

## DESIGN BUILD MINOR GENERAL CONDITIONS

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BRITISH  
COLUMBIA

Ministry of Transportation  
and Infrastructure

# ***This Design Build Minor Contract***

**BETWEEN:**

**HIS MAJESTY THE KING  
IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,**  
as represented by the Minister of Transportation and Infrastructure  
(the "Ministry")

**OF THE FIRST PART**

**AND:**

**THE CONTRACTOR**  
as identified on the execution page of the Contract  
(the "Contractor")

**OF THE SECOND PART**

**WITNESSES THAT WHEREAS**

- A)** the Ministry has requested tenders for the Design and Construction of the Project;
- B)** the Contractor has submitted a tender for the Design and Construction of the Project;
- C)** the Contractor has offered to perform the Work, including Design, Construction and project management, described in the Contract at a price not greater than the Tender Price and on the terms and conditions set out in the Contract; and
- D)** the Ministry has accepted the offer by the Contractor to perform the Work at a price not greater than the Tender Price and on the terms and conditions set out in the Contract.

NOW THEREFORE the Ministry and the Contractor agree as follows:

**GC 1.00 GLOSSARY OF TERMS**

**GC 1.01** A capitalized term shall have the meaning as set out in Schedule 1 – Supplemental General Conditions/Glossary of Terms.

**GC 2.00 CONTRACTOR'S REPRESENTATIONS, WARRANTIES AND COVENANTS**

**GC 2.01** The Contractor represents and warrants to the Ministry that, at the time of execution of the Contract and until the expiration of the Term:

- (a) in the case of a limited company or a corporation within the meaning of the [Business Corporations Act](#), that it is duly organized and validly existing under the laws of British Columbia, under the laws of Canada, or under the laws of any other province, state or country in which case it is registered extra-provincially in British Columbia;
- (b) in the case of a partnership as defined in the [Partnership Act](#), that it is duly organized and validly existing under the laws of British Columbia or under the laws of any other province, state or country, and that it is registered in or registered extra-provincially in British Columbia if required at law;
- (c) in the case of a partnership as defined in the [Partnership Act](#), that GC 2.01(a) is true of any limited company or corporation within the meaning of the [Business Corporations Act](#) that is a partner in the partnership;
- (d) in the case of a joint venture, that each venturer in the joint venture is either an individual, a limited company or a corporation within the meaning of the [Business Corporations Act](#), or a partnership as defined in [Partnership Act](#);
- (e) in the case of a joint venture, that GC 2.01(a) is true with respect to any limited company or corporation within the meaning of the [Business Corporations Act](#) that is a venturer in the joint venture, and that GC 2.01(b) is true with respect to any partner as defined in the [Partnership Act](#) that is a venturer in the joint venture;
- (f) the Contractor, or in the case of a Contractor which is a joint venture each of the venturers that form the joint venture, has or have full legal capacity to execute the Contract, and all necessary steps have been taken to authorize the execution and delivery of the Contract by the Contractor or by each of the venturers in the case of a Contractor which is a joint venture;
- (g) the Contractor is fully legally authorized, licenced, and permitted to perform the Work and all necessary proceedings have been taken to authorize the execution and delivery of the Contract by the Contractor;
- (h) the Contractor has no knowledge of any fact that materially and adversely affects or, so far as it can foresee, might materially and adversely affect its financial condition or its ability to fulfill its obligations under the Contract;
- (i) the Contractor is not aware of any actual or contingent claims, actions, demands or suits which might adversely affect the Contractor's ability to carry out or complete the Work or any of its obligations under the Contract;
- (j) the Contractor has filed all tax, corporate information, and other returns required to be filed by the laws of British Columbia and Canada, has complied with all workers' compensation legislation and other similar legislation to which it is subject, and has paid all taxes, fees, and assessments due by the Contractor under those laws as of the date of the Contract;

- (k) the Contractor is not in breach of any law which might disqualify the Contractor from undertaking or completing the Work; and
- (l) the Contractor holds all permits, licences, consents, and authorities issued by any level of government or any agency of government, that are required by law to conduct its business.

**GC 2.02** The representations and warranties contained in GC 2.01 are continuing representations and warranties and shall remain in effect until the completion of all of the Contractor's obligations under the Contract.

**GC 2.03** The Contractor covenants to the Ministry that:

- (a) it shall continue to file all tax, corporate information, and other returns required to be filed by the laws of British Columbia and Canada, and shall comply with all workers' compensation legislation and other similar legislation to which it is subject, and shall pay all taxes, fees and assessments due by the Contractor under those laws, and including without limitation, shall provide a Valid [Tax Verification Letter](#) to the Ministry on an annual basis prior to the expiry of the period of validity of its previous Tax Verification Letter;
- (b) it shall pay punctually as they become due, all accounts, expenses, wages, salaries, taxes, rates, fees, and assessments required to be paid by it on any of its undertakings;
- (c) it shall ensure that the Work is carried out with all reasonable diligence and in particular, without limiting the foregoing, with due regard to public safety and in accordance with the Contract;
- (d) it shall comply with all laws, bylaws, regulations and codes relating to the Work;
- (e) the Contract does not operate as a permit, licence, approval or other statutory authority which the Contractor may be required to obtain from any competent government authority, branch or agency thereof, and the Contractor shall obtain, at its own expense, licences, approvals or other statutory or regulatory authorizations which are applicable to the Work or the Contract, save and except any licences and permits which are specified within the Contract to be obtained by the Ministry; and
- (f) it shall ensure that the Design and Construction of the Work conforms to all applicable codes, laws, by-laws, and regulations in force relating to the Work until the Actual Completion Date.

**GC 2.04** The Contractor agrees that all representations, warranties, covenants, and agreements made in the Contract and all documents delivered by or on behalf of the Contractor to the Ministry are material and the Contractor acknowledges and agrees that the Ministry has relied on them, notwithstanding any prior or subsequent investigation by the Ministry.

### **GC 3.00 INFORMATION PROVIDED BY THE MINISTRY**

**GC 3.01** The geotechnical investigation datum and test results, but not the interpretations and analyses thereof, provided in the borehole and test pit logs contained within the Contract Document Package and the Specific Reference Documents are a reasonable representation of the conditions encountered at the specific locations investigated on the dates of the investigations, and to that extent may be relied upon by the Contractor.

**GC 3.02** The survey point datum, but not information derived or interpolated therefrom such as digital terrain models, contours and cross-sections, contained within the Contract Document Package and the Specific Reference Documents are a reasonable representation of the individual points surveyed at the time of such survey, and to that extent may be relied on by the Contractor.

**GC 3.03** Except as provided in GC 3.01 and GC 3.02

- (a) the Ministry makes no representation and accepts no responsibility or liability, and

- (b) the Contractor acknowledges and agrees that it has not relied upon any representation by the Ministry,

with respect to the completeness, accuracy or relevance of any information provided in, or accessed through the URL's or the internet sites set out in, the Contract Document Package, the Specific Reference Documents or the General Reference Documents or any analysis or interpretation thereof, and reliance thereon or use made thereof by the Contractor shall be at the sole risk of the Contractor.

**GC 3.04** The Ministry does not provide any warranties whatsoever under this Contract.

**GC 4.00 *TERM***

**GC 4.01** The Term of the Contract shall commence on the Award Date and shall end onto the date on which all of the parties' obligations under the Contract have been fulfilled or upon the earlier termination of the Contract.

**GC 4.02** The following obligations of the Contractor survive the completion of Term or the earlier termination of the Contract:

- (a) provision of the indemnity pursuant to GC 14.00;
- (b) maintenance of records pursuant to GC 65.00; and
- (c) maintenance of the Bonds and insurance pursuant to GC 12.00.

**GC 5.00 *MINISTRY APPOINTMENTS***

**GC 5.01** The Ministry shall designate one or more Ministry Representatives and a Ministry Manager and shall provide the Contractor with notice in writing as to such designations. The Ministry may change these designated personnel, and provide written notice of the change to the Contractor. The Ministry at its discretion may appoint one person as Ministry Manager and Ministry Representative.

**GC 5.02** Notwithstanding any other provision of the Contract, the Ministry Manager and the Ministry Representative(s), in carrying out their obligations under the Contract, may obtain and rely upon any technical, managerial, and other input and direction from the Ministry or any third party to aid them in carrying out such obligations.

**GC 5.03** The Ministry Manager and Ministry Representative(s) may delegate any of their duties and responsibilities under the Contract, and shall notify the Contractor in writing of any such delegation.

**GC 6.00 *EMPLOYEES OF THE CONTRACTOR***

**GC 6.01** The Contractor shall provide and maintain at all times sufficient personnel, including without limitation, competent supervisory personnel in place and available to it to fully perform and complete the Work in accordance with the Contract.

**GC 6.02** Prior to commencing any Work on the Site, the Contractor shall notify the Ministry Manager in writing of the appointment of:

- (a) a Contractor Manager with full authority, as agent of the Contractor, to act on behalf of and legally bind the Contractor in connection with the Work and the Contract; and
- (b) one or more Contractor Representatives, as the Contractor considers appropriate for the Design and the Construction, with full authority to supervise the Work, who shall be directly available to the Ministry Representative during all active periods of Work.

**GC 6.03** The Contractor may, at its discretion, appoint one person as both Contractor Manager and Contractor Representative.

**GC 6.04** The Contractor shall not change any of the designated personnel, specified in GC 6.00 or at the pre-construction meeting, without the prior written consent of the Ministry Manager.

**GC 6.05** The Contractor Representative and Contractor Manager may delegate any of their duties and responsibilities under the Contract, and shall notify in writing the Ministry Representative of any such delegation.

**GC 6.06** The Contractor shall promptly comply with any written request by the Ministry Manager for full disclosure of the relevant knowledge, skills, prior experience, and professional standing or technical or trade certification of any person appointed, employed, or used by the Contractor in carrying out any part of the Work.

**GC 6.07** If, at any time, the Ministry Manager does not consider any person appointed to discharge any of the functions of the Contractor Representative or the Contractor Manager to be acceptable, the Contractor shall forthwith replace such person with a person acceptable to the Ministry and notify the Ministry of the appointment of such replacement.

**GC 7.00 *LEGAL RELATIONSHIP***

**GC 7.01** The Contractor is an independent contractor and not the servant, employee, partner, or agent of the Ministry.

**GC 7.02** The Contractor shall not commit the Ministry to the payment of any money to any person.

**GC 7.03** No partnership, joint venture, or agency involving the Ministry is created by the Contract or by any action of the parties under the Contract.

**GC 7.04** All personnel engaged by the Contractor to design and construct the Project are at all times the employees or Subcontractors of the Contractor and not of the Ministry. The Contractor is solely responsible for any and all labour relations and employment obligations with respect to the personnel including, without limitation, all matters arising directly or indirectly from the relationship of employer and employee between the Contractor and the personnel employed by the Contractor.

**GC 8.00 *ASSIGNMENT AND SUBCONTRACTING***

**GC 8.01** The Contractor shall not, without the prior written consent of the Ministry, assign, either directly or indirectly, any right or obligation of the Contractor under the Contract.

**GC 8.02** For each Subcontractor involved in the Construction the Contractor shall complete the "List of Subcontractors" form available from the Ministry and submit this form to the Ministry Representative at the pre-construction meeting.

**GC 8.03** For each Subcontractor involved in the Construction, the Contractor shall provide a complete copy of every Subcontract having a value of fifty thousand dollars (\$50,000) or more severing the numeric portion of the pricing information only at the Contractor's option, including the legal name and address and full descriptions of that portion of the Work that each is to undertake, to the Ministry Manager prior to the Subcontractor performing any of the Work.

**GC 8.04** All Subcontracts shall be substantially in the form of the latest edition of:

- (a) the [B.C. Road Builders and Heavy Construction Association](#)'s "Standard Form of Construction Contract Between Contractor and Subcontractor"; or
- (b) the [Canadian Construction Association's CCA-1 "Stipulated Price Contract"](#).

**GC 8.05** The appointment of any Subcontractor by the Contractor does not relieve the Contractor of its responsibility hereunder or for the quality of work, materials, and services provided by it.

**GC 8.06** The Contractor is wholly responsible for the acts and omissions of the Subcontractors and persons employed by the Contractor and the Subcontractors. No Subcontract entered into by the Contractor imposes any obligation or liability upon the Ministry to the Subcontractor or any of the Subcontractor's employees.

**GC 8.07** The Contractor shall make copies of the Labour and Material Payment Bond available to each Subcontractor and shall post and maintain copies of the Labour and Material Payment Bond at the Site.

**GC 8.08** The Contractor shall ensure every Subcontractor observes the terms of the Contract so far as they apply to that portion of the Work to be performed by that Subcontractor.

**GC 8.09** Nothing in this Contract creates any contractual relationship between the Ministry and a Subcontractor.

**GC 9.00 *SUBCONTRACTOR AND SUPPLIER DISPUTES***

**GC 9.01** The Contractor shall ensure every Subcontract, purchase order agreement, and hired equipment agreement contains the following provisions:

- (a) the parties to any such Subcontract, purchase order agreement and/or hired equipment agreement shall immediately notify the Contractor in writing of any dispute which remains unresolved for a period of thirty (30) days or more;
- (b) the parties to any such Subcontract, purchase order agreement and/or hired equipment agreement shall negotiate in good faith to resolve all disputes by providing frank, candid and timely disclosures of relevant information and documentation in their possession;
- (c) all disputes which have not been resolved within forty-five (45) days after the delivery of the notice to the Contractor shall be referred to and finally resolved by a single arbitrator following the [rules](#) of the [Vancouver International Arbitration Centre](#) for the conduct of domestic commercial arbitration; and
- (d) the parties to any such Subcontract, purchase order agreement and/or hired equipment agreement agree to conduct the arbitration in an expeditious and efficient manner in accordance with the time lines established in the rules.

