

# MAJOR WORKS GENERAL CONDITIONS

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**BRITISH  
COLUMBIA**

Ministry of Transportation  
and Infrastructure

# *This Major Works Contract*

**BETWEEN:**

**HER MAJESTY THE QUEEN  
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 Contractor has offered to perform the Work herein described at the price and on the terms herein set out; and
- B.** The Ministry has accepted the offer by Contractor to perform the Work at the price and on the terms herein set out;

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 the [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, licensed and permitted to perform the Work;
- (h) the Contractor has no knowledge of any fact that materially and adversely affects or, so far as it can foresee, may 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, licenses, 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 or 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 with 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;
- (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 and regulations relating to the Work; and
- (e) the Contract does not operate as a permit, license, 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, licenses, approvals or other statutory or regulatory authorizations which are applicable to the Work or the Contract, save and except any licenses and permits which are specified within the Contract to be obtained by the Ministry.

**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 upon by the Contractor.

**GC 3.03** Except as provided by 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 any 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 the Contract.

**GC 4.00** *TERM*

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

**GC 4.02** The following obligations, without limitation, 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 64.00, 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 a Ministry Representative 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 Representative and Ministry Manager, 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 Representative and Ministry Manager 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 Representative 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) a Contractor Representative 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** In the event of any change(s) to these designated personnel, the Contractor shall promptly provide written notice to the Ministry Representative.

**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 Representative 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 Representative 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 provide written notice to the Ministry of the appointment of such replacement.

**GC 7.00 LEGAL RELATIONSHIP AND PRIME CONTRACTOR**

**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 employed by the Contractor to carry out the Work are at all times the employees 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 7.05** Unless the Ministry expressly designates another party by written notice to the Contractor, 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 the [Workers Compensation Act](#), the Workers Compensation Act [Occupational Health & Safety Regulation \(296/97\)](#), and Standard Specification 135 – Site Safety (SS 135).

**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 to any person.

**GC 8.02** The Contractor shall not, without the prior written consent of the Ministry, subcontract any obligation of the Contractor under the Contract to any person.

**GC 8.03** The total value of subcontracted Work shall not exceed two-thirds (2/3) of the total Tender Price. Work involving off-Site fabrication and off-Site production of materials and trucking necessary to carry out the Work shall not be included in the calculation of the total value of subcontracted Work.

**GC 8.04** The Contractor shall use:

- (a) a purchase order agreement in form and content acceptable to the Ministry for the purchasing of materials; and
- (b) a hired equipment agreement in form and content acceptable to the Ministry for the hiring of equipment.

**GC 8.05** The Contractor shall provide a complete copy of every Subcontract having a value of fifty thousand dollars (\$50,000) or more to the Ministry Representative severing the numeric portion of the pricing information only at the Contractor's option. 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 Subcontract](#)".

**GC 8.06** The appointment of any Subcontractors 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 8.07** 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 8.08** 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 8.09** 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 8.10** Nothing in the 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 [British Columbia International Commercial 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 at the Site, 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 8.05 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 material payment bond each in the amount as specified in GC 10.04 as a part of that Subcontract.

**GC 10.03** 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 10.04 are in place;



- (b) copies of the bonds referenced in GC 10.03(a) are provided to the Ministry Representative; and
- (c) a copy of the performance bond, and the labour and material payment bond is securely and visibly posted at the Site.

**GC 10.04** The Contractor shall ensure that the performance bond and labour and material payment bond referenced in GC 10.03(a) for each Designated Subcontractor or Designated Supplier:

- (a) is in the amount not less than fifty percent (50%) of such applicable 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 10.05** 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 10.03 or GC 10.04, 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 10.03 and GC 10.04. The Stop Work Order shall not be treated as a Change to Work for the purposes of the Contract.

**GC 10.06** 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 10.05.

**GC 10.07** The Contractor shall provide written notice to the Ministry Representative for:

- (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 Ministry Representative, 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 requirements in Schedule 6 – Insurance and maintain the insurance in force and effect until the Actual Completion Date 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 cancellation or termination 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 circumstances 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 coverage and consent 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 all claims, liabilities, demands, losses, damages, costs and expenses, fines, penalties, assessments and levies made against or incurred, 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 upon 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** 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 cost of any such counsel.

**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 Notice 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, enclosing pertinent details of the accident or occurrence; within seven (7) days from the date on which the accident or occurrence arises or occurs; and
- (b) within fifteen (15) days following final disposition of any such accident or occurrence, 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 in the amounts specified in Schedule 6 - Insurance Specifications;
- (d) submit a preliminary Construction Schedule to the Ministry Representative showing:
  - (i) compliance with all Milestone Dates and the Completion Date;
  - (ii) anticipated timing and duration of all major work elements;
  - (iii) major traffic detours and disruptions;
  - (iv) submission dates for all quality, traffic, and environmental management plans;
  - (v) Environmental Windows and approval periods; and
  - (vi) details of all events anticipated to occur within sixty (60) days of commencing Work on Site; and
- (e) provide the Ministry Representative with written confirmation of the names, addresses, and telephone numbers of all persons required to be appointed by the Contractor pursuant to the Contract.

**GC 16.02** The Contractor shall not commence work on the Site until it has:

- (a) provided not less than three (3) days prior written notice of intention to commence Work to the Ministry Representative; and
- (b) obtained written authorization to commence Work on the Site from the Ministry Representative.

**GC 17.00 PROSECUTION OF THE WORK**

**GC 17.01** Unless otherwise specified 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 the Contractor considers to be most conducive to economy of construction.

**GC 18.00 STANDARD OF WORK**

**GC 18.01** The [Standard Specifications](#) form a part of the Contract and the Contractor shall comply with the requirements of the Standard Specifications and all Schedules to the Contract in the performance of the Work.

**GC 18.02** The Contractor shall ensure that all finished surfaces conform to the lines, grades, typical cross-sections, and dimensions as specified in the Contract.

**GC 18.03** Where the Contractor is responsible for the Design of anything that will form part of the completed Work, including but not limited to a proprietary structure or an accepted value engineering proposal, the Contractor shall ensure that, in addition to any other requirements, its Design and Construction are signed off in a Letter of Assurance in accordance with the [Engineer of Record and Field Review Guidelines](#).

**GC 19.00 ERRORS OR OMISSIONS**

**GC 19.01** 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 19.02** If the Contractor discovers any error, inconsistency or omission in the Contract which shall, or is likely to adversely affect the Work, the Construction Schedule or the Contract Price, including but not limited to any error, inconsistency or omission referred to at GC 19.01, the Contractor shall, within three (3) days of detecting the error, inconsistency or omission, provide Notice of such error, inconsistency or omission to the Ministry Representative and shall not proceed with any Work affected until the Ministry has determined how the error, inconsistency or omission should be corrected.

**GC 19.03** Within seven (7) days of receiving Notice from the Contractor pursuant to GC 19.02, the Ministry Representative shall respond as to how the error, inconsistency, or omission is to be corrected.

**GC 20.00 INSPECTION OF THE WORK**

**GC 20.01** The Contractor shall provide access to the Work and to the Site, to all persons designated by the Ministry Representative including but not limited to representatives of other competent authorities and bodies and agencies of government.

**GC 20.02** The Ministry Representative may at any time or times inspect the Work. The Contractor shall provide the Ministry Representative with access to the Work at all times and shall provide all information and assistance required by the Ministry Representative.

