

STIPULATED PRICE CONTRACT

Made effective as of the ____ day of _____, 20__

CONTRACT NO. _____

BETWEEN

(the "*Owner*")

and

(the "*Contractor*")

COVERING

(Work Description)



**CONSTRUCTION OWNERS ASSOCIATION
OF ALBERTA**

Stipulated Price Contract (2003)
COAA Best Practices Contract

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THIS CONTRACT made effective as of _____, 20____

BETWEEN:

_____ a body corporate, registered pursuant to the laws of
the Province of Alberta (hereinafter called "the *Owner*")

and

_____ a body corporate, registered pursuant to the laws
of the Province of Alberta (hereinafter called the "*Contractor*")

STIPULATED PRICE CONTRACT

PREAMBLE:

WHEREAS the *Contractor* has agreed to perform the *Work* for the *Owner* as set out in this *Contract*, on the terms and conditions contained herein;

NOW THEREFORE IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS CONTAINED HEREIN, THE PARTIES HERETO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

GC 1-DEFINITIONS AND INTERPRETATION

1.1 The following italicized terms, wherever used in any *Contract Document* or in any amendment thereto, mean:

1.1.1 *Bid Documents* means the bid documents issued by the *Owner* in response to which bids are invited for the performance of the *Work*;

1.1.2 *Camp Accommodation* means accommodation, including meals, at any site designated by the *Owner*;

1.1.3 *Change* means any change in, addition to, or deletion from the *Work*;

1.1.4 *Change Directive* means a written instruction from the *Owner* directing a *Change*;

1.1.5 *Change Order* means a written order signed by both the *Contractor* and the *Owner* authorizing a *Change*;

1.1.6 *Change Quotation* means a written quotation from the *Contractor* for an adjustment in the *Contract Price* or *Contract Time*, or both;

- 1.1.7 *Commencement Date* means the date that the *Work* is to commence as set out in GC 4.1;
- 1.1.8 *Contemplated Change Notice* means a written notice from the *Owner* of a contemplated *Change*;
- 1.1.9 *Contract* or *Contract Documents* means this Stipulated Price Contract together with the schedules listed in GC 1.2, *Change Orders*, *Bid Documents* and all drawings, plans and specifications listed therein; **[Note to Draft: *Bid Documents* have been included in this definition, but may not be appropriate in each case]**
- 1.1.10 *Contract Price* means the total amount payable to the *Contractor* for the performance of the *Work*, as set out in Schedule "B" - Payment for Work;
- 1.1.11 *Contract Time* means the period of time from the *Commencement Date* to the completion date as set forth in GC 4;
- 1.1.12 *Contractor's Prepared Documents* means all plans, shop drawings, other drawings, specifications, calculations, reports, opinions, notes, models, bid documents, software, data and other documents prepared by the *Contractor* pursuant to this *Contract* whether written or stored electronically;
- 1.1.13 *Contractor's Representative* means that person identified as such in GC 33.3 or an approved replacement;
- 1.1.14 *Event of Force Majeure* means any occurrence, other than the financial capability of a party or an event constituting a delay under GC 19, which is beyond the control and without the fault or negligence of the party relying on such occurrence, and which by the exercise of reasonable diligence that party could not at the time of bidding have reasonably contemplated happening and is unable to prevent or provide against;
- 1.1.15 *Final Completion Notice* means that notice issued by the *Owner* to the *Contractor* pursuant to GC 9.3, certifying completion and acceptance of the *Work* under this *Contract*;
- 1.1.16 *Functional Completion* means that date when the *Work* (or a component system thereof as defined in the *Contract Documents*) has been completed and is ready to be turned over by the *Contractor* to the *Owner* in accordance with the *Work Schedule* and certified by the *Owner's Representative* as being ready for operation;
- 1.1.17 *General Conditions* means the terms and conditions contained in this Stipulated Price Contract and sometimes abbreviated as GC;
- 1.1.18 *Hazardous Material* means any substances which are hazardous to persons, animals, property or the environment and includes hazardous substances, hazardous waste, ozone depleting substances and dangerous goods, all as identified or defined under applicable *Law*, as well as any prescribed product under the *Nuclear Energy Act* (Canada);

- 1.1.19 *Key Personnel* means those personnel so identified in Schedule "A" - Scope of Work;
- 1.1.20 *Law* means the common law, the law of equity and all federal or provincial statutes or municipal by-laws and all regulations, orders, directives, permits and licenses thereunder, which apply to or otherwise affect the *Owner* or the *Contractor* with respect to the *Work*, or the property of the *Owner* or the *Contractor*, real or personal, or any part thereof, including but not limited to all environmental, occupational, health and safety laws;
- 1.1.21 *Milestone Dates* means those dates set out in Schedule "A" - Scope of Work;
- 1.1.22 *Non-Canadian Workers* means persons other than Canadian citizens, permanent residents or persons who meet the requirements of the exemption provisions set forth in the *Immigration Act* (Canada) and regulations, as amended from time to time;
- 1.1.23 *Other Contractors* means any third party contractors, consultants, or engineers retained by the *Owner*, to perform any work or services, related to the *Work Site*;
- 1.1.24 *Owner's Confidential Information* means all information relating to the *Work* and any process, technology or system relating thereto, the design, construction, operation, maintenance or any other aspect of the *Owner's Site*, or relating to the nature of the *Owner's* business and affairs, which the *Contractor* directly or indirectly receives or acquires from the *Owner* or the *Owner's Representative* or anyone on behalf of the *Owner* or the *Owner's Representative*, either in writing or verbally, or through observation of the *Owner's Site* or the *Work*, except information falling into any one or more of the following categories:
- 1.1.24.1 information which the *Contractor* can show was in the *Contractor's* possession on a non-confidential basis prior to the *Contractor's* receipt or acquisition thereof from the *Owner*;
- 1.1.24.2 information which is lawfully in the public domain at the time of the *Contractor's* receipt or acquisition thereof from the *Owner* as aforesaid;
- 1.1.24.3 information which, after the *Contractor's* receipt or acquisition thereof from the *Owner*, becomes part of the public domain through no act of the *Contractor* or of any third party under an obligation of confidence with respect to such information, but only after such information becomes part of the public domain; or
- 1.1.24.4 information which, after receipt or acquisition thereof from the *Owner*, is lawfully obtained by the *Contractor* from a third party, but only after such information is so received or acquired, and provided such third party is under no obligation of confidence with respect to such information.

Specific information shall not be considered to be within the scope of any of the exceptions listed above merely because it is included with general information within the scope of the above exceptions;

1.1.25 *Owner's Representative* means that person identified as such in GC 33.2 or a designated replacement and may include a consultant hired by the *Owner* if so designated;

1.1.26 *Owner's Site* means the lands municipally described as:

and legally described as:

1.1.27 *Project Mediator* means the person appointed pursuant to GC 30.3;

1.1.28 *Proprietary Information* means all inventions, discoveries, improvements and technical information not in the public domain, which the *Contractor*, *Subcontractors* or *Suppliers*, or their respective employees or agents who are performing the *Work*, may conceive of, reduce to practice or develop during the *Contract Time* or within 6 months thereafter, as a result of *Owner's Confidential Information*;

1.1.29 *Records* means both paper and electronic books, statements, records and accounts pertaining to this *Contract* and the performance of the *Work*;

1.1.30 *Site Minutes* means those minutes recorded by the *Owner's Representative* at site meetings attended by the *Owner* and the *Contractor*;

1.1.31 *Specified Substance* has the meaning given in any published *Owner's* regulations, guidelines or publications applicable to the *Work* issued for the use and disposal of substances;

1.1.32 *Subcontractors* means any contractors or consultants hired by the *Contractor* in accordance with this *Contract* to perform any portion of the *Work*;

1.1.33 *Suspended Work* has the meaning ascribed thereto in GC 20.1;

1.1.34 *Suppliers* means any third party retained by the *Contractor* to supply equipment, materials or both for any portion of the *Work*;

1.1.35 *Warranty* means those warranties set forth in GC 25;

1.1.36 *Warranty Period* means that period of time set forth in GC 25.2;

1.1.37 *Work* means all labour, supervision, administration, materials, transportation, supplies, tools, equipment, temporary facilities, storage facilities, and such other work and materials, necessary to be performed or supplied for the work required by the *Contract Documents* including the work described in Schedule "A" - Scope of Work, and including any work which is not expressly described in the *Contract* but which is

nevertheless necessary for the proper execution of the work required by the *Contract Documents*;

- 1.1.38 *Work Day* means any day, except for a Saturday, Sunday, statutory holiday or a holiday which is observed in the construction industry generally in the area of the *Work Site* or defined as a holiday in a collective agreement pertaining to the *Work Site* [**Note to Draft: This definition may be subject to change depending on the project requirements**];
- 1.1.39 *Work Schedule* means a detailed schedule for performance of the *Work* as referred to in GC 7.10;
- 1.1.40 *Work Site* means the site(s) or location(s) where all or any of the *Work* is to be performed on the *Owner's Site*.

1.2 The following schedules attached hereto shall form part of and are incorporated in this *Contract*:

Schedule "A" - Scope of Work

Schedule "B" - Payment for Work

Schedule "C" - Release and Certificate of Final Payment

Schedule "D" - Technical Specifications

Schedule "E" - Statutory Declaration

Schedule "F" – Key Employee Confidentiality, Proprietary Information and Consent Agreement

[Note to Draft: List any additional schedules]

GC 2 - WORK

2.1 The *Contractor* shall perform the *Work* in accordance with the *Contract Documents*. The *Contractor* shall supply or cause to be supplied all services, equipment and materials required for the proper execution of the *Work* and shall comply with, observe and perform all provisions of the *Contract* applicable to the *Contractor*.

GC 3 - PAYMENT

3.1 As full and complete compensation for performance of the *Work*, the *Owner* shall pay the *Contractor* the *Contract Price* in accordance with Schedule "B" - Payment for Work.

3.2 The *Contractor* shall prepare and submit invoices for all *Work* performed hereunder, in accordance with Schedule "B" - Payment for Work.

3.3 The *Owner* shall retain from all payments due and payable to the *Contractor* hereunder an amount equal to 10% of the value of the *Work* actually done and materials furnished by the *Contractor* according to the provisions of the *Builders Lien Act* of Alberta.

3.4 If:

3.4.1 a certificate of substantial performance is issued for a subcontract,

3.4.2 the period designated for the release of holdback pursuant to the *Builders' Lien Act* has expired from the date of issue of that certificate of substantial performance, and no builders' lien has been registered against the title to the *Owner's Site*,

the amount that the *Owner* is required to retain under GC 3.3 is reduced by 10% of the value of the *Work* actually done and materials actually furnished under the subcontract at the date of issue of the certificate of substantial performance in respect thereof.

3.5 If:

3.5.1 a certificate of substantial performance is issued for the *Contract*,

3.5.2 the period designated for the release of holdback pursuant to the *Builders' Lien Act* has expired from the date of issue of the certificate of substantial performance, and

3.5.3 no builders' lien has been registered against the title to the *Owner's Site*, the amount the *Owner* shall retain under GC 3.3 shall be reduced by 10% of the value of the *Work* actually done and materials actually furnished under the *Contract* at the date of issue of the certificate of substantial performance.

3.6 Should either party fail to make payments as they become due under the terms of the *Contract* or in an award of arbitration or judgment of a court, interest at ____ % per cent per annum, compounded semi-annually on any unpaid amounts shall also become due and be payable.

GC 4 - CONTRACT TIME

4.1 The *Contractor* shall commence the *Work* on _____, _____, and, perform the *Work* in accordance with the *Work Schedule* and shall achieve the *Milestone Dates* set out in Schedule "A" - Scope of Work, and except as otherwise provided herein, shall finally complete the *Work* on or before _____, _____.

4.2 The provisions of this *Contract* shall survive the completion of the *Work*.

GC 5 - CONTRACT DOCUMENTS

5.1 Each of the parties shall promptly and fully inform each other of any errors, omissions or inconsistencies in the *Contract Documents*, and of any inconsistencies between the *Contract Documents* and the *Law*, of which they become aware. The *Contractor* shall exercise reasonable care and diligence to prevent any actions or conditions which could result in any such inconsistencies. If the *Contractor* discovers any inconsistencies in the *Contract Documents*, or between the *Contract Documents* and the *Law*, it shall resolve all such inconsistencies with the *Owner* before proceeding with the affected portion of the *Work*.

5.2 Subject to GC 26.3 and GC 26.4, if any of the *Contractor's Prepared Documents* are incorrect or inconsistent with any of the other *Contract Documents* or the *Law*, then the *Contractor* shall be liable to and shall indemnify the *Owner* for all losses, costs, damages and expenses whatsoever which the *Owner* may incur as a result of any errors or inconsistencies therein.

5.3 Subject to *Changes* made in accordance with GC 8, the *Contractor* shall not deviate from the specifications or requirements stated in the *Contract Documents*.

5.4 Subject to the provisions of GC 5.5 and GC 8.7, all conflicts in these *Contract Documents* including, but not limited to those contemplated in GC 5.1, may, in the *Owner's* sole discretion be resolved solely by the *Owner's Representative*. The *Contractor* shall not work on that portion of the *Work* which is affected until the conflict has been resolved and the *Owner* has authorized the *Contractor* to proceed with such *Work*.

5.5 In the event of a conflict or inconsistency among or between the *Contract Documents*, the following shall apply:

- 5.5.1 the *General Conditions*, including the attached schedules shall govern over the *Bid Documents*;
- 5.5.2 for documents as revised by either party and approved by the *Owner*, the latest revisions shall govern;
- 5.5.3 figured dimensions on drawings shall govern, even though they may differ from scaled dimensions;
- 5.5.4 drawings of larger scale shall govern over those of smaller scale of the same date;
- 5.5.5 specifications issued by the *Owner* shall govern over all drawings regardless of date; and
- 5.5.6 the *General Conditions* shall govern over all other *Contract Documents*, including the schedules attached hereto.

[Note to Draft: If Supplementary General Conditions are used, then replace 5.5.6 and add 5.5.8]

5.5.7 subject to GC 5.5.7, the *General Conditions* shall govern over all other *Contract Documents*, including the schedules attached hereto; and

5.5.8 supplementary general conditions shall govern over the *General Conditions*.

GC 6 - PERSONNEL

6.1 The *Contractor* shall provide a sufficient number of qualified personnel to enable timely and proper execution and completion of the *Work*. All such personnel shall be competent, literate in English and qualified by education, training, experience and in all other respects capable of carrying out the tasks to which each is assigned.

6.2 The *Contractor* shall employ, or cause to be employed, only supervisory personnel who are appropriately qualified, trained and experienced in safety, efficiency and quality of work supervision, and if requested by the *Owner*, accredited, or enrolled in a program for accreditation, in the manner specified by the *Owner* in the *Contract Documents*.

6.3 At the *Owner's* request, the *Contractor* shall reassign, replace or remove personnel who, in the *Owner's* sole discretion, do not meet the requirements of GC 6.1 or GC 6.2, or who have committed a violation of the *Owner's* regulations and procedures, including but not limited to safety, security, camp or site regulations or procedures.

6.4 Prior to the *Commencement Date*, the *Contractor* shall submit a proposed organizational chart for the *Owner's* approval. The organizational chart shall show the *Key Personnel* and the other supervisory and staff personnel who shall be executing the *Work*, together with their respective job titles. The *Contractor* shall not, without the *Owner's* consent, make any changes to the *Key Personnel* on an organizational chart that has been approved by the *Owner*. If any *Key Personnel* leave the *Contractor's* workforce, the *Contractor* shall forthwith replace such *Key Personnel* with personnel suitable to the *Owner* and of at least comparable qualifications.

6.5 The *Contractor* shall not employ or continue to employ *Non-Canadian Workers* in Canada, except in compliance with the *Immigration Act* (Canada) and regulations, as amended from time to time. The *Contractor* shall obtain and produce to the *Owner's Representative* valid and subsisting employment authorizations with respect to all *Non-Canadian Workers* to be used to perform the *Work*.

GC 7 - PERFORMANCE

7.1 The *Contractor* accepts the *Owner's Site*, the *Work Site* and the obligation to perform the *Work* in the condition existing at the close of tenders and acknowledges that it has investigated and satisfied itself as to:

7.1.1 the nature of the *Work*;

7.1.2 the location of and all conditions relating to the *Owner's Site* and the *Work Site* including but not limited to accessibility, general character, surface conditions, utilities, roads, uncertainties of seasonal weather and all other physical, topographical, geographical conditions;

- 7.1.3 the general character, quality, quantity and availability of equipment and materials required to execute and complete the *Work*;
- 7.1.4 all environmental risks, conditions, *Law* and restrictions applicable to the *Contractor* or the *Work* that might affect the *Work*;
- 7.1.5 all conditions affecting labour, including, without limitation, availability, productivity and administrative practices, including those relating to safety, prevailing at or applicable to the *Work*; and
- 7.1.6 the magnitude of the construction work required to execute and complete the *Work*;

and any failure by the *Contractor* to discover matters which affect or could affect the *Work* shall not relieve the *Contractor* from its obligations under this *Contract* or otherwise affect the *Contract Price*.

7.2 The *Contractor* and the *Owner* shall co-operate fully with each other and *Other Contractors* and *Suppliers*, and all other parties with whom the *Contractor* and the *Owner* may be involved during the performance of the *Work*.

