

Supplemental general conditions are used in conjunction with one of the general conditions sets in Section 3. Their purpose is to expand upon and clarify specific points within the context of an identified subject area. For example, supplemental general conditions 1028 - Ship Construction - Firm Price, expands upon the topic of ship construction.

Prior to the introduction of the *Standard Acquisition Clauses and Conditions* Manual, supplemental general conditions sets were attached to each bid solicitation package. This practice has been replaced by incorporation by reference. The specified supplemental general conditions specified in standard clause K0000D form part of the procurement document.

To improve readability, each condition set includes an index section (article) - 00, which details the various subjects covered within the condition set. As well, each section has an effective date. As conditions are updated and modified, only the affected section will receive a new effective date, corresponding to the effective date for the whole condition set; thus making changes more readily identifiable by users.

The following list identifies those sets of supplemental general conditions which are currently in use by the Department of Public Works and Government Services, their latest revision date and their title.

1028 (2004-12-10) Ship Construction - Firm Price

Public Works and Government Services Canada

- 01 Interpretation
- 02 Conduct of Work
- 03 Inspector Final Judge of Work, Materials, etc.
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1028 01 (2004-12-10) Interpretation

1. In the Contract, unless the context otherwise requires:

"Canada", "Crown", "Her Majesty" or "the Government" means Her Majesty the Queen in right of Canada;

a "Design Change" is any change to approved drawings, Specifications, or statements of requirements. Work necessary to eliminate "fouling" points or for the correction of errors made by the Contractor is not a "Design Change" within the meaning of this section;

"the General Conditions" means general conditions 1026A forming part of the Contract;

"Inspector" means the inspection authority designated in the Contract to carry out the inspection duties;

the expression "make modifications of, changes in or additions to the specifications," as the same is employed in section 19 of the General Conditions, shall be deemed to include and to apply to "Design Changes" as herein before defined.

"these supplemental conditions" means these supplemental general conditions;

"vessels" means the ships or vessels to be constructed by the Contractor under the contract and includes the whole of their respective hulls, engines, boilers, machinery, auxiliaries, equipment, fittings, and appurtenances where the context permits, the term "work" as used in the Contract includes the vessels as herein defined;

2. These supplemental general conditions shall be read with the General Conditions, provided that, in the event of any inconsistencies between the provisions of the General Conditions and of these supplemental general conditions, the latter shall prevail.
3. Where the Inspector is not specifically mentioned in the Contract, the Minister may act in respect of any covenant, agreement, condition or matter under the Contract by or through the Inspector or by or through such other officers as he may from time to time designate, with power in the Inspector or any such officers to delegate in writing or by e-mail any of the powers contained in the Contract.

1028 02 (2004-12-10) Conduct of Work**1. Canadian Labour**

To the full extent consistent with availability, proper economy and the expeditious performance of the Contract, the Contractor will employ Canadian labour exclusively. A reasonable proportion of the labour force employed will consist of persons who have been demobilized or honourably discharged from Active Service in Canadian Forces, where such persons are available and qualified for the Work to be performed.

2. Materials

The Contractor hereby warrants, represents, and agrees that it will procure all materials, parts, components and equipment required in connection with the performance of Contract from the sources proposed in its tender or such other sources as may be authorized by the Minister.

3. Performance Control

The Contractor may, at any time, apply to the Minister for advice or direction on matters pertaining to the Contract.

The Contractor shall submit for examination by the Inspector and/or the Minister all proposed contracts including those to be effected by Purchase Orders, if requested to do so.

The Contractor shall permit the Inspector to examine any designs, drawings, models or Specifications, completed or under preparation by it or on its behalf in connection with the Contract at any time.

All directions and instructions that may, from time to time, be given by the Inspector and/or the Minister with respect to the recording and reporting upon the conduct, progress and cost of the work, shall be duly carried out by the Contractor.

1028 03 (1991-06-01) Inspector Final Judge of Work, Materials, etc.

If any part of the Specifications provides for a method of construction or for the supply and/or use of materials, equipment or parts which are not specified with particularity, the Contractor shall have the right of selection provided that the construction so performed and the materials, equipment and parts so supplied and/or used are in accordance with good marine building practice for the type and class of vessels covered by the Contract, and provided that the Specifications and drawings and all other Contract requirements are fully complied with. The Inspector shall be the final judge of the quality, quantity and suitability of the workmanship, parts, materials, plant, machinery, apparatus, tools and equipment used in or for the purposes of the Work and as to the meaning or interpretation of the Specifications and its decision with regard to the foregoing matters, or any of them, shall be final and binding upon the Contractor. All orders, directions or instructions at any time given by the Inspector with respect to the Work or the conduct or progress thereof or with respect to the parts, materials, plant, apparatus, machinery, tools or equipment used in or for the purposes of the Work, shall be promptly and fully complied with by the Contractor.

1028 04 (2004-12-10) Re-execution of Inferior Work

The Inspector may reject or refuse to accept or approve any part of the materials or Work if, in its opinion, the same or any workmanship, parts or materials used in the manufacture or production thereof are not in accordance with the provisions of the Contract. The Contractor shall forthwith at its own expense replace or otherwise make good to the satisfaction of the Inspector any part of the materials or Work which may have been rejected by the Inspector. Canada shall not be under any liability hereunder for any work done, materials, or parts delivered or assembly made by the Contractor hereunder, unless and until the same shall have been approved by the Inspector as evidenced by its certificate in writing.

1028 05 (2004-12-10) Drawings

1. All drawings, copies of drawings and models, which have been prepared by the Contractor pursuant to the Contract or furnished to the Contractor by Canada, shall be the sole property of Canada and may be used as Canada sees fit.
2. Approval of the drawings, whether express or implied, shall not relieve the Contractor of its responsibility under the Contract to deliver a vessel that will meet the performance requirements in the Specifications.
3. Where modifications are requested to the drawings prior to their approval, the Contractor shall be deemed to have accepted such modifications and to have agreed that they do not constitute a change in Specifications and that they will not affect the performance of the vessel adversely, unless it notifies the Minister, in writing, within fourteen (14) days after receipt by it or notice of the modification, that it considers that such modification constitutes a change in specification or that it will adversely affect the performance of the vessel. In the event that the Contractor does not withdraw such notice, it shall be deemed to be relieved of any liability for failure of the vessel to perform in accordance with the warranty insofar as such failure can be shown to be the direct result of such modification.
4. The provisions of the preceding subsection shall apply to Design Changes, "*mutatis mutandis*".

1028 06 (2004-12-10) Design Changes and Modifications

1. Any adjustment to the contract price made pursuant to section 19 of the general conditions 1026A shall be ascertained and agreed to by the parties hereto prior to the purchase of any materials or the commencement of any work by the Contractor.
2. If the Contractor proposes to make a claim for adjustment of the contract price pursuant to section 19 as aforesaid, it must furnish notice to the Minister of its intention to do so within thirty (30) days of the date that it received information that a change within the scope of section 19 has been made. Failure by the Contractor to give such notice within the prescribed period shall be deemed to constitute a waiver by it of any rights that it may have hereunder to adjustment in the contract price as a result of such change.

1028 07 (1991-06-01) Labour Conditions

The applicable Labour provisions established by Order-in-Council PC 1954-2029 of December 22, 1954, and by all amendments thereto shall apply and form part of the Contract.

1028 08 (2004-12-10) Accommodation**1. Personnel**

The Contractor shall provide for the Inspector and any supervisory or other staff employed by Canada, such office space, office facilities, telephone service, and suitable sanitary and washing facilities as the Inspector or the Minister may require from time to time at the Contractor's shipyard.

2. Storage and Handling

The Contractor shall supply suitable warehouse accommodation for all government supply stores issued in connection with the Contract for such length of time as the Minister may direct. The Contractor shall be responsible for the care, handling, embarking, loading, moving and similar duties in respect of supply stores in the custody or control of the Contractor or of the Inspector as the Inspector or the Minister may from time to time direct.

1028 09 (2004-12-10) Care of Vessel during Construction

1. All parts of the vessel including, but not limited to, structure, paint work, machinery, auxiliaries, appliances and apparatus shall be maintained in a satisfactory condition during the entire period of construction. Measures shall be taken to keep to a minimum any wear and damage incident to construction, and to prevent corrosion, or other deterioration, especially to unpainted, polished and moving parts. All water piping, heat exchangers, valve chests and equipment shall be kept drained, flushed, and cleaned except during trials and tests. Cold weather precautions will be taken when conditions so require.
2. The Contractor shall be responsible for the care of all machinery and equipment whether furnished by him or by Canada. Electrical, electronic and interior communication equipment shall, at all times, be fully protected against dust, moisture, or other foreign matter, and shall not be subjected to rapid temperature changes.
3. The Contractor shall ensure that the design form of the vessel is maintained throughout the course of construction and that no distortion of materials occurs which might cause locked-in stresses.

1028 10 (1991-06-01) Wharfage and Dockage Fee

Until the completion of the Contract, the Contractor shall be responsible for and shall pay all expenses of wharfage, towage, dockage, running lines, electric light, heating water for testing and refilling the tanks and all other charges, fees, expenses and disbursements for incidental to the construction, launching and delivery of the vessel. If at any time after the launching and before final acceptance of the said vessel, any contingency should arise making it, in the opinion of the Inspector, advisable to have such vessel placed in dock for survey, the Contractor shall dock the vessel at its own risk and expense.

1028 11 (2004-12-10) Overhanging Charges

In the event of any assessments, taxes or duties, or other levies or charges whatsoever, being unpaid after the vessel has been formally accepted by the Minister, and Canada has complied with all the provisions imposed upon Canada by the Contract, the Contractor shall reimburse Canada within thirty (30) days thereafter for any such assessments, taxes, duties, levies or charges as may have been paid by Canada.

1028 12 (2004-12-10) Warranty

The Contractor shall warrant the hull, propelling machinery and auxiliaries, fittings, and equipment of all kinds, for a full period of twelve (12) months after delivery to and acceptance of the vessel by Canada, excluding any time or times in excess of one (1) month upon any single occasion during which the vessel may be out of service while undergoing repair pursuant hereto, against all defects of design, material and workmanship, and undertakes that any part or parts of the vessel which may be found defective or show signs of weaknesses or undue wear within such period, owing to faulty design, material or workmanship, shall be repaired or removed and replaced and all such defects remedied and made good at the sole cost and expense of the Contractor. An immediate notice in writing shall be given by the Minister to the Contractor of the discovery of any such defects, weakness or undue wear, and the Contractor agrees to deliver the necessary part or parts and to fit, complete and make good the defective part or parts at the Contractor's yard at _____, but if the vessel is not brought to the

Contractor's yard for repairs or replacement of a defective part or parts and such repairs or replacements are made elsewhere, the Contractor shall pay Canada such sums as are equivalent to the cost of supplying the necessary part or parts and doing the Work at the yard of the Contractor. The Contractor shall not be held responsible for fair wear and tear, or for breakage and defects arising through the negligence or carelessness of any person or persons employed on board the vessel during the warranty period, except the negligence or carelessness of the Contractor's representative if any. The Contractor will not be held responsible for or be under any obligation for consequential damages and delays to the vessel or her cargo.

1028 13 (1991-06-01) Public Ceremony

Unless otherwise provided in the Contract, the Contractor shall not be entitled to any increase in the contract price by reason of any public ceremony. The Contractor shall not allow any public ceremony in connection with the Work without having previously obtained the written permission of the Minister.

1028 14 (2004-12-10) Insurance

1. Notwithstanding any other provisions herein contained, the Contractor shall bear and be subject to all risk of loss or damage of or to the Work or any part thereof until delivery of the vessel and final acceptance of same pursuant to the provisions hereof. If any such loss or damage should occur prior to such delivery and final acceptance, the Contractor shall forthwith (unless otherwise directed by the Minister or the Inspector and subject to such conditions as the Minister or the Inspector may impose), at its own expense and without making any claim for reimbursement therefor, repair, restore and/or replace the Work or the part thereof so lost or damaged.
2. The Contractor shall indemnify and save harmless Canada against and from any and all claims, damages, loss, costs and expenses which Canada may, at any time or times, suffer or incur as a result of or arising out of any actual or alleged injury to persons (including injuries resulting in death) or damage to property which may be or be alleged to be caused by or suffered as a result of the carrying out of this Contract or any part thereof, whether by the Contractor or by any subcontractor or assignee of the Contractor.
3. The Contractor shall enter into a contract of insurance issued in the joint names of the Contractor and Canada as their respective interests may appear in the standard form of Marine Builder's Risk Policy to provide full indemnification to Canada for any loss or damage to the vessel or any other materials which are the property of Canada for installation in the vessel in the custody of the Contractor or any claim or expenses to Canada as aforesaid for which the Contractor assumes responsibility hereunder, and the premium or cost of such insurance coverage shall be incorporated into and form part of the purchase price.

1028 15 (2004-12-10) Amendment to General Conditions 1026A

The general conditions 1026A as incorporated herein is amended by deleting section 14.

1029 00 (2004-12-10) Ship Repairs

Public Works and Government Services Canada

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- 10 Insurance
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1029 01 (2004-12-10) Interpretation

1. In the Contract, unless the context otherwise requires,
"Canada", "Crown", "Her Majesty", "the Government" means Her Majesty the Queen in right of Canada;
"the General Conditions" means general conditions 1026A forming part of the contract;
"these supplemental general conditions" means these supplemental general conditions;
"vessel" means the ship or vessel to be repaired, fitted, converted or otherwise dealt with by the Contractor under the contract and includes the whole of its hull, engines, boilers, machinery, auxiliaries, stores, equipment, fittings and appurtenances.
2. These supplemental general conditions shall be read with the General Conditions, provided that, in the event of any inconsistencies between the provisions of the General Conditions and of these supplemental general conditions, the latter shall prevail.

1029 02 (1991-06-01) Contractor to Provide Plant, etc.

Unless otherwise provided herein, the Contractor shall provide and make available, at its own expense, all labour, superintendence services, machinery, equipment, apparatus, tools, implements, materials, articles and things which may be requisite for the efficient carrying out and completion of the Work.

1029 03 (1991-06-01) Quality and Workmanship

All materials and parts used for the Work shall be of the quality required by the Specifications and shall be suitable for their particular purposes and shall be employed in the most substantial and workmanlike manner and only as approved by the Inspector.

1029 04 (1991-06-01) Inspector Final Judge of Work, Materials, etc.

If any part of the Specifications provides for a method of construction or for the supply and/or use of materials, equipment or parts which are not specified with particularity, the Contractor shall have the right of selection provided that the construction so performed and the materials, equipment and parts so supplied and/or used are in accordance with good marine building practice for the type and class of vessels covered by the contract, and provided that the Specifications and all other contract requirements are fully complied with. Subject to the foregoing, the Inspector shall be the final judge of the quality, quantity and suitability of the workmanship, parts, materials, plant, machinery, apparatus, tools and equipment used in or for the purposes of the Work and as to the meaning or interpretation of the Specifications and its decision with regard to the foregoing matters, or any of them, shall be final and binding upon the Contractor. All orders, directions or instructions at any time given by the Inspector with respect to the Work or the conduct or progress thereof or with respect to the parts, materials, plant, apparatus, machinery, tools or equipment used in or for the purposes of the Work, shall be promptly and fully complied with by the Contractor.

1029 05 (1991-06-01) Re-execution of Inferior Work

If, in the opinion of the Inspector, any part of the Work is not in accordance with the Contract, the Inspector may notify the Contractor to properly re-execute the same, which shall be done by the Contractor at its own expense, and if the Contractor fails to do so within such reasonable time as may be fixed by the said or any subsequent notice, then the Inspector may cause such work to be re-executed and replaced by any means which the Inspector considers advisable and the cost thereof shall be borne by the Contractor.

1029 06 (2004-12-10) Removed Parts, etc., Remain Canada Property

Any parts, equipment, materials or accessories of any vessel permanently removed in the carrying out of the Work, shall remain the property of Canada, and shall be disposed of as the Minister may direct.

1029 07 (2004-12-10) Wharfage and Dockage Fees and Charges

1. Until the completion of the Work, the Contractor shall be responsible for and shall pay all charges, fees, expenses and disbursements of or incidental to the carrying out of the Work, including wharfage, towage, dockage, running lines, electric light and water for testing and refilling the tanks.
2. In the event of any assessments, taxes or duties, or other levies and charges whatsoever, being unpaid after the Work has been formally accepted by the Minister, and Canada has complied with all the provisions imposed upon it by this Contract, the Contractor will reimburse Canada within thirty (30) days thereafter for any such assessments, taxes, duties, levies or charges as may have been paid by Canada.

1029 08 (2004-12-10) Where Vessel Remains in Commission

If the vessel is to remain in commission while the Work is being carried out, then

- (a) the Work shall be carried out on the vessel at such place as the vessel is from time to time berthed, provided that every endeavour shall be made consistent with the necessity for speedy execution of the Work to have the vessel berthed at such place as will facilitate the Work required to be performed thereon by the Contractor;
- (b) the Contractor shall not be in charge of or responsible for the care and protection of the vessel but shall be liable for all loss or damage or personal injury (to persons other than those in the employ of the Contractor) resulting from any negligent or wrongful act or omission on the part of the Contractor, its officers, servants, agents or employees during the carrying out of the Work. If any such loss or damage should occur to the vessel or to the Work, the Contractor shall forthwith, unless otherwise directed by the Minister or the Inspector and subject to such conditions as the Minister or the Inspector may impose, at its own expense, repair, restore and/or replace the vessel and/or the Work so lost or destroyed. The Contractor shall indemnify and save harmless Canada and the Minister against and from all loss, damages, costs and expenses arising from or in any way connected with any and all claims for or in respect of such loss, damages or personal injuries occasioned as aforesaid.

