
Section 5

R - Real Property Contracting

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R0000D (12/05/00) Standard Construction Contract-Synopsis

This clause is cancelled effective 01/12/00.

R0000D (21/06/99) Standard Construction Contract-Synopsis

Effective 12/05/00, this clause is superseded by R0000D.

R0001T (16/12/05) General Instructions to Tenderers

Public Works and Government Services Canada

- 01 Tender Documents
- 02 Completion of Tender
- 03 Signing Procedures and Identify or Legal Capacity of the Tenderer
- 04 Goods and Services Tax
- 05 Quebec Sales Tax
- 06 Capital Development and Re-development Charges
- 07 Bid Depository
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- 10 Tender Security Requirements
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- 14 Language of the Tender and Contract Documents
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- 16 Compliance with Applicable Laws
- 17 Approval of Alternative Materials
- 18 Performance Evaluation
- 19 Procurement Business Number (PBN)

01 (2005-12-16) Tender Documents

- 1. The following are the tender documents:
 - (a) Special Instructions to Tenderers
 - (b) Tender Form;
 - (c) Plans and Specifications "A";
 - (d) General Instructions to Tenderers, R0001T (2005-12-16), referred to in the tender documents as the "General Instructions to Tenderers";
 - (e) Articles of Agreement "A", R0200C (2005-12-16), referred to therein as the "Articles of Agreement";
 - (f) Terms of Payment "B", R0201D (2002-12-13), referred to in the Articles of Agreement as the "Terms of Payment";

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- (g) General Conditions "C", R0202D (2004-05-14), referred to in the Articles of Agreement as the "General Conditions";
 - (h) Fair Wages and Hours of Labour, Labour Conditions, R0203D (2004-05-14), referred to in the Articles of Agreement as Labour Conditions;
 - (i) Fair Wage Schedules for Federal Construction Contracts, referred to in the Articles of Agreement as "Fair Wage Schedules";
 - (j) Insurance Conditions "E", R0204D (2005-12-16), referred to in the Articles of Agreement as the "Insurance Conditions";
 - (k) Contract Security Conditions "F", R0205D (2005-12-16), referred to in the Articles of Agreement as the "Contract Security Conditions";
 - (l) Any addenda issued before the date set for tender closing.
2. The tender documents identified in paragraphs 1.(d) to 1.(k) inclusive by title, number and date are hereby incorporated by reference into the tender documents and form part of the tender and any resulting contract. Submission of a tender constitutes acknowledgment that the Tenderer has read and agreed to be bound by these documents and the other documents listed in subsection 1.1.
3. Except for Fair Wage Schedules for Federal Construction Contracts, documents listed in subsection 1.1 may be obtained in print copy from MERX in the same manner that tender packages are obtained. The telephone number for MERX is 1-800-964-MERX (6379) all across Canada. Documents referenced may also be viewed on the MERX Website at <http://www.merx.com>.
4. Contractors should also note that a copy of the Labour Conditions and the Fair Wage Schedule applicable to the project location must be posted at the work site in a convenient, easily accessible location. Fair Wage Schedules for Federal Construction Contracts and the Labour Conditions may be viewed and obtained from the Department of Human Resources and Skills Development Website at:
<http://www.hrsdc.gc.ca/asp/gateway.asp?hr=en/lp/lo/lswefw/schedule.shtml&hs=cgp> and
<http://www.hrsdc.gc.ca/asp/gateway.asp?hr=en/lp/lo/lswefw/conditions.shtml&hs=cgp>, respectively.

02 (2004-12-10) Completion of Tender

1. The tender shall:
- (a) be submitted on the Tender Form provided through MERX or on a clear and legible reproduced copy of said Tender Form; the reproduced copy must be identical in every respect to the Tender Form provided through MERX;
 - (b) not be delivered to the Bid Receiving Unit by means of facsimile transmission; facsimile copies of tenders are not acceptable;
 - (c) be based on the tender documents listed above;
 - (d) be correctly completed in all respects;
 - (e) be signed in accordance with the signing procedures set out herein; and
 - (f) be accompanied by
 - (i) the tender security as specified herein; and
 - (ii) any other document or documents specified elsewhere in the solicitation where it is stipulated that said documents are to accompany the tender.
2. The solicitation documentation is not available for distribution on the actual day of tender closing.
3. Any alteration to the preprinted or pre-typed sections of the Tender Form, or any condition or qualification placed upon the tender shall be direct cause for disqualification. Alterations,

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corrections, changes or erasures made to statements or figures entered on the Tender Form by the Tenderer shall be initialed by the person or persons signing the tender. Initials shall be original(s). Alterations, corrections, changes or erasures that are not initialed shall be deemed void and without effect.

03 (2004-12-10) Signing Procedures and Identity or Legal Capacity of the Tenderer

1. The signature(s) of the authorized signatory(ies) shall be affixed to the front page of the Invitation to Tender and the name(s) and the title(s) typed or printed in the space provided.
2. In order to confirm the authority of the person or persons signing the tender or to establish the legal capacity under which the Tenderer proposes to enter into Contract, any Tenderer who carries on business in other than its own personal name shall, if requested by Canada, provide satisfactory proof of
 - (a) such signing authority; and
 - (b) the legal capacity under which it carries on business;

prior to contract award. Proof of signing authority may be in the form of a certified copy of a resolution naming the signatory(ies) that is (are) authorized to sign this tender on behalf of the corporation or partnership. Proof of legal capacity may be in the form of a copy of the articles of incorporation or the registration of the business name of a sole proprietor or partnership.

04 (2004-05-14) Goods and Services Tax

Tenders are not to include any amounts for the Goods and Services Tax (GST), and the GST shall not be included when calculating the amount of any tender security or contract security which may be required. Any amount levied in respect of the GST will be billed as a separate item in a progress claim submitted by the Contractor, and will be paid to the Contractor in addition to the amount approved by the Engineer for work performed under the contract. The Contractor will be required to remit the appropriate amount to Canada Revenue Agency in accordance with the applicable legislation.

05 (1996-01-01) Quebec Sales Tax

The Federal Government is exempt from the Quebec Sales Tax which took effect on July 1, 1992. Tenderers shall not include in their prices any amount that is intended to cover the 8 percent tax on goods and the 4 percent tax on services performed in the execution of the work except for such amounts for which an Input Tax Refund is not available. Tenderers should make arrangements directly with the Province of Quebec to recover any Quebec Sales Tax paid by them in performing the work under the contract.

06 (1996-01-01) Capital Development and Re-development Charges

For the purposes of GC 14 of the General Conditions "C" (R0202D), only fees or charges directly related to the processing and issue of building permits shall be included. Tenderers shall not include any monies in the tender amount for special municipal development, re-development or other fees or charges which a municipal authority may seek as a prerequisite to the issuance of building permits.

07 (2004-12-10) Bid Depository

If the tender advertisement for the work states that a Bid Depository shall be used for specified parts of the Work, the Tenderer shall

- (a) Obtain bids for the specified parts through the Bid Depository according to local Bid Depository rules; and
- (b) Instruct all trade contractors bidding directly to the Tenderer to tender on the scope of the work as defined in local Bid Depository rules (e.g. trade definitions, specification sections etc.).

08 (1996-01-01) Registry and Pre-qualification of Floating Plant

Dredges or other floating plant to be used in the performance of the work must be on Canadian registry. For dredges or other floating plant which are not of Canadian make or manufacture, the Tenderer must obtain a certificate of qualification from Industry Canada as described in the Floating Plant Appendix of

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the Tender Form, and this certificate must accompany the tender. Plant so qualified by Industry Canada may be accepted on this dredging project.

09 (1996-01-01) Listing of Subcontractors and Suppliers

Notwithstanding any list of subcontractors which the Tenderer may be required to submit as part of the tender, the Tenderer submitting the lowest acceptable tender shall, within forty-eight (48) hours of receipt of a notice thereof, submit the names of subcontractors and suppliers for the part or parts of the work listed in the said notice.

10 (2005-12-16) Tender Security Requirements

1. The Tenderer shall submit tender security with the tender in the form of a bid bond or a security deposit, and
 - (a) if the tender amount is \$250,000 or less, the tender security shall be equal to not less than 10 percent of the tender amount;
 - (b) if the tender amount is greater than \$250,000, the tender security shall be equal to not less than \$25,000 plus an amount that is equal to not less than 5 percent of that part of the tender amount that exceeds \$250,000.

The maximum amount of tender security required with any tender is \$250,000.

2. A bid bond shall be in an approved form (*Supply Manual*, Annex 7.1), properly completed, with original signature(s) and issued by an approved company whose bonds are acceptable to the Government of Canada either at the time of tender closing or as identified at the following web sites: <http://www.pwgsc.gc.ca/acquisitions/text/sm/chapter07-e.html#annex7.1> and http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_1_e.html (TB Acceptable Bonding Companies).
3. A security deposit shall be an original, properly completed, signed where required and either:
 - (a) a bill of exchange, bank draft or money order payable to the Receiver General for Canada; or
 - (b) bonds of the Government of Canada or bonds unconditionally guaranteed as to principal and interest by the Government of Canada, or
 - (c) an irrevocable standby letter of Credit.
4. A bill of exchange, bank draft or money order referred to in paragraph 10.3 (a) shall be certified by or drawn on
 - (a) a corporation or institution that is a member of the Canadian Payments Association, or
 - (b) a corporation that accepts deposits that are insured by the Canada Deposit Insurance Corporation or the "Régie de l'assurance-dépôts du Québec" to the maximum permitted by law, or
 - (c) a corporation that accepts public deposits and repayment of the deposits is unconditionally guaranteed by Her Majesty in right of a province, or
 - (d) a corporation, association or federation incorporated or organized as a credit union or cooperative credit society that conforms to the requirements of a credit union which are more particularly described in paragraph 137 (6)(b) of the *Income Tax Act*, or
 - (e) Canada Post Corporation.
5. If a bill of exchange, bank draft or money order is drawn on an institution or corporation other than a chartered bank it must be accompanied by proof that the said institution or corporation meets at least one of the criteria described in subsection 10.4, either by letter or by a stamped certification on the bill of exchange, bank draft or money order.
6. For the purposes of this section a bill of exchange is an unconditional order in writing signed by the Tenderer and addressed to an approved financial institution, requiring the said institution to

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pay, on demand, at a fixed or determinable time a sum certain of money to, or to the order of, the Receiver General for Canada.

7. Bonds referred to in paragraph 10.3(b) shall be provided on the basis of their market value current at the date of tender closing, and shall be
 - (a) payable to bearer, or
 - (b) accompanied by a duly executed instrument of transfer of the bonds to the Receiver General for Canada in the form prescribed by the Domestic Bonds of Canada Regulations, or
 - (c) registered as to principal or as to principal and interest in the name of the Receiver General for Canada pursuant to the Domestic Bonds of Canada Regulations.
8. An irrevocable standby letter of Credit;
 - (a) is any arrangement, however named or described, whereby a financial institution (the "Issuer"), acting at the request and on the instructions of a customer (the "Applicant"), or on its own behalf, is to make a payment to or to the order of Canada, as the beneficiary, or is to accept and pay bills of exchange drawn by Canada, or authorizes another financial institution to effect such payment, or accept and pay such bills of exchange, or authorizes another financial institution to negotiate, against written demand(s) for payment provided that the terms and conditions of the letter of credit are complied with.
 - (b) states the face amount which may be drawn against it;
 - (c) states its expiry date;
 - (d) provides for sight payment to the Receiver General for Canada by way of the financial institutions' draft against presentation of a written demand for payment signed by the authorized departmental representative identified in the letter of credit by his/her office;
 - (e) provides that more than one written demand for payment may be presented subject to the sum of those demands not exceeding the face amount of the Letter of Credit;
 - (f) provides that it is subject to the International Chamber of Commerce (ICC) Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500;
 - (g) clearly specifies that it is irrevocable or deemed to be irrevocable pursuant to article 6c) of the International Chamber of Commerce (ICC) Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500; and
 - (h) is issued or confirmed, in either official language, by a financial institution which is a member of the Canadian Payments Association and is on the letterhead of the Issuer or Confirmer. The format is left to the discretion of the Issuer or Confirmer.
9. Tender security shall lapse or be returned as soon as practical following
 - (a) the tender closing date, for those Tenderers submitting non-compliant tenders; and
 - (b) the administrative tender review, for those Tenderers submitting compliant tenders ranked fourth to last on the schedule of tenders; and
 - (c) the award of contract, for those Tenderers submitting the second and third ranked tenders; and
 - (d) the receipt of contract security, for the successful Tenderer; or
 - (e) the cancellation of the tender call, for all Tenderers.
10. Notwithstanding the provisions of paragraph 10.9(b) and provided more than three compliant tenders have been received, if one or more of the tenders ranked third to first is withdrawn or rejected for whatever reason then Canada reserves the right to hold the security of the next highest ranked compliant tender in order to retain the tender security of at least three valid and compliant tenders.

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11 (2004-12-10) Submission of Tender

1. The Tender Form, duly completed, shall be enclosed and sealed in an envelope provided by the Tenderer, and shall be addressed and submitted to the office designated for the receipt of tenders. It must be received on or before the date and time set for tender closing.
2. Prior to submitting the tender, the Tenderer shall ensure that the following information is clearly printed or typed in the appropriate spaces on the face of the tender return envelope:
 - (a) Solicitation Number
 - (b) Project Number and Description/Location
 - (c) Name of Tenderer
 - (d) Closing Time/Date
3. Failure to comply with subsections 11.1 and 11.2 may render the tender liable to disqualification.

12 (2004-12-10) Revision of Tender

1. A tender submitted in accordance with these instructions may be revised by letter or facsimile provided the revision is received at the office designated for the receipt of tenders, on or before the date and time set for the closing of tenders. The letter or facsimile shall
 - (a) be on the Tenderer's letterhead or bear a signature that identifies the Tenderer;
 - (b) for the lump sum portion of a tender, clearly identify the amount of the current revision. The total aggregate sum of all revisions submitted, including the current revision, shall be shown separately; and
 - (c) for the Unit Price portion of a tender, clearly identify the change(s) in the Price(s) per Unit and the specific Item(s) to which each change applies. If a revision is to be applied to a specific Item that was previously amended then, in addition to the amount of the current revision, the total aggregate sum of all revisions submitted, including the current revision, for that Item shall be shown separately.
2. A letter or facsimile submitted to confirm an earlier revision shall be clearly identified as "CONFIRMATION ONLY".
3. Failure to comply with any of the above provisions will result in the rejection of the non-compliant revision(s) only. The tender shall be evaluated based on the original tender submitted and all other compliant revision(s).

13 (2004-12-10) Acceptance of Tender

1. Her Majesty may accept any tender, whether it is the lowest or not, or may reject any or all tenders.
2. Without limiting the generality of subsection 13.1, Her Majesty may reject any tender based on an unfavourable assessment of:
 - (a) the adequacy of the tendered price to permit the work to be carried out and, in the case of a tender providing unit prices or a combination of lump sum and unit prices, whether each such price reasonably reflects the cost of performing the part of the work to which that price applies;
 - (b) the Tenderer's ability to provide the necessary management structure, skilled personnel, experience and equipment to perform competently the work under the contract, and
 - (c) the Tenderer's performance on other contracts.
3. In assessing the Tenderer's performance on other contracts pursuant to subsection 13.2, Her Majesty may consider, but not be limited to, such matters as:
 - (a) the quality of workmanship of the Tenderer in performing the work,
 - (b) the timeliness of completion of the work, and

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- (c) the Tenderer's overall management of the work and its effect on the level of effort demanded of the department and its representatives.
4. Her Majesty may reject a bid where any of the following circumstances is present:
- (a) the Tenderer, or any employee or subcontractor included as part of the Tender, has been convicted under section 121 ("Frauds on the government" & "Contractor subscribing to election fund"), 124 ("Selling or purchasing office") or 418 ("Selling defective stores to Her Majesty") of the Criminal Code;
 - (b) the Tenderer's bidding privileges are suspended or are in the process of being suspended;
 - (c) the bidding privileges of any employee or subcontractor included as part of the Tender have been suspended or are in the process of being suspended, which suspension or pending suspension would render that employee or subcontractor ineligible to bid on the Work, or the portion of the Work the employee or subcontractor is to perform;
 - (d) with respect to current or prior transactions with the Government of Canada
 - (i) the Tenderer is bankrupt or where, for whatever reason, its activities are rendered inoperable for an extended period;
 - (ii) evidence, satisfactory to Her Majesty, of fraud, bribery, fraudulent misrepresentation or failure to comply with any law protecting individuals against any manner of discrimination, has been received with respect to the Tenderer, any of its employees or any subcontractor included as part of its Tender;
 - (iii) the Minister has previously exercised or intends to exercise the contractual remedy of taking the work out of the contractor's hands with respect to a Contract with the Tenderer, any of its employees or any subcontractor included as part of its Tender; or
 - (iv) Her Majesty determines that the Tenderer's performance on other contracts, including the efficiency and workmanship as well as the extent to which the Tenderer executed the work in accordance with contractual terms and conditions, is sufficiently poor to jeopardize the successful completion of the requirement being bid on.
5. Where Her Majesty intends to reject a Tender pursuant to a provision of subsection 13.4, other than paragraph 13.4(b), the Minister will so inform the Tenderer and provide the Tenderer ten (10) days within which to make representations, prior to making a final decision on the Tender rejection.

14 (1996-01-01) Language of the Tender and Contract Documents

The contract documents to be signed by the successful Tenderer shall be in the same official language (English or French) as the language of the tender documents submitted.

15 (1996-01-01) Contract Security Requirements

The successful Tenderer shall be required to provide contract security in accordance with the Contract Security Conditions "F" (R0205D) of the tender documents listed above within fourteen (14) days after receipt of a notice in writing that the tender was accepted by Her Majesty.

16 (2004-12-10) Compliance with Applicable Laws

1. By submission of a tender, the Tenderer declares that the Tenderer has the legal capacity to enter into a contract and is in compliance with all federal, provincial and municipal laws and regulations applicable to the submission of the tender and entry into any ensuing contract for the performance of the work.
2. For the purpose of verifying the requirements expressed in subsection 16.1, a Tenderer shall, if requested, provide a copy of every valid licence, permit, registration, certificate, declaration, filing or other authorization listed in the request, and shall provide such documentation within the time limit(s) set out in the said request.

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3. Failure to comply with the requirements expressed herein shall result in disqualification of the tender.

17 (2002-12-13) Approval of Alternative Materials

When materials are specified by trade names or trademarks, or by manufacturers' or suppliers' names, the tender shall be based on use of the named materials. During the tendering period, alternative materials may be considered provided full technical data is received in writing by the Contracting Authority at least ten (10) days prior to the tender closing date. If the alternative materials are approved for the purposes of the tender, an addendum to the tender documents will be issued.

18 (2005-12-16) Performance Evaluation

1. Tenderers shall take note that the performance of the Contractor during and upon completion of the work shall be evaluated by the Minister. The evaluation will be based on the quality of workmanship; timeliness of completion of the work; project management, contract management and management of health and safety. Should the Contractor's performance be considered unsatisfactory, the Contractor's bidding privileges on future work may be suspended indefinitely.
2. An electronic version of the form PWGSC-TPSGC 2913, SELECT - Contractor Performance Evaluation Report Form, used to record the performance is available on the Public Works and Government Services Canada (PWGSC) Website:
<http://www.pwgsc.gc.ca/acquisitions/text/forms/forms-e.html>.

19 (2004-12-10) Procurement Business Number

1. For procurement purposes, the Government of Canada uses a unique Procurement Business Number (PBN) to identify a company and its branches, divisions, or offices, where appropriate. The PBN is created using the entity's Canada Revenue Agency Business Number.
2. All Canadian companies are required to have a PBN prior to contract award in order to receive a PWGSC contract. Non-Canadian companies are strongly encouraged to obtain a PBN.
3. Companies may register for a PBN in the Supplier Registration Information system on line at the Contracts Canada Website at: <http://contractscanada.gc.ca>.
4. For non-Internet registration, contact the Contracts Canada InfoLine at 1-800-811-1148 or (819) 956-3440, in the National Capital Area, to obtain the telephone number of the nearest Supplier Registration Agent.

R0001T (10/12/04) General Instructions to Tenderers

Effective 16/12/05, this clause is superseded by R0001T.

R0002T (12/05/00) Instructions to Tenderers

This clause is cancelled effective 10/12/04.

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R0002T (16/02/98) Instructions to Tenderers

Effective 12/05/00, this clause is superseded by R0002T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS.

R0200C (16/12/05) Articles of Agreement "A"

Public Works and Government Services Canada

A1 Contract Documents
A2 Date of Completion of Work and Description of Work
A3 Contract Amount
A4 Contractor's Address
A5 Unit Price Table

These Articles of Agreement made in duplicate this ____ day of ____ 20____.

Between

Canada represented by the Minister of ____ (referred to in the contract documents as the "Minister")

and

____ (referred to in the contract documents as the "Contractor")

Witness that in consideration for the mutual promises and obligations contained in the contract, Canada and the Contractor covenant and agree as follows:

A1 (2004-12-10) Contract Documents

1. Subject to subsections A1.4 and A1.5, the documents forming the contract between Canada and the Contractor, referred to herein as the contract documents, are
 - (a) these Articles of Agreement,
 - (b) the documents entitled Plans and Specifications, referred to herein as the "Plans and Specifications",
 - (c) the document entitled Terms of Payment "B", referred to herein as the "Terms of Payment",
 - (d) the document entitled General Conditions "C", referred to herein as the "General Conditions",
 - (e) the document entitled Fair Wages and Hours of Labour, Labour Conditions referred to herein as the "Labour Conditions",
 - (f) the document entitled Insurance Conditions "E", referred to herein as the Insurance Conditions,
 - (g) the document entitled Contract Security Conditions "F", referred to herein as the "Contract Security Conditions",
 - (h) any amendment or variation of the contract documents that is made in accordance with the General Conditions,

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- (i) the document entitled Fair Wage Schedules for Federal Construction Contracts, referred to herein as "Fair Wage Schedules",
 - (j) the document entitled International Sanctions,
 - (k) the document entitled Submission of Quotation for Contemplated Change Notices, and
 - (l) any addenda issued before the date set for tender closing.
2. The Minister hereby designates _____ of _____, of the Government of Canada as the Engineer for the purposes of the contract, and for all purposes of or incidental to the contract, the Engineer's address shall be deemed to be: _____
3. In the contract
- (a) "Fixed Price Arrangement" means that part of the contract that prescribes a lump sum as payment for performance of the work to which it relates; and
 - (b) "Unit Price Arrangement" means that part of the contract that prescribes the product of a price multiplied by a number of units of measurement of a class as payment for performance of the work to which it relates.
4. Any of the provisions of the contract that are expressly stipulated to be applicable only to a Unit Price Arrangement are not applicable to any part of the work to which a Fixed Price Arrangement is applicable.
5. Any of the provisions of the contract that are expressly stipulated to be applicable only to a Fixed Price Arrangement are not applicable to any part of the work to which a Unit Price Arrangement is applicable.

A2 (2005-12-16) Date of Completion of Work and Description of Work

The Contractor shall, between the date of these Articles of Agreement and the _____ day of _____ 20_____, in a careful and workmanlike manner, diligently perform and complete the following work:

which work is more particularly described in the Plans and Specifications.

A3 (2004-12-10) Contract Amount

1. Subject to any increase, decrease, deduction, reduction or set-off that may be made under the contract, Canada shall pay the Contractor at the times and in the manner that is set out or referred to in the Terms of Payment
- (a) the sum of \$_____, Goods and Services Tax (GST) extra, in consideration for the performance of the work or the part thereof that is subject to a Fixed Price Arrangement, and
 - (b) a sum that is equal to the aggregate of the products of the number of units of measurement of each class of labour, plant and material that is set out in a Final Certificate of Measurement referred to in GC 44.8 multiplied in each case by the appropriate unit price, GST extra, that is set out in the Unit Price Table in consideration for the performance of the work or the part thereof that is subject to a Unit Price Arrangement.
2. For the information and guidance of the Contractor and the persons administering the contract on behalf of Canada, but not so as to constitute a warranty, representation or undertaking of any nature by either party, it is estimated that the total amount payable by Canada to the Contractor for the part of the work to which a Unit Price Arrangement is applicable will be approximately \$ _____.
3. Paragraph A3.1(a) is applicable only to a Fixed Price Arrangement.

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4. Paragraph A3.1(b) and subsection A3.2 are applicable only to a Unit Price Arrangement.

A4 (2005-12-16) Contractor's Address

For all purposes of or incidental to the contract, the Contractor's address shall be deemed to be:

A5 (2005-12-16) Price Table

1. Canada and the Contractor agree that the following table is the Unit Price Table for the purposes of the contract:

| Column 1 Item | Column 2 Class of Labour, Plant or Material | Column 3 Estimated Unit of Measurement | Column 4 Total Quantity | Column 5 Price per Unit | Column 6 Estimated Total Price |
|------------------|---|--|----------------------------|----------------------------|--------------------------------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

2. The Unit Price Table that is set out in subsection A5.1 designates the part of the work to which a Unit Price Arrangement is applicable.

3. The part of the work that is not designated in the Unit Price Table referred to in subsection A5.2 is the part of the work to which a Fixed Price Arrangement is applicable.

IN WITNESS WHEREOF the parties hereto have executed these Articles of Agreement as of the day and year first above written.

FOR LIMITED COMPANY OR INCORPORATED COMPANY SEALED, ATTESTED TO AND DELIVERED on behalf of the Contractor by

 (Print Name of Signatory)

 (Signature of Authorized Signatory)

 (Print Title of Signatory)

in the presence of

 (Signature of Witness)

 (Print Name of Signatory)

 (Signature of Authorized Signatory)

 (Print Title of Signatory)

in the presence of

 (Signature of Witness)

 (Corporate Seal)

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PARTNERSHIP OR SOLE PROPRIETORSHIP SEALED, ATTESTED TO AND DELIVERED on behalf of the Contractor by

(Signature of Partner/
Sole Proprietor)

(Print name of Partner/
Sole Proprietor)

Seal

in the presence of

(Signature of Witness)

(Signature of Partner)

(Print Name of Partner)

Seal

in the presence of

(Signature of Witness)

EXECUTED ON BEHALF OF Canada by

(Signature of Authorized Departmental Officer)

} _____
(Print Name of Officer)
}
} _____
(Print Title of Officer)

in the presence of

(Signature of Witness)

and countersigned by

(Signature of Authorized Departmental Officer)

} _____
(Print Name of Officer)
}
} _____
(Print Title of Officer)

in the presence of

(Signature of Witness)

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R0200C (10/12/04) Articles of Agreement "A"

Effective 16/12/05, this clause is superseded by R0200C.

