceed the specified number of Working Days. The activities on the critical path shall assist the Contract Administrator in determining the Controlling Operation for the purpose of the charging of Working Days. The construction schedule shall include all non-working periods and appropriate allowances for Inclement Weather.
- .03 For Contracts which specify a Contract Time, the construction time shown on the initial construction schedule shall not extend beyond the specified Contract Time. The construction schedule shall include all non-working periods and appropriate allowances for Inclement Weather.

GC 7.01.08 Errors and Inconsistencies Relating to the Contract

- .01 Where the Contractor finds any error, inconsistency, or omission relating to the Contract, the Contractor shall promptly report it to the Contract Administrator and shall not proceed with the activity affected until receiving direction from the Contract Administrator.
- .02 The Contractor shall promptly notify the Contract Administrator in writing if the subsurface conditions observed in the Working Area differ materially from those indicated in the Contract Documents.

GC 7.01.09 Utilities

- .01 The Contractor shall arrange with the appropriate Utility authorities for the stake out of all underground Utilities and service connections that may be affected by the Work. The Contractor shall observe the location of the stake outs prior to commencing the Work and if there is a discrepancy between the location of the stake outs and the locations shown on the Contract Documents, that may affect the Work, the Contractor shall immediately notify the Contract Administrator and the affected Utility companies, in order to resolve the discrepancy. The Contractor shall be responsible for any damage done to the underground Utilities and service connections by

the Contractor's forces during construction if the stake out locations are within the tolerances given in clause GC 2.01.01 a).

- .02 In the case of damage to or interference with any Utilities, pole lines, pipe lines, conduits, farm tiles, or other public or privately-owned works or property, the Contractor shall immediately notify the Owner, Contract Administrator, and the owner of the works of the location and details of such damage or interference.

GC 7.02 Monuments and Layout

- .01 Prior to commencement of construction, the Contract Administrator and the Contractor shall locate on site those Monuments that delineate the Working Area and may be used to lay out the Work, all as shown on the Contract Drawings. Property Monuments shall be inventoried in the report format required by the Owner.
- .02 These Monuments shall be protected by highly visible T-bars or 1.0 metre tall stakes with survey ribbon set within 0.3 metres of the Monument.
- .03 The Contractor shall be responsible for the preservation of all Property Monuments while the Work is in progress, except those Property Monuments that must be removed to facilitate the Work as identified and agreed by the Contractor and Contract Administrator. Monuments removed to facilitate the Work shall be replaced at the Owner's expense, and all others shall be replaced at the Contractor's expense.
- .04 All Monuments disturbed, damaged, or removed by the Contractor's operations shall be documented in the inventory report and replaced under the supervision of an Ontario Land Surveyor.
- .05 The Monument inventory report referred to in clauses GC 7.02.01 and GC 7.02.04 shall include as a minimum:
 - a) Contract number, Contract name, Contract Administrator's name;
 - b) Project/site construction limits;
 - c) Rough location, type, identification number, and condition of each Monument before and after construction;
 - d) The solutions for protection of the Monuments that may be impacted by construction;
 - e) Reference ties;
 - f) A summary of those Monuments affected by the Work and how they were reset or replaced, and by what type of Monument.
- .06 At no extra cost to the Owner, the Contractor shall provide the Contract Administrator with such materials and devices as may be necessary to lay out the baseline and benchmarks, and as may be necessary for the inspection of the Work.
- .07 The Contractor shall provide qualified personnel to lay out and establish all lines and grades necessary for construction. The Contractor shall notify the Contract Administrator of any layout work carried out, so that the same may be checked by the Contract Administrator.
- .08 The Contractor shall install and maintain substantial alignment markers and secondary benchmarks as may be required for the proper execution of the Work. The Contractor shall supply one copy of all alignment and grade sheets to the Contract Administrator.
- .09 The Contractor shall assume full responsibility for alignment, elevations, and dimensions of each and all parts of the Work, regardless of whether the Contractor's layout work has been checked by the Contract Administrator.

- .10 All stakes, marks, and reference points shall be carefully preserved by the Contractor. In the case of their destruction or removal, for any reason, before the end of the Contract Time such stakes, marks, and reference points shall be replaced, unless otherwise mutually agreed between the Contractor and the Contract Administrator, at the Contractor's expense.
- .11 Benchmarks and survey monuments identified in the Contract Documents shall be protected by the Contractor. In the case of their destruction or removal, such benchmarks and survey monuments shall be replaced by the Owner at the Contractor's expense.

GC 7.03 Working Area

- .01 The Contractor shall maintain the Working Area in a tidy condition and free from the accumulation of debris and prevent dust nuisance, mud, and ponding water, other than that caused by the Owner or others.
- .02 The Contractor's sheds, site offices, toilets, other temporary structures, and storage areas for Material and Equipment shall be grouped in a compact manner, maintained in a neat and orderly condition at all times and removed upon completion of the Work.
- .03 The Contractor shall confine the construction operations to the Working Area. Should the Contractor require additional space, the Contractor shall obtain such space at no additional cost to the Owner.
- .04 The Contractor shall not enter upon or occupy any private property for any purpose, unless the Contractor has received prior written permission from the property owner.
- .05 Upon completion of the Contract, the Working Area used by the Contractor shall be restored to its original condition or better unless otherwise specified in the Contract Documents including the removal of all excavated and stockpiled materials at the Contractor's expense.

GC 7.04 Damage by Vehicles or Other Equipment

- .01 If at any time, in the opinion of the Contract Administrator, damage is being done or is likely to be done to any Roadway or any improvement thereon, outside the Working Area, by the Contractor's vehicles or other Equipment, whether licensed or unlicensed Equipment, the Contractor shall, on the direction of the Contract Administrator, and at no extra cost to the Owner, make changes or substitutions for such vehicles or Equipment, and shall alter loadings, or in some other manner, remove the cause of such damage to the satisfaction of the Contract Administrator.

GC 7.05 Excess Loading of Motor Vehicles

- .01 Where a vehicle is hauling Material for use on the Work, in whole or in part; upon a Highway; and where motor vehicle registration is required for such vehicle, the Contractor shall not cause or permit such vehicle to be loaded beyond the legal limit specified in the Highway Traffic Act, R.S.O. 1990, c.H.8, as amended, whether such vehicle is registered in the name of the Contractor or otherwise, except where there are designated areas within the Working Area where overloading is permitted. The Contractor shall bear the onus of weighing disputed loads.

GC 7.06 Maintaining Roads and Detours

- .01 Unless otherwise specified in the Contract Documents, if an existing Roadway is affected by construction, it shall be kept open to both vehicular and pedestrian traffic.
- .02 Subject to the approval of the Contract Administrator, the Contractor shall, at no additional cost to the Owner, be responsible for providing and maintaining for the duration of the Work an alternative route for both pedestrian and vehicular traffic through the Working Area in accordance with the OTM,

whether along the existing Highway under construction or on a detour road beside or adjacent to the Highway under construction.

- .03 Subject to the approval of the Contract Administrator, the Contractor may block traffic for short periods of time to facilitate construction of the Work in accordance with the OTM. Any temporary lane closures shall be kept to a minimum.
- .04 The Contractor shall not be required to maintain a road through the Working Area until such time as the Contractor has commenced operations or during seasonal shut down or on any part of the Contract that has been accepted in accordance with these General Conditions. The Contractor shall not be required to apply de-icing chemicals or abrasives or carry out snowplowing.
- .05 Where only localized and separated sections of the Highway are affected by the Contractor's operations, the Contractor shall not be required to maintain intervening sections of the Highway until such times as these sections are located within the limits of the Highway affected by the Contractor's general operations under the Contract.
- .06 Where the Contract Documents provide for or the Contract Administrator requires detours at specific locations, payment for the construction of the detours and, if required, for the subsequent removal of the detours, shall be made at the Contract prices appropriate to such Work.
- .07 Compensation for all labour, Equipment, and Materials to do this Work shall be at the Contract prices appropriate to the Work and, where there are no such prices, at negotiated prices. Notwithstanding the foregoing, the cost of blading required to maintain the surface of such roads and detours shall be deemed to be included in the prices bid for the various tender items and no additional payment shall be made.
- .08 Where Work under the Contract is discontinued for any extended period, including seasonal shutdown, the Contractor shall, when directed by the Contract Administrator, open and place the Roadway and detours in a passable, safe, and satisfactory condition for public travel.
- .09 Where the Contractor constructs a detour that is not specifically provided for in the Contract Documents or required by the Contract Administrator, the construction of the detour and, if required, the subsequent removal shall be performed at the Contractor's expense. The detour shall be constructed and maintained to structural and geometric standards approved by the Contract Administrator. Removal and site restoration shall be performed as directed by the Contract Administrator.
- .10 Where, with the prior written approval of the Contract Administrator, the Highway is closed and the traffic diverted entirely off the Highway to any other Highway, the Contractor shall, at no extra cost to the Owner, supply, erect, and maintain traffic control devices in accordance with the OTM.
- .11 Compliance with the foregoing provisions shall in no way relieve the Contractor of its obligations under subsection GC 6.01, Protection of Work, Persons, and Property, dealing with the Contractor's responsibility for damage claims, except for claims arising on sections of Highway within the Working Area that are being maintained by others.

GC 7.07 Access to Properties Adjoining the Work and Interruption of Utility Services

- .01 The Contractor shall provide at all times and at no extra cost to the Owner,
 - a) safe and adequate pedestrian and vehicular access;
 - b) continuity of Utility services; and

c) access for emergency response services;

to properties adjoining the Working Area.

- .02 The Contractor shall provide at all times and at no extra cost to the Owner access to fire hydrants, water and gas valves, and all other Utilities located in the Working Area.
- .03 Where any interruptions in the supply of Utility services are required and are authorized by the Contract Administrator, the Contractor shall give the affected property owners notice in accordance with subsection GC 7.11, Notices by the Contractor, and shall arrange such interruptions so as to create a minimum of interference to those affected.

GC 7.08 Approvals and Permits

- .01 Except as specified in subsection GC 4.02, Approval and Permits, the Contractor shall obtain and pay for any permits, licences, and certificates, which at the date of tender closing, are required for the performance of the Work.
- .02 The Contractor shall arrange for all necessary inspections required by the approvals and permits specified in clause GC 7.08.01, Approvals and Permit.

GC 7.09 Suspension of Work

- .01 The Contractor shall, upon written notice from the Contract Administrator, discontinue or delay any or all of the Work and Work shall not be resumed until the Contract Administrator so directs in writing. Delays, in these circumstances, shall be administered according to subsection GC 3.07, Delays.

GC 7.10 Contractor's Right to Stop the Work or Terminate the Contract

- .01 If the Owner is adjudged bankrupt or makes a general assignment for the benefit of creditors because of insolvency or if a receiver is appointed because of insolvency, the Contractor may, without prejudice to any other right or remedy the Contractor may have, by giving the Owner or receiver or trustee in bankruptcy written notice, terminate the Contract.
- .02 If the Work is stopped or otherwise delayed for a period of 30 Days or more under an order of a court or other public authority and provided that such order was not issued as the result of an act or fault of the Contractor or of anyone directly employed or engaged by the Contractor, the Contractor may, without prejudice to any other right or remedy the Contractor may have, by giving the Owner written notice, terminate the Contract.
- .03 The Contractor may notify the Owner in writing, with a copy to the Contract Administrator, that the Owner is in default of contractual obligations if,
- a) the Contract Administrator fails to issue certificates in accordance with the provisions of section GC 8.0, Measurement and Payment;
 - b) the Owner fails to pay the Contractor, within 28 Days of the due dates identified in clause GC 8.02.04, Certification and Payment, the amounts certified by the Contract Administrator or within 28 Days of an award by an arbitrator or court; or
 - c) the Owner fails to comply with the requirements of the Contract.
- .04 The Contractor's written notice to the Owner shall advise that if the default is not corrected in the 7 Days immediately following receipt of the written notice, the Contractor may, without prejudice to any other right or remedy the Contractor may have, stop the Work or terminate the Contract.

- .05 If the Contractor terminates the Contract under the conditions set out in subsection GC 7.10, Contractor's Right to Stop the Work or Terminate the Contract, the Contractor shall be entitled to be paid for all Work performed according to the Contract Documents and for any losses or damage as the Contractor may sustain as a result of the termination of the Contract.

GC 7.11 Notices by the Contractor

- .01 Before any Work is carried out that may affect the property or operations of any Ministry or agency of government or any person; company; partnership; or corporation, including a municipal corporation or any board or commission thereof, and in addition to such notices of the commencement of specified operations as are prescribed elsewhere in the Contract Documents, the Contractor shall give at least 48 hours advance written notice of the date of commencement of such Work to the person, company, partnership, corporation, board, or commission so affected.

GC 7.12 Environmental Incident Management under Legislation Protecting the Environment and Natural Resources

- .01 The Contractor shall be in strict compliance with the requirements of the following legislation, as amended, regarding environmental incidents under the control of the Contractor or that are a result of the Contractor's operations:
- a) Environmental Protection Act, R.S.O. 1990, c. E.19
 - b) Fisheries Act, R.S.C. 1985, c. F-14
 - c) Technical Standards and Safety Act, 2000, S.O. 2000, c. 16
 - d) Pesticides Act, R.S.O. 1990, c. P.11
 - e) Ontario Water Resources Act, R.S.O. 1990, c. O.40
 - f) Transportation of Dangerous Goods Act, 1992, S.C.1992, c. 34
- .02 The requirements of the legislation listed in clause GC 7.12.01 include but are not restricted to:
- a) Immediate containment of the material, pollutant, contaminant, deleterious substance, or dangerous good;
 - b) Immediate notification of the environmental incident to the proper authority; and
 - c) Clean up and restoration of the environment to preconditions.
- .03 The Contractor shall possess a plan demonstrating that environmental incidents shall be managed to satisfy the requirements of clauses GC 7.12.01 and GC 7.12.02.
- .04 The Contractor shall provide a copy of the environmental incident plan to the Contract Administrator when required and shall inform the Contract Administrator immediately of:
- a) An environmental incident when it occurs; and
 - b) Any actions taken or intended to be taken by the Contractor regarding the environmental incident.

- .05 The Contractor shall indemnify and save the Owner harmless from any additional expense that the Owner may incur to have the Work performed as a result of the Contractor's failure to comply with the requirements of the legislation listed in clause GC 7.12.01.

GC 7.13 Obstructions

- .01 Except as otherwise noted in these General Conditions, the Contractor assumes all the risks and responsibilities arising out of any obstruction encountered in the performance of the Work and any traffic conditions, including traffic conditions on any Highway or road giving access to the Working Area caused by such obstructions, and the Contractor shall not make any claim against the Owner for any loss, damage, or expense occasioned thereby.
- .02 Where the obstruction is an underground Utility or other man-made object, the Contractor shall not be required to assume the risks and responsibilities arising out of such obstruction, unless the location of the obstruction is shown on the Plans or described in the Contract Documents and the location so shown is within the tolerance specified in clause GC 2.01.01 a), or unless the presence and location of the obstruction has otherwise been made known to the Contractor or could have been determined by the visual site investigation made by the Contractor in accordance with these General Conditions.
- .03 During the course of the Contract, it is the Contractor's responsibility to consult with Utility companies or other appropriate authorities for further information in regard to the exact location of these Utilities, to exercise the necessary care in construction operations, and to take such other precautions as are necessary to safeguard the Utilities from damage.

GC 7.14 Limitations of Operations

- .01 Except for such Work as may be required by the Contract Administrator to maintain the Work in a safe and satisfactory condition, the Contractor shall not carry out operations under the Contract on Saturdays, Sundays, and any holidays recognized by the Owner without permission in writing from the Contract Administrator.
- .02 The Contractor shall cooperate and coordinate the Work with other Contractors, Utility companies, and the Owner and they shall be allowed access to their Work or plant at all reasonable times.

GC 7.15 Cleaning Up Before Acceptance

- .01 Upon attaining Substantial Performance of the Work, the Contractor shall remove surplus materials, tools, and Equipment not required for the performance of the remaining Work. The Contractor shall also remove all temporary works and debris other than that caused by the Owner or others and leave the Work and Working Area clean and suitable for occupancy by the Owner, unless otherwise specified.
- .02 The Work shall not be deemed to have reached Completion until the Contractor has removed surplus materials, tools, and Equipment. The Contractor shall also have removed debris, other than that caused by the Owner, or others.

GC 7.16 Warranty

- .01 Unless otherwise specified in the Contract Documents for certain Materials or components of the Work, the Contractor shall be responsible for the proper performance of the Work only to the extent that the design and standards permit such performance.
- .02 Subject to the previous paragraph the Contractor shall correct promptly, at no additional cost to the Owner, defects or deficiencies in the Work that appear,

- a) prior to and during the period of 12 months from the date of Substantial Performance of the Work, as set out in the Certificate of Substantial Performance of the Work,
- b) where there is no Certificate of Substantial Performance, 12 months from the date of Completion of the Work as set out in the Completion Certificate, or
- c) such longer periods as may be specified in the Contract Documents for certain Materials or some of the Work.

The Contract Administrator shall promptly give the Contractor written notice of observed defects or deficiencies.

- .03 The Contractor shall correct or pay for damage resulting from corrections made under the requirements of clause GC 7.16.02.

GC 7.17 Contractor's Workers

- .01 The Contractor shall only employ orderly, competent, and skillful workers to do the Work and whenever the Contract Administrator shall inform the Contractor in writing that any worker or workers involved in the Work are, in the opinion of the Contract Administrator, incompetent, or disorderly such worker or workers shall be removed from the Work and shall not be employed on the Work again without the consent in writing of the Contract Administrator.

GC 7.18 Drainage

- .01 During construction and until the Work is completed, the Contractor shall make all reasonable efforts to keep all portions of the Work properly and efficiently drained, to at least the same degree as that of the existing drainage conditions.

SECTION GC 8.0 - MEASUREMENT AND PAYMENT

GC 8.01 Measurement

GC 8.01.01 Quantities

- .01 The Contract Administrator shall make an Estimate in writing once a month, unless otherwise specified in the Contract Documents, of the quantity of Work performed and provide such Estimate to the Contractor within 10 Days of the Cut-Off Date.
- .02 Quantities for progress payments shall be construed and held to approximate. The final quantities for the issuance of the Completion Payment shall be based on the measurement of Work completed.
- .03 Measurement of the quantities of the Work performed may be either by Actual Measurement or by Plan Quantity principles as indicated in the Contract. Adjustments to Plan Quantity measurements shall normally be made using Plan Quantity principles but may, where appropriate, be made using Actual Measurements. Those items identified on the Tender by the notation (P) in the unit column shall be paid according to the Plan Quantity. Items where the notation (P) does not occur shall be paid according to Actual Measurement or lump sum.

GC 8.01.02 Variations in Tender Quantities

- .01 Where it appears that the quantity of Work to be done or Material to be supplied or both by the Contractor under a unit price tender item may exceed or be less than the tender quantity, the Contractor shall proceed to do the Work or supply the Material or both required to complete the tender item and payment shall be made for the actual amount of Work done or Material supplied or both at the unit prices stated in the Tender except as provided below:
 - a) In the case of a Major Item where the quantity of Work performed or Material supplied or both by the Contractor exceeds the tender quantity by more than 15%, either party to the Contract may make a written request to the other party to negotiate a revised unit price for that portion of the Work performed or Material supplied or both which exceeds 115% of the tender quantity. The negotiation shall be carried out as soon as reasonably possible. Any revision of the unit price shall be based on the actual cost of doing the Work or supplying the Material or both under the tender item plus a reasonable allowance for profit and applicable overhead. Alternatively, where both parties agree, an allowance equal to 10% of the unit price on the amount of the underrun in excess of 15% of the tender quantity shall be paid.
 - b) In the case of a Major Item where the quantity of Work performed or Material supplied or both by the Contractor is less than 85% of the tender quantity, the Contractor may make a written request to negotiate for the portion of the actual overheads and fixed costs applicable to the amount of the underrun in excess of 15% of the tender quantity. For purposes of the negotiation, the overheads and fixed costs applicable to the item are deemed to have been prorated uniformly over 100% of the tender quantity for the item. Overhead costs shall be confirmed by a statement certified by the Contractor's senior financial officer or auditor and may be audited by the Owner. Alternatively, where both parties agree, an allowance equal to 10% of the unit price on the amount of the underrun in excess of 15% of the tender quantity shall be paid.

Written requests for compensation must be received no later than 60 Days after the issuance of the Completion Payment.

GC 8.02 Payment

GC 8.02.01 Non-Resident Contractor

- .01 If the Contractor is not a registered entity in Ontario, the Contractor shall obtain all necessary approvals, consents, permits, licences, certificates, registrations, and other authorizations prior to execution of the Contract.
- .02 The Contractor shall ensure that all Subcontractors the Contractor proposes to use for carrying out any of the Work required by the Contract and who are not a registered entity in Ontario have obtained all necessary approvals, consents, permits, certificates, registrations, and other authorizations prior to execution of the subcontract.

GC 8.02.02 Price for Work

- .01 Prices for the Work shall be full compensation for all labour, Equipment and Material required in its performance. The term "all labour, Equipment, and Material" shall include Hand Tools, supplies, and other incidentals.
- .02 Payment, for Work which is identified in the Contract Documents but not specifically detailed as part of any one item shall be deemed to be included in the items with which it is associated.

GC 8.02.03 Advance Payments for Material

- .01 The Owner shall make advance payments for Material intended for incorporation in the Work upon the written request of the Contractor and according to the following terms and conditions:
 - a) The Contractor shall deliver the Material to a site approved by the Contract Administrator and the Contractor shall, in advance of receipt of the shipment of the Material, arrange for adequate and proper storage facilities.
 - b) The value of aggregates, processed and stockpiled, shall be assessed by the following procedure:
 - i. Sources Other Than Commercial
 - (A) Granular A, B, BI, BII, BIII, M, and O shall be assessed at the rate of 60% of the Contract price.
 - (B) Coarse and fine aggregates for hot mix asphaltic concrete, surface treatment and Portland cement concrete shall be assessed at the rate of 25% of the Contract price for each aggregate stockpiled.
 - ii. Commercial Sources
 - Payment for separated coarse and fine aggregates shall be considered at the above rate when such Materials are stockpiled at a commercial source where further processing is to be carried out before incorporating such Materials into a final product. Advance payments for other Materials located at a commercial source shall not be made.
 - c) Payment for all other Materials, unless otherwise specified elsewhere in the Contract Documents, shall be based on the invoice price, and the Contractor shall submit proof of cost to the Contract Administrator before payment can be made by the Owner.
 - d) The payment for all Materials shall be prorated against the appropriate tender item by paying for sufficient units of the item to cover the value of the Material. Such payment shall not exceed 80% of the Contract price for the item.

- e) All Materials for which the Contractor wishes to receive advance payment shall be placed in the designated storage location immediately upon receipt of the Material and shall thenceforth be held by the Contractor in trust for the Owner as collateral security for any monies advanced by the Owner and for the due completion of the Work. The Contractor shall not exercise any act of ownership inconsistent with such security, or remove any Material from the storage locations, except for inclusion in the Work, without the consent, in writing, of the Contract Administrator.
 - f) Such materials shall remain at the risk of the Contractor who shall be responsible for any loss, damage, theft, improper use, or destruction of the Material however caused.
- .02 Where the Owner makes advance payments subject to the conditions listed in clause GC 8.02.03.01, such payment shall not constitute acceptance of the Material by the Owner. Acceptance shall only be determined when the Material meets the requirements of the appropriate specification.

GC 8.02.04 Certification and Payment

GC 8.02.04.01 Progress Payment

- .01 The Contractor shall submit a Proper Invoice for progress payments monthly or at intervals specified in the Contract Documents after starting the Work on this Contract. The Contractor shall submit the Proper Invoice to the Contract Administrator and to the Owner. This Proper Invoice shall be for work completed at the agreed to Cut-Off Date.
- .02 A Proper Invoice shall include;
- a) the requirements as set out in section 6.1 of the Construction Act;
 - b) the quantities of Work performed;
 - c) the value of Work performed;
 - d) any advanced payment for Material;
 - e) the amount of Statutory Holdback, liens, Owner's set-off;
 - f) the amount of any applicable taxes;
 - g) the amount due to the Contractor; and
 - h) any other information that may be prescribed in the Contract Documents.
- .03 Payment shall be made within 28 Days of the submission of the Proper Invoice unless a notice of non-payment has been issued in accordance with the Construction Act.
- .04 The Owner shall retain the Statutory Holdback in the form and amount as required under the Construction Act.