1029 09 (2004-12-10) Where Vessel out of Commission

If the vessel be out of commission while the Work is being carried out, then

- (a) unless the prior approval of the Minister has been obtained to ground the vessel, it shall be berthed where it will not touch the ground at either high or low water;
- (b) the Contractor shall be in charge of and be entirely responsible for the care and efficient protection of the vessel from the time of delivery thereof to the Contractor until redelivered to and accepted by the person or persons appointed by the Minister to receive and accept the same;
- (c) a copy of all lists of fixtures and spare gear will be furnished to the Contractor who shall check the same in conjunction with the Inspector and thereafter acknowledge receipt of the items set forth therein; upon completion of the work, if such items are accounted for to the satisfaction of the Inspector, a clearance will be given to the Contractor;
- (d) the Contractor shall provide the necessary warehouse or storage accommodation for and maintain in good conditions, lubricated, painted and protected from the weather, all equipment, fittings, articles or things temporarily removed from the vessel during the Work or which may be supplied to the Contractor by Canada for stowing or fitting in place on board the vessel prior to delivery thereof to Canada, and shall redeliver the same to Canada in as good condition as when so removed by or supplied to the Contractor. The Contractor shall also provide safe storage accommodation for any part or parts of the vessel permanently removed until the same are disposed of as hereinbefore provided;
- (e) the Contractor shall take the usual and proper precautions to maintain in a proper state of preservation any machinery, equipment, fittings, stores or things left in the vessel which might become damaged by exposure;
- (f) if the Work hereunder necessitates the removal of stores and no secure place of stowage is available on board the vessel, the Contractor shall provide the necessary labour for removal and a secure place for storage. The Contractor shall furnish receipts for such stores. The Contractor undertakes that such stores shall be well and carefully stored and not mingled with property of a similar nature;

- (g) the Contractor shall be liable for all loss or damage of or to the vessel or the Work and for personal injury (to persons other than those in the employ of the Contractor) resulting from any negligent or wrongful act or omission on the part of the Contractor, its officers, servants, agents or employees from the time of the taking over of the vessel until delivery of the vessel and final acceptance of the Work pursuant to the provisions hereof. If any such loss or damage should occur prior to such delivery and final acceptance, the Contractor shall forthwith (unless otherwise directed by the Minister or the Inspector and subject to such conditions as the Minister or the Inspector may impose), at its own expense, repair, restore and/or replace the vessel and/or the Work so lost or damaged. Neither Canada nor the Minister shall be in any manner responsible or liable for any loss or damage which shall or may happen to the vessel and/or the Work, or any part or parts thereof (prior to delivery as herein provided), or for any injury including injuries resulting in death, to any person or persons, or for any other damages or injuries whatsoever, caused by or in connection with the vessel, or caused by or resulting from or in any way arising out of the Work, and the Contractor shall indemnify and save harmless Canada and the Minister against and from all loss, costs, damages and expenses arising from or in any way connected with any and all claims for or in respect of such loss, damages or injuries.

1029 10 (2004-12-10) Insurance

The Contractor warrants that it is carrying Shipbuilders' and/or Ship Repairers' Liability insurance in the amount stated in the agreement and hereby agrees to maintain the said insurance in force during the carrying out of the Contract; and the Contractor further agrees that, in the event of any loss or liability covered by the said insurance being suffered or incurred by or in relation to the vessel or to the Work, the said insurance shall be available for the benefit of Canada as Canada's interest may appear.

1029 11 (1991-06-01) Public Ceremony

The Contractor shall not allow any public ceremony in connection with the Work without having previously obtained the written permission of the Minister.

1029 12 (2004-12-10) Security Deposit

1. The security (if any) referred to in the agreement shall be held and retained by Canada as security for the due and complete performance, observance and fulfilment by the Contractor of all the covenants and provisions of the Contract. Unless and until the security is forfeited to Canada as herein provided, Canada shall remit any revenues and income therefrom (provided that Canada shall in no event be obligated to invest moneys as interest or otherwise) to the Contractor, and in the case of interest coupons, or dividend coupons payable to bearer, shall deliver the same to the Contractor as and when they mature. In the event of any default by the Contractor in fulfilment of any of the terms and conditions of the Contract, the security shall (without prejudice to any and all other rights and recourses accruing to Canada) be forfeited to and retained by Canada as liquidated damages and not as a penalty but, if the Contractor shall have duly performed, observed and fulfilled all the covenants, terms and conditions of the Contract, the security shall be returned to the Contractor.
2. Notwithstanding the foregoing, the Minister may, at its discretion, authorize a return of the security to the Contractor at any time before the Contractor has fulfilled all its obligations under the Contract. In such event, the return of the security shall not prejudice any rights or recourse accruing to Canada under the Contract.

1033 00 (2004-12-10) Shipbuilding - Cost Reimbursement**Public Works and Government Services Canada**

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06	Economical Execution and Spoilage
07	Provision of Facilities
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09	Suspension of Work and Changes in Specifications
10	Certificates Required
11	Warranty
12	Title to Vest in Canada
13	Risk of Loss or Damage and Provisions as to Insurance
14	Amendment to General Conditions 1026B
15	Accommodation for Inspector
16	Launching
17	Public Ceremonies
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21	Storage of Materials, Parts, etc.
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1033 01 (2004-12-10) Interpretation

1. In the Contract, unless the context otherwise requires,
"Canada", "Crown", "Her Majesty", "the Government" means Her Majesty the Queen in right of Canada;
"General Conditions" means general conditions 1026B forming part of the Contract;
"supplemental general conditions" means these supplemental general conditions;
"Inspector" means the representative designated for the inspection function by the client department;
"vessels" means the ships or vessels to be constructed by the Contractor under the Contract and includes the whole of their respective hulls, engines, boilers, machinery, components, auxiliaries, equipment, fittings and appurtenances; and "vessel" shall have a corresponding meaning. Where the context permits, the term "Work" as used in the Contract includes the vessels or vessel as herein defined.
2. These supplemental general conditions shall be read with the General Conditions, provided that, in the event of any inconsistencies between the provisions of the General Conditions and of these supplemental general conditions, the latter shall prevail; and in the event of any inconsistencies between these supplemental general conditions and the Agreement, the latter shall prevail.

1033 02 (2004-12-10) Sources of Labour

The Contractor shall make a special study of and exert special efforts for the training of its own workers and employees for the purpose of carrying out the Contract and shall not engage or employ any skilled or other workers or employees engaged or employed in any other shipyards under similar contract with Canada to build vessels.

1033 03 (2004-12-10) Supervision and Conduct of Work

1. The Contractor shall to such extent, if any, as may from time to time be requested by the Minister or the Inspector:
 - (a) consult the Minister and the Inspector on matters pertaining to the performance of the Contract;
 - (b) permit the examination by the Minister and the Inspector of all contracts entered into or to be entered into by the Contractor and of all Specifications and drawings prepared or under preparation by or for the Contractor in connection with the performance of the Contract; and
 - (c) furnish to the Minister and to the Inspector
 - (i) copies of all contracts, Specifications and drawings as may be necessary to complete their records of the performance of the Contract; and
 - (ii) such information and data (including duplicates of orders, progress reports and flow sheets) with respect to the Work and the progress thereof as the Minister or the Inspector may from time to time require.
2. All directions and instructions which may from time to time be given by the Minister or the Inspector with respect to the Work or the conduct or progress thereof and the recording and reporting of the cost thereof, and/or with respect to the placing of contracts or the making of commitments for the purposes of the Work, shall be promptly and fully complied with by the Contractor.

1033 04 (2004-12-10) Inspector Final Judge of Work, Materials, etc.

If any part of the Specifications or drawings provide for a method of construction or for the supply and/or use of materials, equipment or parts which are not specified with particularity, the Contractor shall, subject to the approval of the Inspector, have the right of selection provided that the construction so performed and the materials, equipment and parts so supplied and/or used are in accordance with good marine building practice for the type and class of vessels covered by the Contract, and provided that the Specifications and drawings and all other contract requirements are fully complied with. The Inspector shall be the final judge of the quality, quantity and suitability of the workmanship, parts, materials, plant, machinery, apparatus, tools and equipment used in or for the purposes of the Work and as to the meaning or interpretation of the Specifications and drawings and his decision with regard to the foregoing matters, or any of them, shall be final and binding upon the Contractor. All orders, directions or instructions at any time given by the Inspector with respect to the Work or the conduct or progress thereof or with respect to the parts, materials, plant, apparatus, machinery, tools or equipment used in or for the purposes of the Work, shall be promptly and fully complied with by the Contractor.

1033 05 (2004-12-10) Re-execution of Inferior Work

The Inspector may reject or refuse to accept or approve any part of the materials or Work if, in his opinion, the same or any workmanship, parts or materials used in the manufacture or production thereof are not in accordance with the provisions of the Contract. Canada shall not be under any liability hereunder for any work done, materials or parts delivered or assembly made by the Contractor hereunder, unless and until the same shall have been approved by the Inspector as evidence by its certificate in writing. The Contractor shall forthwith replace or otherwise make good to the satisfaction of the Inspector any part of the materials or work which may have been rejected by the Inspector.

1033 06 (2004-12-10) Economical Execution and Spoilage

1. The Contractor shall use its best efforts to launch, complete and equip the vessels as economically as possible and to avoid waste and shall, at all times, apply to the Work under the Contract, including the purchase and maintenance of inventories of materials and supplies therefor, and shall exercise in respect to the operations under the Contract, the same care, skill and supervision as it would if it were constructing the vessels for its own account.
2. The Contractor shall avoid spoilage of materials but, up to the time of final acceptance by Canada of the respective vessels, the cost of correction or replacement of rejected material and workmanship, the cost of rectifications required of component parts or completed vessels, and the cost of any repairs thereto occasioned by or in connection with the demonstration or test or trials thereof shall be part of the cost of the Work under the Contract and the Contractor shall be reimbursed therefor under and in accordance with the provisions hereof, unless the character and total value thereof shall, in the opinion of the Minister, clearly indicate gross mismanagement, wilful misconduct or lack of good faith on the part of the Contractor.

1033 07 (2004-12-10) Provision of Facilities

Canada reserves the right to furnish any material or components, or supplementary tools, machinery and equipment necessary for the performance of the Contract, and the right to pay private or common carriers any and all freight charges on equipment, materials and component parts.

1033 08 (2004-12-10) Discounts, etc.

The Contractor shall, as far as practicable, take all cash and trade discounts, rebates, credits, salvage, custom duty drawbacks, commissions and other allowances. In determining the actual net cost of articles and materials of every kind required for the performance of the Contract, there shall be deducted from the gross cost thereof all cash and trade discounts, rebates, credits, salvage, custom duty drawbacks, commissions and other allowances as aforesaid. Such benefits lost through no fault or neglect on the part of the Contractor or lost through the fault of Canada shall not be deducted from gross costs.

1033 09 (2004-12-10) Suspension of Work and Changes in Specifications

The Minister may, at any time and from time to time, order a suspension of the Work, in whole or in part, and may, from time to time, make modifications of, changes in or additions to the Specifications, and all orders and directions given by the Minister with respect to the foregoing shall be complied with by the Contractor. The Contractor may, with the written approval of the Minister, make any such modifications, changes or additions to the Specifications. Should any such suspension, modification, change or addition result in a material increase or decrease in the scope of the Work, the Minister may make an adjustment in the Contractor's fee, and the Minister's decision as to the adjustment to be made shall be final.

1033 10 (1991-06-01) Certificates Required

It shall be the duty of the Contractor, if so required by the Minister, to have the vessels classed and to obtain and deliver to the Inspector all necessary certificates to show the same to be in accordance with approved classification society's survey and/or any governmental requirements, and to provide any necessary documents for obtaining registration under the *Canada Shipping Act* and/or any other relevant statute. Certificates called for under the Contract shall be handed over to the Inspector prior to final payment to the Contractor in respect of each vessel.

1033 11 (2004-12-10) Warranty

Notwithstanding anything in the Contract contained, the Contractor warrants and guarantees that the vessels as herein defined will be of first-class quality, materials and workmanship and fully in accordance with the Specifications, said warranty and guarantee to continue for a period of twelve (12) months from and after delivery to and acceptance by the Minister of the respective vessels or such longer period as may be provided in the agreement. Such warranty shall apply against all defects of materials or workmanship and includes an undertaking that any part or parts of the vessels (excluding government issue) which may be found defective or with signs of weakness of undue wear within such period (owing to faulty materials or workmanship) shall be repaired or, at the Contractor's option, a new part or parts shall be furnished by the Contractor at the Contractor's shipyard without cost to Canada or Canada may repair or replace such defective part or parts and the Contractor will pay to Canada the cost of such repair or new part or parts not exceeding; however, the cost of a new part or parts, FOB the Contractor's shipyard, provided, however, that notice of such defective part or parts and of the whereabouts of the vessel shall be given by Canada to the Contractor within sixty (60) days following discovery of such defect.

1033 12 (2004-12-10) Title to Vest in Canada

The vessels and all materials and things acquired or intended for the purpose of the Work around or about the premises where any part of the Work is being carried on shall at all times be the property of Canada (and, to such extent as may be required by the Inspector, shall be marked with or identified by a statement to that effect) and shall not be removed from the said premises without the written consent of the Minister or the Inspector provided, however, that all materials and things which are normally kept by the Contractor in its common stores for use in its general business shall be at the risk of the Contractor until withdrawn by the Contractor for use in the performance of the Work under the Contract.

1033 13 (2004-12-10) Risk of Loss or Damage

1. Notwithstanding anything contained in section 12 of these supplemental general conditions and/or any other provision of the Contract, the Contractor shall bear and be subject to all risk of loss or damage of any nature whatsoever (except loss or damage the risk of which is assumed by Canada as provided in subsection 13.3 and

except as provided in section 6 of these supplemental general conditions) of or to the Work or any part thereof until delivery of the vessels and final acceptance of same pursuant to the provisions hereof. If any such loss or damage should occur prior to such delivery and final acceptance, the Contractor shall forthwith (unless otherwise directed by the Minister or the Inspector and subject to such conditions as the Minister or the Inspector may impose) at its own expense and without making any claim for reimbursement therefor, repair, restore and/or replace the Work or the part thereof so lost or damaged.

2. The Contractor shall indemnify and save harmless Canada and the Minister against and from any and all claims, damages, loss, costs and expenses (except claims, damages, loss, costs and expenses and risk of which is assumed by Canada as provided in subsection 13.3 which Canada and/or the Minister may, at any time or times, suffer or incur as a result of or arising out of any actual or alleged injury to persons (including injuries resulting in death) or damage to property which may be or be alleged to be caused by or suffered as a result of the carrying out of this Contract or any part thereof, whether by the Contractor or by any subcontractor or assignee of the Contractor.
3. The Contractor shall not (except as and to the extent, if any, specifically required or permitted by the agreement), unless otherwise directed by the Minister, carry, or incur the expense of, any insurance on or in respect of the Work. Canada hereby assumes the same risk of loss of, damage to and liability in respect of the Work (except to the extent, if any, to which the Contractor is for the time being directed or permitted hereunder to carry insurance) as would have been assumed by the underwriters if the Work had been insured throughout the term of the Contract for full value under the form of builders' risk policy set forth in standard form of Marine Builders' Risk Policy, forming part of the Contract, but excluding therefrom the "Collision" and the "Protection and Indemnity" clauses.
4. The Contractor will promptly notify the Minister of any action, claim or demand instituted or made in respect of which the Contractor may be entitled to be indemnified by Canada under the provisions of subsection 13.3, and shall furnish to the Minister the originals or true copies of all proceedings and papers received by the Contractor in respect of each such action, claim or demand, and shall, if hereunto requested by the Minister, authorize representatives of the Minister to settle or to direct or to take conduct of the defence of such action, claim or demand, and, in the absence of such request, the Contractor shall diligently proceed with such defence.
5. Canada shall be entitled or subrogated to all rights and remedies of the Contractor and/or any subcontractor against third parties in respect of any loss or damage, the risk of which is assumed by Canada hereunder, and the Contractor and/or the said subcontractors shall, at the expense of Canada, do, concur in doing and permit to be done all such acts and things as may be necessary or as the Minister may direct or require for the purpose of enforcing such rights and remedies.
6. If the Work or any part thereof shall be lost or damaged by reason of anything the risk whereof is assumed by Canada hereunder, then the Contractor shall, if the Minister so directs, with all possible speed and with equivalent materials and workmanship, repair, rebuild or replace the same in the like state and condition in every respect as before the happening of the said loss or damage, and the reasonable and proper net cost of such repair, rebuilding or replacement (calculated and determined in accordance with the Contract Cost Principles 1031-2 forming part of the Contract) shall be paid or reimbursed to the Contractor as herein provided in respect of the cost of the Work, and, in case such loss or damage shall have happened without the actual fault or privity of the Contractor, Canada will pay to the Contractor, in addition to such cost, a profit or fee in such amount as the Minister shall consider reasonable, having regard to all the circumstances.
7. The term "Work" and other words relative thereto, or of like "import", wherever used in this section, shall be deemed to include Government Issue and any other property owned by Canada which for the purposes of the Contract is in the Contractor's possession or subject to the Contractor's control.

1033 14 (2004-12-10) Amendment to General Conditions 1026B

For the purposes of the Contract, the words "for a period of thirty (30) days" are hereby added after the word "default" in the first line of subsection 24.1 of general conditions 1026B.

1033 15 (2004-12-10) Accommodation for Inspector

The Contractor shall provide for the Inspector and any supervisory or other staff employed by Canada, such office space, office facilities, telephone service and suitable sanitary and washing facilities as the Inspector or the Minister may reasonably

require from time to time at the Contractor's shipyard. Such staff may, if required by the Inspector, include the ship's company standing by the vessels during the last stages of completion.

1033 16 (2004-12-10) Launching

1. The Contractor shall launch the vessels safely. Launching calculations shall be made available for inspection by the Inspector and, in the following circumstances, shall also be submitted by the Contractor through the Inspector to the client department:
 - (a) if the Contractor shall not have previously built and launched a vessel of the same class at its shipyard; or
 - (b) if the Contractor is directed by the client department to submit such calculations.
2. Neither the submission of launching calculations to the Inspector or to the client department nor concurrence therein by the Inspector or the client department shall be deemed to be concurrence by Canada in the adequacy of such calculations.

1033 17 (1991-06-01) Public Ceremonies

The Contractor shall not allow any public ceremony in connection with the Work without having previously obtained the written approval of the Minister. Any ceremony approved by the Minister shall be conducted by the Contractor in accordance with the instructions of the Minister and/or the Inspector.

1033 18 (1991-06-01) Berthing of Vessel

After the launching or floating out of dock of the vessel, the vessel, while receiving her machinery or being completed, shall be placed by the Contractor in a suitable berth where the vessel cannot touch the ground at any time, unless prior approval shall have been obtained by the Contractor from the Inspector for the use of a particular berth where the vessel may touch bottom. No berth shall be considered a suitable berth unless prior approval thereof, having regard to the size of the vessel, shall have been received from the Inspector.

1033 19 (1991-06-01) Dry Docking of Vessel

In addition to any dry-docking by the Contractor for the completion of the vessel and for tests and trials, the vessel shall be dry-docked for survey at any time if required by the Minister or the Inspector.

1033 20 (2004-12-10) Commissioning of Vessel

Canada may commission the vessel before or during trials and shall not, by reason thereof, be deemed to have accepted the vessel.

1033 21 (1991-06-01) Storage of Materials, Parts, etc.