**GC 20.03** The Contractor shall comply forthwith, at the Contractor's expense, with any order of the Ministry Representative to remove or replace any Unauthorized Work or Unacceptable Work.

**GC 20.04** If the Ministry Representative deems any portion of the Work to be Unauthorized Work or Unacceptable Work, the Ministry Representative may issue a Stop Work Order covering that portion of the Work and any or all similar Work. The Stop Work Order shall not be treated as a Change to Work for the purposes of the Contract.

**GC 20.05** Any inspection, consent, or approval by the Ministry Representative or any other party including representatives of other competent authorities and bodies and agencies of government does not relieve the Contractor from any obligation to perform the Work in accordance with the requirements of the Contract or derogate from or reduce the obligations of the Contractor to the Ministry under the Contract.

**GC 20.06** 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 Work, and restoring those parts to conform to the Contract.

**GC 20.07** If the uncovered Work is found acceptable to the Ministry Representative, the Contractor shall be compensated for the removal, uncovering, and restoration of that portion of the Work on a Force Account Basis.

**GC 21.00 SAMPLES AND TESTING**

**GC 21.01** The Contractor shall co-operate with the Ministry Representative in sampling, testing, and inspecting materials that are used or are intended to be used in the Work.

**GC 21.02** Unless the Contract contains a contrary provision, sampling, testing, and inspecting of materials by the Ministry Representative shall be done at the expense of the Ministry.

**GC 21.03** If requested, the Contractor shall obtain and provide to the Ministry Representative a complete written statement 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.

**GC 22.00 CO-OPERATION OF THE CONTRACTOR**

**GC 22.01** 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 progress of the Work. The Contractor shall conduct and schedule the Work and co-operate with those other parties so as to cause as little interference as possible with any such other work being carried out.

**GC 23.00 UTILITIES**

**GC 23.01** The Ministry shall be responsible for payment for the relocation of the infrastructure of utility companies or municipalities from their existing locations to their final locations, as well as to any interim locations identified on the Drawings or in the Special Provisions. Such infrastructure includes, without limitation, pole lines, conduits, gas pipes, oil pipes, water pipes, sewers, and tile lines.

**GC 23.02** Any interim Utility Relocation, where such moves are not indicated on the Drawings or in the Special Provisions, required to suit the design or the Contractor's work plan are to the Contractor's account.

**GC 23.03** The Contractor shall schedule and co-ordinate the Work with respect to any Utility Relocation with the utility company or municipality.

**GC 23.04** The Contractor shall preserve and protect the infrastructure affected by the Utility Relocation and shall assume full responsibility for all damage caused by the Contractor.

**GC 23.05** 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 23.06** The Contractor acknowledges and agrees that it has not relied upon 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 24.00 CONTAMINANTS**

**GC 24.01** Before the Contractor commences Work, 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 as is determined to be necessary by the Ministry, unless such Work is designated in the Contract to be performed by the Contractor.

**GC 24.02** 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 on the Site.

**GC 24.03** If the Contractor after commencing Work:

- (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 24.01(b), or which were disclosed but have not been dealt with as required under GC 24.01(c);

the Contractor shall immediately provide Notice to the Ministry Representative.

**GC 24.04** 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 a Reimbursable Delay, a request for an Extension of Time, and claims for costs in accordance with GC 38.00.

#### **GC 25.00 PROTECTION OF SITE AND WORK DURING CONSTRUCTION**

**GC 25.01** 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 25.02** The Contractor shall repair or restore, at its expense, any public or private property which the Contractor, or its employees, Subcontractors, 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 25.03** Where, pursuant to GC 25.02, 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 26.00 MAINTENANCE OF WORK DURING CONSTRUCTION**

**GC 26.01** The Contractor shall maintain all Disturbed Features in accordance with:

- (a) the Maintenance Specifications,
- (b) the Electrical Maintenance Standards, and
- (c) 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 26.02** Notwithstanding GC 26.01, where any roadway is a Disturbed Feature and has a surface condition 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 the routine winter maintenance services or, at the option of the Ministry Representative, for any additional cost of maintenance, as determined by the Ministry Representative, resulting from the actual surface conditions.

**GC 26.03** The requirements of GC 26.02 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 Representative that such an arrangement is in place.

**GC 26.04** If the Ministry Representative issues a Stop Work Order or authorizes a State of Suspension, the Contractor shall continue to provide maintenance in accordance with GC 26.00 unless otherwise instructed in the Stop Work Order.

**GC 27.00 EMERGENCY WORK**

**GC 27.01** The Ministry Representative may designate Emergency Work.

**GC 27.02** Notwithstanding any other provisions in the Contract, the Ministry Representative may direct the Contractor to use its labour and equipment 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 27.03** Where in the opinion of the Ministry Representative 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 Emergency Work shall be made in accordance with GC 38.00.

**GC 28.00 WORK ORDERS**

**GC 28.01** The Ministry may from time to time issue one or more Work Orders to require the Contractor to carry out or refrain from carrying out Work or, without limitation, to add or delete Work, alter the Drawings, Special Provisions or [Standard Specifications](#), accelerate or delay Work, stop or resume Work, and remedy defects or deficiencies in the Work.

**GC 28.02** The Contractor shall diligently comply with every Work Order.

**GC 29.00 STOP WORK ORDER**

**GC 29.01** A Stop Work Order may be issued to:

- (a) require the Contractor to cease work on all or any portion of the Work; or
- (b) initiate a State of Suspension.

**GC 29.02** The Contractor shall immediately comply with a Stop Work Order, and shall not resume the prohibited Work until:

- (a) the Contractor has remedied any non-compliance on its part with respect to the Contract;
- (b) the Contractor has removed or repaired any Unauthorized Work and Unacceptable Work and demonstrated to the Ministry Representative's satisfaction that the Contractor's materials and procedures have been modified as necessary to ensure that further Work meets the requirements of the Contract; and
- (c) the Ministry Representative has issued a Resume Work Order.

**GC 29.03** 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 29.04** The Contractor shall resume Work on the date specified by the Ministry Representative in a Resume Work Order.

**GC 29.05** No Stop Work Order shall relieve the Contractor of any obligation of the Contractor under the Contract.

**GC 29.06** A Stop Work Order shall not be treated as a Change to Work for the purposes of the Contract.

**GC 29.07** 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 the 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 one thousand dollars (\$1,000.00) per day, for each day or part of any day during which a Stop Work Order is in force.

**GC 29.08** Any payment to be made by the Contractor pursuant to GC 29.07 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 30.00 SEASONAL SHUT-DOWN**

**GC 30.01** If the Work continues into the late fall or winter, or other such period as may be acceptable to the Ministry Representative, and the weather conditions are beginning to deteriorate, or have deteriorated, to the extent that the Contractor's performance of the Work may:

- (a) fail to meet the quality requirements and specifications of the Contract; or
- (b) pose an unwarranted risk to public safety;

the Contractor may submit a written request to the Ministry Representative for a State of Suspension.

**GC 30.02** In response to a request from the Contractor pursuant to GC 30.01, or where the Ministry Representative believes that the anticipated weather conditions shall effectively prevent the Contractor from meeting the quality requirements and specifications of the Contract or believes that continued Work may pose an unwarranted risk to public safety, the Ministry Representative may issue a Stop Work Order to invoke a State of Suspension for such period as the Ministry Representative deems appropriate.