GC 8.02.04.02 Certification of Subcontract Completion

- .01 Before the Work has reached the stage of Substantial Performance, the Contractor may notify the Contract Administrator, in writing that a subcontract is completed satisfactorily and ask that the Contract Administrator certify the completion of such subcontract.

- .02 The Contract Administrator shall issue a Certificate of Subcontract Completion, if the subcontract has been completed in a form satisfactory to the Contract Administrator, and all required inspection and testing of the works covered by the subcontract have been carried out and the results are satisfactory to the Contract Administrator.
- .03 The Contract Administrator shall set out in the Certificate of Subcontract Completion the date on which the subcontract was completed and, within 7 Days of the date the subcontract is certified complete, the Contract Administrator shall give a copy of the certificate to the Contractor and to the Subcontractor concerned.

GC 8.02.04.03 Subcontract Statutory Holdback Release Certificate and Payment

- .01 Following receipt of the Certificate of Subcontract Completion, the Owner shall release and pay the Contractor the Statutory Holdback retained in respect of the subcontract. Such release shall be made 61 Days after the date the subcontract was certified complete and providing the Contractor submits the following to the Contract Administrator:
 - a) a document satisfactory to the Contract Administrator that shall release the Owner from all further claims relating to the subcontract, qualified by stated exceptions such as holdback monies;
 - b) evidence satisfactory to the Contract Administrator that the Subcontractor has discharged all liabilities incurred in carrying out the subcontract;
 - c) a satisfactory clearance certificate or letter from the Workplace Safety and Insurance Board relating to the subcontract; and
 - d) a copy of the contract between the Contractor and the Subcontractor and a satisfactory statement showing the total amount due the Subcontractor from the Contractor.
- .02 Clause GC 8.02.04.03.01 d), shall only apply to Lump Sum Items and then only when the Contract Administrator specifically requests it.
- .03 Upon receipt of the Statutory Holdback, the Contractor shall forthwith give the Subcontractor the payment due under the subcontract.
- .04 Release of Statutory Holdback by the Owner in respect of a subcontract shall not relieve the Contractor, or the Contractor's Surety, of any of their responsibilities.

GC 8.02.04.04 Substantial Performance of Work

- .01 The Contractor, as part of the application for Substantial Performance, shall submit an itemized list of the outstanding work.
- .02 Upon application by the Contractor and when the Contract Administrator has verified that the Contract has been substantially performed, the Contract Administrator shall issue a Certificate of Substantial Performance.
- .03 The Contract Administrator shall set out in the Certificate of Substantial Performance the date on which the Contract was substantially performed and, within 7 Days after signing the said certificate, and shall provide a copy to the Contractor.
- .04 Upon receipt of a copy of the Certificate of Substantial Performance, the Contractor shall forthwith, as required by Section 32(1) Paragraph 5 of the Construction Act, as amended, publish a copy of the certificate in the manner set out in the regulations.

- .05 Where the Contractor fails to publish a copy of the Certificate of Substantial Performance as required above within 7 Days after receiving a copy of the certificate signed by the Contract Administrator, the Owner may publish a copy of the certificate at the Contractor's expense.
- .06 Except as otherwise provided for in Section 31 of the Construction Act, the 60 Day lien period prior to the release of holdback as referred to in clause GC 8.02.04.05, Substantial Performance Payment and Statutory Holdback Release Payment Certificates, shall commence from the date of publication of the Certificate of Substantial Performance as provided for above.

GC 8.02.04.05 Substantial Performance Payment and Substantial Performance Statutory Holdback Release Payment Certificates

- .01 Prior to the Contract Administrator issuing the Certificate of Substantial Performance, the Contractor shall submit a Proper Invoice for the Work completed. In addition to the requirements specified under section 8.02.04.01.02, the Proper Invoice shall include:
 - a) the value of Work performed to the date of Substantial Performance;
 - b) the value of outstanding or incomplete Work;
 - c) the amount of the Statutory Holdback, allowing for any previous releases of Statutory Holdback to the Contractor in respect of completed subcontracts and deliveries of pre-selected Equipment; and
 - d) the amount due the Contractor.
- .02 Payment shall be made within 28 Days of the date of submission of the Proper Invoice.
- .03 The Substantial Performance Statutory Holdback Release Payment Certificate shall be a payment certificate releasing to the Contractor the Statutory Holdback due in respect of Work performed up to the date of Substantial Performance. Payment of such Statutory Holdback shall be due 61 Days after the date of publication of the Certificate of Substantial Performance but subject to the provisions of the Construction Act and the submission by the Contractor of the following documents:
 - a) a satisfactory Certificate of Clearance from the Workplace Safety and Insurance Board; and
 - b) proof of publication of the Certificate of Substantial Performance.
- .04 Any amount of security retained shall be identified on the Substantial Performance Payment Certificate.

GC 8.02.04.06 Certification of Completion

- .01 Upon application by the Contractor and when the Contract Administrator has verified that the Contract has reached Completion, the Contract Administrator shall issue a Completion Certificate.
- .02 The Contract Administrator shall set out in the Completion Certificate the date on which the Work was completed and, within 7 Days of signing the said certificate, the Contract Administrator shall provide a copy to the Contractor.

GC 8.02.04.07 Completion Payment and Completion Statutory Holdback Release Payment Certificates

- .01 Prior to the Contract Administrator issuing the Completion Certificate, the Contractor shall submit a Proper Invoice for the Work completed. In addition to the requirements noted under section 8.02.04.01.02, the Proper Invoice shall include:
 - a) measurement and value of Work at Completion;
 - b) the amount of the further Statutory Holdback based on the value of further Work completed over and above the value of Work completed shown in the Substantial Performance Payment Certificate referred to above; and
 - c) the amount due the Contractor.
- .02 The Completion Statutory Holdback Release Payment Certificate shall be a payment certificate releasing to the Contractor the further Statutory Holdback. Subject to any outstanding liens and permissible set-offs and upon submission of a satisfactory Certificate of Clearance from the Workplace Safety and Insurance Board, the Owner shall pay the remaining holdback on the Work done, within 28 Days after the expiration of the 60-Day lien period.
- .03 Any amount of security retained shall be identified on the Completion Payment Certificate.

GC 8.02.04.08 Interest

- .01 Interest due to the Contractor shall be based on simple interest and calculated using the applicable Rate of Interest. Interest shall begin to accrue on an amount that is not paid when it is due to be paid under Part-I of the Construction Act, at the prejudgment interest rate determined under subsection 127 (2) of the *Courts of Justice Act* or, if the Contract specifies a different interest rate for this purpose, the greater of the prejudgment interest rate and the interest rate specified in the Contract.

GC 8.02.04.09 Interest for Late Payment

- .01 Provided the Contractor has complied with the requirements of the Contract, including all documentation requirements, when payment by the Owner to the Contractor for Work performed, or for release of Statutory Holdback, is delayed by the Owner, then the Contractor shall be entitled to receive interest on the outstanding payment at the Rate of Interest, if payment is not received on the dates set out below:
 - a) Progress Payment: 28 Days after submission of Proper Invoice;
 - b) Subcontract Statutory Holdback Release Payment: 89 Days after the date on which the subcontract was completed;
 - c) Substantial Performance Payment: 28 Days after the date of issuance of the certificate;
 - d) Substantial Performance Statutory Holdback Release Payment: 89 Days after publication of the Payment Certificate of Substantial Performance;
 - e) Completion Payment: 28 Days after the date certified as the date on which the Contract reached Completion; and
 - f) Completion Statutory Holdback Release Payment: 89 Days after the date certified as the date that the Work was completed.

- .02 If the Contractor has not complied with the requirements of the Contract, including all documentation requirements, prior to expiration of the time periods described in clause GC 8.02.04.09.01, interest shall only begin to accrue when the Contractor has completed those requirements.

GC 8.02.04.10 Interest for Negotiations and Claims

- .01 Except as hereinafter provided, where a notice of negotiation, notice of intent to claim and the subsequent claims are submitted in accordance with the time limits or procedure or both described by subsection GC 3.13, Claims, Negotiations, Mediation, the Owner shall pay the Contractor the Rate of Interest on the amount of the negotiated price for that part of the Work or on the amount of the settled claim. Such interest shall not commence until 30 Days after the satisfactory completion of that part of the Work.
- .02 Where the Contractor fails to give notice of a claim within the time limit prescribed by subsection GC 3.13, Claims, Negotiations, Mediation, interest shall not be paid.
- .03 Where a Contractor fails to comply with the 30 Day time limit and the procedures prescribed in clause GC 3.13.03.03 for submission of claims, interest shall not be paid for the delay period.

GC 8.02.04.11 Owner's Set-Off

- .01 Pursuant to the Construction Act, the Owner may retain from monies owing to the Contractor under this Contract an amount sufficient to cover any outstanding or disputed liabilities, including the cost to remedy deficiencies, the reduction in value of substandard portions of the Work, claims for damages by third parties that have not been determined in writing by the Contractor's insurer, undetermined claims by the Owner, and any assessment due the Workplace Safety and Insurance Board.
- .02 Under these circumstances the Owner will give the Contractor appropriate notice of such action.

GC 8.02.04.12 Delay in Payment

- .01 The Owner shall not be deemed to be in default of the Contract provided any delay in payment does not exceed the due dates as defined in clause GC 8.02.04.09.01.

GC 8.02.05 Payment on a Time and Material Basis

GC 8.02.05.01 Definitions

- .01 For the purpose of clause GC 8.02.05 the following definitions apply:

Cost of Labour means the amount of wages, salary, travel, travel time, food, lodging, or similar items and Payroll Burden paid or incurred directly by the Contractor to or in respect of labour and supervision actively and necessarily engaged on the Work based on the recorded time and hourly rates of pay for such labour and supervision but shall not include any payment or costs incurred for general supervision, administration, and management time spent on the entire Work or any wages, salary, or Payroll Burden for which the Contractor is compensated by any payment made by the Owner for Equipment.

Cost of Material means the cost of Material purchased or supplied from stock and valued at current market prices for the purpose of carrying out Extra Work by the Contractor or by others, when such arrangements have been made by the Contractor for completing the Work, as shown by itemized invoices.

Operated Rented Equipment means Rented Equipment for which an operator is provided by the supplier of the Equipment and for which the rent or lease includes the cost of the operator.

Payroll Burden means the payments in respect of workplace insurance, vacation pay, employment insurance, public liability and property damage insurance, sickness and accident insurance, pension fund, and such other welfare and benefit payments forming part of the Contractor's normal labour costs.

Rented Equipment means Equipment that is rented or leased for the special purpose of Work on a Time and Material Basis from a person, firm, or corporation that is not an associate of the lessee as the word "associate" is defined by the Securities Act, R.S.O. 1990, c.S.5, as amended, and is approved by the Contract Administrator.

Road Work means the preparation, construction, finishing, and construction maintenance of roads, streets, Highways, and parking lots and includes all work incidentals thereto other than Work on structures.

Sewer and Watermain Work means the preparation, construction, finishing, and construction maintenance of sewer systems and watermain systems, and includes all work incidental thereto other than Work on structures.

Standby Time means any period of time that is not considered Working Time and which together with the Working Time does not exceed 10 hours in any one Working Day and during which time a unit of Equipment cannot practically be used on other Work but must remain on the site in order to continue with its assigned task and during which time the unit is in fully operable condition.

Structure Work means the construction, reconstruction, repair, alteration, remodelling, renovation, or demolition of any bridge, building, tunnel, or retaining wall and includes the preparation for and the laying of the foundation of any bridge, building, tunnel, or retaining wall and the installation of Equipment and appurtenances incidental thereto.

The 127 Rate means the rate for a unit of Equipment as listed in OPSS.PROV 127, Schedule of Rental Rates for Construction Equipment, Including Model and Specification Reference, that is current at the time the work is carried out or for Equipment that is not so listed, the rate that has been calculated by the Owner, using the same principles as used in determining The 127 Rates.

Work on a Time and Material Basis means Changes in the Work, Extra Work, and Additional Work approved by the Contract Administrator for payment on a Time and Material basis. The Work on a Time and Material Basis shall be subject to all the terms, conditions, Standard Specifications and provisions of the Contract.

Working Time means each period of time during which a unit of Equipment is actively and of necessity engaged on a specific operation and the first 2 hours of each immediately following period during which the unit is not so engaged but during which the operation is otherwise proceeding and during which time the unit cannot practically be transferred to other Work but must remain on the site in order to continue with its assigned tasks and during which time the unit is in a fully operable condition.

GC 8.02.05.02 Daily Work Records

- .01 Daily Work Records, prepared as the case may be by either the Contractor's representative or the Contract Administrator reporting the labour and Equipment employed and the Material used on each Time and Material project, should be reconciled and signed each Day by both the Contractor's representative and the Contract Administrator. If it is not possible to reconcile the Daily Work Records, then the Contractor shall submit the un-reconciled Daily Work Records with its claim, whereby the resolution of the dispute about the Daily Work Records shall not be resolved until there is a resolution of the claim.

GC 8.02.05.03 Payment for Work

- .01 Payment as herein provided shall be full compensation for all labour, Equipment, and Material to do the Work on a Time and Material Basis except where there is agreement to the contrary prior to the commencement of the Work on a Time and Material Basis. The payment adjustments on a Time and Material basis shall apply to each individual Change Order authorized by the Contract Administrator.

GC 8.02.05.04 Payment for Labour

- .01 The Owner shall pay the Contractor for labour employed on each Time and Material project at 135% of the Cost of Labour up to \$3,500, then at 120% of any portion of the Cost of Labour in excess of \$3,500.
- .02 The Owner shall make payment in respect of Payroll Burden for Work on a Time and Material Basis at the Contractor's actual cost of Payroll Burden.
- .03 At the Owner's discretion, an audit may be conducted in which case the actual Payroll Burden so determined shall be applied to all Time and Material work on the Contract.

GC 8.02.05.05 Payment for Material

- .01 The Owner shall pay the Contractor for Material used on each Time and Material project at 120% of the Cost of the Material up to \$3,500, then at 115% of any portion of the Cost of Material in excess of \$3,500.

GC 8.02.05.06 Payment for Equipment

GC 8.02.05.06.01 Working Time

- .01 The Owner shall pay the Contractor for the Working Time of all Equipment, other than Rented Equipment and Operated Rented Equipment, used on the Work on a Time and Material basis at The 127 Rates with a cost adjustment as follows:
 - a) Cost \$12,000 or less - no adjustment;
 - b) Cost greater than \$12,000 but not exceeding \$24,000 - payment \$12,000 plus 90% of the portion in excess of \$12,000; and
 - c) Cost greater than \$24,000 - \$22,800 plus 80% of the portion in excess of \$24,000.
- .02 The Owner shall pay the Contractor for the Working Time of Rented Equipment used on the Work on a Time and Material Basis at 110% of the invoice price approved by the Contract Administrator up to a maximum of 110% of the 127 Rate. This constraint shall be waived when the Contract Administrator approves the invoice price prior to the use of the Rented Equipment.
- .03 The Owner shall pay the Contractor for the Working Time of Operated Rented Equipment used on the Work on a Time and Material Basis at 110% of the Operated Rented Equipment invoice price approved by the Contract Administrator prior to the use of the Equipment on the Work on a Time and Material Basis.

GC 8.02.05.06.02 Standby Time

- .01 The Owner shall pay the Contractor for Standby Time of Equipment at 35% of The 127 Rate or 35% of the invoice price whichever is appropriate. The Owner shall pay reasonable costs for Rented Equipment where this is necessarily retained in the Working Area for extended periods agreed to by

the Contract Administrator. This shall include Rented Equipment intended for use on other work, but has been idled due to the circumstances giving rise to the Work on a Time and Material Basis.

- .02 In addition, the Owner shall include the Cost of Labour of operators or associated labourers who cannot be otherwise employed during the Standby Time or during the period of idleness caused by the circumstances giving rise to the Work on a Time and Material Basis.
- .03 The Contract Administrator may require Rented Equipment idled by the circumstances giving rise to the Work on Time and Material Basis to be returned to the lessor until the Work requiring the Equipment can be resumed. The Owner shall pay such costs as a result from such return.
- .04 When Equipment is transported, solely for the purpose of the Work on a Time and Material Basis, to or from the Working Area on a Time and Material basis, payment shall be made by the Owner only in respect of the transporting units. When Equipment is moved under its own power it shall be deemed to be working. The method of moving Equipment and the rates shall be subject to the approval of the Contract Administrator.

GC 8.02.05.07 Payment for Hand Tools

- .01 Notwithstanding any other provision of this Section, no payment shall be made to the Contractor for or in respect of Hand Tools or Equipment that are tools of the trade.

GC 8.02.05.08 Payment for Work by Subcontractors

- .01 Where the Contractor arranges for Work on a Time and Material Basis, or a part of it, to be performed by Subcontractors on a Time and Material basis and has received approval prior to the commencement of such Work, in accordance with the requirements of subsection GC 3.09, Subcontracting by the Contractor, the Owner shall pay the cost of Work on a Time and Material Basis by the Subcontractor calculated as if the Contractor had done the Work on a Time and Material Basis, plus a markup calculated on the following basis:
 - a) 20% of the first \$3,500; plus
 - b) 15% of the amount from \$3,500 to \$12,000; plus
 - c) 5% of the amount in excess of \$12,000.
- .02 No further markup shall be applied regardless of the extent to which the work is assigned or sublet to others. If Work is assigned or sublet to an associate, as defined by the Securities Act, no markup whatsoever shall be applied.

GC 8.02.05.09 Submission of Invoices

- .01 At the start of the Work on a Time and Material Basis, the Contractor shall provide the applicable labour and Equipment rates not already submitted to the Contract Administrator during the course of such Work.
- .02 Separate summaries shall be completed by the Contractor. Each summary shall include the Change Directive or Change Order number and covering dates of the Work and shall itemize separately the labour, Materials, and Equipment. Invoices for Materials, Rented Equipment, and other charges incurred by the Contractor on the Work on a Time and Material Basis shall be included with each summary.

- .03 Each month the Contract Administrator shall include with the monthly progress payment, the costs of the Work on a Time and Material Basis incurred during the preceding month all in accordance with the contract administrative procedures and the Contractor's invoice of the Work on a Time and Material Basis.
- .04 The final summary as per clause 8.02.05.09.02 shall be submitted by the Contractor within 60 Days after the completion of the Work on a Time and Material Basis.

GC 8.02.05.10 Payment Other Than on a Time and Material Basis

- .01 Clause GC 8.02.05 does not preclude the option of the Contract Administrator and the Contractor negotiating a Lump Sum Item or unit price payment for Change in the Work, Extra Work, and Additional Work.

GC 8.02.05.11 Payment Inclusions

- .01 Except where there is agreement in writing to the contrary, the compensation, as herein provided, shall be accepted by the Contractor as compensation in full for profit and all costs and expenses arising out of the Work, including all cost of general supervision, administration, and management time spent on the Work, and no other payment or allowance shall be made in respect of such Work.

GC 8.02.06 Final Acceptance Certificate

- .01 After the acceptance of the Work or, where applicable, after the Warranty Period has expired, the Contract Administrator shall issue the Final Acceptance Certificate. The Final Acceptance Certificate shall not be issued until all known deficiencies have been adjusted or corrected, as the case may be, and the Contractor has discharged all obligations under the Contract.
- .02 Any remaining amount of security shall be released upon Final Acceptance of the Contract.

GC 8.02.07 Records

- .01 The Contractor shall maintain and keep accurate Records relating to the Work, Changes in the Work, Extra Work, Additional Work and claims arising therefrom. Such Records shall be of sufficient detail to support the total cost of the Work, Changes in the Work, Extra Work, Additional Work and claims arising therefrom. The Contractor shall preserve all such original Records until 12 months after the Final Acceptance Certificate is issued or until all claims have been settled, whichever is longer. The Contractor shall require that Subcontractors employed by the Contractor preserve all original Records pertaining to the Work, Changes in the Work, Extra Work, Additional Work and claims arising therefrom for a similar period of time.
- .02 The Owner may inspect and audit the Contractor's Records relating to the Work, Changes in the Work, Extra Work, and Additional Work at any time during the period of the Contract. The Contractor shall supply certified copies of any part of its Records required, whenever requested by the Owner.

GC 8.02.08 Taxes

- .01 Where a change in Canadian Federal or Provincial taxes occurs after the date of tender closing for this Contract, and this change could not have been anticipated at the time of Tender, the Owner shall increase or decrease Contract payments to account for the exact amount of tax change involved.

- .02 Claims for compensation for additional tax cost shall be submitted by the Contractor to the Contract Administrator on forms provided by the Contract Administrator to the Contractor. Such claims for additional tax costs shall be submitted not less than 30 Days after the date of Final Acceptance.
- .03 Where the Contractor benefits from a change in Canadian Federal or Provincial taxes, the Contractor shall submit to the Contract Administrator on forms provided by the Contract Administrator, a statement of such benefits. This statement shall be submitted not later than 30 Days after Final Acceptance.
- .04 Changes in Canadian Federal or Provincial taxes that impact upon commodities, which when left in place form part of the finished Work, or the provision of services, where such services form part of the Work and where the manufacture or supply of such commodities or the provision of such services is carried out by the Contractor or a Subcontractor, are subject to a claim or benefit as detailed above. Services in the latter context means the supply and operation of Equipment, the provision of labour, and the supply of commodities that do not form part of the Work.
- .05 The Contractor shall add the Harmonized Sales Tax (HST) to all invoices.

GC 8.02.09 Liquidated Damages

- .01 When liquidated damages are specified in the Contract and the Contractor fails to complete the Work in accordance with the Contract, the Contractor shall pay such amounts as are specified in the Contract Documents.

Section No. 3

General Conditions

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The following Supplemental General Conditions ("SGCs") shall modify, delete and/or add to the Ontario Provincial Standards for Roads and Public Works OPS General Conditions of Contract, OPSS.MUNI 100 (the "General Conditions") 2019.

3.0 Scope

This Contract is for the supply of all Material, labour and Equipment to complete the work as set out in the Contract Documents and on the Drawings.

3.1 Definitions

For the purpose of this contract the following definitions apply:

- I. Town means the Corporation of the Town of Milton
- II. Owner means the Corporation of the Town of Milton
- III. Halton or Region means The Regional Municipality of Halton

Phase means each of the Project phases set out in the Contract Documents.

GC 1.04.01 is revised as follows:

The definition of "**Contract**" is amended to read: "Contract means the undertaking by the Owner and the Contractor to perform their respective duties, responsibilities and obligations as prescribed in the Contract Documents and represents the entire agreement between the parties."

The definition of "**Contract Time**" is amended to read "means the time stipulated in the Contract Documents (project commencement to issuance of Completion Certificate by the Contract Administrator), including any extension of the Contract Time made pursuant to the Contract Documents."

The definition of "**Contractor**" is amended to read: "Contractor means the Person undertaking the Work as identified in the Agreement. The term Contractor also means the Contractor or the Contractor's authorized representative, as designated to the Owner, in writing."

The definition of "**Owner**" is amended to read: "Owner means the party to the Contract for whom the Work is being performed, as identified in the Agreement, and includes, with the same meaning and import, Authority or the Owner's authorized agent or representative, as designated to the Contractor, in writing, by the Contract Administrator or Owner but does not include the Contract Administrator."

The definition of "**Performance Bond**" is amended by adding the following: "The form of the Performance Bond will be in the form prescribed under the Construction Act if Contractor elects to provide the required Maintenance Security for the Warranty Period as a standalone bond. If Contractor elects to provide the required Maintenance Security for the Warranty Period within the terms of the Performance Bond, the Performance Bond will be the form prescribed under the Construction Act, as amended to the satisfaction of Owner to meet the Maintenance Security requirements hereunder."