1. The Contractor shall supply suitable warehouse accommodation for the storage of all materials, parts and equipment regardless of the source of supply thereof, for such length of time as the Minister may direct.
2. Without limiting the Contractor's responsibility, as provided in the Contract, for the care of materials, parts and equipment in its custody or control, the Contractor shall carry out such maintenance, care, minor repairs, calibration, adjustment, handling, embarking, loading, care after loading and similar duties in respect of materials, parts and equipment in the custody or control of the Contractor or of the Inspector, as the Minister or the Inspector may from time to time direct.

1033 22 (2004-12-10) Drawings

All drawings and copies of drawings which have been prepared by the Contractor pursuant to the Contract or furnished to the Contractor by Canada, shall be sole property of Canada and may be used as Canada sees fit.

1033 23 (2004-12-10) Trials of Vessel

1. Each vessel shall, before delivery, be subjected to such trials as are required by the specifications. Delivery of a vessel shall not be complete until after such trials shall have been made to the satisfaction of the Inspector and in accordance with such instructions as may be given to the Contractor in writing by the Minister or the Inspector.
2. The Contractor shall be in charge of the vessel, including the machinery and the electrical installations thereof, and shall provide the staff for navigating the vessel and for the operation of the machinery and the electrical installation at all times during trials and until the vessel is accepted by Canada.
3. During sea trials, the vessel shall be commanded by a Master employed by the Contractor after such Master shall have been approved by the client department.
4. The vessel shall not move to open water for trials without the written consent of the Inspector.
5. The client department may place a reasonable number of its naval officers and men, including civilian personnel, on board the vessel during the period of trials and, regardless of their duties, they shall have access to any part of the vessel. The client department shall designate one of such personnel (who may or may not be the Inspector) to be the client department representative, and the Contractor shall appoint one of its personnel to be its senior representative. All client department personnel will observe the manner in which the Contractor conducts the trials and in the event of danger to the ship or its machinery or equipment or to life and property, they will report to the Contractor's senior representative and to the client department representative. The Contractor shall comply with any instructions which may be given by the client department representative to the Contractor's senior representative in respect of safety measures to counteract such danger.

1036 00 (2004-12-10) Research and Development**Public Works and Government Services Canada**

- 01 Interpretation
- 02 Conduct of the Work
- 03 Ownership of Designs, Reports, Property, etc.
- 04 Ownership of Inventions
- 05 Officers, Employees, Agents and Subcontractors
- 06 Patents and Royalties

1036 01 (2004-12-10) Interpretation

1. Unless the context otherwise requires,

"the General Conditions" means general conditions 1026A forming part of the Contract;

"Canada", "Crown", "Her Majesty", "the Government" means Her Majesty the Queen in right of Canada;

"Work" includes engineering investigations, tests, designs, technical reports, drawings, plans, specifications, models, prototypes, patterns, and samples procured, made or prepared for the purposes of the Contract;

"Project Officer" means the person or persons (if any) designated as such in the agreement and/or any person or persons for the time being authorized to act on behalf of Canada or the Minister as the Project Officer under the Contract.

2. These supplemental general conditions shall be read with the General Conditions, provided that, in the event of any inconsistencies between the provisions of the General Conditions and of these supplemental general conditions, the latter shall prevail.

1036 02 (1991-06-01) Conduct of the Work

The Contractor shall carry out the Work to the satisfaction of the Project Officer and shall comply with all instructions and directions which may, from time to time, be given by the Minister or the Project Officer with respect to the Work or the conduct or progress thereof.

1036 03 (2004-12-10) Ownership of Designs, Reports, Property, etc.

All designs, technical reports, photographs, drawings, plans, specifications, models, prototypes, patterns, and samples produced by the Contractor in the performance of the Work shall vest in and remain the property of Canada. All other property produced or acquired by the Contractor in any manner in connection with the Work and the cost of which is paid by Canada shall vest in and remain the property of Canada. The Contractor shall account fully to the Minister in respect of the foregoing in such manner as the Minister shall direct.

1036 04 (2004-12-10) Ownership of Inventions

Unless otherwise provided in the Contract, all technical information, inventions, methods and processes conceived or developed or first actually reduced to practice in carrying out the Contract shall be the property of Canada and shall be fully and promptly disclosed in writing to Canada by the Contractor. The Contractor shall have no rights in and to the same, except such rights therein as may be granted by Canada, and shall not apply for any patent in regard thereto without Canada's written consent. The Contractor shall not, without the written consent of Canada, divulge or use such technical information, inventions, methods, and processes other than in the carrying out of the Work and, in particular, shall not sell, other than to Canada, any articles or things embodying such technical information, inventions, methods, and processes or grant any license to manufacture such articles or things without the written consent of Canada.

1036 05 (2004-12-10) Officers, Employees, Agents, and Subcontractors

The Contractor shall take every reasonable measure and precaution to ensure that its officers, employees, agents, and subcontractors shall be bound to observe the provisions of these supplemental general conditions. Without limiting the generality of the foregoing, the contractors shall include in any subcontract hereunder clauses similar to these supplemental general conditions in terms not less favourable to Canada than the terms of these supplemental general conditions. The Contractor shall execute such documents and do such other acts and things as the Minister shall direct to fulfil the purposes of this section.

1036 06 (2004-12-10) Patents and Royalties

1. The Contractor shall forthwith notify the Minister of all royalties which the Contractor or any of its subcontractors will or may be obligated to pay or proposes to pay for or in respect of the carrying out of the Contract, and the basis thereof, and the parties to whom the same are payable, and shall, from time to time, promptly advise the Minister of any and all claims or arrangements made or proposed which would or might result in further or different payments by way of royalties being made by the Contractor or any of its subcontractors.
2. The Contractor shall not pay, and shall direct its subcontractors not to pay, any royalties in respect of the carrying out of the Contract except with the consent in writing of the Minister and subject to such conditions as the Minister may impose.
3. Subject to compliance by the Contractor with the foregoing provisions, Canada shall relieve and indemnify the Contractor from and against all claims, actions, or proceedings for payment of such royalties in cases where the Minister withholds such consent.

9601-1 00 (2005-06-10) Hardware Purchase or Lease**Public Works and Government Services Canada****Remarks:**

Use in conjunction with general conditions 9601 for purchase or lease of hardware. If any software is to be delivered under the Contract, including any software necessary to run the hardware, supplemental general conditions 9601-3 and 9601-4 must also form part of the Contract. Other supplemental general conditions should also be incorporated if applicable.

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Part I - Conditions Common to Lease and Purchase**9601-1 01 (2005-06-10) Interpretation**

1. In the Contract, unless the context otherwise requires,

"Availability-level Test" means the 30-day minimum Availability-level Test set out in subsections 5 and 6 of section 06 or, where the Parties have agreed on an alternate test, the 30-day minimum availability-level test set out or referred to elsewhere in the Contract;

"General Conditions" means general conditions 9601 which forms part of the Contract;

"Hardware" means the whole of the equipment, materials, matters and things to be furnished by the Contractor to Canada under the Contract, and includes firmware, if any, as described in section 10, but does not include software or services;

"Hardware Documentation" means all of the manuals, handbooks, user guides and other human-readable material to be furnished by the Contractor to Canada under the Contract for use with the Hardware, whether that material is to be supplied in printed form or on magnetic tape, disk or other media;

"Ready for Use", in relation to the Hardware, means that the Hardware has been delivered, installed and connected, has successfully passed the Contractor's normal diagnostic tests and inspection by the Inspection Authority and is ready for Availability-level Testing by Canada and for any additional acceptance testing required under the Contract.

2. Words and expressions defined in the General Conditions and used in these supplemental general conditions shall have the meanings assigned to them in the General Conditions.
3. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions shall prevail.
4. Part I of these supplemental general conditions applies to the relationship between the Parties with respect to the purchase or lease of Hardware.
5. Part II of these supplemental general conditions applies only to the relationship between the Parties with respect to the purchase of Hardware.
6. Part III of these supplemental general conditions applies only to the relationship between the Parties with respect to the lease of Hardware.
7. The sections of the General Conditions entitled "Title" and "Warranty" do not apply to the Hardware. The title and warranty provisions contained in these supplemental general conditions apply in place of those sections.

9601-1 02 (1992-12-01) Site Preparation

1. Except where the Contract provides otherwise, Canada shall prepare the installation site for the Hardware at Canada's own expense in accordance with the site preparation Specifications provided by the Contractor.
2. If the site Specifications are not contained in the Contract, and if no date is specified in the Contract for delivery of those specifications to Canada, the Contractor shall deliver those Specifications to Canada forthwith following execution of the Contract or, where delivery of the Hardware is to occur more than thirty (30) days after execution of the Contract, at any time prior to the 30th day before the date specified in the Contract for delivery of the Hardware. Unless otherwise agreed in writing between the Parties, Canada shall complete preparation of the site prior to the date specified for delivery of the Hardware.
3. Canada shall give notice to the Contractor when the site is prepared, after which the Contractor shall promptly inspect the site and advise the Contracting Authority and the Technical Authority of the results of the inspection. Inspection by the Contractor shall not relieve Canada of Canada's obligation to meet the requirements of the site Specifications.
4. The Contractor shall be solely responsible for additional expenses incurred by Canada resulting from necessary alterations or modifications to a site prepared pursuant to the Specifications provided by the Contractor when the alterations or modifications are attributable to incomplete or erroneous specifications.
5. If the site is not prepared by Canada in accordance with the site preparation Specifications within the time specified in the Contract, and if the delay is for reasons other than an act in Canada's sovereign capacity or the occurrence of an event of force majeure or of any other event reasonably beyond Canada's control, then the Contractor shall be entitled to be paid its additional costs reasonably and properly incurred as a direct result of the delay.
6. The Contractor warrants that, if the site is prepared and maintained in conformity with the site preparation Specifications, the resultant environment will permit the operation of the Hardware in conformity with the Specifications.

9601-1 03 (1992-12-01) Transportation and Installation

1. The Contractor shall arrange for all necessary transportation, rigging and drayage in connection with delivery of the Hardware to the installation site specified in the Contract. Unless otherwise indicated in the Contract, all costs of such transportation, rigging and drayage are included in the Contract Price.
2. If the Contractor is to install the Hardware pursuant to the Contract, the Contractor shall, at no additional cost to Canada:

- (a) provide all necessary moving and installation resources, including, where applicable, cranes;
- (b) uncrate, unpack, assemble, integrate and interconnect the Hardware at the installation site; and
- (c) connect the Hardware to the specified power and, where applicable, water outlets, and provide all necessary cabling and piping to do so.

9601-1 04 (2004-12-10) Certification of Electrical Equipment

The Contractor shall ensure that, prior to delivery to the installation site, all electrical equipment to be furnished under the Contract is either:

- (a) certified by an organization accredited by the Standards Council of Canada in accordance with the requirements of the Canadian Electrical Code, Part I; or
- (b) specially inspected by an organization acceptable to the Chief Electrical Inspector in the province, territory or city or where the electrical equipment is to be installed and operated.

9601-1 05 (1992-12-01) Hardware Documentation

1. Except where otherwise provided in the Contract, the Contractor shall furnish to Canada the same Hardware Documentation as it provides to other purchasers of similar hardware, and shall include all amendments, revisions and adjustments thereto to the date of delivery of the Hardware.
2. Notwithstanding subsection 1, the Contractor represents and warrants that the Hardware Documentation delivered to Canada with the Hardware shall contain sufficient detail to permit Canada to operate, test and use all functions of the Hardware. If the Contract requires the Contractor to furnish maintenance documentation, then the Hardware Documentation shall also contain sufficient detail to permit Canada, or an authorized third party acting on behalf of Canada, to properly maintain and repair the Hardware, and to test it for that purpose.
3. Unless otherwise provided in the Contract, the Contractor shall deliver the Hardware Documentation to Canada on or prior to the date specified in the Contract for delivery of the Hardware.

9601-1 06 (1992-12-01) Availability-level Test

1. In this section:

"Downtime" means the time, to be measured in hours and whole minutes, during which the Hardware is not available for use during User Time due to a malfunction of the Hardware; Downtime commences when Canada notifies the Contractor that the Hardware is not available for use and ceases when the malfunction has been corrected and the Contractor notifies Canada that the Hardware is available for use;

"Operational Use Time" means the time, to be measured in hours and whole minutes, during which the Hardware performs its function or activity in accordance with the Specifications during User Time, and includes all intervals between the stop and start times of the Hardware during User Time that do not constitute Downtime;

"User Time" means the time, to be measured in hours and whole minutes, during which Canada intends to make use of the Hardware; and unless otherwise indicated in the Contract, User Time means the period from 8:00 a.m. to 5:00 p.m., local time at the Hardware installation site, Mondays through Fridays inclusive, excluding statutory holidays observed by Canada at such site.

2. If the Contractor is to install the Hardware pursuant to the Contract, the Contractor shall give notice to the Technical Authority when the Hardware is Ready for Use. The Technical Authority shall commence the Availability-level Test within ten (10) days following receipt of the Ready-for-Use notice referred to above or the Ready for Use date specified in the Contract, whichever is later.
3. Where installation of the Hardware is the responsibility of Canada, and where Canada intends to subject the Hardware to Availability-level Testing, Canada shall install the Hardware within ten (10) days following its delivery to Canada or following the delivery date specified in the Contract, whichever is later, and shall immediately commence the Availability-level Test.

4. Without prejudice to Canada's other rights under the Contract, Canada shall have access to the Hardware and may make unrestricted operational use of it after the Contractor has given notice that it is Ready for Use or, where installation is the responsibility of Canada, after it is delivered to and installed by Canada. However, the Contractor shall, at all times prior to acceptance of the Hardware, have priority with respect to access to the Hardware to maintain the Hardware and to fulfill the requirements of the Contract.
5. The Hardware must achieve a minimum of 95 percent availability level, or such other minimum percentage as may be specified in the Contract, for thirty (30) consecutive calendar days. All Operational Use Time shall be included in determining the availability level. Availability level shall be calculated as follows:

$$\frac{\text{Operational Use Time}}{\text{Operational Use Time} + \text{Downtime}} \times 100\%$$
6. The Contractor shall ensure that the 30-day minimum availability level mentioned in subsection 5 is achieved within ninety (90) consecutive calendar days of the first full day after the Technical Authority commences the Availability-level Test in accordance with subsection 2 or 3.
7. Subject to subsection 8, if Canada fails to carry out Availability-level Testing during any period or periods of time during which Canada is obligated under the Contract to carry out such testing, then, for the purposes of calculating the availability level of the Hardware during that time, that time shall be deemed to constitute uninterrupted Operational Use Time.
8. If Canada is unable to commence or continue the Availability-level Test because of an act in Canada's sovereign capacity or the occurrence of an event of force majeure, the Availability-level Test may be temporarily suspended by Canada for a period of time not to exceed sixty (60) days. The time limits for testing referred to in this section or elsewhere in the Contract shall in such cases be extended by the number of calendar days of the suspension.

9601-1 07 (1992-12-01) Acceptance

1. Canada shall give notice to the Contractor that the Hardware is accepted when all of the following have occurred:
 - (a) the Contractor has completed the whole of the Work in accordance with the terms of the Contract, except for warranty work and any other work which is scheduled under the Contract to be performed after the start of the warranty period defined in subsection 1 of section 08;
 - (b) the Hardware has passed all acceptance tests set out or referred to in the Contract; and
 - (c) where an Availability-level Test is conducted, the Hardware has achieved the minimum availability level in accordance with the provisions of the Availability-level Test.
2. Until such time as Canada gives the notice referred to in subsection 1, Canada reserves the right to reject the whole of the Hardware, including any part or parts of the Hardware previously inspected and accepted by or on behalf of Canada.

9601-1 08 (1992-12-01) Warranty

1. In this section, unless otherwise indicated in the Contract, "Warranty Period" means a period of twelve (12) months from:
 - (a) where an Availability-level Test is conducted, the first day of the 30-day period in which the Hardware has achieved the minimum availability level in accordance with the provisions of the Availability-level Test; or
 - (b) where Canada does not conduct an Availability-level Test, the date on which the Contractor has completed the whole of the Work in accordance with the terms of the Contract, except for warranty work and any other work which is scheduled under the Contract to be performed after the start of the Warranty Period.

2. Notwithstanding inspection and acceptance of the Work by or on behalf of Canada and without restricting any other provision of the Contract or any condition, warranty or provision implied or imposed by law, the Contractor warrants that, during the Warranty Period, the Hardware shall:
 - (a) be free from all defects in materials or workmanship;
 - (b) conform with the requirements of the Contract, including the Specifications and any ongoing minimum availability-level requirements; and
 - (c) be free from all design defects which prevent the Hardware from conforming with the requirements of the Contract.
3. In the event of a defect or nonconformance in any part of the Hardware during the Warranty Period, the Contractor, at the request of Canada to do so, shall, as soon as possible, repair, replace or otherwise make good at its own option and expense the part of the Hardware found to be defective or not in conformance with the requirements of the Contract.
4. The Hardware or any part thereof found to be defective or non-conforming may be returned to the Contractor's repair facility for replacement, repair or making good; provided that, when in the opinion of Canada it is not expedient to remove the Hardware from its location, the Contractor shall carry out any necessary repair or making good at that location, and shall, except as otherwise provided in the Contract, be paid the fair and reasonable Cost (including reasonable travelling and living expenses) incurred in so doing, with no allowance therein by way of profit, less an amount equal to the Cost of rectifying the defect or nonconformance at the Contractor's repair facility.
5. Except as otherwise provided in the Contract, Canada shall pay the transportation cost associated with returning any Hardware or part thereof to the Contractor's repair facility pursuant to subsection 4, and the Contractor shall pay the transportation cost associated with forwarding the replacement or returning the Hardware or part thereof, when rectified, to the delivery point specified in the Contract, or such lesser cost as may be required to transport the Hardware or part thereof to another location directed by the Technical Authority.
6. The warranties set out in subsection 2 shall not apply to a nonconformance in any part of the Hardware which is caused by:
 - (a) negligence of Canada;
 - (b) failure of electric power or air conditioning or humidity control to perform in accordance with site preparation specifications;
 - (c) failure by Canada to use the Hardware in accordance with the Specifications;
 - (d) a modification to the Hardware made by a person other than the Contractor or a Subcontractor or a person approved by either of them;
 - (e) the use by Canada of consumable supplies or materials that are supplied by a person other than the Contractor or a Subcontractor and that do not conform to the Specifications; or
 - (f) the attachment to the Hardware of equipment which was not designed or approved for use with the Hardware by the Contractor or a Subcontractor.
7. Where the Contractor is to carry out any necessary replacement, repair or making good at Canada's facilities, Canada shall give the Contractor reasonable access to the Hardware. Where provision is made in the Contract for remote diagnostics, Canada shall provide a modem and associated dial-up telephone lines for use by the Contractor for diagnostic purposes. Access, whether remote or on-site, shall at all times be subject to prior authorization by the Technical Authority and to Canada's security requirements.
8. The warranties set out in subsection 2 shall apply for the remainder of the Warranty Period to any part of the Hardware that is repaired, replaced or otherwise made good pursuant to subsection 3. All of the provisions of subsections 3 to 7 inclusive and this subsection apply mutatis mutandis to any such part of the Hardware that is found during that period to be defective or not in conformance with the Contract.