**GC 30.03** A State of Suspension shall only be granted pursuant to GC 30.02 where the Ministry Representative anticipates that the weather may be poor for a period of twenty-eight (28) days or longer.

**GC 30.04** Where the Ministry Representative issues a Stop Work Order to invoke a State of Suspension pursuant to GC 30.02, the Contractor shall immediately:

- (a) suspend Work, except such Work as necessary to protect the Work and the Site for the period of the State of Suspension;
- (b) bring the Site, all traffic control and safety measures, and all Disturbed Features to a condition satisfactory to the Ministry Representative;
- (c) arrange and pay for monitoring and response to address any routine maintenance services, except routine winter maintenance services, that are required on the Site for the duration of the State of Suspension, all in accordance with the terms of the [Maintenance Specifications](#) and [Electrical Maintenance Standards](#); and
- (d) comply with any additional and/or revised requirements or constraints that the Ministry



Representative may deem appropriate under the conditions.

**GC 30.05** During a State of Suspension, the Contractor shall not perform any Work other than that:

- (a) stated on the Stop Work Order; and
- (b) arising during the State of Suspension that is deemed by the Ministry Representative to have resulted from the incomplete Work or any Unacceptable Work.

**GC 30.06** Notwithstanding any other provision of the Contract, a State of Suspension shall not entitle the Contractor to an Extension of Time or any other compensation.

**GC 30.07** Unless the Ministry Representative deems otherwise, any payment of consideration under GC 33.02 that would otherwise accrue during the State of Suspension shall be waived.

**GC 31.00 *RESUME WORK ORDERS AND COMPENSATION***

**GC 31.01** The Contractor shall resume Work and the full responsibilities under the Contract on the date specified by the Ministry Representative in a Resume Work Order.

**GC 31.02** The Contractor may claim compensation for impacts where such impacts resulted solely from a Stop Work Order in accordance with and subject to GC 42.00.

**GC 32.00 *PROVISIONAL SUM AND CONDITIONAL ITEMS***

**GC 32.01** The Contractor shall not proceed with any Work with respect to a Provisional Sum Item or a Conditional Item, nor be entitled to any payment for such Work, until the Ministry Representative has provided written authorization for the Contractor to proceed with such Work with respect to that Provisional Sum Item or Conditional Item, as the case may be.

**GC 33.00 *COMPLIANCE WITH THE TIME SCHEDULE***

**GC 33.01** The Contractor shall complete the Work in accordance with Schedule 5 - Time Schedule and any amendment thereto.

**GC 33.02** 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 Representative may elect to proceed with one or more of the following:

- (a) terminate the Contract;
- (b) where the Contractor has failed to achieve completion of the portion of the Work corresponding to a Milestone Date on or before a Milestone Date, 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 Milestone Date and the actual date upon which the relevant portion of the Work is completed;
- (c) where the Contractor has failed to complete the Work on or before the Completion Date, require the Contractor to pay consideration in the amount specified in the table below as consideration for late completion for each day or part thereof between the specified Completion Date and the Actual Completion Date or the date that the Ministry elects another remedy under GC 33.06;

Tender Price		Amount Payable by the Contractor to the Ministry Per day
Greater than	But equal to or less than	
\$0	\$1,000,000	\$1,000
\$1,000,000	\$10,000,000	\$2,500
\$10,000,000	Unlimited	\$3,500

and

- (d) extend the Completion Date or Milestone Date, as the case may be, for such period as the Ministry Representative determines, without requiring the Contractor to pay any consideration during such extended time.

**GC 33.03** Should the consideration periods associated with GC 33.02(b) and GC 33.02(c) overlap, the Ministry shall waive the lesser of the two daily amounts for the overlapping days.

**GC 33.04** If the Ministry elects to extend a Milestone Date or the Completion Date pursuant to GC 33.02(d), and the Contractor does not complete the Work on or before such extended Milestone Date or Completion Date then, upon written Notice by the Ministry Representative 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 33.02.

**GC 33.05** It is a condition of any extension to the Milestone Date or the Completion Date pursuant to GC 33.02(d) that the Contractor shall proceed diligently to complete the Work.

**GC 33.06** If the Ministry elects to require the Contractor to pay consideration pursuant to GC 33.02(b) or GC 33.02(c) and the Contractor fails to complete the Work within a reasonable time, as determined in the discretion of the Ministry Representative, after the relevant Completion Date or Milestone Date, then, upon notice from the Ministry Representative to the Contractor, the Ministry may avail itself of any remedy available to the Ministry under the Contract, including without limitation termination.

**GC 33.07** Any payment to be made by the Contractor pursuant to GC 33.00 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 by mutual consent of the minimum damages caused to the Ministry by the Contractor's failure or neglect.

**GC 34.00 SUBSTANTIAL COMPLETION**

**GC 34.01** The Contractor may submit a written request for a Letter of Substantial Completion to the Ministry Representative.

**GC 34.02** Substantial Completion occurs when the Contractor has requested a letter of Substantial Completion pursuant to GC 34.01, and in the opinion of the Ministry Representative, all of the following conditions have been met:

- (a) the facility for which the Work is being done is in, or suitable for, full use by the public and is free of any deficiencies affecting the safety of motorists, pedestrians, or workers;
- (b) the value of the remaining Work is less than two percent (2%) of the Contract Price; and
- (c) the Contractor is not in breach of any provision of the Contract, including the requirement of completion of the Work by the Completion Date.

**GC 34.03** If the Contractor requests a Letter of Substantial Completion pursuant to GC 34.01 the Ministry Representative may, subject to GC 34.04, inspect the Work and, if in the opinion of the

Ministry Representative, Substantial Completion has occurred, issue a Letter of Substantial Completion. Only one Letter of Substantial Completion may be issued pursuant to the Contract.

**GC 34.04** If, in the opinion of the Ministry Representative, the Contractor has satisfied the conditions set out in GC 35.03, the Ministry Representative may issue a Completion Certificate rather than a Letter of Substantial Completion.

### **GC 35.00 TOTAL COMPLETION**

**GC 35.01** Total completion occurs when the Ministry Representative issues a Completion Certificate with respect to the Work.

**GC 35.02** The Contractor may submit a written request for a Completion Certificate to the Ministry Representative.

**GC 35.03** The Contractor shall be entitled to a Completion Certificate when:

- (a) the Contractor has completed all Work, including correction of all deficiencies in that Work identified in GC 35.03(b) to GC 35.03(g), but excluding correction of defects in the Work that appear during the warranty period, to the satisfaction of the Ministry Representative;
- (b) the Site and any borrow pits, gravel pits, or other property occupied by the Contractor in performing the Work are clean of rubbish, equipment, surplus materials, and temporary structures and the Site is left in a neat, tidy, and presentable condition;
- (c) after completion of any gravel, base, or surfacing operations, the roadway, ditches, slopes and culverts are cleaned of accumulations and reconditioned and maintained;
- (d) surplus or waste aggregates at gravel deposits are piled or disposed of, as directed by the Ministry Representative;
- (e) any areas from which material is removed or where stripping takes place are left in a condition suitable for routine maintenance in accordance with the [Maintenance Specifications](#) by the road and bridge maintenance contractor engaged by the Ministry;
- (f) waste asphalt oil, crude oil, and any Contaminants deposited or left on, in or underneath the Site by the Contractor, the Subcontractors, or the Contractor or Subcontractor's respective agents or employees, are disposed of in accordance with applicable laws and regulations and with approval of the Ministry Representative; and
- (g) the Contractor has, where applicable, submitted to the Ministry Representative such documentation as is required by the Contract including, without limitation, as-built plans, Letters of Assurance associated with any Design elements of the Work for which the Contractor is responsible, and a statistical summary of health and safety records as required by the [Standard Specifications](#).