7.3 The *Owner* reserves the right to award separate contracts to *Other Contractors* to be performed at the *Work Site* and to perform work with its own forces at the *Work Site*, in which case the *Owner* shall co-ordinate and schedule the *Work* with the work of the *Other Contractors* and the *Owner's* own forces, and the *Contractor* shall share access to and use the *Work Site* to accommodate the work of *Other Contractors* and of the *Owner's* own forces.

7.4 The *Contractor* agrees that it shall:

- 7.4.1 efficiently and expeditiously perform all *Work* in a good and workman-like manner and in accordance with this *Contract*;
- 7.4.2 exercise in its performance of the *Work*, that standard of care and skill normally exercised by contractors performing this type of construction work; and
- 7.4.3 perform the *Work* in a safe and environmentally sound manner and in compliance with applicable *Law*.

7.5 The *Contractor* represents and warrants to the *Owner* that:

- 7.5.1 it has the experience, resources, personnel and capability to expeditiously and diligently perform the *Work* and this *Contract*;
- 7.5.2 it is duly incorporated and validly existing under the laws of the Province of Alberta; **[Note to Draft: To be deleted if *Contractor* is not incorporated]**
- 7.5.3 it has all required permits, licenses and authorizations necessary to carry on its business and to be obtained by it to conduct the *Work*; and

7.5.4 the title to any and all materials, supplies and equipment which are to be provided by the *Contractor* for incorporation into the *Work* shall upon delivery to the *Work Site* be free from any and all claims, liens, charges, encumbrances or security interests of any kind whatsoever.

7.6 The *Contractor* shall supervise its employees, *Subcontractors* and *Suppliers* and inspect their work to ensure that such work and the *Work* conforms in each and every respect to the *Contract Documents* and to good and proper construction practices.

7.7 Neither acceptance of any part of the *Work* by the *Owner*, nor payment to the *Contractor*, shall relieve the *Contractor* from its responsibilities under this *Contract*, whether pursuant to any of the warranties or guarantees expressed or implied herein, or otherwise.

7.8 The *Contractor* shall provide the *Owner* with verbal or written reports in reasonable detail promptly upon the reasonable request of the *Owner*, and shall attend meetings as required by the *Contract Documents*, or as otherwise requested by the *Owner's Representative*.

7.9 The *Contractor* shall ensure that no activities or actions are undertaken in the performance of the *Work* by the *Contractor*, its *Subcontractors* or *Suppliers*, which would adversely affect, restrict or limit in any way, the continued operation of the *Owner's* facilities or plant which are in operation, unless required to perform the *Work* and done in accordance with the *Work Schedule* or otherwise authorized by the *Owner's Representative*.

7.10 Prior to the *Commencement Date*, and when otherwise requested by the *Owner's Representative*, the *Contractor* shall prepare a detailed *Work Schedule* satisfactory to the *Owner*, acting reasonably, for the performance of all or any part of the *Work* required under the *Contract Documents*. The *Contractor* shall control the progress of the *Work* to achieve compliance with the *Work Schedule*.

GC 8 - CHANGES

8.1 The *Owner* shall have the right, at any time, to make *Changes*.

8.2 When a *Change* is proposed or required, the *Owner* shall provide a *Contemplated Change Notice* to the *Contractor* describing the proposed *Change*.

8.3 The *Contractor*, upon receipt of a *Contemplated Change Notice*, shall promptly provide the *Owner's Representative* with a *Change Quotation* which shall include a method of adjustment or an amount of adjustment to the *Contract Price*, if any, and the adjustment in the *Contract Time*, if any, for the proposed *Change*.

8.4 The *Owner* shall promptly following receipt of the *Change Quotation* either agree to the adjustments in the *Contract Price* and *Contract Time* or to the method to be used to determine the adjustments, or give the *Contractor* notice that the *Change Quotation* is not acceptable. If the *Change Quotation* is agreed to, then the *Owner* shall immediately issue a *Change Order* recording the *Change*, which shall be signed by the *Owner* and the *Contractor*. The value of *Work* performed as a result of a *Change Order* shall be included in invoices for payment given in accordance with the terms of payment in Schedule "B" - Payment for Work.

8.5 If the *Owner* requires the *Contractor* to proceed with the *Change* before the *Owner* and the *Contractor* agree, or where the *Owner* and *Contractor* have failed to agree upon the adjustment in *Contract Price* and *Contract Time*, the *Owner* shall issue a *Change Directive*.

8.6 Upon receipt of a *Change Directive*, the *Contractor* shall proceed promptly with the *Change*, and:

8.6.1 the *Contractor* shall keep daily records signed by the *Owner's Representative* of the time, materials and equipment employed in the *Change*; and

8.6.2 the *Contract Price* shall be adjusted in accordance with Schedule "B"- Payment for Work for *Changes* and *Change Directives*; and

8.6.3 the *Contract Time* shall be equitably adjusted by agreement between the *Owner* and *Contractor*, and if agreement cannot be reached, then the dispute shall be settled in accordance with GC 30.

8.7 If, during the performance of the *Work*, the *Contractor* is of the opinion that any instruction, interpretation, decision or direction from the *Owner* should have but has not resulted in a *Contemplated Change Notice* or *Change Directive* being issued, the *Contractor* shall give the *Owner* ____ *Work Days* notice with a *Change Quotation* requesting any adjustment in the *Contract Price* and *Contract Time* required. The *Owner* shall promptly consider the *Change Quotation* and immediately issue a *Change Order*, *Change Directive* or advise the *Contractor* that the *Contractor's* request is denied. If the *Contractor* disputes the *Owner's* decision, the *Contractor* shall, before proceeding with the *Work*, provide notice to the *Owner* disputing the *Owner's* decision, but shall promptly proceed to perform the *Work*. The *Contractor* shall keep daily records, to be signed by the *Owner's Representative*, of the time, materials and equipment employed in respect of the disputed *Work*. The *Contractor's* entitlement to an adjustment in the *Contract Price* and *Contract Time* shall then be resolved under GC 30.

8.8 No modification, additions, deletions or other revisions to this *Contract*, including Schedules "A" - Scope of Work, "B" - Payment for Work and "D" - Technical Specifications, shall be binding on either party unless set out in a *Change Order* or required by a *Change Directive*. Neither the keeping of daily records in respect of disputed work nor the signing of those records by the *Owner's Representative* shall be considered as an admission of entitlement to payment by the *Owner* but shall constitute a record of the time, materials and equipment employed in respect of the work for which a *Change Directive* has been issued or the *Contractor* has given notice of a dispute.

8.9 The *Contractor* shall include in its *Change Quotation* all costs and changes in *Contract Time* reasonably expected to result from a *Change* including any impact costs or costs of acceleration.

8.10 If the *Contractor* encounters actual subsurface or other concealed physical conditions at the *Work Site* which are materially different from the conditions represented to exist in the *Contract Documents*, then the *Contractor* shall provide notice to the *Owner* within 5 *Work Days* of encountering the conditions and shall allow the *Owner* the opportunity for inspection before the conditions are further disturbed.

8.11 The *Owner* shall promptly investigate the conditions described by the *Contractor* and if the actual conditions encountered by the *Contractor* at the *Work Site* differ materially from the conditions represented in the *Contract Documents* so as to substantially increase the cost to the *Contractor* or the time to perform the *Work*, then the *Owner* shall issue a *Change Order* to cover the increased cost and changed time to perform the *Work*.

GC 9 - COMPLETION & ACCEPTANCE

9.1 Upon notice to the *Contractor*, the *Owner* shall have the right to take possession of and use for any purpose any partially completed portion of the *Work*. The taking of possession or use shall not be deemed to be the *Owner's* acknowledgement of completion and acceptance of that portion of the *Work* or the *Owner's* concurrence that such *Work* conforms to the *Contract* and shall not limit or waive the *Contractor's* responsibility with respect thereto pursuant to this *Contract* or otherwise.

9.2 When the *Contractor* has completed the *Work*, or a component system thereof as defined in the *Contract Documents* ready to be turned over to the *Owner* for operation in accordance with the *Work Schedule*, it may give the *Owner's Representative* notice that the *Work*, or a component system thereof, has achieved *Functional Completion*. Within ___ *Work Days* of receipt of that notice, the *Owner's Representative* shall either issue a *Functional Completion* certificate or give notice to the *Contractor* of the reasons why the *Work*, or component system thereof, has not achieved *Functional Completion*. Neither certification by the *Owner's Representative* that the *Work*, or a component system thereof, has reached *Functional Completion* or the acceptance by the *Owner* of the *Work*, or a component system thereof, as being ready for operation shall relieve the *Contractor* of any of its obligations under this *Contract*, or otherwise.

9.3 After the *Contractor* has completed all *Work* under this *Contract* and corrected all known deficiencies, it shall give the *Owner's Representative* notice that the *Work* has been finally completed. Within ___ *Work Days* of receipt of that notice, the *Owner's Representative* shall either issue a *Final Completion Notice*, or give notice to the *Contractor* of the deficiencies to be remedied before a *Final Completion Notice* can be issued. In the latter case, the foregoing procedure with respect to the deficiencies shall be repeated until the *Owner's Representative* issues the *Final Completion Notice*. Notwithstanding the foregoing, the *Owner's* issuance of the *Final Completion Notice* shall not relieve the *Contractor* of any of its obligations under this *Contract*, or otherwise.

[Note to Draft: The following General Condition 9.4 is optional and places an onus on the Contractor that is higher than required by the previous draft]

9.4 The parties agree that it is a condition precedent to the issuance of a *Final Completion Notice* and to the release of the holdback that the *Contractor* satisfy each of the following requirements:

9.4.1 the *Work* has been fully completed in accordance with the terms and conditions of this *Contract*;

- 9.4.2 all deficiencies with respect to the *Work* have been remedied to the satisfaction of the *Owner*;
- 9.4.3 all obligations to other parties in relation to the *Work* for which the *Owner* or the *Contractor* could in any way be held responsible have been fully satisfied; and
- 9.4.4 the *Contractor* has delivered to the *Owner* the following:
- 9.4.4.1 a statutory declaration in the form included in Schedule "E" - Statutory Declaration and modified as required to include the following:
 - (a) the amount of final sums payable;
 - (b) the date the *Contractor* completed the *Work*, to evidence the expiration of the term for filing liens;
 - (c) the full payment of all payrolls and other similar indebtedness, and all other sums and obligations whatsoever incurred by the *Contractor* in carrying out the *Work*, including, without limitation, payments to contractors or for materials or equipment; and
 - (d) compliance of the *Contractor* with all *Law*;
 - 9.4.4.2 a Workers' Compensation Board clearance certificate;
 - 9.4.4.3 any as-built drawings and operations manuals for which the *Contractor* is responsible;
 - 9.4.4.4 assignments of any warranties provided by manufacturers or suppliers of materials;
 - 9.4.4.5 written evidence of good standing from union representatives, if any; and
 - 9.4.4.6 a release in the form provided in Schedule "C" - Release and Certificate of Final Payment of all claims against the *Work* and the *Owner* arising under and by virtue of this *Contract* other than such claims, if any, as may with the consent of the *Owner* be specifically excepted by the *Contractor* in the preparation of such release, in amounts which shall be set forth therein.

GC 10 - INSPECTION

10.1 At all times during the progress of the *Work*, the *Owner* shall have the right to inspect or witness any part of the *Work*.

10.2 The *Contractor* shall inspect and be solely responsible for the inspection of all workmanship, materials and equipment furnished by the *Contractor*, *Subcontractors* or *Suppliers* in respect of the *Work*, to ensure conformity in each and every respect to the requirements of the *Contract Documents* and the *Law* and to ensure that good and proper construction practices are followed and that the *Work* is performed in a safe and environmentally sound manner.

10.3 If the *Law* requires testing of any part of the *Work*, the *Contractor* shall provide the *Owner* with sufficient advance notice of the arrangements for the test.

10.4 If the *Contract Documents* require any test to be performed or witnessed by the *Owner*, the *Contractor* shall provide the *Owner's Representative* with sufficient advance notice of its readiness for the test and the *Owner* shall then promptly perform or witness the test. If the *Owner* fails to witness the test when scheduled, any re-testing required by the *Owner* shall constitute a *Change*. If any portion of the *Work* is closed or covered by the *Contractor* without the *Owner's* permission and before the *Owner* has been given the opportunity to perform or witness a required test, then if requested by the *Owner*, that portion of the *Work* shall be opened or uncovered for testing and re-closed or re-covered, all at the *Contractor's* expense.

10.5 The *Contractor* shall ensure that all tools, equipment, temporary facilities and other items used in accomplishing the *Work*, whether purchased, rented or otherwise, provided by the *Contractor*, *Subcontractors* or *Suppliers*, are in a safe, environmentally sound and good condition, capable of performing the functions for which they are intended and used. The *Owner* shall have the right to inspect all tools and equipment brought on to the *Owner's Site* at any time during the progress of the *Work*. If any tool or item of equipment is, in the *Owner's* sole judgment, acting reasonably, unsafe, environmentally unsound or incapable of doing the work for which it is intended, the *Contractor* shall repair or replace it with a safe, environmentally sound and capable tool or item of equipment at the *Contractor's* expense.

10.6 Any *Work* which must be tested shall not be considered ready for inspection by the *Owner* until the *Contractor* has satisfied itself and notified the *Owner's Representative*, that in the *Contractor's* opinion, that *Work* can successfully pass the test.

10.7 Any inspection, testing or witnessing of any of the *Work* or tests by the *Owner*, or omission or failure on the part of the *Owner* to inspect or test any of the *Work* shall not be construed to be an acceptance of any such *Work* or as relieving the *Contractor* of its responsibilities pursuant to this *Contract* or otherwise.

GC 11 - COMPLIANCE WITH LAW

11.1 The *Contractor* shall comply with and shall ensure that its employees and agents comply with and shall contractually require its *Subcontractors* and *Suppliers* and their respective employees and agents to comply with all applicable *Law* in connection with the *Work*.

11.2 Subject to GC 26, the *Contractor* shall:

11.2.1 be liable for; and, in addition

11.2.2 indemnify and hold harmless the *Owner* and its officers, directors, employees, consultants and agents from and against,

any liability, claims, damages, costs and expenses arising from the failure of the *Contractor*, *Subcontractors* or *Suppliers*, or their respective employees or agents to comply with the *Law*, including but not limited to any additional costs for *Work* to be redone as a result of the breach of *Law*.

11.3 The *Contractor* shall obtain from governmental authorities or other third parties, and pay for those licenses, permits and approvals required by the *Law* or by the *Contract* for the *Work*, except those licenses, permits and approvals required with respect to the land-use aspects of the *Work* to be performed on the *Owner's Site*, and except for those licenses, permits and approvals to be obtained by the *Owner* as listed in Schedule "A" - Scope of Work.

11.4 If the *Contractor* discovers any variance between the *Law* and any materials purchased or supplied by the *Contractor*, *Subcontractors* or *Suppliers*, then the *Contractor* shall promptly notify the *Owner* before proceeding with the part of the *Work* affected, and shall make the necessary revisions to the materials to comply with the *Law*, at the *Contractor's* expense.

GC 12 - SAFETY & LOSS MANAGEMENT

12.1 The parties are committed to safety and the application of loss management principles in the performance of the *Work*. The *Contractor* shall perform the *Work* in a safe manner so as to comply in all respects with the safety, emergency and loss management regulations, guidelines and publications communicated by the *Owner* to the *Contractor* as part of the *Bid Documents* or otherwise for use by the *Contractor* in preparing its bid. The *Owner* shall make available to the *Contractor*, its published safety, emergency and loss management regulations, guidelines and publications, including, but not limited to, any *Owner's* loss management publication, and the *Contractor* shall perform the *Work* in a safe manner so as to comply therewith in all respects.

12.2 The *Contractor* shall place the highest importance on safety, emergency and loss management at all times during the performance of the *Work*. Accordingly, the *Contractor* shall at all times be responsible for safety and loss management in the performance of the *Work*, including, but not limited to, protecting the employees of the *Owner*, the *Contractor*, *Subcontractors*, *Suppliers* and *Other Contractors* and the general public from injury or death and protecting the *Owner's* property and the property of third parties from loss or damage. Without limiting the generality of the foregoing, the *Contractor* shall comply with all other safety requirements, if any, as specified in Schedule "A" - Scope of Work.

12.3 All employees of the *Contractor*, *Subcontractors* and *Suppliers* must successfully complete any *Owner's* safety orientation courses and other similar courses as the *Owner* may require, before being allowed access to the *Owner's Site*, and it shall be the *Contractor's* responsibility to ensure that they have done so.

GC 13 - WORK AREA & CLEAN UP

13.1 The *Owner* may designate space at the *Owner's Site* for the *Contractor's* working and storage areas. The *Contractor* shall be responsible for keeping these areas clean, orderly and secure.

13.2 The *Owner* is not responsible for theft, loss or damage to the *Contractor's* tools, equipment or materials howsoever caused, except for the negligent act or omission of the *Owner* or those for whom in *Law* it is responsible.

13.3 The *Contractor* shall not, and shall ensure that its *Subcontractors* and *Suppliers* do not use, transport, or store *Hazardous Material* on the *Owner's Site* except with the prior approval of the *Owner's Representative*. All *Hazardous Material* used, transported or stored shall be dealt with in accordance with the *Law*, the *Contract* and all of the *Owner's* published regulations, guidelines or publications regarding *Hazardous Material*. The *Contractor* shall also comply with the *Contract* and the *Owner's* published regulations, guidelines or publications in respect of on-site use and disposal of *Specified Substances* at the *Owner's Site*.