Part II - Additional Conditions: Purchase**9601-1 09 (1992-12-01) Title to Purchased Hardware**

1. Except as otherwise provided in the Contract, and except as provided in subsection 2, title to the Work or any part thereof shall vest in Canada upon delivery and acceptance thereof by or on behalf of Canada.
2. Upon any payment being made to the Contractor for or on account of materials, parts, work-in-process or finished work, either by way of progress payments or accountable advances or otherwise, title in and to all materials, parts, work-in-process and finished work so paid for shall vest in and remain in Canada unless already so vested under any other provision of the Contract.
3. Notwithstanding any vesting of title referred to in this section and except as otherwise provided in the Contract, the risk of loss or damage to the materials, parts, work-in-process or finished work or part thereof so vested shall remain with the Contractor until their delivery to Canada in accordance with the Contract. The Contractor shall be liable for loss or damage to any part of the Work caused by the Contractor or any Subcontractor after such delivery.
4. Any vesting of title referred to in subsection 2 shall not constitute acceptance by Canada of the materials, parts, work-in-process or finished work, and shall not relieve the Contractor of its obligation to perform the Work in accordance with the Contract.
5. Where title to any materials, parts, work-in-process or finished work becomes vested in Canada, the Contractor shall, upon the Minister's request, establish to the Minister's satisfaction that the title is free and clear of all claims, liens, attachments, charges or encumbrances and shall execute such conveyances thereof and other instruments necessary to perfect that title as the Minister may request.
6. If the Contract is a defence contract within the meaning of the *Defence Production Act*, R.S.C. 1985, c. D.1, title to the Work or to any materials, parts, work-in-process or finished work shall vest in Canada free and clear of all claims, liens, attachments, charges or encumbrances, and the Minister shall be entitled at any time to remove, sell or dispose of it or any part of it in accordance with section 20 of that Act.

9601-1 10 (1995-03-31) Firmware

1. Notwithstanding section 09 and subsection 11.2, title to computer programs stored in integrated circuits, read-only memory or other similar devices within the Hardware shall not pass to Canada, but Canada shall have a perpetual, non-exclusive, irrevocable, royalty-free license to use such programs with the Hardware.
2. Canada may transfer the license set out in subsection 1 to a third-party purchaser of the Hardware at the time of the sale or disposal of the Hardware by Canada.

Part III - Additional Conditions: Lease**9601-1 11 (1992-12-01) Title to Leased Hardware**

1. Title to the Hardware shall at all times remain with the Contractor unless Canada exercises Canada's option, if any, to purchase the Hardware pursuant to the terms of the Contract, or unless Canada purchases the Hardware under a separate agreement.
2. If the Contract contains a purchase option in relation to the Hardware or any part thereof, title to the Hardware or that part, and the risk of loss or damage to the Hardware or that part, shall, unless otherwise provided in the Contract, pass to Canada on the date of the exercise of that option, and subsections 9.5 and 9.6 and section 10 shall apply.

9601-1 12 (1992-12-01) Lease Period

1. The lease period with respect to the Hardware shall commence on the first day of the warranty period defined in subsection 8.1, and shall remain in effect until its expiration in accordance with the Contract, unless terminated earlier as provided in the Contract.

2. If the commencement date of the lease is not on the first day of a calendar month, then the charge for the first and last month of the lease will be a portion of the specified monthly charge determined by multiplying the number of days in the month during which the lease is in effect by 1/30 of the specified monthly charge.

9601-1 13 (1992-12-01) Termination for Convenience

1. The section of the General Conditions entitled "Termination for Convenience" does not apply to the lease of the Hardware. This section applies in lieu thereof.
2. Notwithstanding anything contained in the Contract, the Minister may terminate the lease with respect to the Hardware or any part thereof at any time during the lease period by giving the Contractor sixty (60) days prior notice.
3. In the event of a termination notice being given pursuant to subsection 2, the Contractor shall be entitled to be paid, to the extent that the Contractor has not already been so paid by Canada:
 - (a) the monthly lease charges for the Hardware, or the part thereof so terminated, incurred to the date of termination, prorated to that date as indicated in subsection 12.2; and
 - (b) the lease termination charge, if any, which is specified in the Contract.
4. Notwithstanding anything in subsection 3, the total of the amounts to which the Contractor is entitled under paragraphs 3.(a) and (b), together with any amounts already paid to the Contractor for the lease of the Hardware, shall not exceed the total Contract Price for the lease of the Hardware, or, in the event of a partial termination, the portion of the Contract Price that is applicable to the lease that is terminated.
5. The Contractor shall have no claim for damages, compensation, loss of profits, allowance or otherwise by reason of, or directly or indirectly arising out of, any action taken or termination notice given by the Minister under or pursuant to the provisions of this section, except to the extent that this section expressly provides.

9601-1 14 (1992-12-01) Risk of Loss

1. The Contractor agrees to bear the risk of loss of or damage to the Hardware during periods of transportation, installation and during the entire time the Hardware is in the possession of Canada, except when the loss or damage is caused by the negligence of Canada or by anyone acting on behalf of Canada.
2. If the Hardware is lost or damaged, and if such loss or damage is caused by the Contractor or by anyone acting on its behalf, Canada shall not be liable to pay lease payments during the time necessary for the Contractor to repair or replace the Hardware, and at Canada's option, the lease shall be extended for a period of time equal to the time necessary for the Contractor to repair or replace the Hardware.
3. If the Hardware is lost or damaged, and if such loss or damage is not caused by the Contractor or by Canada or by anyone acting on behalf of either of them, the Contractor shall, as soon as possible, repair or replace the Hardware at its option and expense. In such event, the lease period, and Canada's liability to pay lease payments, shall not be affected.

9601-1 15 (1992-12-01) Modifications to Hardware

Canada shall not modify the Hardware without the Contractor's prior written approval, which shall not be unreasonably withheld.

9601-1 16 (1992-12-01) Relocation of Hardware

The Hardware shall not be moved by Canada from one location to another without the Contractor's written approval, which shall not be unreasonably withheld.

9601-1 17 (1992-12-01) Deinstallation and Removal of Hardware

The Contractor shall deinstall and remove the Hardware promptly after expiration or termination of the lease. The Contractor shall provide all necessary removal resources, including cranes, and shall arrange for all necessary transportation, rigging

and drayage in connection with return of the Hardware to the Contractor's premises. Unless otherwise indicated in the Contract, all costs associated with such deinstallation, removal and return are included in the Contract Price.

9601-1 18 (2004-12-10) Quiet Enjoyment

The Contractor represents and warrants that:

- (a) it has full power and authority to lease the Hardware to Canada; and
- (b) during the period of the lease of the Hardware, if Canada is not in default in carrying out any of Canada's obligations under the Contract, Canada shall have unlimited use of the Hardware without disturbance by the Contractor, except when the Contractor is performing maintenance pursuant to the provisions of the Contract, and without disturbance by any other person lawfully claiming by, through or under the Contractor.

9601-1 19 (1992-12-01) Right to Withhold Lease Payments

1. If the Contractor is in default in carrying out any of its obligations under the Contract, Canada may, without prejudice to any other right which Canada may have, including the right to terminate the Contract for default, withhold the Hardware lease payments from the Contractor until the default is cured.
2. Canada may exercise the right set out in subsection 1 by giving notice that describes the event of default to the Contractor from the Contracting Authority. Any amounts withheld pursuant to that notice may be set off by Canada against any amounts owed by the Contractor to Canada as damages as a result of the default.

9601-2 00 (2004-12-10) Software Development/Modification Services**Public Works and Government Services Canada**

01 Interpretation

Part I - Development of Detailed Design

02 Application of Part I
03 Functional Specifications
04 Detailed Design Specifications
05 Review Period
06 Design Warranty

Part II - Implementation of Custom Software

07 Application of Part II
08 Coding and Pre-Installation Tests
09 New Source Code
10 Pre-Existing Software
11 Object Code and User Documentation
12 Conversion of Data Files
13 Acceptance Tests
14 Warranty

Part III - Title and Risk

15 Title to Media
16 Risk of Loss
17 Title to Developed Software

9601-2 01 (2004-12-10) Interpretation

1. In the Contract, unless the context otherwise requires,

"Custom Software" means the computer programs, data bases and documentation which Canada wishes to develop, or to have developed, either as new or substantially new software or by modification of existing software, all as described in the Contract;

"Canada", "Crown", "Her Majesty", "the Government" means Her Majesty the Queen in right of Canada;

"Detailed Design Specifications" means the specifications for the detailed technical design of the Custom Software;

"Functional Specifications" means the functional description of the Custom Software which is set out or referred to in the Contract, and which specifies the functions which the Custom Software is to perform and the features and capacities which the Custom Software must have;

"General Conditions" means the general conditions 9601 or 9624, whichever forms part of the Contract;

2. Words and expressions defined in the General Conditions and used in these supplemental general conditions shall have the meanings assigned to them in the General Conditions.

3. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions shall prevail.

4. The sections of the General Conditions entitled "Title" and "Warranty" do not apply to the Custom Software or to the media referred to in section 15. The title and warranty provisions contained in these supplemental general conditions apply in place of those sections.

Part I - Development of Detailed Design**9601-2 02 (1994-01-04) Application of Part I**

This Part applies if the Contract requires the Contractor either to design the Custom Software or to further develop an existing technical design for the Custom Software.

9601-2 03 (1994-01-04) Functional Specifications

If the Functional Specifications are to be further developed by the Contractor under the Contract, and if the Functional Specifications thereafter developed by the Contractor are accepted by Canada, then the developed Functional Specifications shall be deemed to be incorporated in the Contract by reference, and shall supersede the Functional Specifications which were originally incorporated in the Contract.

9601-2 04 (1994-01-04) Detailed Design Specifications

1. The Contractor shall develop the Detailed Design Specifications for the Custom Software in conformity with the Functional Specifications and all other requirements of the Contract.
2. Notwithstanding anything contained in section 05, the inspection procedures set out in section 05 shall only apply in the absence of any other detailed procedure in the Contract for review by Canada of the Detailed Design Specifications developed by the Contractor.

9601-2 05 (1994-01-04) Review Period

1. In this section, unless otherwise indicated in the Contract, "Review Period" means a period of five (5) working days from the date on which the Detailed Design Specifications are to be submitted to Canada in accordance with the terms of the Contract, or from the actual date of submission of those Specifications by the Contractor, whichever is later.
2. The Review Period may be extended by Canada by an additional five (5) working days by notice given to the Contractor by the Technical Authority within the Review Period.
3. During the Review Period, Canada shall inspect the Detailed Design Specifications submitted by the Contractor and, within two (2) working days following the end of the Review Period, shall advise the Contractor whether or not the Detailed Design Specifications have passed inspection.
4. If the Detailed Design Specifications submitted by the Contractor are inconsistent with the Functional Specifications, or fail in any other way to meet the requirements of the Contract, Canada shall prepare a written description of the deficiencies, and shall deliver such description to the Contractor within two (2) working days following the end of the Review Period.
5. Upon receipt of Canada's description of the deficiencies mentioned in subsection 4, the Contractor shall thereupon modify the Detailed Design Specifications to correct the deficiencies and shall promptly submit the corrected Work to Canada for inspection.
6. During a second Review Period, Canada shall inspect the corrected Work submitted to Canada pursuant to subsection 5, and subsections 3 and 4 shall apply to that inspection.
7. Notwithstanding anything else contained in this section, the Contractor shall ensure that the Detailed Design Specifications developed by the Contractor pass inspection by Canada within thirty (30) days from the date on which the Detailed Design Specifications were originally to be submitted by the Contractor to Canada in accordance with the terms of the Contract.

9601-2 06 (1994-01-04) Design Warranty

1. Notwithstanding inspection of the Detailed Design Specifications by Canada, the Contractor warrants that the Detailed Design Specifications will be derived from and be in accordance and consistent with the Functional Specifications and all other requirements of the Contract.

2. If Part II of these supplemental general conditions applies, the warranty set forth in subsection 1 shall expire on the date of expiry of the Warranty Period referred to in section 14. If Part II does not apply, the warranty set forth in subsection 1 shall expire upon acceptance of the Work by Canada.

Part II - Implementation of Custom Software**9601-2 07 (1994-01-04) Application of Part II**

This Part applies if the Contract requires the Contractor to develop the Custom Software based on the Detailed Design Specifications and the Functional Specifications.

9601-2 08 (1994-01-04) Coding and Pre-Installation Tests

1. In the development of the Custom Software, the Contractor shall carry out all detailed programming and coding required in conformity with the Detailed Design Specifications, and, if necessary, shall revise the Detailed Design Specifications in order to ensure that they are derived from and are consistent with the Functional Specifications and all other requirements of the Contract.
2. The Contractor shall conduct pre-installation testing to ensure that the Custom Software will operate in conformity with the Functional Specifications and all other requirements of the Contract. The Contractor shall notify the Technical Authority of all such tests and, upon the request of the Technical Authority, will give the Technical Authority an opportunity to witness those tests, and a copy of all intermediate and final test records and results.

9601-2 09 (1994-01-04) New Source Code

1. In this section, "New Source Code" means all of the source code for the Custom Software that is written by the Contractor or any Subcontractor as part of the Work under the Contract.
2. The Contractor shall deliver the New Source Code to Canada at such time or times as the Contract may require, or, if no other time is specified, within thirty (30) days following acceptance of the Custom Software by Canada.
3. The New Source Code furnished by the Contractor shall contain a complete description of the operation of the developed software in sufficient detail to enable a programmer, experienced in the programming language or languages in which the source code is written, to modify all aspects of that software without assistance from the Contractor.

9601-2 10 (2004-12-10) Pre-Existing Software

1. In this section, "Pre-Existing Software" means software that is not developed as part of the Work under the Contract, and that is proprietary to the Contractor or any of its subcontractors or other suppliers.
2. The Contractor shall not develop the Custom Software by modifying Pre-Existing Software, or incorporate any Pre-Existing Software into the Custom Software, without the prior written consent of the Contracting Authority.
3. Notwithstanding subsection 2, the Contractor is not obligated to seek the consent of the Contracting Authority in relation to any Pre-Existing Software the use of which is specifically authorized in the Contract.
4. If Pre-Existing Software forms part of the Custom Software, and if the Contract does not otherwise require the Contractor to deliver the source code for that software to Canada or to put that source code into escrow for the benefit of Canada, the Contractor shall, at its option and expense, either:
 - (a) deliver the source code for that software to Canada within thirty (30) days following acceptance of the Custom Software by Canada; or
 - (b) deliver that source code, at the time mentioned in paragraph (a), to an escrow agent approved by the Minister to be held in trust by that agent for release to Canada upon the occurrence of any of the following events:
 - (i) Canada terminates for default the Contract or any subsequent support or development arrangement relating to the Custom Software;

- (ii) the Contractor or its supplier defaults in the performance of its obligations under the escrow agreement relating to the source code;
 - (iii) the Contractor or its supplier ceases to do business in the ordinary course, or ceases to make support or development services in relation to the Custom Software reasonably available to Canada;
 - (iv) the Contractor or its supplier becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors;
 - (v) a receiver is appointed for the Contractor or its supplier under a debt instrument, or a receiving order is made against the Contractor or its supplier; or
 - (vi) an order is made or a resolution passed for the winding up of the Contractor or its supplier.
5. The source code delivered by the Contractor to Canada, or to any escrow agent, in relation to any Pre-Existing Software that forms part of the Custom Software, shall contain a complete description of the operation of that Pre-Existing Software in sufficient detail to enable a programmer, experienced in the programming language or languages in which the source code is written, to modify all aspects of that software without assistance from the Contractor. If the source code for the Pre-Existing Software is to be delivered to an escrow agent, the Contractor shall ensure that the source code in the possession of the escrow agent is updated from time to time to correspond with the most current version of the object code in the possession of Canada.
6. Unless otherwise provided in the Contract, or in any escrow agreement signed by Canada, Canada's rights to use, copy, modify and disclose any Pre-Existing Software supplied under the Contract, and any source code for that software, shall be identical to those set out in supplemental general conditions 9601-4.
7. Without limiting the generality of the section entitled "Subcontracting" in the General Conditions, the Contractor shall impose on its subcontractors and other suppliers the obligations to Canada imposed under this section, and shall ensure that those obligations are carried out.

9601-2 11 (1994-01-04) Object Code and User Documentation

- 1. Without limiting any of the Contractor's other obligations under the Contract, including its obligation with respect to the supply of source code, the Contractor shall furnish all of the developed or modified programs to Canada in executable object code.
- 2. The operating manuals, technical manuals, and other user documentation furnished by the Contractor to Canada for use with the Custom Software shall describe the operation of the Custom Software in sufficient detail to enable appropriately trained employees of Canada to use all functions and features of the Custom Software without assistance from the Contractor.

9601-2 12 (1994-01-04) Conversion of Data Files

Where indicated in the Contract, the Contractor shall convert Canada's machine-readable data files, as they exist on any existing computer system used to fulfil all or part of the then-current functional requirements of Canada, to data files designed for use with the Custom Software. Canada is responsible for the accuracy and the completeness of data files delivered to the Contractor, and the Contractor is responsible for the accuracy and completeness of the data files after conversion, and for the compatibility of such data files with the Custom Software.