**GC 35.04** If the Contractor requests a Completion Certificate, but the Work is not completely acceptable to the Ministry, the Ministry Representative shall advise the Contractor, in writing, of particular defects in the Work preventing issuance of the Completion Certificate and the Contractor shall forthwith rectify the defects to the satisfaction of the Ministry Representative.

### **GC 36.00 WARRANTY**

**GC 36.01** Notwithstanding any other provision of the Contract or the expiry or termination of the Contract, the Contractor warrants to the Ministry, for a period of one (1) year commencing on the earliest of the date of Substantial Completion, the Actual Completion Date, or any earlier termination date, that:

- (a) all Work is free from any defect in materials and workmanship; and

- (b) the Contractor shall, upon notification by the Ministry, promptly and diligently remedy any defect, to the satisfaction of the Ministry.

**GC 36.02** The warranty period for the whole or a portion of the Work may be extended by a Supplemental Agreement when the Ministry approves an amendment or specific change to the requirements set out in the Contract.

**GC 36.03** For any Work incomplete on the date of Substantial Completion, upon Notice from the Ministry Representative itemising the portion of incomplete Work and requiring a full warranty, the Contractor warrants to the Ministry for a period of one (1) year, commencing on the Actual Completion Date of the Work, for all such Work identified in the Notice that:

- (a) it is free from any defect in materials and workmanship; and
- (b) the Contractor shall, upon notification by the Ministry, promptly and diligently remedy any defect to the satisfaction of the Ministry.

**GC 36.04** If a significant portion of the Work is complete and in use by the public well before the Completion Date, upon receipt of a written request from the Contractor specifying the portion of the Work which has been completed, the Ministry Representative may, by providing written confirmation to the Contractor, allow the warranty period to commence for the completed portion of the Work on the date that portion is put into use by the public.

**GC 36.05** Unless the Special Provisions indicate otherwise, the Ministry shall consider a maximum of one (1) request for an early warranty start date in response to GC 36.04.

#### **GC 37.00 NOTICES**

**GC 37.01** Except as provided in GC 37.02, any Notice shall be in writing.

**GC 37.02** In addition to the Notice required by GC 37.01 and GC 37.03, 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 37.03** 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 37.04** 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 37.05** 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 the circumstances giving rise to such claim by reason of the Contractor's failure.

**GC 37.06** 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 37.07** The Notice Period for any Notice for which there is no specific Notice Period, shall be seven (7) days.

**GC 37.08** 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 38.00 CHANGES TO WORK**

**GC 38.01** All claims for impacts arising from any Change to Work shall be in accordance with GC 38.00.

**GC 38.02** If a provision of the Contract assigns the risk of a Change to Work, then all impacts arising from that Change to Work shall be for the account of the party to whom the risk is assigned.

**GC 38.03** The Ministry may make a Change to Work by issuing a Work Order.

**GC 38.04** The Contractor may request a Change to Work by giving Notice to the Ministry Representative.

**GC 38.05** If a Work Order or Change to Work constitutes a Reimbursable Delay the Ministry shall pay the Contractor in accordance with GC 50.00.

**GC 38.06** If a Reimbursable Delay results in a change in the quantity or nature of the Work, the Contractor may also request consideration under GC 38.07 or GC 38.08, whichever may be appropriate.

**GC 38.07** If a Change to Work or Work Order increases, decreases or eliminates the quantity of Work covered by an Item, or if in the opinion of the Ministry Representative the Work resulting from the change is of similar nature to Work described for another existing Item:

- (a) the Contractor shall perform the changed Work in accordance with the Contract; and
- (b) the Ministry shall pay the Contractor:
  - (i) in accordance with the provisions of GC 40.00;
  - (ii) the Unit Price for the final quantity of Work, subject to the provisions of GC 39.00; or
  - (iii) in respect of an additional Lump Sum Item, compensation equal to that of the similar Lump Sum Item.

**GC 38.08** If a Change to Work or Work Order does not fall under GC 38.07 and is of the nature that the costs and impacts can be assessed by the Contractor:

- (a) the Ministry shall provide specifications for the performance of the Work;
- (b) the Contractor shall offer a Lump Sum Price or Unit Price for the Work; and
- (c) the Ministry Representative shall either:
  - (i) accept the Contractor's offer under GC 38.08(b) and add the Work to the Contract as a new Item, which shall be subject to all the provisions of the Contract; or
  - (ii) reject the Contractor's offer.

**GC 38.09** If a Change to Work or Work Order does not fall under GC 38.07 and is of the nature that the costs and impacts cannot be assessed by the Contractor, or if the Contractor's offer under GC 38.08(b) is rejected, the Ministry Representative may:

- (a) issue a Work Order to the Contractor authorizing the Work to be performed, in which event those components of the Item that in the opinion of the Ministry Representative have been materially impacted by the Change to Work or Work Order will be paid on a Force Account Basis;
- (b) retain a third party to perform the Change to Work and, if applicable, eliminate the affected portion of the Work from the Contract; or
- (c) terminate the Contract in accordance with GC 63.00, in which case the Ministry may re-tender the Work in whole or in part.

**GC 38.10** Subject to GC 49.03(f), a Change to Work or Work Order that extends the Completion Date or a Milestone Date may give rise to an Extension of Time in accordance with GC 44.00. A Change to Work or Work Order that reduces the time required to carry out the Work or an applicable portion of the Work may give rise to a Reduction of Time in accordance with GC 45.00.

**GC 38.11** The Contractor shall not proceed with any Change to Work or Work Order until instructed in writing by the Ministry Representative to do so.

**GC 38.12** The Contractor shall not be entitled to payment for any Change to Work or Work Order or an Extension of Time for any Change to Work or Work Order except in accordance with a duly executed Supplemental Agreement.

**GC 38.13** The Contractor shall not be entitled to receive compensation or payment for any loss of profits resulting from any Change to Work or Work Order.

**GC 38.14** The Contractor shall, in accordance with GC 13.00, provide the Ministry with all third party consents for any Change to Work or Work Order.

**GC 39.00 *CHANGES IN QUANTITIES FOR UNIT PRICE ITEMS***

**GC 39.01** The provisions of GC 39.03 to GC 39.06 inclusive apply only to Unit Price Items. GC 39.06 shall not apply to Conditional Items.

**GC 39.02** An increase or decrease in the quantity of an Item is determined as the difference between the final quantity of the Item, as measured or calculated in accordance with the Contract, and the Approximate Quantity of the Item specified in Schedule 7 - Approximate Quantities and Unit Prices as at the date of Award of the Contract.

**GC 39.03** Where an Item is not a Major Item, the Unit Price shall apply to the entire quantity as measured or calculated in accordance with the Contract.