The definition of "**Proper Invoice**" is amended to read: "**Proper Invoice**" means an application for payment containing the information that is required for the application for payment to constitute a "proper invoice" under the Construction Act and this Contract, including the following:

1. A Proper Invoice containing all of the information specified to be included in a proper invoice as set out in the Construction Act, namely:
 - (i) the Contractor's name and address;
 - (ii) the date of the application for payment and the period during which the Work was performed;
 - (iii) the Contract number, PO number, and name of the Project Manager, under which and for whom the Work was performed;
 - (iv) a description, including quantity where appropriate, of the Work performed and Materials supplied;
 - (v) the amount payable for the Work performed, and the payment terms;
 - (vi) the applicable tax payable by Milton for such amount;
 - (vii) the applicable holdback amount to be retained by Milton and the aggregate holdback amounts retained by Milton for the Project as at the date of the application for payment; and
 - (viii) the name, title, telephone number and mailing address of the person to whom payment is to be sent;
2. an Statutory Declaration of Progress Payment Distribution by Contractor in the form of CCDC 9A;
3. a Schedule of Values (price breakdown) showing the percentage of completed Work, the total amount of expenditures to date and the total estimated expenditures to be made for the remaining balance of the Work, each broken out in itemized lists per category of expenditure (Builterra payment certificate generated by the Contract Administrator);
4. satisfactory evidence of good standing under the Workplace Safety and Insurance Act, 1997, as evidenced by a Certificate of Clearance issued by the Workplace Safety and Insurance Board prior to the release of any monthly progress payment;
5. a monthly Construction Schedule Update to reflect work completed to the end of the payment period including a statement confirming that SubContractors were consulted in the preparation of the Construction Schedule Update and are aware of the schedule as well as any applicable Project Milestones;
6. any certificates, inspection reports, or data resulting from commissioning and testing required under the Contract Documents confirming the satisfactory completion of such commissioning and testing for completed portions of the Work; and
7. any additional information that the Owner or the Consultant may reasonably require, including as set out in the Tender."

The definition of "**Subcontractor**" is amended to read: "Subcontractor means a Person undertaking the execution of a part of the Work, or supplying Material for the Work, by virtue of an agreement with the Contractor."

The definition of "**Utility**" is amended to read: "Utility means an aboveground or underground facility maintained by a municipality, public utility authority or authority (either regulated or unregulated) and includes, but is not limited to services such as sanitary sewer, storm sewer, water, electric, gas, oil, steam, data transmission, telephone and cable television."

The definition of "**Warranty Period**" is amended to read: "Warranty Period means the period of 24 months from the date of the Certificate of Substantial Performance or such longer period as may be specified in writing for certain Materials or any other aspect of the Work."

The definition of "**Working Area**" is amended to read: "Working Area means all the lands and easements on, over or under which the Work is undertaken that are owned or acquired by the Owner or lands or easements that the Owner is required and authorized to maintain on behalf of another municipality."

The following definitions shall be added:

"Applicable Laws" means any federal, provincial, territorial, regional, municipal or local statutes, laws, by-laws, rules, regulations, codes (including design and building codes), ordinances, permits, decrees, writs, injunctions, orders or the like, of any Governmental Authority, applicable to the Contractor, or to the performance of the Work.

"**Construction Act**" means the Ontario *Construction Act*, RSO 1990, Chapter C30.

"**Contract Price**" means the amount payable by the Owner to the Contractor for Work to be completed under the Contract in accordance with the method and manner of payment stipulated in the Contract Documents and the unit prices or lump sum prices submitted by the Contractor in its Tender, and includes all escalation costs and labour increases, any additional amounts payable for approved Changes in the Work as provided for and authorised in the Contract Documents less any deletions from the Work.

"**Environment**" means the ambient air, all layers of the atmosphere, all water including surface water and underground water, all land, all living organisms and the interacting natural systems that include components of air, water, land, living organisms and organic and inorganic matter, and includes indoor spaces.

"**Environmental Laws**" means all Applicable Laws relating to the Environment and the protection of the Environment, the regulation of chemical substances or products, health and safety including occupational health and safety, and the transportation of dangerous goods.

"**Force Majeure Event**" means circumstances or events where either party is prevented from fulfilling its obligations under this Contract within the time prescribed in the schedule, but where such prevention is caused by any event or circumstances beyond the reasonable control of the party, including:

- (a) weather delays where weather conditions are not within the range of weather conditions possible for Toronto, recognizing the ten (10) year historical range of weather events at the project site as recorded by Environment Canada);

- (b) labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the Contractor is a member or to which the Contractor is otherwise bound);
- (c) changes in the Building Code or changes in Applicable Law (where such change could not reasonably be anticipated with reasonable professional care); or
- (d) fire, unusual delay by common carriers or unavoidable casualties (where such event was not caused by the Contractor and could not reasonably be anticipated with reasonable professional care), but, for greater certainty, excluding
- (e) financial insolvency or general economic hardship or lack of money, credit or markets;
- (f) unavailability of goods, materials, or equipment not otherwise created by an event of Force Majeure Event;
- (g) any lack or unavailability of personnel or other labour not otherwise created by an event of Force Majeure Event; or
- (h) those matters generally considered to be within the Contractor's control in the construction industry in Ontario including (but not limited to) sub-tradesman performance or availability, construction activity on-site, delivery of materials, weather delays (where weather conditions are within the range of weather conditions possible for the project site, recognizing the ten (10) year historical range of weather events at the project site as recorded by Environment Canada).

"Governmental Authority" means any federal, provincial, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory, or taxing authority or power of any nature.

"Labour and Material Payment Bond" means the type of security furnished to the Owner to guarantee payment to Subcontractors and suppliers for Work performed in accordance with the Contract and to the extent provided in the bond. The form of the Labour and Material Payment Bond will be in the form prescribed under the Construction Act.

"Notice to Proceed" has the meaning given in GC 7.01.02.

"OHSA" means the Occupational Health and Safety Act (Ontario).

"Person" will be broadly interpreted and includes:

- (A) a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person; or
- (B) a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated

association, an unincorporated syndicate, an unincorporated organization or any other association, organization or entity of any kind.

"Release" means to release, spill, leak, pump, pour, emit, empty, discharge, deposit, inject, leach, dispose, dump or permit to escape.

"Request for Tender" means any request for tender or other procurement process commenced by or on behalf of the Owner requesting a price or Tender for the Work.

"Toxic or Hazardous Substance" means any substance, waste, liquid, gaseous or solid matter, fuel, micro-organism, sound, vibration, ray, heat, odour, radiation, energy vector, plasma, organic or inorganic matter which is or is deemed to be, alone or in any combination, hazardous, hazardous waste, solid or liquid waste, toxic, a pollutant, a deleterious substance, a contaminant or a source of pollution or contamination, regulated by any Environmental Laws.

"WSIA" means Workplace Safety and Insurance Act (Ontario)

"WSIB" means the Workplace Safety and Insurance Board (Ontario).

3.2 Occupational Health & Safety

The Town is committed to promoting health and safety in the workplace by preventing accidents, injuries and occupational illnesses. In keeping with this policy, all contractors (and, where applicable, their sub-contractors) should be aware of and abide by the Occupational Health and Safety Act, R.S.O. 1990, prior to commencing, during and after completion of all work activities engaged in on Town premises or projects. The Contractor shall:

- I. Comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public health;
- II. Be responsible for the safety of all workers and equipment on the Project in accordance with all applicable legislation;
- III. Provide and maintain adequate barricades, warning signs, out of order signs and all necessary safety precautions;
- IV. The Contractor shall at all times have available a competent supervisor who is authorized to act on his/her behalf and who is to ensure that work is properly and safely carried out, so as to avoid any misunderstanding as to the extent of the Contractor's responsibility, the Contractor, by executing the Contract unequivocally acknowledges that the Contractor is the employer and Constructor within the meaning of the Occupational Health and Safety Act.

In the event the Contractor deems any system or equipment to be unsafe, the Contractor shall take remedial action and immediately notify the Town. The Contractor shall not leave the premises until steps have been taken to protect the public and occupants from all hazards in or with materials or equipment.

3.3 Final Acceptance

Clause GC 1.06 is amended by deleting the words "to the extent the warranty extends beyond 12 months after Substantial Performance" in paragraph .1 and replacing them with the words "to the extent the warranty extends beyond the Warranty Period."

3.4 Interpretation of Certain Words

Add new paragraphs GC 1.07.02 and GC 1.07.03 as follows:

- .02. "Where the context requires it whenever the word "construction" or "Construction" appears in the OPS Volume 7 - Ontario Provincial Standards, General Conditions of Contract and General & Construction Specifications (OPSS.MUNI 100 November 2019) it shall be deleted and the word "Work" substituted therefor.
- .03. Wherever the word "Substantial Performance" appear in the OPS Volume 7 - Ontario Provincial Standards, General Conditions of Contract and General & Construction Specifications (OPSS.MUNI 100 November 2019) they shall be deleted and the word "Completion" substituted therefor."

3.5 Multiple Improvements

Clause GC 1.0 is amended by adding the following as a new Clause GC1.08:

"GC 1.08 Multiple Improvements

- .01. If the Contract Documents provide for more than one improvement to be made under the Contract, and such improvements are to be made to lands that are not contiguous, then each such improvement is deemed to be made and performed under a separate contract for the purposes determining Substantial Performance of the Work and Completion of the Contract, and for any other purpose under section 2 of the Construction Act, and the relevant provisions of this Contract will be deemed amended accordingly.
- .02. Clause GC1.08.01 will apply to all of the Contractor's contracts with its Subcontractors and suppliers working on each such improvement on a pass through basis. The Contractor shall include in all of its contracts with Subcontractors and suppliers (and ensue the same is included in all subcontracts of every tier), as applicable, notice of such deeming of separate contracts for such purposes, and shall ensure that it separates the Work and the supply of Materials for each such improvement."

3.6 Reliance on Contract Documents

Insert the following at beginning of GC2.01.1: "Subject to any conditions, exclusions or clarifications set out in the Request for Tender,".

Paragraph .01(a) is deleted and replaced with the following:

- "(a) The Contractor shall assume full responsibility for obtaining the exact locations of all Utilities. The Owner does not warrant the correctness or completeness of the Contract Documents, Subsurface Reports or any plans with respect to the Utilities and services whether underground or on the surface. The Contractor shall have no claim for additional compensation, if, in uncovering and carrying out the Work, it should find that the actual location of the Utilities does not correspond with the locations shown in the Contract Documents, Subsurface Reports or on any plans."

3.7 Administration of the Contract

GC 3.01 Contract Administrator's Authority

Paragraph GC 3.01.03 is amended by adding the following at the end of that paragraph:

"The Contract Administrator will not be responsible for and will not have control, charge, or supervision of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs required in connection with the Work in accordance with the Applicable Laws or general construction practice. The Contract Administrator will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Contract Administrator will not have control over, charge of, or be responsible for the acts or omissions of the Contractor, Subcontractors, suppliers or their agents, employees and any other Person performing portions of the Work.

Whenever the Contract Administrator considers it necessary or advisable, the Contract Administrator will have authority to require inspections or testing of the Work, whether or not such Work is provided. However, neither the authority of the Contract Administrator to act, nor any decision either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Contract Administrator to the Contractor, Subcontractors, suppliers or their agents, employees or other Person performing any of the Work."

In paragraph .11 add the following at the end. "Any such removals, replacement, make good or re-execution of the Work shall be at the Contractor's expense and will not be grounds for any additional compensation, cost or schedule adjustment claims by the Contractor."

In paragraph .12 add the following at the end "and shall be at the Contractor's expense and will not be the grounds for any additional compensation, cost or schedule adjustment claims by the Contractor."

Delete paragraph .13 in its entirety and replace it with the following:

".13 If, in the opinion of the Contract Administrator or the Owner, it is not expedient to correct defective Work or Work not performed in accordance with the Contract Documents, the Owner may deduct from amounts otherwise due to the Contractor up to the full amount of such Work, plus a reasonable amount necessary for any adjustment or work-around solutions required in the balance of the Work or in the Owner's operations to accommodate such uncorrected defective Work or Work not performed, as such amount may be determined by the Contract Administrator based on the Contract Price and the Tender."

Delete paragraph .15 in its entirety and replace it with the following:

"The Contract Administrator will have the authority to temporarily suspend work for such reasonable time as may be necessary to facilitate the checking of any portion of the Contractor's construction layout or the inspection of any portion of the Work. There shall not be any extra compensation for the suspension of Work in either time or money."

In paragraph .17 delete the following: "is incompetent as defined by the Occupational Health and Safety Act" and replace with "is competent as defined in the OSHA, and its Regulations, or is working in an unsafe manner".

In paragraph .17, add the following at the end: "Any such removals shall be at Contractor's expense and will not be grounds for any additional compensation, cost or schedule adjustment claims by the Contractor."

3.8 Right of the Contract Administrator to Modify Methods and Equipment

Add the following at the end of GC 3.03.2: "The location of all temporary structures and other facilities shall be subject to approval of the Contract Administrator."

3.9 Emergency Situations

Delete GC 3.04.1 in its entirety and replace it with the following paragraphs:

.1 If an emergency occurs and the health and safety of persons at the Place of the Work are at risk, the Contractor shall take immediate action to protect people and property as the situation requires, and provide the Contract Administrator immediate notice of such emergency with its proposed emergency plans. If such plans are not immediately available, the Contractor shall develop an emergency plan, and provide the Contract Administrator notice of such plan when it is available.

.2 If the Contract Administrator provides instructions as to how to handle the emergency, the Contractor shall implement those instructions or meet with the Contract Administrator to discuss the safest and most efficient emergency plan.

.3 Upon completing the work related to handling the emergency, the Contractor shall provide the Contract Administrator with a report of the work, together with a cost statement. If an adjustment in the scope of the Work is required, the parties shall negotiate and document such adjustment in a Change Order.

.4 If the emergency arose as a result of the fault, or negligent acts or omissions of the Contractor, then the costs of such emergency work will not be reimbursed and the schedule will not be extended, including any costs resulting from delays. If the emergency did not arise as a result of the fault, or negligent acts or omissions of the Contractor, then the reasonable and direct costs incurred by the Contractor in performing such emergency work will be reimbursed by the Owner.

3.10 Extension of Contract Time

Delete GC3.06 .1 and replace with the following:

.1 An application for an extension of Contract Time shall be made in writing by the Contractor to the Contract Administrator no later than 10 Days of the date the Contractor knew or ought to have known that an extension of the Contract Time was required. The application for an extension of Contract Time shall enumerate the reasons, and state the length of extension required. If the Contractor fails to provide an application within the 10 Day timeline set out in this paragraph .01, the Contractor irrevocably waives its right to claim for any extension to the Contract Time

3.11 Delays

Delete GC 3.07.1, 3.07.2 and 3.07.3 and replace them with the following:

.1 If the Contractor is delayed in the performance of the Work by:

- a) errors in the Contract Documents;
- b) an act or omission of the Owner or Contract Administrator, or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the Contract Documents;
- c) a stop work order issued by a court or public authority, provided that such order was not issued as the result of an act or omission of the Contractor or anyone employed or engaged by the Contractor directly or indirectly;
- d) the Contract Administrator giving notice under section GC 7.0, Suspension of Work; then the Contractor shall be entitled to an extension in the Contract Time in accordance with subsection GC 3.07.3, and may apply to be reimbursed by the Owner for reasonable and direct costs incurred by the Contractor as the result of such delay.

.2 If the Contractor is delayed in the performance of the Work by:

- a) war, blockades, and civil commotions;
- b) errors in the Contract Documents;
- c) Abnormal Weather; or
- d) archaeological finds, in accordance with subsection GC 3.15, Archaeological Finds,
- e) labour disputes, strikes or lock-outs, including lock-outs decreed or recommended to its members by a recognized contractor's association, of which the Contractor is a member or to which the Contractor is otherwise bound, but expressly excluding labour disputes, strikes or lock-outs of the employees of the Owner, or
- f) other events or circumstances that were not reasonably foreseeable and were outside the reasonable control of a prudent construction contractor, then the Contractor shall be entitled to an extension in the Contract Time in accordance with subsection GC 3.07.3, provided that in the case of an application for an extension of Contract Time due to Abnormal Weather, the Contractor shall, with the Contractor's application, submit evidence from Environment Canada in support of such application. Extension of Contract Time may be granted in accordance with subsection GC 3.06, Extension of Contract Time. For greater certainty, the circumstances noted in clauses GC3.07.02 (a), (b), (c), (d), (e) and (f) will **not** entitle to any additional compensation.

.3 If the Work is delayed by other events, which are beyond the Contractor's control, then the Contract Time shall be extended in accordance with subsection GC 3.06, Extension of Contract Time. In no case shall the extension of Contract Time be less than the time lost as the result of the event causing the delay, unless a shorter extension is agreed to by the Contractor. The Contractor shall not be entitled to payment for costs incurred as the result of such delays unless such delays are the result of actions by the Owner or is otherwise expressly entitled to such payment in this GC 3.07.

Add a new GC 3.07.05: "Notwithstanding the foregoing, no claim will be accepted by the Town regarding delay for utility relocations should any be required during the course of construction."

3.12 Assignment of Contract

Add the following at the end of GC.09.3: "The Contract Administrator's decision on this matter shall be final and will not be the basis of any claim for additional cost or extension of the Contract Time."

3.13 Subcontracting by the Contractor

Clause GC 3.09 is amended by replacing Clauses GC 3.09.01, 3.09.02, 3.09.03, and 3.09.04 with the following:

".01 Without the prior written approval of the Contract Administrator, the Contractor shall not subcontract more than 50% of the Work, as calculated by percentage of the Contract price. For Work which the Contractor is permitted to subcontract, the Contractor shall not substitute Subcontractors in place of those named in its Tender without the prior written approval of the Contract Administrator."

Clauses GC 3.09.05 and GC 3.09.06 are renumbered as GC3.09.02 and 3.09.03, respectively.

A new Clause GC 3.09.04 is added, as follows:

".04 To the extent that the Contractor requires any Subcontractor to be bonded, the Contractor shall require each such Subcontractor meet the requirements of Clause GC 6.04, adjusted only to reflect that such bonds are to be obtained by the applicable Subcontractor instead of the Contractor."

3.14 Changes

Clause GC 3.10 is modified for purposes of this Contract in cases where the Owner requests the Contractor to submit cost quotations in advance for any Changes in the Work, Extra Work or Additional Work.

For Changes in the Work, Extra Work or Additional Work approved in advance by the Contract Administrator in accordance with cost quotations submitted by the Contractor, payment shall be based on the approved quoted cost and the requirements of Clauses GC 3.14 and GC 8.02 shall not apply, provided that the payment process at all times complies with the requirements of Clause GC 8.0.

3.15 Changes in the Work

Delete GC 3.10.01.3 in its entirety and replace it with the following:

.3 If the Change in the Work relates solely to quantities of unit price Work items in the Request for Tender, payment for the Work shall be made according to the conditions specified in GC8.01.02, Variations in Tender Quantities. If the Change in the Work does not relate solely to quantities of unit price Work items in the Request for Tender, payment for the Change in the Work shall be made in accordance with:

- (i) a lump sum price or unit price agreed to between the Contractor and the Contract Administrator prior to commencement of the Change in the Work, in which case

the Contract Administrator shall issue a Change Order that states the agreed lump sum price or unit price, as applicable; or

- (ii) the schedule of prices for Changes in the Work in the event that the Contract Documents includes such a schedule and the work item required is set out in the Schedule, in which case the Contract Administrator shall issue a Change Order; or
- (iii) the provisions contained in subsection GC 8.02.05, Payment on a Time and Material Basis.

3.16 Extra Work

Amend GC 3.10.02.03 by inserting the following sentence at the end of the paragraph: "In presenting its claim to the Owner for a cost of a change in the Work, the Contractor shall include, itemize and separate all direct and indirect costs associated with that change, provided that the Contractor shall not be entitled to payment for insurance costs unless the Owner is requiring insurance in addition to the insurance coverage required by the Owner for the Work or the Extra Work will extend the Contract Time."

Delete GC3.10.03 in its entirety and replace it with the following:

.3 Payment for the Extra Work shall be made in accordance with GC 3.10.01, Changes in the Work. If the Contract Documents include a schedule of prices for Changes in the Work, such a schedule shall apply to Extra Work. In presenting its claim to the Owner for a cost of a change in the Work, the Contractor shall include, itemize and separate all direct and indirect costs associated with that change, provided that the Contractor shall not be entitled to payment for insurance costs unless the Owner is requiring insurance in addition to the insurance coverage required by the Owner for the Work or the Extra Work will extend the Contract Time.

3.17 Additional Work

Delete GC3.10.3 in its entirety and replace it with the following:

“.3 Payment for the Additional Work shall be made in accordance with GC 3.10.01, Changes in the Work. If the Contract Documents include a schedule of prices for Changes in the Work, such a schedule shall apply to Additional Work Notices”

3.18 Notices

Amend GC 3.11.3 by adding the following words to the end of the paragraph: "of becoming aware of such emergency or urgent matter."

Add the following as a new Clause GC3.11.05:

- ".05 In addition to the addresses, requirements and timelines set out in this Clause GC3.11, the following applies:
 - .1 for the purposes of Part I.1 the Construction Act (Prompt Payment) and Clause GC8.0,

- (i) applications for payment and Proper Invoices will be considered given or delivered by the Contractor to the Owner when they are received by the Owner at mcp@milton.ca and its receipt can be verified; and
 - (ii) notices of non-payment will be considered to have been given or delivered by the Owner to the Contractor when they have been sent by the Owner and such sending can be verified; and
- .2 for the purposes of Part II.1 of the Construction Act (Adjudication), any notices, communications or delivery of documents to be given under the Construction Act will:
- (i) in the case of the Owner, be given by the Contractor to the Owner at mcp@milton.ca and its receipt can be verified; and
 - (ii) in the case of the Contractor, be given by the Owner in accordance with the balance of Clause GC3.11."
- .3 for the purposes of s. 34(3.1) of the Construction Act, copies of any and all claims for lien shall be given to the clerk of the municipality at the following email address: townclerk@milton.ca.

3.19 Record Keeping

Delete GC 3.13.02.1 and replace it with the following:

.1 The Contractor shall keep Daily Work Records in accordance with best industry practices and subsection GC 8.02.07, Records during the Contract Time. The Contractor shall ensure such Daily Work Records will be sufficient to substantiate any claims by the Contractor. The Contractor shall provide the Contract Administrator with access to such Daily Work Records and, if requested, copies which the Contract Administrator may use in assessing a claim by the Contractor.

Delete GC3.13.02.3 and replace it with the following:

.3 Any review, use, assessment or copying of the Daily Work Records of the Contractor by the Contract Administrator, or reconciliation by the Contract Administrator with its own Daily Work Records, shall not be construed as acceptance or agreement with such Daily Work Records.

3.20 Claims Procedure

Delete GC 3.13.03.2 in its entirety and replace with the following: The Contractor shall give written notification of its intent to submit a claim for Extra Work, Additional Work, or a Change in the Work prior to the commencement of that work; otherwise claims for Extra Work, Additional Work, or a Change in the Work will not be considered. If the Contractor fails to provide the notice in accordance with this paragraph, the Contractor shall have irrevocably waived its right to any claim for additional payment."

Delete the first sentence of GC 3.13.03.3 and replace with the following: "The Contractor shall submit detailed claims in writing, identifying the item or items in respect of which the claim arises, stating the grounds upon which the claim is made and submitting the records maintained by the Contractor supporting each claim, no later than 10 Working Days after providing the notice in paragraph .2 above."

Delete GC 3.13.03.5 in its entirety and replace it with the following:

.5 Within 90 Days of receipt of the Contractor's detailed claim, the Owner, or, if authorized by the Owner, the Contract Administrator, shall advise the Contractor, in writing, of the Owner's opinion with regard to the validity of the claim.