13.4 During the performance of the *Work*, the *Contractor* shall comply fully with the *Contract* and the *Owner's* safety and emergency regulations, guidelines and publications regarding clean up. The *Contractor* shall clean up, remove and dispose of all surplus materials, containers, trash and debris from the *Work*. Upon completion of the *Work*, or earlier termination of this *Contract*, the *Contractor* shall promptly clean up and remove all of its equipment, tools and surplus materials from the *Work Site* as specified by the *Owner* and shall leave the *Work Site* clean and ready for the *Owner's* use and occupancy.

GC 14 - TITLE & RESPONSIBILITY

14.1 All of the *Contract Documents* and *Contractor's Prepared Documents* shall belong to the *Owner*, and accordingly the *Contractor* shall have no proprietary right or interest in the *Contract Documents* or *Contractor's Prepared Documents*. The *Contractor* shall not use, copy or disclose any of the *Contract Documents* and *Contractor's Prepared Documents* for any purpose other than performing the *Work*. Subject to the foregoing, the *Contractor* may retain for its own records a copy of the *Contract Documents* and the *Contractor's Prepared Documents*.

14.2 Notwithstanding GC 14.1 or any other provision of this *Contract*, the *Contractor* shall be responsible for possession of all *Contractor's Prepared Documents* completed or in progress until received by the *Owner*. If any of the *Contractor's Prepared Documents* are lost, damaged or destroyed prior to receipt by the *Owner*, then such *Contractor's Prepared Documents* shall be promptly redone and replaced by the *Contractor*, at the *Contractor's* expense unless the loss, damage or destruction was caused by the *Owner* or persons for whom in *Law* it is responsible.

14.3 Subject to the *Owner's* rights pursuant to GC 29.4, the *Owner* agrees that it shall not sell to third parties any of the *Contractor's Prepared Documents* nor shall it distribute any of the *Contractor's Prepared Documents* to third parties except for the purpose of operating, maintaining, repairing, replacing, re-building or renovating the *Owner's* property resulting from the *Work*.

14.4 The title to all *Work* completed or in the course of construction at the *Owner's Site* and the title to all materials, equipment and supplies furnished or fabricated by the *Contractor* in connection with the *Work*, except tools and equipment owned or rented by the *Contractor* or *Subcontractors* and not intended to be incorporated into the *Work*, shall become the property of the *Owner* upon the earlier of payment therefor or delivery to the *Work Site*.

14.5 Notwithstanding the provisions of GC 14.4, and except for any portion of the *Work* for which the *Owner* has taken possession as contemplated by GC 9.1, the *Contractor* shall retain all risk with respect to and be responsible for:

- 14.5.1 all items furnished by the *Contractor*, *Subcontractors* or *Suppliers* which are to be incorporated into the *Work* or used in the performance of the *Work*;
- 14.5.2 all items supplied by the *Owner* to the *Contractor* for incorporation into the *Work* or for use in performing the *Work*;
- 14.5.3 all temporary structures or facilities used in the performance of the *Work*; and
- 14.5.4 any *Work* completed or in progress

until the *Owner* has issued either a *Functional Completion* certificate or a *Final Completion Notice*, in which case the risk shall pass to the *Owner* with respect to the *Work* covered thereby.

14.6 No materials, supplies or equipment incorporated into the *Work* shall be subject to any general security agreement, chattel mortgage, financing contract or other agreement by which an interest therein is retained by the seller or supplier thereof.

GC 15 - PATENTS & LICENSES

15.1 The *Contractor* shall indemnify and save the *Owner* harmless from all proceedings, claims, losses, damages and expenses whatsoever, including solicitor and own client (indemnity) costs arising out of any patent, trademark, copyright or industrial design infringement pertaining to any equipment, machinery, materials, compositions, processes, methods or designs supplied by the *Contractor*, its *Subcontractors* or *Suppliers*, in the performance of the *Work*.

15.2 The *Owner* shall indemnify and save the *Contractor* harmless from all proceedings, claims, losses, damages and expenses whatsoever, including solicitor and own client (indemnity) costs arising out of any patent, trademark, copyright or industrial design infringement pertaining to any equipment, machinery, materials, compositions, processes, methods or designs supplied or specified for use by the *Owner* to the *Contractor* for use in connection with the *Work*.

15.3 The *Contractor* shall promptly give notice to the *Owner* if the *Contractor* has or acquires knowledge of any patent, trademark, copyright or industrial design or similar right under which an action could reasonably be expected to be maintained because of the use or purchase by the *Owner* of equipment, machinery, materials, compositions, processes, methods or designs incorporated or to be incorporated by the *Contractor* as part of the *Work*. Following notification to the *Owner*, the *Contractor* shall not incorporate any such equipment, machinery, materials, compositions, processes, methods or designs into any plans, drawings, specifications or other documents, or use the same in connection with the *Work* without the *Owner's* prior approval.

15.4 The *Contractor* grants the *Owner* a non-exclusive, royalty-free, perpetual, irrevocable license:

- 15.4.1 to use any and all patents, industrial designs, copyrights and technology related to the *Work*, that the *Contractor* owns or controls, subject to the *Contractor's* legal right to do so; and

15.4.2 to make, have made and use the equipment, machinery, materials, compositions, designs, methods and processes supplied by the *Contractor* under this *Contract*, subject to the *Contractor's* legal right to do so.

GC 16 - CONFIDENTIAL INFORMATION & PUBLICITY

16.1 The *Contractor* shall keep all of the *Owner's Confidential Information* in confidence and shall not disclose it to others without the prior approval of the *Owner's Representative*. The *Contractor* shall not use the *Owner's Confidential Information*, except in performance of the *Work*.

16.2 Notwithstanding GC 16.1, the *Contractor* may disclose the *Owner's Confidential Information* to those of its employees, *Subcontractors* and *Suppliers* and their respective employees to whom disclosure is required in order for the *Contractor* to perform the *Work*, provided the *Contractor* shall ensure that its employees and agents comply with and shall contractually require its *Subcontractors* and *Suppliers* and their respective employees and agents to comply with GC 16.1.

16.3 The *Contractor* shall have all *Key Personnel* [**Note to Draft: expand if necessary**] execute Schedule "F" – Key Employee Confidentiality, Proprietary Information and Consent Agreement within 10 *Work Days* of the *Contractor* executing this *Contract*.

16.4 The *Contractor* shall not disclose any of the *Contract Documents* or the *Contractor's Prepared Documents* to others without the prior approval of the *Owner's Representative*, except as necessary to perform the *Work*.

16.5 The *Contractor* shall not use the *Owner's* name, registered or unregistered trademarks or any of the *Owner's* slogans in any advertising or promotional materials or publicity releases, and shall not take or permit to be used, any photographs of the *Owner's Site*, without the prior written approval of the *Owner's Representative*.

GC 17 - PROPRIETARY INFORMATION

17.1 The *Contractor* shall promptly disclose all *Proprietary Information* to the *Owner*, shall assign all of its right, title and interest in and to the *Proprietary Information* to the *Owner*, and shall execute all such documents and take such other actions as the *Owner* may consider necessary or desirable with respect to the *Proprietary Information*.

17.2 The *Contractor* shall keep and maintain adequate and current records of all *Proprietary Information*.

17.3 The *Contractor* shall keep all *Proprietary Information* in confidence, shall not use it, or any part of it except in the performance of the *Work* and shall not disclose it to others, without the *Owner's* prior written consent.

17.4 Notwithstanding GC 14.1, or anything provided in GC 17, where a technology, process or work method has been developed by the *Contractor, Subcontractor* or *Supplier*, arising out the *Work*, that is not the result of *Owner's Confidential Information*, the proprietary rights to that technology, process or work method shall remain with the *Contractor, Subcontractor* or *Supplier*, as the case may be. Where proprietary rights remain with a party other than the *Owner*, the *Owner* shall, and is hereby granted the right to have and to retain a copy for its own use and to use any drawings, *Contractor's Prepared Documents* or other information in respect thereof, for the purpose of the *Work* or the operation, repair, maintenance, replacement, re-building or renovation of the *Work*.

GC 18 - FORCE MAJEURE

18.1 Either the *Owner* or *Contractor* may claim that an *Event of Force Majeure* has taken place, by giving the other party verbal notice within 24 hours of the *Event of Force Majeure*, and notice, together with a proposed plan of corrective action in writing to resolve or minimize the effect of the *Event of Force Majeure*, within 48 hours of the *Event of Force Majeure*.

18.2 If the *Owner* has given notice of an *Event of Force Majeure* or agrees with the *Contractor* that the *Work* or any portion thereof is affected as a result of an *Event of Force Majeure*, then the *Owner* shall:

18.2.1 cause the *Contractor* to complete the *Work*, with such adjustments to *Contract Time* as are required by the *Event of Force Majeure*;

18.2.2 suspend the *Work* or any portion thereof in accordance with GC 20; or

18.2.3 terminate this *Contract* or any portion thereof in accordance with GC 21.1 and GC 21.5.

18.3 If the *Owner* does not agree that the *Work* or any portion thereof is affected as a result of an *Event of Force Majeure* for which the *Contractor* has given notice under GC 18.2, then the *Contractor* shall complete the *Work* in accordance with the *Work Schedule* and may request an adjustment to the *Contract Price* and *Contract Time* in the manner provided in GC 8.7.

18.4 If an *Event of Force Majeure* exists and continues for a period in excess of _____ continuous *Work Days* and results in substantially all of the *Work* being stopped or suspended during that period the *Contractor* may terminate the *Contract* and the *Owner* shall pay the *Contractor* for the *Work* performed to the date of termination.

18.5 Any delay or failure on the part of either the *Owner* or the *Contractor*, which is a result of an *Event of Force Majeure*, shall not constitute default hereunder or give rise to any claim for damages. Subject to GC 18.4, an *Event of Force Majeure* shall not result in any increase to the *Contract Price*.

GC 19 - DELAYS

19.1 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Owner* or anyone employed or engaged by the *Owner* directly or indirectly, contrary to the provisions of the *Contract Documents*, or by the *Owner* taking possession of or using any partially completed portion of the *Work* pursuant to GC 9.1 ahead of the *Work Schedule*, then the *Contract Time* shall be extended for such reasonable time as may be necessary to allow the *Contractor* to make up the delay. The *Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Contractor* as the result of such delay.

19.2 If the *Contractor* is delayed in the performance of the *Work* by an order issued by a court or other public authority having jurisdiction and providing that such order was not issued as the result of an act or fault of the *Contractor* or any person employed or engaged by the *Contractor* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as the *Owner* may recommend in consultation with the *Contractor*. The *Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Contractor* as the result of such delay.

19.3 No claim for delay and no extension of time on account of delay shall be made for delay unless notice with a *Change Quotation* is given to the *Owner* not later than ____ *Work Days* after the commencement of delay, providing however, that in the case of a continuing cause of delay only one notice of claim shall be necessary.

GC 20 - SUSPENSION

20.1 In addition to any other rights that the *Owner* may have pursuant to this *Contract*, or in *Law*, the *Owner* may in the exercise of its sole discretion, at any time or times, by notice to the *Contractor* specifying the effective date of the suspension, require the *Contractor* to suspend the *Work* or any portion thereof (the "*Suspended Work*"). Upon receiving notice, the *Contractor* shall discontinue the *Suspended Work*, place no further purchase orders or subcontracts with respect to the *Suspended Work*, and promptly make reasonable efforts to obtain suspension terms satisfactory to the *Owner* with respect to all purchase orders, subcontracts, supply contracts and rental agreements related to the *Suspended Work*. The *Contractor* shall continue to perform all *Work* which is not *Suspended Work*.

20.2 The *Owner* may at any time authorize resumption of the *Suspended Work* or any part thereof, by giving the *Contractor* reasonable notice specifying the part of the *Suspended Work* to be resumed and the effective date of such resumption. The *Contractor* shall resume the *Suspended Work* on the date and to the extent specified in the notice provided that if the date for resumption is more than ____ days after the date of suspension, the *Contractor* may, by *Change Quotation*, given within ____ days of receipt of the notice of resumption, request a *Change Order* in the manner provided in GC 8.7 deleting the *Suspended Work* from the *Contract* and adjusting the *Contract Price* and *Contract Time* on account of the suspension and deletion of the *Suspended Work*.

20.3 The *Contractor* shall use its employees, equipment and materials in such manner, and take such other steps as may be necessary or desirable to minimize the costs associated with the *Suspended Work*. During the period of suspension of the *Work*, the *Contractor* shall secure and protect the *Suspended Work* and all materials and equipment to be used or incorporated therein.

20.4 The *Owner* shall issue a *Change Order* to reimburse the *Contractor* for those direct costs reasonably incurred by the *Contractor* as a result of the *Suspended Work*. Except where the *Suspended Work* has been deleted as set forth in GC 20.2, under no circumstances shall the *Owner* be liable for any damages or loss of profits on account thereof.

GC 21 - TERMINATION

21.1 In addition to any other rights that the *Owner* may have pursuant to this *Contract*, or in *Law*, the *Owner* may at any time, in the exercise of its sole discretion, terminate this *Contract*, the *Work* or any portion thereof by giving notice to the *Contractor* specifying the *Work* or portion thereof to be terminated and the effective date of the termination. Upon receipt of such notice, the *Contractor* shall discontinue the *Work* in accordance with the notice, and shall take such whatever steps may be necessary or desirable to minimize the costs associated with the termination of the *Work*. The *Contractor* shall continue to perform all portions of the *Work* not terminated, if any, in accordance with this *Contract*. Except in the event that this *Contract* is terminated in accordance with GC 18, 21.2 or 21.3, the *Owner* shall reimburse the *Contractor* for those costs reasonably incurred by the *Contractor* as a direct result of the termination of this *Contract*, the *Work*, or any portion thereof.

21.2 Not so as to limit the generality of GC 21.1, the *Owner* may in its sole discretion terminate this *Contract* by notice to the *Contractor*, in any of the following circumstances:

- 21.2.1 if the *Contractor* becomes insolvent or makes a general assignment for the benefit of its creditors or otherwise acknowledges its insolvency or if a bankruptcy or receiving order is filed or made against the *Contractor*;
- 21.2.2 if an order is made or resolution is passed for the winding up or liquidation of the *Contractor*;
- 21.2.3 if a custodian, receiver, manager or other officer with similar powers is appointed in respect of the *Contractor* or any of the *Contractor's* property;
- 21.2.4 if the *Contractor* ceases to carry on in the ordinary course of business;
- 21.2.5 if a creditor takes possession of any of the *Contractor's* property or if a distress, execution or any similar process is levied or enforced against such property and remains unsatisfied by the *Contractor*; or
- 21.2.6 if the *Contractor* fails or refuses at any time to comply with the provisions of GC 11 or GC 12.

Upon receipt of such notice, the *Contractor* shall discontinue the *Work* in accordance with the notice, and shall take such steps as may be necessary or desirable to minimize the costs to the *Owner* associated with the termination of the *Work*.

21.3 In addition to any rights the *Owner* may have at *Law*, if the *Contractor* is in default in carrying out any of the terms, conditions, covenants or obligations of this *Contract*, or has made a false representation, declaration or warranty, the *Owner* may give the *Contractor* notice of default. The *Contractor* shall have ___ *Work Days* following receipt of the notice, or such longer time as the *Owner* has specified in the notice of default, within which to remedy the default. If the *Contractor* fails to rectify the default in the time required, the *Owner* may, by notifying the *Contractor*, terminate the whole or any part of the *Contract*.

In the case of any default which would reasonably require more than the time allowed to rectify the default, the *Contractor* shall be deemed to have rectified the default if, within the allowed time, it has submitted to the *Owner* a schedule for rectification of the default which the *Owner* has accepted and the *Contractor* has commenced rectification and thereafter promptly and diligently and continuously proceeded with the rectification of the default, in accordance with the approved schedule. If the *Owner* does not accept the schedule of rectification, the *Contract* shall be terminated in accordance with the notice of termination provided by the *Owner* to the *Contractor*. If the *Owner* accepts the schedule of rectification, but the *Contractor* does not complete the rectification of the default within *Owner*-approved schedule, the *Owner* may, by ___ *Work Days* notice in writing to the *Contractor*, terminate the whole or any part of the *Contract*.

Upon receiving a notice of termination, the *Contractor* shall discontinue the *Work* in accordance with the notice and shall take such steps as may be necessary or desirable to minimize the costs to the *Owner* associated with the termination of the *Work*. The *Owner* shall not be liable for those costs incurred by the *Contractor* as a result of the termination of the *Work*.

21.4 In the event this *Contract* or any portion of the *Work* is terminated, the *Owner* may complete or have others complete the *Work*. Subject always to GC 3.3, if this *Contract* is terminated pursuant to GC 21.2 or GC 21.3, the *Owner* shall pay the *Contractor* for all *Work* satisfactorily performed to the date of termination, less the sum of all monies already paid to the *Contractor* and all costs the *Owner* must pay in excess of the *Contract Price* to obtain satisfactory completion of the *Work* by others.

21.5 Upon termination of this *Contract* or the *Work* or any part thereof, the *Contractor* shall execute and deliver to the *Owner* all documents required by the *Owner*, and shall take all steps required by the *Owner*, to assign to and fully vest in the *Owner* all right, title and interest of the *Contractor* under existing agreements with the *Contractor's* *Subcontractors* and *Suppliers*, which are related to the *Work*.

21.6 The *Owner* shall not be liable for any penalties, damages or loss on account of anticipated profits as a result of the termination of the *Work* or this *Contract* by the *Owner*. The rights and remedies provided in this GC 21 are in addition to the rights and remedies provided by the *Law*, or under any other provision of this *Contract*.