**GC 10.00 *DESIGNATED SUBCONTRACTOR(S) AND DESIGNATED SUPPLIER(S)***

**GC 10.01** Prior to a Designated Subcontractor or Designated Supplier performing any portion of the Work, the Contractor shall deliver to the Ministry Representative a copy of each Designated Subcontractor's or Designated Supplier's Subcontract showing:

- (a) that a written Subcontract as described in GC 8.03 exists;
- (b) the total value of the Subcontract; and
- (c) the scope of the Work being subcontracted.

**GC 10.02** The Contractor shall ensure that each Subcontract with a Designated Subcontractor or Designated Supplier contains a requirement that the Designated Subcontractor or Designated Supplier provide a performance bond and labour and materials payment bond each in the amount as specified in GC 10.05, as a part of that Subcontract.

**GC 10.03** Notwithstanding any other provision of the Contract:

- (a) companies and individuals retained as Designers are not considered to be Designated Subcontractors, and
- (b) the Ministry Manager may, upon written request from the Contractor and under any requirements deemed appropriate by the Ministry Manager, exempt any company or individual from being considered as a Designated Supplier or Designated Subcontractor.

**GC 10.04** Prior to the Contractor allowing a Designated Subcontractor or Designated Supplier to perform any Work, the Contractor shall ensure that:

- (a) a performance bond and labour and material payment bond which meet the requirements of GC 10.05 are in place;
- (b) copies of the bonds referenced in GC 10.04(a) are provided to the Ministry Representative; and
- (c) a copy of performance bond and the labour and material payment bond is securely and visibly posted at the Site.

**GC 10.05** The Contractor shall ensure that the performance bond and the labour and material payment bond referenced in GC 10.04(a) for each Designated Subcontractor or Designated Supplier:

- (a) is in an amount of not less than fifty percent (50%) of each Subcontract;
- (b) is maintained in force during the term of the Subcontract;
- (c) is validly executed by both the surety and the Designated Subcontractor or Designated Supplier;
- (d) shows the business address of the surety for filing of claims and delivery of Notices; and
- (e) remains posted at the Site during the term of the Subcontract.

**GC 10.06** If the Ministry becomes aware that a Designated Subcontractor or Designated Supplier is performing a Work activity but such Designated Subcontractor or Designated Supplier is not in compliance with GC 10.04 or GC 10.05, the Ministry Representative may issue a Stop Work Order for that Work activity. The Stop Work Order shall remain in effect until the Contractor brings itself into compliance with GC 10.04 and GC 10.05;

**GC 10.07** The Contractor shall not be entitled to any compensation including, without limitation, an Extension of Time or compensation for Reimbursable Delay in connection with or as a result of a Stop Work Order under GC 10.06.

**GC 10.08** The Contractor shall provide written notice to the Ministry Representative of:

- (a) any change to or addition of a Designated Subcontractor or Designated Supplier; or
- (b) any change to the scope of work for a Designated Subcontractor or Designated Supplier.

#### **GC 11.00 *CONDITIONS OF EQUIPMENT***

**GC 11.01** All trucks and other equipment rented by the Contractor for use on the Work shall, as far as practicable, be obtained from local residents.

**GC 11.02** To qualify under GC 11.01, equipment shall:

- (a) where the Contractor has a collective agreement with its employees, have an operator who is a member of or has the permission of the appropriate union bargaining unit;
- (b) fulfill, in the opinion of the Contractor, the specialized needs as may be required to reasonably complete the Work of the Contractor; and
- (c) be registered on the Ministry's hired equipment list for the geographic area encompassing the Site, or on the Ministry's hired equipment list for an adjacent area.

#### **GC 12.00 *BONDS AND INSURANCE***

**GC 12.01** The Contractor shall comply with the requirements in Schedule 2 – Contract Securities and maintain the Bonds in force and effect until the Actual Completion Date and any longer period specified in Schedule 2 – Contract Securities.

**GC 12.02** The Contractor shall comply with the requirement of Schedule 6 – Insurance and maintain the insurance in force and effect during the Term and any longer period specified in Schedule 6 – Insurance.

**GC 12.03** If the Surety notifies either party that the Bonds are or are going to be terminated or cancelled for any reason whatsoever, the Contractor shall obtain and deliver to the Ministry forthwith upon receipt of such notification valid Bonds effective from the time of termination or cancellation of the Bonds, which comply with Schedule 2 – Contract Securities.

**GC 12.04** The delivery of valid replacement Bonds by the Contractor under GC 12.03 is in addition to and does not preclude the Ministry from exercising any right, power or remedy available to the Ministry under the Contract, at law or in equity in connection with the termination or cancellation of the Bonds.

**GC 13.00 *THIRD PARTY CONSENTS TO CHANGES***

**GC 13.01** The Ministry may require the Contractor to obtain the written consent of the Surety to any Work Order or Supplemental Agreement.

**GC 13.02** The Contractor shall notify its insurer, with a copy to the Ministry Representative, of any event or circumstance applicable to the insurance coverages stipulated in Schedule 6 – Insurance and of any Change to Work or Stop Work Order that could result in the unavailability or denial of insurance coverage in the absence of such notice. If any additional or amended insurance coverage is required pursuant to the notice, then the Contractor shall obtain and maintain any such additional or amended insurance coverage.

**GC 13.03** If an Insurer or a Surety notifies either party that they decline consent or coverage for any Work Order or Supplemental Agreement, the Contractor shall obtain and provide the Ministry with valid additional Bonds or insurance, covering the Work specified in the Work Order, which comply with the Contract.

**GC 14.00 *INDEMNITY***

**GC 14.01** The Contractor shall assume the defence of and shall indemnify and save harmless the Ministry, its agents and employees from and against any and all claims, liabilities, demands, losses, damages, costs and expenses, fines penalties, assessments and levies made against or incurred or suffered or sustained by the Ministry, its agents and employees, or any of them at any time or times before or after the completion of the Term or earlier termination of the Contract where the same or any of them are based on or arise out of or from anything done or omitted to be done by the Contractor, its employees, agents or Subcontractors, in connection with the Contract or the Work, which indemnity shall survive the completion of the Term or earlier termination of the Contract.

**GC 14.02** In particular, but without limiting the generality of the indemnity contained in GC 14.01, the Contractor shall indemnify the Ministry, its agents and employees from any and all claims:

- (a) related to or arising out of the Work or performance of the Contract;
- (b) without limiting the generality of GC 14.02(a) related to or arising out of any deficiencies in the Design;
- (c) arising from the acts or omissions of the Contractor, or the employees, Subcontractors, or agents of the Contractor while performing the Work or acting in the course of their employment under the Contract; and
- (d) shall pay all costs associated with or arising from those claims,

which indemnity shall survive the completion of the Term or earlier termination of the Contract.

**GC 14.03** Notwithstanding the obligation of the Contractor to assume the defence of any claims under GC 14.01, the Ministry may retain its own counsel to represent it, and the Contractor shall reimburse the Ministry for the actual cost of any such counsel.

**GC 14.04** The obligations of the Contractor under GC 14.00 shall not be affected by completion or termination of the Contract, whether for default or otherwise, or suspension or withdrawal of the Work.

**GC 15.00 NOTICE OF LIABILITY AND PROPERTY INSURANCE CLAIMS**

**GC 15.01** In addition to any obligation the Contractor may have to notify any insurer or insurers or any regulatory agency, the Contractor shall give written Notice to the Ministry Representative, and to the Ministry at the address provided in GC 15.02 or such other address as the Ministry may from time to time direct in writing:

- (a) of any accident or occurrence during occupation of the Site by the Contractor until the issuance of the Completion Certificate, enclosing pertinent details of the accident or occurrence, within seven (7) days from the date on which the accident or occurrence arises or occurs;
- (b) any errors and omissions claims; and
- (c) within fifteen (15) days following final disposition of any accident, occurrence, or claim enclosing pertinent details.

**GC 15.02** The address for Notices required by GC 15.01 is:

the Manager, Claims  
Ministry of Transportation and Infrastructure  
4C – 940 Blanshard Street  
PO Box 9850, Stn Prov Govt,  
Victoria, B.C., V8W 9T5

or other such address as the Ministry may nominate by written notice to the Contractor.

**GC 16.00 COMMENCEMENT OF THE WORK**

**GC 16.01** Before commencing the Work, the Contractor shall:

- (a) deliver the Contract, duly executed by the Contractor, to the Ministry;
- (b) purchase and deliver the Bonds to the Ministry in accordance with the requirements in Schedule 2 – Contract Securities;
- (c) submit evidence of insurance coverage to the Ministry, covering all required policies and endorsements, complying with the form and amounts specified in Schedule 6 - Insurance Specifications;
- (d) submit a preliminary Project Schedule acceptable to the Ministry Manager showing
  - (i) compliance with all Milestone Dates and the Completion Date and
  - (ii) anticipated timing and duration of all major work elements;
  - (iii) anticipated dates of major design submissions;
  - (iv) major traffic detours and disruptions;
  - (v) submission dates for all quality, traffic, and environmental management plans;
  - (vi) Environmental Windows and approval periods; and
  - (vii) details of all events anticipated to occur within sixty (60) days of commencing Work on Site;

- (e) provide the Ministry Manager with written confirmation of the names, addresses, and telephone numbers of all persons required to be appointed by the Contractor pursuant to the Contract; and
- (f) deliver to the Ministry a Valid Tax Verification Letter

**GC 16.02** The Contractor shall propose a Site Occupation Date, for the approval of the Ministry Manager, a minimum of thirty (30) days prior to the proposed date.

**GC 16.03** The Contractor shall not perform any Work on Site prior to the approved Site Occupation Date.

**GC 16.04** The Contractor may be authorized, at the discretion of the Ministry Manager, to perform limited investigative and preparatory activities on Site prior to the Site Occupation Date.

**GC 16.05** The Contractor shall complete the Work in accordance with the Project Schedule.

**GC 16.06** Unless otherwise stated in the Special Provisions or by a Work Order, the Contractor may prosecute the Work at the times and seasons, in the order of procedure, and in the manner and method that the Contractor considers appropriate.

## **GC 17.00 STANDARDS**

**GC 17.01** The [Design Build Standard Specifications](#) form a part of the Contract and the Contractor shall comply with the requirements of the [Design Build Standard Specifications](#) and all Schedules to the Contract in the performance of the Work.

**GC 17.02** The Contractor shall ensure that finished Work conforms to the requirements, lines, grades, typical cross-sections, and dimensions as determined by the Standards.

**GC 17.03** Variances from the Standards may only be authorized in writing by the Ministry Manager.

**GC 17.04** Any approval by the Ministry Manager of a variance from the Standards shall be contingent upon agreement between the Ministry Manager and the Contractor Manager of a revised Warranty Period, in accordance with GC 43.02, for the Work covered by the variance and a revision to the Contract Price.

## **GC 18.00 ERRORS OR OMISSIONS**

**GC 18.01** The Contractor shall not be entitled to any additional compensation or Extension of Time because of any error, inconsistency or omission in the Contract which was, or ought to have been, apparent or known to the Contractor at the time of the Award.

**GC 18.02** If the Contractor discovers any error, inconsistency or omission in the Contract which shall, or is likely to adversely affect the Work, the Project Schedule or the Contract Price, including but not limited to any error, inconsistency or omission referred to at GC 18.01, the Contractor shall, within three (3) days of detecting the error, inconsistency or omission, provide Notice any such error, inconsistency or omission to the Ministry Manager and shall not proceed with any Work affected until the Ministry has determined how the error, inconsistency or omission should be corrected.

**GC 18.03** Within seven (7) days of receiving Notice from the Contractor pursuant to GC 18.02, the Ministry Representative shall respond as to how the error, inconsistency, or omission is to be corrected.

## **GC 19.00 PROJECT MANAGEMENT AND SUPERVISION**

**GC 19.01** The Contractor shall undertake all project management and supervision related to the Work.

## **GC 20.00 DESIGN RESPONSIBILITY**

**GC 20.01** The Contractor shall ensure that the Design is performed by, or under the supervision of, the design personnel specified at the pre-construction meeting, and shall not change any such personnel without the prior written approval of the Ministry Manager.

**GC 20.02** Unless the Contract expressly provides otherwise, the Contractor shall control the Design and shall be responsible for the means, methods, techniques, sequences, and procedures necessary to complete the Design.

**GC 20.03** The Contractor shall make any revisions to the Design as may reasonably be required from time to time by the Ministry, including changes resulting from changes to scope of the Work and changes resulting from a Work Order.

**GC 20.04** The Contractor shall ensure that all portions of the Design are prepared under the direction of, and where appropriate by, Designers who are professional engineers or other such professionals as appropriate to the nature of the Design, lawfully authorized to practice within British Columbia.

**GC 20.05** The Contractor shall ensure that, in addition to any other requirements, the Design is signed off in accordance with the Ministry's "[Engineer of Record and Field Review Guidelines](#)", as issued in Technical Circular T-06/09 or any amendment thereto.

**GC 20.06** The Contractor irrevocably accepts a non-delegable duty and obligation to the Ministry to ensure that the Work is fit and suitable for the intended purpose of the Project, as anticipated by the Contract.

**GC 20.07** Review and concurrence of the Work by the Ministry does not diminish the Contractor's responsibility for ensuring that the Work is fit and suitable for the intended purpose of the Project, as anticipated by the Contract.

#### **GC 21.00 INVESTIGATION**

**GC 21.01** Before commencing any Design, the Contractor shall carry out its own investigations sufficient to satisfy itself regarding all matters relating to the Project, the Site, and the Contract.