R0201D (13/12/02) Terms of Payment "B"

Public Works and Government Services Canada

| | |
|-----|---|
| TP1 | Amount Payable - General |
| TP2 | Amounts Payable to the Contractor |
| TP3 | Amounts Payable to Her Majesty |
| TP4 | Time of Payment |
| TP5 | Progress Report and Payment Thereunder Not Binding on Her Majesty |
| TP6 | Delay in Making Payment |
| TP7 | Right of Set-off |
| TP8 | Payment in Event of Termination |
| TP9 | Interest on Settled Claims |

TP1 (01/01/96) Amount Payable - General

1.1 Subject to any other provisions of the contract, Her Majesty shall pay the Contractor, at the times and in the manner hereinafter set out, the amount by which

1.1.1 the aggregate of the amounts described in TP2 exceeds

1.1.2 the aggregate of the amounts described in TP3

and the Contractor shall accept that amount as payment in full satisfaction for everything furnished and done by the Contractor in respect of the work to which the payment relates.

TP2 (01/10/94) Amounts Payable to the Contractor

2.1 The amounts referred to in TP1.1.1 are the aggregate of

2.1.1 the amounts referred to in the Articles of Agreement, and

2.1.2 the amounts, if any, that are payable to the Contractor pursuant to the General Conditions.

TP3 (01/10/94) Amounts Payable to Her Majesty

3.1 The amounts referred to in TP1.1.2 are the aggregate of the amounts, if any, that the Contractor is liable to pay Her Majesty pursuant to the contract.

3.2 When making any payment to the Contractor, the failure of Her Majesty to deduct an amount referred to in TP3.1 from an amount referred to in TP2 shall not constitute a waiver of the right to do so, or an admission of lack of entitlement to do so in any subsequent payment to the Contractor.

TP4 (13/12/02) Time of Payment

4.1 In these Terms of Payment

4.1.1 The "payment period" means a period of 30 consecutive days or such other longer period as is agreed between the Contractor and the Engineer.

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- 4.1.2 An amount is "due and payable" when it is due and payable by Her Majesty to the Contractor according to TP4.5, TP4.8 or TP4.11.
- 4.1.3 An amount is overdue when it is unpaid on the first day following the day upon which it is due and payable.
- 4.1.4 The "date of payment" means the date of the negotiable instrument of an amount due and payable by the Receiver General for Canada.
- 4.1.5 The "Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which it makes short term advances to members of the Canadian Payments Association.
- 4.1.6 The "Average Bank Rate" means the simple arithmetic mean of the Bank Rate in effect at 4:00 p.m. Eastern Standard Time each day during the calendar month which immediately precedes the calendar month in which payment is made.
- 4.2 The Contractor shall, on the expiration of a payment period, deliver to the Engineer in respect of that payment period a written progress claim that fully describes any part of the work that has been completed, and any material that was delivered to the work site but not incorporated into the work, during that payment period.
- 4.3 The Engineer shall, not later than ten (10) days after receipt of a progress claim referred to in TP4.2,
 - 4.3.1 inspect the part of the work and the material described in the progress claim; and
 - 4.3.2 issue a progress report, a copy of which the Engineer will give to the Contractor, that indicates the value of the part of the work and the material described in the progress claim that, in the opinion of the Engineer,
 - 4.3.2.1 is in accordance with the contract, and
 - 4.3.2.2 was not included in any other progress report relating to the contract.
- 4.4 Subject to TP1 and TP4.5 Her Majesty shall pay the Contractor
 - 4.4.1 an amount that is equal to 95% of the value that is indicated in the progress report referred to in TP4.3.2 if a labour and material payment bond has been furnished by the Contractor, or
 - 4.4.2 an amount that is equal to 90% of the value that is indicated in the progress report referred to in TP4.3.2 if a labour and material payment bond has not been furnished by the Contractor.
- 4.5 Her Majesty shall pay the amount referred to in TP4.4 not later than
 - 4.5.1 30 days after the receipt by the Engineer of a progress claim referred to in TP4.2, or
 - 4.5.2 15 days after the Contractor has made and delivered to the Engineer
 - 4.5.2.1 a statutory declaration described in TP4.6 in respect of a progress claim referred to in TP4.2,
 - 4.5.2.2 in the case of the Contractor's first progress claim, a construction schedule in accordance with the relevant section of the Specifications, and
 - 4.5.2.3 if the requirement for a schedule is specified, an update of the said schedule at the times identified in the relevant sections of the Specifications,whichever is later.
- 4.6 A statutory declaration referred to in TP4.5 shall contain a deposition by the Contractor that, up to the date of the Contractor's progress claim, the Contractor has complied with all its lawful obligations with respect to the Labour Conditions and that all lawful obligations of the Contractor

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- to subcontractors and suppliers of material in respect of the work under the contract have been fully discharged.
- 4.7 Subject to TP1 and TP4.8, Her Majesty shall pay the Contractor the amount referred to in TP1 less the aggregate of
- 4.7.1 the sum of all payments that were made pursuant to TP4.4;
 - 4.7.2 an amount that is equal to the Engineer's estimate of the cost to Her Majesty of rectifying defects described in the Interim Certificate of Completion; and
 - 4.7.3 an amount that is equal to the Engineer's estimate of the cost to Her Majesty of completing the parts of the work described in the Interim Certificate of Completion other than the defects referred to in TP4.7.2.
- 4.8 Her Majesty shall pay the amount referred to in TP4.7 not later than
- 4.8.1 30 days after the date of issue of an Interim Certificate of Completion referred to in GC44.2, or
 - 4.8.2 15 days after the Contractor has made and delivered to the Engineer
 - 4.8.2.1 a statutory declaration described in TP4.9 in respect of an Interim Certificate of Completion referred to in GC44.2, and
 - 4.8.2.2 if so specified in the relevant sections of the Specifications, an update of the construction schedule referred to in TP4.5.2 and the updated schedule shall, in addition to the specified requirements, clearly show a detailed timetable that is acceptable to the Engineer for the completion of any unfinished work and the correction of all listed defects.
- whichever is later.
- 4.9 A statutory declaration referred to in TP4.8 shall contain a deposition by the Contractor that up to the date of the Interim Certificate of Completion the Contractor has
- 4.9.1 complied with all of the Contractor's lawful obligations with respect to the Labour Conditions;
 - 4.9.2 discharged all of the Contractor's lawful obligations to the subcontractors and suppliers of material in respect of the work under the contract; and
 - 4.9.3 discharged the Contractor's lawful obligations referred to in GC14.6.
- 4.10 Subject to TP1 and TP4.11, Her Majesty shall pay the Contractor the amount referred to in TP1 less the aggregate of
- 4.10.1 the sum of all payments that were made pursuant to TP4.4; and
 - 4.10.2 the sum of all payments that were made pursuant to TP4.7.
- 4.11 Her Majesty shall pay the amount referred to in TP4.10 not later than
- 4.11.1 60 days after the date of issue of a Final Certificate of Completion referred to in GC44.1, or
 - 4.11.2 15 days after the Contractor has made and delivered to the Engineer a statutory declaration described in TP4.12,
- whichever is later.
- 4.12 A statutory declaration referred to in TP4.11 shall, in addition to the depositions described in TP4.9, contain a deposition by the Contractor that all of the Contractor's lawful obligations and any lawful claims against the Contractor that arose out of the performance of the contract have been discharged and satisfied.

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- TP5 (01/10/94) Progress Report and Payment Thereunder not Binding on Her Majesty**
- 5.1 Neither a progress report referred to in TP4.3 nor any payment made by Her Majesty pursuant to these Terms of Payment shall be construed as an admission by Her Majesty that the work, material or any part thereof is complete, is satisfactory or is in accordance with the contract.
- TP6 (01/01/96) Delay in Making Payment**
- 6.1 Notwithstanding GC7 any delay by Her Majesty in making any payment when it is due pursuant to these Terms of Payment shall not be a breach of the contract by Her Majesty.
- 6.2 Subject to TP6.3, Her Majesty shall pay to the Contractor simple interest at the Average Bank Rate plus 3 percent per annum on any amount which is overdue pursuant to TP4.1.3, and the interest shall apply from and include the day such amount became overdue until the day prior to the date of payment.
- 6.3 Interest in accordance with TP6.2 shall be paid without demand by the Contractor except that
- 6.3.1 in respect of amounts which are less than 15 days overdue, no interest shall be paid in respect of payment made within such 15 days unless the Contractor so demands after such amounts have become due, and
- 6.3.2 interest shall not be payable or paid on overdue advance payments if any.
- TP7 (01/10/94) Right of Set-off**
- 7.1 Without limiting any right of set-off or deduction given or implied by law or elsewhere in the contract, Her Majesty may set off any amount payable to Her Majesty by the Contractor under this contract or under any current contract against any amount payable to the Contractor under this contract.
- 7.2 For the purposes of TP7.1, "current contract" means a contract between Her Majesty and the Contractor
- 7.2.1 under which the Contractor has an undischarged obligation to perform or supply work, labour or material, or
- 7.2.2 in respect of which Her Majesty has, since the date on which the Articles of Agreement were made, exercised any right to take the work that is the subject of the contract out of the Contractor's hands.
- TP8 (01/10/94) Payment in Event of Termination**
- 8.1 If the contract is terminated pursuant to GC41, Her Majesty shall pay the Contractor any amount that is lawfully due and payable to the Contractor as soon as is practicable under the circumstances.
- TP9 (01/01/96) Interest on Settled Claims**
- 9.1 Her Majesty shall pay to the Contractor simple interest on the amount of a settled claim at the Average Bank Rate plus 3 per cent per annum from the date the settled claim was outstanding until the day prior to the date of payment.
- 9.2 For the purposes of TP9.1,
- 9.2.1 a claim is deemed to have been settled when an agreement in writing is signed by the Engineer and the Contractor setting out the amount of the claim to be paid by Her Majesty and the items of work for which the said amount is to be paid.
- 9.2.2 a settled claim is deemed to be outstanding from the day immediately following the date the said claim would have been due and payable under the contract had it not been disputed.
- 9.3 For the purposes of TP9 a claim means a disputed amount subject to negotiation between Her Majesty and the Contractor under the contract.

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R0201D (16/02/98) Terms of Payment "B"

Effective 13/12/02, this clause is superseded by R0201D.

R0202D (14/05/04) General Conditions "C"

Public Works and Government Services Canada

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- GC 48 Determination of Cost - Unit Price Table
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- GC 51 Records to be Kept by Contractor
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- GC 55 Contaminated Site Conditions
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- GC 57 Non-discrimination in Hiring and Employment of Labour
- GC 58 Applicable Laws

GC 1 (01/10/94) Interpretation

- 1.1 In the contract
 - 1.1.1 where reference is made to a part of the contract by means of numbers preceded by letters, the reference shall be construed to be a reference to the particular part of the contract that is identified by that combination of letters and numbers and to any other part of the contract referred to therein;
 - 1.1.2 "contract" means the contract documents referred to in the Articles of Agreement;
 - 1.1.3 "contract security" means any security given by the contractor to Her Majesty in accordance with the contract;
 - 1.1.4 "Engineer" means the officer or employee of Her Majesty who is designated pursuant to the Articles of Agreement and includes a person specially authorized by the Engineer to perform, on the Engineer's behalf, any of the Engineer's functions under the contract and is so designated in writing to the contractor;
 - 1.1.5 "material" includes all commodities, articles and things required to be furnished by or for the contractor under the contract for incorporation into the work;
 - 1.1.6 "Minister" includes a person acting for, or if the office is vacant, in place of the Minister and the Minister's successors in the office, and a lawful deputy and any representative appointed for the purposes of the contract;
 - 1.1.7 "person" includes, unless there is an express stipulation in the contract to the contrary, any partnership, proprietorship, firm, joint venture, consortium, corporation;
 - 1.1.8 "plant" includes all animals, tools, implements, machinery, vehicles, buildings, structures, equipment and commodities, articles and things other than material, that are necessary for the due performance of the contract;
 - 1.1.9 "subcontractor" means a person to whom the contractor has, subject to GC 4, subcontracted the whole or any part of the work;
 - 1.1.10 "superintendent" means the employee of the contractor who is designated by the contractor to act pursuant to GC 19;
 - 1.1.11 "work" includes, subject only to any express stipulation in the contract to the contrary, everything that is necessary to be done, furnished or delivered by the contractor to perform the contract.
- 1.2 The headings in the contract documents, other than in the Plans and Specifications, form no part of the contract but are inserted for convenience of reference only.
- 1.3 In interpreting the contract, in the event of discrepancies or conflicts between anything in the Plans and Specifications and the General Conditions, the General Conditions govern.
- 1.4 In interpreting the Plans and Specifications, in the event of discrepancies or conflicts between
 - 1.4.1 the Plans and Specifications, the Specifications govern;

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1.4.2 the Plans, the Plans drawn with the largest scale govern; and

1.4.3 figured dimensions and scaled dimensions, the figured dimensions govern.

GC 2 (01/10/94) Successors and Assigns

2.1 The contract shall inure to the benefit of and be binding upon the parties hereto and their lawful heirs, executors, administrators, successors and assigns.

GC 3 (01/10/94) Assignment of Contract

3.1 The contract may not be assigned by the contractor, either in whole or in part, without the written consent of the Minister.

GC 4 (01/10/94) Subcontracting by Contractor

4.1 Subject to this General Condition, the contractor may subcontract any part of the work.

4.2 The contractor shall notify the Engineer in writing of the contractor's intention to subcontract.

4.3 A notification referred to in GC 4.2 shall identify the part of the work, and the subcontractor with whom it is intended to subcontract.

4.4 The Engineer may object to the intended subcontracting by notifying the contractor in writing within six (6) days of receipt by the Engineer of a notification referred to in GC 4.2.

4.5 If the Engineer objects to a subcontracting pursuant to GC 4.4, the contractor shall not enter into the intended subcontract.

4.6 The contractor shall not, without the written consent of the Engineer, change a subcontractor who has been engaged by the contractor in accordance with this General Condition.

4.7 All the terms and conditions of this Contract that are of general application shall be incorporated in every other contract, except those contracts issued solely for the supply of plant or material, issued as a consequence of this Contract.

4.8 Neither a subcontracting nor the Engineer's consent to a subcontracting by the contractor shall be construed to relieve the contractor from any obligation under the contract or to impose any liability upon Her Majesty.

GC 5 (01/10/94) Amendments

No amendment or change in any of the provisions of the contract shall have any force or effect until it is reduced to writing.

GC 6 (01/10/94) No Implied Obligations

6.1 No implied terms or obligations of any kind by or on behalf of Her Majesty shall arise from anything in the contract and the express covenants and agreements therein contained and made by Her Majesty are the only covenants and agreements upon which any rights against Her Majesty are to be founded.

6.2 The contract supersedes all communications, negotiations and agreements, either written or oral, relating to the work, that were made prior to the date of the contract.

GC 7 (01/10/94) Time of the Essence

Time is of the essence of the contract.

GC 8 (01/10/94) Indemnification by Contractor

8.1 The contractor shall indemnify and save Her Majesty harmless from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings by whomever made, brought or prosecuted and in any manner based upon, arising out of, related to, occasioned by or attributable to the activities of the contractor, the contractor's servants, agents, subcontractors

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and subsubcontractors in performing the work including an infringement or an alleged infringement of a patent of invention or any other kind of intellectual property.

- 8.2 For the purpose of GC 8.1, "activities" includes any act improperly carried out, any omission to carry out an act and any delay in carrying out an act.

GC 9 (01/10/94) Indemnification by Her Majesty

- 9.1 Her Majesty shall, subject to the Crown *Liability Act*, the *Patent Act*, and any other law that affects Her Majesty's rights, powers, privileges or obligations, indemnify and save the contractor harmless from and against all claims, demands, losses, costs, damage, actions, suits or proceedings arising out of the contractor's activities under the contract that are directly attributable to

9.1.1 lack of or a defect in Her Majesty's title to the work site whether real or alleged; or

9.1.2 an infringement or an alleged infringement by the contractor of any patent of invention or any other kind of intellectual property occurring while the contractor was performing any act for the purposes of the contract employing a model, plan or design or any other thing related to the work that was supplied by Her Majesty to the contractor.

GC 10 (01/10/94) Members of House of Commons not to Benefit

As required by the *Parliament of Canada Act*, it is an express condition of the contract that no member of the House of Commons shall be admitted to any share or part of the contract or to any benefit arising therefrom.

GC 11 (01/10/94) Notices

- 11.1 Any notice, consent, order, decision, direction or other communication, other than a notice referred to in GC 11.4, that may be given to the contractor pursuant to the contract may be given in any manner.

- 11.2 Any notice, consent, order, decision, direction or other communication required to be given in writing, to any party pursuant to the contract shall, subject to GC 11.4, be deemed to have been effectively given

11.2.1 to the contractor, if delivered personally to the contractor or the contractor's superintendent, or forwarded by mail, telex or facsimile to the contractor at the address set out in A4.1, or

11.2.2 to Her Majesty, if delivered personally to the Engineer, or forwarded by mail, telex or facsimile to the Engineer at the address set out in A1.2.1.

- 11.3 Any such notice, consent, order, decision, direction or other communication given in accordance with GC 11.2 shall be deemed to have been received by either party

11.3.1 if delivered personally, on the day that it was delivered;

11.3.2 if forwarded by mail, on the earlier of the day it was received and the sixth day after it was mailed; and

11.3.3 if forwarded by telex or facsimile, 24 hours after it was transmitted.

- 11.4 A notice given under GC 38.1.1, GC 40 and GC 41, if delivered personally, shall be delivered to the contractor if the contractor is doing business as a sole proprietor or, if the contractor is a partnership or corporation, to an officer thereof.

GC 12 (01/10/94) Material, Plant and Real Property Supplied by Her Majesty

- 12.1 Subject to GC 12.2, the contractor is liable to Her Majesty for any loss of or damage to material, plant or real property that is supplied or placed in the care, custody and control of the contractor by Her Majesty for use in connection with the contract, whether or not that loss or damage is attributable to causes beyond the contractor's control.

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- 12.2 The contractor is not liable to Her Majesty for any loss or damage to material, plant or real property referred to in GC 12.1 if that loss or damage results from and is directly attributable to reasonable wear and tear.
- 12.3 The contractor shall not use any material, plant or real property referred to in GC 12.1 except for the purpose of performing this contract.
- 12.4 When the contractor fails to make good any loss or damage for which the contractor is liable under GC 12.1 within a reasonable time after being required to do so by the Engineer, the Engineer may cause the loss or damage to be made good at the contractor's expense, and the contractor shall thereupon be liable to Her Majesty for the cost thereof and shall, on demand, pay to Her Majesty an amount equal to that cost.
- 12.5 The contractor shall keep such records of all material, plant and real property referred to in GC 12.1 as the Engineer from time to time requires and shall satisfy the Engineer, when requested, that such material, plant and real property are at the place and in the condition in which they ought to be.

GC 13 (01/10/94) Material, Plant and Real Property become Property of Her Majesty

- 13.1 Subject to GC 14.7 all material and plant and the interest of the contractor in all real property, licences, powers and privileges purchased, used or consumed by the contractor for the contract shall, after the time of their purchase, use or consumption be the property of Her Majesty for the purposes of the work and they shall continue to be the property of Her Majesty
- 13.1.1 in the case of material, until the Engineer indicates that it will not be required for the work, and
- 13.1.2 in the case of plant, real property, licenses, powers and privileges, until the Engineer indicates that the interest vested in Her Majesty therein is no longer required for the purposes of the work.
- 13.2 Material or plant that is the property of Her Majesty by virtue of GC 13.1 shall not be taken away from the work site or used or disposed of except for the purposes of the work without the written consent of the Engineer.
- 13.3 Her Majesty is not liable for loss of or damage from any cause to the material or plant referred to in GC 13.1 and the contractor is liable for such loss or damage notwithstanding that the material or plant is the property of Her Majesty.

GC 14 (01/10/94) Permits and Taxes Payable

- 14.1 The contractor shall, within thirty (30) days after the date of the contract, tender to a municipal authority an amount equal to all fees and charges that would be lawfully payable to that municipal authority in respect of building permits as if the work were being performed for a person other than Her Majesty.
- 14.2 Within ten (10) days of making a tender pursuant to GC 14.1, the contractor shall notify the Engineer of the contractor's action and of the amount tendered and whether or not the municipal authority has accepted that amount.
- 14.3 If the municipal authority does not accept the amount tendered pursuant to GC 14.1, the contractor shall pay that amount to Her Majesty within six (6) days after the time stipulated in GC 14.2.
- 14.4 For the purposes of GC 14.1 to GC 14.3, "municipal authority" means any authority that would have jurisdiction respecting permission to perform the work if the owner were not Her Majesty.
- 14.5 Notwithstanding the residency of the contractor, the contractor shall pay any applicable tax arising from or related to the performance of the work under the contract.
- 14.6 In accordance with the Statutory Declaration referred to in TP 4.9, a contractor who has neither residence nor place of business in the province in which work under the contract is being performed shall provide Her Majesty with proof of registration with the provincial sales tax authorities in the said province.

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14.7 For the purpose of the payment of any applicable tax or the furnishing of security for the payment of any applicable tax arising from or related to the performance of the work under the contract, the contractor shall, notwithstanding the fact that all material, plant and interest of the contractor in all real property, licences, powers and privileges, have become the property of Her Majesty after the time of purchase, be liable, as a user or consumer, for the payment or for the furnishing of security for the payment of any applicable tax payable, at the time of the use or consumption of that material, plant or interest of the contractor in accordance with the relevant legislation.

GC 15 (01/10/94) Performance of Work under Direction of Engineer

15.1 The contractor shall

15.1.1 permit the Engineer to have access to the work and its site at all times during the performance of the contract;

15.1.2 furnish the Engineer with such information respecting the performance of the contract as the Engineer may require; and

15.1.3 give the Engineer every possible assistance to enable the Engineer to carry out the Engineer's duty to see that the work is performed in accordance with the contract and to carry out any other duties and exercise any powers specially imposed or conferred on the Engineer under the contract.

GC 16 (01/10/94) Cooperation with Other Contractors

16.1 Where, in the opinion of the Engineer, it is necessary that other contractors or workers with or without plant and material, be sent onto the work or its site, the contractor shall, to the satisfaction of the Engineer, allow them access and cooperate with them in the carrying out of their duties and obligation.

16.2 If

16.2.1 the sending onto the work or its site of other contractors or workers pursuant to GC 16.1 could not have been reasonably foreseen or anticipated by the contractor when entering into the contract; and

16.2.2 the contractor incurs, in the opinion of the Engineer, extra expense in complying with GC 16.1; and

16.2.3 the contractor has given the Engineer written notice of the contractor's claim for the extra expense referred to in GC 16.2.2 within thirty (30) days of the date that the other contractors or workers were sent onto the work or its site,

Her Majesty shall pay the contractor the cost, calculated in accordance with GC 48 to GC 50, of the extra labour, plant and material that was necessarily incurred.

GC 17 (01/10/94) Examination of Work

17.1 If, at any time after the commencement of the work but prior to the expiry of the warranty or guarantee period, the Engineer has reason to believe that the work or any part thereof has not been performed in accordance with the contract, the Engineer may have that work examined by an expert of the Engineer's choice.

17.2 If, as a result of an examination of the work referred to in GC 17.1, it is established that the work was not performed in accordance with the contract, then, in addition to and without limiting or otherwise affecting any of Her Majesty's rights and remedies under the contract either at law or in equity, the contractor shall pay Her Majesty, on demand, all reasonable costs and expenses that were incurred by Her Majesty in having that examination performed.

GC 18 (01/10/94) Clearing of Site

18.1 The contractor shall maintain the work and its site in a tidy condition and free from the accumulation of waste material and debris, in accordance with any directions of the Engineer.

18.2 Before the issue of an interim certificate referred to in GC 44.2, the contractor shall remove all the plant and material not required for the performance of the remaining work, and all waste

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material and other debris, and shall cause the work and its site to be clean and suitable for occupancy by Her Majesty's servants, unless otherwise stipulated in the contract.

- 18.3 Before the issue of a final certificate referred to in GC 44.1, the contractor shall remove from the work and its site all of the surplus plant and material and any waste material and other debris.
- 18.4 The contractor's obligations described in GC 18.1 to GC 18.3 do not extend to waste material and other debris caused by Her Majesty's servants or contractors and workers referred to in GC 16.1

GC 19 (01/10/94) Contractor's Superintendent

- 19.1 The contractor shall, forthwith upon the award of the contract, designate a superintendent.
- 19.2 The contractor shall forthwith notify the Engineer of the name, address and telephone number of a superintendent designated pursuant to GC 19.1.
- 19.3 A superintendent designated pursuant to GC 19.1 shall be in full charge of the operations of the contractor in the performance of the work and is authorized to accept any notice, consent, order, direction, decision or other communication on behalf of the contractor that may be given to the superintendent under the contract.
- 19.4 The contractor shall, until the work has been completed, keep a competent superintendent at the work site during working hours.
- 19.5 The contractor shall, upon the request of the Engineer, remove any superintendent who, in the opinion of the Engineer, is incompetent or has been guilty of improper conduct, and shall forthwith designate another superintendent who is acceptable to the Engineer.
- 19.6 Subject to GC 19.5, the contractor shall not substitute a superintendent without the written consent of the Engineer.
- 19.7 A breach by the contractor of GC 19.6 entitles the Engineer to refuse to issue any certificate referred to in GC 44 until the superintendent has returned to the work site or another superintendent who is acceptable to the Engineer has been substituted.

GC 20 (01/10/94) National Security

- 20.1 If the Minister is of the opinion that the work is of a class or kind that involves the national security, the Minister may order the contractor
- 20.1.1 to provide the Minister with any information concerning persons employed or to be employed by the contractor for purposes of the contract; and
- 20.1.2 to remove any person from the work and its site if, in the opinion of the Minister, that person may be a risk to the national security.
- 20.2 The contractor shall, in all contracts with persons who are to be employed in the performance of the contract, make provision for the performance of any obligation that may be imposed upon the contractor under GC 19 to GC 21.
- 20.3 The contractor shall comply with an order of the Minister under GC 20.1.

GC 21 (01/10/94) Unsuitable Workers

The contractor shall, upon the request of the Engineer, remove any person employed by the contractor for purposes of the contract who, in the opinion of the Engineer, is incompetent or is guilty of improper conduct, and the contractor shall not permit a person who has been removed to return to the work site.

GC 22 (01/10/94) Increased or Decreased Costs

- 22.1 The amount set out in the Articles of Agreement shall not be increased or decreased by reason of any increase or decrease in the cost of the work that is brought about by an increase or decrease in the cost of labour, plant or material or any wage adjustment arising pursuant to the Labour Conditions.

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22.2 Notwithstanding GC 22.1 and GC 35, an amount set out in the Articles of Agreement shall be adjusted in the manner provided in GC 22.3, if any change in a tax imposed under the *Excise Act*, the *Excise Tax Act*, the *Old Age Security Act*, the *Customs Act*, the *Customs Tariff* or any provincial sales tax legislation imposing a retail sales tax on the purchase of tangible personal property incorporated into Real Property

22.2.1 occurs after the date of the submission by the contractor of the contractor's tender for the contract;

22.2.2 applies to material; and

22.2.3 affects the cost to the contractor of that material.