21.7 If the *Owner* becomes insolvent or makes a general assignment for the benefit of its creditors or otherwise acknowledges its insolvency or if a bankruptcy or receiving order is filed or made against the *Owner*, the *Contractor* may, without prejudice to any other right or remedy it may have, by giving the *Owner* written notice, immediately terminate the *Contract*.

21.8 If the *Owner* fails to make a payment to the *Contractor* when due and payable under this *Contract*, the *Contractor* may give the *Owner* notice of default. If the *Owner* has not cured the default within 5 *Work Days*, or is not contesting the *Contractor's* entitlement to payment in good faith, then the *Contractor* may suspend the further performance of the *Work*, without prejudice to all other rights and remedies it may have at *Law*. In the event that the *Owner* remains in default of payment for a further period of 14 *Work Days* after suspension of the *Work* by the *Contractor*, the *Contractor* may terminate the *Contract*, without prejudice to all other rights and remedies it may have at *Law*. The *Owner* shall be liable for and pay to the *Contractor* all amounts on account of *Work* performed to the date of suspension hereunder, the *Contractor's* reasonable charges incurred during the period that the *Work* was suspended, and, in the event of termination, the *Contractor's* loss of profit on the balance of the uncompleted *Work*.

GC 22 - TAXES

22.1 The *Contractor* shall be responsible for the payment of:

22.1.1 all taxes imposed by reason of the performance or completion of the *Work* including but not limited to license, permit and registration fees and the *Contractor's* income, profit, franchise, business, and personal property taxes;

22.1.2 all employment taxes and contributions imposed by the *Law* or required to be paid on behalf of the employees of the *Contractor*, *Subcontractors* or *Suppliers*, including but not limited to taxes and contributions for income tax, workers' compensation, unemployment insurance, old age benefits, welfare funds, pensions and annuities and disability insurance; and

22.1.3 all customs, sales and excise taxes and duties owing with respect to any labour, machinery, materials and equipment supplied by the *Contractor* for use in the performance of or to be incorporated into the *Work*, except for goods and services tax payable by the *Owner* with respect to payments due to the *Contractor*.

22.2 Any increase in taxes and charges described in GC 22.1.1 and GC 22.1.2 shall be the sole responsibility of the *Contractor*. In the event of a change in taxes or charges described in GC 22.1.3, a *Change Order* shall be issued changing the *Contract Price* to account for the difference between the amount of tax that would have been payable by the *Contractor* as of the effective date of this *Contract* and the actual amount of tax that becomes payable as a result of the change in the tax.

22.3 The *Contractor* shall indemnify and hold harmless the *Owner* from any liability resulting from the *Contractor's*, *Subcontractors'* or *Suppliers'* failure to make timely payments of the items referred to in this GC 22 or such similar items for which the *Contractor* is responsible. Any interest, penalties or other liabilities arising from such failure shall be the sole responsibility of and be paid for by the *Contractor*.

GC 23 - WORKERS' COMPENSATION

23.1 The *Contractor* shall at all times pay or cause to be paid any assessment or contribution required to be paid pursuant to the *Workers' Compensation Act* of Alberta and upon failure to do so, the *Owner*, in addition to any other rights it may have at *Law* or under this *Contract*, may retain the amount of such assessment or contribution from the *Contract Price*.

23.2 Prior to the *Commencement Date*, before release of the holdback, and at any other time at the *Owner's* request, the *Contractor* shall arrange to have the Workers' Compensation Board of Alberta send a clearance letter to the *Owner's Representative*, verifying that all required assessments and contributions have been paid, or such assessments and contribution are not required to be paid, by the *Contractor*, *Subcontractors* and *Suppliers*.

GC 24 - LIENS

24.1 The *Contractor* shall at all times reimburse, protect, indemnify and save free and harmless the *Owner*, the *Owner's Site* and the other lands and property of the *Owner* from and against all liens, claims made or liability incurred by the *Owner* on account of the *Work* performed or materials supplied by *Subcontractors* or *Suppliers*, or on account of an exaggerated lien filed by the *Contractor* including, without limitation, legal fees on a solicitor and own client (indemnity) basis. The *Contractor* shall cause any such lien or claim which may be filed or made, to be released and discharged forthwith at the expense of the *Contractor*. If the *Contractor* fails to release or obtain the release and discharge any such lien or claim, then the *Owner* may, but shall not be obliged to, discharge, release or otherwise deal with the lien or claim, and the *Contractor* shall pay any and all costs and expenses incurred by the *Owner* in so releasing, discharging or otherwise dealing with the claim or lien, including but not limited to, legal fees on a solicitor and own client (indemnity) basis. Any amounts so paid by the *Owner* may be deducted from any amounts due the *Contractor* whether under this *Contract* or otherwise.

GC 25 - WARRANTIES

25.1 The *Contractor* represents and warrants that:

25.1.1 all *Work* performed by the *Contractor* or any of its *Subcontractors* shall:

25.1.1.1 comply with the *Contract Documents* and the instructions of the *Owner*;

25.1.1.2 be performed in a safe and environmentally sound manner in compliance with applicable *Law*; and

25.1.1.3 be performed in accordance with all time schedules set out in or called for by the *Contract Documents*; and

25.1.2 all materials and equipment furnished by the *Contractor*, *Subcontractors* or *Suppliers* shall:

25.1.2.1 meet the specifications in the *Contract Documents* if so specified, and if not specified then be of the quality best suited for the required operating conditions



and intended use and purpose of the materials and services and of sufficient size and capacity for the *Work*; and

25.1.2.2 be safe and environmentally sound.

25.2 The *Contractor* warrants that, for a period of ___ years (or such other time as provided in Schedule "A" - Scope of Work) from the earlier of the date of *Functional Completion* or the date of the *Final Completion Notice*, the *Work* (or the component system in the case of a *Functional Completion Notice* issued in respect of a component system) is and shall be free from any and all defects and deficiencies in workmanship performed and, materials and equipment supplied by the *Contractor*, its *Subcontractors* or *Suppliers*.

25.3 During the *Warranty Period*, the *Contractor* shall promptly repair, replace and make good all defects in the *Work* and correct all deficiencies, errors, omissions and mistakes with respect to the *Work* (or any component system) at its own cost by re-performing the *Work* or repairing or replacing any materials or equipment, if any, which do not comply with the *Contract*. The *Contractor* shall do so in a manner that minimizes disruptions to the *Owner's* continued operations. Notwithstanding the foregoing, the *Owner* may, in the case of emergency or the failure of the *Contractor* to perform the requested warranty work in a timely manner, make or cause to be made the necessary corrections, repairs or replacements and charge the cost of the same to the *Contractor* provided that where practical, the *Owner* shall provide the *Contractor* with the opportunity to make the necessary corrections, repairs or replacements.

25.4 The *Contractor* shall immediately advise the *Owner's Representative* of any defects in workmanship, materials or equipment and of all deficiencies, errors, omissions or mistakes in the *Work* that it discovers or becomes aware of during the *Contract Time* and *Warranty Period*.

25.5 The *Warranty* given hereby shall apply to the re-performance of any *Work* or the repair or replacement of materials or equipment pursuant to GC 25.3, and the *Warranty Period* shall again run from the time of the completion of the work performed under *Warranty*.

25.6 If this *Contract* or any part of the *Work* is terminated pursuant to GC 21, then this GC 25 shall survive such termination, and the *Warranty Period* with respect to completed *Work* shall commence upon the effective date of termination.

GC 26 - LIABILITY & INDEMNIFICATION

26.1 The *Contractor* shall be liable to the *Owner*, its officers, directors, employees, consultants and agents for all losses, damages and expenses whatsoever which they or any of them may incur and in addition shall indemnify, and hold harmless, the *Owner*, its officers, directors, employees, consultants and agents from and against all proceedings, claims, losses, damages and expenses whatsoever, including solicitor and own client (indemnity) costs, which may be brought against or incurred by the *Owner*, or any of its officers, directors, employees, consultants and agents, as a result of claims, demands, actions or proceedings made or taken by persons not party to this *Contract* for:

26.1.1 any acts or omissions in connection with the performance, purported performance or non-performance of this *Contract* or of the *Work* by the *Contractor*, *Subcontractors*, *Suppliers* or their respective employees or agents; or

26.1.2 any acts or omissions of the *Owner*, *Other Contractors* or their respective employees or agents, or in connection with such acts or omissions, while acting under the direction and control of the *Contractor*, *Subcontractors*, *Suppliers* or their respective employees or agents.

26.2 The *Contractor* shall be liable to and shall indemnify the *Owner* for all losses, damages and expenses on account of:

26.2.1 all physical damage caused by the *Contractor*, its *Subcontractors* or *Suppliers* or their respective employees or agents to property of the *Owner* or *Other Contractors*, or property under the care, custody or control of the *Owner* or *Other Contractors*; and

26.2.2 the cost to repair or make good any and all damage to roads, bridges, railroads, highways, land adjacent to the *Owner's Site* or facilities or equipment relating thereto caused by or resulting from the actions howsoever of the *Contractor*, its *Subcontractors* or *Suppliers*, or their respective employees or agents,

to the limit of the greater of the extent of amounts recoverable under a policy or policies of insurance required to be maintained by the *Contractor*, or provided by the *Owner*, pursuant to the provisions of this *Contract*, and \$_____, and the *Contractor* shall have no liability on this account for any loss, damage and expense in excess thereof.

26.3 Except to the extent to which indemnity is provided by a policy or policies of insurance, neither the *Contractor* nor its *Subcontractors*, *Suppliers* or their respective employees or agents shall have any liability to the *Owner*, its officers, directors, employees, consultants and agents, whether in tort (including but not limited to negligence or breach of statutory duty) or otherwise unless a notice has been given to the *Contractor* in writing within a period of 10 years from the date of the *Final Completion Notice* setting forth details of the intended claim and the identity of the parties against whom it is to be made.

26.4 Notwithstanding anything else in this *Contract*, the *Contractor*, its *Subcontractors*, *Suppliers*, and their respective officers, directors, employees, consultants and agents shall not be liable to the *Owner*, or anyone claiming through or under it, whether by way of indemnity or by reason of breach of contract or in tort, including liability for negligence and breach of statutory duty, or on any other legal or equitable basis, for:

26.4.1 special or consequential loss or damage;

26.4.2 loss of use, whether complete or partial, of the *Work* or existing facilities of the *Owner* or third parties;

26.4.3 loss of product;

26.4.4 loss of revenue, overhead and profit; or

26.4.5 loss of any contract that may be suffered by the *Owner*,

except to the extent of amounts recoverable under a policy or policies of insurance required to be maintained by the *Contractor*, or provided by the *Owner*, pursuant to the provisions of this *Contract*, provided however that in the event of the failure by the *Contractor* to complete the *Work* by the *Contract Time* the liability of the *Contractor* under this GC 26.4 shall be limited only to the greater of the insurance recoverable and \$_____.

[Note to Draft: Optional]

26.5 In the event of a sale by the *Owner* of the *Owner's Site*, the *Owner* agrees to cause the purchaser to enter into an agreement whereby the purchaser covenants to be bound by, and to afford the *Contractor* the benefit of, GC 26.4.

26.6 The *Owner* shall indemnify and hold harmless, including indemnity for legal costs on a solicitor and own client (indemnity) basis, the *Contractor*, its *Subcontractors*, *Suppliers*, and their respective officers, directors, employees, consultants and agents from and against all claims, demands, actions and proceedings made or taken by persons not parties to this *Contract* and which arise on account of and are attributable to the *Owner's* obligations hereunder, including, without limitation:

26.6.1 a lack of or defect in title or an alleged lack of or defect in title to the *Owner's Site*;

26.6.2 an environmental condition at the *Work Site* which is the responsibility of the *Owner*;

26.6.3 *Hazardous Materials* supplied by the *Owner* and while under its care and control;

26.6.4 an action for which the *Owner* must indemnify the *Contractor* pursuant to GC 15.2;
or

26.6.5 defective machinery, equipment, products, processes or mechanisms provided by the *Owner* to the *Contractor* for the performance of or incorporation into the *Work*.

26.7 In the event that the *Owner* accepts the responsibility to indemnify the *Contractor*, its officers, directors, employees, consultants or agents pursuant to GC 26.5, then it shall be entitled to retain and instruct counsel to act for and on behalf of those persons and to settle, compromise and pay any claim, demand, action or proceeding without first obtaining prior approval from the party in whose favour the indemnity has been provided. The *Contractor* shall and shall cause any indemnified party to co-operate in all respects in contesting any third party claim for which the *Owner* has accepted responsibility.

GC 27 - INSURANCE

27.1 Without in any way limiting the liability of the *Contractor* or its obligation to indemnify the *Owner* under this *Contract*, the *Contractor* shall, at its own expense, obtain prior to the *Commencement Date* and maintain during the *Contract Time*, the following types of insurance coverage, naming the *Contractor* as the insured, in the following minimum amounts:

27.1.1 automobile liability insurance which provides coverage to a minimum limit of \$2,000,000.00 per occurrence against any and all claims for bodily injury including, without limitation, passenger hazard and property damage for all vehicles used by the *Contractor*, its employees or agents in connection with the *Work*, including non-owned vehicles;

[Optional - Use only if Section 27.6 has been deleted]

27.1.2 course of construction including transit insurance covering the *Work* against physical loss or damage equal to the current value of the *Contract* and the value of all materials, equipment and supplies delivered to the *Work Site* for incorporation into the *Work*, subject to policy terms, conditions and exclusions, and subject to a \$_____ deductible. This policy shall identify the *Owner*, the *Contractor*, *Subcontractors* and *Suppliers* and their respective officers, employees and agents as additional named insureds with respect to the *Work* to be performed pursuant to this *Contract*, and shall cover loss or damage to the *Work*, including all materials, equipment and supplies delivered to the *Work Site* for incorporation into the *Work*;

[Optional]

27.1.3 aircraft and watercraft liability insurance with respect to owned and non-owned aircraft and watercraft if used directly or indirectly in the performance of the *Work*, with limits of liability of not less than \$2,000,000.00 for the accidental injury or death of one or more persons or damage to or destruction of property as a result of one accident or occurrence; and

27.1.4 insurance covering loss or damage to construction machinery, tools and equipment used by the *Contractor* for the performance of the *Work*. Subject to satisfactory proof of financial capability by the *Contractor* for self-insurance, the *Owner* may, in writing, waive the equipment insurance requirement.

[Optional for Owner or Contractor]

27.2 The *Owner* [**or Contractor**] shall maintain during the *Contract Time* a comprehensive general liability insurance policy, including completed operations for a period of not less than 12 months from the date of the *Final Completion Notice*, naming the *Owner*, *Contractor*, *Subcontractors*, *Suppliers* and their respective employees and agents as named insureds. The policy shall contain a "cross-liability" clause so that the *Owner*, *Contractor*, *Subcontractors*, *Suppliers* and their respective officers, employees and agents are insured in the same manner and to the same extent as if individual policies had been issued to each.

[Optional – Use if Owner provides CGL coverage]

27.3 Subject always to the specific wording of the policy, the definitions, limits, coverage and exclusions contained therein, the policy referred to in GC 27.2 shall, in general terms, include the following features:

27.3.1 a combined single limit of not less than \$_____ for each occurrence or accident;

27.3.2 coverage for damages due to bodily injury (including death at any time resulting therefrom) and personal injuries sustained by any person as well as injury to or destruction of property arising out of any operations in connection with this *Contract*; and

27.3.3 a deductible amount of no more than \$_____ per occurrence.

27.4 The *Contractor* agrees that notification of any claim or possible claim to be made relating to the insurance provided by the *Owner* shall be provided by the *Contractor* to the *Owner's Representative* as soon as possible and in any event not more than 3 *Work Days* after the *Contractor* becomes aware of the occurrence of the event to which the claim relates.

27.5 The *Owner* and the *Contractor* agree and the *Contractor* shall ensure that its *Subcontractors* agree that the insurer has the right to make such investigation, negotiation and settlement of any claim or suit relating to the policy discussed in GC 27.2 as may be deemed expedient by the insurer.

[Optional]

27.6 The *Owner* shall provide course of construction including transit insurance covering the *Work* against physical loss or damage equal to the current value of the *Contract*, subject to policy terms, conditions and exclusions, and subject to a \$_____ deductible. This policy shall identify the *Owner*, the *Contractor*, *Subcontractors* and *Suppliers* and their respective officers, employees and agents as additional named insureds with respect to the *Work* to be performed pursuant to this *Contract*, and shall cover loss or damage to the *Work* including all materials, equipment and supplies delivered to the *Work Site* for incorporation into the *Work*.

27.7 The deductibles for the insurance policies referred to above, shall, unless otherwise specified, be standard deductibles for such policies and the party causing the loss shall be solely responsible for payment of the amount of any deductible.

27.8 The *Contractor* shall provide certified copies of the insurance policies it is required to place and maintain under this *Contract* if requested by the *Owner's Representative*.

GC 28 - INDEPENDENT CONTRACTOR

28.1 For the purposes of this *Contract* and the *Work*, the *Contractor* shall be an independent contractor and not the agent or employee of the *Owner*. Accordingly, all persons employed or retained by the *Contractor* in connection with the performance of its obligations hereunder shall be its employees or those of its *Subcontractors* or *Suppliers*, as the case may be, and not the employee or agent of the *Owner* in any respect.