9601-2 13 (1994-01-04) Acceptance Tests

- 1. Notwithstanding anything else contained in this section, the acceptance procedures set out in subsections 2 to 5 inclusive shall only apply in the absence of any other detailed acceptance procedures for the Custom Software set out or referred to in the Contract.
- 2. Canada shall prepare and provide to the Contractor acceptance test data prior to the date specified in the Contract for the start of pre-installation testing of the Custom Software. Canada will consult with the Contractor in connection with the preparation of such data, and the Contractor shall assist in such preparation to the extent indicated in the Contract. Such data shall be used by Canada and the Contractor to determine whether the Custom Software, when

- executed on the hardware and its operating system, performs in accordance with the Functional Specifications and all other requirements of the Contract. Unless otherwise agreed, the test data shall be in the format and media required for direct input to the computer system, as defined in the Detailed Design Specifications.
3. Following receipt of the acceptance test data referred to in subsection 2, and prior to the date specified in the Contract for the start of acceptance testing of the Custom Software (the "Test Start Date"), the Contractor shall provide an "Acceptance Test Plan" to Canada for Canada's review and approval. The Acceptance Test Plan shall consist of a description of a series of tasks and verifications, based on the acceptance test data, in sufficient detail to enable Canada and the Contractor to determine whether the Custom Software performs in accordance with the Functional Specifications and all other requirements of the Contract.
 4. On the Test Start Date, the acceptance tests in relation to the Custom Software shall commence using the pre-approved Acceptance Test Plan referred to in subsection 3. The acceptance tests shall be conducted over such period of time as is specified therefor in the Contract, or, if no other acceptance testing period is specified, over a 40-day period from the Test Start Date. If the Custom Software passes the acceptance tests, and if the Contractor has completed all other Work under the Contract in accordance with the terms of the Contract, the Technical Authority shall promptly give notice to the Contractor that the Custom Software is accepted.
 5. If the Custom Software fails to pass the acceptance tests referred to in subsection 4, Canada shall prepare a written description of the deficiencies and deliver such description to the Contractor within ten (10) days following the end of the acceptance testing period referred to in that subsection. Upon receipt of Canada's description of the deficiencies, the Contractor shall thereupon modify the Custom Software to correct the deficiencies and shall do so within ten (10) days of receipt of such description. All acceptance tests in relation to the Custom Software shall then be repeated, at no additional cost to Canada, and the Contractor shall ensure that the Custom Software passes the second set of acceptance tests within the acceptance testing period.
 6. Notwithstanding anything else contained in this section, if Canada is unable to commence or continue the acceptance tests in relation to the Custom Software because of an act in Canada's sovereign capacity or the occurrence of an event of force majeure, the acceptance tests may be temporarily suspended for a period of time not to exceed sixty (60) days. The time limits for testing referred to in this section or elsewhere in the Contract shall in such cases be extended by the number of calendar days of the suspension. If the delay exceeds sixty (60) days, the Parties shall thereafter use reasonable efforts to negotiate a mutually acceptable amendment to the Contract.

9601-2 14 (1994-01-04) Warranty

1. In this section, unless otherwise indicated in the Contract, "Warranty Period" means a period of ninety (90) days commencing on the date of completion of the whole of the Work by the Contractor, and acceptance of the whole of the Work by Canada, with the exception only of warranty work.
2. Notwithstanding inspection and acceptance of the Custom Software by Canada and without restricting any term or condition of the Contract or any condition, warranty or provision implied or imposed by law, the Contractor warrants that, during the Warranty Period, the Custom Software will perform in accordance with the Functional Specifications and all other requirements of the Contract on the computer system on which the Custom Software is installed under the Contract.
3. During the Warranty Period, the Contractor shall, as soon as possible, provide, at no additional charge to Canada, corrections to the Custom Software where Canada notifies the Contractor in writing of any failure of the Custom Software to perform in accordance with the Functional Specifications or any other requirement of the Contract. If Canada reports a failure to the Contractor, Canada shall give the Contractor reasonable access to the computer system on which the Custom Software resides, and shall provide such information as the Contractor may reasonably request, including sample output and other information, in order to permit the Contractor to expeditiously correct the error which caused that failure.
4. Although the Contractor shall use all reasonable efforts to provide permanent corrections for all software errors, Canada acknowledges that certain errors may not be permanently corrected by the Contractor under the warranty set out in this section. The Contractor shall provide a software patch or by-pass around the error in all cases where the error will not be permanently corrected. As a minimum, any such software patch or by-pass shall cause the Custom Software to meet the functional and performance criteria set out in the Functional Specifications.

5. The Contractor is not obligated to correct errors in the Custom Software which result from modifications to the Custom Software or any part thereof unless those modifications were made by the Contractor or by someone authorized by the Contractor to perform those modifications.

Part III - Title and Risk**9601-2 15 (1994-01-04) Title to Media**

1. For the purposes of this section, the term "media" does not include the information stored on the media.
2. All documents, magnetic tapes and any other tangible media containing the Custom Software or any part thereof, or containing any specification, design, prototype or other information furnished as part of the Work, shall become the property of Canada upon the earlier of delivery to and acceptance thereof by Canada or upon any payment being made to the Contractor for or on account of the media or the information stored thereon, either by way of progress payments or accountable advances or otherwise. It is agreed that the vesting of title in Canada shall not constitute acceptance by Canada of the media or of the information stored thereon and shall not relieve the Contractor of its obligation to perform the Work in conformity with the requirements of the Contract.

9601-2 16 (1994-01-04) Risk of Loss

1. Risk of loss of or damage to the media referred to in section 15, or to the information stored thereon, shall pass to Canada upon delivery of the media to Canada in accordance with the Contract, provided, however, that if the Contractor has retained a copy of the information that was stored on the media, the Contractor shall, upon the request of the Minister, replace the lost or damaged media and information at no additional charge to Canada except for any charge for costs reasonably and properly incurred in the carrying out of such replacement.
2. Notwithstanding subsection 1, the Contractor shall be liable for loss of or damage to the media and the information stored thereon that is caused by the Contractor or any of its subcontractors after delivery.

9601-2 17 (1994-01-04) Title to Developed Software

1. For the purposes of this section, "Developed Software" includes object code, source code, documentation, data bases, specifications, designs, prototypes and other related information conceived, developed or produced as part of the Work under the Contract.
2. Title to the Developed Software shall vest either in Canada or the Contractor, whichever is indicated in the intellectual property provisions of the Contract. If title vests in the Contractor, the Contractor grants to Canada the license with respect to the Developed Software set out or referred to in those provisions.
3. The provisions of this section shall not be interpreted so as to limit in any way the intellectual property provisions of the Contract.

9601-3 00 (2005-06-10) Systems Integration**Public Works and Government Services Canada**

- 01 Interpretation
- 02 Total System Responsibility
- 03 System Testing and Acceptance
- 04 Government Property
- 05 System Warranty Period
- 06 System Lease Obligations

9601-3 01 (2005-06-10) Interpretation

1. In the Contract, unless the context otherwise requires,
"General Conditions" means general conditions 9601 which forms part of the Contract;
"Canada", "Crown", "Her Majesty", "the Government" means Her Majesty the Queen in right of Canada;
"Ready for Use", in relation to the System, means that the System has been delivered, integrated, installed and connected, has successfully passed the Contractor's normal diagnostic tests and inspection by the Inspection Authority and is ready for Availability-level Testing of the Hardware and for all additional acceptance testing required under the Contract;
"System" means an integrated combination of Hardware, Licensed Software, Custom Software, if any, and Government Property, if any, all as described in the Contract as forming the System. If the Contract involves the acquisition by Canada of more than one system, then "System", as used in the Contract, means all such systems.
2. Words and expressions defined in the General Conditions and used in these supplemental general conditions shall have the meanings assigned to them in the General Conditions.
3. Words and expressions defined in any other set of supplemental general conditions forming part of the Contract and used in these supplemental general conditions shall have the meanings assigned to them in those supplemental general conditions.
4. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions shall prevail.
5. In the event of any inconsistency between these supplemental general conditions and any other set of supplemental general conditions forming part of the Contract, the applicable provisions of these supplemental general conditions shall prevail.
6. The sections of the General Conditions entitled "Title" and "Warranty" do not apply to the System. The title and warranty provisions contained in the supplemental general conditions apply in place of those sections.
7. References in these supplemental general conditions to other sets of supplemental general conditions, or to sections therein, or the use in these supplemental general conditions of words or expressions defined in other sets of supplemental general conditions, shall not be interpreted as having the effect of incorporating those other sets of supplemental general conditions, or any sections thereof, into the Contract. Other sets of supplemental general conditions shall not form part of the Contract unless they are incorporated into the Contract by provisions contained elsewhere in the Contract.

9601-3 02 (1995-03-31) Total System Responsibility

1. Except for Government Property specifically provided for in the Contract, the Contractor shall be fully responsible for the supply of the System as a whole.
2. If the Contractor is to install the System under the Contract, the Contractor shall:

- (a) integrate and make compatible all the System components to permit the System and all its components to meet the Specifications;
 - (b) supply and install all interfaces and component modifications necessary to meet the requirement specified in paragraph a; and
 - (c) make the System Ready for Use.
3. In the event of any inconsistency between Specifications, the Parties agree that the specified performance criteria for the System shall prevail over the specified performance criteria for any subsystem within the System, and, similarly, for lower-tier subsystems.

9601-3 03 (2004-12-10) System Testing and Acceptance

1. If Canada intends to subject the Hardware components of the System to Availability-level Testing, then, for the purposes of section 10 of supplemental general conditions 9601-4 and section 13 of supplemental general conditions 9601-2, the acceptance-testing period for the Licensed Software and any Custom Software components of the System shall be the period specified in the Contract for Availability-Level Testing of the Hardware components of the System.
2. Section 07 of supplemental general conditions 9601-1 shall apply to the System as a whole and, to that end, that section is amended by deleting the word "Hardware" wherever it appears in that section, except where it appears in paragraph 7.1(c), and substituting therefor the word "System".
3. Section 10 of supplemental general conditions 9601-4 is amended by deleting subsection 2 of that section in its entirety.

9601-3 04 (1995-03-31) Government Property

1. Where the Contractor is to incorporate Government Property into the System, the Contractor shall be responsible for the integration of the Government Property into the System and for the performance of the System as a whole, but shall not be liable under the acceptance-testing provisions of the Contract or under subsection 2 for any failure of the System to meet any performance or other requirements of the Specifications caused directly by a defect in any Government Property supplied to the Contractor by or on behalf of Canada, or by a failure of any such Government Property to meet its specifications.
2. During the warranty period referred to in section 05, the Contractor, at the request of Canada to do so, shall, as soon as possible, correct any failure of the System to conform to the Specifications that is caused by improper integration into the System of any Government Property supplied to the Contractor by or on behalf of Canada. The foregoing provision shall survive inspection and acceptance of the Work by or on behalf of Canada and does not limit any of the Contractor's other warranty obligations under the Contract.

9601-3 05 (2004-12-10) System Warranty Period

Notwithstanding section 13 of supplemental general conditions 9601-4 and section 14 of supplemental general conditions 9601-2, the warranty period with respect to the Licensed Software and any Custom Software components of the System shall be the 12-month period described in subsection 8.1 of supplemental general conditions 9601-1.

9601-3 06 (2004-12-10) System Lease Obligations

If the Hardware components of the System are leased by Canada under the Contract, then sections 12, 13, 14 and 19 of supplemental general conditions 9601-1 shall also apply to the Licensed Software and any Custom Software components of the System, and to that end, those sections are amended by deleting the word "Hardware", wherever it appears in those sections, and substituting therefor the word "System".

9601-4 00 (2005-06-10) Licensed Software**Public Works and Government Services Canada**

01	Interpretation
02	License Grant
03	Personal Computer License
04	License Restricting Use to a Designated Computer
05	Site or Corporate License
06	Licensed Documentation
07	Copyright Notices
08	Media
09	Term of License
10	Acceptance Tests
11	Non-Disclosure Obligations
12	Right to License
13	Warranty
14	Availability of Source Code
15	Right to Modify
16	Risk of Loss
17	Destruction on Termination

9601-4 01 (2005-06-10) Interpretation

1. In the Contract, unless the context otherwise requires,

"General Conditions" means general conditions 9601 which forms part of the Contract;

"Canada", "Crown", "Her Majesty", "the Government" means Her Majesty the Queen in right of Canada;

"Licensed Documentation" means all of the manuals, handbooks, user guides and other human-readable material to be furnished by the Contractor to Canada under the Contract for use with the Licensed Programs, whether that material is to be supplied in printed form or on Media;

"Licensed Programs" means all of the computer programs, in object-code form, which are to be furnished by the Contractor to Canada under the Contract, other than those computer programs, if any, which are to be developed by the Contractor under the Contract and which are covered by supplemental general conditions 9601-2;

"Licensed Software" means the Licensed Programs and the Licensed Documentation collectively;

"Media" means the material on which the Licensed Programs are stored for delivery to Canada, such as magnetic or other tapes, magnetic disks, or optical disks;

"User" means the minister responsible for the department or agency for which the Work is carried out, or, in the event of a transfer under subsection 2.2, the minister to whom the Licensed Software is transferred; and "minister", for the purposes of this definition, includes any employee, agent or contractor duly authorized to act on behalf of the minister.

2. Words and expressions defined in the General Conditions and used in these supplemental general conditions shall have the meanings assigned to them in the General Conditions.

3. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions shall prevail.

4. The sections of the General Conditions entitled "Title" and "Warranty" do not apply to the Licensed Software and the Media. The title and warranty provisions contained in these supplemental general conditions apply in place of those sections.

5. Subsections 23.5 to 23.8 inclusive of general conditions 9601, if that set forms part of the Contract, shall only apply to royalties which are payable in connection with the Licensed Software if the Contract is a defence contract within the meaning of the *Defence Production Act*, R.S.C. 1985, c. D-1.

9601-4 02 (1992-12-01) License Grant

1. The Contractor hereby grants to Canada a non-exclusive license to use and reproduce the Licensed Software in accordance with and subject to the terms and conditions of the Contract.
2. The User shall be the only entity authorized to use and reproduce the Licensed Software on behalf of Canada. If the department or agency for which the User is responsible is reconfigured, absorbed by another government department or agency, or is disbanded entirely, the Minister may, by giving notice to the Contractor, designate another minister as the "User" for the purposes of the Contract.
3. Canada acknowledges that title to the Licensed Software shall remain with the Contractor or its licensor.

9601-4 03 (1992-12-01) Personal Computer License

1. In this section, "PC Software" means Licensed Software that is designed for use on a personal computer.
2. Subsections 3 and 4 apply to any PC Software furnished under the Contract except for PC Software that is subject to section 05.
3. The User may use each licensed copy of PC Software only on a single personal computer, the type of which is specified in the Contract or, where the Contract is silent, in the Licensed Documentation related to the PC Software. The User may transfer each such copy from one personal computer to another, without giving notice thereof to the Contractor, provided that the copy is only used on one personal computer at a time.
4. The User may make copies of the PC Software in machine-readable or printed form, for back-up purposes only, in support of the use of each licensed copy on a single personal computer.

9601-4 04 (1995-03-31) License Restricting Use to a Designated Computer

1. This section applies to Licensed Software that is designed for use on computers other than a personal computer as described in section 03 but does not apply to Licensed Software that is subject to section 05.
2. Subject to the other provisions of this section, and except as otherwise provided in the Contract, Canada shall only use the Licensed Software with the computer system or systems on which the Licensed Programs are originally installed (each such system is hereinafter called the "Designated Computer System").
3. If the Designated Computer System includes remote terminals, the User shall be free to concurrently access and use the Licensed Programs from such terminals, subject to the limitations, if any, of the usage terms of the Contract.
4. The User may temporarily transfer the Licensed Software to back-up equipment if the Designated Computer System is inoperative, or if Canada's facilities are inaccessible. Should any transfer be expected to exceed a cumulative total of sixty (60) calendar days within any 90-day period, the Contractor shall be given notice of the transfer by the Technical Authority.
5. Canada, by notice from the Contracting Authority to the Contractor, may, at any time, redesignate the Designated Computer System on which the Licensed Software is used.
6. If Canada wishes to transfer the Licensed Software to a new release or upgrade of the Designated Computer System or of its operating system, and if such transfer requires a different version of the Licensed Software in order for the Licensed Software to continue to meet the functional and performance criteria set out in the Specifications, then the Contractor shall provide the appropriate version, if available, to Canada on substantially the same terms and conditions as set out in the Contract, and at a price which shall not exceed the lowest price charged by the Contractor to anyone else for that version, including its most favoured commercial customer.
7. The User may make copies of the Licensed Software in machine-readable or printed form, for back-up purposes only, in support of the use of the Licensed Software on the Designated Computer System.

9601-4 05 (1992-12-01) Site or Corporate License

1. This section applies to Licensed Software which the Contract indicates is subject to a "site" or "corporate" license.
2. Subject to subsection 3, the User may use the Licensed Software referred to in subsection 1 on any and all computer systems owned, leased or operated by Canada on the date of the Contract or at any time thereafter at the site or sites designated in the Contract.
3. The User shall only use the Licensed Programs on the type of computer system specified in the Contract or, where the Contract is silent, in the Licensed Documentation related to the Licensed Programs.
4. Except where there is an express restriction in the Contract on the number of copies of the Licensed Software that can be made, Canada shall have the right to reproduce the Licensed Software, without restriction, for use by Canada on computer systems at the site or sites designated in the Contract.

9601-4 06 (1992-12-01) Licensed Documentation

1. Except as provided in sections 03, 04 and 05, and except as otherwise provided in the Contract, Canada shall not reproduce the Licensed Documentation without the prior written consent of the Contractor.
2. The Contractor represents and warrants that the Licensed Documentation shall contain enough detail to permit an experienced user to install, test and use all features of the Licensed Programs. If the source code for the Licensed Programs is to be furnished to Canada under the Contract, the Contractor represents and warrants that the code so furnished shall contain enough detail to permit a programmer, experienced in the use of the programming language or languages in which the source code is written, to modify the Licensed Programs.

9601-4 07 (1992-12-01) Copyright Notices

If the Licensed Software contains copyright or other proprietary notices, Canada shall reproduce those notices on all copies of the Licensed Software.

9601-4 08 (1992-12-01) Media

1. The Contractor represents and warrants that the Media shall be compatible with the computer system on which the Licensed Programs are to be installed.
2. The Contractor further represents and warrants that the Media, as supplied by the Contractor, shall be free from computer viruses.
3. Title to the Media shall vest in Canada upon delivery to and acceptance thereof by or on behalf of Canada. "Media", for the purposes of this subsection, does not include the Licensed Software stored on the Media.

9601-4 09 (1992-12-01) Term of License

1. Unless otherwise indicated in the Contract, Canada's license with respect to the Licensed Software shall be perpetual, subject only to the termination provisions set out in the Contract.
2. If Canada is in breach of Canada's license with respect to the Licensed Software, and if that breach continues for a period of thirty (30) days following receipt by the Contracting Authority of written notice from the Contractor giving particulars of the breach, the Contractor may terminate Canada's license with respect to the Licensed Software by giving the Contracting Authority written notice to that effect.