#### **GC 22.00 DESIGN SCHEDULE**

**GC 22.01** Prior to the release of the first progress payment, the Contractor shall provide the Ministry Representative with a Design Schedule, satisfactory to the Ministry Representative, that describes the anticipated timing of the major design activities in sufficient detail to demonstrate to the Ministry that the Design shall be performed in accordance with the Time Schedule.

**GC 22.02** The Ministry Representative may, at any time, and from time to time, request that the Contractor submits an updated Design Schedule.

**GC 22.03** As a condition of the release of subsequent progress payments, the Contractor shall provide the Ministry Representative with an updated Design Schedule within fourteen (14) days of the request.

#### **GC 23.00 DESIGN REVIEW**

**GC 23.01** Before commencing any Construction, the Contractor shall submit to the Ministry Representative the applicable portion of the Design necessary to that Construction.

**GC 23.02** Within fourteen (14) days, the Ministry shall review the Design submitted by the Contractor and the Ministry Representative shall advise the Contractor in writing that the submitted Design and design information:

- (a) appears to be consistent with the intended purpose of the Project as anticipated by the Contract;
- (b) appears to contain deficiencies or inconsistencies; or
- (c) is insufficient for the purposes of a review.

**GC 23.03** If the Ministry identifies any apparent deficiencies or inconsistencies in the Design, the Contractor shall:

- (a) provide further information to demonstrate to the satisfaction of the Ministry that the Design does not contain deficiencies; or
- (b) revise the Design, taking into consideration the apparent deficiencies or inconsistencies identified by the Ministry, and submit the revised Design to the Ministry Representative for review in accordance with GC 23.02.

**GC 23.04** If the Ministry advises the Contractor that the information provided is insufficient for the purposes of a review, the Contractor shall submit further information, satisfactory to the Ministry, for review by the Ministry in accordance with GC 23.02.

**GC 24.00 DESIGN PART OF CONTRACT**

**GC 24.01** When the Ministry advises the Contractor that it has reviewed and concurs with a portion of the Design, that portion of the Design so reviewed and concurred with by the Ministry forms an obligation of the Contractor under the Contract.

**GC 25.00 ERRORS IN DESIGN**

**GC 25.01** The Contractor is responsible for all errors, omissions, or deficiencies in the Design.

**GC 25.02** The Contractor shall give Notice to the Ministry Representative immediately upon becoming aware of any errors, omissions, or deficiencies in the Design.

**GC 25.03** The Contractor shall remedy at its own cost, to its own satisfaction and to the satisfaction of the Ministry, any errors, omissions, or deficiencies in the Design, including without limitation any resulting errors, omissions or deficiencies in any part of the Construction that has been commenced or completed.

**GC 26.00 CONSTRUCTION**

**GC 26.01** The Contractor shall supervise, undertake, prosecute, and complete all Construction necessary to complete the Project.

**GC 26.02** Unless specifically authorized in writing by the Ministry Manager, the Contractor shall not commence Construction of any portion of the Work until that portion of the Design is incorporated into the Contract, in accordance with GC 24.01.

**GC 26.03** The Contractor shall ensure that, in addition to any other requirements, field reviews are done and the construction is signed off in accordance with the Ministry's "[Engineer of Record and Field Review Guidelines](#)", as issued in Technical Circular T-06/09 or any amendment thereto.

**GC 27.00 PRIME CONTRACTOR**

**GC 27.01** Unless the Ministry so designates another party, the Contractor shall be the specified "prime contractor", as defined in the [Workers Compensation Act](#), for the Site and shall fulfil the responsibilities of the position under [Workers' Compensation Act](#), the [Occupational Health & Safety Regulation, BC Reg 296/97](#), and Design Build Standard Specification 135 – Site Safety (DBSS 135).

**GC 28.00 QUALITY MANAGEMENT**

**GC 28.01** The Contractor is responsible for the quality of the Work, and shall perform Quality Control and Quality Assurance in accordance with the Contract and the Quality Management Plan.

**GC 29.00 INSPECTION OF THE WORK**

**GC 29.01** The Ministry may audit the Contractor's Quality Management Plan and Quality Control, and Quality Assurance procedures, records and results, and may perform reviews or undertake its own testing at any time during the Term.

**GC 29.02** The Ministry may at any time or times inspect the Work, and the materials furnished in respect thereof.

- GC 29.03** The Contractor shall allow all persons designated by the Ministry Manager access to the Work at all times and shall provide all information and assistance required by the Ministry.
- GC 29.04** An inspection by the Ministry does not constitute any acceptance of the Work, nor does it relieve the Contractor of responsibility for the quality of the Work, or from any obligation to perform the Work in accordance with the requirements of the Contract.
- GC 29.05** The Contractor shall cooperate with the Ministry in reviewing the proposed Design, and in sampling, testing and inspecting of the Construction.
- GC 29.06** Unless the Contract contains a contrary provision, the Ministry's review, sampling, testing, and inspection of Design and Construction shall be done at the expense of the Ministry.
- GC 29.07** The Contractor shall obtain and keep on-Site complete written statements of the origin, composition, and manufacture of any materials supplied by the Contractor that are used or are intended to be used in the Work, and shall, if requested, provide such documentation to the Ministry Representative.
- GC 29.08** The Contractor shall do all things necessary to satisfy the Ministry Representative that the Work is being completed in accordance with the Contract including, without limitation, removing or uncovering parts of the Construction, and restoring those parts to conform to the requirements of the Contract.
- GC 29.09** If the Ministry Representative is satisfied with the Work exposed in accordance with GC 29.08, the Ministry Manager shall issue a Work Order for the removal, uncovering, and restoration, and the Contractor shall be compensated at a negotiated price or on a Force Account Basis.
- GC 29.10** If the Ministry Representative determines that any part of the Work fails to conform to the Standards, as determined by the Ministry Representative's inspection, testing, or audit, the Contractor shall remove and replace the Work in question with Work that meets the Standards, at the Contractor's expense.
- GC 30.00 *REVIEW AND INSPECTION OF THE WORK BY OTHER AUTHORITY***
- GC 30.01** The Contractor shall permit access to the Site, and to the Design and the Construction, to persons designated by the Ministry Representative including persons representing other authorities or agencies of government.
- GC 30.02** No inspection or approvals by any other authority, agency, or government shall derogate from or reduce the obligations of the Contractor to the Ministry under the Contract.
- GC 31.00 *COOPERATION OF THE CONTRACTOR***
- GC 31.01** The Ministry may perform, or retain or permit others to perform other work on or near the Site and may permit public utility companies and others to do work on or near the Site during the Term. The Contractor shall conduct and schedule the Work and cooperate with those other parties so as to cause as little interference as possible with any such other work being carried on.
- GC 32.00 *UTILITIES***
- GC 32.01** The Contractor shall arrange and coordinate all Utility Relocations with the utility owners.
- GC 32.02** The Contract Price shall include the cost of all Utility Relocations necessary to complete the Work, including, without limitation, relocations of pole lines, conduits, gas pipes, oil pipes, water pipes, sewers, and tile lines.
- GC 32.03** The Contractor is entitled to have Utility Relocations executed at the prices indicated in the appropriate protocol agreement between the Ministry and the utilities, and shall notify the utility companies accordingly.

**GC 32.04** The Ministry shall pay for any Utility Relocation costs billed to the Ministry, and reduce any payments due the Contractor under the Contract by the amount so paid by the Ministry.

**GC 32.05** The Contractor shall preserve and protect all infrastructure on the Site, including that affected by the Utility Relocation referred to in GC 32.01 and GC 32.02, and shall indemnify the Ministry and the utility owners for all damage caused by the Contractor.

**GC 32.06** The indemnification arising in GC 32.05 shall survive the expiry of the Term or the earlier termination of the Contract.

**GC 32.07** The Ministry Representative shall make available, upon request by the Contractor, all underground utility information in the possession of the Ministry.

**GC 32.08** The Ministry makes no representation or warranty and accepts no responsibility for the completeness, accuracy or relevance of any such information with respect to the infrastructure of the utility companies or municipalities, including without limitation, any underground utility information, or any analysis or interpretation thereof, and any reliance thereon or any use made thereof by the Contractor is at the sole risk of the Contractor.

**GC 32.09** The Contractor acknowledges and agrees that it has not relied on any representation or warranty of the Ministry with respect to the accuracy or completeness of any information with respect to the underground utility information, including, without limitation, the infrastructure of the utility companies or municipalities.

**GC 32.10** The Contractor shall confirm the location of all utilities and ensure that all of its labour force, employees, Subcontractors, Owner/Operators, and any other workers on the Site:

- (a) are made aware of the location of all utilities in connection with the Project and the importance of avoiding damage to those underground utilities; and
- (b) observe all instructions in connection with those utilities issued by the Ministry on behalf of the respective utility owners.

**GC 33.00 CONTAMINANTS**

**GC 33.01** Before the Contractor commences Work on the Site, the Ministry shall:

- (a) take all reasonable steps to determine whether any Contaminants are present at the Site;
- (b) provide the Contractor with a written list of any such Contaminants which the Ministry determines at that time to be present at the Site; and
- (c) be responsible for disposing of, storing or otherwise remediating or rendering harmless any Contaminants present at the Site prior to the actual Site Occupation Date as is determined to be necessary by the Ministry, unless such Work is designated in the Contract to be performed by the Contractor.

**GC 33.02** The Ministry and the Contractor shall take all reasonable steps, including stopping Work if necessary, to ensure that no person suffers injury, sickness, or death and that no property is injured or destroyed as a result of exposure to, or the presence of, Contaminants that were at the Site prior to the actual Site Occupation Date.

**GC 33.03** If, after commencing Work, the Contractor:

- (a) encounters Contaminants at the Site, beyond those designated as part of the Work; or
- (b) has reasonable grounds to believe that Contaminants are present at the Site, which were not discovered or disclosed by the Ministry as required under GC 33.01(b), or which were disclosed but have not been dealt with as required under GC 33.01(c),

the Contractor shall immediately provide Notice to the Ministry Manager.

**GC 33.04** If the Contractor is delayed in performing the Work or incurs additional costs as a result of dealing with Contaminants which are not part of the Work, the Contractor may provide a Notice of Reimbursable Delay, a request for an Extension of Time, and may be reimbursed for reasonable costs incurred as a result of the delay and as a result of so dealing.

**GC 34.00 PROTECTION OF SITE AND WORK DURING CONSTRUCTION**

**GC 34.01** The Contractor shall protect the Site and the Work from any damage or injury for the period from the Contractor's effective date of occupancy of the Site until the date of Substantial Completion.

**GC 34.02** The Contractor shall repair or restore, at its expense, any public or private property which the Contractor, or its employees, Subcontractors, or agents, have damaged directly or indirectly in connection with the execution of the Work, to a condition equal to or better than what existed prior to the damage, or it shall compensate the owner in full for the damage caused.

**GC 34.03** Where, pursuant to GC 34.02, the repair or restoration of any damage necessitates compliance with current standards, codes or laws, the Contractor shall, at its expense, perform all necessary work inclusive of any betterment necessary to comply with such current standards, codes or laws.

**GC 35.00 MAINTENANCE OF WORK DURING CONSTRUCTION**

**GC 35.01** The Contractor shall maintain all Disturbed Features in accordance with the [Maintenance Specifications](#) and [Electrical Maintenance Standards](#) and to the satisfaction of the Ministry Representative, save and except that for all roadways open to the public, the routine winter maintenance services described in chapter 3 of the Maintenance Specifications shall be performed by, and at the cost of the road and bridge maintenance contractor engaged by the Ministry.

**GC 35.02** Notwithstanding GC 35.01, where any roadway is a Disturbed Feature that shall, in the opinion of the Ministry Representative, cost more to maintain than the surface as it existed at the time of the Award, the Contractor shall be responsible for routine winter maintenance services or, at the Ministry's option, for any additional cost of maintenance, as determined by the Ministry Manager, resulting from the actual surface conditions.

**GC 35.03** The requirements of GC 35.02 shall be met if the Contractor arranges directly with and pays the Ministry road and bridge maintenance contractor to perform all additional maintenance, and provides documentary evidence satisfactory to the Ministry Manager that such an arrangement is in place.

**GC 35.04** Notwithstanding the issuance of a Letter of Substantial Completion, the Contractor shall continue to perform all required maintenance for any aspect of the Site affected by uncompleted Work.

**GC 35.05** Any Disturbed Feature resulting from Work authorized under GC 16.04 shall be maintained by the Contractor, from the date of disturbance, in accordance with the [Maintenance Specifications](#) and the [Electrical Maintenance Standards](#).

**GC 35.06** If the Ministry issues a Stop Work Order or authorizes a State of Suspension, the Contractor shall continue to provide maintenance in accordance with GC 35.01 to GC 35.05:

- (a) unless the Stop Work Order states that the reason for the Stop Work Order is a State of Suspension;
- (b) unless the Stop Work Order states that the Ministry Manager has arranged for uninterrupted continuation of maintenance services; and
- (c) until the Contractor has brought the Site to a condition approved by the Ministry Representative.

**GC 35.07** Notwithstanding the approval of the Ministry Representative pursuant to GC 35.06(c), the Contractor is responsible for remedying any deficiencies in the Work that become apparent during a State of Suspension, and for restoring all things within the Site to a satisfactory condition, as determined by the Ministry Representative, for routine maintenance by the Ministry.

**GC 35.08** The Contractor shall resume maintenance pursuant to GC 35.01 and GC 35.05 on the date that the Contractor resumes Work pursuant to a Resume Work Order.

**GC 35.09** Notwithstanding GC 35.01 to GC 35.08 and in the discretion of the Ministry Manager, the Contractor may be relieved of any or all responsibilities for maintenance with respect to any portion of the Site and improvements.

**GC 35.10** Notwithstanding GC 35.06, a Stop Work Order establishing a State of Suspension may require the Contractor to continue maintenance of any portion of the Work during the State of Suspension.