**GC 39.04** If the quantity of a Major Item does or is anticipated by either the Ministry or the Contractor to increase by an amount exceeding twenty percent (20%) of the Approximate Quantity specified in Schedule 7 - Approximate Quantities and Unit Prices as at the date of Award of the Contract, either the Ministry or the Contractor may provide Notice to the other requesting that a new Unit Price be determined for the excess quantity.

**GC 39.05** Where Notice has been provided under GC 39.04, the Unit Price for the Major Item may be adjusted, subject to the following:

- (a) the unadjusted Unit Price applies on the quantity up to and including one hundred and twenty percent (120%) of the Approximate Quantity;
- (b) any adjusted Unit Price applies only to the excess quantity, being that portion beyond one hundred and twenty percent (120%) of the Approximate Quantity;
- (c) the Ministry shall not make an allowance for losses sustained or profits accrued on a quantity up to and including one hundred and twenty percent (120%) of the Approximate Quantity;

- (d) the adjusted Unit Price for the excess quantity shall be determined as:
- (i) negotiated by the Ministry and the Contractor, failing which; then
  - (ii) the actual cost of the excess Work divided by the excess quantity where the excess quantity can be measured separately, failing which; then
  - (iii) the same Unit Price for material which is similar in nature to other material being used within the Work being performed that has documented productivity and cost figures, failing which; then
  - (iv) where none of the above conditions are met, the cost to date divided by the quantity to date as assessed on the date of the first progress estimate in which the quantity to date exceeds one hundred and twenty percent (120%) of the Approximate Quantity;
- (e) if the final costs applicable to that Major Item include fixed costs, those fixed costs are excluded from the Unit Price for the excess quantity.

**GC 39.06** If the final quantity of a Major Item is less than eighty percent (80%) of the Approximate Quantity specified in Schedule 7 - Approximate Quantities and Unit Prices, as at the date of the Award of the Contract the Contractor may submit a written request for compensation and the Ministry Representative shall consider that request, subject to the following:

- (a) the request shall be considered:
- (i) only if the total payments to the Contractor under the Contract are less than the Tender Price; and
  - (ii) only insofar as it compensates the Contractor for unrecovered fixed expenses which can be demonstrated to have been included within the original Unit Price of the Major Item by the production of original bid preparation documents and to the satisfaction of the Ministry Representative; and
- (b) any compensation granted for the unrecovered fixed expenses accepted by the Ministry Representative pursuant to GC 39.06(a)(ii) above:

- (i) shall be a maximum of

$$Comp_{Max.} = \left[ 0.80 - \left( \frac{Qty_{Final}}{Qty_{Approx.}} \right) \right] x Exp_{Fixed}$$

where  $Comp_{Max.}$  = maximum compensation

$Qty_{Final}$  = final quantity

$Qty_{Approx.}$  = Approximate Quantity

$Exp_{Fixed}$  = fixed expenses, pursuant to GC 39.06(a)(ii),

- (ii) shall not, when added to the Unit Price payment for the final quantity, exceed the payment that would be made for eighty percent (80%) of the Approximate Quantity;
- (iii) shall not make any allowance for loss of profits; and
- (iv) shall not cause the total payments made to the Contractor under the Contract to exceed the Tender Price.

**GC 40.00 ELIMINATED ITEM**

**GC 40.01** The provisions of GC 40.02 to GC 40.05 inclusive do not apply to Conditional Items or to Provisional Sum Items.

**GC 40.02** The Ministry, in its sole discretion, may, at any time by Work Order, eliminate one or more Items from the Work.

**GC 40.03** In the event that any Item is eliminated from the Work the Contractor shall take all reasonable and necessary steps to mitigate the effect of any such action and to minimize or avoid any costs associated with the elimination of that Item and as such this shall include, without limitation:

- (a) making reasonable efforts to immediately cancel all orders for materials, services or supplies in connection with the eliminated Item; and
- (b) returning any materials that are returnable to the vendor.

**GC 40.04** The Ministry shall pay the Contractor for materials which the Contractor ordered or received for an eliminated Item, which the Contractor cannot cancel or return to the vendor, in accordance with GC 40.05 and the materials shall then become the exclusive property of the Ministry.

**GC 40.05** If any Items are eliminated from the Work, then, unless a contrary provision is contained in the Contract or, the Ministry shall pay the Contractor:

- (a) the actual direct costs and overhead costs incurred and substantiated by the Contractor in connection with the elimination of the Item; and
- (b) on a Force Account Basis for:
  - (i) materials ordered and received where the order cannot be cancelled and the materials are not returnable to the vendor, and
  - (ii) any handling costs to return the materials to the vendor or to deliver the materials to the Ministry, as applicable.

**GC 40.06** The elimination of one or more Items may result in a Reduction of Time in accordance with GC 45.00.

**GC 41.00 *CHANGED CONDITIONS***

**GC 41.01** The Contractor shall give seven (7) days Notice to the Ministry of a Changed Condition.

**GC 41.02** If the Ministry determines that a Changed Condition has arisen, and such Changed Condition would cause an increase or decrease in the costs to be incurred by the Contractor or in the time required to perform the Work, the Ministry may enter into a Supplemental Agreement with the Contractor adjusting the payment required for the performance of the Work or adjusting the time required to perform the Work.

**GC 41.03** With respect to any Changed Condition claim, the Contractor shall not claim for that portion of costs which could have been avoided by the Contractor.

**GC 42.00 *REIMBURSABLE DELAY***

**GC 42.01** "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 of the Ministry to deliver materials, equipment, or information in the condition or within the time frame specified in the Special Provisions;
  - (ii) failure by the Ministry to provide a Ministry Representative; or
  - (iii) failure of the Ministry to provide access to the Site as reasonably contemplated in the Contract; or
- (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 42.02** The following events and any event listed in GC 42.01 that arise 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;
- (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 Contract;
- (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 42.03** 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 42.04** The Contractor shall take all reasonable and necessary steps to minimize or avoid the costs and impacts of any Reimbursable Delay, to recover all lost time, and to resume, as soon as possible, performance of its obligations under the Contract, and shall fully document the costs incurred.

**GC 42.05** Compensation for the Contractor for a Reimbursable Delay shall be limited solely to an Extension of Time in accordance with GC 44.00 and any approved payments under GC 50.00 and GC 38.06.

### **GC 43.00 CHANGE IN TAXES**

**GC 43.01** 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 43.03. For greater certainty for the purposes of the Contract, GST is not an applicable Sales Tax, and not included in the Contract Price.

**GC 43.02** 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 43.03** 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 43.04** An increase in Sales Tax shall be paid as a separate item to be added by the Ministry Representative to the progress estimate.

**GC 43.05** 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 43.01.

**GC 43.06** 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 44.00** *EXTENSION OF TIME*

**GC 44.01** The Ministry may grant an Extension of Time for the impact on the Completion Date or on any Milestone Date of:

- (a) a Change to Work;
- (b) Changed Conditions; or
- (c) a material delay, cessation or stoppage in the performance of the Work, or any part thereof, caused by any one 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
  - (iv) any other event beyond the control of the Contractor.

**GC 44.02** Notwithstanding GC 44.01, 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 44.03** The Contractor may, not later than fourteen (14) days after the occurrence or the detection of any one of the events referenced in GC 44.01, submit to the Ministry Representative a Notice for

an Extension of Time, specifying the event, describing how the requirements set out in GC 44.02 are satisfied, and proposing the period of time by which the Completion Date or the applicable Milestone Date, should be extended.