9601-4 10 (1995-03-31) Acceptance Tests

1. After installation of the Licensed Programs in accordance with the terms of the Contract, the Technical Authority shall perform the acceptance tests set out or referred to in the Contract to determine whether the Licensed Software and the Media conform to the requirements of the Contract, including the Specifications. If the Contract does not provide for any such tests, the Parties may agree upon the acceptance tests to be conducted, provided, however, that if the Parties do not or are unable to agree, the Technical Authority may conduct whatever

acceptance tests it reasonably deems necessary to verify conformity with the requirements of the Contract. Unless otherwise specified in the Contract, the acceptance tests shall be conducted at Canada's facilities.

2. Except as otherwise provided in the Contract, the acceptance tests referred to in subsection 1 shall be conducted over a period of forty (40) days from the date of installation of the Licensed Software at Canada's facilities. If the Licensed Software and Media pass those acceptance tests, the Technical Authority shall give notice to the Contractor that the Licensed Software and Media are accepted.
3. Notwithstanding anything else contained in this section, if Canada is unable to commence or continue the acceptance tests in relation to the Licensed Software because of an act in Canada's sovereign capacity or the occurrence of an event of force majeure, the acceptance tests may be temporarily suspended for a period of time not to exceed sixty (60) days. The time limits for testing referred to in this section or elsewhere in the Contract shall in such cases be extended by the number of calendar days of the suspension. If the delay exceeds sixty (60) days, the Parties shall thereafter use reasonable efforts to negotiate a mutually acceptable amendment to the Contract.

9601-4 11 (2004-12-10) Non-Disclosure Obligations

1. Canada acknowledges that the Licensed Software contains information which the Contractor considers to be proprietary and confidential. Subject to the *Access to Information Act*, R.S.C. 1985, c. A-1, and to Canada's rights under the Contract to disclose such information to contractors and agents of Canada engaged in the work of the User, Canada shall not release or disclose such information outside the Government of Canada without the prior written consent of the Contractor.
2. The foregoing obligation does not apply to information that:
 - (a) is publicly available from a source other than Canada;
 - (b) is or becomes known to Canada from a source other than the Contractor, except from any source that is known to Canada to be under an obligation to the Contractor not to disclose the information; or
 - (c) is developed by Canada without the use of the information of the Contractor or its licensor.

9601-4 12 (1992-12-01) Right to License

1. The Contractor represents and warrants that it has the right to license the Licensed Software and full power and authority to grant to Canada the rights granted under the Contract. The Contractor further represents and warrants that all necessary consents to that grant have been obtained.
2. Except to the extent that those conditions may be expressly incorporated in the Contract, it is agreed that conditions accompanying or enclosed with the Licensed Software, if any, shall not form part of Canada's license or affect the rights of the Parties in any manner whatsoever. In no event shall Canada or any end user be required to enter into any further license agreement with respect to the Licensed Software or any portion thereof after the effective date of the Contract.

9601-4 13 (1992-12-01) Warranty

1. In this section, unless otherwise indicated in the Contract, "Warranty Period" means a period of ninety (90) days from the date on which the Contractor has completed the whole of the Work in accordance with the terms of the Contract, except for warranty work and any other work which is scheduled under the Contract to be performed after the start of the Warranty Period.
2. The Contractor warrants that, during the Warranty Period, the Licensed Programs shall operate in conformity with the Specifications on the computer system or systems on which the Licensed Programs are installed. In the event that the Licensed Programs fail to meet the foregoing warranty at any time during the Warranty Period, the Contractor, at the request of Canada to do so, shall, as soon as possible, correct, at its expense, any programming errors and defects and make such additions, modifications or adjustments to the Licensed Software as may be necessary to keep the Licensed Programs in operating order, in accordance with the Specifications. Although the Contractor shall use all reasonable efforts to provide permanent corrections for all software errors, Canada acknowledges that certain errors may not be permanently corrected by the Contractor under the foregoing warranty. The Contractor shall provide a software patch or by-pass around the error in all cases where the error will not be

permanently corrected. As a minimum, any such software patch or by-pass shall cause the Licensed Programs to meet the functional and performance criteria set out in the Specifications.

3. The Contractor warrants that, during the Warranty Period, the Licensed Documentation shall be free from all defects in materials and shall conform with the requirements of the Contract. If Canada discovers a defect or nonconformance in any part of the Licensed Documentation during the Warranty Period, the Contractor, at the request of Canada to do so, shall, as soon as possible, correct, at its expense, the part of the Licensed Documentation found to be defective or not in conformance with the requirements of the Contract.
4. The Contractor warrants that, during the Warranty Period, the Media shall be free from all defects in materials or workmanship, and shall conform with the requirements of the Contract. Canada may return nonconforming or defective Media to the Contractor within the Warranty Period, with notice of the nonconformance or the defect, and the Contractor shall promptly replace such Media with corrected Media at no additional cost to Canada.
5. If the Contractor is to perform support services with respect to the Licensed Software during the Warranty Period, it is agreed that the provisions concerning support shall not be interpreted so as to derogate from the warranty provisions set out in this section.
6. The warranties set out in this section shall survive inspection and acceptance of the Work by or on behalf of Canada, and do not restrict any other provision of the Contract or any condition, warranty or provision implied or imposed by law.

9601-4 14 (1992-12-01) Availability of Source Code

1. This section applies if the Contract does not otherwise require the Contractor to provide the source code for the Licensed Software to Canada.
2. If the Contractor and Canada have not entered into a separate escrow agreement concerning the source code with an escrow agent on or prior to the effective date of the Contract, then the Contractor shall put in place for Canada, at no additional charge, whatever escrow arrangements, if any, it usually puts in place for its customers, and shall give Canada, within thirty (30) days of the date of execution of the Contract, a copy of the agreement with its escrow agent which sets out the terms under which the escrow agent is authorized to release the source code to Canada.

9601-4 15 (1992-12-01) Right to Modify

If the source code for the Licensed Programs is provided to Canada under the terms of the Contract, that code shall form part of the "Licensed Software" for the purposes of the Contract, and Canada shall have the right, at Canada's discretion, to independently copy and modify the Licensed Software for Canada's own purposes and use, through the services of Canada's own employees or of independent contractors provided such contractors agree not to disclose or distribute any part of the Licensed Software to any other person or entity or otherwise violate the proprietary rights of the owner of the Licensed Software. Canada shall be the owner of any such modifications, but shall obtain no ownership interest in the Licensed Software, and any portion of the Licensed Software contained in such modifications shall remain subject to the terms and conditions of Canada's license. The Contractor shall not incorporate any such modifications into its software for distribution to third parties unless Canada has granted the necessary distribution rights to the Contractor pursuant to a written license agreement. The provisions of this section shall not be interpreted so as to preclude the Contractor or its third-party licensors from independently developing modifications.

9601-4 16 (1992-12-01) Risk of Loss

1. Risk of loss of or damage to the Licensed Software or the Media, or to any part thereof, shall pass to Canada upon delivery of the Licensed Software or the Media, or that part, to Canada.
2. Notwithstanding subsection 1, the Contractor shall be liable for loss or damage to the Licensed Software or Media that is caused by the Contractor or any of its Subcontractors after delivery.

9601-4 17 (1992-12-01) Destruction on Termination

In the event of termination or expiration of Canada's license, Canada will, upon the written request of the Contractor, either return all copies of the Licensed Software to the Contractor or, at Canada's option, will represent in writing to the Contractor

that all copies of the Licensed Software have been destroyed except for one copy which may be retained by Canada for archival purposes only.

9601-5 00 (2005-06-10) Support Services for Licensed Software**Public Works and Government Services Canada**

01	Interpretation
02	Error Correction Services
03	Updates
04	Media
05	New Releases
06	Hotline Service
07	Support Charges and On-Site Services
08	Canada's Responsibilities
09	Excluded Services
10	Termination for Convenience

9601-5 01 (2005-06-10) Interpretation

1. In the Contract, unless the context otherwise requires,
"General Conditions" means general conditions 9601 which forms part of the Contract;
"Canada", "Crown", "Her Majesty", "the Government" means Her Majesty the Queen in right of Canada;
"Software Error" means any software instruction or statement contained in or absent from the Licensed Programs, which, by its presence or absence, prevents the Licensed Programs from operating in accordance with the Specifications;
"Software Support Period" means the period, specified in the Contract, during which the Contractor is obligated to support the Licensed Software in accordance with the terms of the Contract;
"Updates" has the meaning assigned to it in section 03.
2. Words and expressions defined in the General Conditions and used in these supplemental general conditions shall have the meanings assigned to them in the General Conditions.
3. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions shall prevail.
4. If supplemental general conditions 9601-4 form part of the Contract, words and expressions defined in those supplemental general conditions and used in these supplemental general conditions shall have the meanings assigned to them in those supplemental general conditions.
5. If supplemental general conditions 9601-4 do not form part of the Contract, then, for the purposes of the Contract,
"Licensed Documentation" means all of the manuals, handbooks, user guides and other human-readable material which have been furnished by the Contractor to Canada for use with the Licensed Programs, whether supplied in printed form or on magnetic tape, disk or other Media;
"Licensed Programs" means all of the computer programs, in object-code form, which are to be supported by the Contractor under the Contract, other than those computer programs, if any, which have been developed for Canada by the Contractor and which are covered by supplemental general conditions 9601-2;
"Licensed Software" means the Licensed Programs and the Licensed Documentation collectively.
6. The sections of the General Conditions entitled "Title" and "Warranty" do not apply to the Licensed Software and the Media. The title, warranty and support provisions contained in these supplemental general conditions and in supplemental general conditions 9601-4, if that set forms part of the Contract, apply in place of those sections.

9601-5 02 (1992-12-01) Error Correction Services

1. Any failure of the Licensed Programs to operate in accordance with the Specifications may be reported by Canada to the Contractor during the Software Support Period. Canada may report failures either in writing or by telephone or other remote communication. Upon receipt of a report of a failure from Canada, the Contractor shall use all reasonable efforts to provide Canada, within the time frames established in subsections 2 and 3, with a permanent correction of the Software Error which caused the failure or, at the Contractor's option, with a software patch or by-pass around the Software Error as a temporary correction. As a minimum, any such software patch or by-pass shall cause the Licensed Programs to meet the functional and performance criteria set out in the Specifications. Although the Contractor shall use all reasonable efforts to provide permanent corrections for all Software Errors, Canada acknowledges that certain Software Errors may not be permanently corrected by the Contractor under the Contract. All Software Error corrections, whether temporary or permanent, shall become part of the Licensed Software and shall be subject to the terms and conditions of Canada's license with respect to the Licensed Software.
2. The Contractor shall respond to a report of a Software Error in accordance with the severity of the Software Error, as detailed in subsection 3. The severity shall be reasonably determined by Canada, and communicated to the Contractor, based on the following definitions:
 - Severity 1: indicates total inability to use a licensed program, resulting in a critical impact on user objectives;
 - Severity 2: indicates ability to use a licensed program but user operation is severely restricted;
 - Severity 3: indicates ability to use a licensed program with limited functions which are not critical to overall user operations;
 - Severity 4: indicates that the problem has been by-passed or otherwise temporarily corrected and is not affecting user operations.
3. The Contractor shall use reasonable efforts to correct Software Errors as follows:
 - Severity 1: within 24 hours of notification by Canada;
 - Severity 2: within 72 hours of notification by Canada;
 - Severity 3: within 14 days of notification by Canada;
 - Severity 4: within 120 days of notification by Canada.
4. If Canada reports a Software Error to the Contractor, Canada shall give the Contractor reasonable access to the computer system on which the Licensed Program resides, and shall provide such information as the Contractor may reasonably request, including sample output and other diagnostic information, in order to permit the Contractor to expeditiously correct the Software Error.

9601-5 03 (1992-12-01) Updates

During the Software Support Period, the Contractor shall provide Canada, at no additional cost, with all enhancements, extensions or other modifications to the Licensed Software (herein collectively called "Updates") when such enhancements, extensions or other modifications are developed or published by the Contractor or its licensor and made generally available to other licensees of the Licensed Software at no additional cost. All Updates shall become part of the Licensed Software and shall be subject to the terms and conditions of Canada's license with respect to the Licensed Software.

9601-5 04 (1992-12-01) Media

1. All Software Error corrections and Updates shall be provided by the Contractor to Canada on Media which are free of defects and of computer viruses, and which are compatible with the computer system on which the Licensed Programs are installed.

2. Title to Media provided to Canada in the performance of the software support services shall vest in Canada upon delivery to and acceptance thereof by or on behalf of Canada. "Media", for the purposes of this subsection, does not include the Licensed Software stored on the Media.

9601-5 05 (1992-12-01) New Releases

During the Software Support Period, the Contractor shall keep Canada informed of, and make available to Canada through separate license agreements, all new Releases of the Licensed Software. "Releases", for the purposes of this section, means enhancements or modifications to the Licensed Software or new modules or supplementary modules that function in conjunction with the Licensed Software, that represent the next generation of Licensed Software, and which the Contractor or its licensor has decided to make available to its customers only for an additional charge. The Contractor shall make any new Releases available to Canada at the same time as it makes them available to its other customers and on substantially the same terms and conditions as set out in Canada's license with respect to the Licensed Software.

9601-5 06 (1992-12-01) Hotline Service

Where the Contract provides for hotline services, the Contractor shall provide Canada remote access to the Contractor's personnel, to help Canada in answering questions with respect to the Licensed Software, during the hours specified in the Contract, or if not otherwise specified, during the hours of 8:00 a.m. to 5:00 p.m., local time at the site where the Licensed Programs are installed, Monday through Friday, exclusive of statutory holidays observed by Canada at such site. Canada's access to the Contractor's personnel shall include both telephone access and access by means of the Contractor's electronic mail service if and when made available by the Contractor, provided, however, that all costs incurred by Canada in the use of telephone and terminal equipment shall be the responsibility of Canada. By notice in writing to the Contractor, Canada shall appoint a user representative or representatives who shall be the only individuals entitled to access the hotline on behalf of Canada. Canada may change any such appointment by subsequent notice to the Contractor.

9601-5 07 (1992-12-01) Support Charges and On-site Services

Except as otherwise expressly provided in the Contract, the monthly or yearly support charge specified in the Contract is inclusive of all software support services described in the Contract except for on-site Software Error correction services. The Contractor shall provide on-site services, when requested by the Technical Authority, at the hourly or daily labour rates specified in the Contract. Reasonable travel and living costs incurred by the Contractor in connection with on-site services, if approved in advance by the Technical Authority, shall be reimbursed to the Contractor in accordance with the guidelines specified in the Contract, or, if no guidelines are specified, in accordance with applicable Treasury Board guidelines. All such pre-approved costs shall be invoiced to Canada as a separate charge and may include a reasonable administrative overhead thereon, but shall not include any element of profit thereon.

9601-5 08 (1992-12-01) Canada's Responsibilities

1. Unless otherwise provided in the Contract, Canada shall maintain, for the Software Support Period, a modem and associated dial-up telephone line for use in connection with the software support services. Canada shall be responsible for installation, maintenance and use of such equipment and associated telephone charges. The Contractor may use the modem and telephone line in connection with the provision of the software support services.
2. Unless otherwise provided in the Contract, Canada shall be responsible for installation of all Software Error corrections and Updates.
3. Canada shall not modify the Licensed Software during the Software Support Period without the prior approval of the Contractor, which approval shall not be unreasonably withheld.
4. Canada shall protect data from loss by implementing back-up procedures.

9601-5 09 (2004-12-10) Excluded Services

The Contractor is not obligated to correct a failure of the Licensed Programs to operate in accordance with the Specifications if the failure results from:

- (a) use of the Licensed Software by Canada other than in accordance with Canada's license;

- (b) conditions resulting from the use of hardware or software that is supplied by a person other than the Contractor or a Subcontractor and that is not in accordance with the Specifications; or
- (c) modifications to the Licensed Software other than as approved by the Contractor or a Subcontractor.

9601-5 10 (1992-12-01) Termination for Convenience

1. The section of the General Conditions entitled "Termination for Convenience" does not apply to the support services for the Licensed Software. This section applies in lieu thereof.
2. Notwithstanding anything contained in the Contract, the Minister may, at any time during the Software Support Period, by giving thirty (30) days prior notice to the Contractor (hereinafter sometimes referred to as a "termination notice"), terminate the Contract as regards all or any part of the software support services. Upon a termination notice being given, the Contractor shall cease work in accordance with and to the extent specified in the notice, but shall continue to perform such part or parts of the software support services as are not affected by the termination notice. The Minister may, at any time or from time to time, give one or more additional termination notices with respect to any or all parts of the software support services not terminated by any previous termination notice.
3. In the event of a termination notice being given pursuant to subsection 2, the Contractor shall be entitled to be paid, on the basis of the Contract Price, for all software support services terminated by the termination notice and performed to the date of termination, but only to the extent that costs have been reasonably and properly incurred for the purposes of performing the software support services and only to the extent that the Contractor has not already been so paid or reimbursed by Canada. If the date of termination falls on a day other than the last day of a calendar month (in the case of a monthly support charge) or on a day other than the last day of the support year (in the case of a yearly support charge), the charge for the month or year in which termination occurs will be a portion of the specified monthly or yearly charge determined by multiplying the number of days in the month or year to the date of termination by 1/30 or 1/365 of the specified monthly or yearly charge, as the case may be. In the case of an advance payment, the Contractor shall refund the unliquidated portion of the specified monthly or yearly support charge to Canada upon written demand from the Contracting Authority. The unliquidated portion of the support charge shall be determined using the formula set out above in this subsection.
4. The Contractor shall have no claim for damages, compensation, loss of profits, allowance or otherwise by reason of, or directly or indirectly arising out of, any action taken or termination notice given by the Minister under this section, except to the extent that this section expressly provides.

9601-6 00 (2004-12-10) Contractor to Own Intellectual Property Rights in Foreground Information**Public Works and Government Services Canada**

- 01 Interpretation
- 02 Disclosure of Foreground Information
- 03 Contractor to Own Intellectual Property Rights in Foreground Information
- 04 License to Intellectual Property Rights in Foreground Information
- 05 License to Intellectual Property Rights in Background Information
- 06 Right to License
- 07 Transfer of Intellectual Property Rights in Foreground Information
- 08 Sale, Assignment, Transfer or Licensing of Intellectual Property Rights in Foreground Information
- 09 Access to Information; Exception to Contractor Rights
- 10 Waiver of Moral Rights

9601-6 01 (2004-12-10) Interpretation

1. In the Contract, unless the context otherwise requires,

"Background Information" means all Technical Information that is not Foreground Information and that is proprietary to or the confidential information of the Contractor, its subcontractors or any other supplier of the Contractor;

"Canada", "Crown", "Her Majesty", "the Government" means Her Majesty the Queen in right of Canada;

"Commercial Exploitation in Competition with the Contractor" does not include exploitation by Canada or by any contractor where the good or service produced through such exploitation is for end use by Canada, nor does it include dissemination or distribution by Canada to persons or to other governments at or below cost of any good or service delivered under the Contract or produced through such exploitation;

"Firmware" means any computer program stored in integrated circuits, read-only memory or other similar devices;

"Foreground Information" means any Invention first conceived, developed or reduced to practice as part of the Work under the Contract and all other Technical Information conceived, developed or produced as part of the Work under the Contract;

"General Conditions" means general conditions 9601;

"Intellectual Property Right" means any intellectual property right recognized by the law, including any intellectual property right protected through legislation (such as that governing patents, copyright, industrial design, integrated circuit topography, or plant breeders' rights) or arising from protection of information as a trade secret or as confidential information;

"Invention" means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter, whether or not patentable;

"Software" means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or upon any medium, and any computer database, and includes modifications to any of the foregoing;

"Technical Information" means all information of a scientific, technical or artistic nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to copyright, including but not limited to any Inventions, designs, methods, processes, techniques, know-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, collections of information, manuals and any other documents, and Software. Technical Information does not include data concerned with the administration of the Contract by Canada or the Contractor, such as internal financial or management information, unless it is a deliverable under the Contract.