3.21 Negotiations

GC 3.13.04 is deleted in its entirety.

3.22 Mediation

GC 3.13.05. is deleted in its entirety.

3.23 Payment

Clause GC3.13.06.01 is amended to read:

"Subject to a court order to the contrary, if, following the resolution of the claim or dispute, payment is outstanding by the Owner to the Contractor, the Contractor shall submit, as part of the first Proper Invoice following the resolution of the claim or dispute, the amounts to be paid by the Owner as a result of such resolution. If no further Proper Invoices are remaining at the time of the resolution of the claim or dispute, the Contractor shall submit to the Owner, a Proper Invoice for such claim within [30] days of the resolution

Add a new Clause GC3.13.06.02 as follows:

"Subject to a court order to the contrary, if, following the resolution of the claim or dispute, payment is outstanding by the Contractor to the Owner, the Contractor shall promptly make such payment to Owner."

3.24 Arbitration

GC 3.14 is deleted in its entirety.

3.25 Dispute Resolution

Add a new GC 3.16 as follows:

.1 All claims, disputes or controversies of any kind arising out of or in connection with this Contract or the performance of the Work, including those that remain outstanding as between Owner and the Contractor ("Disputes") shall be resolved in a tiered approach as follows:

- (i) Disputes shall be referred in the first instance to the Project Manager of the Owner for resolution within a period not to exceed 30 Days, as may be amended by mutual agreement;
- (ii) if unresolved, under bullet (i) above, the Disputes shall be referred to the Manager of Purchasing and Risk of the Owner under which the Work has been approved and the Vice-President of the Contractor for resolution within a period not to exceed 30 Days, as may be amended by mutual agreement;

- (iii) if unresolved, under bullet (iii) above, the Disputes shall be referred to the Chief Financial Officer and Commissioner of the Owner under which the Work has been approved and the Senior Vice-President (or equivalent) of the Contractor for resolution within a period of not to exceed 30 Days, as may be amended by mutual agreement;
- (iv) If the parties are unable to settle the matter, the matter shall proceed and be finally resolved by binding arbitration in accordance with the Arbitration Act, 1991, S.O. 1991, c. 17 (in this GC 3.16, the "Act") by a single arbitrator as amended by an arbitration agreement to be executed by the parties in a form reasonably acceptable to the Owner. The Parties shall mutually agree on the selection of the arbitrator, failing which the arbitrator shall be appointed in accordance with the Act. The arbitration proceedings shall take place in Milton, Ontario, Canada. The language of the arbitration shall be English. The Parties agree that any arbitration award, including with respect to costs, shall be binding on the Parties, may be enforced in any court of competent jurisdiction and shall be final and no appeals or judicial reviews shall be permitted as of right or by application to any court of competent jurisdiction. The Parties shall each bear their own costs and their proportionate share of any joint costs of arbitration, subject to any award of an arbitrator.

.2 Payment of the claim shall be made no later than 30 Days after the date of resolution of the claim or Dispute. Such payment shall be made according to the terms of Section GC 8.0, Measurement and Payment.

.3 Notwithstanding the foregoing, it is further agreed that the parties may at any time resort to the adjudication procedure in accordance with the Construction Act. However, except as expressly provided in paragraph .5, an adjudication may not be commenced if the notice of adjudication is given after the date the Contract is completed unless the parties to the adjudication agree otherwise in writing.

.4 A notice of adjudication may not be given by either party during the period December 20 to January 5 inclusive, or on Saturdays or holidays as defined in the Legislation Act, 2006, S.O. 2006, as amended, or during the week leading up to a long weekend. All adjudications in person will be held in the Milton, Ontario unless the parties agree otherwise.

.5 Notwithstanding the completion of the Contract, at any time, the parties may refer a dispute with the other party to be adjudicated in accordance with adjudication procedures of the Construction Act respecting any of the following additional matters:

- (i) disputes regarding indemnification; and (ii) disputes regarding the Contractor's obligation to perform warranty work.

3.26 Adjudication

Add a new Clause GC3.13.17 as follows:

"GC 3.13.17 Adjudication

.01. Notwithstanding anything else in this Contract, in the event of a dispute relating to payment arising prior to the completion of the Work, the parties may adjudicate such dispute in accordance with the Construction Act. If the Contractor issues a notice of

adjudication to the Owner, it will include with such notice a description of the reasons for its dispute that includes a reference to the applicable application for payment and Proper Invoice, all notices in writing demanding payment, authority for the claim under the Contract (including copies of any applicable Change Order, Change Directive or written approval of any Change in the Work).

- .02. The parties acknowledge and agree that the adjudication of a payment dispute in accordance with the Construction Act will not pause, withdraw, discontinue, or prejudice any arbitration, mediation, or court proceeding that relates to the same matter and that was commenced prior to the delivery of a notice of adjudication under the Construction Act unless the parties otherwise agree in writing."

3.27 Management and Disposal of Materials

Delete GC4.03.1 and replace it with the following:

.1 Unless otherwise set out as part of the Contractor's scope of Work, the Owner shall identify in the Contract Documents or in another document or report the Materials to be moved within or removed from the Working Area and any characteristics of those Materials that necessitates special Materials management and disposition, if known to the Owner. Nothing in the Contract Documents, including this subsection, relieve the Contractor from performing the Work in accordance with all applicable laws, including Ontario Regulation 409/19 or its replacements.

Delete the last sentence of Clause GC 4.03.05.

Delete GC4.03.8 and replace it with the following:

.8 The Contractor shall use all reasonable care and best industry practices to avoid the release, spilling or disturbance of any designated substances or hazardous materials in accordance with OHSA, the WHMIS and all other applicable laws. The Contractor shall provide the Contractor with notice immediately upon any release, spill or disturbance of such substances and materials, and take immediate action to avoid or minimize any damage to persons or property.

Add GC4.03.9 as follows:

.9 References in this Contract to designated substances and hazardous material includes, without limitation, toxic, hazardous and designated substances and materials listed or described in the WHMIS or in the Hazardous Products Act and Hazardous Products Regulations.

Add GC 4.03.10 as followings:

"All soil management shall be done in accordance within the requirements of Ontario Regulation 406/19 On-Site and Excess Soil Management made under the Environmental Protection Act and the Rules for Soil Management and Excess Soil Quality Standards (<https://www.ontario.ca/page/handling-excess-soil>) as well as all other applicable laws and regulations including the current version of OPSS 180.

The agreed unit prices in the Form of Tender shall include the cost of removal and disposal of all surplus excavated material. This material shall be disposed of in disposal areas provided by the Contractor outside the limits of the Contract, at its own expense. All material being placed on private

lands within the boundaries of the Town of Milton requires that the property owner make application to the Town for a permit under Bylaw No. 094-2022 as amended. No materials shall be placed on private lands prior to the project consultant receiving a copy of the permit.

The Contractor is advised that no specific disposal site has been identified for materials surplus to the Project. Therefore, it will be the Contractor's responsibility to arrange for a suitable disposal site(s) for removals, excess, and waste materials generated by the Work. There will be no extra payment to the Contractor for the cost of disposing material off-site unless specific items for same exist in the Schedule of Unit Prices, if any, in the Contract Documents.

The cost for loading, haulage, tipping fees, grading / restoration (if applicable), and all other Work associated with the Contractor's disposal site(s) shall be included in the appropriate items of the Schedule of Unit Prices, if any, in the Contract Documents

Current dumping fees will be paid by the Contractor. Compensation for the fees is to be included in the unit prices bid for removal and disposal with no separate pay item in the Schedule of Unit Prices, if any, in the Contract Documents.

The Contractor shall note that excess earth excavated from the Project may contain elevated concentrations of chloride and sodium and may have elevated values for Electrical Conductivity and Sodium Absorption Ratio. For the purpose of this Contract, excess earth with salt impacts is not considered to be 'contaminated' with the meaning of Table 1 of OPSS 180.

Where the Contractor manages excess earth as disposable fill, the Contractor shall take into account the possibility of salt impacts and ensure that the material is managed responsibly and in an environmentally appropriate manner. Where the Contractor intends to manage the excess earth that may be salt impacted on private property, the Contractor shall make the Owner aware that it may be salt impacted by providing to the Owner the forms found in OPSS 180. A copy of each completed form is to be provided to the Contract Administrator.

The Contractor is responsible for conducting such sampling and testing as may be necessary to comply with any requirements imposed by the Owner as a condition of accepting the excess earth and excavated materials."

3.28 Default by the Contractor

Clause 4.05.02 shall be revised by adding the following to the end of the paragraph: "Upon a termination, the Owner may publish a notice of termination in the form and manner prescribed in the Construction Act. For greater certainty, a termination in accordance with this Contract will be effective whether or not a notice of termination is published."

3.29 Contractor's Right to Correct a Default

GC 4.06.01 is amended by inserting the words "in a manner acceptable to the Contract Administrator" after the words "correct the default" in the second line of that paragraph.

GC 4.06.02(b) is amended by and inserting the words "and to the Contract Administrator" after the words "to the Owner".

GC 4.06.02(c) is amended by inserting the words "to the satisfaction of the Contract Administrator" at the end of that paragraph.

3.30 Termination of Contractor's Right to Continue the Work

Delete GC 4.08.2(b) in its entirety and replace with the following:

(b) use the Equipment of the Contractor and any Material within the Working Area that is intended to be incorporated into the Work, the whole subject to the right of third parties;

Add new GC 4.08.03 and GC 4.08.04 as follows:

.03 The Owner has the right to terminate the Contract for wilful or persistent violation by the Contractor, its Subcontractors or their respective workers of OHSA, WSIA, or Applicable Laws, including Environmental Laws.

.04 The Contractor's obligation under the Contract as to quality, correction and warranty of the Work performed by the Contractor up to the time of termination shall continue in force after such termination."

3.31 Termination of the Contract

Clause GC 4.10.01 shall be revised by replacing it in its entirety with the following: "Where the Contractor is in default of the Contract, the Owner may, without prejudice to any other right or remedy the Owner may have, terminate the Contract. The Owner shall give written notice of such termination to the Contractor, the Surety, and any trustee or receiver acting on behalf of the Contractor's estate or creditors. Upon a termination, the Owner may publish a notice of termination in the form and manner prescribed in the Construction Act. For greater certainty, a termination in accordance with this Contract will be effective whether or not a notice of termination is published."

3.32 Owner's Right to Terminate for Convenience

.1 Notwithstanding any term in this Contract, the Owner may, at any time, terminate this Contract or the Contractor's right to continue with the Work, in whole or in part, without cause and for the Owner's convenience by delivering to the Contractor a notice of termination. The effective date of such termination will be set out in such notice, and may be immediate.

.2 If the Owner terminates the Contract or the Contractor's right to continue with the Work in whole or in part pursuant to this subsection, the Owner shall:

- (b) pay the amounts set out in this Contract for all parts of the Work completed in accordance with the terms of this Contract and accepted by the Owner, and for which the Owner has not made any payment;
- (c) pay the amount of the Contractor's costs incurred in providing the Work in progress, not including the Work referred to in subsection GC 14.15.2(a), plus a fee for overhead and profit of not more than 10%;
- (d) be entitled to take possession of the Working Area or that portion of the Working Area devoted to that part of the Work terminated;
- (e) be entitled to utilize any Material within the Working Area; and
- (f) terminate or cancel the Work or the Project, or re-scope the Work or the Project.

.3 Upon any termination of this Contract or the Contractor's right to continue with the Work in whole or in part, the Contractor shall submit to the Contract Administrator a Proper Invoice for any amounts the Contractor claims to be owing under subsections GC 14.08, GC 14.10 or GC 14.15 within 30 Days of the date of such termination, and the Owner shall pay any such amounts approved by the Contract Administrator within 28 Days of the receipt of such Proper Invoice.

.4 Before the Owner pays the Contractor any amounts referred to in subsection GC 14.16.1, the Contractor will provide to the Owner such reasonable evidence of such amounts as the Owner may request with its Proper Invoice.

.5 Notwithstanding any term in this Contract to the contrary, in no circumstances whatsoever will the Owner be liable to the Contractor for consequential liabilities, damages, losses, costs or expenses, loss of profit, economic loss, interest or any other damages or loss suffered or incurred by the Contractor as a result of any such termination.

.6 Prior to making payment of any amounts referred to in subsection GC 14.16.1, the Owner may conduct an audit of such amounts and the Contractor will provide the Owner with all information reasonably requested by the Owner in respect of such audit.

.7 On payment for such amounts, title to all the Work (including Materials, products, documents, designs, drawings, specifications, plans, reports, information and other deliverables and data) that had not to date vested in the Owner will vest automatically in the Owner.

.8 The Contractor will not be entitled to be paid for any work or services, or orders of Materials, that occur after the date that the Contractor receives a notice of termination, other than the reasonable direct costs arising from the performance of the Contractor's obligations under subsection GC 4.15.7.

.9 After delivery of the notice of termination and, to the extent reasonably necessary, after the termination, the Contractor shall leave the site of the Work in a clean and safe manner, including covering of Materials and equipment, and shall assist in any transition of the Work to the Owner or a replacement contractor, including providing copies of permits and authorizations, schedules, subcontracts with Subcontractors, and statements of account with Subcontractors.

.10 If the Owner elects to terminate the Contract, the Owner may, but shall not be obliged to, publish a notice of termination in the manner set out in the Construction Act.

.11 The Contractor's obligation under the Contract as to quality, correction, and warranty of the Work performed prior to the time of termination of the Contract or termination of the Contractor's right to continue with the Work in whole or in part shall continue to be in force after such termination.

3.33 Contractor Performance Evaluations

Add new GC 4.14 as follows:

“GC 4.14 Contractor Performance Evaluations

.01 The Contractor acknowledges and agrees that the Owner may evaluate and track the Contractor's performance and that the Contractor's performance may be considered by the Owner if the Contractor bids on other projects of the Owner. The Contractor agrees

to cooperate with the Owner as needed to facilitate the Owner's evaluation of the Contractor's performance."

3.34 Material

In GC 5.01, change the word "price" to "Price".

3.35 Rejected Materials

Add at the end of the first sentence of GC 5.03.1 "at Contractor's sole cost and expense."

3.36 Protection of Work, Persons, and Property

Delete GC 6.01.1 in its entirety and replace it with the following:

.1 The Contractor, the Contractor's agents, and all workers employed by or under the control of the Contractor, including Subcontractors, shall protect the Work, persons, and property (including, without limitation, structures and utilities that may be impacted by the Work) from damage or injury. The Contractor shall be responsible for all losses and damage that may arise as the result of the Contractor's operations under the Contract, unless indicated to the contrary below.

GC 6.01.02 is modified by inserting the words "if the Contract Administrator so directs" following the words "restore such damage" in the fourth line.

At the end of GC 6.01.03 add the following: "The cost of the Contract Administrator's investigation shall be borne by the Contractor if the damage or injuries arose as a result of the fault or negligent acts or omissions of the Contractor."

Add a new GC 6.01.06 as follows:

".06 When carrying out excavation work, the Contractor may encounter Utilities. The Contractor shall be fully responsible for any breakage or damage to any Utilities, and the Contractor shall pay the full cost of repairing such damage and making good any losses or damages caused as a result of its operation in carrying out this Contract."

3.37 Indemnification

In Clauses GC6.02.01, GC6.02.02, and GC6.02.04, add ", defend" after "indemnify".

3.38 Insurance

Delete GC 6.03.01.1 in its entirety and replace it with the following:

.1 Without restricting the generality of subsection GC 6.02, Indemnification, the Contractor shall, at no additional cost to the Owner, at all times provide, maintain, and pay for the insurance policies for the Work as outlined in the Contract Documents and as described in the General Conditions, including subsections GC 6.03.02 to GC 6.03.06.

Clause GC 6.03.02 is replaced with the following:

".01 Commercial General Liability Insurance, on an occurrence basis, including but not limited to coverage for bodily injury, death, and property damage, products liability, completed

operations liability, owners & contractors protective liability, blanket contractual liability, having an inclusive limit of not less than **\$10,000,000 per occurrence**. Follow form Umbrella or Excess Liability Insurance may be used to achieve the desired limit. **The policy will contain confirmation that heat welded torch applied systems are included in coverage.** The Policy or policies will contain Cross Liability and Severability of Interest clauses naming the Owner and the Contract Administrator as Additional Insureds. The insurance shall be provided in a form acceptable to the Owner."

Paragraph GC 6.03.04 is deleted in its entirety.

Replace Clause GC 6.03.05 with the following:

".01 Broad Form (Builder's Risk) Property Insurance insuring not less than the sum of 1.1 times the Contract price and the full value, as stated in the Contract with a deductible not to exceed Five Thousand (\$5,000) or as agreed to by the Owner and shall provide coverage for the property or equipment being installed, handled, or stored on or off premises awaiting installation and while in transit. The policy shall be in the joint names of the Contractor and the Owner. The policy shall include any sub-contractors as insureds. This policy shall include Equipment Breakdown (formerly Boiler & Machinery) coverage during testing and commissioning and business interruption resulting from project delay. The insurance coverage shall not be less than the insurance required by IBC Form 4042 and 4047 or their equivalent replacement. The policy shall not contain an exclusion for "Change in Temperature", including frost or freezing. The "Broad form" property insurance shall be provided from the date of commencement of the Work until the earliest of:

- .1 ten (10) calendar days after the date of Substantial Performance of the Work;
- .2 on the commencement of use or occupancy of any part or section of the Work unless such use or occupancy is for construction purposes or parking purposes, or for the installation, testing and commissioning of equipment forming part of the Work;

.02 Equipment Breakdown (formerly Boiler and Machinery Insurance), (if applicable) having limits of not less than the replacement value of the permanent or temporary boilers and pressure vessels, and other insurable objects forming part of the work. The insurance coverage shall not be less than the insurance provided by a comprehensive equipment breakdown policy. The deductible is not to exceed Five Thousand (\$5,000) or as agreed to by the Owner. The policy shall be in the joint names of the Contractor and the Owner. The policy shall include any sub-contractors as insureds. The coverages shall be maintained from commencement of or operation of the equipment objects insured by the policy and until ten (10) calendar days after the date of Substantial Performance of the Work.

The "Broad form" Property and Equipment Breakdown policies shall provide that, in the case of a loss or damage, payment shall be made to the Owner and the Contractor as their respective interests may appear. In the event of loss or damage:

- .1 the Contractor shall act on behalf of the Owner for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the Contractor shall proceed to restore the Work. Loss or 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 Contract Time relative to the extent of the loss or damage as a consultant may recommend in consultation with the Contractor.

- .03 Insurance companies providing coverage must be licensed to do business in the Province of Ontario.
- .04 All policies shall apply as primary and not as excess of any insurance available to the Owner."

Renumber GC 6.03.07 as GC 6.03.08, and add the following as new GC 6.03.07 – Contractor’s Pollution and Environmental Insurance:

- .01 Pollution and Environmental Insurance shall be in the name of the Contractor, with the Owner and the Contract Administrator named as additional insureds, with limits of not less than five million dollars (\$5,000,000) inclusive per occurrence. The insurance shall be provided in a form acceptable to the Owner, and shall cover liability arising from excess soils.

Add the following as new Clause GC 6.03.08.08:

"Notwithstanding Clause GC 6.03.08.01, the insurance shall be maintained continuously from the commencement of the work until the end of the Warranty Period following the date of the Completion Certificate.

The Contractor shall fully insure the Work in the names of the Contractor, the Town and the Contract Administrator, as their interests may appear against loss or damage from fire, explosion, acts of nature, or other causes, until the final completion and taking over of the work by the Town, and shall pay the premiums for such insurance. A copy of all insurance policies shall be provided to the Town.

Liability policies shall include the Corporation of the Town of Milton, as additional named insured but only in respect of, and during operations performed by or on behalf of the Contractor. The policy shall contain cross liability and severability of interest clauses and be endorsed to provide 30 days' written notice of cancellation or material change.

Should the Contractor fail to take out satisfactory policies and to maintain them until the final completion and taking over of the Work by the Town, then the Town itself may take out proper policies at the expense of the Contractor."

Add the following as a new Clause GC 6.03.09:

"GC 6.03.09 Professional Liability and/or Errors & Omissions Liability Insurance

Professional Liability and/or Errors & Omissions Liability Insurance (if applicable), as the case may be, having a limit of not less than \$2,000,000 per claim. The Contractor shall ensure any and all consultants, architects, engineers or other similar professionals engaged in the performance of the Contract carry Professional Liability and/or Errors & Omissions Liability Insurance, as the case may be. The Policy or Policies shall be maintained continuously from the commencement of the Work, until 2 years after Substantial Performance of the Work."

3.39 Ontario Provincial Standard Specifications

The Work shall be done in accordance with the requirements of the current Ontario Provincial Standard Specifications, available at <https://www.library.mto.gov.on.ca/SydneyPLUS/TechPubs/Portal/tp/opsViews.aspx> (the "**Standard Specifications**"), as may be modified by the Special Provisions, and the municipal version of the relevant Standard Specifications, if one exists.

To the extent that the municipal version of the relevant Standard Specifications exists, it shall take precedence over the Standard Specifications. For the avoidance of doubt, notwithstanding the foregoing, any applicable Special Provisions will take precedence over municipal specifications and Standard Specifications.

All Material required to complete the Work under the Contract shall be supplied by the Contractor and compensation therefore shall be deemed to be included in the prices bid for the items of Work for which it is to be used.

3.40 Contract Administrator's Approval and Action

Where reference is made in the Ontario Provincial Standard Specifications to the Ministry's approval of action in matters contained in this Contract, the context shall be read as if it were written about the Contract Administrator's approval of action, and no division of responsibility for approval of action shall be deemed to exist between the Ministry and the Contract Administrator.

3.41 Instructions to the Contractor

The Contract Administrator or his/her representative may issue such instructions, statements, notices or minutes to the Contractor from time to time, as they deem necessary. The Contractor will be allowed one week to file a written protest setting forth in detail any disagreements; otherwise, such statements, notices, instructions or minutes shall be deemed as acceptable to the Contractor.

3.42 Bonding

Clause GC 6.04 shall be replaced in its entirety with the following:

- .01 Prior to commencing the Work, the Contractor shall provide the Owner with the Performance Bond, the Labour and Material Payment Bond, and any other surety bonds in the minimum amount and the form required by the Construction Act, and the greater amount required in the Contract Documents, if so required.
- .02 Such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the Province of Ontario which is permitted to issue Performance Bonds and Labour and Material Payment Bonds in the Province of Ontario, and shall be in a form required by the Construction Act and to the satisfaction of the Owner. The bonds shall be maintained in good standing until the fulfilment of the Contract."

3.43 Site Visit

Delete GC 7.01.01.01 in its entirety and replace it with the following:

- .1 The Contractor represents and warrants that it has had the opportunity to visit and inspect the site and character of the Work and all local conditions that may affect the performance of the Work, and that the Work can be completed for the Contract Price and within the construction schedule for the Project.

3.44 Commencement of Work

GC 7.01.02.01 is deleted and replaced with the following:

".01 The Contractor shall commence the Work within 7 Days after receiving a notice from the Owner to commence the Work. The Contractor will not commence the Work until the Contract has been officially accepted by the Owner, the insurance certificates and the bonds are satisfactory to the Owner, and the Contractor has received approval of the Construction Schedule."

3.45 Control and Responsibility

GC 7.01.03.01 is amended by inserting the words "and conduct and complete the Work in a first class and workmanlike manner" at the end of the first sentence of that paragraph.

GC 7.01.03.05 is amended by inserting the following at the end of that paragraph:

"If the standards of the Applicable Laws relating to the Work differ, the most stringent standards shall govern."

3.46 Compliance with the Occupational Health and Safety Act

GC 7.01.04.01 is amended by inserting the following words at the beginning of that paragraph: "The Contractor shall be solely responsible for construction safety at the Working Area."

GC 7.01.04.01 is further amended by adding the following new subparagraph:

(h) the plans, methods and procedures of the Contractor in performing the Work account for and incorporate all health, safety and hygiene laws, regulations, orders and advisories of any applicable authority.