**GC 35.11** The Contractor shall give the Ministry Manager a minimum of thirty (30) days notice of any anticipated transfer, permitted under the Contract, of any maintenance to the Ministry.

#### **GC 36.00 EMERGENCY WORK**

**GC 36.01** The Ministry Representative may designate Emergency Work.

**GC 36.02** Notwithstanding any other provisions in the Contract, the Ministry Representative may order the Contractor to use any equipment, material, and labour force on the Site in any manner and to perform any work the Ministry Representative considers to be Emergency Work and the Contractor shall promptly perform any Emergency Work.

**GC 36.03** Where, in the opinion of the Ministry Manager, the Emergency Work falls within the Contractor's responsibilities under the Contract or where such Emergency Work arose as a result of

(a) an event within the control of the Contractor, or

(b) any fault, failure, negligence, action or malfeasance on the part of the Contractor,

then the cost of the Emergency Work shall be to the Contractor's account. In all other cases, payment for the Emergency Work shall be made at a negotiated price or on a Force Account Basis.

#### **GC 37.00 WORK ORDERS**

**GC 37.01** The Ministry Manager may issue a Work Order at any time.

**GC 37.02** The Ministry Manager shall issue any Work Orders to the Contractor Manager or to any other person authorized by the Contractor to receive a Work Order.

**GC 37.03** Upon issuance of a Work Order, the Contractor shall proceed with the Work requested and otherwise comply with the Work Order.

**GC 37.04** The Ministry may, at any time, and from time to time, require the Contractor to assess the impact of a proposed Work Order on the Contract Price and the Project Schedule.

**GC 37.05** The Contractor is not entitled to additional payment, or any adjustment to the Contract Price, for any Work performed pursuant to GC 37.01, unless provision for such payment is included in the Work Order.

#### **GC 38.00 STOP WORK ORDER**

**GC 38.01** The Contractor shall comply immediately with a Stop Work Order, whether issued by the Ministry Manager or the Ministry Representative, and shall not resume the Work specified in the Stop Work Order until authorized to do so in writing by the Ministry Manager

**GC 38.02** During a State of Suspension, notwithstanding receipt of a Stop Work Order, the Contractor shall carry out any Work specified in a Work Order.

**GC 38.03** Notwithstanding a Stop Work Order, the Contractor shall for the duration of any Stop Work Order provide all services necessary to maintain and protect the Site and the Work, and protect the public and any other persons on Site.

**GC 38.04** No Stop Work Order shall relieve the Contractor of any obligation of the Contractor under the Contract.

**GC 38.05** Where a Stop Work Order has been issued to the Contractor as a consequence of any non-compliance with or any breach, non-observance, or non-performance of any term or other provision of this Contract, the Ministry may, in addition to any other remedy or right to which the Ministry may be entitled require the Contractor to pay the Ministry as consideration the amount of \$1,000.00 per day, for each day or part of any day during which a Stop Work Order is in force.

**GC 38.06** Any payment to be made by the Contractor pursuant to GC 38.05 relates directly to the performance by the Contractor of a condition, covenant, or promise in the Contract and shall not be construed by the parties as punitive but as importing a reasonable measure by mutual consent of the minimum damages caused to the Ministry by the Contractor's failure or neglect.

**GC 39.00 *EARLY COMPLIANCE WITH TIME SCHEDULE***

**GC 39.01** If the Contractor achieves completion of a specified portion of the Work before the corresponding Milestone Date or the Completion Date, the Ministry shall pay the Contractor an additional sum specified in the Supplemental General Conditions multiplied by the number of days between the date on which the relevant portion of the Work was completed and the specified Milestone Date or the Completion Date, as the case may be.

**GC 39.02** The maximum additional payment arising from GC 39.01 shall be as specified in the Supplemental General Conditions, but in no event greater than ten percent (10%) of the Tender Price.

**GC 40.00 *COMPLIANCE WITH TIME SCHEDULE***

**GC 40.01** The Contractor shall complete the Work in accordance with Schedule 5 - Time Schedule and any amendment thereto.

**GC 40.02** If the Contractor fails to achieve completion of any specified portion of the Work on or before the corresponding Milestone Date or the Completion Date, then in addition to and without limiting any other remedy available to the Ministry under the Contract, the Ministry Manager may elect to proceed with any of the following:

- (a) terminate the Contract;
- (b) require the Contractor to pay consideration in the amount specified in the Supplemental General Conditions as consideration for late completion for each day or part thereof between the specified Completion Date or Milestone Date, as the case may be, and
  - (i) the actual date on which the corresponding portion of the Work is completed, or
  - (ii) the date that the Ministry elects another remedy under GC 40.06; or
- (c) extend the Completion Date or Milestone Date, as the case may be, for such period as the Ministry Manager determines, without requiring the Contractor to pay any consideration during such extended time.

**GC 40.03** Should the consideration periods associated with GC 40.02(b) overlap, the Ministry shall waive the lesser of the two daily amounts for the overlapping days.

**GC 40.04** If the Ministry elects to extend a Milestone Date or the Completion Date pursuant to GC 40.02(c) and the Contractor does not complete the Work on or before the extended Milestone Date or Completion Date then, upon Notice by the Ministry Manager to the Contractor, the Ministry may avail itself of any remedy available to the Ministry under the Contract, including without limitation one or more of the remedies specified in GC 40.02.

**GC 40.05** It is a condition of any extension to a Milestone Date or the Completion Date pursuant to GC 40.02(c) that the Contractor shall proceed diligently to complete the Work.

**GC 40.06** If the Ministry elects to require the Contractor to pay consideration pursuant to GC 40.02(b) and the Contractor fails to complete the Work within a reasonable time, as determined in the discretion of the Ministry Manager, after the relevant Completion Date or Milestone Date, then, upon Notice by the Ministry Manager to the Contractor, the Ministry may avail itself of any remedy available to the Ministry under the Contract, including without limitation one or more of the remedies specified in GC 40.02.

**GC 40.07** Any payment to be made by the Contractor pursuant to GC 40.00 relates directly to the performance by the Contractor of a condition, covenant or promise in the Contract and shall not be construed by the parties as punitive but as importing a reasonable measure of the minimum damages caused to the Ministry by the Contractor's failure or neglect.

**GC 41.00 SUBSTANTIAL COMPLETION**

**GC 41.01** Unless otherwise stated in the Contract, Substantial Completion occurs when all Work as necessary to facilitate the safe, uninterrupted, and unobstructed public use of all structures, travelled lanes, sidewalks, pathways, and shoulders has been satisfactorily completed, including but not limited to:

- (a) paving of all roads;
- (b) all structures and drainage systems;
- (c) full operation of all traffic lighting and signalization;
- (d) all temporary pavement markings, and layout for all permanent pavement markings at all intersections and on all major roads;
- (e) installation of all regulatory and guide signing; and
- (f) installation of all median and roadside barrier and other safety devices.

**GC 41.02** Upon satisfaction of the conditions in GC 41.01, the Contractor may submit a written request for a Letter of Substantial Completion to the Ministry Manager.

**GC 41.03** Within seven (7) days of receipt of such a request, the Ministry Manager shall evaluate the Work, assess the degree of completion that has been attained, and issue:

- (a) a deficiency list;
- (b) a Letter of Substantial Completion, or
- (c) pursuant to GC 42.03(b), notification that the Work has been satisfactorily completed .

**GC 41.04** Upon receipt of a deficiency list issued pursuant to GC 41.03(a), the Contractor shall remedy all deficiencies noted, and, upon completion of that Work, may re-apply for Substantial Completion in accordance with GC 41.02.

**GC 41.05** The Letter of Substantial Completion may be withheld if the Contractor is in breach of any provision of the Contract. Only one Letter of Substantial Completion may be issued pursuant to the Contract.

**GC 42.00 TOTAL COMPLETION**

**GC 42.01** Total completion occurs when the Ministry Manager determines that the Contractor has completed all of its obligations under the Contract, with the exception of those related to the Warranty Period.

**GC 42.02** The Contractor may submit a written request for a Completion Certificate to the Ministry Manager.

**GC 42.03** Within seven (7) days of receipt of such a request, the Ministry Manager shall evaluate the Work, determine whether total completion has been attained, and either issue:

- (a) a deficiency list; or
- (b) a notification that the Work has been satisfactorily completed.

**GC 42.04** Upon receipt of a deficiency list issued pursuant to GC 42.03(a), the Contractor shall remedy all deficiencies noted, and, upon completion of that Work, may re-apply for a Completion Certificate in accordance with GC 42.02.

**GC 42.05** Upon receipt of a notification pursuant to GC 42.03(b), the Contractor shall submit the following to the Ministry Manager, in a form satisfactory to the Ministry Manager:

- (a) a [clearance letter](#) from the [Workers' Compensation Board](#) indicating that all current assessments due from the Contractor have been paid; and
- (b) a statutory declaration in the form required by the Ministry, attesting that
  - (i) the Contractor has performed all of its obligations to date under the Contract,
  - (ii) the Contractor certifies that the Work has been designed in substantial accordance with the Contract;
  - (iii) the Contractor certifies that the Work has been constructed in substantial accordance with the Design, the Standards and all codes, by-laws and regulations applicable to the Work; and
- (c) originals of the assurances for all aspects of the Work, executed in accordance with the Ministry's "[Engineer of Record and Field Reviews Guidelines](#)" as specified in the Ministry's Technical Circular T-06/09 or any amendment thereto.

**GC 42.06** Upon receipt of the documentation required under GC 42.05, the Ministry Manager shall issue the Completion Certificate.

**GC 42.07** Issuance of the Completion Certificate does not relieve the Contractor of any of its obligations under the Contract.

**GC 43.00 WARRANTY**

**GC 43.01** Notwithstanding any other provision of the Contract or the expiry or termination of the Contract, the Contractor agrees that upon earliest of the date of Substantial Completion, the Actual Completion Date or any earlier termination date, the Contractor warrants to the Ministry that:

- (a) the Design is free of deficiencies, including those arising from errors and omissions;
- (b) for a Warranty Period of two (2) years following the earliest of the date of the Substantial Completion, the Actual Completion Date or any early termination date, all Construction is free from any defect in materials and workmanship; and
- (c) the Contractor shall, upon notification by the Ministry, promptly and diligently remedy, at the Contractor's expense, any deficiencies that exist, to the satisfaction of the Ministry.

**GC 43.02** The Warranty Period for the whole or any portion of the Work may be extended by a Supplemental Agreement when, in accordance with GC 17.03, the Ministry Manager approves a variance from the Standards set out in the Contract.

**GC 43.03** For any Work incomplete at the time of Substantial Completion, upon Notice from the Ministry Manager itemizing the portion of incomplete Work and requiring a full warranty, the Contractor warrants to the Ministry for all such Work identified in the Notice that:

- (a) the Design is free of deficiencies, including those arising from errors and omissions;
- (b) for a Warranty Period of two (2) years following the Actual Completion Date of the Work all Construction is free from any defect in materials and workmanship; and
- (c) the Contractor shall, upon notification by the Ministry, promptly and diligently remedy, at the Contractor's expense, any deficiencies that exist, to the satisfaction of the Ministry.

**GC 44.00 NOTICES**

**GC 44.01** Except as provided in GC 44.02, any Notice shall be in writing.

**GC 44.02** In addition to the Notice required by GC 44.01 and GC 44.03, a verbal notice shall be given as soon as the party giving the notice becomes aware of the event or circumstances which give rise to the notice being given.

**GC 44.03** A Notice shall include all of the following information with respect to the event or circumstances giving rise to the Notice being given:

- (a) a full and detailed description of the event or circumstances;
- (b) the date upon which or the dates during which the event or circumstances is said to have occurred;
- (c) the date upon which the event or circumstances first came to the attention of the party giving Notice;
- (d) the claimed impact of the event or circumstances on the party giving Notice;
- (e) the clauses of the Contract relied upon by the party giving Notice; and
- (f) any proposed resolution.

**GC 44.04** Compensation for any claim made in a Notice shall be limited to unavoidable costs and time impacts arising directly from the event or circumstances reported.

**GC 44.05** In the event of the Contractor's failure to provide Notice within the Notice Period, the Contractor shall not be entitled to any compensation for unavoidable costs or time impacts unless the Ministry determines that it has not been prejudiced in its ability to either assess the Contractor's claim or to reasonably mitigate the impacts of such claim or circumstances giving rise to such claim by reason of the Contractor's failure.

**GC 44.06** Any Notice Period in the Contract commences on the earlier of the date that the Contractor:

- (a) first became aware of the event or circumstances giving rise to the Notice; and
- (b) ought reasonably to have been aware of the event or circumstances giving rise to the Notice.

**GC 44.07** The Notice Period for any Notice for which there is no specific Notice Period, shall be seven (7) days.

**GC 44.08** Upon delivery of a Notice the parties shall make reasonable efforts to resolve the issue presented by the Notice in accordance with the terms of GC 58.00.

**GC 45.00 CHANGE IN SCOPE**

**GC 45.01** A change in scope shall only be authorized through a Supplemental Agreement.

**GC 45.02** The Ministry may enter into a Supplemental Agreement with the Contractor in connection with a change in scope if:

- (a) the Contractor has given Notice to the Ministry Manager, not later than seven (7) days after the event giving rise to the request, providing Notice of the change in scope, details of the basis of the request, the cost impact, and a revised Project Schedule showing the effect of the event upon the critical path and the Contractor's requested compensation; and
- (b) the Ministry Manager, after investigating the conditions, considers that compensation for a change in scope is justified.

**GC 45.03** A Supplemental Agreement pursuant to GC 45.01 may, without limitation, do one or more of the following:

- (a) adjust the Contract Price;
- (b) adjust a Milestone Date;
- (c) adjust the date for Substantial Completion;
- (d) adjust the Completion Date; and
- (e) adjust the Project Schedule.