2. Words and expressions defined in the General Conditions and used in these supplemental general conditions shall have the meanings assigned to them in the General Conditions.
3. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions shall prevail.
4. The General Conditions are amended by deleting the section entitled "Copyright" in its entirety.

9601-6 02 (2001-05-25) Disclosure of Foreground Information

1. The Contractor shall promptly report and fully disclose to the Minister all Foreground Information that could be Inventions, and shall report and fully disclose to the Minister all other Foreground Information not later than the time of completion of the Work or such earlier time as the Minister or the Contract may require.
2. The Contractor shall, in each disclosure under this section, indicate the names of all subcontractors at any tier, if any, in which Intellectual Property Rights to any Foreground Information have vested or will vest.
3. Before and after final payment to the Contractor, the Minister shall have the right to examine all records and supporting data of the Contractor which the Minister reasonably deems pertinent to the identification of Foreground Information.

9601-6 03 (2001-05-25) Contractor to Own Intellectual Property Rights in Foreground Information

1. Subject to subsection 3 and section 07, and without affecting any Intellectual Property Rights or interests therein that have come into being prior to the Contract or that relate to information or data supplied by Canada for purposes of the Contract, all Intellectual Property Rights in the Foreground Information shall immediately, as soon as they come into existence, vest in and remain the property of the Contractor.
2. Notwithstanding the Contractor's ownership of the Intellectual Property Rights in Foreground Information that is a prototype, model or custom or customized system or equipment together with associated manuals and other operating and maintenance documents and tools, Canada shall have unrestricted ownership rights in those deliverables, including the right to make them available for public use, whether for a fee or otherwise, and, except in the case of Software that is not necessary for the operation of the prototype, model or system or equipment, the right to sell them.
3. (a) Where the Work under the Contract involves the preparation of a database or other compilation using information or data supplied by Canada or personal information referred to in paragraph (b), then the Intellectual Property Rights that shall vest under subsection 1 shall be restricted to the Intellectual Property Rights in Foreground Information that is capable of being exploited without the use of the information or data supplied by Canada or such personal information. All Intellectual Property Rights in any database or other compilation, the Foreground Information in which cannot be exploited without the use of such information, data, or personal information, shall vest in Canada. The Contractor agrees that it shall not use or disclose any such information or data or personal information for any purpose other than completing the Work under the Contract, and shall not dispose of it except by returning it to Canada. The Contractor shall comply with the General Conditions of the Contract in regard to maintaining the confidentiality of such information, data or personal information. Unless the Contract otherwise expressly provides, the Contractor shall deliver to Canada all such information, data or personal information, together with every copy, draft, working paper and note thereof that contains such information, data, or personal information, upon the completion or termination of the Contract or at such earlier time as the Minister may require.

(b) Notwithstanding subsection 1, if the Work under the Contract involves the collection of personal information as that term is defined in the *Privacy Act* (R.S.C., c. P-21), then all Intellectual Property Rights in and title to that personal information shall, immediately upon the collection of it by the Contractor, vest in Canada, and the Contractor shall have no right or interest in it.

9601-6 04 (2001-05-25) License to Intellectual Property Rights in Foreground Information

1. In consideration of Canada's contribution to the cost of development of the Foreground Information, the Contractor hereby grants to Canada a non-exclusive, perpetual, irrevocable, world-wide, fully-paid and royalty-free license to exercise all Intellectual Property Rights in the Foreground Information that vest in the Contractor pursuant to section 03, for any public purpose except Commercial Exploitation in Competition with the Contractor. Canada's license to the Intellectual Property Rights in the Foreground Information also includes the right to disclose the Foreground Information to other governments for information purposes only. The Intellectual Property Rights arising from any modification, improvement, development or translation of the Foreground Information that is effected by or for Canada in the exercise of this license shall vest in Canada, or in such person as Canada shall decide.
2. The Contractor acknowledges that Canada may wish to award contracts for any of the purposes contemplated in subsection 1 and that such contract awards may follow a competitive process. The Contractor agrees that Canada's license in relation to the Intellectual Property Rights in the Foreground Information that vest in the Contractor pursuant to section 03, includes the right to disclose the Foreground Information to bidders for such contracts, and to sub-license or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such a contract. Canada shall require the bidder or the contractor not to use or disclose any Foreground Information except as may be necessary to bid for or to carry out that contract.
3. For greater certainty and without limiting the generality of subsections 1 and 2, Canada's right to modify, improve, translate, reproduce or further develop any Foreground Information pursuant to subsections 1 and 2:
 - (a) applies to Foreground Information that is Software, notwithstanding any terms to the contrary delivered by the Contractor with any deliverable, including the wording on any shrink-wrapped license attached to any deliverable; and
 - (b) includes the right to reproduce and use Foreground Information that is Software, or any modified or improved or translated or further developed form of it, on any and all computer systems owned, leased or operated by Canada anywhere in the world.
4. Notwithstanding subsections 1, 2, and 3, if any Foreground Information arises solely from correction by the Contractor of errors in Background Information that is Software, or from minor modifications made by the Contractor to such Software, then the license set out in subsections 1, 2 and 3 shall not apply to that Foreground Information and, unless otherwise agreed, the license that applies to such Background Information shall apply to that Foreground Information.
5. Where the Intellectual Property Rights in any Foreground Information are or will be owned by a Subcontractor at any tier, the Contractor shall either obtain a license from that Subcontractor that permits compliance with subsections 1, 2 and 3 or arrange for the Subcontractor to convey directly to Canada the same rights by execution of the form provided for that purpose by the Minister, in which case the Contractor shall deliver that form to the Minister, duly completed and executed by the Subcontractor, no later than the time of disclosure to Canada of that Foreground Information.
6. If the Contractor wishes to make use of any Canada-owned information that was supplied for purposes of the Contract, for the commercial exploitation or further development of any of the Foreground Information, then the Contractor may make a written request for a license to exercise the required Intellectual Property Rights in that Canada-owned information, to the minister for whose department or agency the Work is being or was carried out. The Contractor shall give that minister an explanation as to why such a license is required. That minister shall respond in writing to the request within a reasonable period of time. If the request is refused, the response shall provide an explanation for the refusal. Should that minister agree to grant such a license, it shall be on terms and conditions to be negotiated between the Contractor and that minister. It is understood that those terms may include payment of compensation to Canada.
7. The Contractor may apply to the minister for whose department or agency the Work is being or was carried out for a license to commercially exploit a translation of the Foreground Information which is effected by or for Canada, subject to the same restrictions and obligations as apply under the Contract to commercial exploitation of the Foreground Information that was translated. Any such license shall be on terms and conditions to be negotiated between the Contractor and that minister. It is understood that those terms may include payment of compensation to Canada.

1. Without restricting the scope of any license or other right in the Background Information that Canada may otherwise hold, the Contractor hereby grants to Canada, in relation to any custom-designed or custom-manufactured part of the Work, a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in any Background Information incorporated into the Work or necessary for the performance of the Work as may be required for the following purposes:
 - (a) for the use, operation, maintenance, repair or overhaul of the custom-designed or custom-manufactured parts of the Work;
 - (b) in the manufacturing of spare parts for maintenance, repair or overhaul of any custom-designed or custom-manufactured part of the Work by Canada if those parts are not available on reasonable commercial terms to enable timely maintenance, repair or overhaul;
 - (c) for disclosure to any contractor engaged by Canada (or bidder for such a contract) to be used solely for a purpose set out in paragraph (a) or (b), but in the case of paragraph (b), only if the Contractor is unable or unwilling to provide the spare parts on reasonable commercial terms and within reasonable delivery times;and the Contractor agrees to make any such Background Information (including, in the case of Software, source code) promptly available to Canada for any such purpose.
2. Notwithstanding subsection 1, the license set out therein shall not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Contract. Furthermore, in the case of commercial off-the-shelf software, the Contractor's obligation to make the source code promptly available to Canada for a purpose set out in subsection 1 shall apply only to source code that is within the control of or can be obtained by the Contractor or any Subcontractor, and in that event the Contractor shall, if requested by Canada, make the source code available to Canada within reasonable delivery times and on reasonable other commercial terms.
3. Canada may wish to award contracts to third party contractors under subsection 1, and such contract awards may follow a competitive process. The Contractor agrees that Canada's license in relation to the Intellectual Property Rights in Background Information includes the right to disclose the Background Information to bidders for such contracts, and to sublicense or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such a contract. Canada shall require bidders and the contractor not to use or disclose any Background Information except as may be necessary to bid for or to carry out that contract.
4. Where the Intellectual Property Rights in any Background Information are owned by a Subcontractor at any tier, the Contractor shall either obtain a license from that Subcontractor that permits compliance with subsection 1 or arrange for the Subcontractor to convey directly to Canada the same rights by execution of the form provided for that purpose by the Minister, in which case the Contractor shall deliver that form to the Minister, duly completed and executed by the Subcontractor, no later than the time of disclosure to Canada of that Background Information.

9601-6 06 (2001-12-10) Right to License

The Contractor represents and warrants that the Contractor has, or the Contractor shall obtain, without delay, the right to grant to Canada the license to exercise the Intellectual Property Rights in the Foreground Information and the Background Information as required by the Contract.

9601-6 07 (2001-05-25) Transfer of Intellectual Property Rights in Foreground Information

1. Until the Contractor completes the Work and discloses all of the Foreground Information in accordance with section 02, the Contractor shall not, without the prior written permission of the Minister, sell, assign or otherwise transfer title to the Intellectual Property Rights in any Foreground Information, or license or otherwise authorize the use of the Intellectual Property Rights in any of the Foreground Information by any person.
2. If Canada terminates the Contract in whole or in part for default, or if the Contractor fails to disclose any Foreground Information in accordance with section 02, the Minister may, by notice given not later than ninety (90) days from the date of termination or from the date Canada learns of the failure to disclose, as the case may be, require the Contractor to convey to Canada all of the Intellectual Property Rights in the Foreground Information or, in the case of a notice based on failure to disclose, all of the Intellectual Property Rights in the Foreground Information not disclosed. In the case of either notice, the rights to be conveyed shall include the Intellectual Property Rights in any Foreground Information that have vested or are to vest in a Subcontractor at any tier. In the case of Intellectual

Property Rights in Foreground Information which have been sold or assigned to a party other than a Subcontractor at any tier, the Contractor shall not be obligated to convey rights to Canada in accordance with this subsection, but shall pay to Canada on demand an amount equal to the consideration which the Contractor received from the sale or assignment of the Intellectual Property Rights in that Foreground Information or, in the case of a sale or assignment that was not at arm's length, the fair market value of the Intellectual Property Rights in that Foreground Information, in each case including the value of future royalties or license fees.

3. In the event of the issuance by the Minister of a notice under subsection 2, the Contractor shall, at its own expense and without delay, execute such conveyances or other documents relating to title to the Intellectual Property Rights as the minister for whose department or agency the Work is being or was carried out may require, and the Contractor shall, at Canada's expense, afford that minister all reasonable assistance in the preparation of applications and in the prosecution of any applications for, or any registration of, any Intellectual Property Right in any jurisdiction, including without limitation the assistance of the inventor in the case of Inventions.

9601-6 08 (2001-05-25) Sale, Assignment, Transfer or Licensing of Intellectual Property Rights in Foreground Information

1. In any sale, assignment, transfer or license of Intellectual Property Rights in Foreground Information by the Contractor except a sale or license for end use of a product based on Foreground Information, the Contractor shall impose on the other party all of its obligations to Canada in relation to the Intellectual Property Rights in the Foreground Information and any restrictions set out in the Contract on the use or disposition of the Intellectual Property Rights in the Foreground Information (and, if applicable, the Foreground Information), including the obligation to impose the same obligations and restrictions on any subsequent transferee, assignee or licensee.
2. The Contractor shall promptly notify Canada of the name, address and other pertinent information in regard to any transferee, assignee or licensee referred to in subsection 1, and shall ensure that such party is required to do the same with regard to any subsequent transferee, assignee or licensee.
3. The Contractor shall not charge or permit any person to charge a royalty or other fee to Canada in respect of the Intellectual Property Rights in any Foreground Information for purposes of a contract or other arrangement with Canada. Where the contract or other arrangement is for a product based on Foreground Information or on any modification or improvement thereof, the Contractor shall grant to Canada a reasonable credit against its commercial price for that product to take into account Canada's financial contribution toward the development of the product, and in the case of a product owned by a transferee, assignee or licensee of the Intellectual Property Rights in any Foreground Information, the Contractor shall ensure that such party is required to do the same.

9601-6 09 (2001-05-25) Access to Information; Exception to Contractor Rights

1. Subject to the *Access to Information Act*, R.S.C., c. A-1 and to any right of Canada under the Contract to release or disclose, Canada shall not release or disclose outside the Government of Canada any information delivered to Canada under the Contract that is confidential information or a trade secret of the Contractor or a Subcontractor.
2. Notwithstanding subsection 1, nothing in these terms and conditions shall be construed as limiting Canada's right to exercise the Intellectual Property Rights in any Foreground Information or any Background Information, or to disclose any Foreground Information or any Background Information, to the extent that such information:
 - (a) is or becomes in the public domain, or to the extent that the Contractor does not benefit from or ceases to benefit from any Intellectual Property Rights protection for such information under legislation or at law (other than under the terms of the Contract), for any reason including as a result of Canada's use or disclosure of deliverables under the Contract for any purpose whatever that is not expressly excluded under the Contract;
 - (b) is or becomes known to Canada from a source other than the Contractor, except from any source that is known to Canada to be under an obligation to the Contractor not to disclose the information;
 - (c) is independently developed by or for Canada; or
 - (d) is disclosed under compulsion of a legislative requirement or any order of a court or other tribunal having jurisdiction.

9601-6 10 (2001-05-25) Waiver of Moral Rights

1. The Contractor shall obtain a written permanent waiver of moral rights (as this term is defined in the *Copyright Act*, R.S.C., c. C-42), in a form acceptable to the Minister, from every author that contributes to any Foreground Information which is subject to copyright protection and which is deliverable to Canada under the terms of the Contract. At the request of the Minister (be it at the completion of the Work or at any other time as the Minister may require), the Contractor shall provide the written waiver(s) of moral rights to the Minister.
2. If the Contractor is an author of the Foreground Information referred to in subsection 1, the Contractor hereby permanently waives the Contractor's moral rights in that Foreground Information.

9601-7 00 (2004-12-10) Canada to Own Intellectual Property Rights in Foreground Information**Public Works and Government Services Canada**

01	Interpretation
02	Disclosure of Foreground Information
03	Canada to Own Intellectual Property Rights in Foreground Information
04	License to Intellectual Property Rights in Background Information
05	Right to License
06	Access to Information; Exception to Contractor Rights
07	Waiver of Moral Rights

9601-7 01 (2004-12-10) Interpretation

1. In the Contract,

"Background Information" means all Technical Information that is not Foreground Information and that is proprietary to or the confidential information of the Contractor, its subcontractors or any other supplier of the Contractor;

"Firmware" means any computer program stored in integrated circuits, read-only memory or other similar devices;

"Foreground Information" means any Invention first conceived, developed or reduced to practice as part of the Work under the Contract and all other Technical Information conceived, developed or produced as part of the Work under the Contract;

"General Conditions" means General Conditions - Long Form 9601;

"Intellectual Property Right" means any intellectual property right recognized by the law, including any intellectual property right protected through legislation (such as that governing patents, copyright, industrial design, integrated circuit topography, or plant breeders' rights) or arising from protection of information as a trade secret or as confidential information;

"Invention" means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter, whether or not patentable;

"Software" means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or upon any medium, and any computer database, and includes modifications to any of the foregoing;

"Technical Information" means all information of a scientific, technical or artistic nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to copyright, including but not limited to any Inventions, designs, methods, processes, techniques, know-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, collections of information, manuals and any other documents, and Software. Technical Information does not include data concerned with the administration of the Contract by Canada or the Contractor, such as internal financial or management information, unless it is a deliverable under the Contract.

2. Words and expressions defined in the General Conditions and used in these supplemental general conditions shall have the meanings assigned to them in the General Conditions.

3. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions shall prevail.

4. The General Conditions are amended by deleting the section entitled "Copyright" in its entirety.

9601-7 02 (2001-05-25) Disclosure of Foreground Information

1. The Contractor shall promptly report and fully disclose to the Minister all Foreground Information that could be Inventions, and shall report and fully disclose to the Minister all other Foreground Information not later than the time of completion of the Work or at such earlier time as the Minister or the Contract may require.
2. Before and after final payment to the Contractor, the Minister shall have the right to examine all records and supporting data of the Contractor which the Minister reasonably deems pertinent to the identification of Foreground Information.

9601-7 03 (2001-05-25) Canada to Own Intellectual Property Rights in Foreground Information

1. Without affecting any Intellectual Property Rights or interests therein that have come into being prior to the Contract, all Intellectual Property Rights in the Foreground Information shall immediately, as soon as they come into existence, vest in and remain the property of Canada. The Contractor shall have no right in or to any such Intellectual Property Rights in the Foreground Information except any right that may be granted in writing by Canada.
2. The Contractor shall incorporate the copyright symbol and either of the following copyright notices, as appropriate, into all Foreground Information that is subject to copyright, regardless of the form in or medium upon which it is recorded:

© HER MAJESTY THE QUEEN IN RIGHT OF CANADA (year)

or

© SA MAJESTÉ LA REINE DU CHEF DU CANADA (year)
3. (a) For greater certainty, the Contractor agrees that where the Work under the Contract involves the preparation of a database or other compilation using information or data supplied by Canada or personal information referred to in paragraph (b), then the Contractor shall not use or disclose any such information or data or personal information for any purpose other than completing the Work under the Contract. The Contractor shall not dispose of such information or data or personal information except by returning it to Canada. The Contractor shall comply with the General Conditions of the Contract in regard to maintaining the confidentiality of such information, data, or personal information. Unless the Contract otherwise expressly provides, the Contractor shall deliver to Canada all such information, data, or personal information, together with every copy, draft, working paper and note thereof that contains such information, data, or personal information upon completion or termination of the Contract or at such earlier time as the Minister may require.