**GC 44.04** Not later than fourteen (14) days after receiving the Notice for an Extension of Time, the Ministry Representative 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 44.03; or
- (b) refusing to grant the Extension of Time and setting out the reasons for such refusal.

**GC 44.05** Forthwith upon receipt of any grant of an Extension of Time in writing from the Ministry Representative under GC 44.04(a), the Contractor shall obtain and deliver to the Ministry Representative written confirmation from the Surety that issued the Bonds, of the Surety's consent to the Extension of Time granted under GC 44.04(a), and the Surety's confirmation of the continued force and effect of the Bonds.

**GC 44.06** 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 44.07 and GC 44.08, 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 44.07 and GC 44.08, 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 44.07** 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 44.08** Notwithstanding GC 44.07, 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 45.00 CHANGE OF COMPLETION DATE**

**GC 45.01** Where the Ministry grants an Extension of Time pursuant to GC 44.00, any affected Milestone Date and, where affected, the Completion Date, shall be extended by the number of days in the Extension of Time.

**GC 45.02** Where a Change to Work reduces the anticipated time required to complete the Work, the Ministry and the Contractor, subject to the written consent of the Surety, may negotiate a Reduction of Time for an earlier Completion Date and/or any affected Milestone Date.

**GC 46.00 PAYMENT**

**GC 46.01** Subject to the terms of the Contract, the Ministry shall pay 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 completely incorporate all the Items into the Work. Payment for individual Items shall be made, subject to the terms of the Contract, as follows:

- (a) For Unit Price Items, the Ministry shall pay the Contractor only for actual quantities of Work furnished and incorporated into the Work, as measured or calculated in accordance with the Contract. The actual quantities of Work to be furnished and incorporated into the Work may be greater or less than the Approximate Quantities specified in Schedule 7 - Approximate Quantities and Unit Prices;
- (b) For Lump Sum Items, the Ministry shall pay the Contractor the Lump Sum Price, regardless of the actual quantities of Work required to complete the Item;
- (c) For each Provisional Sum Item, the Ministry shall pay the Contractor in accordance with the express method of payment as contemplated within the Contract, failing which, in accordance with each Work Order authorizing that part of the Work to proceed;
- (d) For Conditional Items, the Ministry shall pay the Contractor only for actual quantities of Work furnished, as measured or calculated in accordance with the Contract, and only where the Contractor has been authorized by the Ministry Representative in accordance with the terms of the Contract. The actual quantities of Work to be furnished may be greater or less than the Approximate Quantities specified in Schedule 7 - Approximate Quantities and Unit Prices; and
- (e) The Ministry shall pay the Contractor for any Change to Work in accordance with the Supplemental Agreement authorizing such Work.

**GC 46.02** The Ministry will pay any applicable GST on any payments or reimbursements to the Contractor under the Contract. The documentation for such payments and 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 46.03** The Ministry is not obligated to pay the Contractor for Unauthorized Work or Unacceptable Work.

**GC 46.04** 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 46.05** Notwithstanding any other provision of the Contract, the payment of money by the Ministry to the Contractor pursuant to the Contract is subject to the provisions of the [Financial Administration Act](#).

**GC 47.00 PROVISIONAL SUM ITEMS**

**GC 47.01** 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 47.02** 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 47.03** GC 40.00 does not apply to Provisional Sum Items.

**GC 47.04** 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 48.00 CONDITIONAL ITEMS**

**GC 48.01** The Contractor shall not be entitled to any payment for Work against a Conditional Item until the Ministry Representative has authorized that Work.

**GC 48.02** GC 39.06 and GC 40.05 do not apply to Conditional Items.

**GC 49.00 FORCE ACCOUNT**

**GC 49.01** 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 49.02** 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 49.03** 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 49.05 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 49.03(a)(i) and GC 49.03(a)(ii) in respect of the related costs and expenses described in GC 49.06;

(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 49.06;

(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 49.06;

(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 49.03(d)(i),
  - (iii) plus an amount equal to fifteen percent (15%) of the total amounts referred to in GC 49.03(d)(i) and GC 49.03(d)(ii) in respect of the related costs and expenses described in GC 49.06;
- (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 49.06; 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 49.03(a)(i), GC 49.03(b)(i), GC 49.03(c)(i), GC 49.03(d)(i), GC 49.03(d)(ii), and GC 49.03(e)(i);
  - (ii) plus the additional allowance under GC 49.03(a)(ii) and the mark-ups under GC 49.03(a)(iii), GC 49.03(b)(ii), GC 49.03(c)(ii), GC 49.03(d)(iii), and GC 49.03(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 49.03(f)(i) and GC 49.03(f)(ii) subject to a cumulative maximum of fifty thousand dollars (\$50,000) exclusive of GST over the Term.

**GC 49.04** When the cumulative entitlement to payment for Work performed on a Force Account Basis in accordance with GC 49.03 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 49.05.

**GC 49.05** For Work performed on a Force Account Basis in the circumstances described in GC 49.04:

- (a) the costs claimed shall be limited to those incurred on the Site;

- (b) the mark-up percentage specified in GC 49.03(a)(iii) shall be reduced to twelve and one-half (12.5%);
- (c) the mark-up percentage specified in GC 49.03(d)(iii) shall be reduced to zero percent (0%); and
- (d) the mark-up percentage specified in GC 49.03(e)(ii) shall be reduced to ten percent (10%).

**GC 49.06** Unless otherwise provided for in the Contract, payment on a Force Account Basis represents complete payment (exclusive of GST) and reimbursement for all impacts, 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 49.07** Standby and overtime are not compensable for Work paid on a Force Account Basis unless agreed to in advance by the Ministry Representative.

**GC 49.08** 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 49.09** The accounting records shall not establish entitlement to compensation.

#### **GC 50.00 *COMPENSATION FOR REIMBURSABLE DELAY***

**GC 50.01** 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 written Notice to the Ministry Representative of the intention of the Contractor to make a claim together with detailed reasons for the claim;
- (b) notifying the Ministry Representative 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 Representative 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 Construction Schedule prior to the Reimbursable Delay and the impact of the Reimbursable Delay thereon; and
  - (vii) any other documents requested by the Ministry Representative.

**GC 50.02** If a Reimbursable Delay occurs and the Contractor complies with GC 50.01, 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 Representative were necessarily and properly incurred and documented by the Contractor pursuant to GC 42.04:

- (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 Representative;
- (c) costs of equipment for equipment idled by the Reimbursable Delay determined as:
  - (i) in the case of equipment owned or leased by the Contractor on a long term basis,
    - (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 day and excluding Saturdays and Holidays, multiplied by the Bare Equipment Rates for such idle equipment, and
    - (B) for the twenty-second (22<sup>nd</sup>) continuous day and all subsequent 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 which is rented on a short term basis, the incremental 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, a maximum of eight (8) hours per day and excluding Saturdays and Holidays, multiplied by the Bare Equipment Rates;
- (d) five percent (5%) of the sum of GC 50.02(a), GC 50.02(b), and GC 50.02(c) as overhead;
- (e) reasonable board and lodging costs for supervisory and other staff authorized under GC 50.02(a) and GC 50.02(b) above;
- (f) increases in materials costs wholly attributable to the Extension of Time if an Extension of Time has been granted pursuant to GC 44.00; 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 50.02(c).