22.3 If a change referred to in GC 22.2 occurs, the appropriate amount set out in the Articles of Agreement shall be increased or decreased by an amount equal to the amount that is established by an examination of the relevant records of the contractor referred to in GC 51 to be the increase or decrease in the cost incurred that is directly attributable to that change.

22.4 For the purpose of GC 22.2, where a tax is changed after the date of submission of the tender but public notice of the change has been given by the Minister of Finance before that date, the change shall be deemed to have occurred before the date of submission of the tender.

GC 23 (01/10/94) Canadian Labour and Material

23.1 The contractor shall use Canadian labour and material in the performance of the work to the full extent to which they are procurable, consistent with proper economy and the expeditious carrying out of the work.

23.2 Subject to GC 23.1, the contractor shall, in the performance of the work, employ labour from the locality where the work is being performed to the extent to which it is available, and shall use the offices of the Canada Employment Centres for the recruitment of workers wherever practicable.

23.3 Subject to GC 23.1 and GC 23.2, the contractor shall, in the performance of the work, employ a reasonable proportion of persons who have been on active service with the armed forces of Canada and have been honourably discharged therefrom.

GC 24 (01/10/94) Protection of Work and Documents

24.1 The contractor shall guard or otherwise protect the work and its site, and protect the contract, specifications, plans, drawings, information, material, plant and real property, whether or not they are supplied by Her Majesty to the contractor, against loss or damage from any cause, and the contractor shall not use, issue, disclose or dispose of them without the written consent of the Minister, except as may be essential for the performance of the work.

24.2 If any document or information given or disclosed to the contractor is assigned a security rating by the person who gave or disclosed it, the contractor shall take all measures directed by the Engineer to be taken to ensure the maintenance of the degree of security that is ascribed to that rating.

24.3 The contractor shall provide all facilities necessary for the purpose of maintaining security, and shall assist any person authorized by the Minister to inspect or to take security measures in respect of the work and its site.

24.4 The Engineer may direct the contractor to do such things and to perform such additional work as the Engineer considers reasonable and necessary to ensure compliance with or to remedy a breach of GC 24.1 to GC 24.3.

GC 25 (01/10/94) Public Ceremonies and Signs

25.1 The contractor shall not permit any public ceremony in connection with the work without the prior consent of the Minister.

25.2 The contractor shall not erect or permit the erection of any sign or advertising on the work or its site without the prior consent of the Engineer.

GC 26 (01/10/94) Precautions Against Damage, Infringement of Rights, Fire, and other Hazards

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- 26.1 The contractor shall, at the contractor's expense, do whatever is necessary to ensure that
- 26.1.1 no person, property, right, easement or privilege is injured, damaged or infringed by reasons of the contractor's activities in performing the contract;
 - 26.1.2 pedestrian and other traffic on any public or private road or waterway is not unduly impeded, interrupted or endangered by the performance or existence of the work or plant;
 - 26.1.3 fire hazards in or about the work or its site are eliminated and, subject to any direction that may be given by the Engineer, any fire is promptly extinguished;
 - 26.1.4 the health and safety of all persons employed in the performance of the work is not endangered by the method or means of its performance;
 - 26.1.5 adequate medical services are available to all persons employed on the work or its site at all times during the performance of the work;
 - 26.1.6 adequate sanitation measures are taken in respect of the work and its site; and
 - 26.1.7 all stakes, buoys and marks placed on the work or its site by or under the authority of the Engineer are protected and are not removed, defaced, altered or destroyed.
- 26.2 The Engineer may direct the contractor to do such things and to perform such additional work as the Engineer considers reasonable and necessary to ensure compliance with or to remedy a breach of GC 26.1.
- 26.3 The contractor shall, at the contractor's expense, comply with a direction of the Engineer made under GC 26.2.

GC 27 (01/10/94) Insurance

- 27.1 The contractor shall, at the contractor's expense, obtain and maintain insurance contracts in respect of the work and shall provide evidence thereof to the Engineer in accordance with the requirements of the Insurance Conditions "E".
- 27.2 The insurance contracts referred to in GC 27.1 shall
- 27.2.1 be in a form, of the nature, in the amounts, for the periods and containing the terms and conditions specified in Insurance Conditions "E"; and
 - 27.2.2 provide for the payment of claims under such insurance contracts in accordance with GC 28.

GC 28 (01/10/94) Insurance Proceeds

- 28.1 In the case of a claim payable under a Builders Risk/Installation (All Risks) insurance contract maintained by the contractor pursuant to GC 27, the proceeds of the claim shall be paid directly to Her Majesty, and
- 28.1.1 the monies so paid shall be held by Her Majesty for the purposes of the contract, or
 - 28.1.2 if Her Majesty elects, shall be retained by Her Majesty, in which event they vest in Her Majesty absolutely.
- 28.2 In the case of a claim payable under a General Liability insurance contract maintained by the contractor pursuant to GC 27, the proceeds of the claim shall be paid by the insurer directly to the claimant.
- 28.3 If an election is made pursuant to GC 28.1, the Minister may cause an audit to be made of the accounts of the contractor and of Her Majesty in respect of the part of the work that was lost, damaged or destroyed for the purpose of establishing the difference, if any, between
- 28.3.1 the aggregate of the amount of the loss or damage suffered or sustained by Her Majesty, including any costs incurred in respect of the clearing and cleaning of the work and its

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site and any other amount that is payable by the contractor to Her Majesty under the contract, minus any monies retained pursuant to GC 28.1.2; and

- 28.3.2 the aggregate of the amounts payable by Her Majesty to the contractor pursuant to the contract up to the date of the loss or damage.
- 28.4 A difference that is established pursuant to GC 28.3 shall be paid forthwith by the party who is determined by the audit to be the debtor to the party who is determined by the audit to be the creditor.
- 28.5 When payment of a deficiency has been made pursuant to GC 28.4, all rights and obligations of Her Majesty and the contractor under the contract shall, with respect only to the part of the work that was the subject of the audit referred to in GC 28.3, be deemed to have been expended and discharged.
- 28.6 If an election is not made pursuant to GC 28.1.2, the contractor shall, subject to GC 28.7, clear and clean the work and its site and restore and replace the part of the work that was lost, damaged or destroyed at the contractor's expense as if that part of the work had not yet been performed.
- 28.7 When the contractor clears and cleans the work and its site and restores and replaces the work referred to in GC 28.6, Her Majesty shall pay the contractor out of the monies referred to in GC 28.1 so far as they will thereunto extend.
- 28.8 Subject to GC 28.7, payment by Her Majesty pursuant to GC 28.7 shall be made in accordance with the contract but the amount of each payment shall be 100% of the amount claimed notwithstanding TP 4.4.1 and TP 4.4.2.

GC 29 (01/10/94) Contract Security

- 29.1 The contractor shall obtain and deliver contract security to the Engineer in accordance with the provisions of the Contract Security Conditions.
- 29.2 If the whole or a part of the contract security referred to in GC 29.1 is in the form of a security deposit, it shall be held and disposed of in accordance with GC 43 and GC 45.
- 29.3 If a part of the contract security referred to in GC 29.1 is in the form of a labour and material payment bond, the contractor shall post a copy of that bond on the work site.

GC 30 (01/10/94) Changes in the Work

- 30.1 Subject to GC 5, the Engineer may, at any time before issuing a Final Certificate of Completion,
- 30.1.1 order work or material in addition to that provided for in the Plans and Specifications; and
- 30.1.2 delete or change the dimensions, character, quantity, quality, description, location or position of the whole or any part of the work or material provided for in the Plans and Specifications or in any order made pursuant to GC 30.1.1,
- if that additional work or material, deletion, or change is, in the Engineer's opinion, consistent with the general intent of the original contract.
- 30.2 The contractor shall perform the work in accordance with such orders, deletions and changes that are made by the Engineer pursuant to GC 30.1 from time to time as if they had appeared in and been part of the Plans and Specifications.
- 30.3 The Engineer shall determine whether or not anything done or omitted by the contractor pursuant to an order, deletion or change referred to in GC 30.1 increased or decreased the cost of the work to the contractor.
- 30.4 If the Engineer determines pursuant to GC 30.3 that the cost of the work to the contractor has been increased, Her Majesty shall pay the contractor the increased cost that the contractor necessarily incurred for the additional work calculated in accordance with GC 49 or GC 50.
- 30.5 If the Engineer determines pursuant to GC 30.3 that the cost of the work to the contractor has been decreased, Her Majesty shall reduce the amount payable to the contractor under the

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contract by an amount equal to the decrease in the cost caused by the deletion or change referred to in GC 30.1.2 and calculated in accordance with GC 49.

- 30.6 GC 30.3 to GC 30.5 are applicable only to a contract or a portion of a contract for which a Fixed Price Arrangement is stipulated in the contract.
- 30.7 An order, deletion or change referred to in GC 30.1 shall be in writing, signed by the Engineer and given to the contractor in accordance with GC 11.

GC 31 (01/10/94) Interpretation of Contract by Engineer

- 31.1 If, at any time before the Engineer has issued a Final Certificate of Completion referred to in GC 44.1, any question arises between the parties about whether anything has been done as required by the contract or about what the contractor is required by the contract to do, and, in particular but without limiting the generality of the foregoing, about
- 31.1.1 the meaning of anything in the Plans and Specifications,
 - 31.1.2 the meaning to be given to the Plans and Specifications in case of any error therein, omission therefrom, or obscurity or discrepancy in their wording or intention,
 - 31.1.3 whether or not the quality or quantity of any material or workmanship supplied or proposed to be supplied by the contractor meets the requirements of the contract,
 - 31.1.4 whether or not the labour, plant or material provided by the contractor for performing the work and carrying out the contract are adequate to ensure that the work will be performed in accordance with the contract and that the contract will be carried out in accordance with its terms,
 - 31.1.5 what quantity of any kind of work has been completed by the contractor, or
 - 31.1.6 the timing and scheduling of the various phases of the performance of the work,
- the question shall be decided by the Engineer whose decision shall be final and conclusive in respect of the work.
- 31.2 The contractor shall perform the work in accordance with any decisions of the Engineer that are made under GC 31.1 and in accordance with any consequential directions given by the Engineer.

GC 32 (01/10/94) Warranty and Rectification of Defects in Work

- 32.1 Without restricting any warranty or guarantee implied or imposed by law or contained in the contract documents, the contractor shall, at the contractor's expense,
- 32.1.1 rectify and make good any defect or fault that appears in the work or comes to the attention of the Minister with respect to those parts of the work accepted in connection with the Interim Certificate of Completion referred to in GC 44.2 within twelve (12) months from the date of the Interim Certificate of Completion;
 - 32.1.2 rectify and make good any defect or fault that appears in or comes to the attention of the Minister in connection with those parts of the work described in the Interim Certificate of Completion referred to in GC 44.2 within twelve (12) months from the date of the Final Certificate of Completion referred to in GC 44.1.
- 32.2 The Engineer may direct the contractor to rectify and make good any defect or fault referred to in GC 32.1 or covered by any other expressed or implied warranty or guarantee.
- 32.3 A direction referred to in GC 32.2 shall be in writing, may include a stipulation in respect of the time within which a defect or fault is required to be rectified and made good by the contractor, and shall be given to the contractor in accordance with GC11.
- 32.4 The contractor shall rectify and make good any defect or fault described in a direction given pursuant to GC 32.2 within the time stipulated therein.

GC 33 (01/10/94) Non-compliance by Contractor

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- 33.1 If the contractor fails to comply with any decision or direction given by the Engineer pursuant to GC 18, GC 24, GC 26, GC 31 or GC 32, the Engineer may employ such methods as the Engineer deems advisable to do that which the contractor failed to do.
- 33.2 The contractor shall, on demand, pay Her Majesty an amount that is equal to the aggregate of all costs, expenses and damage incurred or sustained by Her Majesty by reason of the contractor's failure to comply with any decision or direction referred to in GC 33.1, including the cost of any methods employed by the Engineer pursuant to GC 33.1.

GC 34 (01/10/94) Protesting Engineer's Decisions

- 34.1 The contractor may, within ten (10) days after the communication to the contractor of any decision or direction referred to in GC 30.3 or GC 33.1, protest that decision or direction.
- 34.2 A protest referred to in GC 34.1 shall be in writing, contain full reasons for the protest, be signed by the contractor and be given to Her Majesty by delivery to the Engineer.
- 34.3 If the contractor gives a protest pursuant to GC 34.2, any compliance by the contractor with the decision or direction that was protested shall not be construed as an admission by the contractor of the correctness of that decision or direction, or prevent the contractor from taking whatever action the contractor considers appropriate in the circumstances.
- 34.4 The giving of a protest by the contractor pursuant to GC 34.2 shall not relieve the contractor from complying with the decision or direction that is the subject of the protest.
- 34.5 Subject to GC 34.6, the contractor shall take any action referred to in GC 34.3 within three months after the date that a Final Certificate of Completion is issued under GC 44.1 and not afterwards.
- 34.6 The contractor shall take any action referred to in GC 34.3 resulting from a direction under GC 32 within three (3) months after the expiry of a warranty or guarantee period and not afterwards.
- 34.7 Subject to GC 34.8, if Her Majesty determines that the contractor's protest is justified, Her Majesty shall pay the contractor the cost of the additional labour, plant and material necessarily incurred by the contractor in carrying out the protested decision or direction.
- 34.8 Costs referred to in GC 34.7 shall be calculated in accordance with GC 48 to GC 50.

GC 35 (01/10/94) Changes in Soil Conditions and Neglect or Delay by Her Majesty

- 35.1 Subject to GC 35.2 no payment, other than a payment that is expressly stipulated in the contract, shall be made by Her Majesty to the contractor for any extra expense or any loss or damage incurred or sustained by the contractor.
- 35.2 If the contractor incurs or sustains any extra expense or any loss or damage that is directly attributable to
- 35.2.1 a substantial difference between the information relating to soil conditions at the work site that is contained in the Plans and Specifications or other documents supplied to the contractor for use in preparing the contractor's tender or a reasonable assumption of fact based thereon made by the contractor, and the actual soil conditions encountered by the contractor at the work site during the performance of the contract, or
- 35.2.2 any neglect or delay that occurs after the date of the contract on the part of Her Majesty in providing any information or in doing any act that the contract either expressly requires Her Majesty to do or that would ordinarily be done by an owner in accordance with the usage of the trade,
- the contractor shall, within ten (10) days of the date the actual soil conditions described in GC 35.2.1 were encountered or the neglect or delay described in GC 35.2.2 occurred, give the Engineer written notice of intention to claim for that extra expense or that loss or damage.
- 35.3 When the contractor has given a notice referred to in GC 35.2, the contractor shall give the Engineer a written claim for extra expense or loss or damage within thirty (30) days of the date that a Final Certificate of Completion referred to in GC 44.1 is issued and not afterwards.

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- 35.4 A written claim referred to in GC 35.3 shall contain a sufficient description of the facts and circumstances of the occurrence that is the subject of the claim to enable the Engineer to determine whether or not the claim is justified and the contractor shall supply such further and other information for that purpose as the Engineer requires from time to time.
- 35.5 If the Engineer determines that a claim referred to in GC 35.3 is justified, Her Majesty shall make an extra payment to the contractor in an amount that is calculated in accordance with GC 47 to GC 50.
- 35.6 If, in the opinion of the Engineer, an occurrence described in GC 35.2.1 results in a savings of expenditure by the contractor in performing the contract, the amount set out in the Articles of Agreement shall, subject to GC 35.7, be reduced by an amount that is equal to the saving.
- 35.7 The amount of the saving referred to in GC 35.6 shall be determined in accordance with GC 47 to GC 50.
- 35.8 If the contractor fails to give a notice referred to in GC 35.2 and a claim referred to in GC 35.3 within the times stipulated, an extra payment shall not be made to the contractor in respect of the occurrence.

GC 36 (01/10/94) Extension of Time

- 36.1 Subject to GC 36.2, the Engineer may, on the application of the contractor made before the day fixed by the Articles of Agreement for completion of the work or before any other date previously fixed under this General Condition, extend the time for its completion by fixing a new date if, in the opinion of the Engineer, causes beyond the control of the contractor have delayed its completion.
- 36.2 An application referred to in GC 36.1 shall be accompanied by the written consent of the bonding company whose bond forms part of the contract security.

GC 37 (01/10/94) Assessments and Damages for Late Completion

- 37.1 For the purposes of this General Condition
- 37.1.1 the work shall be deemed to be completed on the date that an Interim Certificate of Completion referred to in GC 44.2 is issued, and
- 37.1.2 "period of delay" means the number of days commencing on the day fixed by the Articles of Agreement for completion of the work and ending on the day immediately preceding the day on which the work is completed but does not include any day within a period of extension granted pursuant to GC 36.1, and any other day on which, in the opinion of the Engineer, completion of the work was delayed for reasons beyond the control of the contractor.
- 37.2 If the contractor does not complete the work by the day fixed for its completion by the Articles of Agreement but completes it thereafter, the contractor shall pay Her Majesty an amount equal to the aggregate of
- 37.2.1 all salaries, wages and travelling expenses incurred by Her Majesty in respect of persons overseeing the performance of the work during the period of delay;
- 37.2.2 the cost incurred by Her Majesty as a result of the inability to use the completed work for the period of delay; and
- 37.2.3 all other expenses and damages incurred or sustained by Her Majesty during the period of delay as a result of the work not being completed by the day fixed for its completion.
- 37.3 The Minister may waive the right of Her Majesty to the whole or any part of the amount payable by the contractor pursuant to GC 37.2 if, in the opinion of the Minister, it is in the public interest to do so.

GC 38 (01/01/96) Taking the Work Out of the Contractor's Hands

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- 38.1 The Minister may, at the Minister's sole discretion, by giving a notice in writing to the contractor in accordance with GC 11, take all or any part of the work out of the contractor's hands, and may employ such means as the Minister sees fit to have the work completed if the contractor
- 38.1.1 has not, within six (6) days of the Minister or the Engineer giving notice to the contractor in writing in accordance with GC 11, remedied any delay in the commencement or any default in the diligent performance of the work to the satisfaction of the Engineer;
 - 38.1.2 has defaulted in the completion of any part of the work within the time fixed for its completion by the contract;
 - 38.1.3 has become insolvent or has committed an act of bankruptcy, and has neither made a proposal to its creditors nor filed a notice of intention to make such a proposal, pursuant to the Bankruptcy and Insolvency Act;
 - 38.1.4 has abandoned the work;
 - 38.1.5 has made an assignment of the contract without the consent required by GC 3.1; or
 - 38.1.6 has otherwise failed to observe or perform any of the provisions of the contract.
- 38.2 If the contractor has become insolvent or has committed an act of bankruptcy, and has either made a proposal to its creditors or filed a notice of intention to make such a proposal, pursuant to the *Bankruptcy and Insolvency Act*, the contractor shall immediately forward a copy of the proposal or the notice of intention to Her Majesty.
- 38.3 If the whole or any part of the work is taken out of the contractor's hands pursuant to GC 38.1,
- 38.3.1 the contractor's right to any further payment that is due or accruing due under the contract is, subject only to GC 38.5, extinguished, and
 - 38.3.2 the contractor is liable to pay Her Majesty, upon demand, an amount that is equal to the amount of all loss and damage incurred or sustained by Her Majesty in respect of the contractor's failure to complete the work.
- 38.4 If the whole or any part of the work that is taken out of the contractor's hands pursuant to GC 38.1 is completed by Her Majesty, the Engineer shall determine the amount, if any, of the holdback or a progress claim that had accrued and was due prior to the date on which the work was taken out of the contractor's hands and that is not required for the purposes of having the work performed or of compensating Her Majesty for any other loss or damage incurred or sustained by reason of the contractor's default.
- 38.5 Her Majesty may pay the contractor the amount determined not to be required pursuant to GC 38.4.

GC 39 (01/10/94) Effect of Taking the Work Out of the Contractor's Hands

- 39.1 The taking of the work or any part thereof out of the contractor's hands pursuant to GC 38 does not operate so as to relieve or discharge the contractor from any obligation under the contract or imposed upon him by law except the obligation to complete the performance of that part of the work that was taken out of the contractor's hands.
- 39.2 If the work or any part thereof is taken out of the contractor's hands pursuant to GC 38, all plant and material and the interest of the contractor in all real property, licences, powers and privileges acquired, used or provided by the contractor under the contract shall continue to be the property of Her Majesty without compensation to the contractor.
- 39.3 When the Engineer certifies that any plant, material, or any interest of the contractor referred to in GC 39.2 is no longer required for the purposes of the work, or that it is not in the interests of Her Majesty to retain that plant, material, or interest, it shall revert to the contractor.

GC 40 (01/10/94) Suspension of Work by Minister

- 40.1 The Minister may, when in the Minister's opinion it is in the public interest to do so, require the contractor to suspend performance of the work either for a specified or an unspecified period by giving a notice of suspension in writing to the contractor in accordance with GC 11.

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- 40.2 When a notice referred to in GC 40.1 is received by the contractor in accordance with GC 11, the contractor shall suspend all operations in respect of the work except those that, in the opinion of the Engineer, are necessary for the care and preservation of the work, plant and material.
- 40.3 The contractor shall not, during a period of suspension, remove any part of the work, plant or material from its site without the consent of the Engineer.
- 40.4 If a period of suspension is thirty (30) days or less, the contractor shall, upon the expiration of that period, resume the performance of the work and the contractor is entitled to be paid the extra cost, calculated in accordance with GC 48 to GC 50, of any labour, plant and material necessarily incurred by the contractor as a result of the suspension.
- 40.5 If, upon the expiration of a period of suspension of more than thirty (30) days, the Minister and the contractor agree that the performance of the work will be continued by the contractor, the contractor shall resume performance of the work subject to any terms and conditions agreed upon by the Minister and the contractor.
- 40.6 If, upon the expiration of a period of suspension of more than thirty (30) days, the Minister and the contractor do not agree that performance of the work will be continued by the contractor or upon the terms and conditions under which the contractor will continue the work, the notice of suspension shall be deemed to be a notice of termination pursuant to GC 41.

GC 41 (01/10/94) Termination of Contract

- 41.1 The Minister may terminate the contract at any time by giving a notice of termination in writing to the contractor in accordance with GC 11.
- 41.2 When a notice referred to in GC 41.1 is received by the contractor in accordance with GC 11, the contractor shall, subject to any conditions stipulated in the notice, forthwith cease all operations in performance of the contract.
- 41.3 If the contract is terminated pursuant to GC 41.1, Her Majesty shall pay the contractor, subject to GC 41.4, an amount equal to
- 41.3.1 the cost to the contractor of all labour, plant and material supplied by the contractor under the contract up to the date of termination in respect of a contract or part thereof for which a Unit Price Arrangement is stipulated in the contract, or
 - 41.3.2 the lesser of
 - 41.3.2.1 an amount, calculated in accordance with the Terms and Payment, that would have been payable to the contractor had the contractor completed the work, and
 - 41.3.2.2 an amount that is determined to be due to the contractor pursuant to GC 49 in respect of a contract or part thereof for which a Fixed Price Arrangement is stipulated in the contract
- less the aggregate of all amount that were paid to the Contractor by Her Majesty and all amounts that are due to Her Majesty from the contractor pursuant to the contract.
- 41.4 If Her Majesty and the contractor are unable to agree about an amount referred to in GC 41.3 that amount shall be determined by the method referred to in GC 50.

GC 42 (01/10/94) Claims Against and Obligations of the Contractor or Subcontractor

- 42.1 Her Majesty may, in order to discharge lawful obligations of and satisfy claims against the contractor or a subcontractor arising out of the performance of the contract, pay any amount that is due and payable to the contractor pursuant to the contract directly to the obligees of and the claimants against the contractor or the subcontractor but such amount if any, as is paid by Her Majesty shall not exceed that amount which the contractor would have been obliged to pay to such claimant had the provisions of the Provincial or Territorial lien legislation, or, in the Province of Quebec, the law relating to privileges, been applicable to the work. Any such claimant need not comply with the provisions of such legislation setting out the steps by way of notice, registration or otherwise as might have been necessary to preserve or perfect any claim for lien or privilege which claimant might have had.

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- 42.2 Her Majesty will not make any payment as described in GC 42.1 unless and until that claimant shall have delivered to Her Majesty:
- 42.2.1 a binding and enforceable Judgment or Order of a court of competent jurisdiction setting forth such amount as would have been payable by the contractor to the claimant pursuant to the provisions of the applicable Provincial or Territorial lien legislation, or, in the Province of Quebec, the law relating to privileges, had such legislation been applicable to the work; or
 - 42.2.2 a final and enforceable award of an arbitrator setting forth such amount as would have been payable by the contractor to the claimant pursuant to the provisions of the applicable Provincial or Territorial lien legislation, or, in the Province of Quebec, the law relating to privileges, had such legislation been applicable to the work; or
 - 42.2.3 the consent of the contractor authorizing a payment.
- For the purposes of determining the entitlement of a claimant pursuant to GC 42.2.1 and GC 42.2.2, the notice required by GC 42.8 shall be deemed to replace the registration or provision of notice after the performance of work as required by any applicable legislation and no claim shall be deemed to have expired, become void or unenforceable by reason of the claimant not commencing any action within the time prescribed by any applicable legislation.
- 42.3 The contractor shall, by the execution of this contract, be deemed to have consented to submit to binding arbitration at the request of any claimant those questions that need be answered to establish the entitlement of the claimant to payment pursuant to the provisions of GC 42.1 and such arbitration shall have as parties to it any subcontractor to whom the claimant supplied material, performed work or rented equipment should such subcontractor wish to be adjoined and the Crown shall not be a party to such arbitration and, subject to any agreement between the contractor and the claimant to the contrary, the arbitration shall be conducted in accordance with the Provincial or Territorial legislation governing arbitration applicable in the Province or Territory in which the work is located.
- 42.4 A payment made pursuant to GC 42.1 is, to the extent of the payment, a discharge of Her Majesty's liability to the contractor under the contract and may be deducted from any amount payable to the contractor under the contract.
- 42.5 To the extent that the circumstances of the work being performed for Her Majesty permit, the contractor shall comply with all laws in force in the Province or Territory where the work is being performed relating to payment period, mandatory holdbacks, and creation and enforcement of mechanics' liens, builders' liens or similar legislation or in the Province of Quebec, the law relating to privileges.
- 42.6 The contractor shall discharge all the contractor's lawful obligations and shall satisfy all lawful claims against the contractor arising out of the performance of the work at least as often as the contract requires Her Majesty to pay the contractor.
- 42.7 The contractor shall, whenever requested to do so by the Engineer, make a statutory declaration deposing to the existence and condition of any obligations and claims referred to in GC 42.6.
- 42.8 GC 42.1 shall only apply to claims and obligations
- 42.8.1 the notification of which has been received by the Engineer in writing before payment is made to the contractor pursuant to TP4.10 and within one hundred and twenty (120) days of the date on which the claimant
 - 42.8.1.1 should have been paid in full under the claimant's contract with the contractor or subcontractor where the claim is for money that was lawfully required to be held back from the claimant; or
 - 42.8.1.2 performed the last of the services, work or labour, or furnished the last of the material pursuant to the claimant's contract with the contractor or subcontractor where the claim is not for money referred to in GC 42.8.1.1, and

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42.8.2 the proceedings to determine the right to payment of which, pursuant to GC 42.2, shall have commenced within one year from the date that the notice referred to in GC 42.8.1 was received by the Engineer, and

the notification required by GC 42.8.1 shall set forth the amount claimed to be owing and the person who by contract is primarily liable.