(b) For greater certainty and without limiting paragraph 3(a), if the Work under the Contract involves the collection of personal information as that term is defined in the *Privacy Act* (R.S.C., c. P-21), then all Intellectual Property Rights in and title to that personal information shall, immediately upon the collection of it by the Contractor, vest in Canada, and the Contractor shall have no right or interest in it.
4. The Contractor shall execute such conveyances or other documents relating to the Intellectual Property Rights in the Foreground Information as the minister for whose department or agency the Work is being or was carried out may require, and the Contractor shall, at Canada's expense, afford that minister all reasonable assistance in the preparation of applications and in the prosecution of any applications for registration of any Intellectual Property Right in any jurisdiction, including without limitation the assistance of the inventor in the case of Inventions.

9601-7 04 (2001-12-10) License to Intellectual Property Rights in Background Information

1. Without restricting the scope of any license or other right in the Background Information that Canada may otherwise hold, the Contractor hereby grants to Canada, in relation to any custom-designed or custom-manufactured part of the Work, a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in any Background Information incorporated into the Work or necessary for the performance of the Work as may be required for the following purposes:

(a) for the use, operation, maintenance, repair or overhaul of the custom-designed or custom-manufactured parts of the Work;

- (b) in the manufacturing of spare parts for maintenance, repair or overhaul of any custom-designed or custom-manufactured part of the Work by Canada if those parts are not available on reasonable commercial terms to enable timely maintenance, repair or overhaul;
- (c) for disclosure to any contractor engaged by Canada (or bidder for such a contract) to be used solely for a purpose set out in paragraph (a) or (b), but in the case of paragraph (b), only if the Contractor is unable or unwilling to provide the spare parts on reasonable commercial terms and within reasonable delivery times;

and the Contractor agrees to make any such Background Information (including, in the case of Software, source code) promptly available to Canada for any such purpose.

2. Notwithstanding subsection 1, the license set out therein shall not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Contract. Furthermore, in the case of commercial off-the-shelf software, the Contractor's obligation to make the source code promptly available to Canada for a purpose set out in subsection 1 shall apply only to source code that is within the control of or can be obtained by the Contractor or any subcontractor, and in that event the Contractor shall, if requested by Canada, make the source code available to Canada within reasonable delivery times and on reasonable other commercial terms.
3. Canada may wish to award contracts to third party contractors under subsection 1, and such contract awards may follow a competitive process. The Contractor agrees that Canada's license in relation to the Intellectual Property Rights in Background Information includes the right to disclose the Background Information to bidders for such contracts, and to sublicense or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such a contract. Canada shall require bidders and the contractor not to use or disclose any Background Information except as may be necessary to bid for or to carry out that contract.
4. Where the Intellectual Property Rights in any Background Information are owned by a Subcontractor at any tier, the Contractor shall either obtain a license from that Subcontractor that permits compliance with subsection 1 or arrange for the Subcontractor to convey directly to Canada the same rights by execution of the form provided for that purpose by the Minister, in which case the Contractor shall deliver that form to the Minister, duly completed and executed by the Subcontractor, no later than the time of disclosure to Canada of that Background Information.

9601-7 05 (2001-12-10) Right to License

The Contractor represents and warrants that the Contractor has, or the Contractor shall obtain, without delay, the right to grant to Canada the license to exercise the Intellectual Property Rights in the Background Information as required by the Contract.

9601-7 06 (2001-05-25) Access to Information; Exception to Contractor Rights

1. Subject to the *Access to Information Act*, R.S.C., c. A-1, and to any right of Canada under the Contract to release or disclose, Canada shall not release or disclose outside the Government of Canada any Background Information delivered to Canada under the Contract that is confidential information or a trade secret of the Contractor or a Subcontractor.
2. Nothing in these terms and conditions shall be construed as limiting Canada's right to exercise the Intellectual Property Rights in any Background Information, or to disclose any Background Information, to the extent that such information:
 - (a) is or becomes in the public domain, or to the extent that the Contractor does not benefit from or ceases to benefit from any intellectual property rights protection for such information under legislation or at law (other than under the terms of the Contract), for any reason including as a result of Canada's use or disclosure of deliverables under the Contract for any purpose whatever that is not expressly excluded under the Contract;
 - (b) is or becomes known to Canada from a source other than the Contractor, except from any source that is known to Canada to be under an obligation to the Contractor not to disclose the information;
 - (c) is independently developed by or for Canada; or

- (d) is disclosed under compulsion of a legislative requirement or any order of a court or other tribunal having jurisdiction.

9601-7 07 (2001-05-25) Waiver of Moral Rights

1. The Contractor shall provide to Canada, at the completion of the Work or at such other time as the Minister may require, a written permanent waiver of moral rights (as that term is defined in the *Copyright Act*, R.S.C., c. C-42), in a form acceptable to the Minister, from every author that contributed to any Foreground Information which is subject to copyright protection and which is deliverable to Canada under the terms of the Contract.
2. If the Contractor is an author of the Foreground Information referred to in subsection 1, the Contractor hereby permanently waives the Contractor's moral rights in that Foreground Information.

LAB-180 (2004-12-10) Labour Conditions - Fair Wages and Hours of Labour

Public Works and Government Services Canada

- 01 Interpretation
- 02 General Fair Wage Clause
- 03 Hours of Work
- 04 Labour Conditions to be Posted
- 05 The Contractor to Keep Records which are to be Kept Open for Inspection
- 06 Departmental Requirements before Payment made to Contractor
- 07 Authority to pay Wages in the Event of Default by the Contractor
- 08 Conditions of Subcontracting
- 09 Non-discrimination in Hiring and Employment of Labour

LAB-180 01 (2004-12-10) Interpretation

1. In these conditions
 - "Act" means the *Fair Wages and Hours of Labour Act*;
 - "Regulations" means the *Fair Wages and Hours of Labour Regulations* made pursuant to the Act;
 - "Contract" means the contract of which these Labour Conditions are part;
 - "Contracting Authority" means the department of Government or a crown corporation with whom the contract is made;
 - "Contractor" means the person who has entered into the contract with the contracting authority;
 - "Regional Director" means the director of a regional office of the Department of Human Resources and Skills Development (HRSD) or the director's designated representative;
 - "Inspector" has the meaning assigned to the term by Part III of the *Canada Labour Code*.
 - "Minister" means the Minister of Labour of Canada;
 - "persons" means those workers employed by the contractor, subcontractor or any other person doing or contracting to do the whole or any part of the work contemplated by the contract;

LAB-180 02 (2004-12-10) General Fair Wage Clause

1. All persons in the employ of the Contractor, subcontractor, or any other person doing or contracting to do the whole or any part of the work contemplated by the Contract, shall during the continuance of the work:
 - (a) be paid fair wages that is, such wages as are generally accepted as current for competent workers in the district in which the work is being performed for the character or class of work in which such workers are respectively engaged; and
 - (b) in all cases, be paid no less than the minimum hourly rate of pay established by the Labour Program of the HRSD in the Fair Wage Schedules which form a part of this Contract as Appendix A to these Labour Conditions; and
 - (c) for contracts covering work performed in the province of Quebec, be paid at least the wage rates established by that province for the purposes of the Quebec Construction Decree.
2. Where there is no wage rate in the schedules referred to in 1. for a particular character or class of work, the Contractor shall pay wages for that character or class of work at a rate not less than the rate for an equivalent character or class of work.
3. Where during the term of the Contract, the Contractor receives notice from the Contracting Authority of any change in wage rates, the Contractor shall pay not less than the changed wage rate beginning on the first day after receipt, by the Contractor, of the notice of the change in wage rates.

LAB-180 03 (2000-05-12) Hours of Work

1. The hours of work in a day and in a week of persons employed in the execution of the Contract, including the hours of work in excess of which a person shall be paid overtime at a rate at least equal to one and one half times the fair wage, are the hours of work for the province in which the work is being performed as set out from time to time in an Act of that province.
2. The daily or weekly hours of work referred to in paragraph 1. may be exceeded in accordance with the applicable provincial law.

LAB-180 04 (2000-05-12) Labour Conditions to be Posted

For the information and the protection of all persons, the Contractor agrees to post and keep posted, in a conspicuous place on the premises where work contemplated by the Contract is being carried out or on premises occupied or used by persons engaged in carrying out such work, a copy of these Labour Conditions, and a copy of the applicable Fair Wage Schedules along with any subsequent changes.

LAB-180 05 (2000-05-12) The Contractor to Keep Records which are to be Kept Open for Inspection

1. The Contractor agrees to keep books and records showing the names, addresses, classifications of employment and work of all workers employed under the Contract, the rate of wages to be paid, the wages paid and the daily hours worked by the workers.
2. The Contractor also agrees that the Contractor's books, records and premises will be open at all reasonable times for inspection by an Inspector.
3. The Contractor also agrees to furnish the Inspector and the Contracting Authority, on request, with such further information as is required to ascertain that the requirements of the Act, the Regulations and the Contract with respect to wages, hours of work and other labour conditions have been complied with.

LAB-180 06 (2000-05-12) Departmental Requirements before Payment made to Contractor

1. The Contractor agrees that the Contractor will not be entitled to payment of any money otherwise payable under the Contract until the Contractor has filed with the Contracting Authority in support of a claim for payment a sworn statement:
 - (a) that the Contractor has kept the books and records required by these Regulations,
 - (b) that there are no wages in arrears in respect of work performed under the Contract, and
 - (c) that to the Contractor's knowledge, all the conditions in the Contract required by the Act and the Regulations have been complied with.
2. The Contractor also agrees that, where fair wages have not been paid by the Contractor to persons employed under the Contract, the Contracting Authority shall withhold from any money otherwise payable under the Contract to the Contractor the amount necessary to ensure that fair wages are paid to all employees until fair wages are paid.

LAB-180 07 (2000-05-12) Authority to pay Wages in the Event of Default by the Contractor

1. The Contractor agrees that where the Contractor is in default of payment of fair wages to an employee, the Contractor will pay the Minister the amount the Contractor is in default.
2. The Contractor agrees that where the Contractor fails to comply with paragraph 1., the Contracting Authority will pay to the Receiver General, out of any money otherwise payable to the Contractor, the amount for which the Contractor is in default.

LAB-180 08 (2000-05-12) Conditions of Subcontracting

The Contractor and the subcontractor agree that in subcontracting any part of the work contemplated by the Contract, they will place in the subcontract the conditions respecting fair wages, hours of work and other labour conditions set out in the Contract and the requirements set out in Section 4. The Contractor further agrees that the Contractor will be responsible for carrying out these conditions in the event the subcontractor fails to carry them out.

LAB-180 09 (2000-05-12) Non-discrimination in Hiring and Employment of Labour

1. The Contractor agrees that in the hiring and employment of workers to perform any work under the Contract, the Contractor will not refuse to employ and will not discriminate in any manner against any person because

- (a) of that person's race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, disability, conviction for which a pardon has been granted, or family status;
- (b) of the race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, disability, conviction for which a pardon has been granted, or family status of any person having a relationship or association with that person, or
- (c) a complaint has been made or information has been given in respect of that person relating to an alleged failure by the Contractor to comply with subparagraph (a) or (b).

LAB-180B (2004-12-10) Labour Conditions

Public Works and Government Services Canada

(For use in contracts for the manufacture and supply of articles and things)

- 01 Fair Wages and Hours Provisions
- 02 Fair Wages Provisions to be Posted
- 03 Contractor to Keep Records which are to be Open for Inspection
- 04 Premises and Work to be Kept Open for Inspection
- 05 Conditions of Subcontracting
- 06 Workmen to be Residents of Canada
- 07 Departmental Requirements before Payments made to Contractor
- 08 Authority to Pay Wages in Event of Default by Contractor
- 09 Non-discrimination Provision

LAB-180B 01 (1991-06-01) Fair Wages and Hours Provisions

1. All workmen, labourers, or other persons who perform labour in the construction of the Work hereby contracted for, shall be paid such wages as are generally accepted as current from time to time during the continuance of the Contract for competent workmen in the district in which the Work is being performed for the character or class of work in which they are respectively engaged, and if there be no current rate in such district, then a fair and reasonable rate. In no event shall the wages for the particular classification or classifications of labour concerned be less than those established by statute or regulation of the province in which the Work is being performed.
2. The working hours shall be those fixed by the custom of the trade as respects hours in the district where the Work is carried on, or if there be no custom of the trade as respects hours in the district, then fair and reasonable hours, except for the protection of life and property, or on due cause shown to the satisfaction of the Minister of Labour.
3. Where there are special circumstances which in the judgment of the Minister of Labour make it expedient that he should do so he may decide what are the current or fair and reasonable rates of wages for overtime, and what is the proper classification of any work for the purposes of wages and hours. Immediately upon receipt of notice of any decision of the Minister of Labour hereunder the Contractor shall adjust the wages and hours and classification of work so as to give effect to such decision. In the event of a dispute arising as to what is the current or a fair and reasonable rate of wages, or what are the current hours fixed by the custom of the trade or fair and reasonable hours or as to rates for overtime it shall be determined by the Minister of Labour, whose decision shall be final; payment may also be withheld of any moneys which would otherwise be payable to the contractor until the Minister of Labour's decision has been complied with.

By the term "current wages" and the term "hours of labour fixed by the custom of the trade", in the foregoing, are meant respectively the standard rates of wages and hours of labour either recognized by signed agreements between employers and workmen in the district from which the labour required is necessarily drawn or actually prevailing, although not necessarily recognized by signed agreements.

LAB-180B 02 (1991-06-01) Fair Wages Provisions to be Posted

The Contractor shall post and keep posted in a conspicuous place on the premises where the Contract is being executed, occupied or frequented by the workpeople, the foregoing fair wages provisions for the protection of the workpeople employed.

LAB-180B 03 (1991-06-01) Contractor to Keep Records which are to be Kept Open for Inspection

The Contractor shall keep proper books and records showing the names, ages, trades and addresses of all workmen in his employ and the wages paid to and time worked by each workman and the books and documents containing such records shall be open for inspection by a Fair Wages Officer of the Government at any time it may be expedient to the Minister of Labour to have the same inspected.

LAB-180B 04 (1991-06-01) Premises and Work to be Kept Open for Inspection

The Contractor's premises and the Work being performed under this Contract shall be open for inspection at all reasonable times by any officer authorized by the Minister of Labour for this purpose; all such premises shall be kept by the Contractor in sanitary condition.

LAB-180B 05 (1991-06-01) Conditions of Subcontracting

With a view to avoidance of any abuses which might arise from the subletting of contracts it shall be understood that subletting is prohibited unless the approval of the Minister is obtained; subcontractors shall be bound in all cases to conform to the conditions of the main contract, and the main Contractor shall be held responsible for strict adherence to all contract conditions on the part of subcontractors; the Contract shall not, nor shall any portion thereof be transferred without the written permission of the Minister; no portion of the Work to be performed shall be done at the homes of the workpeople, or, except as specially provided for under legislative authority, by inmates of penal institutions.

LAB-180B 06 (1991-06-01) Workmen to be Residents of Canada

All workmen employed upon the Work comprehended in and to be executed pursuant to this Contract shall be residents of Canada, unless the Minister is of opinion that Canadian labour is not available or that special circumstances exist which would render it contrary to the public interest to enforce this provision.

LAB-180B 07 (1991-06-01) Departmental Requirements before Payments made to Contractor

The Contractor shall not be entitled to payment of any money which would otherwise be payable under the terms of the Contract in respect of work and labour performed in the execution of the Contract unless and until he shall have filed in the office of the Minister in support of his claim for payment a statement attested by statutory declaration showing:

- (a) the rates of wages and hours of labour of the various classes of workmen employed in the execution of the Contract;
- (b) whether any wages in respect of the said work and labour remain in arrears;
- (c) that all the labour conditions of the Contract have been duly complied with; or, in the event of notice from the Minister of Labour of claims for wages, until the same are adjusted. The Contractor shall also from time to time furnish to the Minister such further detailed information and evidence as the Minister may deem necessary in order to satisfy him that the conditions herein contained to secure the payment of fair wages have been complied with, and that the workmen so employed as aforesaid upon the portion of the Work in respect of which payment is demanded have been paid in full.

LAB-180B 08 (1991-06-01) Authority to Pay Wages in Event of Default by Contractor

In the event of default being made in payment of any money owing in respect of wages of any workman employed on the said work, and if a claim therefor is filed in the office of the Minister and proof thereof satisfactory to the Minister is furnished, the said Minister may pay such claim out of the moneys at any time payable by Canada under said contract and the amount so paid shall be deemed payments to the Contractor.

LAB-180B 09 (1991-06-01) Non-discrimination Provision

1. In the hiring and employment of workmen to perform any work under this Contract, the Contractor shall not refuse to employ and shall not discriminate in any manner against any person because
 - (a) of that person's race, national origin, colour, religion, age, sex or marital status,
 - (b) of the race, national origin, colour, religion, age, sex or marital status of any person having any relationship or association with that person, or
 - (c) a complaint has been made or information has been given by or in respect of that person relating to an alleged failure by the contractor to comply with paragraph (a) or (b).
2. If any question arises at any time as to whether or not there has been a failure on the part of the Contractor to comply with the provisions of this clause, the Minister or Deputy Minister of Labour or any other person designated by the Minister of Labour for the purpose shall decide the question, subject to subsection 5, and his decision shall be final for the purpose of this Contract.
3. The Contractor shall make available to the Minister or Deputy Minister of Labour or any person instructed by the Minister or Deputy Minister of Labour to inquire into any complaint of non-compliance with the provisions of this clause or to otherwise make inquiries as to compliance by the Contractor with the provisions thereof, his books and records and shall furnish to him such additional information as is required by him for the purposes of the inquiry.
4. Failure of the Contractor to comply with any of the provisions of this clause shall constitute a material breach of the Contract.
5. If the Contractor is dissatisfied with a decision under subsection 2 of this clause, he may, within thirty (30) days after the decision was made, request the Minister of Labour to refer the question to a judge, and thereupon the Minister of Labour shall refer the question to a judge of a superior, county or district court, whose decision is final for the purposes of this Contract.