**GC 46.00 REIMBURSABLE DELAY**

**GC 46.01** "Reimbursable Delay" means any material cessation or suspension of the Work or any portion thereof caused by:

- (a) the Ministry, and includes, without limitation, any of the following:
  - (i) failure by the Ministry to deliver materials, equipment, or information in the conditions or within the time frame specified in the Special Provisions;
  - (ii) failure by the Ministry to provide a Ministry Representative; or
  - (iii) failure by the Ministry to provide access to the Site as reasonably contemplated in the Contract;
- (b) third parties, only for the following events:
  - (i) the establishment of an Environmental Window after the Closing Time;
  - (ii) failure to perform any Utility Relocation or other public works in a timely fashion that was unforeseeable by the Contractor;
  - (iii) failure of another Ministry contractor to perform its work in a timely fashion. and
  - (iv) a material change of any applicable law, code, statute or regulation.

**GC 46.02** The following events or any event listed in GC 46.01 that arises by reason of one of the following events are specifically excluded from the definition of "Reimbursable Delay":

- (a) adverse weather, acts of God, or other natural conditions;
- (b) preconsolidation and settlement of embankments, as may be contemplated in the Contract;
- (c) failure of the Contractor to comply with a Work Order;
- (d) strike (including, without limitation, illegal work stoppage or slow down), lockout, or other labour dispute, regardless of whether it is caused by a third party;
- (e) failure of the Contractor to comply with the Contract or any part or provision thereof;

- (f) failure of the Contractor to provide for the safety of the public or of any person carrying out the Work;
- (g) failure of the Contractor to protect the property of the Ministry;
- (h) defects in connection with the Project which are caused by the Contractor whether or not such defects are being rectified at the time;
- (i) quality control or quality assurance testing, inspecting, reviewing or auditing by any person of components of the Work for compliance with the Standards;
- (j) Utility Relocation work, except where a prior Reimbursable Delay has changed the timing of the actual Utility Relocation resulting in a material adverse effect on the Contractor's operations;
- (k) failure of the Contractor to discharge any responsibility it may have for protecting the environment; and
- (l) road restrictions.

**GC 46.03** A Reimbursable Delay ends on the earliest of:

- (a) the date on which the Ministry Representative issues a Resume Work Order requiring the Contractor to resume the Work;
- (b) the date on which the Contractor becomes aware, or should reasonably have become aware, that the condition or cause of the Reimbursable Delay is corrected; or
- (c) the date on which the Contractor resumes the portion of the Work impacted by the Reimbursable Delay.

**GC 46.04** The Contractor shall take all reasonable and necessary steps to minimize or avoid the costs and impacts of any Reimbursable Delay, to recover lost time and to resume, as soon as possible, performance of its obligations under the Contract and shall fully document the costs incurred.

**GC 46.05** Compensation for the Contractor for a Reimbursable Delay shall be limited solely to an Extension of Time in accordance with GC 48.00 and any approved payments under GC 52.00.

#### **GC 47.00 *CHANGE IN TAXES***

**GC 47.01** If prior to Completion Date a change occurs in any Sales Tax then the Contract Price shall be increased or decreased by an amount that is determined in the sole and absolute discretion of the Ministry to represent the amount that is demonstrably and directly attributable to that change in Sales Tax as set out in GC 47.03. For greater certainty for the purposes of the Contract, GST is not an applicable Sales Tax, and not included in the Contract Price.

**GC 47.02** Where the Contract Price is increased or decreased due to a change in Sales Tax, the costs of calculating the change in the Contract Price shall be borne by:

- (a) the Contractor where the Contract Price is increased; or
- (b) the Ministry where the Contract Price is decreased.

**GC 47.03** Where a Sales Tax increases or decreases, the change in the Contract Price shall be limited to those Sales Taxes accruing on or after the date of such decrease or increase on materials incorporated into the Work and to Sales Taxes on those items totally consumed by the Contractor in the process of and for the sole purpose of carrying out the Work.

**GC 47.04** An increase in Sales Tax shall be paid as a separate item to be added by the Ministry Representative to the progress estimate.

**GC 47.05** Where a Sales Tax decreases, the Ministry may set-off against progress payments or any other money payable to the Contractor, the amount calculated pursuant to GC 47.01.

**GC 47.06** The Contractor shall provide the Ministry with all information and documentation necessary, in the opinion of the Ministry Representative, to determine the amount by which the Contract Price is increased or decreased due to a change in Sales Tax.

**GC 48.00 EXTENSION OF TIME**

**GC 48.01** The Ministry may grant an Extension of Time for the impact on the Completion Date or on any Milestone Date of:

- (a) a change in scope as described in GC 45.00; or
- (b) a material delay, cessation or stoppage in the performance of the Work, or any part thereof, caused by any one or more of the following events:
  - (i) a Reimbursable Delay;
  - (ii) a strike (including, without limitation, illegal work stoppage or slow down), lockout, or other labour dispute;
  - (iii) an event arising in connection with conditions resulting from Abnormal or unexpected patterns of occurrence on the Site, including without limitation:
    - (A) Abnormal weather conditions,
    - (B) Abnormal river flow, or
    - (C) Abnormal road restrictions; or
- (c) any other event beyond the control of the Contractor resulting from conditions materially different from those indicated in the Tender Document Package at the Closing Time of the Tender to which this Contract relates which were not foreseen by the Contractor and which would not have been reasonably foreseeable by a reasonably experienced contractor who conducted a thorough investigation and inspection of the Site.

**GC 48.02** Notwithstanding GC 48.01, the Ministry shall only grant an Extension of Time where:

- (a) the Contractor has diligently proceeded with the Work;
- (b) the Contractor has applied all reasonable means to complete the Work by the Completion Date, or the portion thereof corresponding to the applicable Milestone Date; and
- (c) the event is not an Event of Default, or in connection with an Event of Default.

**GC 48.03** The Contractor may, not later than fourteen (14) days after the occurrence of any one of the events referenced in GC 48.01, submit to the Ministry Manager a Notice for an Extension of Time, specifying the event, describing how the requirements set out in GC 48.02 are satisfied, and proposing the period of time by which the Completion Date or the applicable Milestone Date, should be extended.

**GC 48.04** Not more than fourteen (14) days after receiving the Notice for an Extension of Time, the Ministry Manager shall deliver a written reply to the Contractor:

- (a) granting the Extension of Time for the time period proposed by the Contractor pursuant to GC 48.03; or
- (b) refusing the grant the Extension of Time and setting out the reasons for such refusal.

**GC 48.05** Forthwith upon receipt of any grant of an Extension of Time in writing from the Ministry Manager under GC 48.04(a), the Contractor shall obtain and deliver to the Ministry Representative, from each Surety and insurance company named in the Bonds or insurance, written consent to the Extension of Time and written confirmation that their respective Bonds or insurance remain in force, or the Contractor shall provide replacement Bonds or insurance, in accordance with the Contract.

**GC 48.06** Where a delay occurs because of two or more causes acting concurrently, one of which is the responsibility of the Contractor, and the other or others are the responsibility of the Ministry or a third party, then:

- (a) where the delay for which the Contractor is responsible commences first, no Extension of Time shall be granted for the period commencing when such delay first occurred and ending when the said cause of such delay ceases to operate;
- (b) where the delay for which the Ministry or a third party is responsible commences first, an Extension of Time shall, subject to GC 48.07 and GC 48.08, be granted for the period commencing when such delay first occurred and ending when the said cause of such delay ceases to operate; and
- (c) where the delay commences as a result of concurrent causes, then an Extension of Time shall, subject to GC 48.07 and GC 48.08, be granted in the amount of one-half (1/2) of the duration between the date of commencement of the delay until the time the first of any one of the concurrent causes ceases to operate.

**GC 48.07** An Extension of Time shall only be granted for the period of time that exceeds the available float time (the length of time an activity may be delayed without affecting completion by a Milestone Date or the Completion Date).

**GC 48.08** Notwithstanding GC 48.07, where, in the opinion of the Ministry Representative, a significant portion of the said float time has been consumed by events for which the Ministry is responsible and the Contractor subsequently suffers a delay which consumes more time than can be accommodated within the remaining float time, the Ministry may give consideration to granting an Extension of Time.

**GC 48.09** Unless otherwise agreed in writing by the Ministry Manager, no compensation shall be paid to the Contractor as a result of an Extension of Time.

#### **GC 49.00 PAYMENT**

**GC 49.01** Subject to the terms of the Contract, the Ministry shall pay the Contractor the Contract Price as full payment and reimbursement to the Contractor for all costs incurred for labour, materials, equipment and overhead including without limitation all applicable taxes, other than GST, required to perform the Work.

**GC 49.02** The Contractor shall invoice the Ministry not more frequently than monthly, in arrears, for the percentage of Work completed for each Item, in strict accordance with the Schedule of Prices, any applicable Work Orders and any agreed timetable for payments.

**GC 49.03** Each invoice under GC 49.02 must be accompanied by a signed and sealed endorsement by the Designer that a suitably qualified representative of the Designer has been to the Site to inspect the Work on a sufficient number of occasions, has reviewed the Quality Management documentation, and is satisfied that, based on the foregoing, the portion of the Work covered by the invoice has been constructed in accordance with the Design and the Standards and all other requirements of the Contract and is fit for the purpose intended by the Contract.

**GC 49.04** Payment for the Work, or any portion of the Work, is subject to the invoiced Work having been completed to the satisfaction of the Ministry Manager.

**GC 49.05** The Ministry Manager may, within fourteen (14) days of receipt of the Contractor's invoice, adjust the amount of any payment to reflect the Ministry Manager's estimate of Work satisfactorily performed as of the date of the invoice.

**GC 49.06** Provided the Contractor is not in default under any provision in the Contract, the Ministry shall pay the Contractor within thirty (30) days of the Ministry Manager accepting and adjusting, where necessary, the Contractor's invoice.

**GC 49.07** Notwithstanding payments pursuant to GC 58.00, the Contractor is responsible for performing the Work in accordance with the Contract. The Contractor acknowledges that payments do not represent a final evaluation or acceptance of the Work by the Ministry.

**GC 49.08** The Ministry will pay any applicable GST on any payments or reimbursements to the Contractor under the Contract. The documentation for such payments or reimbursements, whether prepared by the Ministry or the Contractor, shall show the calculation of the amount of the applicable GST as a separate line item.

**GC 49.09** The Ministry may set-off any consideration required to be paid by the Contractor from any current or future sums owed by the Ministry to the Contractor.

**GC 49.10** Notwithstanding any other provision in the Contract, no participation by the Ministry, or any person on behalf of the Ministry, shall give rise to a change in the Contract Price unless it has been set out in a Work Order or Supplemental Agreement signed by the Ministry Manager.

**GC 49.11** Notwithstanding any other provision of this Contract, the payment of money by the Ministry to the Contractor is pursuant to this Contract and is subject to the provisions of the [Financial Administration Act](#).

#### **GC 50.00 PROVISIONAL SUM ITEMS**

**GC 50.01** The Contractor shall not be entitled to any payment for Work against a Provisional Sum Item until the Ministry Representative has authorized that Work.

**GC 50.02** The Ministry shall not pay the Contractor for any portion of a Provisional Sum Item which has not been authorized by the Ministry Representative.

**GC 50.03** Any Provisional Sum Item for which no express method of payment is provided in the Contract shall be paid as authorized on the Work Order.

#### **GC 51.00 FORCE ACCOUNT**

**GC 51.01** The Contractor shall not be entitled to compensation for any Work performed on a Force Account Basis prior to written authorization of such Work from the Ministry Representative.

**GC 51.02** The Contractor shall submit a "[Daily Report for Extra Work](#)" to the Ministry Representative for any Work performed on a Force Account Basis no later than one day after such Work is performed.