42.9 Her Majesty may, upon receipt of a notice of claim under GC 42.8.1, withhold from any amount that is due and payable to the contractor pursuant to the contract the full amount of the claim or any portion thereof.

42.10 The Engineer shall notify the contractor in writing of receipt of any claim referred to in GC 42.8.1 and of the intention of Her Majesty to withhold funds pursuant to GC 42.9 and the contractor may, at any time thereafter and until payment is made to the claimant, be entitled to post, with Her Majesty, security in a form acceptable to Her Majesty in an amount equal to the value of the claim, the notice of which is received by the Engineer and upon receipt of such security Her Majesty shall release to the contractor any funds which would be otherwise payable to the contractor, that were withheld pursuant to the provisions of GC 42.9 in respect of the claim of any claimant for whom the security stands.

GC 43 (01/10/94) Security Deposit - Forfeiture or Return

43.1 If

43.1.1 the work is taken out of the contractor's hands pursuant to GC 38,

43.1.2 the contract is terminated pursuant to GC 41, or

43.1.3 the contractor is in breach of or in default under the contract,

Her Majesty may convert the security deposit, if any, to Her own use.

43.2 If Her Majesty converts the contract security pursuant to GC 43.1, the amount realized shall be deemed to be an amount due from Her Majesty to the contractor under the contract.

43.3 Any balance of an amount referred to in GC 43.2 that remains after payment of all losses, damage and claims of Her Majesty and others shall be paid by Her Majesty to the contractor if, in the opinion of the Engineer, it is not required for the purposes of the contract.

GC 44 (01/10/94) Engineer's Certificates

44.1 On the date that

44.1.1 the work has been completed, and

44.1.2 the contractor has complied with the contract and all orders and directions made pursuant thereto,

both to the satisfaction of the Engineer, the Engineer shall issue a Final Certificate of Completion to the contractor.

44.2 If the Engineer is satisfied that the work is substantially complete the Engineer shall, at any time before issuing a certificate referred to in GC 44.1, issue an Interim Certificate of Completion to the contractor, and

44.2.1 for the purposes of GC 44.2, the work will be considered to be substantially complete,

44.2.1.1 when the work under the contract or a substantial part thereof is, in the opinion of the Engineer, ready for use by Her Majesty or is being used for the purposes intended; and

44.2.1.2 when the work remaining to be done under the contract is, in the opinion of the Engineer, capable of completion or correction at a cost of not more than

44.2.1.2.1 - 3% of the first \$500,000, and

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44.2.1.2.2 - 2% of the next \$500,000, and

44.2.1.2.3 - 1% of the balance

of the value of the contract at the time this cost is calculated.

- 44.3 For the sole purpose of GC 44.2.1.2, where the work or a substantial part thereof is ready for use or is being used for the purposes intended and the remainder of the work or a part thereof cannot be completed by the time specified in A 2.1, or as amended pursuant to GC 36, for reasons beyond the control of the contractor or where the Engineer and the contractor agree not to complete a part of the work within the specified time, the cost of that part of the work which was either beyond the control of the contractor to complete or the Engineer and the contractor have agreed not to complete by the time specified shall be deducted from the value of the contract referred to GC 44.2.1.2 and the said cost shall not form part of the cost of the work remaining to be done in determining substantial completion.
- 44.4 An Interim Certificate of Completion referred to in GC 44.2 shall describe the parts of the work not completed to the satisfaction of the Engineer and all things that must be done by the contractor
- 44.4.1 before a Final Certificate of Completion referred to in GC 44.1 will be issued; and
- 44.4.2 before the 12-month period referred to in GC 32.1.2 shall commence for the said parts and all the said things.
- 44.5 The Engineer may, in addition to the parts of the work described in an Interim Certificate of Completion referred to in GC 44.2, require the contractor to rectify any other parts of the work not completed to the Engineer's satisfaction and to do any other things that are necessary for the satisfactory completion of the work.
- 44.6 If the contract or a part thereof is subject to a Unit Price Arrangement, the Engineer shall measure and record the quantities of labour, plant and material, performed, used and supplied by the contractor in performing the work and shall, at the request of the contractor, inform the contractor of those measurements.
- 44.7 The contractor shall assist and co-operate with the Engineer in the performance of the Engineer's duties referred to in GC 44.6 and shall be entitled to inspect any record made by the Engineer pursuant to GC 44.6.
- 44.8 After the Engineer has issued a Final Certificate of Completion referred to in GC 44.1, the Engineer shall, if GC 44.6 applies, issue a Final Certificate of Measurement.
- 44.9 A Final Certificate of Measurement referred to in GC 44.8 shall
- 44.9.1 contain the aggregate of all measurements of quantities referred to in GC 44.6; and
- 44.9.2 be binding upon and conclusive between Her Majesty and the contractor as to the quantities referred to therein.

GC 45 (01/10/94) Return of Security Deposit

- 45.1 After an Interim Certificate of Completion referred to in GC 44.2 has been issued, Her Majesty shall, if the contractor is not in breach of or in default under the contract, return to the contractor all or any part of the security deposit that, in the opinion of the Engineer, is not required for the purposes of the contract.
- 45.2 After a Final Certificate of Completion referred to in GC 44.1 has been issued, Her Majesty shall return to the contractor the remainder of any security deposit unless the contract stipulates otherwise.
- 45.3 If the security deposit was paid into the Consolidated Revenue Fund of Canada, Her Majesty shall pay interest thereon to the contractor at a rate established from time to time pursuant to section 21(2) of the *Financial Administration Act*.

GC 46 (01/10/94) Clarification of Terms in GC 47 to GC 50

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46.1 For the purposes of GC 47 to GC 50,

46.1.1 "Unit Price Table" means the table set out in the Articles of Agreement, and

46.1.2 "plant" does not include tools customarily provided by a tradesperson in practicing a trade.

GC 47 (01/10/94) Additions or Amendments to Unit Price Table

47.1 Where a Unit Price Arrangement applies to the contract or a part thereof the Engineer and the contractor may, by an agreement in writing,

47.1.1 add classes of labour, plant or material, and units of measurement, prices per unit and estimated quantities to the Unit Price Table if any labour, plant or material that is to be included in the Final Certificate of Measurement referred to in GC 44.8 is not included in any class of labour, plant or material set out in the Unit Price Table; or

47.1.2 subject to GC47.2 and GC 47.3, amend a price per unit set out in the Unit Price Table for any class of labour, plant or material included therein if the Final Certificate of Measurement referred to in GC 44.8 shows or is expected to show that the total quantity of that class of labour, plant or material actually performed, used or supplied by the contractor in performing the work is

47.1.2.1 less than 85% of that estimated total quantity, or

47.1.2.2 in excess of 115% of that estimated total quantity.

47.2 In no event shall the total cost of an item set out in the Unit Price Table that has been amended pursuant to GC 47.1.2.1 exceed the amount that would have been payable to the contractor had the estimated total quantity actually been performed, used or supplied.

47.3 An amendment that is made necessary by GC 47.1.2.2 shall apply only to the quantities that are in excess of 115%.

47.4 If the Engineer and the contractor do not agree as contemplated in GC 47.1, the Engineer shall determine the class and the unit of measurement of the labour, plant or material and, subject to GC 47.2 and GC 47.3, the price per unit therefor shall be determined in accordance with GC 50.

GC 48 (01/10/94) Determination of Cost - Unit Price Table

Whenever, for the purposes of the contract it is necessary to determine the cost of labour, plant or material, it shall be determined by multiplying the quantity of that labour, plant or material expressed in the unit set out in column 3 of the Unit Price Table by the price of that unit set out in column 5 of the Unit Price Table.

GC 49 (12/05/00) Determination of Cost Prior to Undertaking Work - Lump Sum

49.1 If the method described in GC 48 cannot be used because the labour, plant and material is of a kind or class that is not set out in the Unit Price Table then, for the purpose of the contract, the price of the change shall be the aggregate costs of all labour, plant and material that is required for the change as agreed upon by the Contractor and the Engineer plus a mark-up for all supervision, coordination, administration, overhead, margin and the risk of undertaking the work within the stipulated amount, which mark-up shall be equal to

49.1.1 20% of the aggregate costs referred to herein for that portion of the Work done by the Contractor's own forces; and

49.1.2 15% of the aggregate costs referred to herein for that portion of the Work that is done by subcontract.

49.2 Subject to similar provisions expressed elsewhere in the contract, in order to facilitate approval of the change, the Contractor shall submit a cost breakdown identifying, as a minimum, the cost of labour, plant, material, each subcontract amount and the amount of the appropriate percentage mark-up as described herein.

GC 50 (12/05/00) Determination of Cost Following Completion of Work

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- 50.1 Where it is not possible to predetermine the price of a change, including elements not set out in the Unit Price Table, the actual price of the change shall be equal to the aggregate costs of
- 50.1.1 all reasonable and proper amounts actually expended or legally payable by the Contractor in respect of the labour, plant and material that falls within one of the classes of expenditure described in GC 50.2 that are directly attributable to the performance of the contract;
 - 50.1.2 a mark-up equal to 10% of the amounts referred to in GC 50.1.1 which mark-up shall be for profit and all other expenditures or costs, not covered in GC 50.1.1 or GC 50.1.3, including overhead, general administration costs and financing and interest charges; and
 - 50.1.3 interest on the costs determined under GC 50.1.1 and GC 50.1.2, which interest shall be calculated in accordance with TP9,
- provided that the total cost of an item set out in the Unit Price Table that is subject to the provisions of GC 47.1.2.1 does not exceed the amount that would have been payable to the Contractor had the Estimated Total Quantity of the said item actually been performed, used or supplied.
- 50.2 For the purpose of GC 50.1.1, the classes of expenditure that may be taken into account in determining the cost of labour, plant and material are
- 50.2.1 payment to subcontractors;
 - 50.2.2 wages, salaries and traveling expenses of employees of the Contractor located at the work site and that portion of wages, salaries, bonuses, living and traveling expenses of personnel of the Contractor generally employed at the head office or at a general office of the Contractor provided they are actually and properly engaged on the work under the Contract;
 - 50.2.3 assessments payable under any statutory authority relating to workmen's compensation, employment insurance, pension plan or holidays with pay, provincial health or insurance plans, environmental reviews and Goods and Services Tax collection costs;
 - 50.2.4 rent that is paid or an amount equivalent to the said rent if the plant is owned by the Contractor, that is necessary for and used in the performance of the work, if the rent or the equivalent amount is reasonable and use of that plant has been approved by the Engineer;
 - 50.2.5 payment for maintenance and operating the plant necessary for and used in the performance of the work, and payments for effecting such repairs thereto as, in the opinion of the Engineer, are necessary to the proper performance of the Contract other than payments for any repairs to the plant arising out of defects existing before its allocation to the work;
 - 50.2.6 payment for material that is necessary for and incorporated in the work, or that is necessary for and consumed in the performance of the Contract;
 - 50.2.7 payments for preparation, delivery, handling, erection, installation, inspection, protection and removal of the plant and material necessary for and used in the performance of the Contract; and
 - 50.2.8 any other payments made by the Contractor with the approval of the Engineer that are necessary for the performance of the Contract.

GC 51 (01/10/94) Records to be Kept by Contractor

- 51.1 The contractor shall
- 51.1.1 maintain full records of the contractor's estimated and actual cost of the work together with all tender calls, quotations, contracts, correspondence, invoices, receipts and vouchers relating thereto;

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- 51.1.2 make all records and material referred to in GC 51.1.1 available to audit and inspection by the Minister and the Deputy Receiver General for Canada or by persons acting on behalf of either or both of them, when requested;
 - 51.1.3 allow any of the persons referred to in GC 51.1.2 to make copies of and to take extracts from any of the records and material referred to in GC 51.1.1; and
 - 51.1.4 furnish any person referred to in GC 51.1.2 with any information that person may require from time to time in connection with such records and material.
- 51.2 The records maintained by the contractor pursuant to GC 51.1.1 shall be kept intact by the contractor until the expiration of two (2) years after the date that a Final Certificate of Completion referred to in GC 44.1 was issued or until the expiration of such other period of time as the Minister may direct.
- 51.3 The contractor shall cause all subcontractors and all other persons directly or indirectly controlled by or affiliated with the contractor and all persons directly or indirectly having control of the contractor to comply with GC 51.1 and GC 51.2 as if they were the contractor.

GC 52 (12/12/03) Conflict of Interest

It is a term of this contract that no individual, for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders (1994) or the Values and Ethics Code for the Public Service (2003) apply, shall derive a direct benefit from this contract unless that individual is in compliance with the applicable post-employment provisions.

GC 53 (01/10/94) Contractor Status

- 53.1 The contractor shall be engaged under the contract as an independent contractor.
- 53.2 The contractor and any employee of the said contractor is not engaged by the contract as an employee, servant or agent of Her Majesty.
- 53.3 For the purposes of GC 53.1 and GC 53.2, the contractor shall be solely responsible for any and all payments and deductions required to be made by law including those required for Canada or Québec Pension Plans, Unemployment Insurance, Worker's Compensation or Income Tax.

GC 54 (01/01/96) Human Remains, Archaeological Remains and Items of Historical or Scientific Interest

- 54.1 For the purposes of this clause
 - 54.1.1 "human remains" means the whole or any part of a deceased human being, irrespective of the time that has elapsed since death,
 - 54.1.2 "archaeological remains" are items, artifacts or things made, modified or used by human beings in antiquity and may include, but not be limited to stone, wood or iron structures or monuments, dump deposits, bone artifacts, weapons, tools, coins and pottery,
 - 54.1.3 "items of historical or scientific interest" are naturally occurring or manufactured objects or things of any age that are not archaeological remains but may be of interest to society because of their historical or scientific significance, value, rarity, natural beauty or other quality.
- 54.2 If, during the course of the work, the contractor encounters any object, item or thing which is described in GC 54.1, or which resembles any object, item or thing described in GC 54.1, the contractor shall
 - 54.2.1 take all reasonable steps, including stopping work in the affected area, to protect and preserve the object, item or thing, and
 - 54.2.2 immediately notify the Engineer of the circumstances in writing, and
 - 54.2.3 take all reasonable steps to minimize additional costs which may accrue as a result of any work stoppage.

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- 54.3 Upon receipt of a notification in accordance with GC 54.2.2, the Engineer shall, in a timely manner, determine whether the object, item or thing is one described in, or contemplated by, GC 54.1, and shall notify the contractor in writing of any action to be performed, or work to be carried out by, the contractor as a result of the Engineer's determination.
- 54.4 The Engineer may, at any time, enlist the services of experts, particularly an archaeologist or historian as appropriate, to assist in the investigation, examination, taking of measurements or other such recordings, placing of permanent protection around or removing of the object, item or thing encountered by the contractor, and monitoring in case of further discoveries, and the contractor shall, to the satisfaction of the Engineer, allow them access and cooperate with them in the carrying out of their duties and obligations.
- 54.5 Human remains, archaeological remains and items of historic or scientific interest encountered at the site of the work shall remain the property of Her Majesty.
- 54.6 Except as may be otherwise provided for in the contract, the provisions of GC 30 shall apply.

GC 55 (01/01/96) Contaminated Site Conditions

- 55.1 For the purposes of this clause, a contaminated site condition exists when toxic, radioactive or other hazardous substances or materials, or other pollutants, are found to be present at the site of the work to the extent that they constitute a hazard, or potential hazard, to the environment, property, or the health or safety of any person.
- 55.2 If the contractor encounters a contaminated site condition, or has reasonable grounds to believe that a contaminated site condition exists at the site of the work, the contractor shall
- 55.2.1 take all reasonable steps, including stopping the work, to ensure that no person suffers injury, sickness or death, and that neither property nor the environment is injured or destroyed as a result of the contaminated site conditions, and
- 55.2.2 immediately notify the Engineer of the circumstances in writing, and
- 55.2.3 take all reasonable steps to minimize additional costs which may accrue as a result of any work stoppage.
- 55.3 Upon receipt of a notification in accordance with GC 55.2.2, the Engineer shall, in a timely manner, determine whether a contaminated site condition as described in, or contemplated by, GC 55.1, exists, and shall notify the contractor in writing of any action to be taken, or work to be performed, by the contractor as a result of the Engineer's determination.
- 55.4 If the contractor's services are required by the Engineer, the contractor shall follow the direction of the Engineer with regard to any excavation, treatment and disposal of the contaminated substances or materials.
- 55.5 The Engineer may at any time, and at the Engineer's sole discretion, enlist the services of experts and specialty contractors to assist in determining the existence of, and the extent and treatment of the contaminated site conditions, and the contractor shall, to the satisfaction of the Engineer, allow them access and cooperate with them in the carrying out of their duties and obligations.
- 55.6 Except as may be otherwise provided for in the contract, the provisions of GC 30 shall apply.

GC 56 (01/01/96) Certification - Contingency Fees

- 56.1 The contractor certifies that it has not directly or indirectly paid or agreed to pay and covenants that it will not directly or indirectly pay or agree to pay a contingency fee for the solicitation, negotiation or obtaining of this contract to any person other than an employee acting in the normal course of the employee's duties.
- 56.2 All accounts and records pertaining to payments of fees or other compensation for the solicitation, obtaining or negotiation of the contract shall be subject to the accounts and audit provisions of the contract.
- 56.3 If the contractor certifies falsely under this section or is in default of the obligations contained therein, the Minister may either take the work out of the contractor's hands in accordance with

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the provisions of the Contract or recover from the contractor by way of reduction to the contract amount or otherwise the full amount of the contingency fee.

56.4 In this section:

56.4.1 "contingency fee" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining a Government contract or negotiating the whole or any part of its terms;

56.4.2 "employee" means a person with whom the contractor has an employer/employee relationship;

56.4.3 "person" includes an individual or a group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes any individual who is required to file a return with the registrar pursuant to section 5 of the *Lobbyist Registration Act*, R.S. 1985 c.44 (4th Supplement) as the same may be amended from time to time.

GC 57 (14/05/04) Non-discrimination in Hiring and Employment of Labour

57.1 For the purpose of this clause and without restricting the provisions of GC 1.1.7, "persons" include the Contractor, its subcontractors, its sub-subcontractors and their respective employees, agents, licensees or invitees, and any other individual granted access to the site of the work.

57.2 Without restricting the provisions of GC 19.5,

57.2.1 the Contractor shall, within two (2) working days immediately following receipt of a written complaint alleging a breach of Section 9 of the Labour Conditions at the site of the work,

57.2.1.1 cause to have issued a written direction to the person or persons named by the complainant to cease all actions that form the basis of the complaint; and

57.2.1.2 forward, by registered mail, two (2) copies of the complaint, one to the Engineer and one to Department of Human Resources and Skills Development (HRSD), to the attention of the appropriate Director as described in the Labour Conditions;

57.2.2 the Contractor shall,

57.2.2.1 within twenty-four (24) hours immediately following receipt of a direction from the Engineer to do so, cause to have removed from the site of the work any person or persons whom the Engineer believes is in breach of Section 9 of the Labour Conditions; and

57.2.2.2 no later than thirty (30) days after receipt of the direction, cause to have the necessary action commenced to remedy the breach described in the direction;

57.2.3 if a direction is issued pursuant to GC 57.2.2, Her Majesty may withhold from monies that are due and payable to the Contractor or set-off pursuant to TP 7, whichever is applicable, an amount representing the sum of the costs and payment referred to in GC 57.2.4 and GC 57.2.5 respectively;

57.2.4 if the Contractor fails to proceed in accordance with GC 57.2.2.2, the Engineer shall take the necessary action to:

57.2.4.1 have the breach remedied; and

57.2.4.2 determine all supplementary costs incurred by Her Majesty;

57.2.5 Her Majesty may make a payment directly to the complainant from monies that are due and payable to the Contractor upon receipt from the complainant of:

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- 57.2.5.1 a written award issued pursuant to the federal *Commercial Arbitration Act*, R.S., 1985, c. C-34.6; or
 - 57.2.5.2 a written award issued pursuant to the *Canadian Human Rights Act*, R.S., 1985, c. H-6; or
 - 57.2.5.3 a written award issued pursuant to provincial or territorial human rights legislation; or
 - 57.2.5.4 a judgment issued by a court of competent jurisdiction.
- 57.2.6 If the Engineer is of the opinion that the Contractor has breached any of the provisions of GC 57, the Minister may take the work out of the Contractor's hands pursuant to GC 38.
- 57.2.7 the Contractor shall ensure that the provisions of this General Condition are included in all contracts issued as a consequence of this work.

GC 58 (12/05/00) Applicable Laws

- 58.1 The Contractor shall comply with all legislative and regulatory provisions whether federal, provincial or municipal applicable to the performance of the Work.
- 58.2 Unless otherwise provided in the Contract, the Contractor shall obtain all permits and hold all certificates and licences for the performance of the Work.
- 58.3 From time to time, the Engineer may request that the Contractor provide evidence that it complies with all applicable legislative and regulatory provisions and that it holds all required permits, certificates and licences. Such evidence shall be provided within the time set in the request or as otherwise stipulated in the Contract.

R0202D (12/12/03) General Conditions "C"

Effective 14/05/04, this clause is superseded by R0202D.

R0203D (14/05/04) Fair Wages and Hours of Labour - Labour Conditions

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

01 (14/05/04) Interpretation

- 1. In these Conditions

"Act" means the Fair Wages and Hours of *Labour Act*,

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"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 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;

02 (14/05/04) 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 Department of Human Resources and Skills Development 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 paragraph 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.

03 (01/12/00) 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.

04 (01/12/00) 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 Wages Schedules along with any subsequent changes.

05 (01/12/00) The Contractor to Keep Records which are to be Kept Open for Inspection

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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.

06 (01/12/00) 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.

07 (01/12/00) 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.

08 (01/12/00) 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.

09 (01/12/00) 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).

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R0203D (12/12/03) Fair Wages and Hours of Labour - Labour Conditions

Effective 15/04/04, this clause is superseded by R0203D.

R0204D (16/12/05) Insurance Conditions "E"

General Conditions

- IC 1 Proof of Insurance
- IC 2 Risk Management
- IC 3 Payment of Deductible
- IC 4 Representation and Warranty

Part I - General Insurance Coverages

- GIC 1 Insured
- GIC 2 Period of Insurance

Part II - Commercial General Liability

- CGL 1 Scope of Policy
- CGL 2 Coverages/Provisions
- CGL 3 Additional Exposures
- CGL 4 Insurance Proceeds
- CGL 5 Deductible

Part III - Builder's Risk - Installation Floater - All Risks

- BR 1 Scope of Policy
- BR 2 Property Insured
- BR 3 Insurance Proceeds
- BR 4 Amount of Insurance
- BR 5 Deductible
- BR 6 Subrogation
- BR 7 Exclusion Qualifications

General Conditions

IC 1 (2005-12-16) Proof of Insurance

Within thirty (30) days after acceptance of the Contractor's tender, the Contractor shall, unless otherwise directed in writing by the Contracting Officer, deposit with the Contracting Officer an Insurer's Certificate of Insurance (form PWGSC-TPSGC 357), available on the following Public Works and Government Services Canada's Website: <http://www.pwgsc.gc.ca/acquisitions/text/forms/forms-e.html> and, if requested by the Contracting Officer, the originals or certified true copies of all contracts of insurance maintained by the Contractor pursuant to the Insurance Coverage Requirements shown hereunder.

IC 2 (1994-10-01) Risk Management

The provisions of the Insurance Coverage Requirements contained hereunder are not intended to cover all of the Contractor's obligations under GC8 of the General Conditions "C" of the contract. Any additional risk management measures or additional insurance coverages the Contractor may deem necessary to fulfill its obligations under GC8 shall be at its own discretion and expense.

IC 3 (1994-10-01) Payment of Deductible

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The payment of monies up to the deductible amount made in satisfaction of a claim shall be borne by the Contractor.

IC 4 (2005-06-10) Representation and Warranty

The Contractor has represented that it has in place and effect the appropriate liability insurance coverage as required by these Insurance Conditions and the Contractor has verified and warrants that it shall obtain, in a timely manner and in any event prior to commencement of the Work, the appropriate property insurance coverage as required by these Insurance Conditions and, further, that it shall maintain all required insurance policies in place and effect as required by these Insurance Conditions.

Insurance Coverage Requirements

Part I General Insurance Coverages (GIC)

GIC 1 (2004-12-10) Insured

Each insurance policy shall insure the Contractor, and shall include, as an Additional Insured, Her Majesty the Queen in right of Canada, represented by the Minister of Public Works and Government Services.

GIC 2 (2005-06-10) Period of Insurance

Unless otherwise directed in writing by the Contracting Officer or otherwise stipulated elsewhere in these Insurance Conditions, the liability insurance required hereunder shall be in force and be maintained from the date of contract award until the day of issue of the Engineer's Final Certificate of Completion. The property insurance required hereunder shall be in force prior to commencement of the Work and be maintained until the issue of the Engineer's Final Certificate of Completion.

Part II Commercial General Liability

CGL 1 (1994-10-01) Scope of Policy

The policy shall be written on a form similar to that known and referred to in the insurance industry as IBC 2100 - Commercial General Liability policy (Occurrence form) and shall provide for limit of liability of not less than \$2,000,000 inclusive for Bodily Injury and Property Damage for any one occurrence or series of occurrences arising out of one cause. Legal or defence costs incurred in respect of a claim or claims shall not operate to decrease the limit of liability.

CGL 2 (1994-10-01) Coverages/Provisions

The policy shall include but not necessarily be limited to the following coverages/provisions.

1. Liability arising out of or resulting from the ownership, existence, maintenance or use of premises by the Contractor and operations necessary or incidental to the performance of this contract.
2. "Broad Form" Property Damage including the loss of use of property.
3. Removal or weakening of support of any building or land whether such support be natural or otherwise.
4. Elevator liability (including escalators, hoists and similar devices).
5. Contractor's Protective Liability
6. Contractual and Assumed Liabilities under this contract.
7. Completed Operations Liability - The insurance, including all aspects of this Part II of these Insurance Conditions shall continue for a period of at least one (1) year beyond the date of the Engineer's Final Certificate of Completion for the Completed Operations.
8. Cross Liability - The Clause shall be written as follows:

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"Cross Liability - The insurance as is afforded by this policy shall apply in respect to any claim or action brought against any one Insured by any other Insured. The coverage shall apply in the same manner and to the same extent as though a separate policy had been issued to each Insured. The inclusion herein of more than one Insured shall not increase the limit of the Insurer's liability."