GC 7.01.04 is amended by adding the following new subparagraph at the end of that paragraph:

.06 The Contractor shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform those functions referred to in the above paragraph where required by Applicable Law or by the Contract Documents and in all cases where such temporary supports, structures and facilities and their method of construction are of such a nature that professional engineering skill is required to produce safe and satisfactory results.

3.47 Contractor's Representatives

(a) GC 7.01.05.01 is amended by inserting the words: "who shall be a competent qualified superintendent" following the words "authorized representative on the site" in the first line and by inserting the following at the end of that paragraph: "The authorized representative shall not be changed without the approval of the Contract Administrator and only if replaced by a superintendent of similar qualifications. Notices and instructions given to the authorized representative by the Contract Administrator shall be held to have been received by the Contractor."

(b) GC 7.01.05.02 is amended by inserting "and no later than at the pre-construction meeting" between "Prior to the commencement of the construction," and "the Contractor shall notify".

3.48 Schedule

Delete GC 7.01.07.1 in its entirety and replace it with the following:

.1 In order to fulfill the conditions for which the Work has been designed, the Contractor shall prepare prior to the initial pre-construction meeting between the Contractor and the Owner before the commencement of the Work, and update as required, a construction schedule, including identification of the critical path of the Work, schedule of operations, indicating the proposed methods of construction and sequence of work and the time the Contractor proposes to complete the various items of work within the Contract Time (the "**Construction Schedule**"). The Construction Schedule shall clearly identify the Work, if any, performed by Subcontractors, and the Construction Schedule shall be designed to ensure conformity with the specified Contract Time. The Construction Schedule shall be submitted to the Contract Administrator, for the Contract Administrator's review and written approval, within 7 Days from the date of the contract award, unless otherwise required by the Contract Documents. This submission shall include a statement confirming that Subcontractors were consulted in the preparation of the Construction Schedule, and are aware of the Construction Schedule as well as any applicable Project milestones. The Construction Schedule will include activity sequences and durations, Contractor's intended float, special allocation of labour and Materials, processing of Working Drawings and samples, delivery of products involving long lead time procurement and usage and occupancy appropriate allowance for Inclement Weather, requirements of the Owner of those portions of the Work having usage or occupancy priority and any other schedule requirements set out in the Contract Documents. The Contractor shall, during performance of the Work and in accordance with the controls and reporting requirements in the Contract Documents provide for the Contract Administrator's review and approval progress reports updating the Construction Schedule, reporting on the progress achieved, percentage of completion, schedule status and financial status with areas of immediate concern highlighted. If the Construction Schedule is affected by approved Changes, the Contractor shall submit an updated Construction Schedule, if requested by the Contract Administrator, within 7 Days of the request. This updated Construction Schedule shall show how the Contractor proposes to perform the balance of the Work, so as to complete the Work within the time specified in the Contract Documents. The Owner may, at its sole discretion, not issue an order to commence work until the schedule has been received and approved.

For the duration of the Contract term, the Contractor shall provide progress reports for review and approval updating the Construction Schedule referred to in this paragraph as required in the Contract Documents and in any event no less than at intervals of every 30 Days. The Contractor shall promptly notify the Contract Administrator and the Owner in writing of any known or anticipated deviations from the Construction Schedule.

3.49 Working Area

GC 7.03.01 is amended by inserting the words "waste products and" prior to the word "debris" in the second line of that paragraph.

Add the following new paragraphs to GC 7.03:

".06 The Contractor shall ensure that during night Work the Working Area is adequately floodlit to the Contract Administrator's satisfaction for Work operations, inspections and advance warning to traffic.

- .07 Streets beyond the limits of the Working Area and other construction areas shall be kept clean. Dusty materials shall be transported in covered haulage vehicles. Wet materials shall be transported in suitable watertight haulage vehicles.
- .08 The Contractor shall take such steps as may be required to prevent dust nuisance resulting from its operations either within the limits of the Working Area or elsewhere or by public traffic where it is the Contractor's responsibility to maintain a Roadway through the Work.
- .09 Where the Work requires the sawing of asphalt or the sawing or grinding of concrete, blades and grinders of the wet type shall be used together with sufficient water to prevent the incidence of dust, wherever dust would affect traffic or wherever dust would be a nuisance to residents in the vicinity of the Working Area.
- .10 Permitted dust control measures may include the application of calcium chloride, tall oil emulsion or water. In general, the use of calcium chloride and tall oil emulsion shall be kept to a minimum and is restricted to vehicle rights-of-way; there shall be more frequent applications of water in close proximity to watercourses. The Contract Administrator's acceptance shall be obtained before chemicals or tall oil emulsion for dust control are used.
- .11 The cost of all such preventative measures shall be borne by the Contractor except however where water or calcium chloride is used to reduce the dust caused by traffic on a roadway which is the Contractor's responsibility to maintain for public traffic, the cost of such quantities of water and calcium chloride as are authorized by the Contract Administrator to restrict dust to acceptable levels, shall be paid for by the Owner at the Contract Prices for the appropriate tender items for Water for Compaction and Dust Control or Calcium or both.
- .12 Rubble and debris resulting from clearing and grubbing operations, demolitions and removals, and any other work under this Contract shall be disposed of outside the Working Area. Earth and rock excavated during the Work which is unsuitable for or surplus to the requirements of embankment construction, backfilling or site development shall be disposed of outside the Working Area at Contractor's sole cost and expense.
- .13 The Contractor shall assume sole liability and responsibility for any debris, earth and rock removed from the Working Area by the Contractor. The Contractor shall dispose of all materials and waste in compliance with all applicable laws, regulations and by laws. When any such materials or waste removed from the Working Area are disposed of on property not owned by the Town, the Contractor shall provide the Contract Administrator, upon request, either:
- (a) a waiver, in a form acceptable to the Owner, executed by the owner of the property where the materials or waste were disposed of, releasing the Contract Administrator and the Owner from any current and future obligations or liability relating to the materials; and, if applicable
 - (b) a receipt from a certified waste disposal site where the materials or waste were disposed of.

- .14 The Contractor shall ensure that any operations associated with the Work, both within or beyond the Working Area shall be controlled and managed to minimize impacts on adjacent residents and businesses."

3.50 Approvals and Permits

Delete GC 7.08.1 in its entirety and replace it with the following:

- .1 Except as specified in subsection GC 4.02, Approval and Permits, the Contractor shall obtain and pay for, at its cost, all permits, licenses, certificates and authorizations required for the performance of the Work, including required lane closures

Amend GC 7.08.2 by adding "All such inspections shall be at the expense of the Contractor." at the end of the paragraph.

3.51 Suspension of Work

Delete GC 7.9.01 in its entirety and replace it with the following:

- .1 The Contractor shall discontinue, delay or suspend any or all of the Work upon receipt of, and in accordance with, the written notice from the Contract Administrator. The Contractor shall resume performance of that discontinued, delayed or suspended Work or portion of the Work in accordance with such notice or as subsequently directed by the Contract Administrator. The Contractor's entitlement to extensions of the Contract Time and adjustments in the Contract Price or reimbursement of costs are set out in, and shall be administered by, the provisions of subsection GC 3.07, Delays.

Add the following new paragraphs to GC 7.9:

- ".02 The Contract Administrator may stop any portion of the Work, if in his or her judgment, the weather is such as to prevent the Work from being properly done. No compensation of any kind will be made for such stoppage except an extension of time for the completion of the Work as provided in GC 3.07.
- .03 The Contractor shall, upon written notice from the Contract Administrator, discontinue or delay any or all Work of base, foundation, or paving construction on any section of any Roadway or Highway, if, in the opinion of the Contract Administrator, the foundation is not sufficiently compacted or settled for surfacing work in question, and the Work shall not be resumed until the Contract Administrator shall in writing so direct, and the Contractor shall not be entitled to any compensation for such stoppage or delay to the Work, other than an extension of time for the completion of the Work as provided in GC 3.07."

3.52 Contractor's Right to Stop the Work or Terminate the Contract

Clause GC 7.10 is deleted in its entirety.

3.53 Maintenance Security

Maintenance Security for the Warranty Period for warranties and deficiencies is to be provided either within the terms of the Performance Bond or as a standalone bond in the amount of (i). five percent (5%) of the total Contract price for contracts valued at one million dollars (\$1,000,000) or less OR (ii). two and one half percent (2.5%) of the total Contract price for contracts valued at

greater than one million dollars (\$1,000,000). If Contractor elects to provide the Maintenance Security as a standalone bond, Contractor shall provide such standalone bond at the time it provides the Performance Bond.

3.54 Notice by the Contractor

At the end of GC 7.11.01 add the following: "The form and content of any such notice and the method of delivery of the notice shall be approved by the Contract Administrator."

Add the following new paragraphs to GC 7.11:

- ".02 The Contractor shall notify the local gas authorities at least 48 hours in advance of the commencement of any Work which may affect pipes belonging to the gas utility company. Any specific requirements of the gas utility company in connection with daylighting its high pressure mains, having its inspection personnel on site when the Work is being carried out and any other requirements, shall be strictly complied with by the Contractor, and no additional payment in connection therewith shall be made by the Owner to the Contractor. Any Release of a Toxic or Hazardous Substance under the control of the Contractor, or those for whom the Contractor is responsible at law, and any Release of a Hazardous Substance that is a result of the Contractor's operations, or operations of those from whom the Contractor is responsible at law, shall forthwith be reported to the Contract Administrator.
- .03 All Releases of liquid, other than accumulated rainwater from luminaires, internally illuminated signs, lamps and liquid type transformers under the control of the Contractor, and all Releases from Equipment that are a result of the Contractor's operations, or operations of those for whom the Contractor is responsible at law, shall, unless otherwise indicated in the Contract, be assumed to contain Polychlorinated biphenyls or PCBs and shall forthwith be reported to the Contract Administrator. This reporting will not relieve the Contractor of its legal responsibilities under the Contract or under Environmental Laws regarding such Releases."

3.55 Obstructions

Add the following after paragraph 7.13.3: "The Contractor shall exercise all necessary care in his construction operations when working adjacent to Utilities and shall be fully responsible for the protection, repair and cost of any damage occasioned to such Utilities."

Add the following to subsection GC 7.13:

- .4 The Contractor shall arrange with the Utilities whether guy wires have to be relocated or disconnected. The Owner will pay the Utility company directly. The Contractor shall brace and support poles and other facilities as directed by the Utility owner. No extra payment will be made to the Contractor for this Work.
- .5 the Contractor must notify the Contract Administrator and the appropriate Utility owner at least 24 hours prior to carrying out the Work at the location of conflict with the Utility. The Contractor shall follow any instructions, directions or recommendation of the Utility owner required to be done prior to the commencement of the Work at Contractor's sole cost and expense.

3.56 Warranty

Clause GC7.16.02 is amended to read as follows:

"Subject to the previous paragraph the Contractor shall correct promptly, at no additional cost to the Owner, defects and/or deficiencies in the Work which appear prior to and during the period of 24 months from the date of Substantial Performance of the Work as set out by the Substantial Performance Certificate or such longer period as may be specified for certain Materials or Work. The Contract Administrator will promptly give the Contractor written notice of observed defects or deficiencies.

When the **Substantial Performance Certificate** is issued between the dates of November 1st and April 30th, the warranty shall be extended beyond 24 months to May 30th. In said circumstances, the final warranty inspection shall occur between May 1st and May 14th. For clarification, no final warranty inspections will occur between November 1st and April 30th."

Add new paragraph GC 7.16.04 as follows:

- .04 Unless otherwise agreed to by the Owner, the Contractor shall correct any deficiency within 48 hours after receiving a notice from the Owner or Contract Administrator, and shall complete the Work as expeditiously as possible, except that in case the deficiency would prevent maintaining security or keep basic systems essential to the ongoing business of the Owner operational as designed, in which case all necessary corrections and/or installation of temporary replacements shall be carried out immediately as an emergency service. Emergency service shall include without limitation watermain service breaks, sewer back-up, traffic signal outage and any significant holes or depressions in the travelled portion of Roadways. Should the Contractor fail to initiate a response to emergency service within **6 hours** of a request made during normal business hours of the Contractor, the Owner is authorized to carry out all necessary repairs or replacements at the Contractor's expense notwithstanding any other provisions in the Contract. The carrying out of replacement work and the making good of defects shall be at the sole cost of the Contractor and shall be executed at times convenient to the Owner. In addition to any other rights of the Owner under the Contract, the Owner reserves the right to deduct costs and expenses related to emergency service from the Warranty Holdback (as defined below).
- .05 If the Contractor is not able to make good, in a manner required under the Contract Documents, or repair or replace the Work within the extended Warranty Period as set out in subsection GC 7.16.2, then, at the Owner's option, the Contractor shall return the portion of the Contract Price relating to such portion of the Work or the Owner may set-off such amount against the Warranty Holdback described in subsection GC 7.16.9.
- .06 The decision of the Contract Administrator shall be final as to the existence of such defects or deficiencies, the necessity of remedying same, and the remedial measures required.
- .07 If the Contractor should fail to do any such work required by the Contract Administrator, the Owner shall be entitled to carry out such work by its own forces or by other contractors and if such work is work which the Contractor should have carried out at the Contractor's own expense, shall be entitled to recover from the

Contractor the cost thereof or may deduct the same from any monies due or that become due to the Contractor, including the Warranty Holdback.

- .08 Any surety or deposit effected and any insurance taken out pursuant to the Contract Documents shall remain in full effect at the expense of the Contractor during the Warranty Period.
- .09 The Contractor shall be responsible for the costs for inspection and testing for the correction of defects or deficiencies. The Owner shall have the right to deduct the cost of the inspection and testing from any monies owed to the Contractor.
- .10 The Owner shall hold back, on each invoice, advance payment or progress draw, 2.5% of the total amount payable under each such invoice, advance payment or progress draw as security for the Contractor's performance of its warranty obligations (the "Warranty Holdback"). The Contractor shall have the right to invoice the Owner for the Warranty Holdback upon being issued the Final Acceptance Certificate.

3.57 Drainage

At the end of paragraph GC 7.18.01 add the following: "The Contractor shall, insofar as is practicable, maintain the site of the Work free of surface and ground water so that construction may be carried out in the dry. The disposal of surface and ground water from the Work shall be the responsibility of the Contractor."

Add new paragraph GC 7.18.02 as follows:

"All sewers or water courses interfered with during the construction, whether shown on the drawings or not, shall be adequately maintained by the Contractor for both dry weather and storm water flow, by either constructing a satisfactory flume or by-pass sewer or by pumping, or by other methods acceptable to the Town, and/or Region and/or Conservation Halton. All gutters and storm water inlets encountered shall be kept open for drainage. The Contractor will not be permitted to raise levels in sewers or watercourses to the extent of flooding basements or adjacent properties, and it is expressly pointed out, that any damage caused by basement flooding or otherwise which results from the Contractor's operations, will be the responsibility of the Contractor."

Add new paragraph GC 7.18.03 as follows:

"The Contractor shall be solely responsible for all damages caused by, or resulting from water backing up or flowing over, under, through, from, on or along any part of the Work or which any of its operations may cause to flow elsewhere and shall bear such costs, make such provisions and provide such indemnity as required in the Contract Documents."

3.58 Measurement

Clause GC 8.01.01.01 is amended to read:

- ".01 As outlined in Item 3.21 further ahead, on the 25th day of the month, the Contractor shall provide a draft of the proposed application for payment including estimates of the quantity of Work to be performed by the end of the month."

- I. Clause GC 8.01.02.01 is amended by replacing the last sentence with the following: "Written requests for compensation must be received along with all of the documents and information required under this Clause GC 8.0 for the applicable compensation sought and for a Proper Invoice."

3.59 Advance Payments for Material

Clause GC8.02.03 is amended to read:

- .01 The Owner may make advance payments for Material intended for incorporation in the Work according to the following terms and conditions:
 - a) The Contractor shall submit to Owner all of the documents required under Clause GC 8.0 including a Proper Invoice for the applicable compensation sought.
 - b) The Contractor shall deliver the Materials to a site approved by the Contract Administrator and the Contractor shall, in advance of receipt of shipment of the Material, arrange for adequate and proper storage facilities and notify the Contract Administrator of their location(s).
 - c) The value of aggregates, processed and stockpiled, shall be assessed by the following procedure:
 - i. Sources Other Than Commercial
 - (1) Granular A, B, BI, BII, BIII, M, and O shall be assessed at the rate of 60% of the Contract price.
 - (2) Coarse and fine aggregates for hot mix asphaltic concrete, surface treatment and Portland cement concrete shall be assessed at the rate of 25% of the Contract price for each aggregate stockpiled.
 - ii. Commercial Sources Payment for separated coarse and fine aggregates shall be considered at the above rate when such Materials are stockpiled at a commercial source where further processing is to be carried out before incorporating such Materials into a final product. Advance payments for other Materials located at a commercial source shall not be made.
 - d) Payment for all other Materials, unless otherwise specified elsewhere in the Contract Documents, shall be based on the price paid by the Contractor to his supplier, and the Contractor shall submit proof of cost to the Contract Administrator before payment can be made by the Owner.
 - e) The payment for all Materials shall be prorated against the appropriate tender item by paying for sufficient units of the item to cover the value of the Material. Such payment shall not exceed 80% of the Contract price for the item.
 - f) All Materials for which the Contractor wishes to receive advance payment shall be placed in the designated storage location immediately upon receipt of the Material and shall thenceforth be held by the Contractor in trust for the Owner as collateral security for any monies advanced by the Owner and for the due completion of the Work. The Contractor shall not exercise any act of ownership

inconsistent with such security, or remove any Material from the storage locations, except for inclusion in the Work, without the consent, in writing, of the Contract Administrator.

- g) Such materials shall remain at the risk of the Contractor who shall be responsible for any loss, damage, theft, improper use, or destruction of the Material however caused.

- .02 Where the Owner makes advance payments subject to the conditions listed in clause GC 8.02.03.01, such payment shall not constitute acceptance of the Material by the Owner. Acceptance shall only be determined when the Material meets the requirements of the appropriate specification

3.60 Progress Payment

- I. Clauses GC 8.02.04.01 through GC 8.02.04.12 are deleted and replaced with the following:

"GC 8.02.04.01 Draft Applications for Payment

- .01 In order to facilitate and expedite payments under GC 8.02.04 and subject to the Contract Documents, on the 25th day of each month during the Contract Time, the Contractor will deliver to the Contract Administrator a draft of the Contractor's proposed application for payment for all of the Work performed by the Contractor in that month, in order to facilitate and expedite payments under GC 8.02.04.01, including an estimate of the Work to be performed and Materials to be delivered at the date of such application for payment, but before the end of that month, and including any reports or certificates confirming the satisfactory completion of any commissioning and testing required by the Contract Documents for any completed part of the Work that the Contractor will include in its application for payment.
- .02 The Contractor shall review with the Contract Administrator and the Owner, at a scheduled time, the draft application for payment and the percentage of the Work completed for each item indicated in the schedule of values. This procedure shall be complied with for each draft application for payment.
- .03 Nothing in this GC8.02.04.01 is intended to condition, pre-condition, prevent or delay the Contractor's right to submit its applications for payment in accordance with this Contract and the Construction Act.

GC 8.02.04.02 Monthly Applications for Payment (Progress Payments)

- .01 Notwithstanding GC8.02.04.01.01, GC8.02.04.01.02, or GC8.02.04.01.03, but subject to the Contract Documents, the Contractor shall submit its applications for payment to the Contract Administrator and the Owner monthly as the Work progresses on the first Working Day after the end of the month to which the application for payment relates. Applications for payment not submitted on that day may be deferred by the Owner to the following month. In addition, a breakdown of approved Change Orders and percentage completed of each shall be included, in a form satisfactory to the Owner.
- .02 Prior to the first payment application, the Contractor shall submit the proposed schedule of values (price breakdown) for approval. The approved breakdown shall be used for all

payment applications. Approved Change Orders must be clearly identified as separate items in the schedule of values showing the percentage completed of each. Deviation or incomplete submissions with respect to the approved breakdown will require resubmission of the application for payment.

- .03 The Contractor shall ensure that each application for payment for Work complies with the requirements set out in this Contract, and will include as part of its application for payment of all the documents and information required in this Clause GC 8.0 and for a Proper Invoice as set out in the Definitions, including any reports or certificates confirming satisfactory completion of any commissioning and testing and quantity estimating of any completed part of the Work. The Owner may, in its discretion, reject any application for payment that does not comply with this Clause GC 8.0 and the definition of a Proper Invoice, or the Owner may withhold up to the full amount otherwise payable in relation to that application for payment until such application for payment includes all of the documents and information required under this Clause GC 8.0 and for a Proper Invoice for the applicable application for payment.
- .04 Upon verifying that the Work has been performed according to the Contract documents, and that the payment application accurately reflects the progress on site, the Contract Administrator shall issue a Payment Certificate. The issuance by the Contract Administrator of a Payment Certificate will not mean that the Contract Administrator assumes any responsibility or liability, in full or in part, for the Contractor's responsibilities and liabilities at the completion of the Contract or in the future to carry out all the Work and any part of it in accordance with the terms and specifications of this Contract.
- .05 The Owner will pay the Contractor on or before 28 Days after the delivery to the Contract Administrator by the Contractor of an invoice that includes all of the documents and information required under this Clause GC 8.0 and for a Proper Invoice for such application for payment, subject to the certifications included in the Payment Certificate and the delivery of a notice of non-payment issued by the Owner in the form prescribed under the Construction Act.
- .06 The Owner shall retain from funds owing under the Contract the statutory holdbacks required under the Construction Act.

GC 8.02.04.03 Application for Substantial Performance, Certification and Payment (Substantial Performance Payment)

- .01 Prior to submitting its written application for Substantial Performance of the Work, the Contractor shall ensure that all conditions set out in the Construction Act have been met, that all outstanding claims have been submitted for review and that the Work is ready for its intended use. The Contractor shall submit to the Contract Administrator all:
 - a. guarantees, warranties, certificates, final testing and balancing reports, distribution system diagrams, shop drawings, inspection certificates, a complete set of drawings describing the as built condition of all aspects of the Work
 - b. spare parts and samples;
 - c. complete manuals for the operation and recommended maintenance of all systems, equipment, materials and finishes, etc. for use by the Owner;

- d. permits, permit clearances, reports and correspondence from municipal, governmental and utility authorities having jurisdiction in the Place of the Work together with written proof acceptable to the Owner and the Contract Administrator that the Work has been substantially performed in conformance with their requirements;

The Consultant shall not be required to certify Substantial Performance of the Work if the submittals referred to in this paragraph are not provided by the Contractor.

- .02 Subject to Clause GC1.08, when the Contractor considers that the Work has been substantially performed it shall submit an Application for Substantial Performance to the Owner and the Contract Administrator.

.03 A Substantial Performance Application shall include:

- a) **a written request for a review** by the Contract Administrator to establish Substantial Performance of the Work;
- b) **the Contractor's own comprehensive list of outstanding items** to be completed or corrected and the expected date for completion of all items;
- c) **a declaration that no further claims** for changes to the Contract Price are anticipated; or a declaration setting forth all outstanding claims known to the Contractor that may result in a request for change to the Contract Price;
- d) **a Proper Invoice accompanied by its supporting documentation** as set out in the Definitions;

- .04 Upon verifying that the Contract has been substantially performed, the Contract Administrator will issue a Certificate of Substantial Performance and will set out in the Certificate of Substantial Performance the date on which the Contract was substantially performed.

- .05 Within 7 days after signing the Certificate of Substantial Performance, the Contract Administrator will provide a copy to the Contractor.

- .06 Together with the Certificate of Substantial Performance, the Contract Administrator will issue a Payment Certificate (the "Substantial Performance Payment Certificate") that shows:

- a) the value of Work performed to the date of Substantial Performance;
- b) the value of outstanding or incomplete Work;
- c) the amount of statutory holdback, allowing for any previous releases of statutory holdback to the Contractor in respect of completed subcontracts and deliveries of pre-selected Equipment;
- d) the amount of maintenance security required and
- e) the amount due to the Contractor.