**GC 50.03** 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 51.00 CONSEQUENTIAL LOSSES**

**GC 51.01** 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 52.00 PROGRESS PAYMENTS**

**GC 52.01** The Ministry Representative shall, subject to the terms of the Contract, no later than seven (7) days following the first day of each month or such later date and/or less frequent period as may be agreed to between the Ministry Representative and the Contractor, prepare and endorse a progress estimate of the amount of Work performed by the Contractor.



**GC 52.02** Subject to the terms of the Contract, the Ministry shall make a progress payment to the Contractor monthly in arrears.

**GC 52.03** The progress payment made under GC 52.02 shall be at the applicable rates set out in Schedule 7 - Approximate Quantities and Unit Prices, and be based upon the estimated amount of the Work performed under GC 52.01, as follows:

- (a) the progress payment for any Unit Price Item shall be based on the total quantity of Work performed for the Item, as estimated by the Ministry Representative, less the amount paid for the Item pursuant to any previous progress estimate(s);
- (b) the progress payment for any Lump Sum Item shall be based on the percentage complete of the Item, as estimated by the Ministry Representative, less the percentage complete pursuant to any previous progress estimate(s);
- (c) the progress payment for any Provisional Sum Item shall be based on the total value of Work, which had been authorized in advance by the Ministry Representative, performed for the Provisional Sum Item less the amount paid for the Provisional Sum Item pursuant to any previous progress estimate(s);
- (d) the progress payment for any Work paid on a Force Account Basis will be based on total value of the Work performed as documented by completed "[Daily Report for Extra Work](#)" forms received and approved by the Ministry Representative during the period covered by the progress estimate; and
- (e) each progress payment shall be subject to the Holdback, pursuant to GC 54.00.

**GC 52.04** Progress estimates and progress payments do not represent a final determination of quantities of Work or an acceptance of the Work by the Ministry.

### **GC 53.00 FINAL PROGRESS PAYMENT**

**GC 53.01** The Ministry Representative shall, within ninety (90) days following the Actual Completion Date, prepare the final measurements and calculations of the amount of Work performed by the Contractor and deliver a draft of the final progress estimate for review by the Contractor.

**GC 53.02** At the Contractor's request, the Ministry shall provide the Contractor with access to any back-up documentation which, in the Ministry Representative's opinion is applicable and relates to the final quantities of the Work performed.

**GC 53.03** The Contractor shall review the draft final progress estimate and shall, within sixty (60) days of the delivery of the draft of the final progress estimate, provide Notice to the Ministry of any claims based upon the quantities or an indication of acceptance of the final quantities.

**GC 53.04** During the sixty (60) day period referenced in GC 53.03, the Contractor and the Ministry Representative shall review any discrepancies noted by either party with respect to the draft final progress estimate and shall review the calculations and records, exchange information, and conduct discussions or negotiations in an effort to reach agreement and/or a resolution with respect to the final quantities of Work for any Item in dispute. The Ministry Representative shall revise the draft final progress estimate to reflect any adjustments to the quantities of disputed Items that may be agreed to between the Ministry Representative and the Contractor and shall endorse and issue the final progress estimate.

**GC 53.05** The final progress payment pursuant to the Contract shall be made within thirty (30) days of the Ministry receiving the following from the Contractor:

- (a) acceptance of the final quantities;
- (b) Notice of outstanding disputed Items, if any;

- (c) an original statutory declaration duly executed in the applicable form set out in the [Standard Specifications](#); and
- (d) any other documentation required under the Contract.

**GC 53.06** Payment for any disputed Items that are resolved after issuance of the final progress estimate shall be paid within thirty (30) days of receipt by the Ministry of a letter from the Contractor, in a form and content acceptable to the Ministry Representative, containing:

- (a) a list of each resolved Item and the net amount payable for that Item;
- (b) the total net amount owing;
- (c) subject to GC 53.06(d), a statement indicating that payment of the agreed-upon amount shall release the Ministry for any and all liability associated with the claim for those items;
- (d) any other conditions of the settlement; and
- (e) the signature of an authorized signatory of the Contractor.

**GC 54.00 *HOLDBACK***

**GC 54.01** Subject to GC 54.02 and GC 55.04, the Ministry shall retain from each progress payment a holdback equal to five percent (5%) of the amount approved by the Ministry Representative for payment by the Ministry to the Contractor (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 Representative 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; and
- (c) the Contractor has provided to the Ministry the applicable executed statutory declaration in the format set out in the [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 Representative. This amount shall be retained until such time as the conditions in GC 56.01 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 Representative has issued a Completion Certificate pursuant to GC 34.04, no portion of the security shall be released until all conditions in GC 56.01 have been satisfied.

**GC 55.04** In the event of an interim Holdback release, the Ministry shall discontinue retaining Holdbacks from all subsequent progress 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, or the remaining balance thereof, within sixty (60) days following written acknowledgement by the Ministry that all of the following conditions have been satisfied:

- (a) the Ministry Representative has issued a Completion Certificate;
- (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 to the Ministry the applicable originally executed statutory declaration in the form set out in the [Standard Specifications](#); and
- (d) the Contractor has provided to the Ministry:
  - (i) written confirmation of the final measurement quantities that the Contractor accepts; and
  - (ii) written confirmation of the final measurement quantities which the Contractor disputes.

**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 moneys 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) the 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 as contemplated in GC 58.01, 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 circumstance 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, and which a statement of dispute shall update the information provided in the Notice to reflect any change 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 in 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 in 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 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 (Less Operator);
  - (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, not 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 not 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, not 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 [British Columbia International Commercial 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 any such event is voluntary, involuntary, or results from the operation of law or any judgment or order of any court or 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 the Contractor, 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 to the Ministry notice, 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 Representative, 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 Representative, 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 any 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 that may reasonably be required to remedy 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 by the Ministry under GC 62.02(b);
- (e) by written 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 Representative may determine;
- (g) provide written 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 by the Ministry in accordance with GC 62.02(b), 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 within 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 payable 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 upon the Ministry under GC 62.02 and GC 62.03 are not intended to be exclusive and each such right, power and remedy referred to therein shall be cumulative and in addition to and not in substitution for every 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 written 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 Representative.

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

- (a) the amount the Contractor is entitled to for Work completed satisfactorily 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 *RECORDS***

**GC 64.01** 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 Actual Completion Date or until the date any proceeding, claim, dispute, audit or litigation arising in connection with the Project is resolved or completed, whichever is later.



**GC 65.00 REPORTS**

**GC 65.01** The Contractor shall, upon the request of the Ministry, co-operate 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 or all of the Project Material.

**GC 66.00 AUDIT**

**GC 66.01** 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 66.02** Without limiting the generality of GC 66.01, the Contractor shall make available to any auditors of the Ministry all information requested by them, 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 66.03** The Contractor shall fully co-operate with and assist the Ministry, as necessary, to conduct an audit pursuant to GC 66.01 and GC 66.02.

**GC 67.00 CONFIDENTIALITY**

**GC 67.01** 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 67.02** Any documentation related 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 67.03** Unless otherwise stated in the Contract and subject to the [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 as insofar as such publication or disclosure is required by law.

**GC 67.04** Notwithstanding GC 67.03, 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 68.00 ANNOUNCEMENTS**

**GC 68.01** The Ministry shall arrange any public announcement relating to the Contract in consultation with the Contractor.