9. Severability of Interests - The Clause shall be written as follows:

"Severability of Interests - This policy, subject to the limits of liability stated herein, shall apply separately to each Insured in the same manner and to the same extent as if a separate policy had been issued to each. The inclusion herein of more than one insured shall not increase the limit of the Insurer's liability."

CGL 3 (2004-12-10) Additional Exposures

The policy shall either include or be endorsed to include the following exposures or hazards if the Work is subject thereto:

1. Blasting
2. Pile driving and caisson work
3. Underpinning
4. Risks associated with the activities of the Contractor on an active airport
5. Radioactive contamination resulting from the use of commercial isotopes
6. Damage to the portion of an existing building beyond that directly associated with an addition, renovation or installation contract.
7. Marine risks associated with the construction of piers, wharves and docks.

CGL 4 (2005-06-10) Insurance Proceeds

Insurance Proceeds from this policy are payable directly to a Claimant.

CGL 5 (2002-12-13) Deductible

The policy shall be issued with a deductible amount of not more than \$10,000 per occurrence applying to Property Damage claims only.

Part III Builder's Risk - Installation Floater- All Risks

BR 1 (1994-10-01) Scope of Policy

The policy shall be written on an "All Risks" basis granting coverages similar to those provided by the forms known and referred to in the insurance industry as "Builder's Risk Comprehensive Form" or "Installation Floater - All Risks".

BR 2 (1994-10-01) Property Insured

The property insured shall include:

1. The Work and all property, equipment and materials intended to become part of the finished Work at the site of the project while awaiting, during and after installation, erection or construction including testing.
2. Expenses incurred in the removal from the construction site of debris of the property insured, including demolition of damaged property, de-icing and dewatering, occasioned by loss, destruction or damage to such property and in respect of which insurance is provided by this policy.

BR 3 (2005-06-10) Insurance Proceeds

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1. Insurance proceeds from this policy are payable in accordance with GC28 of the General Conditions "C" of the contract.
2. The policy shall provide that the proceeds thereof are payable to Her Majesty or as the Minister may direct
3. The Contractor shall without delay do such things and execute such documents as are necessary to effect payment of the proceeds.

BR 4 (1994-10-01) Amount of Insurance

The amount of insurance shall not be less than the sum of the contract value plus the declared value (if any) set forth in the contract documents of all material and equipment supplied by Her Majesty at the site of the project to be incorporated into and form part of the finished Work.

BR 5 (2002-12-13) Deductible

The policy shall be issued with a deductible amount of not more than \$10,000.

BR 6 (1994-10-01) Subrogation

The following Clause shall be included in the policy:

"All rights of subrogation or transfer of rights are hereby waived against any corporation, firm, individual or other interest, with respect to which, insurance is provided by this policy".

BR 7 (1994-10-01) Exclusion Qualifications

The policy may be subject to the standard exclusions but the following qualifications shall apply:

1. Faulty materials, workmanship or design may be excluded only to the extent of the cost of making good thereof and shall not apply to loss or damage resulting therefrom.
2. Loss or damage caused by contamination by radioactive material may be excluded except for loss or damage resulting from commercial isotopes used for industrial measurement, inspection, quality control radiographic or photographic use.
3. Use and occupancy of the project or any part or section thereof shall be permitted where such use and occupancy is for the purposes for which the project is intended upon completion.

R0204D (10/06/05) Insurance Conditions "E"

Effective 16/12/05, this clause is superseded by R0204D.

R0205D (16/12/05) Contract Security Conditions "F"

Public Works and Government Services Canada

- CS1 Obligation to Provide Contract Security
- CS2 Prescribed Types and Amounts of Contract Security

CS1 (2005-12-16) Obligation to Provide Contract Security

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1. The Contractor shall, at the Contractor's own expense, provide one or more of the forms of contract security prescribed in CS2.
2. The Contractor shall deliver to the Contracting Officer the contract security referred to in CS1.1 within fourteen (14) days after the date that the Contractor receives notice that the Contractor's tender or offer was accepted by Her Majesty.

CS2 (2005-12-16) Prescribed Types and Amounts of Contract Security

1. The Contractor shall deliver to the Engineer pursuant to CS1
 - (a) a performance bond and a labour and material payment bond each in an amount that is equal to not less than 50% of the contract amount referred to in the Articles of Agreement, or
 - (b) a labour and material payment bond in an amount that is equal to not less than 50% of the contract amount referred to in the Articles of Agreement, and a security deposit in an amount that is equal to
 - (i) not less than 10% of the contract amount referred to in the Articles of Agreement where that amount does not exceed \$250,000, or
 - (ii) \$25,000 plus 5% of the part of the contract amount referred to in the Articles of Agreement that exceeds \$250,000, or
 - (c) a security deposit in an amount prescribed by CS2.1(b) plus an additional amount that is equal to 10% of the contract amount referred to in the Articles of Agreement.
2. A performance bond and a labour and material payment bond referred to in CS2.1 shall be in a form and be issued by a bonding or surety company that is approved by Her Majesty as identified on the following Web sites:
<http://www.pwgsc.gc.ca/acquisitions/text/sm/chapter07-e.html#annex7.2> and
<http://www.pwgsc.gc.ca/acquisitions/text/sm/chapter07-e.html#annex7.3> (annexes 7.2 and 7.3 respectively) and
http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_I_e.html (Acceptable Bonding Companies).
3. The amount of a security deposit referred to in CS2.1(b) shall not exceed \$250,000 regardless of the contract amount referred to in the Articles of Agreement.
4. A security deposit referred to in CS2.1(b) and CS2.1(c) shall be in the form of
 - (a) a bill of exchange, bank draft or money order made payable to the Receiver General for Canada and certified by an approved financial institution or drawn by an approved financial institution on itself, or
 - (b) bonds of or unconditionally guaranteed as to principal and interest by the Government of Canada, or
 - (c) an irrevocable standby letter of Credit.
5. For the purposes of CS2.4
 - (a) a bill of exchange is an unconditional order in writing signed by the Contractor and addressed to an approved financial institution, requiring the said institution to pay, on demand, at a fixed or determinable future time a sum certain of money to, or to the order of, the Receiver General for Canada.
 - (b) if a bill of exchange, bank draft or money order is certified by a financial institution other than a chartered bank then it must be accompanied by a letter or stamped certification confirming that the financial institution is in at least one of the categories referred to in CS2.5(c).
 - (c) an approved financial institution is

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- (i) a corporation or institution that is a member of the Canadian Payments Association,
 - (ii) a corporation that accepts deposits that are insured, to the maximum permitted by law, by the Canadian Deposit Insurance Corporation or the "Régie de l'assurance-dépôts du Québec",
 - (iii) a corporation that accepts deposits from the public and repayment of the deposits is guaranteed by Her Majesty in right of a province,
 - (iv) a corporation, association or federation incorporated or organized as a credit union or cooperative credit society that conforms to the requirements of a credit union which are more particularly described in paragraph 137(6)(b) of the *Income Tax Act*,
 - (v) Canada Post Corporation.
- (d) The bonds referred to in CS2.4(b) shall be
- (i) made payable to bearer, or
 - (ii) accompanied by a duly executed instrument of transfer of the bonds to the Receiver General for Canada in the form prescribed by the *Domestic Bonds of Canada Regulations*, or
 - (iii) registered, as to principal or as to principal and interest in the name of the Receiver General for Canada pursuant to the *Domestic Bonds of Canada Regulations*, and
 - (iv) provided on the basis of their market value current at the date of the Contract.
- (e) The irrevocable standby letter of Credit referred to in CS2.4(c) shall be
- (i) an arrangement, however named or described, whereby a financial institution (the "Issuer"), acting at the request and on the instructions of a customer (the "Applicant"), or on its own behalf, is to make a payment to or to the order of Canada, as the beneficiary, or is to accept and pay bills of exchange drawn by Canada, or authorizes another financial institution to effect such payment, or accept and pay such bills of exchange, or authorizes another financial institution to negotiate, against written demand(s) for payment provided that the terms and conditions of the letter of credit are complied with;
 - (ii) states the face amount which may be drawn against it;
 - (iii) states its expiry date;
 - (iv) provides for sight payment to the Receiver General for Canada by way of the financial institutions' draft against presentation of a written demand for payment signed by the authorized departmental representative identified in the letter of credit by his/her office;
 - (v) provides that more than one written demand for payment may be presented subject to the sum of those demands not exceeding the face amount of the Letter of Credit;
 - (vi) provides that it is subject to the International Chamber of Commerce (ICC) Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500;
 - (vii) clearly specifies that it is irrevocable or deemed to be irrevocable pursuant to article 6c) of the International Chamber of Commerce (ICC) Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500; and
 - (viii) is issued or confirmed, in either official language, by a financial institution which is a member of the Canadian Payments Association and is on the letterhead of

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the Issuer or Confirmer. The format is left to the discretion of the Issuer or Confirmer.

R0205D (14/05/04) Contract Security Conditions "F"

Effective 16/12/05, this clause is superseded by R0205D.

R0206D (10/12/04) Submission of Quotation for Contemplated Change Notices

Public Works and Government Services Canada

- 01 Submission of Quotation for Contemplated Change Notices
- 02 General
- 03 Hourly Labour Rates
- 04 Material, Plant and Equipment Costs
- 05 Allowance to the Contractor or Subcontractor on Work by Own Forces
- 06 Allowance to Contractor on Work Performed by Its Subcontractors

01 (2004-12-10) Submission of Quotation for Contemplated Change Notices

If the Engineer determines that the cost of the work will be affected due to a contemplated change, the Contractor shall submit a quotation to the Engineer in accordance with the instructions specified herein.

02 (2004-12-10) General

1. Quotations for Contemplated Change Notices must include a detailed breakdown of all labour, material, plant and equipment costs incurred by the Contractor. Quotations from subcontractors involved in the change must also be supported by similarly detailed breakdowns of the subcontractors' costs.
2. It is the responsibility of the Contractor to ensure that all subcontractors' quotations included in the Contractor's quotation to the Engineer are fair and reasonable in view of the terms expressed herein.
3. The labour hours required for the contemplated change shall be based on the estimated number of hours to perform the work.
4. Time spent by a working foreman may be included in the number of labour hours, at a rate agreed to in writing by the Contractor and the Engineer.
5. Time attributable to material handling, productivity factors and approved rest periods is to be included in the number of hours required by the contemplated change and will not be paid as a separate item under hourly rates.
6. Markups referred to in sections 5 and 6 below are not to be included in the hourly labour rates.
7. Credit for work deleted will only be for the work directly associated with the changes stipulated in the particular Contemplated Change Notice.
8. When a change deletes work which has not yet been performed, the Engineer is entitled to an adjustment in the Contract Amount equal to the cost the contractor would have incurred had the work not been deleted.

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9. Markups referred to in Sections 5 and 6 below shall not be applied to any credit amounts for deleted work.
10. In those cases where the change involves additions and deletions to the work, the percentage markups referred to in sections 5 and 6 below shall apply only when the cost of the additions minus the cost of the deletions would result in an increase in the Contract Amount. The percentage allowance shall only be applied to that portion of the costs of the additions that is in excess of the cost of the deletions.
11. If the contemplated change in the work necessitates a change in the contract completion date, or has an impact on the work, the Contractor shall identify and include the resulting cost in the breakdown of its quotation to the Engineer.
12. The work shall conform to the contract documents unless otherwise stated in the Contemplated Change Notice, Change Order or Site Instruction signed by the Engineer.
13. Upon acceptance of the Contractor's quotation by the Engineer, the Engineer shall prepare and issue the formal Change Order.

03 (2004-12-10) Hourly Labour Rates

1. The hourly labour rates listed in the Contractor's quotation shall be determined in accordance with the collective agreements that are applicable at the site of the work and shall include
 - (a) the base rate of pay;
 - (b) vacation pay;
 - (c) benefits which includes
 - (i) welfare contributions;
 - (ii) pension contributions;
 - (iii) union dues;
 - (iv) training and industry funds contributions; and
 - (v) other applicable benefits, if any, that can be substantiated by the Contractor.
 - (d) statutory and legislated requirements, assessed and payable under statutory authority, which includes
 - (i) Employment Insurance contributions;
 - (ii) Canada Pension Plan or Quebec Pension Plan contributions;
 - (iii) Worker's Compensation Board or *Commission de la santé et de la sécurité du travail* premiums;
 - (iv) Public Liability and Property Damage insurance premiums; and
 - (v) health tax premiums.
2. In the case of nonunion labour, all rates claimed shall be in accordance with the terms of the Labour Conditions forming part of this contract and the Contractor must provide satisfactory proof of the rates actually paid.

04 (2004-12-10) Material, Plant and Equipment Costs

The costs of all purchases and rentals must be based on the actual amount paid to the suppliers by the Contractor or subcontractor and said costs are to include all applicable discounts.

05 (2004-12-10) Allowance to the Contractor or Subcontractor on Work by Own Forces

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A markup, equal to 20 percent of the cost of all labour, material, plant and equipment furnished or supplied by the Contractor or subcontractor that is required by the contemplated change, shall be added to the Contractor's or subcontractor's quotation as full compensation for all:

- (a) all supervision, coordination, administration, overhead, margin and the risk of undertaking the work within the stipulated amount, and
- (b) miscellaneous additional costs related to
 - (i) the purchase or rental of material, plant and equipment;
 - (ii) the purchase of small tools and supplies;
 - (iii) safety and protection measures; and
 - (iv) permits, bonds, insurance, engineering, as built drawings, commissioning and site office.

06 (2004-12-10) Allowance to Contractor on Work Performed by Its Subcontractors

A markup, equal to 15 percent of the total of all quotations received from subcontractors, shall be added to the Contractor's quotation as full compensation for:

- (a) all supervision, coordination, administration, overhead, margin and the risk of undertaking the work within the stipulated amount; and
- (b) miscellaneous costs related to
 - (i) safety and protection measures; and
 - (ii) permits, bonds, insurance, engineering, as built drawings, commissioning and site office.

R0206D (14/05/04) Submission of Quotation for Contemplated Change Notices

Effective 10/12/04, this clause is superseded by R0206D.

R0207D (13/12/02) Dispute Resolution - Conditions "G"

Public Works and Government Services Canada

- DR 01 Interpretation
- DR 02 Consultation and Co-operation
- DR 03 Authority of Engineer
- DR 04 Negotiation
- DR 05 Mediation
- DR 06 Binding Arbitration
- DR 07 Disputes Not Subject to Arbitration
- DR 08 Confidentiality
- DR 09 Settlement

DR 01 (13/12/02) Interpretation

- 1.1 In these Dispute Resolution Conditions and in the Rules attached hereto, "arbitral question of law" means a question of law that:

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- 1.1.1 is capable of determination by arbitration under the laws of Canada, and
- 1.1.2 does not involve interpretation or application of public law of Canada, including without limitation any matter of constitutional, administrative, criminal or tax law, and
- 1.1.3 concerns:
 - 1.1.3.1 the formation, validity, interpretation, application or enforce ability of the contract;
 - 1.1.3.2 the performance, breach, termination or other discharge of the contract;
 - 1.1.3.3 the rights, duties, obligations or remedies of parties created by or pursuant to the contract; or
 - 1.1.3.4 any other issue of private law that may arise between parties relative to performance of the contract;

"dispute" means any disagreement regarding any issue identified by the Contractor in the notice submitted to the Engineer in accordance with DR 3.2, and includes any claim by the Contractor arising from such disagreement and any counterclaim by Her Majesty, but does not include any claim by either party for punitive or exemplary damages, injury to persons, death, or any claim based on an allegation of libel or slander;

"working day" means a day other than a Saturday, Sunday, or a holiday which is observed by the construction industry in the area of the place of the work.

- 1.2 The alternative dispute resolution procedures set out in these Dispute Resolution Conditions do not apply to any claim by Her Majesty against the Contractor except any counterclaim in a dispute as defined in this DR 01 Interpretation, including, but not limited to, any claim of set off regarding any amount due to Her Majesty under GC37 of the General Conditions.

DR 02 (13/12/02) Consultation and Co-operation

- 2.1 The parties agree to maintain open and honest communication throughout the performance of the contract.
- 2.2 The parties agree to consult and cooperate with each other in the furtherance of the work and the resolution of problems or differences which may arise.

DR 03 (13/12/02) Authority of Engineer

- 3.1 Any difference between the parties to the contract of any nature arising out of or in connection with the contract which could result in a claim by the Contractor against Her Majesty, and which is not settled by consultation and cooperation as envisaged in DR 02 Consultation and Co-operation, shall be resolved in the first instance by the Engineer, whose written decision or direction shall be final and binding subject only to the provisions of these Dispute Resolution Conditions "G." Such written decision or direction includes, but is not limited to, any written decision or direction by the Engineer under any provision of the General Conditions.
- 3.2 The Contractor shall be deemed to have accepted the decision or direction of the Engineer referred to in DR 3.1 and to have expressly waived and released Her Majesty from any claim in respect of the particular matter dealt within that decision or direction unless, within fifteen (15) working days after receipt of the decision or direction, the Contractor submits to the Engineer a written notice of dispute requesting formal negotiation under DR 04 Negotiation. Such notice shall refer specifically to DR 04 Negotiation and shall specify the issues in contention and the relevant provisions of the contract.
- 3.3 The giving of a written notice in accordance with DR 3.2 shall not relieve the Contractor from complying with the decision or direction that is the subject of the dispute. Such compliance, however, shall not be construed as an admission by the Contractor of the correctness of such decision or direction.
- 3.4 If a dispute is not resolved promptly, the Engineer shall give such instructions as, in the Engineer's opinion, are necessary for the proper performance of the work and to prevent delays pending a resolution of the matter. Unless the Minister terminates the contract, orders the Contractor to suspend the work, or takes the work out of the hands of the Contractor, the

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Contractor shall continue to perform the work in accordance with the provisions and requirements of the contract and the instructions of the Engineer. Such performance shall not prejudice any claim that the Contractor may have.

- 3.5 Nothing in these Dispute Resolution Conditions relieves the Contractor from its obligation to provide any other notice required by the Contract within the time specified in the Contract, including, but not limited to, any notice required under GC35 of the General Conditions.

DR 04 (13/12/02) Negotiation

- 4.1 Within ten (10) working days after receipt by the Engineer of a notice referred to in DR 3.2, or within such other period of time as may be mutually agreed to, the parties shall commence formal negotiations in order to resolve the dispute. Negotiations shall occur initially between representatives of the Contractor and Her Majesty who play a direct supervisory role in the performance or management of the contract.
- 4.2 If the representatives referred to in DR 4.1 are unable to resolve some or all of the issues which are the subject of the negotiations within ten (10) working days, the parties shall refer the remaining issues which are in dispute to a second level of negotiation between a principal or principals of the Contractor and a senior level manager or senior level managers representing Her Majesty.
- 4.3 If negotiations fail to resolve the dispute within thirty (30) working days from the date of delivery of the notice referred to in DR 3.2, or within such longer period as may have been agreed to by the parties, the Contractor may, by giving written notice to the Engineer, in accordance with GC11 of the General Conditions, within ten (10) working days from the end of such period, request that mediation be undertaken to assist the parties to reach agreement on the outstanding issues.
- 4.4 If the Contractor does not request mediation within the period permitted by DR 4.3, the Contractor shall be deemed to have accepted the decision or direction of the Engineer under DR 3.1 and to have expressly waived and released Her Majesty from any claim in respect of the particular matter dealt within that decision or direction.

DR 05 (13/12/02) Mediation

- 5.1 If the Contractor has requested mediation in accordance with DR 4.3, mediation shall be conducted in accordance with the current issue of the Public Works and Government Services Canada rules for mediation of construction contract disputes attached hereto as Dispute Resolution Rules for Mediation (Construction Contract).
- 5.2 If a Project Mediator has not previously been appointed for the purposes of the contract, a Project Mediator shall be appointed in accordance with Dispute Resolution Rules for Mediation forthwith after delivery of a notice in accordance with DR 4.3 requesting mediation.
- 5.3 If the dispute has not been resolved within
- 5.3.1 ten (10) working days following the appointment of a Project Mediator in accordance with DR 5.2, if a Project Mediator was not previously appointed, or
 - 5.3.2 ten (10) working days following receipt by the Engineer of a written notice in accordance with DR 4.3, if a Project Mediator was previously appointed, or
 - 5.3.3 such other longer period as may have been agreed to by the parties,
- the Project Mediator shall terminate the mediation by giving written notice to the parties stating the effective date of termination.

DR 06 (13/12/02) Binding Arbitration

- 6.1 If mediation of the dispute is terminated pursuant to the provisions of DR 05 Mediation, and
- 6.1.1 the termination of mediation occurs prior to the applicable date set out in DR 6.4, and
 - 6.1.2 the disputed issues involve issues of fact or issues of arbitral questions of law or issues of mixed fact and arbitral questions of law,

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either party, by giving notice in writing to the other party in accordance with GC11 of the General Conditions, may require that the dispute be resolved by binding arbitration pursuant to this DR 06 Binding Arbitration.

- 6.2 A notice referred to in DR 6.1 shall be given within ten (10) working days of the date of termination of mediation under DR 05 Mediation. If delivered personally, a notice to the Contractor shall be delivered to the Contractor if the Contractor is doing business as a sole proprietor or, if the Contractor is a partnership or corporation, to an officer thereof.
- 6.3 If no notice is given within the period set out in DR 6.2, or if the conditions set out in DR 6.1.1 and DR 6.1.2 are not met, the arbitration provisions set out in this DR 06 Binding Arbitration do not apply to the dispute.
- 6.4 Unless otherwise agreed, the arbitration of the dispute shall be held in abeyance until the earlier of
- 6.4.1 the date of issuance of an Interim Certificate of Completion under GC44.2 of the General Conditions,
 - 6.4.2 the date the work is taken out of the Contractor's hands,
 - 6.4.3 the date of termination of the contract,
- and consolidated with all other such disputes into a single arbitration.
- 6.5 Arbitral proceedings under this DR 06 Binding Arbitration shall be governed by and conducted in accordance with the Commercial Arbitration Act, R.S.C. 1985, c.17 (2nd Supp.) and the provisions of the Public Works and Government Services Canada rules for arbitration of construction contract disputes attached hereto as Dispute Resolution Rules for Arbitration (Construction Contract).
- 6.6 For the purposes of calculating time under the Rules for Arbitration referred to in DR 6.5, arbitration proceedings shall commence on the applicable date set out in DR 6.4.
- 6.7 Notwithstanding anything else contained in this DR 06 Binding Arbitration, the arbitration provisions in this DR 6 do not apply if the aggregate amount of all claims by the Contractor required to be arbitrated on the applicable date set out in DR 6.4 is less than \$25,000.

DR 07 (13/12/02) Disputes Not Subject to Arbitration

- 7.1 Where the arbitration provisions in DR 06 Binding Arbitration do not apply to a dispute as a result of DR 6.3 or DR 6.7, either party may take such court action or proceedings as it considers appropriate, including, without limiting the foregoing, all suits that would otherwise have been immediately available to it but for the provisions of these Dispute Resolution Conditions. Subject to the provisions of DR 7.2, the Contractor shall initiate any such action or proceeding no later than three calendar months after the date that a Final Certificate of Completion is issued under GC44.1 of the General Conditions and not afterwards.
- 7.2 Any action or proceeding resulting from a direction under GC32 of the General Conditions shall be initiated by the Contractor no later than three calendar months after the expiry of the warranty or guarantee period and not afterwards.

DR 08 (13/12/02) Confidentiality

- 8.1 All information exchanged during alternative dispute resolution procedures, by whatever means, shall be without prejudice and shall be treated as confidential by the parties and their representatives, unless otherwise required by law. However, evidence that is independently admissible or discoverable shall not be rendered inadmissible or non-discoverable by virtue of its use during an alternative dispute resolution process.

DR 09 (13/12/02) Settlement

- 9.1 Any agreement to settle all or any part of a dispute, by whatever means, shall be in writing and be signed by the parties or their authorized representatives.

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R0208D (13/12/02) Dispute Resolution - Rules for Mediation

Public Works and Government Services Canada

- RM 01 Interpretation
- RM 02 Application
- RM 03 Communications
- RM 04 Appointment of Project Mediator
- RM 05 Confidentiality
- RM 06 Time and Place of Mediation
- RM 07 Representation
- RM 08 Procedure
- RM 09 Settlement Agreement
- RM 10 Termination of Mediation
- RM 11 Costs
- RM 12 Subsequent Proceedings

RM 01 (13/12/02) Interpretation

- 1.1 Terms defined in the Contract and used in these Rules shall have the meaning assigned to them in the Contract.
- 1.2 "Dispute Resolution Coordinator" or "Coordinator" means the Director, Contract Claims Resolution Board, Public Works and Government Services Canada, Place du Portage Phase III, 7A1, 11 Laurier Street, Hull, Quebec K1A 0S5.

RM 02 (13/12/02) Application

- 2.1 These Rules apply to mediation conducted under the Contract. By mutual agreement, the parties may change or make additions to the Rules.

RM 03 (13/12/02) Communications

- 3.1 Written communications pursuant to these Rules shall be given in the same manner as written notices are to be given pursuant to the Contract.