- .07 Subject to the delivery by the Owner of a notice of non-payment under the Construction Act Payment for Substantial Performance will be made 28 Days after the receipt of a complete application and a Proper Invoice.
- .08 Upon receipt of a copy of the Certificate of Substantial Performance, the Contractor shall forthwith, as required by Section 32(1)(5) of the Construction Act, publish a copy of the certificate in the manner set out in the regulations.
- .09 Where the Contractor fails to publish a copy of the Certificate of Substantial Performance as required above within 7 Days after receiving a copy of the Certificate of Substantial Performance signed by the Contract Administrator, the Owner may publish a copy of the Certificate of Substantial Performance at the Contractor's expense.

GC 8.02.04.04 Application for Payment of Holdback Upon Substantial Performance (Basic Holdback Payment)

- .01 Within 15 days after the Contract Administrator's issuance of the Substantial Performance Payment Certificate, the Contractor shall make an application for payment for the all statutory holdback amounts retained to date including the holdback retained with the Substantial Performance Payment.
- .02 A Basic Holdback Payment Application shall include:
 - a) a Proper Invoice accompanied by its supporting documentation as set out in the Definitions;
 - b) a copy of the publication of the Certificate of Substantial Performance
- .03 Subject to the delivery by the Owner of a notice of non-payment under the Construction Act, payment of such holdback shall be due 61 Days after the date of publication of the Certificate of Substantial Performance.
- .04 Notwithstanding the foregoing, if the Contractor has not provided the documents required by the Clause GC8.02.04.04.02 by the 30th day after the publication of the certificate of Substantial Performance of the Work (or the Completion of the Work, whichever is earlier), the Owner, at its discretion, shall be entitled to withhold an amount equal to up to the full amount of the amount of statutory holdback as security for the Contractor's delivery of the outstanding document(s) and information. In the event of a withholding under this Clause GC8.02.04.04.04, the Owner shall pay the withheld amount to the Contractor upon the Contractor's delivery of such documents and information."
- .05 If the Work includes more than one improvement to be made under the Contract, and such improvements are deemed to be made and performed under separate contracts pursuant to Clause GC1.08, then, pursuant to the Construction Act, the Owner shall release holdback in accordance with this Clause GC8.02.04.04 on the 61st Day after the date of publication of the Certificate of Substantial Performance of the Work for each such improvement."

GC8.02.04.05 Application for Payment for Completion (Final Payment)

- .01 When all Work under this Contract is complete and all deficiencies have been rectified, the Contractor shall submit an application for final payment.

- .02 The Final Payment Application shall include:
 - a) a Proper Invoice accompanied by its supporting documentation as set out in the Definitions;
 - b) any outstanding documentation not submitted with the Substantial Performance Application.
- .02 Upon verifying that the Work is Complete, the Contract Administrator shall issue a Completion Certificate which shall set out the date on which the Work was completed.
- .03 Within 7 Days of signing the Completion Certificate, the Contract Administrator shall provide a copy to the Contractor. Together with such Completion Certificate, the Contract Administrator shall issue a Payment Certificate (the "Completion Payment Certificate") that shows:
 - a) measurement and value of Work at Completion;
 - b) the amount of the further statutory holdback based on the value of further Work completed over and above the value of Work completed shown in the Substantial Performance Payment Certificate; and
 - c) the amount due to the Contractor.
- .04 Subject to the delivery by the Owner of a notice of non-payment under the Construction Act Payment for Substantial Performance will be made 28 Days after the receipt of a complete application and a Proper Invoice.

GC8.02.04.06 Application for Payment of the Holdback Upon Completion (Final Holdback Payment)

- .01 Within 15 Days after the Contract Administrator's issuance of the Completion Statutory Payment Certificate, the Contractor shall make an application for payment for the amounts due to the Contractor pursuant to the Final Holdback retained in the Completion Payment Certificate.
- .02 The Final Holdback Payment Application shall include:
 - a) a Proper Invoice accompanied by its supporting documentation as set out in the Definitions;
 - b) a copy of the Completion Certificate.
- .03 Subject to the delivery by the Owner of a notice of non-payment under the Construction Act, payment of such holdback shall be due 61 Days after the date of Completion of the Work as established by the Completion Certificate.

GC 8.02.04.08 Interest for Late Payment

- .01 Should either party fail to make payments as they become due under the terms of the Contract or in an award by arbitration, court, or adjudication, simple interest shall become due and payable until payment in the amount of the minimum rate at which the Bank of Canada makes short term advances to the chartered banks."

GC 8.02.04.09 Owner's Set-Off

Pursuant to Section 12 of the Construction Act – Set-off by Trustee, the Owner may retain from monies owing to the Contractor under this Contract or any other contract related to the Project an amount sufficient to cover any outstanding or disputed liabilities including but not limited to the cost to remedy deficiencies, the reduction in value of substandard portions of the Work, claims for damages by third parties which have not been determined in writing by the Contractor's insurer, undetermined claims by the Owner under paragraph (a) of Clause GC8.01.02, Variations in Tender Quantities, any assessment due the Workers' Compensation Board and any monies to be paid to the workers and any liquidated damages assessed by the Owner pursuant to Clause GC8.02.09."

3.61 Payment on Time and Material Basis

Clause GC8.02.05.01.01 is amended to read:

"Working Time" means each period of time during which a unit of Equipment and/or labour is actively and of necessity engaged on a specific operation.

Clause GC 8.02.05.04, in paragraph .1 replace references to "\$3,500" with "\$1,000".

Clause GC 8.02.05.05, in paragraph .1 replace references to "\$3,500" with "\$1,000" and add the following at the end of the paragraph: "Surplus Material not used on the Project may be purchased by the Owner at a cost not to exceed the cost of such Material, that is, invoice cost and no mark-up."

Clause GC 8.02.05.06.01, delete subparagraphs .1a), b) and c) in their entirety and replace them with the following:

- a) Cost \$5,000 or less – no adjustment"
- b) Cost greater than \$5,000 but not exceeding \$10,000 - payment \$5,000 plus 90% of that portion in excess of \$5,000, and"
- c) Cost greater than \$10,000 - \$10,000 plus 80% of the portion in excess of \$10,000".

In paragraph .2 replace "110%" with "105%". And in the last subsection, replace "This constraint shall be waived" with "This constraint may be waived".

In paragraph .3 replace "110%" with "105%".

Clause GC 8.02.05.06.02, delete this clause in its entirety, and replace it with the following: "The Owner is not liable to pay Standby Time for any labour or equipment rental under this Contract."

Clause GC 8.02.05.07, amend by add the following at the end of that paragraph:

", including but not limited to chain saws, cut off saws, portable generators, chipping/jack hammers, blades and drills, and electric hand tools. For greater certainty, no payment shall be made by the Contract Administrator or Owner with respect to the Contractor's staff vehicles and equipment including any tool trucks."

Clause GC8.02.05.08.01, delete everything from and after "calculated on the following basis" and replace with "of "5% of the cost of the Work on a Time and Material Basis."

Clause GC8.02.05.09.04 is amended by replacing "60" with "30" and adding the following as a second sentence: "All claims for Extra Work must be submitted on the Ministry of Transportation of Ontario Form PH-CCC-796 "Force Account – Summary for Payment."

3.62 Final Acceptance Certificate

Delete GC 8.02.06.1 and GC 8.02.06.2 in their entirety and replace with the following:

.1 Prior to issuance of the Final Acceptance Certificate, the Contract Administrator or the Owner and the Contractor shall carry out an inspection of the Work. If the inspection results yield defects and deficiencies in the Work, the Contractor shall repair or replace any defects or deficiencies in the Work. If the Contractor fails to repair or replace any defect or deficiencies in the Work, the Owner may do so in the place of the Contractor and the Contractor and the Contractor's surety or sureties shall be liable to the Owner for all costs, damages and losses paid, sustained or incurred as a result of the Contractor's failure to repair or replace any defects or deficiencies in the Work. The amount of such costs, damages or losses shall be determined or estimated by the Contract Administrator or the Owner. The Contractor shall, at any time or times prior to the issuance of the Final Completion Certificate and when required to do so by the Contract Administrator or Owner, make such openings, tests, inspections, excavations, examinations, or other investigations in, through, of or in the vicinity of the Work as the Contract Administrator or Owner may direct and shall, if required, make good again, to the satisfaction of the Contract Administrator or the Owner, any openings, excavations or disturbances of any property, real or personal, resulting therefrom. No payment certificate, document, act, failure to act, statement or representation of, by or on behalf of the Owner or its employees or agents, no dealing, transaction, forbearance or forgiveness which may take place between the Contractor or his surety or sureties and the Contractor or its employees or agents and no exercise or forbearance to exercise any of the rights or powers of the Owner, shall release the Contractor or his surety or sureties from any term of provision or of any responsibility, obligation or liability under the Contract, or otherwise, shall waive or impair any of the rights and powers of the Owner or of the Contract Administrator.

.2 After the acceptance of the Work, which, for clarity, includes the completion of all investigations required under paragraph .1 above and remedial work arising therefrom has been completed (or, where the Contractor has not completed the remedial work, money owed to the Owner have been paid), the Contract Administrator shall issue the Final Acceptance Certificate.

.3 Any remaining amount of security shall be released upon Final Acceptance of the Contract.

3.63 Records

Add the following at the end of the first sentence of GC 8.02.07.2: "up to and including 2 years after Final Acceptance"

3.64 Time

Time shall be the essence for this Contract.

3.65 Progress of the Work and Time for Completion

SPECIFIED WORK PERIODS

This Contractor shall commence Work on the seventh day after the date that the Contractor has received written confirmation of the award or as stipulated within the Contract Documents or as agreed to by the Contractor and the Contract Administrator.

The Contractor shall work diligently to complete all Work as identified in the "Quantity and Price Schedule" including extra work as ordered and all deficiencies on or before:

April 30, 2025

If the above specified time limit is not sufficient to permit completion of the work by the Contractor working a normal number of hours each day or week on a single daylight shift basis, it is expected that additional and/or augmented daylight shifts will be required throughout the life of the Contract to the extent deemed necessary by the Contractor to insure that the work will be completed within the time limit specified. Any additional costs occasioned by compliance with these provisions will be considered to be included in the prices bid for the various items of work and no additional compensation will be allowed therefore.

On a working day contract, working time (days) shall be charged for work periods respectively. At the completion of all Work, including deficiencies, the Contract Administrator shall acknowledge and document this completion date and terminate the recording of working days for that period. Until final acceptance by the Town and upon written notification from the Contract Administrator, the Contractor agrees to rectify within seven working days any or all deficiencies that may arise from the previous work. With the completion of all Work, including all Project deficiencies and final clean up, the Contract Administrator shall establish a Project completion date and issue the Completion Certificate (see GC 1.04) for the Contract.

A Working Day is defined as any day:

- (a) Except Saturdays, Sundays and Statutory Holidays.
- (b) Except a day on which the Contractor is prevented by inclement weather or conditions resulting immediately there from adverse to the controlling operation or operations, as determined by the Contract Administrator, from proceeding with at least 60% of the normal labour and equipment force engaged on such operation or operations for at least five (5) hours toward completion of such operation or operations. A controlling operation or operations is to be construed to include any feature of the work considered at the time by the Contract Administrator and the Contractor, which, if delayed, will delay the time of completion of the Contract.

The Contract Administrator, will furnish the Contractor with a weekly statement showing the number of working days charged to the Contract for the preceding week, the number of working days specified for completion of the Contract and the number of working days remaining to complete the Contract. The Contractor will be allowed one week in which to file a written protest setting forth in what respects the said weekly statement is incorrect, otherwise, the statement shall be deemed to have been accepted by the Contractor as correct.

- (c) Alternative Scheduling or Exemptions

Unless if specified elsewhere within the Contract Special Provisions, if the Contractor chooses to work beyond the normal work week, Monday to Friday, excluding holidays, 7:00 a.m. to 6:00 p.m., then at the Town's sole discretion, the Contractor may be

responsible for inspection costs incurred by the Town on week days after six o'clock (6:00) p.m. or on Saturdays, Sundays and holidays. Town costs will include all direct and indirect consulting fees.

No Sunday work will be permitted except in the case of emergency, and then only with the written permission of the Contract Administrator and to such extent as he/she may judge to be necessary.

The Contractor shall refrain from work on days that are legal holidays in Ontario. In case it desires to work on any such holiday or Saturday or Sunday, it shall notify the Contract Administrator in writing at least five (5) business days in advance of such holiday that it desires to work, stating those places where said work will be conducted. If the Contractor fails to give such notice in advance of any holiday, such failure shall be considered as an indication that no work requiring the presence of a Contract Administrator or Inspector is to be done by the Contractor.

If the time of completion must be extended:

- I. by reason of changes or alterations made under clause GC 3.10 of the General Conditions or
- II. by reason of any breach of contract or prevention by the Corporation, or other contractor of the Corporation of any employee of any one of them or;
- III. by reason of delay by the Corporation in issuing instructions or information or in delivering materials or;
- IV. by any other act or neglect of the Corporation or any other contractor of the Corporation or any employee of any one of them or;
- V. for any cause beyond the reasonable control of the Contractor or;
- VI. by Acts of God, or of the Public Enemy, Acts of the Province or of any Foreign State, Fire, Floods, Epidemics, Quarantine Restrictions, Embargoes or delays of Sub-Contractors due to such causes; then the Contractor shall be entitled to request an extension of time, subject to approval by the Contract Administrator. Notwithstanding such extensions, time shall continue to be deemed of the essence of this Contract.

The Contract Administrator may, in writing, require the Contractor to cease or limit its operations under the Contract, on any day or days if the operations are of such a nature, or if the work is so located, or if the traffic is of such a volume that the Contract Administrator deems it necessary or expedient so to do.

An application by the Contractor for an extension of the Contract Time as herein provided shall be made to the Town or Contract Administrator in writing on the form prescribed at least fifteen business days prior to the date of completion fixed by the Contract. All bonds or other surety furnished to the Town by the Contractor shall be amended where necessary at the expense of the Contractor to provide coverage beyond the date of any extension of time granted, and the Contractor shall furnish the Town with evidence of such amendment of the bonds or other surety.

Any extension of time that may be granted to the Contractor shall be so granted and accepted without prejudice to any rights of the Town whatsoever under this Contract, and all of such rights shall continue in full force and effect after the time limited in this Contract for the completion of the work and whenever in this Contract power and authority is given to the Town or the Contract Administrator or any person to take any action consequent upon the act, default, breach, neglect, delay, non-observance or non-performance by the Contractor in respect of the work or Contract, or any portion thereof, such powers or authorities may be exercised from time to time and not only in the event of the happening of such contingencies before the time limited in this Contract for the completion of the work but also in the event of the same happening after the time so limited in the case of the Contractor being permitted to proceed with the execution of the Work under an extension of time granted by the Contract Administrator.

3.66 Liquidated Damages

It is agreed by the parties to the Contract that in case all the work called for under the Contract is not finished or completed by the date of completion specified, aforementioned damage will be sustained by the Owner and will be impracticable and extremely difficult to ascertain and determine the actual damage which the Corporation will sustain in the event of and by reason of such delay and the parties hereto agree that the Contractor will pay to the Owner the sums calculated in accordance with the following table for each and every Day's delay in finishing the Work beyond the Contract Time:

Contract price	Amount of liquidated damages payable per calendar day of delay
If the Contract price is less than \$500,000.00	\$2,500.00
If the Contract price is between \$500,001.00 and \$1,000,000.00	\$4,000.00
If the Contract price exceeds \$1,000,000.00	\$5,000.00

For the purposes of calculating the liquidated damages, the Contract price shall be the Contract price as at the date on which the parties entered into this Contract. It is agreed that this amount is an estimate of actual damage to the Owner that will accrue during the period in excess of the prescribed dates of completion.

The Owner may deduct any amount under this paragraph from any monies that may be due or payable to the Contractor on any account whatsoever. The liquidated damages payable under this paragraph are in addition to and without prejudice to any other remedy, action or other alternative that may be available to the Owner.

3.67 Warranty

The Contractor warrants that with ordinary wear and tear the Work shall, for a period of twenty-four (24) months from the date of the issuance of the **Substantial Performance Certificate**, remain in such condition as will meet with the approval of the Contract Administrator, and that it will, upon being required by the Contract Administrator, make good in any manner satisfactory to the Contract Administrator any imperfections therein due to materials used in the construction thereof or workmanship. The decision of the Contract Administrator as to the nature, extent and cause of such imperfections and the necessity for remedying the same shall be final.

Should the Contractor fail to comply with the directions of the Contract Administrator, the latter may, at his/her sole judgment and after giving the Contractor twelve (12) hours' notice, perform the necessary work, provided that in the event of any emergency, of which the Contract Administrator shall be the sole judge, the Contract Administrator may forthwith without further notice. All the cost of such work shall be deducted from monies owing to the Contractor.

The Contractor warrants also that the Materials comply with the Specifications and that the Work and Materials are free from defects in workmanship and material except material defects, which exist because the Contractor strictly followed the Specifications or due to service demands beyond the demands established by the Specifications and drawings.

3.68 Specification Drawings

During the process of the Work, additional drawings may be issued by the Contract Administrator as necessity requires to supplement, supersede, or further set forth details as shown on the drawings hereto attached (see List of Drawings), and such additional drawings shall thereupon become part of these specifications.

The Contractor shall be governed by figured dimensions, as given on the drawings. Where required dimensions are not shown in figures, the Contractor shall obtain such dimensions from the Contract Administrator before proceeding with the construction of the portion of the work to which they refer. In every case, detail drawings shall take precedence over general drawings.

The Contractor may request use of the design CAD files for use on the project however layout shall only be made from the signed and sealed engineering drawings.

3.69 Standard Specifications

Where specifications require the approval or participation of Contract Administrators or Departments or Corporations other than the Contract Administrator or the Town, they shall be read as if they refer to the Contract Administrator or the Town respectively named in this Contract.

3.70 Order of Precedence

Clause GC2.02.01 shall be revised to read:

"In the event of any inconsistency or conflict in the contents of the following documents, such documents shall take precedence and govern in the following order:

- I. Agreement
- II. Addenda
- III. Special Provisions
- IV. Information for Bidders
- V. Contract Drawings
- VI. Supplemental Specifications
- VII. Standard Specifications

- VIII. Supplemental General Conditions
- IX. General Conditions (OPSS.MUNI 100)
- X. Working Drawings XI. Tender

Later dates will govern within each of the above categories of documents."

3.71 Construction Power

The Contractor shall make all arrangements and pay all charges for supplying and maintaining electrical power required for its work at the sites.

3.72 Contract Administrator's Field Office

The Contractor shall supply and set up one construction field office for the sole use of the Contract Administrator at the location designated, for the **entire** duration of the Contract. The field office shall be a minimum of 2.5 m x 6 m and shall be suitably equipped, including with computer data links, washroom/toilet facilities, water cooler, cleaning services, and such other facilities and equipment as may be specified in the Special Provisions. The unit shall be complete with lighting, heating and air conditioning. The Contract Administrator prior to delivery to the field shall approve the field office and equipment.

The Contractor shall bear all cost of supplying and setting up the field office, including costs for hydro hook-up and consumption, installation and service cost of telephone (excluding long distance call charges), costs for heating, taxes, insurance, first aid kit, permit costs and removal of the field office from the site following completion of the project.

No direct payment will be made for the above conveniences or for any labour, materials or other expenses in connection therewith and the cost thereof shall be included in the prices bid for other items of the Contract.

3.73 Superintendence of the Work

The Contractor shall coordinate the Work of all Subcontractors.

The Contractor shall keep a competent superintendent on the site at all times to coordinate the Work, in addition to Subcontractor's supervisory personnel. The Contractor's superintendent or supervisor at the site shall be well qualified to direct the Work being performed and exhibit a high standard of integrity, co-operation and professionalism during performance of the Work. In addition, the Contractor, through its superintendent or supervisor and its workers shall present and maintain a positive image of the Contractor and the Owner, as befits the Contractor's relationship working for the Owner on a Town funded project. Where the Contract Administrator or Owner determines at their sole discretion that the site superintendent or supervisor directing the Work or any of the Contractor's workers does not meet the standards set out herein or is otherwise not performing to the Owner's satisfaction, the Contractor shall without delay replace such superintendent or supervisor or worker with another qualified superintendent, supervisor or worker (as applicable) at the Contractor's expense. Any decision by the Owner to remove a site superintendent, supervisor or worker will be final and will not be grounds for any additional compensation, cost or schedule adjustment claims.

The superintendent shall represent the Contractor and written directions given him/her shall be deemed to have been given to the Contractor and the superintendent shall have the authority to act upon these directions.

The Contractor shall be responsible for protecting the Work of all Subcontractors from damage during construction.

The Contractor shall have a competent person on duty at all times for emergency calls after construction hours and during weekends. It shall be the Contractor's responsibility to supply the Contract Administrator with the name and telephone number(s) of the person(s) to be contacted during these periods.

The Contractor acknowledges and agrees that it, its Subcontractors, and their respective personnel, may, in the course of the Work, encounter residents or businesses in the Town. If the Contractor receives comments, complaints, or inquiries from such residents or businesses, the Contractor shall promptly advise such residents or businesses to communicate directly with the Town and the Contractor shall notify the Contract Administrator and the Town in writing of such occurrence. The Contractor shall cause all Subcontractors to advise residents or businesses to communicate any comments, complaints, or inquiries directly with the Town and to promptly notify the Contractor of such occurrence to enable the Contractor to promptly notify the Town. The Contractor acknowledges and agrees that it is an independent contractor and has no authority to bind the Town.

3.74 Reservation of Property Bars and Boundary Markers

It is the Contractor's responsibility to protect all property bars and boundary markers on the project. In the event that a bar or marker is altered, damaged or removed, the contractor shall employ a registered Ontario Land Surveyor to re-instate the bar or marker to its correct and legal location. The Contractor shall assume all associated costs.

3.75 Stakes, Lines and Levels

The Contract Administrator will only provide horizontal control points together with pertinent benchmark locations and elevations for use by the Contractor in setting out the Project. It is the Contractor's responsibility to provide all other survey and layout work required and due allowance for this work shall be made in the total Contract price. For grade work the Contractor shall supply and erect batter boards, boning rods, or other devices or systems, approved by the Contract Administrator, to facilitate the construction of the Work. When batter boards are being used to set grade for pipes at least three sights shall be used.

The Contractor shall be responsible for the true and proper laying out of the Work and for the correctness of the position, levels, dimensions and alignment of all parts of the Work and for the provision of all necessary instruments and competent personnel in connection therewith. If, at any time during the progress of the Work, any error shall appear or arise in the position, levels, dimensions or alignment of any part of the Work, the Contractor shall, at its expense, rectify such errors to the satisfaction of the Contract Administrator and the Owner, unless such error is based on incorrect basic data, as described above, supplied by the Contract Administrator or the Owner.

The checking of the setting out of any line or level by the Contract Administrator or the Owner shall not in any way relieve the Contractor of its responsibility for the correctness thereof, and the Contractor shall carefully protect and preserve all bench marks, stakes and other items used in giving the basic data supplied by the Contract Administrator or the Owner.

Where it is necessary to replace stakes or instrument points, removed or destroyed by the Contractor without the consent of the Contract Administrator or the Owner, the same may be replaced by the Contract Administrator or the Owner at the expense of the Contractor.

There shall be no separate payment for construction layout. All costs are to be included in the Contractor's unit prices for other items in the Contract.

Layout required due to alterations or changes in Contract items shall be considered incidental to the Work and there will be no additional payment.

3.76 Location and Protection of Utilities, Structures and Properties

The Town disclaims any responsibility or liability for the support and protection of sewers, pipes, conduits, tracks or other structures owned by the Town, private companies, or individuals enjoying special franchise or occupying any portion of the streets or right of way on or below or above the surface.