28.2 The *Contractor* shall have no authority whatsoever to make any statement, representation or commitment of any kind, nor to take any action, which may be binding on the *Owner*, except as may be expressly provided for herein, or as expressly authorized in writing by the *Owner*.

GC 29 - SUBCONTRACTS & ASSIGNMENTS OF CONTRACT

29.1 The *Contractor* shall provide notice to the *Owner* of its intention to subcontract the performance of any *Work* or the supply of equipment and materials and of the intended *Subcontractor* or *Supplier* before entering into any subcontract. The *Owner* may for reasonable cause object to the use of a proposed *Subcontractor* or *Supplier* and require the *Contractor* to obtain another *Subcontractor* or *Supplier*. Any reviews or approvals by the *Owner* pursuant to the provisions of this GC 29 or elsewhere in this *Contract* shall not release or relieve the *Contractor* of any of its obligations under this *Contract* or create any contractual relations between the *Owner* and any *Subcontractor* or *Supplier*. The *Contractor* shall require any *Subcontractor* or *Supplier* to agree to be bound by these *General Conditions* and Schedule "A" - Scope of Work and to abide by the *Owner's* requirements for safety and loss management.

29.2 Prior to the *Commencement Date*, the *Contractor* shall provide the *Owner's Representative* with a list of the names and addresses of all *Subcontractors*, *Suppliers* and others who have performed or shall perform any of the *Work*. The *Contractor* shall provide the *Owner's Representative* with any proposed changes to this list during the *Contract Time*. The *Contractor* shall, upon the request of the *Owner*, assign to the *Owner* all warranties provided by *Subcontractors* and *Suppliers*.

29.3 The *Contractor* shall be fully responsible for any part of the *Work* performed by *Subcontractors* or *Suppliers* and for the acts or omissions of *Subcontractors* and *Suppliers* and all persons either directly or indirectly employed by them, to the same extent as the *Contractor* is for its own acts or omissions. Without in any way limiting the *Contractor's* obligations pursuant to the provisions of this GC 29 or elsewhere under this *Contract*, the *Contractor* shall secure compliance with and enforce, at its own expense, for the benefit of the *Owner*, each of the contracts concluded by the *Contractor* with *Subcontractors* and *Suppliers*.

29.4 The *Contractor* shall not assign this *Contract* or any part thereof without the prior approval of the *Owner*. The *Owner* may assign this *Contract* including all rights and obligations hereunder, at any time without the prior agreement of the *Contractor*, provided that the assignee agrees to be bound by this *Contract*.

29.5 The *Contractor* shall enforce the warranty obligations of its *Subcontractors* and *Suppliers*. All contracts between the *Contractor* and its *Subcontractors* and *Suppliers* shall provide that warranties given by the *Subcontractor* or *Supplier* shall be given to both the *Contractor* and the *Owner* and the warranties may be enforced by either the *Contractor* or the *Owner*.

29.6 The *Contractor* shall request and use its best efforts to obtain for the benefit of the *Owner*, the best warranties and guarantees that it is possible to secure from its *Subcontractors* and *Suppliers* and, as a minimum, shall obtain and provide to the *Owner* the warranties required by the *Contract Documents*. The *Contractor* shall do all things and provide all assistance reasonably necessary to enable the *Owner* to enforce warranties and guarantees provided by its *Subcontractors* and *Suppliers*.

GC 30 - DISPUTE RESOLUTION

30.1 In the event of disagreement between the parties as to the performance of the *Work* or the interpretation, application or administration of the *Contract Documents*, the *Contractor* shall perform the *Work* as directed by the *Owner's Representative*. All differences between the parties not resolved by the decision of the *Owner's Representative* and all disputes and claims of either party arising out of the *Contract* and its performance shall be settled in accordance with this GC.

30.2 The parties shall make all reasonable efforts to resolve all disputes and claims by negotiation and agree to provide, without prejudice, open and timely disclosure of relevant facts, information and documents to facilitate these negotiations.

30.3 Either party shall be entitled by notice to the other to call for the appointment of a *Project Mediator*, in which case the parties shall within 10 *Work Days* thereafter jointly nominate a *Project Mediator*. If the parties do not agree on the appointment of a *Project Mediator*, then either party may request the Chair of the Alberta Arbitration and Mediation Society to appoint a *Project Mediator*, who when so appointed shall be deemed acceptable to the parties and to have been appointed by them.

30.4 The parties shall submit in writing their dispute to the *Project Mediator*, and afford to the *Project Mediator* access to all records, documents and information the *Project Mediator* may request. The parties shall meet with the *Project Mediator* at such reasonable times as may be required and shall, through the intervention of the *Project Mediator*, negotiate in good faith to resolve their dispute. All proceedings involving a *Project Mediator* are agreed to be without prejudice, and the cost of the *Project Mediator* shall be shared equally between the parties.

30.5 If the dispute has not been resolved within ___ days after the appointment of the *Project Mediator* either party may by notice to the other withdraw from the mediation process.

30.6 All disputes, claims and differences not settled as herein provided, arising out of or in connection with the *Contract* or in respect of any defined legal relationship associated with it or derived from it, shall be referred to and finally resolved by arbitration in accordance with the *Alberta Arbitration Act*. The arbitral tribunal shall be composed of one arbitrator where the subject of the dispute, claim or difference relates primarily to whether work required to be performed is within the scope of the *Work* or the *Contractor* has met the required specifications of the *Contract*, and the *Work* has not yet been completed when the matter is referred to arbitration. In all other cases the arbitral tribunal shall be composed of 3 arbitrators, one appointed by each party who shall select the third who shall act as chair.

GC 31 - CONFLICT OF INTEREST

31.1 The *Contractor* shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with the *Owner's* best interests. This obligation shall apply to the activities of the *Contractor*, *Subcontractors* and *Suppliers* and their respective employees and agents, in their relations or dealings with the employees of the *Owner* and their families, and other third parties, arising from this *Contract* or the performance of the *Work*. The efforts made by the *Contractor* in this regard shall include, but shall not be limited to, establishing reasonable precautions to prevent its employees or agents from offering, or providing entertainment, gifts, loans, payments or other considerations to the *Owner's* employees, consultants and agents or their family members.

GC 32 - AUDIT ACCESS

32.1 The *Contractor*, shall keep and preserve the *Records* during the *Contract Time* and for a period of 4 years thereafter.

32.2 For the purposes of determining the *Contractor's* compliance with all of the terms of this *Contract*, including, but not limited to GC 8, 19 and 21 and for verification of all *Work* performed and all reimbursable costs and other charges payable under this *Contract*, including but not limited to, claims and suspension or termination charges, the *Contractor* shall permit authorized representatives of the *Owner* to review the *Records*, at all reasonable times during the *Contract Time*, and for a period of 4 years thereafter. The provisions of this GC 32.2 pertain only to the determination of the *Contractor's* compliance with the *Contract* and with verification of reimbursable costs and charges payable under this *Contract* and do not apply to any fixed price portion of the *Contract*.

GC 33 - REPRESENTATIVES & NOTICES

33.1 Any and all of the *Owner's* approvals are required to be in writing and to be given by the *Owner's Representative*.

33.2 The *Owner's Representative* is _____. The *Owner's Representative* has the authority to bind the *Owner* on all matters relating to the *Work* and the *Contract*, and all communications to or with the *Owner's Representative* shall be deemed to be communications to or with the *Owner*.

33.3 *Contractor's Representative* is _____. *Contractor* shall not change the *Contractor's Representative*, except with the prior approval of the *Owner*. The *Contractor's Representative* has the authority to bind the *Contractor* on all matters relating to the *Work* and the *Contract*, and all communications to or with *Contractor's Representative* shall be deemed to be communications to or with the *Contractor*.

33.4 Unless otherwise specifically indicated in this *Contract*, all notices, approvals, consents, authorizations and other communications required or permitted pursuant to this *Contract*, shall be in writing and shall be delivered personally to the *Contractor's Representative* or the *Owner's Representative*, as the case may be, faxed or electronically transmitted, where such electronic transmission meets the minimum requirements set forth in any legislation governing the electronic transmission of documents pursuant to this *Contract*, to the other party at the addresses shown below:

33.4.1 Contractor:

Attention: _____
Telephone: _____
Fax: _____

33.4.2 Owner:

Attention: _____
Telephone: _____
Mail Drop: _____
Fax: _____

33.5 Either party may change its address or fax number for notice by providing the other party with 10 days notice.

33.6 Invoices and all supporting documentation shall be mailed or delivered to the address shown below:

Attention: _____
Telephone: _____
Fax: _____

GC 34 - GENERAL

34.1 No failure or delay on the part of either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

34.2 No waiver of any right, power or privilege by a party shall limit or affect that party's rights with respect to any breach of this *Contract* by the other party.

34.3 Each of the parties hereto shall execute such further documents and give such further assurances as are required to give effect to this *Contract*.

34.4 If a court of competent jurisdiction determines that any provision of this *Contract* is invalid or unenforceable, such determination shall not affect the validity or enforceability of the remaining provisions of this *Contract*.

34.5 Time is and shall continue to be of the essence of this *Contract*.

34.6 All of the covenants and agreements herein contained on the part of either party shall apply to, enure to the benefit of and be binding upon their respective legal representatives, successors and assigns.

34.7 Each of the parties hereby represents and warrants that it has the power and authority to carry on its business and to enter into this *Contract* and to perform all of its obligations hereunder.

34.8 This *Contract* constitutes the entire agreement between the parties with respect to the *Work* and supersedes all previous communications, representations, warranties and agreements, either written or verbal.

34.9 Unless the context otherwise requires, words importing the singular shall include the plural and vice-versa and words importing gender shall include the masculine, feminine and neuter genders.

34.10 The terms "herein", "hereunder", "hereto" and similar expressions refer to this *Contract*, and not to any particular GC or paragraph of this *Contract*.

34.11 Where reference is made to a "schedule", the reference is to a schedule of this *Contract* and all schedules shall be deemed to be a part hereof.

34.12 Where reference is made to a "day", "week", "month" or "year", the reference is to a calendar day, week, month or year, unless the context indicates otherwise.

34.13 The headings and sub-headings of GC's contained herein are used for convenience and ease of reference only and in no way define, limit, describe or interpret the scope or intent of this *Contract* or any of its provisions.

34.14 Any terms, covenants, provisions or conditions of this *Contract* which expressly or by their nature survive the termination of this *Contract* shall continue in full force and effect subsequent to and notwithstanding such termination, and shall not be merged with the termination, until such terms, covenants, provisions and conditions are satisfied or by their nature expire.

34.15 This *Contract* shall be governed by and construed in accordance with the laws of the Province of Alberta, and the parties attorn to the jurisdiction of the Courts of the Province of Alberta.

34.16 This *Contract* shall be executed by the parties, or their representatives, in person with original signatures. Subsequent *Contract Documents* may be executed by the parties, or their representatives, and such execution may be by way of facsimile or electronic transfer.

IN WITNESS WHEREOF the parties have duly executed this *Contract* as of the date on the first page of this *Contract*.

Per: _____

Per: _____

Contractor: _____ c/s

Per: _____

Per: _____

Contractor: _____ c/s

BID CONDITIONS No. _____

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BID CONDITIONS

ARTICLE 1- INTERPRETATION

1.1 In these Bid Conditions the words defined below shall have the following meanings:

1.1.1 Any word defined in the Stipulated Price Contract shall be given the same meaning in these Bid Conditions and the *Bid*. Any rule of interpretation set out in the Stipulated Price Contract shall apply to these Bid Conditions and the *Bid*;

1.1.2 "*Addenda*" means any written addenda to the Bid Conditions issued by the *Owner*;

1.1.3 "*Bid*" means the bidder's response to the RFB and shall consist of the following documents:

- a duly executed copy of these Bid Conditions;
- the List of Exceptions;
- the List of Alternatives;
- all attachments required by these Bid Conditions, including, as applicable electronic data;
- **[Add any other documents considered necessary]**

1.1.4 "*Due Date*" means 2:00 p.m. on ●;

1.1.5 "*List of Exceptions*" means that list prepared by the bidder, in the form attached as Attachment 1 in accordance with Article ●; and

1.1.6 "*Request for Bid*" or "*RFB*" means the request for bid no. ● which includes the following documents:

- The Bid Conditions
- The General Terms and Conditions
- Schedule "A" - Scope of Work
- Schedule "B" - Payment for Work
- Schedule "C" - Release and Certificate of Final Payment
- Schedule "D" - Technical Specifications
- Schedule "E" - Statutory Declaration



- Addenda, if any
- **[Add any other documents considered necessary]**

and all attachments to any of the above;

- 1.2 The bidder shall base its *Bid* on the *RFB*.
- 1.3 The bidder shall not disclose any part of the *RFB* or the *Bid* to any third party except as required to its proposed *Subcontractors* and *Suppliers*, without the *Owner's* prior written consent. The bidder shall ensure that all proposed *Subcontractors* and *Suppliers* comply with this Article 1.3.

ARTICLE 2 - SUBMISSION OF BIDS

- 2.1 The bidder is responsible for reviewing the *RFB*. If the bidder finds any errors or discrepancies in, or omissions from, the *RFB*, or if any part of the *RFB* appears unclear or ambiguous, the bidder is responsible for requesting clarification or interpretation before submitting the *Bid*.
- 2.2 The bidder is responsible for inspecting the *Work Site* and for making whatever inquiries or arrangements are necessary for it to become fully informed of the nature of the *Work Site* and of the *Work* to be performed, and by the submission of its *Bid* acknowledges that it has investigated and satisfied itself as to:
- 2.2.1 the nature of the *Work*;
- 2.2.2 the location of and all conditions relating to the *Owner's Site* and the *Work Site* including, but not limited to accessibility, general character, surface conditions, utilities, road, uncertainties of seasonal weather and all other physical, topographical and geographical conditions;
- 2.2.3 the general character, quality, quantity and availability of equipment and materials required to execute and complete the *Work*;
- 2.2.4 all environmental risks, conditions, *Law* and restrictions applicable to the bidder or the *Work* that might affect the *Work*;
- 2.2.5 all conditions affecting labour, including, without limitation, availability, productivity and administrative practices, including those relating to safety, prevailing at or applicable to the *Work*; and
- 2.2.6 the magnitude of the construction work required to execute and complete the *Work*.

- 2.3 The *Owner* is not responsible for undertaking any investigations to assist the bidder. Any information, plans, drawings, reports or other documents which are not included or referred to in this *RFB*, form no part of this *Bid*. The *Owner* assumes no responsibility of any kind whatsoever arising from or relating to its failure to include or refer to such information, plans, drawings, reports or other documents. Bidders who obtain or rely upon such information, plans, drawings, reports or other documents, do so entirely at their own risk.
- 2.4 All requests for clarifications or interpretations concerning the *RFB*, or requests to inspect the *Work Site* shall be directed to ● at [phone #].
- 2.5 The bidder shall sign all copies of the Bid Conditions and submit them as part of the *Bid*. The bidder shall provide satisfactory evidence of the authority of the bidder's signatory if requested by the *Owner*. The bidder shall include a separate summary list of all attachments submitted with the Bid Conditions.
- 2.6 Where electronic documents or data are included in the Bid Conditions, the bidder shall provide, in the format requested by the *Owner*, all of the information requested. The *Bid* will include the completed electronic documents or data.
- 2.7 If *Addenda* are issued they will be issued simultaneously to all parties to whom the *Owner* has sent a copy of the *RFB*. All *Addenda* will be issued by the *Owner*.

ARTICLE 3 - EXCEPTIONS TO REQUEST FOR BID

- 3.1 If the bidder takes exception to anything in the *RFB*, it shall identify in the list of exceptions:
- 3.1.1 each *General Condition* or the article of the schedule to which exception is taken; and
- 3.1.2 a description of the exception and any proposed substitution.
- 3.2 The bidder shall submit the completed list of exceptions as a part of the *Bid*. To the extent that the bidder has not identified, in the list of exceptions, an exception to a provision of the *RFB*, it shall be deemed to have accepted that provision of the *RFB*. If the bidder has no exceptions to the *RFB* then it shall so indicate on the list of exceptions and submit it as a part of the *Bid*.
- 3.3 Not so as to limit the generality of Article 3.1, the bidder shall identify in the list of exceptions any supplies, material or equipment which it proposes to substitute for items specified in the *RFB*.
- 3.4 The *Owner*, in its sole discretion, may accept or may refuse to accept any *Bid* containing exceptions.

ARTICLE 4 - ALTERNATIVES

- 4.1 The bidder shall list in a list of alternatives, any alternative material, equipment, schedule time, specified or required work method or execution strategy or time for performance of the *Work* that it proposes.
- 4.2 Where the bidder submits alternatives, the bidder shall also bid in accordance with the *Contract Documents* and submit a *Contract Price* without the proposed alternatives.
- 4.3 Where alternatives are proposed, the bidder shall clearly indicate the impact of each alternative separately and the aggregate impact of all alternatives on the *Contract Price*, the *Work Schedule*, and the *Contract Time*.
- 4.4 The *Owner* in its sole discretion, may refuse to accept any or all of the alternatives identified in the list of alternatives, or may accept the *Bid* without any alternatives, or may accept the *Bid* with some or all of the alternatives included.