RM 04 (13/12/02) Appointment of Project Mediator

- 4.1 The parties to the Contract may, by mutual consent, at any time after entry into the Contract, appoint a mediator (the "Project Mediator") to conduct mediation proceedings in accordance with these Rules for Mediation of Construction Disputes, in regard to any dispute which may arise with regard to the interpretation, application or administration of the Contract. In this case, they shall jointly enter into a contract with the appointed Project Mediator, which contract shall be in a form drafted by the Coordinator and agreed to by the parties.
- 4.2 If the parties do not appoint a Project Mediator pursuant to RM 4.1, the parties shall appoint a Project Mediator within seventeen (17) working days following receipt of a written notice from the Contractor, in accordance with DR 4.3 of Dispute Resolution Conditions "G", requesting that mediated negotiations be undertaken in accordance with these Rules to assist the parties to reach agreement on any outstanding issues which may be in dispute. Any contract entered into with the appointed Project Mediator shall meet the requirements as set out for the contract described in RM 4.1 of these rules.
- 4.3 When mediation is requested by the Contractor pursuant to the terms of the Contract, if the parties have previously entered into a contract with a Project Mediator, the parties shall within two (2) days send to both the Project Mediator and the Coordinator
 - 4.3.1 a copy of the written notice of dispute requesting formal negotiation under the terms of the Contract,

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- 4.3.2 a copy of the Engineer's written position in relation to the notice, the issues in contention and the relevant provisions of the contract, and
- 4.3.3 a copy of the Contractor's written request for mediation required under the terms of the Contract.
- 4.4 If the parties have not agreed on a Project Mediator, the parties shall forthwith provide the Coordinator with the written materials referred to in 4.3.1, 4.3.2 and 4.3.3 of RM 4.3 together with a request that the Coordinator assist in the appointment of a mutually acceptable Project Mediator in accordance with these Rules.
- 4.5 Within five (5) working days following receipt of the request and materials referred to in RM 4.4, the Coordinator shall provide the parties with a list of qualified private sector mediators obtained from an independent and impartial entity, together with instructions to each party to individually and confidentially select and rank their preferred and fully acceptable choices of mediator in descending order. Each mediator listed shall be impartial and independent of the parties, and shall be an experienced and skilled commercial mediator, preferably with knowledge of the subject matter of the dispute.
- 4.6 Within ten (10) working days of receipt of the list referred to in RM 4.5 each party shall comply with the instructions accompanying the list(s) and shall deliver the completed listing to the Coordinator.
- 4.7 Within two (2) working days following receipt of the completed listings, the Coordinator shall select the highest common ranked mediator to act as Project Mediator for the purposes of the contract.
- 4.8 In the event of a tie, the Coordinator shall consult both parties to re-evaluate their rankings in order to assist the Coordinator in selecting a Project Mediator acceptable to both parties. If the parties cannot agree upon a Project Mediator, the Coordinator shall forthwith provide the parties with a second list of mediators and the procedure shall be repeated.
- 4.9 If the parties have not previously entered into a contract with a mutually acceptable Project Mediator, the Coordinator shall use reasonable efforts to negotiate a contract with a mutually acceptable Project Mediator on behalf of the parties, which contract shall incorporate or otherwise comply with the provisions of these Rules. If negotiations are unsuccessful, or if for other reason the individual is unwilling or unable to enter into a contract to act as Project Mediator, the Coordinator shall repeat the process with the second-highest common ranked mediator.
- 4.10 The parties agree that, upon successful completion of the negotiations referred to in RM 4.9, they shall jointly enter into an agreement with the selected Project Mediator, which agreement shall be in a form drafted by the Coordinator and agreed to by the parties.
- 4.11 Upon execution of the agreement with the Project Mediator referred to in RM 4.10, the Coordinator shall provide the Project Mediator with copies of the documents referred to in RM 4.3 above.

RM 05 (13/12/02) Confidentiality

- 5.1 Subject to RM 5.2, and unless otherwise agreed in writing by the parties, the Project Mediator, the parties and their counsel or representatives shall keep confidential all matters and documents disclosed during mediation proceedings except where the disclosure is necessary for any implementation of any agreement reached or is required by law.
- 5.2 Evidence that is independently admissible or discoverable in any arbitral or judicial proceeding shall not be rendered inadmissible or non-discoverable by virtue of its use in mediation proceedings.
- 5.3 Neither party shall make transcripts, minutes or other records of a mediation conference.
- 5.4 The personal notes and written opinions of the Project Mediator made in relation to mediation are in the Project Mediator's sole possession and control, are confidential, and may not be used in any subsequent proceeding between the parties or where they are opposed in interest without the express written permission of the parties.

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5.5 All information exchanged during mediation procedures, by whatever means, shall be without prejudice and shall be treated as confidential by the parties and their representatives, unless otherwise required by law.

RM 06 (13/12/02) Time and Place of Mediation

6.1 The Project Mediator, in consultation with the parties shall set the date, time and place of any mediation conference as soon as possible, bearing in mind that, subject to agreement to the contrary between the parties, only ten (10) working days are available within which to attempt to settle the dispute.

RM 7 (13/12/02) Representation

7.1 Representatives of the parties may be accompanied at the mediation conference by legal counsel or any other person.

7.2 If the Project Mediator is a lawyer, the Project Mediator shall not provide legal advice to a party during the course of the mediation conference, but may recommend that a party obtain independent legal advice before finalizing a settlement agreement.

RM 8 (13/12/02) Procedure

8.1 The parties agree to an exchange of all facts, information and documents upon which they intend to rely in any oral or written presentation during the mediation. This exchange shall be completed no later than two (2) working days prior to the date set for a mediation conference.

8.2 The Project Mediator shall be free to meet with the parties individually during a mediation conference if the Project Mediator is of the opinion that this may improve the chances of a mediated settlement, and either party may request such an individual meeting at any time.

8.3 The parties may agree to extend the ten (10) working days available for settlement of the dispute through mediation, and the Project Mediator shall record that agreement in writing.

RM 09 (13/12/02) Settlement Agreement

9.1 The parties shall record in writing any settlement agreement reached, with sufficient detail to ensure a clear understanding of

9.1.1 the issues resolved

9.1.2 any obligations assumed by each party including criteria to determine if and when these obligations have been met, and

9.1.3 the consequences of failure to comply with the agreement reached.

9.2 The parties agree to carry out the terms of a settlement agreement as soon as possible and, in any event, within any time periods specified in the agreement.

RM 10 (13/12/02) Termination of Mediation

10.1 Either party may withdraw from mediation at any time without reason and, in that event, the Project Mediator shall give each party a written notice terminating the mediation and establishing the effective date of termination.

10.2 If, in the opinion of the Project Mediator, either party fails to mediate in good faith or fails to comply with the terms of these Rules, or if the Project Mediator, at any time during mediation, is of the opinion that further negotiations will fail to resolve the issues outstanding, the Project Mediator may terminate the negotiations by providing the parties with a written notice of termination, stating therein the Project Mediator's reasons for the termination, and the effective date of termination.

10.3 If a dispute has not been resolved within the 10-day period set out in DR 5.3 of Dispute Resolution Conditions "G" or such other longer period as may have been agreed to by the parties, the Project Mediator shall terminate the mediation by giving written notice to the parties stating the effective date of termination.

RM 11 (13/12/02) Costs

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- 11.1 The parties agree that they will each be responsible for the costs of their own representatives and advisors and associated travel and living expenses. Fees and expenses of the Project Mediator and all administrative costs of mediation, such as the cost of the meeting room(s), if any, shall be borne equally by the parties.

RM 12 (13/12/02) Subsequent Proceedings

- 12.1 The parties shall not rely on or introduce as evidence in any arbitral or judicial proceeding, whether or not such proceeding relates to the subject matter of mediation,
- 12.1.1 any document of other parties which are not otherwise producible in those proceedings,
 - 12.1.2 any views expressed or suggestions made by any party in respect of a possible settlement of issues,
 - 12.1.3 any admission made by any party in the course of mediation unless otherwise stipulated by the admitting party,
 - 12.1.4 the fact that any party has indicated a willingness to make or accept a proposal or recommendation for settlement.
- 12.2 The Project Mediator shall neither represent nor testify on behalf of either of the parties in any subsequent investigation, action or proceeding relating to the issues in mediation proceedings.
- 12.3 The Project Mediator shall not be subpoenaed to give evidence relating to
- 12.3.1 the Project Mediator's role in mediation, or
 - 12.3.2 the matters or issues in mediation
- in any subsequent investigation, action or proceeding and the parties agree to vigorously oppose any effort to have the Mediator so subpoenaed.

R0209D (13/12/02) Dispute Resolution - Rules for Arbitration

Public Works and Government Services Canada

- RA 1 Interpretation
- RA 2 Arbitration Tribunal
- RA 3 Application
- RA 4 Initiation of Proceedings
- RA 5 Appointment of Tribunal
- RA 6 Preliminary Meeting
- RA 7 Communications
- RA 8 Representation
- RA 9 Conduct of Proceedings
- RA 10 Place of Arbitration
- RA 11 Time Limitations
- RA 12 Statement of Claim and Defence
- RA 13 Further Written Statements
- RA 14 Agreed Statement of Facts
- RA 15 Evidence
- RA 16 Hearings
- RA 17 Default
- RA 18 Arbitral Decision

RA 1 (13/12/02) Interpretation

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1.1 Terms defined in the Contract and used in these Rules shall have the meaning assigned to them in the Contract.

1.2 In these Rules,

“claimant” means the Contractor;

“Dispute Resolution Coordinator” or “Coordinator” means the Director, Contract Claims Resolution Board, Public Works and Government Services Canada, Place du Portage Phase III, 7A1 11 Laurier Street, Hull, Quebec K1A 0S5; and

“respondent” means Her Majesty.

RA 2 (13/12/02) Arbitration Tribunal

2.1 Subject to these Rules, and unless otherwise agreed by the parties, the arbitration tribunal shall consist of a single arbitrator (“the Tribunal”) who shall be appointed in accordance with the provisions of the Rules.

RA 3 (13/12/02) Application

3.1 These Rules apply to arbitration conducted under the Contract. By mutual agreement, the parties may change or make additions to the Rules.

3.3 The scope of the arbitral proceedings shall be limited to the resolution of the dispute submitted to arbitration.

3.3 The dispute shall be subject to resolution pursuant to the provisions of these Rules whether or not such resolution requires determination of a question of law if such question of law is an arbitral question of law as defined in the terms and conditions of the Contract.

3.4 Arbitral proceedings shall be governed by and in accordance with the *Commercial Arbitration Act*, R.S.C. 1985, c. 17 (2nd Supp.), the Code referred to therein, and the provisions of these Rules, and, subject only to the provisions of the *Commercial Arbitration Act*, the parties agree that the determination and award of the Tribunal shall be final and binding on both parties.

3.5 The Tribunal shall not decide the dispute *ex aequo et bono* or as amiable compositeur.

3.6 The Tribunal shall decide in accordance with the terms and conditions of the Contract and shall take into account the usages of the trade applicable to the transaction.

3.7 The costs of the Tribunal and the arbitration shall be shared equally by the parties and each party shall bear its own costs.

RA 4 (13/12/02) Initiation of Proceedings

4.1 Either party may submit a dispute to binding arbitration to the extent permitted under the Contract, by giving notice in writing to the other party in accordance with the requirements of the Contract.

4.2 The notice referred to in RA 4.1 shall contain the following:

4.2.1 a brief description of the Contract;

4.2.2 a statement of the issue(s) in dispute;

4.2.3 a request that the dispute be referred to binding arbitration;

4.3 A copy of the notice referred to in RA 4.1 shall be given to the Coordinator at the same time it is given to the other party.

4.4 Unless otherwise agreed, the arbitration of the dispute shall be held in abeyance and consolidated with all other such disputes into a single arbitration in accordance with the terms of the Contract.

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RA 5 (13/12/02) Appointment of Tribunal

- 5.1 No later than ten (10) working days following the date of commencement of arbitration proceedings as set out in DR 6.6, the Coordinator shall assemble and provide the parties with a list of qualified private sector arbitrators obtained from an independent and impartial entity, together with instructions to each party to individually and confidentially select and rank their preferred and fully acceptable choices of arbitrator in descending order.
- 5.2 Within ten (10) working days of receipt of the list referred to in RA 5.1, each party shall comply with the instructions accompanying the list(s) and shall deliver the completed listing to the Coordinator.
- 5.3 Within two (2) working days following receipt of the completed listings, the Coordinator shall select the highest common ranked arbitrator to act as the Tribunal for the purposes of the arbitration.
- 5.4 In the event of a tie, the Coordinator shall consult both parties to re-evaluate their rankings in order to assist the Coordinator in selecting a single arbitrator acceptable to both parties. If the parties cannot agree upon an arbitrator, the Coordinator shall forthwith provide the parties with a second list of arbitrators and the procedure shall be repeated.
- 5.5 In the event that, following the repeated procedure, the Coordinator again fails to select a single arbitrator acceptable to both parties, the Tribunal shall consist of three (3) arbitrators, one arbitrator appointed by each of the parties and the third arbitrator appointed by these two (2) arbitrators.
- 5.6 The Tribunal shall in any event be composed of a person or persons who have experience in the subject matter of the dispute and are independent of either party. Without limiting the generality of the foregoing, the Tribunal shall be at arm's length from both parties and shall not be composed of members of any company, firm, or agency which advises either party, nor shall the Tribunal be composed of a person or persons who are otherwise regularly retained by such parties.
- 5.7 The parties agree that they shall jointly enter into an agreement with the selected Tribunal, which agreement shall be in a form drafted by the Coordinator and agreed to by the parties.
- 5.8 The parties agree that they shall each bear their own costs. Fees and reasonable expenses of the Tribunal and reasonable expenses associated with the conduct of the arbitration shall be borne equally by the parties.

RA 6 (13/12/02) Preliminary Meeting

- 6.1 Unless the parties to the arbitration and the Tribunal otherwise agree, the parties shall meet with the Tribunal within ten (10) working days of the Tribunal's appointment to:
 - 6.1.1 settle the location of premises for proceedings and responsibilities for the arrangement;
 - 6.1.2 verify addresses for the delivery of written communications to each party and to the Tribunal;
 - 6.1.3 present to the Tribunal the issues to be resolved by means of the arbitration;
 - 6.1.4 estimate the length of time the hearing might take and the number of witnesses likely to be produced;
 - 6.1.5 determine if a stenographic record or any other type of recording of proceedings should be provided; and
 - 6.1.6 determine any other matters pertinent to conduct of the arbitration.

RA 7 (13/12/02) Communications

- 7.1 Subject to RA 7.2, the Tribunal shall not communicate with a party to the dispute except in the presence of the other party.

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- 7.2 Notwithstanding RA 7.1, the Tribunal may communicate with the parties separately for the purpose of establishing procedures to be followed or setting the time of a meeting; other exceptions to the general rule shall only be made with the consent in writing of all parties.
- 7.3 If a communication by the Tribunal to one party is in writing, a copy shall be sent to the other party.
- 7.4 If a party sends any written communication to the Tribunal, a copy shall be sent to the other party.
- 7.5 Any communication that is required or permitted to be given to the Tribunal or either party shall be in writing and may be given by delivering the same by facsimile or by mail, postage prepaid, to the address established for the purposes of the Contract in the case of the parties, and to the address provided by the Tribunal in the case of the Tribunal, and such communication shall be deemed to have been received in accordance with the provisions of the General Conditions of the Contract.

RA 8 (13/12/02) Representation

- 8.1 The parties may be represented or assisted by any person during the arbitral proceedings.

RA 9 (13/12/02) Conduct of Proceedings

- 9.1 Subject to the provisions of these Rules, the Tribunal may conduct the arbitration in the manner it considers appropriate. The power conferred upon the Tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

RA 10 (13/12/02) Place of Arbitration

- 10.1 The Tribunal may meet at any place it considers appropriate for hearing witnesses, experts or the parties, or for inspection of documents, goods or other property. The Tribunal will conduct on-site inspections at the request of either party. Any on-site inspections shall be made in the presence of both parties and their representatives. The proceedings of any on-site inspections shall be recorded as part of the hearing itself.

RA 11 (13/12/02) Time Limitations

- 11.1 The Tribunal may extend or abridge a period of time required in these Rules or fixed or determined by the Tribunal where the Tribunal considers it to be reasonable and appropriate.
- 11.2 Where any proceeding is terminated pursuant to paragraph 25(a) or 32 (2)(a) of the Code referred to in the *Commercial Arbitration Act*, unless the respondent agrees otherwise in writing, such termination is deemed to be a final award dismissing the claim of the claimant.

RA 12 (13/12/02) Statement of Claim and Defence

- 12.1 Within ten (10) working days after the Tribunal has been appointed, the claimant shall state, in writing, the facts supporting its claim, points at issue and relief or remedy sought, and shall submit the statement to the respondent, the Coordinator, and the Tribunal.
- 12.2 Within ten (10) working days after receipt of the statement of claim, the respondent shall state, in writing, its defence in respect of these particulars and any counterclaim and shall submit its statement to the claimant, the Coordinator and the Tribunal.
- 12.3 Within five (5) working days after receipt of the statement of defence, the claimant may state, in writing, its response to the defence and to any counterclaim, and shall submit its statement to the respondent, the Coordinator and the Tribunal.
- 12.4 A party may amend or supplement its statements during the course of arbitral proceedings unless the Tribunal considers it inappropriate to allow such amendment or supplement having regard to all circumstances including delay in making the amendment or supplement.
- 12.5 A statement may not be amended if the amended statement would fall outside the scope of the arbitration agreement.

RA 13 (13/12/02) Further Written Statements

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13.1 The Tribunal may require or permit the presentation of further written statements by the parties and shall fix the periods of time for submitting those statements.

RA 14 (13/12/02) Agreed Statement of Facts

14.1 Within a time period specified by the Tribunal, the parties shall prepare and file with the Tribunal an agreed statement of facts including but not limited to a chronology of the project, schedules, quantities and progress payments. The Tribunal shall make itself available, upon reasonable notice, to assist the parties to arrive at agreement on as many facts as possible under the circumstances.

14.2 Within a time period specified by the Tribunal, the parties shall prepare and file with the Tribunal a common book of documents including all documents referred to in an agreed statement of facts and in statements of claim, defence and response.

RA 15 (13/12/02) Evidence

15.1 Each party shall prove the facts relied upon to support its claim or defence.

15.2 Each party shall deliver to the Tribunal and to the other party, within such period of time that the Tribunal determines, a copy of the documents and a summary of the other evidence that party intends to present in support of the facts in issue set out in its statement of claim, defence or response.

15.3 From time to time, the Tribunal may require the parties to produce documents, exhibits and other evidence within such period of time that the Tribunal may determine.

RA 16 (13/12/02) Hearings

16.1 All statements, documents or other information supplied to, or applications made to, the Tribunal by one party shall be communicated to the other party, and any expert report or evidentiary document on which the Tribunal may rely in making its decision shall be communicated to the parties at least eight (8) working days prior to its entry in evidence.

16.2 The parties shall be given reasonably sufficient advance notice of any hearing of the Tribunal and any meeting of the Tribunal for the purpose of inspection of documents, goods or other property.

16.3 If a party intends to give evidence through a witness, the party shall communicate to the Tribunal and to the other party, within such period that the Tribunal determines

16.3.1 the names, addresses and *curriculum vitae* of each of the witnesses it intends to present, and

16.3.2 the subject upon which those witnesses will give their testimony.

16.4 Each party shall have the right to examine, cross-examine and re-examine all witnesses as appropriate.

16.5 All oral hearings and meetings in arbitral proceedings shall be held *in camera*.

RA 17 (13/12/02) Default

17.1 Where, without showing sufficient cause, the claimant fails to communicate its statement of claim in accordance with these Rules or within such further period of time permitted by the Tribunal under these Rules, the Tribunal shall issue an order terminating the arbitral proceedings with respect to that claim.

17.2 An order made under RA 17.1 does not affect a counterclaim made in respect of those arbitral proceedings.

17.3 Where, without showing sufficient cause, the respondent fails to communicate a statement of defence in accordance with these Rules, or within such further period of time permitted by the Tribunal under these Rules, the Tribunal shall continue the arbitral proceedings without treating that failure in itself as an admission of the claimant's allegations.

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17.4 Where, without showing sufficient cause, a party fails to appear at an oral hearing or produce documentary evidence, the Tribunal may continue the arbitral proceedings and make the arbitral award on the evidence before it.

RA 18 (13/12/02) Arbitral Decision

18.1 Unless otherwise agreed to by the parties, the Tribunal shall make the award no later than thirty (30) days after completion of the arbitration hearings unless that time period is extended for an express period by the Tribunal on written notice to each party, due to illness or other cause beyond the Tribunal's control.

R0210D (14/05/04) General Conditions - Minor Works

Public Works and Government Services Canada

- GC 01 Definition of Terms
- GC 02 Assignment and Subcontracting
- GC 03 Members of House of Commons and Former Public Office Holders
- GC 04 Indemnification
- GC 05 Property of Her Majesty
- GC 06 Applicable Laws
- GC 07 Canadian Labour and Materials
- GC 08 Publicity
- GC 09 Materials, Equipment, etc. to become Property of Her Majesty
- GC 10 Contractor's Superintendent and Workers
- GC 11 Co-operation with other Contractors
- GC 12 Claims Against and Obligations of the Contractor or Subcontractor
- GC 13 Architect/Engineer's Rights and Obligations
- GC 14 Delay, Non-Compliance or Default by the Contractor
- GC 15 Changes in Soil Conditions, Delay by Her Majesty
- GC 16 Protesting Architect/Engineer's Decision
- GC 17 Suspension or Termination of the Contract
- GC 18 No Additional Payments
- GC 19 Determination of Costs
- GC 20 Records to be Kept
- GC 21 Extension of Time
- GC 22 Cleaning of Work
- GC 23 Architect/Engineer's Certificates
- GC 24 Rectification of Defects
- GC 25 Payment
- GC 26 Non-discrimination in Hiring and Employment of Labour
- GC 27 Certification - Contingency Fees

GC 01 (16/02/98) Definition of Terms

1.1 In the Contract,

the "Architect/Engineer" means such person as may be specifically designated by or on behalf of the Minister upon the award of this contract and includes a person specially authorized by the Architect/Engineer to act on his behalf,

"Minister" includes a person acting for, or if the office is vacant, in place of the Minister and his successors in the office, and his or their lawful deputy and any of his or their representatives appointed for the purpose of the contract,

"person" includes, unless there is an express stipulation in the contract to the contrary, any partnership, proprietorship, firm, joint venture, consortium, corporation.

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"work" includes the whole of the works, materials, matters and things to be done, furnished and performed by the Contractor under the contract.

GC 02 (16/02/98) Assignment and Subcontracting

2.1 This Contract may not be assigned without the written consent of the Minister, and neither the whole nor any part of the work may be subcontracted by the Contractor without the consent of the Architect/Engineer. All the terms and conditions of this Contract that are of general application shall be incorporated in every other contract, excluding those contracts issued solely for the supply of plant or material, issued as a consequence of this Contract.

GC 03 (16/02/98) Members of The House of Commons and Former Public Office Holders

3.1 No Member of the House of Commons shall be admitted to any share or part of the contract or to any benefit arising therefrom.

3.2 It is a term of this contract that no former public office holder who is not in compliance with the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders shall derive a direct benefit from this Contract.

GC 04 (16/02/98) Indemnification

4.1 The Contractor shall indemnify and save harmless Her Majesty from and against all claims, losses, costs, damages, suits, proceedings, or actions arising out of or related to the Contractor's activities in executing the work, other than those arising from a defect in title to the site of the work or the infringement of a patent arising from a design supplied by Her Majesty, but including his omissions, improper acts or delays in executing the work under the contract.

GC 05 (16/02/98) Property of Her Majesty

5.1 The Contractor shall be responsible for any loss or damage, excluding reasonable wear and tear, to any property of Her Majesty arising out of the performance of the work whether or not such loss arises from causes beyond his control. Such property shall only be used by the Contractor as may be directed by the Architect/Engineer and the Contractor shall, at any time when requested to do so, account to the Architect/Engineer for the use of such property.

GC 06 (01/12/00) Applicable Laws

6.1 The Contractor shall comply with all legislative and regulatory provisions whether federal, provincial or municipal applicable to the performance of the work.

6.2 Unless otherwise provided in the contract, the Contractor shall obtain all permits and hold all certificates and licenses required for the performance of the Work.

6.3 From time to time, the Architect/Engineer may request that the Contractor provide evidence that it complies with all applicable legislative and regulatory provisions and that it holds all required permits, certificates and licenses. Such evidence shall be provided within the time set in the request or as otherwise stipulated in the contract.

GC 07 (16/02/98) Canadian Labour and Materials

7.1 In so far as is practicable the Contractor shall employ and use only Canadian labour and materials in the execution of the work, employ local labour with a reasonable proportion of workers who have served on active service with the Canadian Armed Services, and utilize the services of the Canada Employment Centres in the recruitment of such labour.

GC 08 (16/02/98) Publicity

8.1 The Contractor will neither permit any public ceremony, nor erect or permit the erection of any sign or advertising, in connection with the work without the approval of the Architect/Engineer.

GC 09 (16/02/98) Materials, Equipment, etc. to become Property of Her Majesty

9.1 All materials and plant used or provided for the work shall be the property of Her Majesty, shall not be removed from the site of the work and shall be used only for the purpose of the work, until the Architect/Engineer shall certify that they are, if not incorporated in the work, no longer

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required for the purpose of the work. The Contractor shall be liable for all loss or damage to material or plant that is the property of Her Majesty by virtue of this section.

GC 10 (16/02/98) Contractor's Superintendent and Workers

10.1 The Contractor will keep a competent superintendent on the site of the work at all times during the progress of the work unless otherwise authorized by the Architect/Engineer. The Superintendent must be acceptable to the Architect/Engineer and have the authority to receive on behalf of the Contractor any order or communication in respect of the contract. Any superintendent and worker not acceptable to the Architect/Engineer because of incompetency, improper conduct or security risk will be removed from the site of the work and replaced forthwith.

GC 11 (16/02/98) Co-operation with other Contractors

11.1 The Contractor will co-operate fully with other contractors or workers sent onto the site of the work by the Architect/Engineer. If the sending onto the work of other contractors and workers could not have been reasonably foreseen by the Contractor when entering into the contract, and if, in the opinion of the Architect/Engineer the Contractor has incurred additional expense by such action, and if the Contractor has given written notice of claim within thirty (30) days of such action, Her Majesty will pay the cost of such additional expense to the Contractor calculated in accordance with GC 19.

GC 12 (25/05/01) Claims Against and Obligations of the Contractor or Subcontractor

12.1 The Contractor shall ensure that all its lawful obligations and any lawful claims against the Contractor arising out of the performance of the work are discharged and satisfied at least as often as the contract requires Her Majesty to discharge Her obligations to the Contractor. The Contractor shall provide the Architect/Engineer with a Statutory Declaration deposing to the existence and condition of such claims and obligations when called upon to do so.

12.2 Her Majesty may, in order to discharge lawful obligations of and satisfy lawful claims against the Contractor or a subcontractor arising out of the performance of the work, pay an amount, which is to be determined in accordance with GC 12.3, from money that is due and payable to the Contractor pursuant to the contract directly to the obligees of the claimants against the Contractor or the subcontractor.

12.3 The amount referred to in GC 12.2 shall be that amount which the Contractor would have been obliged to pay to such claimant had the provisions of the provincial or territorial lien legislation, or in the province of Quebec, the law relating to privileges, been applicable to the work. Any such claimant need not comply with the provisions of such legislation setting out the steps by way of notice, registration or otherwise an might have been necessary to preserve or perfect any claim for lien or privilege which the claimant might have had.

12.4 For the purposes of GC 12.2, a claim shall be considered lawful when it is so determined;

12.4.1 by a court of competent jurisdiction, or

12.4.2 by an arbitrator duly appointed to arbitrate the said claim, or

12.4.3 by a written notice delivered to the Architect/Engineer and signed by the Contractor authorizing payment of the said claim or claims.

12.5 A payment made pursuant to GC 12.2 is, to the extent of the payment, a discharge of Her Majesty's liability to the Contractor under the contract and may be deducted from any amount payable to the Contractor under the contract.