The Contractor shall, at its own cost and expense, and in a manner approved of by the Contract Administrator, sustain in their places and protect from direct or indirect injury, all utility services whether public or private over or underground, sidewalks, curbs, pavements, buildings, bridges, walls, fences, trees, hedges, ornamental shrubs, and all other structures or property in the vicinity of the work, or which appear within the excavation trench or tunnel and it shall assume all costs and expenses for direct or indirect damage which may be occasioned by injury to any of them.

Clause GC2.01.01a) shall be revised to read:

"The location of all mainline underground utilities which will affect the Work will be shown for identification purposes only. Contractor is responsible for the confirmation of all utility locations.

The Contractor shall, as directed by the Contract Administrator, remove abandoned underground utilities which have not been removed by their owners and which interfere with the construction operations. It is the Contractor's responsibility to contact the Municipal Authorities or Utility Companies to verify that the underground utilities are, in fact, abandoned.

All abandoned underground utilities removed by the Contractor shall become the property of the Contractor and shall be disposed of in locations arranged for by the Contractor outside of the right-of-way. No separate payment for removal or disposal of abandoned utilities shall be made, as compensation for such work shall be included in the contract prices for the appropriate tender items.

3.77 Interruption of Services

If it is necessary to make connections to or alter existing services or public utilities under this Contract, or if any interruption of existing pipes or conduits should occur, the Contractor shall inform the Town of said services or utilities at the proper time. The Contractor shall not interrupt any services or open any existing valve, and shall not make connections to them unless the necessary shut-off of valves or disconnections have been made by the Owner of the respective utility or service. The cost of labour, plant, overhead and materials to the Owner of the respective utility or service for shutting, disconnecting, or reinstating services or utilities shall be at the Contractor's expense if necessitated by accidental or improper methods of construction by the Contractor.

3.78 Other Contractors Within or Adjacent to the Limits of the Contract

The Contractor is advised that, as other Work may be in progress within and adjacent to the limits of this Contract, it shall co-operate with other contractors, utility companies and the Town and they shall be allowed free access to their work at all times. The Contract Administrator reserves the right to alter the method of operations on this Contract to avoid interference with other work.

The Contractor is responsible for the co-ordination and scheduling of all utility work (by its own forces) and utility authorities **as may be specified in the Special Provisions.**

The information regarding utility relocations is based on information provided to the Town by the utility companies. The accuracy of such information cannot be guaranteed by the Town. The Contractor should contact the utility companies involved for current information on their relocation schedule. The Town does not guarantee the utility relocations and will not entertain any claims for damages for any costs due to delays by the utility companies in relocating their plant.

The Contractor shall attend utility co-ordination meetings and prepare the contract schedule to reflect the following:

- prepare schedule to reflect time constraints for relocation of utilities as provided by each utility authority including distance separation (60 m minimum) between the Contractor's work and utility crews
- adjust schedule of Work to avoid interference with Contractor's operation The work of utility co-ordination is considered incidental to the Work and will not be paid for separately. No additional compensation will be paid to the Contractor for changes to schedule, methods of operation, sequence of Work or delays as a result of utility work.

3.79 Maintaining Flow of Utilities

The Contractor shall, at its own cost and expense, permanently provide for and maintain gas and water services and the flow of all sewers, drains, house or inlet connections, and all watercourses, which may be met with during the progress of the work. It shall not allow the contents of any sewer, drain, house or inlet connection to flow into the trench or sewer constructed under this Contract, except by permission of the Contract Administrator.

3.80 Temporary Work

The Contractor shall supply at its own cost all plant, material, machinery, labour and supplies and all ventilation and un-watering, for all classes of preliminary, temporary, or false work necessary for the carrying out of its obligations under this Contract.

3.81 Storage of Machinery and Materials

The Contractor shall be governed by the direction of the Contract Administrator in all matters connected with or concerning the storage of machinery, materials and supplies along the lines of the Work, and shall, at its own cost and expense, shift or remove such machinery, materials and supplies immediately upon notice to do so from the Contract Administrator.

3.82 Private Lands

The Contractor shall not enter upon or occupy with workers, tools, equipment or materials of any nature, any lands outside of the public streets and roadways and the right-of-way or easements shown on the plans, except after consent has been received by it from the proper parties, a certified copy of which consent shall be furnished to the Contract Administrator.

3.83 Rights of Others

If, during the progress of the Work covered by this Contract, it is necessary for other contractors or persons to do work in or about the site of the Work, the Contractor shall afford such facilities as the Contract Administrator may require.

3.84 Quality of Materials

I. Clause GC5.02.04 is amended to read:

"The Contractor shall obtain for the Contract Administrator the right to enter upon the premises of the Material manufacturer or supplier to carry out such inspection, sampling and testing as specified or as requested by the Contract Administrator. No Material that has not been approved by the Owner shall be incorporated in the Work".

II. Materials delivered to site for incorporation into the Work shall be inspected and/or tested at the discretion of the Contract Administrator.

III. Testing of previously tested Material and/or workmanship shall be carried out at the Contract Administrator's discretion at the Contractor's expense.

IV. All Materials shall conform to the samples submitted and approved.

3.85 Substitutions

Clause GC5.04.03 shall be replaced by the following: "If the proposed substitution is approved by the Contract Administrator, the Contract Administrator and the Contractor shall negotiate an appropriate price reduction."

3.86 Traffic Control

Further to GC1.05, the traffic control in this Contract shall be in conformance with the Ontario Traffic Manual, Book 7. The Contractor is required to submit a Traffic Control Plan(s) which meets the requirements of the Ontario Traffic Manual, Book 7.

3.87 Road Closure Procedures (When Specified)

When detailed within the contract documents, the Contractor may close the road in accordance with the requirements set out below and as detailed within the contract documents.

For projects where a road closure is not specified in the contract documents any requests by the Contractor for a road closure will be reviewed on a case-by-case basis. Approval for Contractor requested road closures will be subject to approval from several internal and external agencies including but not limited to the Town's Traffic Department, Halton Region, MTO, Town Council depending on the requested location. Requests to close the road by the Contractor are not guaranteed to be approved.

Detour signage and maintenance shall be shown as a lump sum item in the schedule of unit prices.

I. Project Design

The contractor shall establish a detailed signage plan for the construction zone and associated detour routing if required according to Ontario Traffic Manual Book 7.

The signage plan shall be included in the project contract documents.

Signage supply, installation, maintenance and removal are to be a lump sum item indicated in Special Provisions and Schedule of unit prices.

The Contractor shall provide additional signage as directed by Contract Administrator.

The Contractor shall inspect all signage daily and repair and/or replace as required

II. Road Closure Notification Signage

Notice of Road Closure signs shall be erected a minimum of 2 weeks prior to closure by the Contractor.

Signs shall be installed at the each intersection on the affected road section.

The Contract Administrator or Town shall provide written notification of road closure Emergency Services and School Boards.

The Contractor shall give at least 2 weeks' prior written notice to residents/businesses within the affected construction zone.

III. Road Opening

- The length of road upon which work has been completed shall be opened to traffic when and where directed by the Contract Administrator, but such opening shall not constitute final acceptance of the Work.
- The Contractor shall remove advanced road closed signage after notification by Contract Administrator.
- Contractor to remove all additional signage

The Contract Administrator or Town shall provide written notification of road closure Emergency Services and School Boards.

The Contractor shall give written notice to residents/businesses within the affected construction zone.

3.88 Dust Control

The Contractor shall take such steps as may be required to prevent dust nuisance resulting from Project operations either within the right-of-way or elsewhere or by public traffic where it is the Contractor's responsibility to maintain a roadway through the Work.

Where the Work requires the sawing of asphalt or the sawing or grinding of concrete, blades and grinders of the wet type shall be used together with sufficient water to prevent the incidence of dust, wherever dust would affect traffic or wherever dust would be a nuisance to residents/businesses of the area where the Work is being carried out.

The cost of all such preventative measures shall be borne by the Contractor except, however, where water or calcium chloride is used to reduce the dust caused by traffic on a roadway which it is the Contractor's responsibility to maintain for public traffic, in such cases the cost of such quantities of water and calcium chloride to restrict dust to acceptable levels, as are authorized by the Contract Administrator, shall be paid for by the Town at the contract prices for the appropriate tender items for Supplying and Placing of Water or Supplying and Placing of Calcium Chloride or both.

3.89 Maintaining Roads and Detours

Clause GC 7.06.04 shall be revised by adding the following at the end: "unless otherwise specified in the Contract Documents."

Clause GC7.06.05 shall be revised to read:

"The Contractor will bear the cost of maintaining, in a satisfactory condition for traffic, a road through the working area. The road through the Work will include any detour constructed in accordance with the contract document or required by the Contract Administrator. Compensation for all labour, Equipment and Materials for detours shall be at the contract prices appropriate to the Work. Notwithstanding the foregoing, the cost of blading required to maintain the surface of such roads and detours shall be deemed to be included in the prices bid for the various tender items and no additional payment will be made."

3.90 Maintaining Flow of Traffic

The Contractor shall provide and maintain at minimum one lane of traffic for local traffic only at all times during the construction period.

Traffic Operations

Peak hours in this contract shall be defined as the time periods from 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. Monday to Friday inclusive. It is the Contractor's obligation to maintain the flow of traffic for the duration of construction as follows:

- a) All Streets

The Contractor shall stage the Work to maintain single lane traffic in both directions during peak hours periods. During non-peak hour periods and with proper flagging control, single lane operation will be permitted.

- b) Signalized Intersections

The Contractor shall stage the Work to maintain single lane traffic in both directions during non-peak hours periods with proper flagging control. During peak hours, no lane restrictions will be permitted within 150m of a signalized intersection.

3.91 Subsurface Investigations

Notwithstanding Clause GC2.01, the Contractor acknowledges and agrees that all geotechnical reports, subsurface reports, subsurface investigations or any other information which identifies the character of the soil, rock and ground water conditions in the area of any proposed Work (collectively "**Geotechnical Information**") is provided by the Owner for information purposes only. All interpretation and use of the Geotechnical Information is the sole responsibility of the Contractor.

For the avoidance of doubt, information shown in the Geotechnical Information may be interpreted or obtained from information provided by the utility companies from boreholes and other soil investigations. The accuracy of this information is not guaranteed. The Geotechnical Information is limited to the specific locations identified and is not intended to substitute for separate geotechnical investigations performed by the Contractor. The Contractor shall make its own investigations, make its own interpretation of the data, and draw its own conclusions as to how the subsoil, rock and ground water conditions in the area may affect their construction techniques, scheduling and costs.

The Owner does not endorse any comments or recommendations contained in the Geotechnical Information. All comments or recommendations contained in the Geotechnical Information were included for guidance purposes only and may not have been based upon a sufficient number of boreholes to determine all the factors that may affect construction methods and costs.

3.92 Material Inspection and Quality Testing

Unless specified elsewhere in the contract documents, the cost of all testing and inspection of **non-structural** components of the work shall be borne by the Town of Milton. For clarification, said testing shall include compaction testing of granular materials, testing of hot mix asphalt and review of asphalt mix designs, testing of **non-structural** concrete items such as concrete curb and gutter and sidewalks. This clause does not relieve the Contractor's responsibilities associated with GC 5.0 – Material and the Contractor is strongly encouraged to complete their own testing of non-structural components of the work.

Unless specified elsewhere in the contract documents, the costs of all testing associated with **structural** components of the work shall be borne by the Contractor and said costs shall be deemed to be included as part of the tender items for which they are associated. For clarification, said testing shall include testing of material such as (but not limited to) concrete testing for **structural** items such as bridge abutments, walls, bridge decks, concrete pole foundations.

3.93 Private Entrances

Town of Milton Zoning Bylaw No. 144-2003, as may be amended from time to time, regulates all entrances on to private lands.

The Contract Administrator prior to the placement of the curb shall approve all entrance locations and driveway widths. Curb depressions shall not extend beyond the limits of the side lot lines of the property. The contractor shall ensure that the approved driveway width is maintained from the back of the curb to the property line unless otherwise directed by the Contract Administrator. Curb depressions shall be measured from the beginning to the transition from full-face curb to the completion of the transition back to full-face curb. Curb depressions shall be 0.5 metres wider than the approved driveway width. The Contractor will be responsible for all costs resulting from the removal and final restoration of any entrance or driveway widening not approved by the Contract Administrator.

3.94 Noise Control

- Noise levels shall be controlled in accordance with local By-laws and the Occupational Health and Safety Act.
- All internal combustion engines shall be equipped with original equipment in proper working order to minimize noise levels in the project area.
- For compressors and pumps operated beyond normal working hours, special measures for noise attenuation will be required.

3.95 Protection of Trees During Construction

The protection of trees not designated for removal shall be completed in accordance with OPSS

If the contract requires work to be completed within the drip line of a tree or trees that are designated not to be removed, operation of equipment within that drip line area shall be kept to the minimum necessary to perform the work required.

In order to minimize root loss, the Contractor will be required to use vertical trench walls and appropriate wall support systems when excavating within the drip line of trees. All exposed roots over 25 mm in diameter shall be cut back cleanly to the soil surface within five calendar days.

If root damage or loss is extensive, portions of the tree shall be pruned. All pruning will be carried out by a qualified and experienced landscape contractor using approved arboriculture techniques and practices. The pruning of trees and shrubs will be carried out in such a manner as to retain as much as possible of the plant's natural form. The Contractor will be responsible for disposing of cut limbs and roots in an approved manner off site. In addition, the remaining root system shall be watered and fertilized by a qualified and experienced landscape contractor.

No extra payment will be made to the Contractor for vertical trenching and trench supports, pruning branches and roots, or watering and fertilizing trees when work is required within the drip line.

I. Trees Located within the Right-of-Way

When the branches of trees located within the right-of-way will interfere with the construction operation, they shall be pruned prior to equipment entering the drip line of the tree.

The branches will be cut back to the nearest suitable trunk, crotch or lateral where they will no longer interfere with the construction operation.

II. Trees Located on Private Property

When the branches of trees located on private property are overhanging the right-of-way or easement and will interfere with the construction operation, they shall be pruned prior to equipment entering the drip line of the tree.

Prior to pruning, the Contractor and Contract Administrator shall contact the property owner to receive permission to cut the branches back to the nearest suitable trunk, crotch or lateral where they will no longer interfere with the construction operation.

Should a homeowner refuse entry to cut branches on private property, then the branches shall be cut vertically at the property line.

3.96 Relocating Existing Street Name and Traffic Control Signage

The unit price bid for "Earth Excavation" shall include relocating all street name and traffic control signage. The Contractor shall carefully relocate all signage onto temporary supports along the line of the Work. Upon completion of the Work the Contractor shall then reinstall all signage on permanent supports in its final locations as directed by the Contract Administrator.

3.97 Removal of Existing Vegetation

Unless specifically specified elsewhere under the item Special Provisions, the unit price bid for "Earth Excavation" shall include the removal of all debris, rubble, organics, vegetation, roots and other deleterious materials found within the excavation and disposed of offsite. For clarification, "organics, vegetation, roots" shall include (but not limited to) grasses, weeds, small shrubs and small trees less than 10 cm caliper. Trees greater than 10 cm caliper shall be removed under the appropriate tender items identified within the contract documents.

3.98 Price for Work

The price for Work shall be full compensation for all labour, equipment and materials required to do the work. The term 'all labour, equipment and materials' shall include hand tools, supplies and other incidentals.

Payment for Work as shown or detailed in the Contract Documents not specifically detailed as part of any one item and without specified details of payment shall be deemed to be included in the item with which it is associated.

Section No. 4

Special Provisions

for

Contract Items

SPECIAL PROVISIONS

1. PROJECT DESCRIPTION

The project consists of HVAC equipment replacement in 2 Facilities: Milton Town Hall (located at 150 Mary Street) and Milton Fire Station 2 (located at 2665 Reid Side Road).

The Town intends to award the contract to the lowest compliant bidder who meets the mandatory requirements, scope of work outlined in this Request for Tender, and satisfactory references and experience.

2. SUMMARY OF SCOPE

The detailed scope of work is described in the attached Consultant's Drawings and Specifications. The work can be *generally summarized* as follows:

BASE BID

Milton Town Hall

- Replacement of two 20 Ton CRAC (Computer Room Air Conditioning) units, start-up and reports
- Replacement of a 1.5 Ton split AC unit, all new refrigerant piping, testing, start-up and report
- Investigation of existing indoor refrigerant piping for CRACs
- New Refrigerant piping on the roof and testing of entire refrigerant line for CRACs
- Required accessories, ductwork, plumbing connections, supports, electrical feeds, controls wiring, BAS wiring
- Rigging, hoisting of equipment
- Closeout documents, Instructions/training to owner regarding operation of CRAC units

Milton Fire Station 2

- Addition of a 3 Ton ductless split AC unit

General / Common to both Facilities:

- New supports for equipment; roofing scope for new supports, roof penetrations as required
- Installation of roof protection
- Interior hoarding /dust barriers / dust mitigation measures for comfort of occupants and protection of sensitive equipment
- site protection and construction signage as required
- Removal, re-installation of architectural elements such as hand rails, door frames, ceiling tiles, raised floor tiles to allow access and accommodate installation of CRAC units.
- Alteration of walls and ceilings to suit the installation, making good all areas affected by the work
- Cleaning and disposal of all equipment, waste and debris
- Integration of existing AC unit and new AC unit to single thermostat for lead/lag, duty/standby operation and demonstration of this feature to owner.
- All necessary work related to controls that is not the work of Johnson Controls. Bid Price shall include all related work necessary for a fully functional system.

CASH ALLOWANCES

CA-1 Milton Town Hall – BAS Allowance

- For integration of CRAC units to the existing Johnson Controls BAS system.

3. CONTRACTOR'S QUALIFICATIONS

It is the intent to receive pricing from HVAC contractors with proven experience in installing air conditioning equipment in critical environment. Contractors must demonstrate experience installing Vertiv Liebert Thermo Units as well as other HVAC systems in operating critical Data Centres / Computer Rooms.

Mandatory Requirements:

In order to be successful, the Bidder must meet all of the following mandatory requirements. Bid(s) not meeting one or more of the following mandatory requirements will be disqualified.

- a) Bidders must be a current Vertiv Certified Thermo Service Partner (be factory trained and certified on servicing Liebert Thermo units). At the time of bid

submission, Bidders are to confirm that they comply with this requirement where indicated in the bidding system.

After tender closing, upon request by the Town, the Bidder must provide, within 48 hours, a copy of their current service contract with Vertiv as proof to confirm that the Bidder is a Vertiv Certified Thermo Service Partner. Failure to furnish the required documentation in a timely manner will result in disqualification.

- b) Bidders must submit “Statement A - Bidder’s Experience” with the bid submission listing their principal projects completed in the last five (5) years that best represent the Bidder’s comparable experience. Projects must demonstrate experience installing Vertiv Liebert Thermo Units, as well as other HVAC systems in operating critical Data Centres / Computer Rooms. Selected projects must be similar in scope, size and complexity.

It is the Bidder’s responsibility to demonstrate prior experience and performance on other contracts that are comparable to the current project in scope and value. Only contractors that the Town deems to be fully qualified will be considered for award of this Tender. The Town reserves the right, in its sole discretion, to disqualify a bid submission where in the opinion of the Town or its professional advisors, the Bidder does not possess the experience and/or technical personnel and/or other resources that may be necessary to carry out the scope of work and obligations of the Tender.

The Town reserves the right to contact the references provided on Statement A to verify the information provided and to assess overall experience. Bidders should ensure that their references are prepared to provide a response if contacted by the Town.

As part of the tender submission, the following completed forms are to be submitted:

- Statement A – Bidder’s Experience – Similar Projects Completed & Referrals
 - Statement A has been provided as a separate download in Word format. Bidders are to complete, and submit Statement A as a document upload in the bidding system.
- Statement B – Bidder’s Senior Staff – to be completed in the bidding system
- Statement C – List of Subcontractors – to be completed in the bidding system

4. PROJECT SCHEDULE

Refer to Sections 2 and 3 of the Contract for Time, Progress of the Work and Time for Completion detailed requirements. Time is of the essence for this project.

A project start-up meeting will be scheduled for 2 weeks after notification of award. Contractor is to bring to this meeting a preliminary & high level schedule for discussion.

A final construction schedule is to be submitted by the Contractor 1 week after the start-up meeting.

Shop drawings are to be submitted *no later than 4 weeks* after notification of award.

The entire scope of this project **must be substantially performed and tested no later than April 30, 2025.**

The Contractor is required to coordinate trades, suppliers, shop drawing approvals and procurement of materials ahead of time to make the above project deadlines viable.

The construction schedule must show a detailed breakdown of the work of all trades indicating sequence, milestones, and critical dates. The schedule must include the Contractors' reasonable expectations for preparation, submittal and approval of shop drawings, ordering and delivery times and long-delivery items. The schedule must also take into consideration working around the Facility daily operations. Any planned system shut-downs or any disruptions to the Facility operations must be clearly identified in advance and approved by the Town.

The Contractor will be held accountable for performing the work in accordance with the approved construction schedule. Alterations to the schedule could affect the Town's programs and may not be approved by the Town.

5. CONTRACTOR'S WORK AREA

The Contractor is responsible to provide security & safety in the work area during construction.

The Contractor shall be responsible for the rectification of any damage caused to Town's property by their forces or subcontractors to the satisfaction of the Town of Milton.

The work and work areas shall be kept in a clean and clutter-free state at the end of each working day and shall not interfere with the daily operation of the Facility.

Construction dust, noise and odour shall be controlled as not to disturb the building users. The Contractor is expected to thoroughly plan for and include in the bid price, strategies to mitigate disturbance to the building occupants. Dust, debris and odours will not be tolerated in any occupied areas, ducts, vents and equipment. Noise shall be kept to a minimum. The Contractor is required to plan for adequate ventilation of confined areas, separated from the building ventilation system. Contractor shall protect all openings (including HVAC diffusers, returns, doors and other openings leading to equipment sensitive to dust).

The site shall be cleaned up daily, any debris left in public areas shall be removed immediately.

Material Safety Data Sheets for all WHMIS regulated products brought into the Facilities shall be provided to the Facility's operation manager minimum 48hrs in advance.

Item 3.72 of the Section No. 3 – General Conditions Supplemental is hereby deleted. An office for the Engineer's exclusive use is not required.

The Contractor is responsible for their own construction site office if so required by the nature of their work or by the Occupational Health and Safety Act.

The Contractor is allowed to use the existing power and water from the building, however, the Contractor is responsible for the access to that power or water and any temporary connections that the work may require. Use of power shall be made in way to not affect the building's security and daily operations.

Contractors are not permitted to use building washrooms during construction. Portable washrooms shall be included as part of the bid.

Space for construction material storage is not available in any of the Facilities. Contractor is responsible to obtain and pay for storage containers for its own use and storage of general construction tools and materials. Obtain approval for location prior to placing storage containers within the property.

Contractor is responsible for their own disposal bins. The Facility shall be kept clean and free of clutter/debris at all times. Use of Facility's disposal bins is not permitted.

Disposal bins shall be fenced and locked to prevent tampering and shall be placed in a way to not affect the Town's operations, programs and events.

Contractor is to bring all tools and equipment necessary to perform the work. Contractor's crews are not allowed to borrow any equipment or tools from the facility.

6. WORK COORDINATION WITH BUILDING DAILY OPERATIONS

The building is occupied and will operate normally during construction.

The Contractor is expected to plan their work in a way to not disrupt any operations or programs.

The Contractor shall propose phasing plans as necessary to ensure that the work produces minimal effect on the operations.

The Contractor is responsible for guaranteeing that building occupants have a working environment free of dust and debris. All dust or debris produced by the work must be confined to the hoarded area and cleaned by day's end. If the dust or debris travel to other areas of the office, those areas shall also be cleaned by day's end. The Contractor will be held accountable for the quality of cleaning.

The work of this tender involves replacement of air conditioning equipment that cools the Main Data Centre at Town Hall and a Server Room at Fire Station 2. Both rooms house sensitive computer server equipment.

The Contractor is expected to anticipate how the work may affect the server equipment and the building users and include *all provisions necessary to guarantee the safety of the equipment and comfort of building users*, as well as the continuity of operations and programs during the construction. The price for such provisions shall be included in the bid price.