ARTICLE 5 - DELIVERY OF BID

- 5.1 The *Bid* must be placed in an envelope which is to be sealed and to which the enclosed self-addressed label must be affixed. Failure to follow these instructions may, in the *Owner's* sole discretion, be cause for rejection of the *Bid*.
- 5.2 The original plus _____ copies of the *Bid* shall be delivered to the *Owner* at the following address:

[*Owner's Address*]

Attention:

Telephone:

- 5.3 The *Bid* must be received by the *Owner* prior to the *Due Date*. *Bids* received later than the *Due Date* may, in the *Owner's* sole discretion, be rejected. *Bids* received after the other *Bids* have been opened shall be rejected.
- 5.4 The *Bid* will not be returned to the bidder by the *Owner*. The bidder shall return those documents and attachments included in the *RFB* requested by the *Owner's* contract administrator.

ARTICLE 6 - MODIFICATION AND WITHDRAWAL OF *BIDS*

- 6.1 In consideration of the *Owner* providing the *Request for Bid* to the bidder, the bidder agrees that its *Bid* shall remain open for acceptance and valid up to and including ●, 20● unless extended by mutual written agreement.

- 6.2 The bidder may modify its *Bid* prior to the *Due Date* by delivery in writing or by fax or electronic transfer sent to the number set forth below, provided that the change communicated by such means does not disclose the modified total *Bid* price, but shall only indicate the change in the payment item as set forth in Section 3.1 of Schedule "B" – Payment for Work and the resulting total change to the *Bid* price [**Note: Use this form in the case of a stipulated price contract. Amend this section to refer to the unit prices in the case of a unit price contract**]. Where multiple fax or electronic changes are submitted, the last fax or electronic change shall govern and all previously submitted changes shall be null and void. No communication by electronic means will be considered unless the means is capable of producing a time-dated hard copy and, as applicable, complies with any legislation that may govern electronic transmissions in Alberta.
- 6.3 The bidder shall take complete responsibility for ensuring that all fax or electronic changes are received prior to the *Due Date*, and the *Owner* shall not be responsible for the proper operation or functioning of incoming fax or electronic equipment and gives no assurance that modifications sent by such means will be received by it prior to the *Due Date*, even if sent before the *Due Date*.
- 6.4 The bidder may withdraw the *Bid* by written notice to the *Owner's* contract administrator which notice may also be sent by fax or electronic transfer, provided that such notice is received by the *Owner's* contract administrator prior to the *Due Date*.
- 6.5 The fax and electronic transfer numbers to which communications may be sent are as follows:

Fax number:

Electronic address:

ARTICLE 7 - AWARD OF CONTRACT

- 7.1 After the *Due Date* the *Owner* may invite one or more bidders to a bid clarification meeting. If as a result of clarifications, or otherwise, the *Bid* is clarified, amended, increased or decreased the bidder agrees that the clarified or amended *Bid* shall constitute its *Bid* hereunder which shall remain open for acceptance by the *Owner* for the time and in the manner herein provided for the acceptance of a *Bid*.
- 7.2 The *Owner* will evaluate all of the *Bids* on the basis of commercial and technical merit but reserves the right to accept, in its sole discretion, any one or more of the *Bids*. The *Owner* also reserves the right, in its sole discretion, to not award a contract to the lowest or to any of the bidders, with respect to the *Work*, and to waive any irregularities, omissions or errors in any *Bid*.

7.3 If the *Owner* selects the bidder's *Bid*, it will issue a letter of acceptance to the bidder accepting the bidder's *Bid*. The *Owner* will then provide the bidder with execution copies of the *Contract* which the bidder agrees to execute and return to the *Owner's* contract administrator, together with all other documentation and information required by the *RFB*, the *Contract Documents* or by the *Owner's* contract administrator.

ARTICLE 8 - BIDDER'S BUSINESS ORGANIZATION

BIDDER INFORMATION

8.1 The bidder shall:

- indicate below its form of business organization; and
- provide the information requested for such form:

8.1.1 ___ Corporation

Legal name of corporation: _____

Jurisdiction of incorporation

___ Alberta

___ Canada

___ Other province: _____

___ U.S. state: _____

___ Other country: _____

Any other business name to be used in the *Contract*:

8.1.2 ___ Division of corporation

Name of division: _____

Legal name of parent corporation: _____

Jurisdiction of incorporation of parent corporation

___ Alberta

___ Canada

___ Other province: _____



___ U.S. state: _____

___ Other country: _____

8.1.3 ___ Partnership

Legal name of partnership: _____

Any other business name to be used in the *Contract*:

8.1.4 ___ Limited Partnership

Legal name of limited partnership: _____

Any other business name to be used in the *Contract*:

The bidder shall provide a copy of the Limited Partnership Agreement upon request by the *Owner*.

8.1.5 ___ Joint Venture

Legal names of the joint venturers:

Any other business name of the Joint Venture to be used in the *Contract*:

The bidder shall provide a copy of the Joint Venture Agreement upon request by the *Owner*.

ARTICLE 9 - PROPOSED SUBCONTRACTORS AND SUPPLIERS

- 9.1 The bidder shall submit within 24 hours of the *Due Date* the following information with respect to all of its proposed *Subcontractors* and *Suppliers*, [optional] and shall indicate whether they are local, native or both:

Subcontractors / Suppliers	Work or Services Materials / Equipment	[optional] Local / Native / Both



11.3 The bidder shall attach its proposed organization chart showing the *Key Personnel* and the other supervisory and staff personnel that will be executing the *Work*, together with their respective job titles.

ARTICLE 12 - SAFETY AND LOSS MANAGEMENT

12.1 The bidder shall submit as part of the *Bid* its safety and loss management policy with particular reference to implementation, communication and ensuring compliance.

12.2 The bidder shall submit as part of the *Bid* the details of its safety and loss management program to be used in the performance of the *Work*, including, but not limited to the following:

- 12.2.1 names of safety and loss management personnel;
- 12.2.2 an organizational chart showing reporting relationships of safety and loss management personnel;
- 12.2.3 safety and loss management training programs;
- 12.2.4 training and safety meeting schedules;
- 12.2.5 incident and accident reporting and investigation;
- 12.2.6 incident and accident follow-up; and
- 12.2.7 program for monitoring *Subcontractors* and *Suppliers* compliance with the bidder's safety and loss management program.

12.3 The bidder shall provide its injury frequency rate and its injury severity rates for the past 2 years in accordance with the following formulae:

$$\text{Injury Frequency Rate} = \frac{\text{number of medical aids} + \text{number of disabling injuries} \times 200,000}{\text{actual manhours worked}}$$

$$\text{Injury Frequency Rate} = \frac{\quad}{\quad}$$

$$\text{Injury Severity Rate} = \frac{\text{number of days loss} \times 200,000}{\text{actual manhours worked}}$$

$$\text{Injury Severity Rate} = \frac{\quad}{\quad}$$



12.4 In the selection of a successful bidder, the *Owner* may consider the bidder's commitment to safety and loss management as demonstrated by the information provided by the bidder.

ARTICLE 13 WORK/SERVICES EXECUTION PLAN

13.1 The bidder shall indicate below its estimate of the manual and non-manual hours required to complete the *Work*. Such estimate shall not relieve the bidder of its responsibility to complete the *Work* for the *Contract Price*:

Manual hours: _____
 On-site: _____
 Off-site: _____

Non-manual
 hours: _____
 On-site: _____
 Off-site: _____

Total hours: _____

13.2 The bidder shall submit a proposed schedule for the *Work* to comply with the following:

- 13.2.1 start *Work* by _____, 20__;
- 13.2.2 complete all *Work* by _____, 20__; and
- 13.2.3 achieve the Milestone Dates.

Such schedule shall include all significant activities required to perform the *Work* and all corresponding *Milestone Dates*. The bidder shall outline its execution plan for the *Work*.

ARTICLE 14 - QUALITY ASSURANCE PROGRAM

14.1 The bidder shall attach a description of the quality assurance and quality control programs it proposes to carry out to ensure the quality of the *Work*. Such description shall include the procedures, inspection routines, quality control manuals and testing methods to be used in performance of the *Work*. Such description shall include but not limited to details on the following:

- 14.1.1 a statement by the bidder as to what their policy on quality is;
- 14.1.2 types of test and calibration equipment used and the procedures for the proper use and care of that equipment;
- 14.1.3 the procedures used for the identification of non-compliance to standards and codes, and for the correction of such non-compliance;



- 14.1.4 procedures for obtaining approvals for engineering and design changes;
- 14.1.5 inspection and test sheets that will be used to record all data from inspections and tests; and
- 14.1.6 travel sheets for critical inspections.

ARTICLE 15 - BID EXECUTION

15.1 The bidder shall list below, and hereby acknowledges receipt, understanding and full consideration of all of the listed *Addenda*.

Addenda Numbers: ●

15.2 The bidder accepts all of the terms and conditions of the *RFB*, except as indicated in the list of exceptions. The bidder shall provide all information requested in the *RFB*, and failure to do so may result in rejection of the *Bid*.

15.3 The bidder hereby offers to perform the *Work* in accordance with the *RFB*, subject to the list of exceptions.

15.4 The undersigned hereby represents and warrants that they have the authority to execute the *Bid* on behalf of the bidder.

The bidder hereby duly executes the bid on the ● day of ●, 20●.

PER:

TITLE:

PER:

TITLE:



SCHEDULE "A"
SCOPE OF WORK
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ARTICLE 1 - GENERAL

1.1 Part of Contract Documents

This is Schedule "A" - Scope of Work referred to in the General Conditions made as of _____, 20__.

1.2 Definitions

Capitalized terms used and not defined in this Schedule, shall have the same meaning as given in the General Conditions where so defined.

ARTICLE 2 - SCOPE OF WORK

2.1 Description of Scope of Work

The general scope of Work is (briefly describe):

2.2 Technical Specifications

Schedule "D" - Technical Specifications contains the technical specifications for the Work, together with references to codes, standards, specifications and other documents applicable to the Work.

ARTICLE 3 - CONTRACTOR'S GENERAL RESPONSIBILITIES

3.1 Provision of Materials and Equipment not otherwise specified

The Contractor shall provide all materials and equipment necessary for the performance of the Work not otherwise specified to be provided by the Owner or Other Contractors.

3.2 Taking Delivery of Materials and Equipment

The Contractor shall receive, load, transport to the Work Site and care for all materials, tools and equipment and other items provided by the Owner from and FOB the location designated in the Contract Documents.

3.3 Temporary Utility Connections

Where the Owner provides utilities the Contractor shall provide all temporary distribution facilities required to extend those utilities from the point(s) of outlet designated by the Owner to the point(s) of use required by the Contractor. Upon completion and acceptance of the Work, the



Contractor shall remove all materials, facilities and equipment used in connection with the extension of any utilities and repair any damage caused as a result.

3.4 Curing of Materials and Protection of the Work

The Contractor shall provide all required heating, lighting, ventilation, coverings and enclosures for the curing of materials and protection of the Work from moisture, condensation, extremes of temperature and other deleterious conditions which could affect the Work.

3.5 Key Personnel

The following persons are key to the performance of the Work by the Contractor:

<u>Title</u>	<u>Name</u>
(Insert titles for which the Owner requires that key personnel be designated.)	
_____	_____
_____	_____
_____	_____

ARTICLE 4 - OWNER'S GENERAL RESPONSIBILITIES

4.1 Owner Supplied Items

In addition to any materials and equipment specified in Schedule "D" - Technical Specifications, or elsewhere in the Contract, to be supplied by the Owner, or by Other Contractors, the Owner shall provide, or make available as the case may be, to the Contractor the items listed below for the performance of the Work by the Contractor:

4.1.1 materials supplied: _____

location: _____

[examples: all bulk piping 2" diameter and under; etc.]

4.1.2 utilities provided: _____

[examples: water for hydrotest; AC power; etc.]

4.1.3 facilities provided: _____



[examples: construction materials laydown area; construction site office trailers; access to Owner's washrooms; access to Owner's lunchrooms; disposal site for waste materials; etc.]

4.1.4 construction equipment provided: _____
location: _____

[examples: 200T crane for lifting XYZ vessel; 6" diameter pump for removal of groundwater; scaffolding; etc.]

4.1.5 services provided: _____

4.2 The following licenses, permits and approvals have been or shall be obtained by the Owner:

Licenses: _____
Permits: _____
Approvals: _____

ARTICLE 5 - HOURS OF WORK, MILESTONE DATES AND WORK SCHEDULE

5.1 Hours of Work

Normal working hours for a Work Day for the performance of the Work at the Work Site shall be as follows: _____

(here describe hours of work)

5.2 Milestone Dates

The Milestone Dates referred to in GC 4.1 are as follows:

Milestone Dates		
	Commencement Date	Completion Date
Mobilize to the Work Site		



Milestone Dates		
Commence Work		
List other Milestone Dates		
No. 1		
No. 2		
No. 3		
Functional Completion of Work		
Final Completion Notice		
Demobilize from the Work Site		

5.3 Work Schedule

The Contractor shall provide to the Owner's Representative a Work Schedule:

- 5.3.1 detailing the sequence in which the Contractor intends to perform the Work;
- 5.3.2 start and completion dates for all separate portions of Work;
- 5.3.3 manpower forecasts by trade or discipline;
- 5.3.4 key materials and equipment procurement and delivery dates; and,
- 5.3.5 other relevant data and information;

and shall record the actual progress of the Work on the Work Schedule. The Contractor shall not revise or change the Work Schedule without the express prior written consent of the Owner.

ARTICLE 6 - DRAWINGS, CODES AND STANDARDS

6.1 Contractor Review

The Contractor shall review and compare the list of all drawings identified in Schedule "D" - Technical Specifications with the drawings received by the Contractor and notify the Owner immediately of any shortages, inconsistencies in drawing numbers, revisions and omissions and discrepancies in these drawings.

6.2 Issued for Construction Drawings and Prepared Documents

The Contractor shall perform the Work only in accordance with approved drawings marked "Issued for Construction", and any subsequent revisions thereto, and with those Prepared Documents submitted by the Contractor and reviewed by the Owner.

6.3 Permission to Proceed shall not Constitute Acceptance or Approval of Prepared Documents

No permission given by the Owner to the Contractor to proceed with the Work shall constitute acceptance or approval of Prepared Documents, design details, calculations, analyses, test methods, certificates or materials developed or selected by the Contractor, or relieve the Contractor of any obligation under the Contract.

6.4 Files

The Contractor shall maintain a file of the current Contract Documents and Contractor's Prepared Documents at the Work Site, and at all times the Contractor shall allow the Owner access thereto.

6.5 Contractor's Prepared Documents

The Contractor shall provide the Owner with an acceptable schedule for submitting the Contractor's Prepared Documents and other data specified herein and shall submit all Contractor's Prepared Documents in sufficient time to allow for their review by the Owner without delaying the Work. The following requirements shall also apply to all Contractor's Prepared Documents:

- 6.5.1 engineering documents shall be checked and initialled by the responsible designers and checkers prior to submission to the Owner;
- 6.5.2 all field measurements, field construction criteria, catalogue numbers and similar data must be correct prior to submission to the Owner; and
- 6.5.3 no Work which requires review of Prepared Documents shall be commenced, until the Owner has returned the Prepared Documents with a review stamp and initials or signatures affixed, indicating the review has been completed.

6.6 Review of Contractor's Prepared Documents

Work performed by the Contractor prior to return of the Contractor's Prepared Documents which are to be reviewed by the Owner shall be changed by the Contractor if the Owner's review of the drawings indicates changed requirements.

ARTICLE 7 - CONNECTING WORK

7.1 Lines, Grades and Elevations

Wherever performance of the Work is dependent upon existing lines, grades, elevations or work performed by the Owner or Other Contractors (referred to in this Article as "Existing Work") and before proceeding with the Work, ordering materials or preparing fabrication drawings, the Contractor shall verify by all necessary means, including an inspection of the Work Site and of the equipment, materials and other items that are to be provided by the Owner or Other Contractors, that the Work is suitable for connection to the Existing Work.

7.2 Notification of Discrepancy or Defect

The Contractor shall notify the Owner in writing, before proceeding with the Work, of any discrepancy or defect that would prevent, hinder or impair the connection of the Work to Existing Work. Failure to do so shall be deemed as acceptance by the Contractor as to the suitability for connection between the Work and the Existing Work, and the Contractor shall be responsible for the removal, repair, replacement or reconstruction of any part of the Work that does not meet the requirements of the Contract Documents, or any increased costs or delay occasioned as a result.

7.3 Connections and Integration

The Contractor shall perform all cutting and fitting of the Work and of Existing Work that may be required to make all component parts fit together properly and to fit the Work to receive or be received by the Existing Work, as shown on or reasonably implied by the drawings and specifications. The Contractor shall not cut, undercut or alter the Existing Work, including cutting, boring, removing or otherwise modifying or impairing the integrity of any structural or load-bearing member of the Owner's existing plant without the express prior written approval of the Owner.

7.4 Continuous Operation

Where the Contractor connects the Work to Existing Work, the Contractor shall, to the extent necessary, preserve the safety, integrity, performance and continuous operation of the Owner's existing plant.

ARTICLE 8 - QUALITY CONTROL PROGRAM

8.1 Contractor's Quality Control Program

- 8.1.1 When requested by the Owner, the Contractor shall submit its quality control manual (the "Manual") procedures and programs to the Owner for review.
- 8.1.2 The Manual and quality control programs shall, as a minimum requirement hereof, cover all standards of quality required under the Contract, Law and codes and standards applicable to the Work. If the Contractor's quality control program does not conform fully with the requirements of the Contract, the Contractor shall provide

the Owner with an itemized plan of corrective actions by the Contractor to ensure that the Contractor's quality control program for the Work conforms with the Contract, including the dates for implementation of each item.