12.6 GC 12.2 shall only apply to claims and obligations:

12.6.1 The notification of which has set forth the amount claimed to be owing and the person who by contract is primarily liable. The notification must be received by the Architect/Engineer in writing before final payment is made to the Contractor and within one hundred and twenty (120) days of the date on which the claimant;

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- 12.6.1.1 should have been paid in full under the claimant's contract with the Contractor or subcontractor where the claim is for money that was lawfully required to be held back from the claimant; or
- 12.6.1.2 performed the last of the services, work or labour, or furnished the last of the material pursuant to the claimant's contract with the Contractor or subcontractor where the claim is not for money referred to in GC 12.6.1.1, and
- 12.6.2 The proceedings to determine the right to payment of the claim shall have commenced within one year from the date that the notice referred to in GC 12.6.1 was received by the Architect/Engineer.
- 12.7 Her Majesty may, upon receipt of a notification of claim referred to in GC 12.6.1, withhold from any amount that is due and payable to the Contractor pursuant to the Contract the full amount of the claim or any portion thereof.
- 12.8 The Architect/Engineer shall notify the Contractor in writing of receipt of any notification of claim and of the intention of Her Majesty to withhold funds pursuant to GC 12.7. The Contractor may, at any time thereafter and until payment is made to the claimant, post with Her Majesty, security in a form acceptable to Her Majesty in an amount equal to the value of the said claim. Upon receipt of such security Her Majesty shall release to the Contractor any funds which would be otherwise payable to the Contractor, that were withheld pursuant to the provisions of GC 12.7.

GC 13 (25/05/01) Architect/Engineer's Rights and Obligations

- 13.1 The Architect/Engineer shall:
- 13.1.1 have access to the work at all times during its execution and the Contractor will provide the Architect/Engineer with full information and assistance in order that he may ensure that the work is executed in accordance with the contract.
- 13.1.2 decide any question as to whether anything has been done as required by the contract or as to what the Contractor is required by the contract to do, including questions as to the acceptability of the quality or quantity of any labour, plant or material used in the execution of the work and the timing and scheduling of the various phases of the work.
- 13.1.3 have the right to order additional work, dispense with, or change the whole or any part of the work provided for in the plans and specifications. The Architect/Engineer shall decide whether anything done or not done as a result of directions given under this subsection has increased or decreased the cost of the work to the Contractor and the amount payable under the contract to the Contractor will be increased or decreased accordingly by an amount calculated in accordance with GC 19 hereof.
- 13.2 The Contractor shall comply with any decision or direction of the Architect/Engineer given under this section.

GC 14 (16/02/98) Delay, Non-Compliance or Default by the Contractor

- 14.1 If the Contractor delays in the commencement, execution or completion of the work, fails to comply with a direction or decision of the Architect/Engineer properly give, or is in default in any other manner under the contract, the Architect/Engineer may do such things as he deems necessary to correct the Contractor's default. The Contractor will reimburse Her Majesty for all costs, expenses and damage incurred or sustained by Her Majesty, by reason of the Contractor's default, or in correcting the default. In addition to the aforementioned remedies in this section, the Minister may, if the default continues for six (6) days after notice in writing of default has been given to the Contractor by the Architect/Engineer, terminate the contract in accordance with GC 17.3.

GC 15 (25/05/01) Changes in Soil Conditions, Delay by Her Majesty, etc.

- 15.1 No extra payment will be made to the Contractor for any extra expense, loss or damage for any reason unless the Architect/Engineer shall certify that such extra expense, loss or damage is directly attributable to:

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15.1.1 a substantial difference between the soil conditions at the site of the work indicated by the plans and specifications and the actual soil conditions found there;

15.1.2 neglect or delay by Her Majesty, occurring after the date of contract, in providing any information or doing any act which is required expressly by the contract or by usage of the trade, or suspension of the work by the Minister;

and the Contractor has within thirty (30) days of encountering such soil conditions or of the commencement of such neglect or delay, given written notice to the Architect/Engineer of a claim for such extra expense, loss or damage. The amount of any extra payment to be made under this section will be calculated in accordance with GC 19.

15.2 If in the opinion of the Architect/Engineer any difference in soil conditions referred to in GC 15.1.1 hereto results in a saving of expenditure to the Contractor the amount of such saving shall be paid to Her Majesty by the Contractor.

GC 16 (16/02/98) Protesting Architect/Engineer's Decision

16.1 If the Contractor, within ten (10) days of receiving any decision or direction of the Architect/Engineer, gives written notice to the Architect/Engineer that the decision or direction is accepted under protest, Her Majesty will pay to the Contractor the cost, calculated according to GC 19, of anything that the Contractor was required to do, as a result of the decision or direction, beyond what the contract correctly understood would have required him to do.

GC 17 (16/02/98) Suspension or Termination of the Contract

17.1 The Minister may upon notice in writing to the Contractor suspend or terminate the contract at any time. The Contractor will comply with such notice immediately.

17.2 If the Minister suspends the work for thirty (30) days or less the Contractor must, subject to his remedy under GC 15 hereof, complete the work when called upon to do so. If the Minister suspends the work for a period in excess of thirty (30) days the Contractor may request the Minister to terminate the work under GC 17.4 hereof.

17.3 If the Minister terminates the contract because of default by the Contractor, the insolvency of or the commission of an act of bankruptcy by the Contractor, the obligation of Her Majesty to make payments to the Contractor shall cease and no further payments shall be made to the Contractor unless the Architect/Engineer shall certify that no financial prejudice will result to Her Majesty from such further payments. Termination under this subsection shall not relieve the Contractor of any legal or contractual obligations other than the physical completion of the work. In such circumstances the Architect/Engineer may complete or have the work completed as he sees fit and all costs and damages incurred by Her Majesty due to the non-completion of the work by the Contractor shall be payable by the Contractor to Her Majesty.

17.4 If the Minister terminates the work other than in accordance with GC 17.3 hereof Her Majesty will pay to the Contractor an amount calculated in accordance with GC 19 hereof subject to any additions or deductions otherwise provided by the General Conditions or Labour Conditions less any payments made pursuant to GC 25.3 hereof. In no event, however, shall such amount be greater than the amount which would have been payable to the Contractor had the contract been completed.

GC 18 (16/02/98) No Additional Payments

18.1 The amount payable to the Contractor under this contract will not be increased or decreased by reason of any increase or decrease in the cost of the work brought about by any increase in the cost of plant, labour or material, except that, in the event of a change in any tax, that affects the cost of any materials incorporated in or to be incorporated in the work, imposed under the *Excise Act*, the *Excise Tax Act*, the *Old Age Security Act*, the *Customs Act* or *Customs Tariff*, made public after the date of the submission of the tender, an appropriate adjustment may be made.

GC 19 (25/05/01) Determination of Costs

19.1 For the purposes of GC 11, GC 13.3, GC 15, GC16, and GC 17.4 and subject to the provisions of GC 25.2.2, the amount payable to the Contractor for any change in the scope of work requested by the Architect/Engineer shall be based on the Unit Prices as set out in Clause 4 of the Tender and Acceptance.

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19.2 If the Unit Prices referred to in GC 19.1 cannot be used to determine the amount payable to the Contractor due to a change in the scope of the work, then the Contractor shall submit to the Architect/Engineer a quotation of the Contractor's costs for all labour, plant and material required by the change. The Contractor shall include a mark-up in an amount equal to 20% of its costs for the labour, plant and material portion of the work to be done by its own forces and an additional mark-up in an amount equal to 15% of all quotations received from its subcontractors. The Contractor shall ensure that its subcontractor shall include a mark-up in an amount equal to 20% of its costs for the labour, plant and material portion of the work to be done by the subcontractors own forces and an additional mark-up in an amount equal to 15% of all quotations received from its sub-subcontractors. The mark-ups referred to herein shall be considered full compensation for all supervision, coordination, administration, overhead, margin, finance and interest charges, and the risk of undertaking the work within a stipulated amount. The Contractor's and subcontractors' costs shall be inclusive of all contractor and trade discounts. Quotations referred to herein shall be prepared and submitted in accordance with the appropriate percentage mark-up as described elsewhere in the Contract.

19.3 If the Architect/Engineer and the Contractor fail to reach agreement on the prices quoted in GC 19.2, then the amount payable to the Contractor shall be all reasonable and proper costs paid or legally payable by the Contractor that are directly attributable to the change in the scope of the work plus an additional amount equal to 10% of such costs to cover overhead, finance and interest charges, and margin. The Contractor shall provide evidence of such costs to the Architect/Engineer with its progress claim or invoice.

GC 20 (16/02/98) Records to be Kept

20.1 The Contractor shall for a period of two (2) years from the date of the Final Certificate of Completion, maintain and keep full records, vouchers, other writings and information in respect of his estimates and actual cost of the work and shall make them available for copy, audit or inspection by any persons acting on behalf of the Minister.

GC 21 (25/05/01) Extension of Time

21.1 The Minister may, on the application of the Contractor made before the day fixed for the completion of the work, extend the time for the completion of the work. Whether or not the Minister grants an extension, the Contractor shall, except to the extent that the Minister is of the opinion that the need for an extension was due to causes beyond the control of the Contractor, pay to Her Majesty.

21.1.1 an amount equal to Departmental inspection costs relating to the work incurred after the original completion date and

21.1.2 compensation for any loss or damage resulting to Her Majesty from failure by the Contractor to complete the work by the original completion date.

GC 22 (16/02/98) Cleaning of Work

22.1 The Contractor will upon completion of the work, clear and clean the work and its site to the satisfaction of and in accordance with any directions of the Architect/Engineer.

GC 23 (16/02/98) Architect/Engineer's Certificates

23.1 On the day that the work has been completed and the Contractor has complied with the contract and all orders and directions pursuant thereto to the satisfaction of the Architect/Engineer, the Architect/Engineer will issue to the Contractor a Final Certificate of Completion. In the case of a unit price contract, the Architect/Engineer will at the same time issue a Final Certificate of Measurement setting out the final quantities used or employed in respect of the classes and units set out in the Unit Price Table, and any subsequent amendments thereto, under Clause 4 of the Tender and Acceptance, such certificate to be binding upon the Contractor and Her Majesty.

GC 24 (16/02/98) Rectification of Defects

24.1 The Contractor will, upon notice from the Architect/Engineer and within such time as specified in said notice, rectify at his own expense any defect or fault, however caused, which appears in the work within twelve (12) months of the date of the Final Certificate of Completion.

GC 25 (25/05/01) Payment

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- 25.1 Her Majesty will pay and the Contractor will accept as full consideration for the work performed and executed an amount by which the amount referred to in Clause 1 of the Tender and Acceptance together with the aggregate of the amounts payable by Her Majesty under GC 11, 13.1.3, GC 15.1, GC 16 and GC 18 exceed the aggregate of any payments by Her Majesty under GC 12 and indemnification and amounts payable to or costs and damages incurred by Her Majesty under GC 4, GC 5, GC 9, GC 13.1.3, GC 14, GC 15.2, GC 17.3, GC 18 and GC 21.
- 25.2 In the case of a unit price contract:
- 25.2.1 The amount referred to in Clause 1 of the Tender and Acceptance will be deemed to be the amount computed by totalling the products of the unit prices set out in Clause 4 of the Tender and Acceptance, as amended pursuant to GC 25.2.2 hereof, if applicable, and the actual quantities of such units as set out in the Architect/Engineer's Final Certificate of Measurement, subject to any adjustment provided for in GC 25.2.2 of this section.
- 25.2.2 The Architect/Engineer and the Contractor may by agreement in writing add to the aforesaid Unit Price Table other classes of labour, etc., units of measure, estimated quantities and prices per unit, and may if the actual quantities as set out in the aforesaid Final Certificate of Measurement exceed or fall short of the estimated quantities in respect of any item(s) shown in the aforesaid Unit Price Table by more than 15% amend the unit prices shown in the Unit Price Table for such items, provided that in the event the actual quantities exceed the estimated quantities by more than 15% the aforementioned amendment to the unit prices shall apply only to the actual quantities in excess of 115% of the estimated quantities. Where the Architect/Engineer and the Contractor fail to agree on the amount of any adjustment as contemplated by this subsection the revised or new prices per unit shall be determined in accordance with GC 19 hereof.
- 25.3 If the amount of the Contract is in excess of \$5,000, the Contractor shall be entitled to receive progress payments upon submitting Progress Claims which must be approved by Progress Reports issued by the Architect/Engineer at monthly intervals. The amount to be paid to the Contractor for a progress payment shall be 90% of the value of the work certified by the Architect/Engineer in the Progress Report as having been completed since the date of the immediately preceding Progress Claim, if any.
- 25.4 Thirty (30) days after receipt by the Architect/Engineer of the Progress Claim and if the Contractor has made and delivered to the Architect/Engineer his Statutory Declaration pursuant to GC 12, the amount of the Progress Claim, subject to GC 25.3 of this section, shall become due and payable.
- 25.5 Sixty (60) days after the issue by the Architect/Engineer of the Final Certificate of Completion there shall become due and payable to the Contractor the amount described in GC 25.1 of this section less the aggregate of the amounts, if any, paid pursuant to subsection GC 25.3 of this section.
- 25.6 Notwithstanding GC 25.3, GC 25.4 and GC 25.5 above, an amount shall be due and payable to the Contractor only if the Contractor has supplied a Statutory Declaration pursuant to GC 12 of the General Conditions. The amount referred to above shall be due and payable as indicated in GC 25.4 and GC 25.5 above or, in the case where the Contractor failed to provide a Statutory Declaration, fifteen (15) days after such Statutory Declaration was made and delivered to the Architect/Engineer, whichever is later.
- 25.7 A payment by Her Majesty pursuant to this section shall not be construed as evidence that the work is satisfactory or in accordance with the Contract.
- 25.8 Delay in making payment by Her Majesty under this section shall not be deemed to be a breach of the Contract.
- 25.8.1 However, subject to GC 25.6 above and GC 25.8.2 below, Her Majesty shall pay the Contractor simple interest on any amount overdue, at the Average Bank Rate plus 3% per year. The interest shall apply from and include the day such amount became overdue until the day prior to the date of payment.
- 25.8.2 Interest in accordance with GC 25.8.1 above shall be paid to the Contractor without demand, except that, in respect of amounts which are less than fifteen (15) days

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overdue, no interest shall be paid in respect of payment made within such fifteen (15) days unless the Contractor so demands after such amounts have become due.

- 25.8.3 The "Average Bank Rate" means the simple arithmetic mean of the Bank Rate in effect at 4:00 p.m. Eastern Standard Time each day during the calendar month which immediately precedes the calendar month in which payment is made.
- 25.8.4 The "Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association.
- 25.9. Her Majesty may set-off against any amount payable or debt due by Her Majesty under this contract the amount of any debt due to Her Majesty under this contract or any other contract between the Contractor and Her Majesty.

GC 26 (14/05/04) Non-discrimination in Hiring and Employment of Labour

- 26.1 For the purpose of this section and without restricting the provision of GC 1.1, "persons" include the Contractor, its subcontractors, its sub-subcontractors, and its respective employees, agents, licensees or invitees, and any other individual granted access to the site of the work.
- 26.2 For contracts over \$30,000, refer to Section 9 of the Labour Conditions attached hereto which forms part of this contract.
- 26.3 For all contracts, the provision shall be that the Contractor shall not refuse to employ and will not discriminate in any manner against any person because
- 26.3.1 of that person's race, national origin, colour, religion, age, sex or marital status,
 - 26.3.2 of the race, national origin, colour, religion, age, sex, or marital status of any person having any relationship or association with that person, or
 - 26.3.3 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 GC 26.3.1 and GC 26.3.2 above.
- 26.4 Without restricting the provisions of Section 9 of the Labour Conditions,
- 26.4.1 the Contractor shall, within two (2) working days immediately following receipt of a written complaint alleging a breach of the Labour Conditions or pursuant to GC 26.3 above, at the site of the work,
 - 26.4.1.1 cause to have issued a written direction to the person or persons named by the complainant to cease all actions that form the basis of the complaint; and
 - 26.4.1.2 for all contracts, forward a copy of the complaint to the Architect/Engineer by registered mail; and
 - 26.4.1.3 for contracts over \$30,000, forward another copy of the complaint to the Department of Human Resources and Skills Development, to the attention of the appropriate Director as described in the Labour Conditions;
 - 26.4.2 the Contractor shall,
 - 26.4.2.1 within twenty four (24) hours immediately following receipt of a direction from the Architect/Engineer to do so, cause to have removed from the site of the work any person or persons whom the Architect/Engineer believes is in breach of the Labour Conditions or of GC 26.3 above, as applicable, and
 - 26.4.2.2 no later than thirty (30) days after receipt of the direction, caused to have the necessary action commenced to remedy the breach described in the direction;
 - 26.4.3 if a direction is issued pursuant to GC 26.4.2 above, Her Majesty may withhold from monies that are due and payable to the Contractor or set-off pursuant to this contract, whichever is applicable, an amount representing the sum of the costs and payment referred to in GC 26.4.4 and GC 26.4.5 below;

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- 26.4.4 if the Contractor fails to proceed in accordance with GC 26.4.2.2 above, the Architect/Engineer shall take the necessary action to:
- 26.4.4.1 have the breach remedied; and
 - 26.4.4.2 determine all supplementary costs incurred by Her Majesty;
- 26.4.5 Her Majesty may make a payment directly to the complainant from monies that are due and payable to the Contractor upon receipt from the complainant of:
- 26.4.5.1 a written award issued pursuant to the federal *Commercial Arbitration Act*, R.S., 1985, c. C-34.6; or
 - 26.4.5.2 a written award issued pursuant to the *Canadian Human Rights Act*, R.S., 1985, c. H-6; or
 - 26.4.5.3 a written award issued pursuant to provincial or territorial human rights legislation; or
 - 26.4.5.4 a judgement issued by a court of competent jurisdiction.
- 26.4.6 if the Architect/Engineer is of the opinion that the Contractor has breached any of the provisions of GC 26, the Minister may terminate the contract pursuant to the termination provisions of this contract.
- 26.4.7 the Contractor shall ensure that the provisions of this General Condition are included in all contracts issued as a consequence of this work.

GC 27 (01/12/00) Certification - Contingency Fees

- 27.1 The Contractor certifies that it has not directly or indirectly paid or agreed to pay and covenants that it will not directly or indirectly pay or agree to pay a contingency fee for the solicitation, negotiation or obtaining of this contract to any person other than an employee acting in the normal course of the employee's duties.
- 27.2 All accounts and records pertaining to payments of fees or other compensation for the solicitation, obtaining or negotiation of the Contract shall be subject to the accounts and audit provisions of the Contract.
- 27.3 If the Contractor certifies falsely under this section or is in default of the obligations contained therein, the Minister may either take the work out of the Contractor's hands in accordance with the provisions of the Contract or recover from the Contractor by way of reduction to the Contract amount or otherwise the full amount of the contingency fee.
- 27.4 In this section:
- 27.4.1 "contingency fee" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining a government contract or negotiating the whole or any part of its terms;
 - 27.4.2 "employee" means a person with whom the contractor has an employer/employee relationship;
 - 27.4.3 "person" includes an individual or a group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes any individual who is required to file a return with the registrar pursuant to section 5 of the *Lobbyist Registration Act*, R.S. 1985 c.44 (4th Supplement) as the same may be amended from time to time.
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R0210D (25/05/01) General Conditions - Minor Works

Effective 14/05/04, this clause is superseded by R0210D.

R0215D (12/12/03) International Sanctions

1. Persons and companies in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions.

Details on existing sanctions can be found at:
<http://www.dfait-maeci.gc.ca/trade/sanctions-e.asp>

2. It is a condition of the Contract that the Contractor not supply to the Government of Canada any goods or services which are subject to economic sanctions.
 3. By law, the Contractor must comply with changes to the regulations imposed during the life of the Contract. During the performance of the Contract should the imposition of sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services cause an impossibility of performance for the Contractor, the Contractor may request that the Contract be terminated in accordance with GC41 of the General Conditions.
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R0215D (13/12/02) International Sanctions

Effective 12/12/03, this clause is superseded by R0215D.

Remarks: Use this clause in Architectural and Engineering Consultant Agreements - Buildings, Engineering Works, Open and General.

R0220D (16/02/98) General Conditions

A GENERAL PROVISIONS

A1 Definitions

Average Bank Rate means the simple arithmetic mean of the *Bank Rate* in effect at 4:00 p.m. Eastern Standard Time each day during the calendar month which immediately precedes the calendar month in which payment is made.

Bank Rate means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which it makes short term advances to members of the Canadian Payments Association.

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

Construction Contract means a contract entered into between *Canada* and a *Contractor* for the construction of the Project;

Construction Contract Award Price means the price at which a *Construction Contract* is awarded to a *Contractor*;

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Construction Cost Estimate means an anticipated amount for which a *Contractor* will execute the construction of the Project;

Construction Cost Limit means that portion of the total amount of Project funds which shall not be exceeded on construction of the Project;

Consultant means the party identified in the Articles of Agreement to perform the *Consultant's Services* under this Agreement, and includes the officer or employee of the *Consultant* identified in writing by the *Consultant*;

Contractor means a person, firm or corporation with whom *Canada* enters, or intends to enter, into a *Construction Contract*;

Cost Plan means the allocation of proposed costs among the various elements of the Project, as described in the *Project Brief or Terms of Reference*;

Days means continuous calendar days, including weekends and statutory public holidays;

Departmental Representative means the officer or employee of *Canada* identified in writing by a duly authorized departmental officer to perform the *Departmental Representative's* duties under this Agreement;

Mediation is a process of dispute resolution in which a neutral third party assists the parties involved in a dispute to negotiate their own settlement;

Minister includes a person acting for, or if the office is vacant, in place of, the Minister of Public Works and Government Services and the *Minister's* successors in the office. *Minister* also includes the *Minister's* lawful deputy and any of the ministers or their representatives appointed for the purpose of this Agreement;

Payroll Cost means the actual cost of any person employed by the *Consultant* or the *Consultant's Sub-Consultants* as a staff member, including principals employed as staff members, and includes an amount for salary, statutory holidays, vacations with pay, unemployment insurance premiums and worker's compensation contributions where applicable, pension plan contributions, sick time allowance, medical/dental insurance premiums, and such other employee benefits as may be approved by the *Departmental Representative*;

Project Brief or Terms of Reference means a document describing in sufficient detail the *Services* to be provided by the *Consultant* to permit the *Consultant* to proceed with the *Services* and may include general project information, scope of the work, site and design data, and time plan, specifically related to the Project;

Project Schedule means a time plan, including the sequence of tasks, milestone dates and critical dates which must be met for the implementation of the planning, design and construction phases of the Project;

Service(s) means the *Consultant Services* and *Project Services* as set forth in this Agreement;

Specialist Consultant means any Architect, Professional Engineer, or other specialist, other than the *Consultant*, engaged by *Canada* directly or, at the specific request of *Canada*, engaged by the *Consultant* for "Additional Services";

Sub-Consultant means any Architect, Professional Engineer, or other specialist engaged by the *Consultant* for the *Services* included in this Agreement;

Technical Documentation includes designs, reports, photographs, physical models, surveys, drawings, specifications, computer software developed for the purpose of the Project, computer printouts, design notes, calculations, CADD (Computer-aided Design and Drafting) files, and other data, information and material, prepared, computed, drawn, or produced and operating and maintenance manuals either prepared or collected for the Project.

A2 Interpretations

1. Words importing the singular only also include the plural, and vice versa, where the context requires;
2. Headings or notes in this Agreement shall not be deemed to be part thereof, or be taken into consideration in its interpretation;

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3. "Herein", "hereby", "hereof", "hereunder" and similar expressions refer to this Agreement as a whole and not to any particular subdivision or part thereof.

A3 Successors and Assigns

This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their lawful heirs, executors, administrators, successors and assigns.

A4 Assignment

1. This Agreement shall not be assigned, in whole or in part, by the *Consultant* without the prior consent of the *Minister*. After a request for assignment has been received from the *Consultant*, a decision shall be given by the Minister to the *Consultant* in a timely manner.
2. An assignment of this Agreement without such consent shall not relieve the *Consultant* from any obligation under this Agreement, or impose any liability upon *Canada* or the *Minister*.

A5 Administration

Canada shall not transfer the administration of this Agreement to another federal department or agency without giving prior notice to the *Consultant*.

A6 Indemnification

1. The *Consultant* shall indemnify and save harmless *Canada*, its employees and agents, from losses arising out of the errors, omissions or negligent acts of the *Consultant*, its employees and agents, in the performance of the *Services* under this Agreement.
2. The *Consultant's* liability to indemnify or reimburse *Canada* under this Agreement shall not affect or prejudice *Canada* from exercising any other rights under law.

A7 Notices

1. Any notice, request, direction, consent, decision, or other communication that is required to be given or made by either party pursuant to this Agreement, shall be in writing, and shall be deemed to have been effectively given when:
 - (a) served personally, on the day it is delivered;
 - (b) forwarded by registered mail, on the day the postal receipt is acknowledged by the other party; or
 - (c) forwarded by facsimile or other electronic means of transmission, one working day after it was transmitted.
2. The address of either party, or the person authorized to receive notices, may be changed by notice in the manner set out in this provision.

A8 Suspension

1. The *Departmental Representative* may require the *Consultant* to suspend the *Services* being provided, or any part thereof, for a specified or unspecified period.
2. If a period of suspension does not exceed sixty (60) *days* and when taken together with other periods of suspension does not exceed ninety (90) *days*, the *Consultant* shall, upon the expiration of that period, resume the performance of the *Services* in accordance with the terms of this Agreement, subject to any agreed adjustment of the time schedule as referred to in C2.
3. If a period of suspension exceeds sixty (60) *days* or when taken together with other periods of suspension, the total exceeds ninety (90) *days*, and:
 - (a) the *Departmental Representative* and the *Consultant* agree that the performance of the *Services* shall be continued, then the *Consultant* shall resume performance of the *Services*, subject to any terms and conditions agreed upon by the *Departmental Representative* and the *Consultant*, or
 - (b) the *Departmental Representative* and the *Consultant* do not agree that the performance of the *Services* shall be continued, then this Agreement shall be terminated by notice given by the *Minister* to the *Consultant*, in accordance with the terms of A9.

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4. Suspension costs related to this clause are as outlined in B7.

A9 Termination

The *Minister* may terminate this Agreement at any time, and the fees paid to the *Consultant* shall be in accordance with the relevant provisions in B8.