**GC 51.03** Payment to the Contractor on a Force Account Basis shall be made subject to the terms of the Contract, including but not limited to GC 51.05 and shall be calculated as follows,

(a) for the cost of labour:

- (i) an amount equal to the actual wages and salaries, including payroll burden, paid directly by the Contractor in respect of labour and for supervisory personnel actively and necessarily engaged on the particular portion of Work on the Site, if supported by recorded time and hourly rates of pay for that labour and supervision, but not including any payment or costs paid for operators of All Found Equipment, the Contractor Manager and Contractor Representative(s) or their delegates under GC 6.05, administration, or management time spent on the portion of Work; and
- (ii) an amount for small tool allowance, plus any other similar items which the Ministry Representative considers appropriate;
- (iii) plus an amount equal to twenty percent (20%) of the total costs referred to in GC 51.03(a)(i) and GC 51.03(a)(ii) in respect of the related costs and expenses described in GC 51.06;

- (b)** for food and lodging:

  - (i)** an amount equal to the actual reasonable costs paid directly by the Contractor in respect of food and lodging for labour and for supervisory personnel actively and necessarily engaged on the particular Item,
  - (ii)** plus ten percent (10%) of such costs in respect of the related costs and expenses described in GC 51.06;
- (c)** for materials supplied:

  - (i)** an amount equal to the actual cost of materials supplied by the Contractor at invoice cost (which includes all freight and express charges, all applicable taxes, and all other costs incurred to supply the materials to the Site),
  - (ii)** plus ten percent (10%) of such costs in respect of the related costs and expenses described in GC 51.06;
- (d)** for Equipment:

  - (i)** the applicable Equipment Rental Rate for equipment approved by the Ministry Representative prior to its use;
  - (ii)** for equipment brought to the Site for the sole purpose of being used to perform Work to be paid on a Force Account Basis, where both the equipment and its point of hire are approved in writing in advance by the Ministry Representative, a mobilization / demobilization allowance in an amount equal to,

    - (A)** where the equipment is used for less than 8 hours in total, the actual transportation costs properly incurred by the Contractor, or
    - (B)** where the equipment is used for 8 hours or more in total, that portion of the transportation costs properly incurred by the Contractor (if any) which exceeds the amount which is five percent (5%) of the payments made to the Contractor for the equipment under GC 51.03(d)(i),
  - (iii)** plus an amount equal to fifteen percent (15%) of the total amounts referred to in GC 51.03(d)(i) and GC 51.03(d)(ii) in respect of the related costs and expenses described in GC 51.06;
- (e)** for preparatory work, provided that the payment is approved in writing by the Ministry Representative prior to the preparatory work being performed:

  - (i)** an amount equal to the actual costs to the Contractor of preparatory work performed by the Contractor including, without limitation, assembly, set-up and tear-down of specialized equipment, transportation of tools and the Contractor's personnel travel time (when personnel travel time is included pursuant to a collective agreement),
  - (ii)** plus fifteen percent (15%) of such costs in respect of the related costs and expenses described in GC 51.06; and
- (f)** where the Work being conducted on a Force Account Basis is performed by a Subcontractor, the compensation due to the Contractor will be:

  - (i)** equal to the costs properly incurred by the Subcontractor, rather than by the Contractor, under GC 51.03(a)(i), GC 51.03(b)(i), GC 51.03(c)(i), GC 51.03(d)(i), GC 51.03(d)(ii), and GC 51.03(e)(i);
  - (ii)** plus the additional allowance under GC 51.03(a)(ii) and the mark-ups under GC 51.03(a)(iii), GC 51.03(b)(ii), GC 51.03(c)(ii), GC 51.03(d)(iii), and GC 51.03(e)(ii); and

(iii) where the Subcontractor is at arms length to the Contractor, as determined in the Ministry's sole discretion, including without limitation where:

- (A) the Subcontractor is not affiliated with the Contractor,
- (B) if the Contractor is a joint venture, the Subcontractor is not a venturer, or affiliated with a venturer, in that joint venture, or
- (C) the Contractor is a partnership, the Subcontractor is not a partner, or affiliated with a partner, in that partnership,

(as 'affiliated' is defined pursuant to Section 2 of the [Business Corporations Act](#)), the Ministry shall pay the Contractor an additional amount equal to five percent (5%) of the total of all payments specified in GC 51.03(f)(i) and GC 51.03(f)(ii) subject to a cumulative maximum of fifty thousand dollars (\$50,000) exclusive of GST over the Term.

**GC 51.04** When the cumulative entitlement to payment for Work performed on a Force Account Basis in accordance with GC 51.03 equals twenty-five percent (25%) of the Tender Price, then payment for all further entitlements for Force Account Work performed on the following or subsequent days shall be calculated in accordance with GC 51.05.

**GC 51.05** For Work performed on a Force Account Basis in the circumstances described in GC 51.04:

- (a) the costs claimed shall be limited to those incurred on the Site;
- (b) the mark-up percentage specified in GC 51.03(a)(iii) shall be reduced to twelve and one-half (12.5%);
- (c) the mark-up percentage specified in GC 51.03(d)(iii) shall be reduced to zero percent (0%); and
- (d) the mark-up percentage specified in GC 51.03(e)(ii) shall be reduced to ten percent (10%).

**GC 51.06** Unless otherwise provided for in the Contract, payment on a Force Account Basis represents complete payment (exclusive of GST) and reimbursement for all impacts and related costs and expenses, including, without limitation: time; labour; materials; equipment; mobilization; subcontracting; overhead; profit; general supervision; occupational tax and any other Federal or Provincial revenue legislation exclusive of GST; premiums for public liability and property damage insurance policies; bonding; for the use of all tools and equipment for which no specific rental payment provision exists; and for all costs incurred by the Contractor in supplying the materials.

**GC 51.07** Standby and overtime are not compensable for Work paid on a Force Account Basis unless agreed to in advance by the Ministry Manager.

**GC 51.08** The Contractor shall not be eligible for payment for any part of Force Account Basis Work that is not recorded in accounting records as to the resources and hours attributable to the specific Work.

**GC 51.09** The accounting records shall not establish entitlement to compensation.

**GC 52.00 *COMPENSATION FOR REIMBURSABLE DELAY***

**GC 52.01** The Contractor may claim compensation for a Reimbursable Delay by:

- (a) not later than seven (7) days following the start of a Reimbursable Delay, giving Notice to the Ministry Manager of the intention of the Contractor to make a claim together with detailed reasons for the claim;
- (b) notifying the Ministry Manager in writing as to its claim for compensation not later than seven (7) days after the Contractor's resumption of Work on the Project; and,

- (c) not later than thirty (30) days after the resumption of Work, giving the Ministry Manager full written particulars of the nature and magnitude of the Claim including, without limitation, the following claim documentation,
  - (i) a description of the basis for the Reimbursable Delay citing the specific provision of the Contract under which the claim is being brought,
  - (ii) a list of all equipment on the Site as a result of the Reimbursable Delay,
  - (iii) a list of any equipment moved to other locations during the Reimbursable Delay,
  - (iv) a list of the Contractor's supervisory staff at the Site before and after the Reimbursable Delay began and details of applicable pay rates,
  - (v) a schedule of equipment operator costs,
  - (vi) the most recent Project Schedule prior to the Reimbursable Delay and the impact of the Reimbursable Delay thereon, and
  - (vii) any other documents requested by the Ministry Manager.

**GC 52.02** If a Reimbursable Delay occurs and the Contractor complies with GC 52.01, the Ministry shall, subject to the terms of the Contract, pay the Contractor only the following direct costs which in the opinion of the Ministry Manager were necessarily and properly incurred and documented by the Contractor pursuant to GC 46.04:

- (a) costs of supervisory staff committed to the Project, excluding costs of time paid for greater than eight (8) hours in any one day and excluding costs for Saturdays, Sundays and Holidays;
- (b) costs of labour (other than supervisory staff), including All Found Equipment operators, approved in writing by the Ministry Manager;
- (c) costs of equipment for equipment idled by the Reimbursable Delay determined as
  - (i) in the case of equipment owned or leased on a long-term basis by the Contractor
    - (A) for the first twenty-one (21) continuous days only the number of hours that the equipment was idle, subject to a maximum of eight (8) hours per work day and excluding Saturdays and Holidays, multiplied by the Bare Equipment Rates for such idle equipment, and
    - (B) for the twenty-second (22) continuous day and all subsequent work days excluding Saturdays and Holidays, the actual loss which the Contractor demonstrates is wholly attributable to the Reimbursable Delay where the Contractor demonstrates that an actual loss was suffered by the Contractor with respect to other work being available to the Contractor which the Contractor was precluded from carrying out as a result of the costs of moving such idled equipment to the site of such other work,
  - (ii) in the case of rented equipment leased on a short term basis, the incremental actual rental costs that are wholly attributable to the Reimbursable Delay, and
  - (iii) in the case of hired equipment, the equipment idle time, to a maximum of three (3) days, to a maximum of eight (8) hours per work day and excluding Saturdays and Holidays, multiplied by the Bare Equipment Rates;
- (d) five percent (5%) of the sum GC 52.02(a), GC 52.02(b) and GC 52.02(c), as overhead;
- (e) reasonable board and lodging costs for supervisory and other staff authorized under GC 52.02(a) and GC 52.02(b);

- (f) increases in material costs wholly attributable to the Reimbursable Delay, if an Extension of Time has been granted pursuant to GC 48.00; and
- (g) the reasonable costs of moving idled equipment off and back to, the Site where the anticipated costs of moving the idled equipment would be less than anticipated costs which would be incurred pursuant to GC 52.02(c).

**GC 52.03** The Ministry shall not pay the Contractor for equipment that is inoperative due to breakdown or for idled equipment which was not in use when the Reimbursable Delay started.

**GC 53.00 CONSEQUENTIAL LOSSES**

**GC 53.01** Under no circumstances shall the Contractor be entitled to any compensation or payment not specifically provided for in the Contract including, without limitation, any payment for loss of profits or consequential damage or loss.

**GC 54.00 HOLDBACK**

**GC 54.01** Subject to GC 54.02 and GC 55.04, the Ministry shall retain from each payment a holdback equal to five percent (5%) of the amount approved by the Ministry Manager for payment by the Ministry to the Contractor in accordance with GC 49.00 (the "Holdback").

**GC 54.02** The Ministry may, in the sole discretion of the Ministry, accept from the Contractor a substitute security, in a form and content satisfactory to the Ministry, in place of the Holdback, in which case the substitute security is deemed to be the Holdback.

**GC 54.03** The Ministry shall not pay interest or other charges on any amounts retained pursuant to GC 54.01 or GC 54.02.

**GC 55.00 INTERIM HOLDBACK RELEASE**

**GC 55.01** In the sole discretion of the Ministry and subject to the terms and conditions of the Contract, the Ministry may release, one time only, a portion of the Holdback in accordance with GC 55.02, no sooner than the Ministry determines that all of the following conditions have been met:

- (a) the Ministry Manager has issued a Letter of Substantial Completion;
- (b) the Contractor has provided to the Ministry a [clearance letter](#) from the [Workers' Compensation Board](#) indicating that all current assessments due from the Contractor have been paid;
- (c) the Contractor has provided an updated Valid Tax Verification Letter, if requested by the Ministry; and
- (d) the Contractor has provided to the Ministry the applicable executed statutory declaration in the format set out in the [Design Build Standard Specifications](#).

**GC 55.02** An interim Holdback release shall be in the amount of the Holdback less two times the cost to complete the Work as estimated by the Ministry Manager. This amount shall be retained until such time as the conditions in GC 55.01 have been satisfied.

**GC 55.03** If the Ministry has accepted a substitute form of security pursuant to GC 54.02 or if the Ministry Manager has issued a notification pursuant to GC 41.03(c) no portion of the security shall be released until the satisfaction of all conditions in GC 56.01.

**GC 55.04** In the event of an interim Holdback release, the Ministry shall discontinue retaining Holdbacks from all subsequent payments.

**GC 56.00 FINAL HOLDBACK RELEASE**

**GC 56.01** Subject to the terms and conditions of the Contract, the Ministry shall release the Holdback within sixty (60) days following the date of written acknowledgment by the Ministry that all of the following conditions have been satisfied:

- (a) the Ministry Manager has issued a Completion Certificate;
- (b) the Contractor has provided to the Ministry a further [clearance letter](#) from the [Workers' Compensation Board](#) indicating that all current assessments due from the Contractor have been paid;
- (c) the Contractor has provided an updated Valid Tax Verification Letter, if requested by the Ministry; and
- (d) the Contractor has provided to the Ministry the applicable originally executed statutory declaration in the format set out in the [Design Build Standard Specifications](#).

#### **GC 57.00 APPROPRIATION**

**GC 57.01** Notwithstanding any other provision of the Contract, the obligation of the Ministry to pay money to the Contractor under the Contract is subject to:

- (a) there being sufficient monies available in an Appropriation to enable the Ministry, in any fiscal year or part thereof when any payment of money by the Ministry to the Contractor falls due under the Contract, to make that payment; and
- (b) Treasury Board, as defined in the [Financial Administration Act](#), not having controlled or limited expenditure under any appropriation referred to in GC 57.01(a).

#### **GC 58.00 DISPUTE RESOLUTION**

**GC 58.01** A dispute occurs between the Ministry and the Contractor when a difference exists between the parties as to the interpretation, application, or administration of the Contract.

**GC 58.02** If a dispute occurs, the Contractor shall abide by the Ministry's decision with respect to the dispute, proceed diligently with the Work, without prejudice to the Contractor's right to advance any Claim it may wish to assert with respect to the dispute, and closely track all costs and impacts associated therewith.

**GC 58.03** The Ministry and the Contractor agree that, both during and after the performance of the Work, each of them shall:

- (a) make bona fide efforts to resolve any dispute arising between them by negotiation; and
- (b) provide frank, candid, and timely disclosure of all relevant facts, information, and documents to facilitate the resolution of any dispute.

**GC 58.04** The Contractor Representative shall give the Ministry Representative Notice of a dispute within seven (7) days of the event which gives rise to the dispute.

**GC 58.05** If the Ministry Representative and the Contractor Representative fail to resolve the dispute, the Contractor Representative shall file a statement of dispute with the Ministry Representative no later than fourteen (14) days after the date of the Notice given pursuant to GC 58.04, which statement of dispute shall update the information provided in the Notice to reflect any changes in the Contractor's position or proposed resolution and provide any additional information that may assist in the resolution of the dispute.

**GC 58.06** The Ministry Representative shall provide a written reply to the Contractor's statement of dispute within fourteen (14) days of receiving the information specified in GC 58.05. The Ministry Representative's reply shall provide the Ministry's position in trying to resolve the dispute.

**GC 58.07** If the dispute remains unresolved, the Contractor shall give a Written Protest respecting the dispute to the Ministry Representative no later than thirty (30) days following the date of the Ministry Representative's reply pursuant to GC 58.06. The Written Protest shall include, without limitation:

- (a) a response to each point raised in the Ministry Representative's reply as provided pursuant to GC 58.06;

- (b) relevant provisions of the Contract;
- (c) relevant cost estimates; and
- (d) estimates of any resulting changes to Schedule 5 - Time Schedule.

**GC 58.08** The Ministry Representative shall give a written decision to the Contractor no later than forty-five (45) days following receipt by the Ministry Representative of the Written Protest described in GC 58.07 either:

- (a) accepting the position of the Contractor as set out in the Written Protest, in which case the Ministry shall enter into a Supplemental Agreement, as necessary;
- (b) making an offer to the Contractor to settle the dispute as set out in the Written Protest by entering into a Supplemental Agreement, as necessary; or
- (c) addressing each point in the Contractor's protest and rejecting the position of the Contractor as set out in the Written Protest.