8.1.3 Where approval of the Contractor's, Subcontractors' or Suppliers' quality control programs is required by regulatory bodies ("Regulatory Bodies") (e.g., pressure equipment, piping and structural steel), the Contractor shall ensure that quality control programs for the Work are approved by the appropriate Regulatory Bodies, in a timely manner so as to not delay the Work, and evidence of such approvals are provided to the Owner upon the Owner's request but in any case no later than 3 days after the Contractor's receipt of such approvals.

8.1.4 The Contractor is responsible for the quality control of the Work, including the Work performed by its Subcontractors and Suppliers.

8.1.5 Various requirements for quality control of the Work are specified in Schedule "D" - Technical Specifications. The Contractor acknowledges that these are the minimum requirements for the quality control of the Work and the Contractor agrees to perform as many inspections and tests as are necessary to ensure that the Work conforms to the requirements of the Contract.

8.1.6 The Contractor shall perform testing of the Work in accordance with and as required by all applicable codes, regulations and Law or by plan and approval authorities, safety codes officers or accredited agencies, as the case may be.

8.2 Subcontractor's Quality Control

8.2.1 The Contractor shall provide the Owner's Representative with details of the program for supervising and monitoring the Work to be performed by Subcontractors and Suppliers and with details of Subcontractors' and Suppliers' quality control programs and procedures for controlling the quality of all portions of the Work that are to be performed by Subcontractors or Suppliers.

8.2.2 The Contractor shall promptly process and distribute all required copies of test reports and test information and related instructions to all its Subcontractors and Suppliers to ensure that all necessary repairs, replacements and retesting can proceed without delay.

8.2.3 The Contractor shall promptly provide the Owner with copies of all test results.

8.3 Re-performed Testing

8.3.1 If tests performed by Owner upon a portion of the Work not previously tested by the Contractor identify a non-conformance to the requirements of the Contract, the Contractor has the option to either arrange an independent re-performance of the test or correct the non-conforming part of the Work and re-perform the test.

8.3.2 Where tests by either the Owner or the Contractor on products, materials or completed Work identify Work which does not meet the requirements of the Contract, the Contractor shall submit details of proposed remedial work to the Owner for review and approval prior to the Contractor performing remedial work on the affected item. The Contractor shall repair and replace products and materials, correct any deficiencies and re-perform all tests as may be necessary to ensure that the Work meets the requirements of the Contract.

8.3.3 The Contractor shall submit the results of re-performed tests on Work which fails to meet the requirements of the Contract to the Owner within a practical and reasonable time following the re-performed test.

8.4 Inspection Plan for the Work

8.4.1 Prior to the commencement date of the test, the Contractor shall provide the Owner's Representative with a detailed inspection and test plan ("ITP") for the test. The Owner shall provide the Contractor with written notice of any request to make alterations to the test plan.

8.4.2 Following receipt and review of the ITP, the Owner shall advise the Contractor of hold points in the Work at which the Owner wishes to perform or witness tests or witness production or quality control activities performed by the Contractor or any Subcontractors or Suppliers ("Owner's Hold Points"). The Contractor shall give reasonable, but in any event, not less than 24 hours, notice to the Owner of all tests to be conducted at the Owner's Hold Points and the Contractor shall adhere to the requirement for the Owner's Hold Points unless specifically waived by the Owner's Representative.

8.4.3 The Contractor shall ensure that all quality control activities, including testing and inspections at Owner's Hold Points which have been witnessed by the Owner, are recorded in the quality control file for that part of the Work, prior to the end of the same work shift in which the quality control activity occurred.

8.4.4 The Contractor shall compile a quality control file or job file which shall include the following, or so many thereof as may be applicable:

- (a) Alberta Labour - applicable Safety departments - accepted (stamped) drawings;
- (b) manufacturer's specification sheets;
- (c) manufacturer's data reports;
- (d) name plate tracing;
- (e) applicable purchase orders;
- (f) radiographic film;

- (g) interpretation sheets and all other Non-Destructive Examination ("NDE") reports;
- (h) welder qualifications;
- (i) non-conformance reports;
- (j) mill test certificates;
- (k) travel sheets;
- (l) drawings showing NDE, weld traceability points;
- (m) pressure test record & test gauge calibration sheets;
- (n) heat treatment procedures and time / temperature charts;
- (o) repair procedures;
- (p) completion of construction form & inspection release notices;
- (q) repair / alteration reports; and
- (r) as built drawings.

8.4.5 The Contractor shall provide the Owner with inspection release notices on Work which has been inspected and accepted on or off the Work Site.

8.5 Completion of Work

As part of the acceptance criteria of the Work, the Contractor shall submit a consolidated record of all quality control data including the items in the table below and other documents specified or referenced therein, and submit the documents to the Owner's Representative:

Required	Not Required	Description
		Certificates
		Test Results
		As-Built Drawings

ARTICLE 9 - SAFETY AND LOSS MANAGEMENT

9.1 Introduction

9.1.1 The Owner's principles of safety and loss management employ a thorough and systematic approach towards a goal of elimination of all downgrading incidents to personnel, production, equipment, materials and the environment. The Contractor shall perform the Work safely and in accordance with the requirements of the Contract and the Owner's principles of safety and loss management and the Occupational Health and Safety Act and regulations thereunder.

9.1.2 All Contractors, Subcontractors, Suppliers, and their respective personnel are responsible for the SAFETY OF THEMSELVES AND THEIR CO-WORKERS. They are responsible for understanding the hazards of the Work, and complying with all safe work permits, procedures, safe work plans, and safe work practices pertinent to the Work. In addition, they are responsible for understanding the Occupational Health and Safety Act and regulations and shall identify any hazards or potential hazards to their own or any of the Owner's supervisors.

9.2 Prime Contractor

The _____ [fill in either "Contractor" or "Owner"] shall be the "prime contractor", as that term is defined in the Occupational Health and Safety Act, for the purposes thereof and shall comply with the provisions of the said Act and regulations thereunder.

9.3 Prevention and Reporting of Injuries

9.3.1 The Contractor shall make best efforts to prevent any injuries to any personnel at the Work Site. However, if injuries are sustained by any of the Contractor's employees or agents or those of the Subcontractors or Suppliers, the Contractor shall record and report all injuries according to the Occupational Health and Safety Act and regulations and this Article 9.

9.3.2 The Contractor shall record and report all injuries to the Owner's Representative.

9.3.3 The Contractor shall make best efforts to prevent any occurrences in the following incident categories:

- (a) fire
- (b) damage to equipment or facilities
- (c) production loss
- (d) environmental damage; and
- (e) breach of security.

9.4 Programs and Manuals

9.4.1 The Contractor shall maintain a Safety and Loss Management Program which shall include as a minimum the following:

- (a) a loss control reporting system;
- (b) an incident investigation procedure;
- (c) an inspection procedure;
- (d) established work standards and procedures;
- (e) established emergency procedures;
- (f) procedures for monitoring Subcontractor performance; and
- (g) safety meetings and communications.

9.4.2 The Contractor shall maintain a safety manual containing the programs required by this Schedule "A" - Scope of Work. This manual is to be made available to all of the Contractor's employees, Subcontractors, and Suppliers.

9.5 Safe Work Permits

9.5.1 The Contractor shall ensure that no Work proceeds until the appropriate safe work permit has been issued.

9.5.2 The Contractor shall apply for safe work permits in accordance with the schedules issued at the Contract kick-off meeting.

9.5.3 Prior to issuing a safe work permit, the Owner may request, or the Contractor may identify a need for a detailed for safe execution of the Work from the Contractor, complete with a list of personnel involved, or any other information that the Owner requires to properly assess the Work for safety and constructability.

9.5.4 The Contractor shall fully understand all aspects of the safe work permit prior to starting the Work. In addition, the Contractor shall fully communicate the safe work permit information to all its employees and the employees of its Subcontractors prior to starting the Work.

9.6 Safety Inspections for Drug and Alcohol Abuse

The Owner reserves the right, in the interest of worker safety, to require the Contractor to have all of its employees and all employees of its Subcontractors, at the Owner's expense, to submit to and pass a panel ____ drug and alcohol test in the event there exists in the opinion of the Owner's Representative reasonable apprehension or suspicion that there is or will exist a hazard or danger to safety at the Work Site or an accident has occurred, or the employee is or has been under the influence of alcohol or drugs while on the Work Site, and to deny access to the Work Site to any employee who has failed to take or pass the required test.

9.7 Documentation and Reports to Owner

The Contractor shall maintain and submit the following documentation to the Owner's Representative as required:

9.7.1 loss control reports (within 24 hours of an incident); and

9.7.2 incident investigation reports (within 24 hours of an incident);

9.8 Employee Job Orientation

The Contractor is responsible for ensuring that all Contractor and Subcontractor site personnel, and all Suppliers attending at the Work Site, understand the following:

9.8.1 an overview of the Work Site, including locations of all key facilities;

9.8.2 a general overview of the Work;

9.8.3 emergency call-out procedures;

9.8.4 first aid procedures;

9.8.5 explanation of emergency assembly areas;

9.8.6 traffic rules on the Work Site (access, speed limits, etc.);

9.8.7 loss control reporting requirements and system;

9.8.8 the need for compliance to all of Owner's safe work permits, safe work plans, policies, procedures, Occupational Health and Safety Act regulations and all other procedures specified in this Schedule "A" -Scope of Work;

9.8.9 Work Site hazards;

- 9.8.10 the existence and location of any Hazardous Material or Specific Substances and the method of dealing with the same;
- 9.8.11 Workplace Hazardous Materials Information System (WHMIS);
- 9.8.12 waste management guidelines;
- 9.8.13 personnel protection equipment requirements;
- 9.8.14 Owner's smoking policy;
- 9.8.15 employee's responsibilities;
- 9.8.16 employee's rights / responsibility to refuse unsafe work; and
- 9.8.17 Owner's butane open mechanism lighter policy.

9.9 Safety Equipment and Requirements

The Contractor shall ensure that all of its employees, invitees, Subcontractors and Suppliers attending at the Work Site are equipped with the following equipment and adhere to the requirements listed in the table below:

[Insert list of equipment and requirements]



Description	Yes	No
PERSONAL PROTECTIVE EQUIPMENT		
Steel Toed Boots		
High Top Boots		
Safety Glasses with Side Shields		
Hard Hat		
Hearing Protection		
Long Sleeves		
Fire Resistant Clothing		
Face Shields		
Respiratory Protection - as required		
Fall Protection, including flotation devices and life lines		
PERMITS		
Cold Work Permit		
Hot Work Permit		
Excavation Permit		
Confined Space Entry Permit		
Person Hoisting Permit		
Vehicle Access Permit		
Lunch / Office Trailer Smoking Permit		
TRAINING		
Contractor Safety Orientation		
Permit Receiving Course		
Confined Space Entry / Standby Person		



Description	Yes	No
Self Contained Breathing Apparatus (SCBA)		
MISCELLANEOUS		
Fulltime Safety Officer		
Hair and Beard Policy		
Smoking Policy		
Flame Proof Tarps		
Gas Monitoring		

ARTICLE 10 - DOCUMENT SUBMISSION REQUIREMENTS, PROGRESS REPORTING AND OTHER REPORTING

10.1 Transmittals

The Contractor shall submit all required documents for review with a transmittal letter which shall identify:

- (a) date;
- (b) project title;
- (c) number of each shop drawing, product data and sample submitted;
- (d) Contractor's pertinent data; and
- (e) other pertinent data.

10.2 Shop Drawings

Shop drawing submissions shall include:

- (a) date and revision dates;
- (b) project title;
- (c) name of:
 1. Contractor
 2. Subcontractor



3. Supplier

4. separate detail(s) when pertinent;

- (d) identification of product or material;
- (e) relation to adjacent structure or materials;
- (f) field dimensions clearly identified as such;
- (g) specification section number;
- (h) applicable standards, such as CGSB or CSA numbers; and
- (i) Contractor's stamp initialled or signed, certifying review of submission, verification of field measurements and compliance with the Contract.

10.3 Drawings

10.3.1 Where the Contractor is required to provide drawings for:

- (a) fabricating materials and equipment to be provided by the Contractor;
- (b) installing materials and equipment to be provided by the Contractor; or
- (c) planning and performing the Work,

the Contractor shall submit 1 reproducible photocopy vellum and two print copies of the drawings before fabricating, installing or performing that part of the Work, allowing at least ___ Work Days for review by the Owner, unless otherwise shown on the Work Schedule. This requirement shall extend to drawings required for activities such as match marks, erection diagrams and other details for field connections for proper installation, erection of equipment and performance of the Work.

10.3.2 Drawings of a specific piece of equipment shall identify components with the manufacturer's part number or reference drawing number clearly indicated. The Contractor shall submit all drawings in a sequence that shall ensure that all information is available for reviewing each drawing when it is received by the Owner.

10.3.3 All drawings submitted by the Contractor shall be certified by the Contractor, by stamp and dated signature of an authorized and qualified person, to be correct in all respects as to field measurements, field construction criteria, materials, catalogue and product data, the requirements of the Contract and conditions of performing the Work; and all fabrication drawings shall be certified by stamp and dated signature of a Professional Engineer licensed to practice in the Province of Alberta.

10.3.4 Following the Owner's review of the Contractor's drawings, 1 set, print stamped and marked with one of the following coded notations shall be returned to the Contractor. The Contractor shall allow a clear space of not less than 75 mm x 150 mm on the face of all drawings for the Owner's stamp.

OWNER'S NAME DRAWINGS / DESIGN/DATA REVIEW
<input type="checkbox"/> A-REVIEWED: Suitable, proceed with fabrication & submit certified mylar.
<input type="checkbox"/> B-REVIEWED: Modify as noted, may proceed with fabrication & submit final drawing.
<input type="checkbox"/> C-REVIEWED: Not suitable. Do not proceed. Revise / redesign & resubmit.
<input type="checkbox"/> D-REVIEWED: Review not required or for information only.
<input type="checkbox"/> E-REVIEWED: Final certified data, no further resubmittal required.
BY: _____ REV. _____
DATE: _____

10.4 Samples

10.4.1 Where samples of materials to be incorporated into the Work are required, the Contractor shall provide the Owner with the samples for review, not less than ____ Work Days prior to incorporation of the materials represented by the samples into the Work. All samples are subject to review by the Owner, and no materials represented by the samples shall be incorporated into the Work without the Owner's review.

10.4.2 The Contractor shall attach a label to each sample showing the Contractor's name, the Contract number, name of sample item, and as appropriate, the manufacturer's name, brand name, model number, supplier's name, and reference to the appropriate drawing number, technical specification section and paragraph number.

10.4.3 Samples which have been reviewed by the Owner may, at the Owner's option, be retained by the Owner, or returned to the Contractor for incorporation into the Work.

10.5 Certificates

10.5.1 Where certificates for materials and equipment to be incorporated into the Work are required, the Contractor shall provide the Owner with signed original and 3 copies of each certificate for review, not less than ____ Work Days prior to incorporation of the materials or equipment represented by the certificates into the Work. These certificates shall be subject to review by the Owner, and no materials represented by



these certificates shall be fabricated, delivered to the Work Site or incorporated into the Work without the Owner's review.

10.5.2 All Certificates shall clearly identify the item certified and shall include at least the following information: the Contractor's name, the Contract number, name of the item, manufacturer's name, and reference to the appropriate drawing, technical specification section and paragraph number.

10.6 Progress Recording and Reporting

10.6.1 The Contractor shall record and report progress of all elements of the Work by a method and format that is acceptable to the Owner.

10.6.2 Once in each month, or at other reasonable times as may be required by the Owner, but in any event prior to submission of an invoice for the Work performed the Contractor shall present a written report of progress of the Work to the Owner for review.

ARTICLE 11 - MEETINGS AND REPORTS

11.1 The Contractor shall participate in the following meetings and any and all other meetings as required by the Owner on reasonable notice to the Contractor:

	Yes	No
11.1.1 contract kick-off meeting	_____	_____
11.1.2 safe work plan meetings	_____	_____
11.1.3 daily safety meetings	_____	_____
11.1.4 weekly progress review meetings	_____	_____
11.1.5 safety and loss management meetings	_____	_____
11.1.6 accident / incident investigation meetings	_____	_____
11.1.7 potential problem analysis meeting	_____	_____

11.2 The Contractor shall provide the Owner with the following reports:

	Yes	No
11.2.1 daily force report;	_____	_____
11.2.2 daily LEM's (if applicable);	_____	_____
11.2.3 daily / weekly activity report;	_____	_____



- 11.2.4 weekly safety activity report; _____
- 11.2.5 weekly schedule report; _____
- 11.2.6 weekly construction work plan and 2 week projection; _____
- 11.2.7 contractor loss control report (within 24 hours); _____
- 11.2.8 incident investigation report (within 24 hours); and _____
- 11.2.9 any and all other reports as required by the Owner. _____

ARTICLE 12 - TURNOVER

12.1 As-Built Drawings

- 12.1.1 During the Contract Time, the Contractor shall maintain records at the Work Site of the changes and differences between the drawings and the actual condition of the Work as built, by marking and recording these changes and differences on 2 sets of drawings identified by the stamped notations "AS BUILT" (the "As-Built Drawings").
- 12.1.2 Upon completion and acceptance of the Work, the Contractor shall give the two complete sets of the As-Built Drawings, including any As-Built Drawings on which no changes are recorded, to the Owner.
- 12.1.3 During the term of the Contract, the Contractor shall allow the Owner access to the As-Built Drawings for the purpose of auditing their correctness.