**GC 69.00 PROVINCIAL PROPERTY**

**GC 69.01** 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 or termination of the Contract.

**GC 69.02** The Ministry may, prior to the completion or 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 70.00 ENTIRE CONTRACT**

**GC 70.01** 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 70.02** Each Schedule, Appendix, Addendum, 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 71.00 AMENDMENTS**

**GC 71.01** The Contract may be amended only by a duly executed Supplemental Agreement.

**GC 72.00 ADDRESS FOR NOTICES**

**GC 72.01** 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 72.03.

**GC 72.02** 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 72.03** Either party may from time to time notify the other party in writing of a change in address, for the purposes of GC 72.01, or a change in facsimile number, for the purposes of GC 72.02, and the change in address or facsimile number will be effective upon receipt of the notice.

**GC 73.00 FURTHER ASSURANCES**

**GC 73.01** 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 74.00 DUTY TO MITIGATE**

**GC 74.01** The Contractor shall take all reasonable and necessary steps to minimize and avoid all costs and impacts arising out of the Contract.

**GC 75.00 WAIVER**

**GC 75.01** 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 75.02** No waiver of any right or obligation is a waiver of any other right or obligation under the Contract.

**GC 76.00 TIME**

**GC 76.01** Time is of the essence of the Contract.

**GC 77.00 INTERPRETATION**

**GC 77.01** Where the Contract references a statute such reference is a reference 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 77.02** 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 77.03** 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 77.04** 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 77.05** 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 77.06** If any one or more provisions of the Contract are in conflict, then the provisions apply in the following prioritized order:

- (a) any Supplemental Agreements, in reverse chronological order;
- (b) Schedule 8 – Contract Addenda, 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 [Standard Specifications](#);
- (j) the [Maintenance Specifications](#);
- (k) the [Electrical Maintenance Standards](#); and
- (l) the remaining provisions of the Contract and the remaining Schedules.

**GC 77.07** In the Special Provisions and the Drawings, figured dimensions prevail over scaled dimensions.

**GC 77.08** 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 77.09** A reference to a "day" or "days" means a calendar day or days, unless a contrary intention is expressed in the Contract.

**GC 77.10** 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 77.11** In the calculation of time, the first day shall be excluded and the last day included.

**GC 77.12** 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 77.13** Approval or acceptance by the Ministry of any aspect of the Work does not relieve the Contractor of its obligation to perform all Work in accordance with the Contract.

**GC 77.14** Where the Contract anticipates the use of a specific form, an alternative instrument may be used which 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 78.00 SURVIVAL OF TERMS**

**GC 78.01** 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 79.00 SUCCESSORS AND ASSIGNS**

**GC 79.01** The Contract continues to the benefit of and binds the Ministry and its assigns and the Contractor and its successors and permitted assigns, and 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 80.00 GOVERNING LAW**

**GC 80.01** The Contract shall be governed, construed, and interpreted in accordance with the laws of the Province of British Columbia.

**GC 80.02** 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 81.00 JOINT AND SEVERAL LIABILITY RE JOINT VENTURES**

**GC 81.01** 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.

**GC 82.00 LIMITATIONS FOR CLAIMS**

**GC 82.01** 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 82.02** 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 the Contract.

IN WITNESS WHEREOF duly authorized representatives of the Minister of Transportation and Infrastructure, on behalf of Her Majesty the Queen 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 Her Majesty the Queen 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)

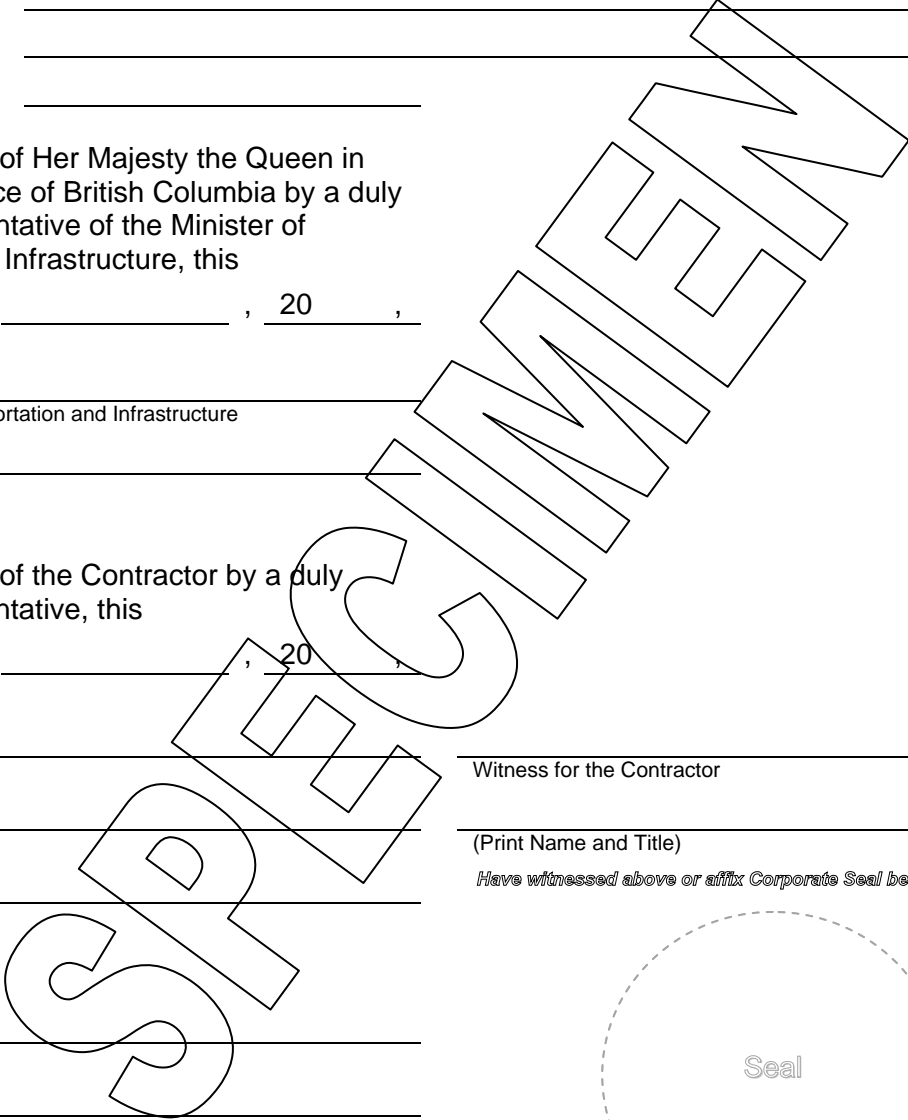
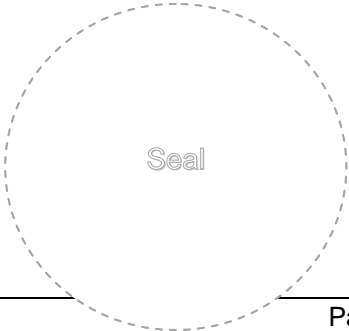
\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone)

\_\_\_\_\_  
Witness for the Contractor

\_\_\_\_\_  
(Print Name and Title)

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



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(Fax)

[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, joint venture, or other entity as the case may be.]

## MAJOR WORKS GENERAL CONDITIONS INDEX

All entries indexed below may be found in page #

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