**GC 58.09** A Supplemental Agreement entered into pursuant to GC 58.08, constitutes full and final settlement of the dispute.

**GC 58.10** If the dispute is not resolved pursuant to GC 58.08, the Contractor shall, within thirty (30) days of the date of the Ministry Representative's written decision, provide the Ministry Representative with

- (a) Notice of intent to pursue a Formal Claim pursuant to GC 59.00; or
- (b) Notice that the Contractor requests a Referee in lieu of GC 59.00 and GC 60.00.

**GC 58.11** The services of a Referee invoked pursuant to GC 58.10(b) or GC 59.05(b) shall be provided in accordance with the Supplemental General Conditions, or where the Supplemental General Conditions do not contain provisions for a Referee, the Ministry's standard Referee Services Agreement.

#### **GC 59.00 *FORMAL CLAIM***

**GC 59.01** If the dispute is not resolved by the decision of the Ministry Representative, pursuant to GC 58.08, and the Contractor has provided the Notice of intent pursuant to GC 58.10, the Contractor Manager may file a Formal Claim with the Ministry Manager no later than ninety (90) days following the issuance of the Completion Certificate.

**GC 59.02** A Formal Claim shall be in writing, and shall set out sufficient detail the particulars of the dispute so as to reasonably enable the Ministry Manager to ascertain the basis and the amount of the dispute. A Formal Claim shall include the following information:

- (a) Project and contract number;
- (b) description of the Work;
- (c) detailed description of the dispute providing all necessary dates, location, and Items affected by the Formal Claim;
- (d) date on which the circumstances which gave rise to the Formal Claim arose;
- (e) name of each official or employee of the Ministry involved in or knowledgeable about the Formal Claim;
- (f) relevant provisions of the Contract which support the Formal Claim and the reasons therefor;
- (g) in the case of a Formal Claim relating to a decision of the Ministry Representative, a detailed description of all of the relevant facts supporting the position of the Contractor in connection with that decision;

- (h) identification of any documents and particulars of any oral communications that support the Formal Claim;
- (i) copies of any documents identified pursuant to GC 59.02(h), other than documents of the Ministry and documents previously furnished to the Ministry by the Contractor, that support the Formal Claim;
- (j) if the Contractor seeks a modification to Schedule 5 - Time Schedule, the Contractor shall provide the particulars of the modification as well as the reasons therefor;
- (k) if the Contractor seeks additional compensation, the exact amount and a breakdown of that amount shall be separated into the following categories:
  - (i) direct labour;
  - (ii) direct materials;
  - (iii) direct Contractor and Subcontractor equipment with rates claimed for each described piece of equipment based on hours and dates of use and calculated in accordance with the Equipment Rental Rates (Without Operator); and
  - (iv) direct All Found Equipment with rates claimed for each described piece of equipment based on the hours and dates of use and calculated in accordance with the Equipment Rental Rates;
  - (v) overhead (general and administrative);
  - (vi) claims of Subcontractors in detail as described in this paragraph;
  - (vii) standby; and
  - (viii) other categories, if specified by the Contractor or the Ministry.

**GC 59.03** The Ministry Manager shall give a written decision to the Contractor Manager no later than ninety (90) days after receiving the Formal Claim stating either that:

- (a) the Ministry accepts the position of the Contractor as set out in the Formal Claim, in which case the Ministry shall enter into a Supplemental Agreement;
- (b) the Ministry makes an offer to the Contractor to settle the Formal Claim by entering into a Supplemental Agreement; or
- (c) the Ministry rejects the position of the Contractor as set out in the Formal Claim.

**GC 59.04** A Supplemental Agreement entered into pursuant to GC 59.03 constitutes full and final settlement of the Formal Claim.

**GC 59.05** If the decision of the Ministry Manager does not resolve the dispute, the Contractor may, no later than thirty (30) days following receipt of the decision:

- (a) file a written appeal to the Deputy Minister in accordance with GC 60.00 ;
- (b) refer the dispute to a Referee, in accordance with GC 58.11; or
- (c) refer the dispute directly to arbitration in accordance with GC 61.00.

#### **GC 60.00 APPEAL**

**GC 60.01** The Deputy Minister shall give a written decision to the Contractor no later than sixty (60) days following receipt by the Deputy Minister of the appeal described in GC 59.05, stating that:

- (a) the decision of the Ministry Manager, pursuant to GC 59.03, is reversed, in which case the Ministry shall enter into a Supplemental Agreement, as necessary; or,
- (b) the decision of the Ministry Manager, pursuant to GC 59.03, is affirmed.

**GC 60.02** A Supplemental Agreement entered into pursuant to GC 60.01 constitutes a full and final settlement of the Formal Claim.

**GC 60.03** If the decision of the Deputy Minister does not resolve the dispute, the Contractor may, no later than thirty (30) days following receipt of the decision, refer the dispute to arbitration.

**GC 61.00 *ARBITRATION***

**GC 61.01** If the dispute is not resolved in accordance with GC 60.00 or in lieu of an appeal to the Deputy Minister as described in GC 60.00, the dispute shall be referred to and finally resolved by binding arbitration:

- (a) by a single arbitrator appointed by the parties;
- (b) at a place agreed to by the parties; and
- (c) unless the parties agree otherwise, under the [rules](#) of the [Vancouver International Arbitration Centre](#) for the conduct of domestic commercial arbitration.

**GC 62.00 *DEFAULT***

**GC 62.01** Any of the following events shall constitute an Event of Default whether the event is voluntary, involuntary, or results from the operation of law or any judgment or order of any court, administrative or government body:

- (a) an order is made, resolution passed, or petition filed, for the liquidation or winding up of the Contractor;
- (b) the Contractor becomes insolvent, commits an act of bankruptcy, makes an assignment for the benefit of its creditors, or otherwise acknowledges its insolvency;
- (c) a bankruptcy petition is filed against, or a proposal under the [Bankruptcy and Insolvency Act](#) is made by, the Contractor;
- (d) a receiver or receiver-manager of any property of the Contractor is appointed;
- (e) the Contractor ceases, in the opinion of the Ministry, to carry on business as a going concern;
- (f) a floating charge granted by the Contractor crystallizes or becomes enforceable or any other action is taken to enforce any charge granted by the Contractor;
- (g) the Contractor fails to perform any of its obligations or breaches any term or provision of the Contract;
- (h) the Contractor fails to give Notice to the Ministry, specifying particulars, that there has occurred or is continuing a default under the Contract;
- (i) any representation or warranty made by the Contractor in the Contract is materially incorrect;
- (j) any information, or document furnished by or on behalf of the Contractor to the Ministry in connection with the Tender or as a result of the Contract is materially incorrect;
- (k) there is any bona fide proceeding, pending or threatened against the Contractor, which would, in the opinion of the Ministry Manager, if successful, materially adversely affect the ability of the Contractor to fulfill its obligations under the Contract;
- (l) a change occurs with respect to the property or business of the Contractor which, in the opinion of the Ministry Manager, materially adversely affects the ability of the Contractor to fulfill its obligations under the Contract; and
- (m) the Contractor permits any sum pertaining to the Work to remain unpaid, which it does not in good faith dispute to be due from it, after legal proceedings have been commenced to enforce payment thereof.

**GC 62.02** On the occurrence of an Event of Default, or at any time thereafter the Ministry may, in addition to any other remedy to which the Ministry may be entitled, deliver written Notice to the Contractor specifying the Event of Default and the Ministry may, at its option, elect to carry out any one or more of the following:

- (a) pursue any remedy available to it at law or in equity;
- (b) subject to the approval of the Ministry manager, retain any payment or any part of any payment due to the Contractor under the Contract, including any sums currently being held-back by the Ministry and any other amount which the Ministry Representative reasonably believes, on the basis of information available to the Ministry Representative, reflects an estimate of the costs, expenses or liabilities which the Contractor has saved or not incurred as a consequence of the Event of Default;
- (c) notify the Surety that the Contractor is in default under the Contract;
- (d) take all actions in its own name or in the name of the Contractor including, without limitation, taking ownership of the Project Material, taking steps, procuring material, equipment, and labour and carrying out any activities that, in the opinion of the Ministry Manager, are reasonably required to rectify the Event of Default, in which case any payments, costs and expenses incurred by the Ministry in remedying the Event of Default shall be payable by the Contractor to the Ministry on demand, and the Ministry may set off against any sums owing by the Ministry to the Contractor, including any amount retained as a holdback under GC 62.02(b);
- (e) by Notice to the Contractor suspend the rights and obligations of the Contractor under the Contract, in whole or in part;
- (f) waive the Event of Default in writing and on such conditions as the Ministry Manager may determine;
- (g) provide Notice to the Contractor stating that it is in default under the Contract, providing a summary of the Event of Default and the time period in which the Event of Default must be remedied; and
- (h) terminate the Contract.

**GC 62.03** If any amounts have been retained as a holdback by the Ministry in accordance with GC 62.02(b) or GC 62.02(d), the subject funds shall continue to be retained and shall be dealt with as follows:

- (a) where the Event of Default has been cured or remedied by the Contractor to the satisfaction of the Ministry with such time period as may be specified by the Ministry, then the Ministry shall pay the amount previously retained by the Ministry to the Contractor less any amount which the Ministry Representative reasonably believes, on the basis of information available to the Ministry Representative, reflects an estimate of the costs, expenses or liabilities which the Ministry has incurred as a consequence of the Event of Default;
- (b) where in the Ministry's reasonable opinion, the Event of Default is not curable, or has not been remedied by the Contractor to the satisfaction of the Ministry within such time period as may be specified by the Ministry, then the Ministry may, at its option, keep the amount retained in reduction for payment otherwise payable to the Contractor under the Contract; and
- (c) no interest shall be calculated or paid by the Ministry with respect to any amount being retained by the Ministry in accordance with GC 62.02(b).

**GC 62.04** The rights, powers, and remedies conferred on the Ministry under GC 62.02 and GC 62.03 are not intended to be exclusive and each right, power and remedy referred to therein shall be cumulative and are in addition to and not in substitution for any other right, power or remedy existing

or available to the Ministry under the Contract, at law, or in equity, and the exercise by the Ministry of any right, power or remedy shall not preclude the simultaneous or later exercise by the Ministry of any other right, power or remedy.

**GC 62.05** No failure or delay on the part of the Ministry to complain of or provide Notice to the Contractor of any act or failure on the part of the Contractor, or to declare the Contractor in default under GC 62.01, irrespective of how long such act or failure or Event of Default has continued, shall constitute a waiver by the Ministry of its rights hereunder.

**GC 63.00 *TERMINATION FOR REASONS OTHER THAN DEFAULT***

**GC 63.01** Notwithstanding any other provision of the Contract, the Ministry may at any time, upon giving thirty (30) days prior Notice to the Contractor, terminate the Contract.

**GC 63.02** Subsequent to receipt of Notice from the Ministry pursuant to GC 63.01, the Contractor shall only proceed with those portions of the Work specifically authorized in writing by the Ministry Manager.

**GC 63.03** Upon termination of the Contract in accordance with GC 63.01, the Ministry shall have no further obligation to the Contractor except to pay to the Contractor:

- (a) the amount the Contractor is entitled to for Work satisfactorily completed on the Project to the date of termination; and
- (b) other actual expenses of the Contractor, such as demobilization and compensation for unrecovered actual fixed expenses which are, in the opinion of the Ministry, reasonable in the circumstances.

**GC 64.00 *TERMINATION BY THE CONTRACTOR***

**GC 64.01** The Contractor may by giving Notice to the Ministry Manager, declare the Ministry in default of the Contract for any of the following reasons:

- (a) the Ministry has failed to pay the Contractor within sixty (60) days of the date that any payment becomes due to the Contractor in accordance with the terms of the Contract, unless the Ministry is bona fide disputing liability to make such payment and has provided Notice to the Contractor of the basis for its dispute;
- (b) the Ministry has failed to substantially supply the Site to the Contractor, subject to any property availability restrictions identified in the Contract, within sixty (60) days following the Site Occupation Date proposed by the Contractor in the Project Schedule or otherwise amended pursuant to the Contract.

**GC 64.02** On the happening of a default described in GC 64.01, the Contractor shall either waive the default or specify in writing a seven (7) day rectification period within which the Ministry shall remedy the event.

**GC 64.03** If the Ministry fails to remedy the default within the rectification period or any extension thereof established in accordance with GC 64.02, the Contractor may:

- (a) extend or further extend the rectification period; or
- (b) terminate the Contract

within seven (7) days of the end of the rectification period, or, notwithstanding GC 77.00, shall be deemed to have waived the default.

**GC 64.04** If the Contractor terminates the Contract in accordance with GC 64.03, the Contractor is entitled to be paid:

- (a) in accordance with the terms of the Contract for all Work satisfactorily performed to the date of termination; and
- (b) reasonable costs of termination of all of the Contractor's obligations to other parties.

**GC 65.00 RECORDS**

**GC 65.01** The Contractor shall, in connection with the Contract:

- (a) establish and maintain, at a location within British Columbia, accurate books of account and records (including supporting documents) to the satisfaction of the Ministry;
- (b) forthwith following the request of the Ministry, give written particulars of the location of the books of account and records; and
- (c) permit the Ministry at any time during normal business hours, to copy and audit any one or more of the books of account or records (including supporting documents),

for three (3) years following the end of the Term or until the date any proceeding, claim, dispute, audit, arbitration, or litigation arising in connection with the Project is resolved or completed, whichever is later.

**GC 65.02** The Contractor shall permit the Ministry at all reasonable times during the Term to inspect, and copy any or all of the Project Material.