12.2 Operating Maintenance Manuals

- 12.2.1 As part of the criteria for acceptance of the Work and issuance of either a Function Completion Notice or Final Completion Notice, as may be applicable, the Contractor shall submit ___ legible sets of operating manuals and maintenance instructions bound in 3-ring loose leaf binders, with hard covers, and labelled with project name, date of issue and table of contents.
- 12.2.2 Operating maintenance manuals shall include at least the following information:
 - (a) maintenance instructions for finished surfaces and materials;
 - (b) copy of hardware paint schedules and finish schedules;
 - (c) description, installation, operation and maintenance instructions for equipment and systems, including complete list of equipment and parts;
 - (d) maintenance and lubrication schedules and troubleshooting charts;



- (e) nameplate information such as make, model, size, serial number, capacity and catalogue number;
- (f) names, addresses and phone numbers of Subcontractors and Suppliers;
- (g) one complete set of final reviewed shop drawings and material submission indicating corrections and changes made during fabrication and installation; and
- (h) [add any other required information].

12.2.3 Refer to sections of Schedule "D" - Technical Specifications for detailed requirements for operating and maintenance manuals.



SCHEDULE "B"
PAYMENT FOR WORK
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ARTICLE 1- GENERAL

1.1 This is Schedule "B" - Payment for Work referred in the General Conditions, and forming a part of the Contract Documents made as of the _____ day of _____, 20__.

1.2 Definitions

Capitalized terms used and not defined in this Schedule "B" - Payment for Work shall have the meaning given thereto in the General Conditions where so defined.

1.3 As full and complete payment for the performance of the Work and the discharge of all obligations of the Owner under the Contract, the Owner shall pay the Contractor the Contract Price as set forth in Article 3 of this Schedule "B" - Payment for Work.

ARTICLE 2- INVOICING

2.1 Monthly Invoicing

2.1.1 The Contract Price shall be paid based on the progress of the Work to the end of each pay period. The Contractor shall submit invoices based on the percentage of Work performed including materials and equipment delivered to the Work Site for incorporation into the Work. At the end of each month, or such other date as may be agreed upon between the Contractor and the Owner, the Owner's Representative and the Contractor's Representative shall agree on the progress of the Work to the end of the preceding month and failing agreement, the progress of the Work shall be determined pursuant to GC 30 of the General Conditions.

2.1.2 At the end of each month, or such other date as may be agreed upon between the Contractor and the Owner, the Contractor shall submit an invoice and an "Application for Payment", in the form attached hereto, covering work performed to the end of the previous month.

2.1.3 The Owner's Representative shall within 5 Work Days of receipt by the Owner of the Contractor's invoice and Application for Payment review and approve the Contractor's invoice, or advise the Contractor in writing of any reason why the invoice or any portion thereof is not approved.

2.1.4 The Owner shall pay approved invoice amounts or approved portions thereof within 30 days of receipt of the invoice and conditional upon:

- (a) there being no builders' liens registered against title to the Owner's Site arising out of the Work; and
- (b) the Contractor having provided the Owner with a true Statutory Declaration in the form attached as Schedule "E" - Statutory Declaration hereto.

2.2 All invoiced amounts shall be net of the 10% builders' lien holdback required to be retained pursuant to GC 3.

[Note to draft: the following is substantially duplicated in the General Conditions if the new GC 9.4 were incorporated as an amendment]

2.3 The final payment under the Contract, including release of the major lien fund shall become due and be payable 46 days after issuance by the Owner of the Final Completion Notice, and conditional upon there being no builders' liens registered against the title to the Owner's Site, or arising out of the Work, and the Contractor having provided to the Owner the following:

- (a) an invoice and Application for Payment in the form attached hereto;
- (b) a clear Workers' Compensation Board Clearance Certificate; and
- (c) a Release and Certificate of Final Payment in the form attached as Schedule "C" - Release and Certificate of Final Payment confirming that there are no outstanding claims in respect of the Work for which notice has not been provided to the Owner in writing, and that there are no builders' liens registered against title to the Owner's Site or claims in respect of which rights to file builders' liens against the Owner's Site exist.

2.4 The following information shall be included by the Contractor in each invoice:

- (a) total contract price for each item;
- (b) percentage complete for each item;
- (c) previous progress invoice amount for each item;
- (d) this progress invoice amount for each item; and
- (e) total progress invoice amount for each item.

ARTICLE 3- CONTRACT PRICE

[To be used in Stipulated Price Contract]

3.1 The Contract Price, subject to change in accordance with the General Conditions, at the date of the Contract is as follows:

Item	Description	Labour	Material	Equipment	Total
3.1	Mobilization / de-mobilization				
3.2	Structural				
3.3	Piping				
3.4	Mechanical				
3.5	Electrical				
3.6					
3.7					
3.8					
3.9	Instrumentation				
3.10	Fire Protection				
3.11	Total Contract Price				

[Optional - To be used in Unit Price Contract • insert Unit Price Table]

ARTICLE 4- CHANGES AND CHANGE DIRECTIVE RATES

4.1 The following rates (for labour and equipment) and markup (for material) shall be used by the Contractor:

4.1.1 as a basis for quoting prices for Changes; and

4.1.2 as a basis for payment under Change Directives issued under GC 8, General Conditions.

4.2 Labour Rates

Labour rates for the Contractor's and Subcontractor's labour force shall be as stated on Table I attached. The rates, which are payable for actual hours worked, shall be all-inclusive billing rates including but not limited to:



- 4.2.1 wages, taxes, union and government assessments;
 - 4.2.2 welfare benefits and all insurance premiums;
 - 4.2.3 home office support, long distance telephone calls;
 - 4.2.4 tools of the trade, normal consumables, small tools and equipment and personal protective equipment (up to a value of \$_____ each);
 - 4.2.5 timekeepers and time keeping facilities (time alleys, time clocks etc.) tool crib facilities and attendants; and
 - 4.2.6 overhead and profit, including costs for supervisory personnel (general foreman and above).
- 4.3 Equipment Rental Rates
- 4.3.1 Rental rates for tools and equipment (owned by Contractor having an actual purchase price in excess of \$_____ each as of January 1, 20__) shall be as stated in Table II of this Schedule "B" - Payment for Work.
 - 4.3.2 The equipment rental rates as set out in Table II of this Schedule "B" - Payment for Work are all-inclusive rates including, but not limited to the cost of fuel, lubricants, repair parts and service, maintenance, cost of broken tools and accessories, applicable taxes, overhead and profit. Operators shall be paid for under Article 4.2 above.
 - 4.3.3 The Contractor shall be reimbursed at the equipment rental rates set out in Table II of this Schedule "B" - Payment for Work for actual hours equipment is used, excluding downtime for repairs or servicing.
 - 4.3.4 Equipment rental rates shall include all industry-standard accessories, hoses, cables and all other items necessary for proper performance of the Work.
 - 4.3.5 The equipment rental rates are based on a standard work week and 4 weeks per month. The Contractor shall provide a monthly summary of all daily equipment usage hours.
 - 4.3.6 The equipment rental rate to be charged (i.e. hourly, daily, weekly, monthly) for tools and equipment shall be invoiced at the end of each month. Contractor shall provide a monthly summary sheet listing all equipment. If an item is chargeable for less than a month, or a week, or a day, the rate to be charged shall be the weekly, daily or hourly rate, respectively. In no event shall the Contractor be reimbursed more than the monthly rate for an item of equipment used less than 1 month.
 - 4.3.7 The move-on / move-off charge shall be paid for each occurrence, only if authorized by the Owner. Move-in / move-off charges shall not apply to equipment relocation on or within the Work Site.

4.3.8 Upon proper authorization by the Owner's Representative, the Contractor shall be paid for all time it is required to maintain its equipment on the Work Site on standby. In the event of such a request, the Contractor shall be paid for all time equipment is maintained on standby at ____% of the equipment rates set out in Table II of this Schedule "B" - Payment for Work.

4.4 Third Party Equipment and Subcontractors

4.4.1 The Contractor shall be reimbursed for equipment required to complete the Work and supplied by Subcontractors, at actual cost to Contractor including transportation to the Work Site, plus the following percentage markup which shall cover the aggregate of Contractor's overhead and profit.

Cost Plus _____%

4.4.2 Third party equipment already listed in Table II shall be paid for at the rates listed in Table II, and no markup shall apply.

4.5 Materials

4.5.1 The Contractor shall be reimbursed for material (other than consumables) required to complete the Work, at actual cost to Contractor, including transportation to the Work Site, as substantiated by invoices or by such documentation as may be required by the Owner, plus the following percentage markup which shall cover the aggregate of Contractor's overhead and profit.

Material Cost Plus _____%

4.6 Time Sheets

For all Work performed on a time and material basis, Contractor shall submit daily time sheets, equipment and material time sheets for approval by the Owner, which shall detail all work activity, all hours worked, materials installed and tools and equipment used and be submitted as support to the Contractor's monthly invoice.

ARTICLE 5- MISCELLANEOUS

5.1 Neither the Contract Price nor the Change and Change Directive rates are subject to escalation.

5.2 All overtime must be approved in advance by the Owner.

5.3 The Contract Price shall include all of the Contractor's and its Subcontractors', and any Suppliers who attend at the Work Site, cost of safety and loss management required under the Contract Documents.

5.4 Mobilization / Demobilization

- (a) Mobilization and demobilization include the Contractor's cost of mobilization at the commencement of Work on the Work Site and demobilization upon completion of Work.
- (b) Mobilization shall include but not be limited to:
 - (i) transportation of labour and shipment of materials and equipment to the Work Site; and
 - (ii) setting up temporary facilities and all preparation necessary for performing the Work including all costs associated with Contractor's personnel attending the Owner's safety courses.
- (c) Demobilization shall include but not be limited to preparation and submission of operation and maintenance manuals, removal of all materials and equipment and clean up of the Work Site upon completion of Work.
- (d) Payment to Contractor for mobilization / demobilization shall be as follows:
 - (i) _____ % of unit price for mobilization / demobilization as part of Contractor's first invoice after the Contractor has fully mobilized to the Work Site;
 - (ii) _____ % of unit sum price for mobilization / demobilization as part of Contractor's final invoice.

5.5 The Contract Price shall be payable in Canadian currency.

5.6 Payment of invoices shall be deemed advances and are subject to adjustment at any time prior to final payment.

5.7 Interim measurements are subject to change on final measurement following completion of the Work and any payment based on an interim measurement shall be considered an advance only and subject to final adjustment upon final measurement being performed.

SCHEDULE "B"

PAYMENT FOR WORK

**TABLE I
LABOUR RATES FOR CONTRACTOR
AND ITS SUBCONTRACTORS' LABOUR FORCE**

The labour rates as defined in Article 4 of this Schedule "B" – Payment for Work entitled "Labour Rates" are as follows:

SCHEDULE "C" - RELEASE AND CERTIFICATE OF FINAL PAYMENT

This is Schedule "C" - Release and Certificate of Final Payment referred to in the General Conditions of Contract made as of _____, _____.

Capitalized terms used and not defined in this Schedule, shall have the meaning given thereto in the General Conditions where so defined.

In consideration of \$1.00, the sufficiency of which is hereby acknowledged:

The Contractor solemnly declares that:

- (a) the Contractor has made full payment, or will make full payment from the final payment to be received from the Owner, of all costs, charges and expenses incurred by the Contractor or on its behalf for the work, labour, services, materials and equipment supplied in connection with this Contract or otherwise used in connection with the Work;
- (b) to Contractor's best knowledge and belief, each of its Subcontractors and Suppliers have made full payment of all costs, charges and expenses incurred by them or on their behalf for work, labour, services, materials and equipment in connection with the Contract or otherwise used by them in connection with the Work;
- (c) all assessments, levies and charges under the *Unemployment Insurance Act*, the *Workers' Compensation Act* and other legislation in respect of the Contract have been paid and, to the Contractor's best knowledge and belief, each and all of its Subcontractors have paid such assessments, levies and charges on their own account; and
- (d) the Contractor unconditionally releases and forever discharges the Owner, the Owner's Site and all property of the Owner from all builder's liens and liens of whatsoever kind or nature arising out of or in connection with the performance of the Contract;
- (e) the Contractor unconditionally releases and forever discharges the Owner from any and all claims, demands, actions or proceedings arising out of the performance of the Work of which it has knowledge, and in respect of which notice in writing has not, by the date hereof, been given by the Contractor to the Owner. The Contractor acknowledges and agrees that nothing herein contained relieves it of any obligations under the provisions of the Contract which by their nature survive completion of the Work including, without limitation, warranties, guarantees and indemnities.

The Contractor makes this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at _____, in the Province of Alberta, this ____ day of _____, 20__.

A Commissioner for Oaths in and for the Province of Alberta.

Name of Contractor

(Contractor's Representative)



SCHEDULE E

STATUTORY DECLARATION

IN THE MATTER OF a Contract bearing no. _____ and dated the ____ day of _____, 20__ between _____

(Insert full name of Owner) and

(Insert full name of Contractor)

hereinafter referred to as the Contractor,

for _____
(Description and location of work)

_____,
and IN THE MATTER OF (INDICATE BY checkmark in APPLICABLE BOX)

- a PROGRESS CLAIM covering work done thereunder up to the ____ day of _____, 20__.
- the CERTIFICATE OF SUBSTANTIAL PERFORMANCE relating thereto.
- the FINAL COMPLETION NOTICE of the work thereunder.

WITNESS:

I, _____, of _____
(Print or type name of Declarant) (Declarant's address)

do solemnly declare:

(1) that I am _____
(Print or type Declarant's title or position with the Contractor)

and as such have personal knowledge of the Contract and of the facts and matters stated herein.

(INDICATE BY checkmark in APPLICABLE BOX)

- that, up to the date of the attached progress claim, the CONTRACTOR has complied with all its lawful obligations to its workers in respect of the Work contracted for and has discharged all of its lawful obligations to its Subcontractors and Suppliers except for the amounts owing which total \$_____ (if nil, state nil). A detailed explanatory statement of the amounts owing, including any amounts in dispute must be attached as part of this Statutory Declaration; or
- that, up to the date hereof, the CONTRACTOR has complied with all its lawful obligations to its workers, its Subcontractors and Suppliers in respect of the Work contracted for and to all tax authorities respecting the payment of all applicable taxes arising from or related to the performance of the Work under the Contract, except for the amounts



owing which total \$_____ (if nil, state nil). A detailed explanatory statement of the amounts owing, including any amounts in dispute must be attached as part of this Statutory Declaration; or

that, up to the FINAL COMPLETION NOTICE, the CONTRACTOR has complied with all its lawful obligations to its workers, its Subcontractors and Suppliers in respect of the Work contracted for and discharged and satisfied all lawful claims against it that arose out of the performance of this Contract except for the amounts owing which total \$_____ (if nil, state nil). A detailed explanatory statement of the amounts owing, including any amounts in dispute must be attached as part of this Statutory Declaration.

And I make this SOLEMN DECLARATION conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the CANADA EVIDENCE ACT.

DECLARED before me at _____
this _____ day of _____, 20____.

(Signature of person before whom the Declaration is made)

(Print name of person before whom the Declaration is made)

A Notary Public, Commissioner, etc. _____

(Please state authority for receiving Declarations
Notaries to affix Notarial Seal)

(Signature of Declarant)

NOTICE

If this Declaration is not complete in every detail, it will be returned for completion and payment will be delayed.

Those sections of the *Criminal Code of Canada* which deal with offenses relating to affidavits are hereby brought to the attention of the Declarant.



SCHEDULE "F"

**KEY PERSONNEL CONFIDENTIALITY, PROPRIETARY INFORMATION
AND CONSENT AGREEMENT**

Dated effective _____, 20__

TO: _____
(the "Contractor")

AND TO: _____
(the "Owner")

I, _____ (the "Employee"), in consideration of the Owner consenting to my participation in the performance of certain work (the "Work") by the Contractor for the Owner pursuant to an agreement (the "Agreement") made between the Owner and the Contractor dated as of _____ with respect to _____; and for the further consideration of \$1.00, from each of the Contractor and the Owner, the receipt and the sufficiency of which are hereby acknowledged, do hereby agree, separate and apart from the Contractor, as follows:

1. I have had my role and responsibilities explained to me by the Contractor, or I have reviewed a copy of the Agreement and agree to observe the terms and conditions that relate to subcontractors of the Contractor.
2. I acknowledge that the Owner has an interest in securing the performance of the Work by the Contractor and that the ability of the Contractor to perform the Work primarily depends on my continued employment with the Contractor.
3. I shall perform for the Contractor such duties as may be assigned to me by the Contractor from time to time pertaining to the Work. I agree that all inventions, copyright, copyrightable works, discoveries, improvements, industrial designs and other intellectual and proprietary rights conceived, originated or prepared by me, arising directly or indirectly from the performance of the Work, are and shall be the exclusive property of the Owner.
4. I shall not, without the prior written consent of the Contractor and the Owner, either during or for a 5 year period after my employment by the Contractor, utilize or disclose any information acquired by me in the course of or by reason of my participation in the performance of the Work, nor will I disclose to any person not in the employ of the Contractor any such information, including, without limitation, any information as to technology, policies, operations, processes or formulae used, owned or supervised by the Owner or by any of its affiliates. At the termination of the Agreement or earlier if so requested, I shall forthwith return to the Owner all *Confidential Information* (as that term is defined in the Agreement).

I agree that, if any provision in this undertaking is found to be invalid or otherwise unenforceable at law, such provision shall be severed, and the remaining provisions shall continue in full force and effect.

Witness

Employee