The Contractor must ensure that:

- **Temperatures inside the server rooms are maintained below 21 Celsius during shut-downs. One CRAC unit shall be ready for operation at all times. Units' replacement shall be performed in two phases.**
- **No dust reaches the server equipment; dust must be exhausted out of the room in a controlled environment or be effectively cleaned by air recyclers**
- **No fumes spread to the office areas of the building**

- **Staff occupied areas remain free of dust, debris, odours and fumes at all times**

Contractor to ensure the work is performed in the shortest possible time to minimize disruptions to the users.

Construction lay-down areas shall be marked on a plan by the Contractor and submitted to the Town and Consultant for approval.

Should a general power shut-down be required that disrupts the operations of the Facility, such task shall be identified ahead in the construction schedule and approved by the Town.

All parking and access to parking shall remain accessible to the building users except for the agreed staging area location.

Maintain all access, fire routes, exits and other life safety components of the building at all times. Adhere to the Ontario Ministry of Public Safety and Security's "*Guidelines for Maintaining Fire Safety During Construction in Existing Buildings.*"

The General Contractor must be able to meet the agreed schedule taking all the above into consideration without compromising the quality of work. The Contractor must plan to conduct the construction within the time frame given, to phase work as required, to coordinate sub-trades, and to accommodate changes for unforeseen building conditions with minimal impact to the completion date.

In addition to the safety requirements of the Occupational Health and Safety Act, the Contractor shall be cognizant of how their work will affect the building users and the public. The Contractor shall provide public advertising signs, delineate areas around work, indicate alternative paths for patrons, make the construction area clearly defined and/or inaccessible to help users understand and navigate the property during construction. Contractor shall plan and price for use of barricades, posts, fences and enclosures that are safe and secure. If scaffold is used, its first (ground) level must be closed with solid plywood with a lockable door. All provisions must be effective in advertising, directing and/or keeping the public away from the construction areas to the satisfaction of the Town.

7. SITE EXAMINATION

Thoroughly examine the drawings, specifications and the site taking into consideration the existing conditions for a complete understanding of the scope of work. **It is the responsibility of bidders to familiarize themselves with the site.** The Contractor will be held to have carefully examined all conditions affecting the site, the work to be done there on, including the location of all services which may have to be protected, removed or relocated. Bidders shall take own measurements and anticipate challenges prior to submitting a bid. Submission of Tender shall be deemed confirmation that tenderer is thoroughly conversant with existing conditions and how they may affect the work. No claims for extras will be entertained for the execution of extra work, expense, or difficulties that were visible or reasonably inferable from an examination of the site prior to submitting a bid.

8. PROTECTION OF EXISTING ROOFS & ASSEMBLIES

The Contractor shall take all necessary provisions to maintain warranties of the sections that are not under construction and ensure that the 'existing to remain' roofs and assemblies are not damaged, nor the structure overloaded during construction. Obtain and follow guidelines from the original roof installer to protect existing assemblies during installation.

At a minimum, the Contractor is required to:

- Provide traffic protection with one layer plywood covering all worker's traffic areas (path). Workers shall not walk directly on roof assemblies.
- Protect all utility lines and equipment present on the roof
- No equipment, tools or materials shall be stored on the roof or on the plywood protection at any time.
- No materials shall be stacked on the roof and no substances spilled.
- Uninstalled roof top units, curbs, parts and equipment shall not rest on the roof at any point.
- Existing equipment shall be lifted and completely removed from the building before new equipment is placed to avoid overstress on structure and damage to the roof assembly.

Prior to work start, a photographic record of the 'existing to remain' roofs will be generated jointly by the Contractor, Owner and Consultant.

Damages:

If during the installation it becomes apparent that any 'existing to remain' assemblies were damaged as a result of the work of this Contract, the Consultant will assess the damages and make recommendations for repairs. Consultancy costs due to damage shall be paid by the Contractor. Roof repairs due to damage shall be carried out in accordance with the Consultant's recommendations, manufacturer's warranty requirements and shall be carried out by a manufacturer's approved installer.

9. SUPERVISION OF THE WORK

Read in conjunction with clause 3.47 of Section 3 – Supplemental Conditions.

The Contractor's authorized representative shall be a qualified, competent and experienced Site Supervisor employed with the Contractor's firm. Use of a sub-contractors' staff as a Contractor's representative will not be accepted. The Site Supervisor shall be on site at all times when work is taking place. The Site Supervisor shall be appointed by the Contractor at project start and shall be the same throughout the duration of the project. No staff substitutions shall be made without Owner's approval. The Owner reserves the right to review the proposed Site Supervisor's qualifications and reject unqualified staff for the project.

10. SHOP DRAWINGS AND SUBMISSIONS

Submit all shop drawings to Consultant for review no later than 4 weeks after notification of contract award.

Include shop drawing/sample submittal/approval timelines in the construction schedule. Coordinate shop drawing/sample process and allow for sufficient time for review, in order to not delay schedule.

11. CASH ALLOWANCES

Cash Allowances have been included as part of the Contract Price. The Contractor is to retain and manage designated vendors or subcontractors, as applicable, for the work of the cash allowances.

Contractor's overhead and profit in connection with cash allowances must be included in the Contract Base Price *and not* within the cash allowance.

Payment for cash allowances will be made on direct amounts billed by the designated vendors/subcontractors with proper backup.

12. PAYMENT FOR COMPLETED WORK, DEFICIENCIES

Clauses GC 8.02.03 and 3.59 – Advance Payment for Materials are hereby deleted.

Materials and equipment will not be paid in advance for. The Town will only pay for completed work, i.e. installed equipment and material that is fully operational, has been tested, reviewed by Consultants and is free of deficiencies.

If there are deficiencies in portions of the work, those portions of the work will be considered incomplete and, therefore, will not be paid for, until all deficiencies have been addressed, to the satisfaction of the Town.

13. ALTERNATIVE PRODUCTS, SUBSTITUTIONS

Refer to Section 2, GC5.04 – Substitutions, amended by Section 3, Item 3.85 Substitutions.

The tender price shall be based on the *specified* products and services.

After the acceptance of the tender, the Contractor may request approval for proposed alternative products.

Substitution requests shall include a detailed comparison between the specified product and the proposed alternative, as well as information on quality or cost advantages to the Owner. The approval or rejection of a proposed alternative product shall be at the discretion of the Owner & Contract Administrator.

If the Contractor intends to submit a request for approval of alternative products, they should do so in a way to not affect the schedule.

14. CLOSE OUT DOCUMENTS, OPERATION & MAINTENANCE MANUALS

The Contractor will turn over to the Owner at the completion of the contract, and prior to final payment application, a softcopy of the project close out documents.

The close-out documents are part of the work. The work will not be considered substantially complete until close-out documents have been submitted.

Refer to Consultant's specifications for specific submission requirements and include all section specific documentation in the close-out binders.

The close-out set of documents shall include:

- Table of contents
- Contractor's contact information including phone number for warranty repairs
- Contact list for all subcontractors and suppliers associated with the project
- Contractor's 2 year general Warranty Letter
- Manufacturer's extended warranties accompanied by product specific purchase order
- Copy of the Substantial Performance Certificate issued by the Consultant, a copy of the publication or a copy of the Declaration of Last Supply, whichever is applicable.
- Shop drawings
- Operations, Maintenance and Care manuals
- As-built drawings produced by the Contractor. As-builts shall include all changes to the project and any site variations.

Provide extra stock of materials as specified. Collect and organize spare parts, tools and loose accessories as applicable to materials and equipment. Label all extra stock and present to Owner prior to project hand-over

STATEMENT A – BIDDER’S EXPERIENCE

LIST OF SIMILAR PROJECTS COMPLETED & REFERRALS

Complete Statement A - Bidder's Experience in Similar Work, and submit as a document upload in the bidding system.

List the principal projects completed in the last five (5) years that best represent the Bidder's comparable experience. Projects must demonstrate experience installing Vertiv Liebert Thermo Units, as well as other HVAC systems in operating critical Data Centres / Computer Rooms. Selected projects must be similar in scope, size and complexity.

PROJECT 1	
Year Completed	
Project Title	
Project Description	
Location & Address	
Contract Value	
Owner's Name	
Types of Mechanical Equipment Installed & Manufacturer	
Building room served by equipment / where equipment was installed	
Related work performed, e.g. demolition, piping, drywall, ceiling work, flooring, etc.	
Measures to control dust/debris and protect building operations	
Reference Contact Information (Name, Phone & Email)	
Indicate whether Reference is the Owner or Consultant	

PROJECT 2	
Year Completed	
Project Title	
Project Description	
Location & Address	
Contract Value	
Owner's Name	
Types of Mechanical Equipment Installed & Manufacturer	
Building room served by equipment / where equipment was installed	
Related work performed, e.g. demolition, piping, drywall, ceiling work, flooring, etc.	
Measures to control dust/debris and protect building operations	
Reference Contact Information (Name, Phone & Email)	
Indicate whether Reference is the Owner or Consultant	

The Corporation of the Town of Milton

PROJECT 3	
Year Completed	
Project Title	
Project Description	
Location & Address	
Contract Value	
Owner's Name	
Types of Mechanical Equipment Installed & Manufacturer	
Building room served by equipment / where equipment was installed	
Related work performed, e.g. demolition, piping, drywall, ceiling work, flooring, etc.	
Measures to control dust/debris and protect building operations	
Reference Contact Information (Name, Phone & Email)	
Indicate whether Reference is the Owner or Consultant	

PROJECT 4	
Year Completed	
Project Title	
Project Description	
Location & Address	
Contract Value	
Owner's Name	
Types of Mechanical Equipment Installed & Manufacturer	
Building room served by equipment / where equipment was installed	
Related work performed, e.g. demolition, piping, drywall, ceiling work, flooring, etc.	
Measures to control dust/debris and protect building operations	
Reference Contact Information (Name, Phone & Email)	
Indicate whether Reference is the Owner or Consultant	

PROJECT 5	
Year Completed	
Project Title	
Project Description	
Location & Address	
Contract Value	

The Corporation of the Town of Milton

Owner's Name	
Types of Mechanical Equipment Installed & Manufacturer	
Building room served by equipment / where equipment was installed	
Related work performed, e.g. demolition, piping, drywall, ceiling work, flooring, etc.	
Measures to control dust/debris and protect building operations	
Reference Contact Information (Name, Phone & Email)	
Indicate whether Reference is the Owner or Consultant	

PROJECT 6	
Year Completed	
Project Title	
Project Description	
Location & Address	
Contract Value	
Owner's Name	
Types of Mechanical Equipment Installed & Manufacturer	
Building room served by equipment / where equipment was installed	
Related work performed, e.g. demolition, piping, drywall, ceiling work, flooring, etc.	
Measures to control dust/debris and protect building operations	
Reference Contact Information (Name, Phone & Email)	
Indicate whether Reference is the Owner or Consultant	

Bidders may copy the above format, as needed, to provide additional Project examples.

Section No. 5

List of Drawings

List of Drawings

MECHANICAL

- M0.1 MECHANICAL SPECIFICATIONS - I
- M0.2 MECHANICAL SPECIFICATIONS - II
- M0.3 MECHANICAL SPECIFICATIONS - III
- M0.4 MECHANICAL SCHEDULES, LEGENDS AND DRAWING LISTS
- M0.5 MECHANICAL DETAILS AND SCHEMATICS
- M0.6 TOWN HALL KEY PLANS
- M0.7 FIRE STATION #2 KEY PLANS
- M1.1 TOWN HALL GROUND FLOOR MECHANICAL DEMOLITION
- M1.2 TOWN HALL SECOND FLOOR MECHANICAL DEMOLITION
- M1.3 TOWN HALL ROOF MECHANICAL DEMOLITION
- M1.4 TOWN HALL GROUND FLOOR MECHANICAL NEW LAYOUT
- M1.5 TOWN HALL SECOND FLOOR MECHANICAL NEW LAYOUT
- M1.6 TOWN HALL ROOF MECHANICAL NEW LAYOUT
- M1.7 FIRE STATION #2 GROUND FLOOR MECHANICAL LAYOUT
- M1.8 FIRE STATION #2 ROOF MECHANICAL LAYOUT

ELECTRICAL

- E0.1 SPECIFICATIONS, DRAWING LIST, LEGENDS AND ABBREVIATIONS
- E1.1 TOWN HALL GROUND FLOOR ELECTRICAL DEMOLITION PLAN
- E1.2 TOWN HALL SECOND FLOOR ELECTRICAL DEMOLITION PLAN
- E1.3 TOWN HALL ROOF ELECTRICAL DEMOLITION PLAN
- E1.4 TOWN HALL GROUND FLOOR NEW ELECTRICAL PLAN
- E1.5 TOWN HALL SECOND FLOOR NEW ELECTRICAL PLAN
- E1.6 TOWN HALL ROOF NEW ELECTRICAL PLAN
- E1.7 FIRE STATION #2 GROUND FLOOR NEW ELECTRICAL PLAN
- E1.8 FIRE STATION #2 ROOF NEW ELECTRICAL PLAN

24-01-00517 - Tender for Milton Town Hall & Fire Station No. 2 HVAC Equipment Replacement

Opening Date: September 30, 2024 5:15 PM

Closing Date: October 23, 2024 11:00 AM

BID BOND AND AGREEMENT TO BOND

The Town will only accept submissions that include both the Bid Bond and Agreement to Bond in an electronically verifiable/enforceable (e-Bond) format. A scanned pdf copy of bonds are NOT acceptable.

Note to Bidder: Should the Surety Company or Broker provide both the digital Bid Bond and Agreement to Bond together in one zipped file, the bidder should upload the same zipped file containing both bonds for the Bid Bond AND the Agreement to Bond uploads. The one zipped file from the Surety company should not be taken apart or unzipped otherwise the e-bonds will not validate.

Schedule of Prices

The Bidder hereby Bids and offers to enter into the Contract referred to and to supply and do all or any part of the Work which is set out or called for in this Bid, at the unit prices, and/or lump sums, hereinafter stated. HST is additional.

The first table is a Summary Table which provides your Sub-Total for each pricing table and also indicates whether or not the table is mandatory or not. Asterisk's within the table denotes a "MANDATORY" line item.

If the line item and/or table is "NON-MANDATORY" and you are not bidding on it, leave the table and/or line item blank. Do not enter a \$0.00 dollar value unless you are prepared to provide the line item at zero dollars to the Owner.

If a table is "NON-MANDATORY" and you are bidding on it, you must bid on all line items with an asterisk.

If there are multiple tables, you must click the "EDIT PRICING" button inside the Summary Table to display the applicable Pricing Table that you wish to bid on.

Base Bid

The following prices include all labour, materials, installation, overhead, profit and all relative charges of the Contractor and represent the actual cost to the Owner (exclusive of HST). HST will be calculated and shown separately on the Tender Summary.

Item No.	Description	Quantity	Unit of Measure	Lump Sum Price (excluding HST) *	Total Price (excluding HST)
1	Town Hall - General Conditions and Miscellaneous Trades	1	LS		
2	Town Hall - Special measures to protect equipment and building users from dust, debris, fumes, odour and maintain required temperatures in room.	1	LS		
3	Town Hall - Mechanical demolition	1	LS		
4	Town Hall - Supply & install of new 1.5ton Mitsubishi unit	1	LS		
5	Town Hall - Supply & install of new piping for 1.5ton Mitsubishi unit	1	LS		
6	Town Hall - Supply & install of two new 20ton Liebert DS070 units	1	LS		
7	Town Hall - Installation of new refrigerant piping on the roof for DS070 units	1	LS		
8	Town Hall - Electrical demolition	1	LS		
9	Town Hall - Electrical new installation	1	LS		
10	Town Hall - Close-Out Documents	1	LS		
11	Fire Station#2 - General Conditions and Miscellaneous Trades	1	LS		
12	Fire Station#2 - Special measures to protect equipment and building users from dust, debris, fumes, odour and maintain required temperatures in room.	1	LS		
13	Fire Station#2 - Supply & install of new 3ton Mitsubishi unit	1	LS		
14	Fire Station#2 - Supply & install of new refrigerant piping	1	LS		
15	Fire Station#2 - Electrical new installation	1	LS		
16	Fire Station#2 - Close-Out Documents	1	LS		
Subtotal:					

Cash Allowance

Item No.	Description	Quantity	Unit of Measure	Amount (excluding HST)	Total Amount (excluding HST)
CA-1	MILTON TOWN HALL - CASH ALLOWANCE for integration of the two Liebert units into the existing BAS system by Johnson Controls. Amounts to be drawn from this cash allowance shall be direct costs billed by Johnson Controls.	1	LS	\$20,000.0000	\$ 20,000.00
Subtotal:					\$ 20,000.00

Summary Table

For Bid Results - Only the Total Contract Amount will be made publicly available.

The HST calculation will re-calculate when Unit Pricing is entered by the Bidder.

Bid Form	Amount
Base Bid	
Cash Allowance	\$ 20,000.00
HST (13%)	\$ 2,600.00
Total Contract Amount:	

Bid Questions

Bidders must be a current Vertiv Certified Thermo Service Partner (be factory trained and certified on servicing Liebert Thermo units). The Bidder is to confirm that they comply with this mandatory requirement; and agree to provide a copy of their current service contract with Vertiv upon request from the Town.

Specifications

Statement B - Bidder's Senior Staff

NOTE TO BIDDER: Refer to Information for Bidders.

Bidder to Complete Statement B - Bidder's Senior Staff.

The contractor shall not change the senior staff involved with this project without prior approval from the Town of Milton staff.

Name	Position	Qualifications & Experience in current position

Subcontractors

The Bidder shall state all Subcontractor(s) and type of Work proposed to be used for this project. Bidders shall not indicate "TBD" (To Be Determined) or "TBA" (To Be Announced) or similar wording and shall not indicate multiple choices of Subcontractor names for any Subcontractor category in their list of Subcontractors. One Subcontractor name shall be indicated for each Subcontractor category.

The Bidder shall **state only one (1) subcontractor for each type of work**

Statement C - List of Subcontractors

NOTE TO BIDDER: Refer to Information for Bidders.

The Bidder agrees the list provided is a complete list of subcontractors that will be required in the performance of the Work and that any additions, deletions, or changes must be approved by the Owner. Names and addresses must be filled in and submitted with the electronic tender.

The total value of work sublet, shall not exceed 50% of the total tender.

By clicking here I confirm that there are no Subcontractor(s) and the Bidder shall perform the project with their "OWN FORCES".

Sub-Trade	Name of Sub-contractor & Address	Value of Work (\$)

Documents

Ensure your Bid submission document(s) conforms to the following:

1. Bonds, if requested, must be in digital format (e-bond). A scanned PDF copy of bonds are NOT acceptable.
2. All other documents should be in PDF format and not provided in any other format.
3. The Owner may reject any Bid where any document(s) cannot be opened and viewed by the Owner.
4. If a Bidder requires to upload more than one (1) document, the Bidder should combine the documents into one Zipped file, as per instructions stated below.

If uploading a zipped file containing more than one (1) document, please ensure each document is named in relation to the submission format item responding to, as an example, if responding to a category named Previous Experience save the document as "Previous Experience".

BID BOND AND AGREEMENT TO BOND

The Town will only accept submissions that include both the Bid Bond and Agreement to Bond in an electronically verifiable/enforceable (e-Bond) format. A scanned pdf copy of bonds are NOT acceptable.

Note to Bidder: Should the Surety Company or Broker provide both the digital Bid Bond and Agreement to Bond together in one zipped file, the bidder should upload the same zipped file containing both bonds for the Bid Bond AND the Agreement to Bond uploads. The one zipped file from the Surety company should not be taken apart or unzipped otherwise the e-bonds will not validate.

- Complete STATEMENT A - BIDDER'S EXPERIENCE and submit as a document upload * (mandatory)

- Digital Bid Bond * (mandatory)
- Digital Agreement to Bond * (mandatory)

Instructions to compress (or zip) a file or folder, follow these steps

1. Locate the file or folder that want to compress.
2. Right-click the file or folder, point to **Send to**, and then click **Compressed (zipped) folder**.

A new compressed folder is created in the same location. To rename it, right-click the folder, click **Rename**, and then type the new name.

To upload a document follow these steps

1. Click on the browse button to locate the file on your computer or network
2. Click the upload button
3. After the file has been successfully uploaded, a link to the document will appear on the screen, along with the time/date that it was uploaded.
4. If you have completed your document upload and are ready to finalize your submission then click the "Continue with Submission" button at the bottom of the screen. Or you may save and come back later.
5. If you need to remove the document, click the remove button next to the document name.

Addenda, Terms and Conditions

DECLARATION

I/WE having carefully examined the locality and site of the proposed works, and all contract documents relating thereto, including the Form of Tender, Information for Bidders, General Conditions, Supplemental Conditions, Special Provisions, Specifications, Drawings and all Addendum(s) issued, tender and offer to enter into a contract within the prescribed time to construct the work in strict accordance with the Contract Documents and such further detail drawings as may be supplied from time to time and to furnish all materials, labour, tools, plant, matters and things necessary therefore to complete and ready the works within the time specified for the sum of the Total Tender Contract Amount (including applicable taxes).

The Bidder declares that this tender shall remain open for acceptance by the Town for 90 days following the date of tender closing.

The Bidder agrees, if this tender is accepted, to supply any additional materials and equipment and to execute any additional work or to delete any work as may be required in strict conformity with the contract, and that the prices applicable to additions to the Work, or deletions therefrom shall be determined in accordance with the Supplemental General Conditions and the General Conditions.

The Bidder has read and understood all addendum(s) issued during the tendering period and taken into account by him/her/it in preparing the tender.

The Bidder agrees to commence work within seven days from the date of receipt of instructions to do so from the Project Consultant and to complete all work by the completion date outlined in the Contract documents.

The Bidder further declares that this Tender is made without any connection, comparison of figures, or arrangements with, or knowledge of, any other corporation, firm or persons making a tender for the same work and is in all respects fair and without collusion or fraud.

The Bidder further declares that no member of the Town and no officer or employee of the Town is or will become interested directly or indirectly as a contracting party, partner, shareholder, surety or otherwise in the performance of the contract, or in the supplies, work or business to which it relates, or in any portion of the profits thereof, or in any of the monies to be derived therefrom unless otherwise stated.

The Bidder agrees that this tender will be included in a formal contract to be prepared and executed.

Lowest or any tender not necessarily accepted.

That if the Tender is accepted, the Bidder agrees to furnish bonds as specified in the Information for Bidders and to execute the agreements and bonds in triplicate within seven (7) Working Days after notification of acceptance of this Tender by the Town.

That in the event of failure to do so, the Bidder agrees that the Bid Bond made with this Tender shall be forfeited to the Owner and that the Owner may accept any other Tender or call for new Tenders.

Digital Bid Bond - We enclose herewith a Digital Bid Bond in the value of not less than 5% of our stipulated price as outlined below. It is understood that the Bid Bond shall be valid for the bid acceptance period, the bidder will provide a Performance Bond and a Labour and Materials Payment Bond in the specified amount.

Digital Agreement to Bond - We enclose herewith a Digital Agreement to Bond,

Contract - If we are notified of the acceptance of this Tender within ninety (90) calendar days, we will:

1. Execute the Contract Documents in triplicate
2. Furnish a Performance Bond in the amount equal to One hundred percent (100%) and a Labour and Material Bond in the amount equal to fifty (50%) of the amount of the Contract, in the forms required by the Construction Act as per the terms of the contract.
3. Maintenance Security to be covered by the Performance Bond or Maintenance Security as a standalone Bond
4. Provide a Certificate of Insurance as outlined in the Contract documents.
5. Any other stipulated documentation

ACKNOWLEDGEMENT

We have downloaded, read, understood and agree to abide by all information contained in the Bid Document and the person named below has the authorization by the Bidder to bind the firm.

The bidder shall declare any potential conflict of interest that could arise from bidding on this bid.

Yes **No**

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Please check the box in the column "**I have reviewed this addendum**" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
There have not been any addenda issued for this bid.		