**GC 66.00 REPORTS**

**GC 66.01** The Contractor shall, upon the request of the Ministry, cooperate with the Ministry to:

- (a) fully inform the Ministry of Work done and to be done by the Contractor including information related to the Contractor's performance of its obligations under the Contract and, if requested by the Ministry, submit that information in writing; and
- (b) permit the Ministry at all reasonable times to inspect and copy any findings, data, specifications, drawings, working papers, reports, documents and material, whether complete or otherwise, that have been produced, received or acquired by the Contractor or provided by or on behalf of the Ministry to the Contractor as a result of the Contract.

**GC 67.00 AUDIT**

**GC 67.01** The Ministry may, in its sole discretion, conduct an audit of the Contractor and has all powers necessarily incidental to conducting an audit including, without limitation, the right to inspect and take copies of the books and records of the Contractor in connection with the Contract upon reasonable notice and at reasonable times.

**GC 67.02** Without limiting the generality of GC 67.01, the Contractor shall make available to any auditors of the Ministry all information concerning the Project including, without limitation, the following:

- (a) daily time sheets and supervisors' daily reports and diaries;
- (b) insurance, welfare, and benefits records;
- (c) payroll registers and tax forms;
- (d) material invoices and requisitions;
- (e) material cost distribution worksheets;
- (f) equipment records (including, without limitation, hours of use and distribution);
- (g) invoices from vendors, rental agencies, Subcontractors, suppliers of All Found Equipment and agents;

- (h) payment certificates of Subcontractors, suppliers of All Found Equipment, and agents;
- (i) cancelled cheques (payroll and vendors);
- (j) all documents relating to every Formal Claim; and
- (k) worksheets used to establish the cost components for all items of each Formal Claim.

**GC 67.03** The Contractor shall fully cooperate with and assist the Ministry, as necessary, to conduct an audit pursuant to GC 67.01 and GC 67.02.

**GC 68.00 CONFIDENTIALITY**

**GC 68.01** The Contractor shall treat as confidential and shall not, without the prior written consent of the Ministry, publish or disclose or permit to be published or disclosed, any information supplied to, obtained by, or which comes to the knowledge of the Contractor as a result of the Contract except insofar as such publication or disclosure is required by law or is necessary to enable the Contractor to fulfill any obligations that the Contractor may have under the Contract.

**GC 68.02** Any documentation relating to the Project that is in the custody or under the control of the Ministry is subject to the [Freedom of Information and Protection of Privacy Act](#).

**GC 68.03** Unless otherwise stated in the Contract and subject to [Freedom of Information and Protection of Privacy Act](#), all information submitted by the Contractor to the Ministry shall be considered confidential during the Term and the Ministry shall not, without the prior written consent of the Contractor, publish or disclose the information, except insofar as the publication or disclosure is required by law.

**GC 68.04** Notwithstanding GC 68.03, the Ministry may use any such information for the purposes of administration, analysis of and cost estimation of this and other projects and may disclose such information to its consultants for that purpose.

**GC 69.00 ANNOUNCEMENTS**

**GC 69.01** The Contractor shall not make any public announcement relating to the Project or the Contract without the prior written approval of the Ministry Manager or as otherwise authorized in the Special Provisions.

**GC 69.02** The Contractor acknowledges that the Ministry may, in its discretion and without consultation with the Contractor, make any public announcement relating to the Project.

**GC 70.00 PROVINCIAL PROPERTY**

**GC 70.01** Any property provided by or on behalf of the Ministry to the Contractor as a result of the Contract is the exclusive property of the Ministry. The Contractor shall deliver the property to the Ministry forthwith following the Completion Date or earlier termination of the Contract.

**GC 70.02** The Ministry may, prior to the Completion Date or earlier termination of the Contract, give written notice to the Contractor requiring the Contractor to deliver to the Ministry the property or any part of the property, in which event the Contractor shall forthwith comply with the request.

**GC 70.03** The Contractor assigns all ownership rights, including copyrights, in the Project Material to the Ministry and shall deliver to the Ministry the Project Material upon the earlier of a demand by the Ministry, and the End Date or prior termination of the Contract.

**GC 70.04** The Contractor shall obtain, and forward to the Ministry with the Project Material, a waiver of moral rights from each individual who has created any portion of the requested Project Material.

**GC 71.00 ENTIRE CONTRACT**

**GC 71.01** The Ministry and the Contractor acknowledge and agree that the Contract represents the entire contract and agreement between the Contractor and the Ministry and that the Contractor has not relied upon or been induced by any representation, promise or warranty whatsoever by the Ministry or any officer, employee or agent of the Ministry, in entering into the Contract or with respect to the Work, other than as set out in the Contract.

**GC 71.02** Each Schedule, Appendix, Amendment and any Supplemental General Conditions attached to the Contract is an integral part of the Contract as if set out at length in the body of the Contract.

**GC 72.00 AMENDMENTS**

**GC 72.01** The Contract may only be amended by a duly executed Supplemental Agreement

**GC 73.00 ADDRESS FOR NOTICES**

**GC 73.01** Any written notice, including a Notice, document, or payment desired or required to be given, delivered or made under the Contract will be conclusively deemed validly given, delivered or made to and received by the addressee, for the purposes of any time restrictions of the Contract, :

- (a) if delivered personally to the addressee, on the date of delivery, or
- (b) if mailed in Canada with postage prepaid addressed to the party at the address set out on the execution page of the Contract, on the third day after its mailing, except in the event of disruption of postal services in Canada in which case it is deemed received by the addressee when actually delivered to the address for the addressee or as changed pursuant to GC 73.03.

**GC 73.02** Any notice or document desired or required to be given under the Contract may be transmitted by facsimile transmission from either party and will be conclusively deemed validly given to and received by the intended recipient, for the purposes of any time restrictions of the Contract, when so transmitted to the numbers set out on the execution page.

**GC 73.03** Either party may from time to time notify the other party in writing of a change in address, for the purposes of GC 73.01, or a change in facsimile number, for the purposes of GC 73.02, and the change in address or facsimile number will be effective upon receipt of the notice.

**GC 74.00 CONFLICT OF INTEREST**

**GC 74.01** The Contractor shall not, during the Term, perform a service or provide advice or information to any party where that service, advice, or information may or does, in the opinion of the Ministry Manager, give rise to a conflict of interest between the obligations of the Contractor to the Ministry under the Contract and the obligations of the Contractor to any other party.

**GC 75.00 FURTHER ASSURANCES**

**GC 75.01** Each of the parties shall, upon the reasonable request of the other, do or cause to be done all further things for the better performance of the Contract.

**GC 76.00 DUTY TO MITIGATE**

**GC 76.01** The Contractor shall take all reasonable and necessary steps to minimize and avoid all costs and impacts arising out of the Contract.

**GC 77.00 WAIVER**

**GC 77.01** No waiver by either party of a right of that party or any breach by the other party in the performance of any of its obligations under the Contract is effective unless it is in writing.

**GC 77.02** No waiver of any right or obligation or breach is a waiver of any other right, obligation or breach.

**GC 78.00 TIME**

**GC 78.01** Time is of the essence of the Contract.

**GC 79.00 INTERPRETATION**

**GC 79.01** Where the Contract references a statute such reference is to a statute of the Province of British Columbia unless otherwise stated, and includes every amendment to it, every regulation made under it, and any enactment passed in replacement or substitution for it.

**GC 79.02** Unless the context otherwise requires, any reference in the Contract to any Article, Schedule, Section or Subsection, Paragraph or Subparagraph by number is a reference to the appropriate Article, Schedule, Section or Subsection, Paragraph or Subparagraph of the Contract.

**GC 79.03** Head notes and indices in these General Conditions or any other part of the Contract are inserted for convenience of reference only, form no part of the Contract, and do not affect the interpretation of the Contract.

**GC 79.04** In the Contract, a person includes a corporation, firm, association, and other legal entity, and wherever the singular or masculine is used it is as if the plural, the feminine, or the neuter, as the case may be, had been used where the context or the parties requires.

**GC 79.05** If any provision of the Contract or the application thereof to any person or circumstance is unenforceable, the remainder of the Contract and the application of that provision to any other person or circumstance are not affected and the Contract is enforceable to the extent permitted by law.

**GC 79.06** If any one or more provisions of the Contract conflict, then the provisions apply in the following prioritized order:

- (a) any Supplemental Agreements, in reverse chronological order;
- (b) Schedule 8 – Contract Amendment, in reverse chronological order;
- (c) the Supplemental General Conditions;
- (d) the Glossary of Terms;
- (e) these General Conditions;
- (f) Schedule 3 - Special Provisions;
- (g) appendices to Schedule 3 – Special Provisions;
- (h) Schedule 4 – Drawings;
- (i) the [Design Build Standard Specifications](#);
- (j) the [Maintenance Specifications](#);
- (k) the [Electrical Maintenance Standards](#); and
- (l) the remaining provisions of the Contract and the remaining Schedules.

**GC 79.07** In the Special Provisions and the Drawings, figured dimensions prevail over scaled dimensions.

**GC 79.08** In the Contract, the units of measurement are:

- (a) determined on the basis of the "[International System of Units](#)" established by the "[General Conference on Weights and Measures](#)"; and
- (b) as defined by the [Weights and Measures Act](#).

**GC 79.09** A reference to a "day" or "days" means a calendar day or days, unless a contrary intention is expressed in the Contract.

**GC 79.10** Where there is a time limitation under the Contract, and the time in question for performance of an obligation expires on a Saturday, Sunday or a Holiday, the time for performance of the obligation governed by the time limitation is extended to the next day that is not a Saturday, Sunday or Holiday.

**GC 79.11** In the calculation of time, the first day shall be excluded and the last day included.

**GC 79.12** The rights, powers, and remedies conferred on the Ministry under the Contract are not intended to be exclusive but are cumulative and are in addition to and not in substitution for any other right, power, and remedy existing under the Contract, under any other agreement, at law, or in equity. The exercise by the Ministry of any right, power, or remedy does not preclude the simultaneous or later exercise by the Ministry of any other right, power, or remedy.

**GC 79.13** Any inspections, approvals, acceptance or consent by the Ministry in connection with any of the Work shall be for the limited purposes of enabling the Ministry to review the compliance of the Contractor with the Contract, and shall not under any circumstances relieve or excuse the Contractor from all of its obligations to ensure complete compliance with the Contract, and, without limitation, the requirement that the Project meet the standards of quality and safety as specified in the Contract.

**GC 79.14** Approval or acceptance by the Ministry of any aspect of the Work does not relieve the Contractor of its obligation to perform the Work in accordance with the Contract.

**GC 79.15** Where the Contract anticipates the use of a specific form, an alternative instrument may be used that clearly identifies the instrument as being a substitute for the specified form and by such use shall implicitly incorporate any terms and conditions pre-printed on the specified form.

#### **GC 80.00 *SURVIVAL OF TERMS***

**GC 80.01** All terms of the Contract in favour of the Ministry and all rights and remedies of the Ministry, either at law or in equity, survive the termination of the Contract.

#### **GC 81.00 *SUCCESSORS AND ASSIGNS***

**GC 81.01** The Ministry may, upon notice to the Contractor, assign any or all of its rights or obligations under the Contract to any third party.

**GC 81.02** The Contract continues to the benefit of and binds the Ministry and its assigns and the Contractor and its successors and permitted assigns.

#### **GC 82.00 *GOVERNING LAW***

**GC 82.01** The Contract shall be governed, construed and interpreted in accordance with the laws of the Province of British Columbia.

**GC 82.02** The Contractor hereby irrevocably attorns itself to the exclusive jurisdiction of the courts of the Province of British Columbia in all matters related to the Contract.

#### **GC 83.00 *LIMITATIONS FOR CLAIMS***

**GC 83.01** The Contractor's right to commence any legal proceedings or any action against the Ministry for any matter arising directly or indirectly out of the performance or non-performance of the Contractor's or Ministry's obligations under the Contract, shall be absolutely barred upon the expiration of eighteen (18) months after the Actual Completion Date.

**GC 83.02** The Contractor shall not assert any claim, file or commence any legal proceeding or any action of any kind whatsoever, in contract or in tort, or seek any other recourse against the Ministry's officers, employees or agents for any matter whatsoever in connection with this Contract.

**GC 84.00 JOINT AND SEVERAL LIABILITY RE JOINT VENTURES**

**GC 84.01** If the Contractor is a joint venture, each venturer within the joint venture shall be jointly and severally liable for the representations, warranties, debts and obligations of the joint venture made, given or incurred under, pursuant to, or as a result of or arising from the Contract, notwithstanding the nature of the legal relationship between the venturers.

**IN WITNESS WHEREOF** duly authorized representatives of the Minister of Transportation and Infrastructure, on behalf of His Majesty the King in Right of the Province of British Columbia, and of the Contractor have hereunto set their hands on the dates set out below:

Project Number: \_\_\_\_\_ Contract ID Number: \_\_\_\_\_

Project Description: \_\_\_\_\_

Date of Contract: \_\_\_\_\_

**SIGNED** on behalf of His Majesty the King in Right of the Province of British Columbia by a duly authorized representative of the Minister of Transportation and Infrastructure, this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

For the Minister of Transportation and Infrastructure

(Print Name and Title)

**SIGNED** on behalf of the Contractor by a duly authorized representative, this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

For the Contractor

(Print Name and Title)

(Name of Contractor)

(Address)

(Telephone)

(Fax)

(Email)

Witness for the Contractor

(Print Name and Title)

**Have witnessed above or affix Corporate Seal below (as applicable)**

Seal

[In the event that the Contractor is not a corporation or limited company, then the signature part of this Contract shall be modified as may be required to reflect the appropriate signature format for the Contract for an individual, partnership, other entity or joint venture as the case may be.]

## DESIGN BUILD MINOR GENERAL CONDITIONS INDEX

All entries indexed below may be found on page #

**ALL CAPITAL** entries indicate Article headers  
**Leading Capitals** entries indicate defined terms (see the “Glossary of Terms”)  
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