A10 Taking the Services Out of the Consultant's Hands

1. The *Minister* may take all or any part of the *Services* out of the *Consultant's* hands and may employ reasonable means necessary to complete such *Services* in the event that:
 - (a) the *Consultant* has become insolvent or has committed an act of bankruptcy, and has neither made a proposal to the *Consultant's* creditors nor filed a notice of intention to make such a proposal, pursuant to the *Bankruptcy and Insolvency Act*, or
 - (b) the *Consultant* fails to perform any of the *Consultant's* obligations under this Agreement or, in the *Minister's* opinion, so fails to make progress as to endanger performance of this Agreement, in accordance with its terms.
2. If the *Consultant* has become insolvent or has committed an act of bankruptcy, and has either made a proposal to the *Consultant's* creditors or filed a notice of intention to make such a proposal, pursuant to the *Bankruptcy and Insolvency Act*, the *Consultant* shall immediately forward a copy of the proposal or the notice of intention to *Canada*.
3. Before the *Services* or any part thereof are taken out of the *Consultant's* hands under A10.1(b), the *Departmental Representative* shall provide notice to the *Consultant*, and may require such failure of performance or progress to be corrected. If within fourteen (14) *days* after receipt of such notice such default shall not have been corrected or corrective action initiated to correct such fault, the *Minister* may, by notice, without limiting any other right or remedy, take all or any part of the *Services* out of the *Consultant's* hands.
4. If the *Services* or any part thereof have been taken out of the *Consultant's* hands, the *Consultant* shall be liable for, and upon demand pay to *Canada*, an amount equal to all loss and damage suffered by *Canada* by reason of the non-completion of the *Services* by the *Consultant*.
5. If the *Consultant* fails to pay on demand for the loss or damage as a result of A10.4, *Canada* shall be entitled to deduct and withhold the same from any payments due and payable to the *Consultant*.
6. If the *Services* or any part thereof are taken out of the *Consultant's* hands as a result of A10.1(b) and A10.3, the amount referred to in A10.5 shall remain in the Consolidated Revenue Fund until an Agreement is reached or a decision of a court or tribunal is rendered. At that time the amount, or any part of it, which may become payable to the *Consultant* shall be paid together with interest from the due date referred to in B2 and in accordance with the terms of this Agreement.
7. The taking of the *Services*, or any part thereof, out of the *Consultant's* hands does not relieve or discharge the *Consultant* from any obligation under this Agreement, or imposed upon the *Consultant* by law, in respect to the *Services* or any part thereof that the *Consultant* has performed.

A11 Records to be Kept by the Consultant

1. The *Consultant* shall keep accurate time sheets and cost records and, if required for the purposes of this Agreement, shall make these documents available at reasonable times to the *Departmental Representative* who may make copies and take extracts therefrom.
2. The *Consultant* shall afford facilities for audit and inspection at mutually agreeable times and at places where the relevant documents are located, and shall provide the *Departmental Representative* with such information as the *Minister* may from time to time require with reference to the documents referred to in A11.1.
3. The *Consultant* shall, unless otherwise specified, keep the time sheets and cost records available for audit and inspection for a period of at least two (2) years following completion of the *Services*.

A12 National or Departmental Security

1. If the *Departmental Representative* is of the opinion that the Project is of a class or kind that involves national or departmental security, the *Consultant* may be required:

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(a) to provide any information concerning persons employed for purposes of this Agreement unless prohibited by law;

(b) to remove any person from the Project and its site if that person cannot meet the prescribed security requirements; and

(c) to retain the Project *Technical Documentation* while in the *Consultant's* possession in a manner specified by the *Departmental Representative*.

2. If the Project is of a class or kind that involves national or departmental security, the *Consultant* shall not issue, disclose, discard or use the Project *Technical Documentation* on another project without the written consent of the *Departmental Representative*.

A13 Copyright and Reuse of Documents

1. Except as otherwise specified in the Supplementary Conditions any copyright in any and all documents which are instruments of the *Services* for this Project, and are prepared by or under the direction of the *Consultant*, shall belong to the *Consultant*.

2. *Canada* may, after consultation with the *Consultant*, reuse for another Project the documents referred to in A13.1, and shall pay to the *Consultant* for such reuse an appropriate fee based on current practice.

A14 Conflict of Interest

1. The *Consultant* declares that the *Consultant* has no pecuniary interest in the business of any third party that would cause, or seem to cause, a conflict of interest in carrying out the *Services*, and should such an interest be acquired during the life of this Agreement, the *Consultant* shall declare it immediately to the *Departmental Representative*.

2. The *Consultant* shall not have any tests or investigations carried out by any persons, firms, or corporations, that may have a direct or indirect financial interest in the results of those tests or investigations.

3. The *Consultant* shall not submit, either directly or indirectly, a bid for any Construction Contract related to the Project.

4. No former public office holder who is not in compliance with the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders shall derive a direct benefit from this Agreement.

A15 Status of Consultant

1. The *Consultant* is engaged under this Agreement as an independent *Consultant* for the sole purpose of providing *Services*.

2. Neither the *Consultant* nor any of the *Consultant's* employees shall be regarded as employees or agents of *Canada*.

3. The *Consultant*, as employer, agrees to be solely responsible for any and all payments and deductions required to be made by law, including those required for *Canada* or Québec Pension Plans, Unemployment Insurance, Worker's Compensation, and Income Tax.

A16 Declaration by Consultant

1. The *Consultant* declares that:

(a) based on the information provided pertaining to the *Services* required under this Agreement, the *Consultant* has been provided sufficient information by the *Departmental Representative* to enable the *Services* required under this Agreement to proceed and is competent to perform the *Services* and has the necessary licences and qualifications including the knowledge, skill and ability to perform the *Services*;

(b) the quality of *Services* to be provided by the *Consultant* shall be consistent with generally accepted professional standards and principles.

A17 Insurance

The *Consultant* shall obtain and maintain professional liability insurance coverage for the *Services* required under this Agreement, and supplementary liability insurance specifically described in the Agreement Particulars and Supplementary Conditions if applicable, and shall, if required, furnish

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evidence satisfactory to the *Departmental Representative* of such insurance and any renewals thereof.

A18 Resolution of Disagreements

1. In the event of a disagreement regarding any aspect of the *Services* or any instructions given under this Agreement:
 - (a) the *Consultant* may give a notice of disagreement to the *Departmental Representative*. Such notice shall be promptly given and contain the particulars of the disagreement, any changes in time or amounts claimed, and reference to the relevant clauses of the Agreement;
 - (b) the *Consultant* shall continue to perform the *Services* in accordance with the instructions of the *Departmental Representative*; and
 - (c) the *Consultant* and the *Departmental Representative* shall attempt to resolve the disagreement by negotiations conducted in good faith. The negotiations shall be conducted, first, at the level of the *Consultant's* project representative and the *Departmental Representative* and, secondly and if necessary, at the level of a principal of the *Consultant* firm and a senior departmental manager.
2. The *Consultant's* continued performance of the *Services* in accordance with the instructions of the *Departmental Representative* shall not jeopardize the legal position of the *Consultant* in any disagreement.
3. If it was subsequently agreed or determined that the instructions given were in error or contrary to the Agreement, *Canada* shall pay the *Consultant* those fees the *Consultant* shall have earned as a result of the change(s) in the *Services* provided, together with those reasonable disbursements arising from the change(s) and which have been authorized by the *Departmental Representative*.
4. The fees mentioned in A18.3 shall be calculated in accordance with the Terms of Payment set out in this Agreement.
5. If the disagreement is not settled, the *Consultant* may make a request to the *Departmental Representative* for a written departmental decision and the *Departmental Representative* shall give notice of the departmental decision within fourteen (14) days of receiving the request, setting out the particulars of the response and any relevant clauses of the Agreement.
6. Within fourteen (14) days of receipt of the written departmental decision, the *Consultant* shall notify the *Departmental Representative* if the *Consultant* accepts or rejects the decision.
7. If the *Consultant* rejects the departmental decision, the *Consultant*, by notice may refer the disagreement to *Mediation*.
8. If the disagreement is referred to *Mediation*, the *Mediation* shall be conducted with the assistance of a skilled and experienced mediator chosen by the *Consultant* from a list of mediators proposed by the *Minister*, and departmental *Mediation* procedures shall be used unless the parties agree otherwise.
9. Negotiations conducted under this Agreement, including those conducted during *Mediation*, shall be without prejudice.

A19 Members of House of Commons

1. No member of the House of Commons shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

A20 Amendments

This Agreement may not be amended, or modified, nor shall any of its terms and conditions be waived, except by Agreement in writing executed by both parties.

A21 Entire Agreement

This Agreement constitutes the entire arrangement between the parties with respect to the subject matter of the Agreement, and supersedes all previous negotiations, communications and other arrangements relating to it, unless incorporated by reference herein.

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A22 Lobbyist Certification - Contingency Fees

1. The *Consultant* certifies that it has not directly or indirectly paid or agreed to pay and covenants that it will not directly or indirectly pay a contingency fee for the solicitation, negotiation or obtaining of this Agreement to any person other than an employee acting in the normal course of the employee's duties.
2. All accounts and records pertaining to payments of fees or other compensation for the solicitation, obtaining or negotiation of the Agreement shall be subject to the accounts and audit provisions of the Agreement.
3. If the *Consultant* certifies falsely under this section or is in default of the obligations contained therein, the *Minister* may either take the work out of the *Consultant's* hands in accordance with the provisions of the Agreement or recover from the *Consultant* by way of reduction to the Basic Fee or otherwise the full amount of the contingency fee.

4. In this clause,

"**Contingency fee**" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining a Government Agreement or negotiating the whole or any part of its term.

"**Employee**" means a person with whom the *Consultant* has an employer/employee relationship.

"**Person**" includes an individual or group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes any individual who is required to file a return with the registrar pursuant to section 5 of the *Lobbyist Registration Act*, R.S. 1985 c.44 (4th Supplement) as the same may be amended from time to time.

A23 Non-discrimination in Hiring and Employment Practices

1. For the purpose of this Supplementary Condition, "person" includes the *Consultant*, the *Consultant's Sub-Consultants* and other firms forming the *Consultant* team, and their respective employees, agents, licensees or invitees, and any other individual involved in the performance of the work.
2. The *Consultant* shall not refuse to employ and will 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 *Consultant* to comply with A23.2(a) and A23.2(b) above.
3. Within two (2) working days immediately following receipt of a written complaint pursuant to A23.2 above, the *Consultant* shall
 - (a) cause to have issued a written direction to the person or persons named by the complainant to cease all actions that form the basis of the complaint; and
 - (b) forward a copy of the complaint to the *Departmental Representative* by registered mail.
4. Within twenty four (24) hours immediately following receipt of a direction from the *Departmental Representative* to do so, the *Consultant* shall cause to have removed from the *Consultant* team any person or persons whom the *Departmental Representative* believes to be in breach of the provisions of A23.2 above.
5. No later than thirty (30) days after receipt of the direction referred to in A23.4 above, the *Consultant* shall cause the necessary action to be commenced to remedy the breach described in the direction.
6. If a direction is issued pursuant to A23.4 above, *Canada* may withhold from monies that are due and payable to the *Consultant* an amount representing the sum of the costs and payment referred to in A23.8 and A23.9 below.

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7. If the *Consultant* fails to proceed in accordance with A23.6 above, the *Departmental Representative* shall take the necessary action to have the breach remedied, and shall determine all supplementary costs incurred as a result by *Canada*.
8. *Canada* may make a payment directly to the complainant from monies that are due and payable to the *Consultant* upon receipt from the complainant of:
 - (a) a written award issued pursuant to the federal *Commercial Arbitration Act*, R.S., 1985, c. C-34.6; or
 - (b) a written award issued pursuant to the *Canadian Human Rights Act*, R.S., 1985, c.H-6; or
 - (c) a written award issued pursuant to provincial or territorial human rights legislation; or
 - (d) a judgment issued by a court of competent jurisdiction.
9. The *Consultant* shall be liable for and upon demand shall pay to *Canada* the supplementary costs referred to in A23.8 If the *Consultant* fails to make payment on demand, *Canada* may deduct the same from any amount due and payable to the *Consultant*.
10. A payment made pursuant to A23.8 is, to the extent of the payment, a discharge of *Canada's* liability to the *Consultant* under the terms of the Agreement and may be deducted from any amount due and payable to the *Consultant*.
11. If the *Departmental Representative* is of the opinion that the *Consultant* has breached any of the provisions of this General Condition, the *Minister* may take the work out of the *Consultant's* hands pursuant to A10.
12. The *Consultant* shall ensure that the provisions of this General Condition are included in all agreements and contractual arrangements entered into as a consequence of this work.

A24 Supplementary Conditions

Supplementary Conditions, if required, shall be as described elsewhere in this Agreement.

B TERMS OF PAYMENT

B1 Fees

1. The *Consultant's* fees shall be calculated and paid in accordance with the fee arrangements identified herein.
2. The *Consultant's* fees are only payable when the *Consultant* has performed the *Services* as determined by the *Departmental Representative*. Payment in respect of a *Service*, or part of a *Service*, is not to be deemed a waiver of *Canada's* rights of set-off at law or under this Agreement for costs or expenses arising from default or negligence of the *Consultant*.

B2 Payments to the Consultant

1. The *Consultant* shall be entitled to receive progress payments at monthly or other agreed intervals, subject to the limitations of the Calculation of Fees clause herein, if applicable. Such payments shall be made not later than the due date. The due date shall be the 30th day following receipt of a properly submitted invoice.
2. The properly submitted invoice shall be an invoice delivered to the *Departmental Representative* in the agreed format with sufficient detail and information to permit verification. The invoice shall also identify, as separate items:
 - (a) the amount of the progress payment being claimed for *Services* satisfactorily performed,
 - (b) the amount for any tax calculated in accordance with the applicable federal legislation, and
 - (c) the total amount which shall be the sum of the amounts referred to in B2.2(a) and B2.2(b).
3. The amount of the tax shown on the invoice shall be paid by *Canada* to the *Consultant* in addition to the amount of the progress payment for *Services* satisfactorily performed.

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4. The *Departmental Representative* shall notify the *Consultant* within fifteen (15) *days* after the receipt of an invoice of any error or missing information therein. Payment shall be made not later than thirty (30) *days* after receipt of the corrected invoice or the required information.
5. Upon completion of each *Service* as described elsewhere in this Agreement, provided at least one progress payment has been made, the *Consultant* shall provide a Statutory Declaration evidencing that all the *Consultant's* financial obligations for *Services* rendered to the *Consultant* or on the *Consultant's* account, in connection with this Agreement, have been satisfied, before any further payment is made.
6. Upon written notice by a *Sub-Consultant*, with whom the *Consultant* has a direct contract, of an alleged non payment to the *Sub-Consultant*, the *Departmental Representative* may provide the *Sub-Consultant* with a copy of the latest approved progress payment made to the *Consultant* for the *Services*.
7. Upon the satisfactory completion of all *Services*, the amount due, less any payments already made, shall be paid to the *Consultant* not later than thirty (30) *days* after receipt of a properly submitted invoice, together with the Final Statutory Declaration in accordance with B2.5.

B3 Delayed Payment

1. Subject to B3.4 below, if *Canada* delays in making a payment that is due in accordance with B2, the *Consultant* will be entitled to receive interest on the amount that is overdue for the period of time as defined in B3.2 including the day previous to the date of payment. Such date of payment shall be deemed to be the date on the cheque given for payment of the overdue amount. An amount is overdue when it is unpaid on the first day following the due date described in B2.1.
2. Except as provided for in B3.4, interest shall be paid automatically on all amounts that are not paid by the due date or fifteen (15) *days* after the *Consultant* has delivered a Statutory Declaration in accordance with B2.5 or B2.7, whichever is the later.
3. The rate of interest shall be the *Average Bank Rate* plus 3 percent per year on any amount which is overdue pursuant to B3.1.
4. With respect to amounts which are less than fifteen (15) *days* overdue, no interest shall be payable or paid if a payment is made within the said fifteen (15) *days* unless the *Consultant* so demands after such amounts have become due.

B4 Claims Against, and Obligations of, the Consultant

1. *Canada* may, in order to discharge lawful obligations of and satisfy lawful claims against the *Consultant* by a *Sub-Consultant*, with whom the *Consultant* has a direct contract, for *Services* rendered to, or on behalf of, the *Consultant*, pay an amount from money that is due and payable to the *Consultant* directly to the claimant *Sub-Consultant*.
2. For the purposes of B4.1 a claim shall be considered lawful when it is so determined
 - (a) by a court of legal jurisdiction, or
 - (b) by an arbitrator duly appointed to arbitrate the said claim, or
 - (c) by a written notice delivered to the *Departmental Representative* and signed by the *Consultant* authorizing payment of the said claim or claims.
3. A payment made pursuant to B4.1 is, to the extent of the payment, a discharge of *Canada's* liability to the *Consultant* under this Agreement and will be deducted from any amount payable to the *Consultant* under this Agreement.
4. B4.1 shall only apply to claims and obligations
 - (a) the notification of which has set forth the amount claimed to be owing and a full description of the *Services* or a part of the *Services* for which the claimant has not been paid. The notification must be received by the *Departmental Representative* in writing before the final payment is made to the *Consultant* and within one hundred twenty (120) *days* of the date on which the claimant
 - (1) should have been paid in full under the claimant's Agreement with the *Consultant* where the claim is for an amount that was lawfully required to be held back from the claimant; or
 - (2) performed the last of the *Services* pursuant to the claimant's Agreement with the *Consultant* where the claim is not for an amount referred to in B4.4(a)(1), and

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- (b) the proceedings to determine the right to payment of which shall have commenced within one year from the date that the notification referred to in B4.4(a) was received by the *Departmental Representative*.
5. *Canada* may, upon receipt of a notification of claim referred to in B4.4(a), withhold from any amount that is due and payable to the *Consultant* pursuant to this Agreement the full amount of the claim or any portion thereof.
6. The *Departmental Representative* shall notify the *Consultant* in writing of receipt of any notification of claim and of the intention of *Canada* to withhold funds pursuant to B4.5. The *Consultant* may, at any time thereafter and until payment is made to the claimant, post with *Canada*, security in a form acceptable to *Canada* in an amount equal to the value of the said claim. Upon receipt of such security *Canada* shall release to the *Consultant* any funds which would be otherwise payable to the *Consultant*, that were withheld pursuant to the provision of B4.5.
7. The *Consultant* shall discharge all lawful obligations and shall satisfy all lawful claims against the *Consultant* for *Services* rendered to, or on behalf of, the *Consultant* in respect of this Agreement at least as often as this Agreement requires *Canada* to discharge its obligations to the *Consultant*.

B5 No Payment for Errors and Omissions

The *Consultant* shall not be entitled to payment in respect of costs incurred by the *Consultant* in remedying errors and omissions in the *Services* that are attributable to the *Consultant*, the *Consultant's* employees, or persons for whom the *Consultant* had assumed responsibility in performing the *Services*.

B6 Payment for Changes and Revisions

Payment for any additional or reduced *Services* provided by the *Consultant* and authorized by the *Departmental Representative* shall be made in accordance with the terms of such authorization and these Terms of Payment.

B7 Suspension Costs

1. During a period of suspension of the *Services* pursuant to A8, the *Consultant* shall minimize all costs and expenses relating to the *Services* that may occur during the suspension period.
2. Within fourteen (14) days of notice of such suspension, the *Consultant* shall submit to the *Departmental Representative* a schedule of costs and expenses, if any, that the *Consultant* expects to incur during the period of suspension, and for which the *Consultant* will request reimbursement.
3. Payment shall be made to the *Consultant* for those costs and expenses that are substantiated as having been reasonably incurred during the suspension period.

B8 Termination Costs

1. In the event of termination of this Agreement pursuant to A9, *Canada* shall pay, and the *Consultant* shall accept in full settlement, an amount based on these Terms of Payment, for *Services* satisfactorily performed, plus an amount to compensate the *Consultant* for reasonable costs and expenses, if any, that are related to the *Services* not performed and incurred after the date of termination.
2. Within fourteen (14) days of notice of such termination, the *Consultant* shall submit to the *Departmental Representative* a schedule of costs and expenses incurred plus any additional costs that the *Consultant* expects to incur after the date of termination, and for which the *Consultant* will request reimbursement.
3. Payment shall be made to the *Consultant* for those costs and expenses that are substantiated as having been reasonably incurred after the date of termination.

B9 Disbursements

1. The following disbursements incurred by the *Consultant*, that are related to the *Services* and approved by the *Departmental Representative*, shall be reimbursed to the *Consultant* at actual cost:
- (a) long distance telephone calls and facsimiles;
 - (b) copies of drawings, CADD files and specifications additional to those specified in the Agreement Particulars clause herein;

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- (c) transportation costs for material samples and models, courier and delivery charges;
 - (d) other disbursements made with the prior approval and authorization of the *Departmental Representative*.
2. Disbursements for Project related travel and accommodation shall be reimbursed in accordance with current Treasury Board Travel Policy.
 3. Disbursements shall be Project related and shall not include expenses that are related to the normal operation of the *Consultant's* business. The amounts payable, shall not exceed the amount entered in the Agreement Particulars clause herein, without the prior authorization of the *Departmental Representative*.

C CONSULTANT SERVICES AND DEPARTMENTAL RESPONSIBILITIES

C1 Services

The *Consultant* shall perform the *Services* described herein, in accordance with the terms and conditions of this Agreement.

C2 Time Schedule

1. The *Consultant* shall:
 - (a) submit in a timely manner to the *Departmental Representative*, for approval, a time schedule for the *Services* to be performed, in detail appropriate to the size and complexity of the Project, and in a format as requested by the *Departmental Representative*;
 - (b) adhere to the approved time schedule and, if changes in the approved time schedule become necessary, indicate the extent of, and the reasons for such changes, and obtain the approval of the *Departmental Representative*.

C3 Project Information, Decisions, Acceptances, Approvals

1. The *Departmental Representative* shall provide, in a timely manner, project information, written decisions and instructions, including acceptances and approvals relating to the *Services* provided by the *Consultant*.
2. No acceptance or approval by the *Departmental Representative*, whether expressed or implied, shall be deemed to relieve the *Consultant* of the professional or technical responsibility for the *Services* provided by the *Consultant*.

C4 Changes in Services

1. The *Consultant* shall:
 - (a) make changes in the *Services* to be provided for the Project, including changes which may increase or decrease the original scope of *Services*, when requested in writing by the *Departmental Representative*; and
 - (b) prior to commencing such changes, advise the *Departmental Representative* of any known and anticipated effects of the changes on the *Construction Cost Estimate*, *Consultant fees*, *Project Schedule*, and other matters concerning the Project.

C5 Codes, By-Laws, Licences, Permits

The *Consultant* shall comply with all statutes, codes, regulations and by-laws applicable to the design and where necessary, shall review the design with those public authorities having jurisdiction in order that the consents, approvals, licences and permits required for the project may be applied for and obtained.

C6 Provision of Staff

1. The *Consultant* shall, on request, submit to the *Departmental Representative* for approval, the names, addresses, qualifications, experience and proposed roles of all persons, including principals, to be employed by the *Consultant* to provide the *Services* for the Project and, on request, submit any subsequent changes to the *Departmental Representative* for approval.

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2. When fees are on a *Payroll Cost* basis, the *Consultant* shall submit to the *Departmental Representative*, for approval, a statement of *Payroll Costs*, and any amendments thereof, for all persons to be employed by the *Consultant* to provide the *Services* for the Project.

C7 Sub-Consultants

1. The *Consultant* shall:
 - (a) notify the *Departmental Representative* of those sub-consultants identified during the negotiations of this Agreement with whom the *Consultant* will enter into Agreements for part of the *Services* and, on request, provide details of the terms, and *Services* to be performed under the said Agreements and the qualifications and names of the personnel of the *Sub-Consultants* proposed to be employed on the Project;
 - (b) subsequent to this Agreement notify the *Departmental Representative* of any other *Sub-Consultants* with whom the *Consultant* intends to enter into Agreements for part of these *Services* and, on request, provide details of the terms and *Services* to be performed under the said Agreements and the qualifications and names of the personnel of these *Sub-Consultants* proposed to be employed on this Project;
 - (c) include in any Agreements entered into with sub-consultants such provisions of this Agreement as they apply to the *Sub-Consultants'* responsibilities; and
 - (d) upon written notice by a *Sub-Consultant*, with whom the *Consultant* has a direct contract, inform the *Sub-Consultant* of the *Consultant's* obligations to the *Sub-Consultant* under this Agreement.
2. The *Departmental Representative* may object to any *Sub-Consultant* within six (6) days of receipt of notification given in accordance with C7.1(b) and, on notification of such objection, the *Consultant* shall not enter into the intended Agreement with the *Sub-Consultant*.
3. Neither an Agreement with a *Sub-Consultant* nor the *Departmental Representative's* consent to such an Agreement by the *Consultant* shall be construed as relieving the *Consultant* from any obligation under this Agreement, or as imposing any liability upon *Canada*.

C8 Cost Control

1. Throughout Project development, the *Construction Cost Estimate* prepared by the *Consultant* shall not exceed the *Construction Cost Limit*.
2. In the event that the *Consultant* considers that the *Construction Cost Estimate* will exceed the *Construction Cost Limit*, the *Consultant* shall notify the *Departmental Representative*, and
 - (a) if the excess is due to factors under the control of, or reasonably foreseeable by the *Consultant*, the *Consultant* shall, if requested by the *Departmental Representative*, and at no additional cost to *Canada*, make such changes or revisions to the design as may be necessary to bring the *Construction Cost Estimate* within the *Construction Cost Limit*, or
 - (b) if the excess is due to factors that are not under the control of the *Consultant*, changes or revisions may be requested by the *Departmental Representative*. Such changes or revisions shall be undertaken by the *Consultant* at *Canada's* expense, and the cost involved shall become an amount to be mutually agreed, prior to performance of the said changes or revisions.
3. If the lowest price obtained by bid process or negotiation exceeds the *Construction Cost Limit*, and if the excess is due to reasons within the control of, or reasonably foreseeable by the *Consultant*, the *Consultant* shall, if requested by the *Departmental Representative*, and without additional charge, co-operate in revising the Project scope and quality as required to reduce the construction cost and shall modify the construction documents as necessary to comply with the *Construction Cost Limit*.

C9 Additional Services

Additional *Services*, if required, shall be as described elsewhere in this Agreement and shall be determined in the manner set out in the "Calculation of Fees" and "Agreement Particulars" clauses.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in Architectural and Engineering Consultant Agreements - Buildings, Engineering Works and General.

R0300D (16/02/98) Supplementary General Conditions

1. Other Supplementary Conditions (as applicable)

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - Open.

R0301D (16/02/98) Supplementary Conditions - Open

1. Services

- (a) This A&E Agreement - Open is for the acquisition of *Services* to be performed by the *Consultant* for projects to be designated from time to time by the *Departmental Representative*.
- (b) The *Consultant* agrees to provide only the *Services* required under a Commitment for *Services*. The Commitment for *Services* shall be provided by the *Departmental Representative* for the designated project(s).
- (c) The Commitment for *Services* shall be the written instructions and any amendments, provided by the *Departmental Representative* from time to time, describing, among other things
 - (1) the *Services* to be provided
 - (2) the terms of payment agreed upon for such *Services*.

2. Term of this Agreement

This Agreement shall remain in effect until either party gives notice that no further *Services* shall be required or performed, or in the absence of such notice, until the expiration of two (2) years from the date of this Agreement. In the event that *Services* undertaken prior to the two (2) year expiry date are not fully completed at the said expiry date, the Agreement will expire upon completion of such *Services*, or upon notice from the *Minister* in accordance with the provisions of General Conditions A1.9.

3. Statutory Declaration

Before final payment is made under each Commitment for *Services*, the *Consultant* shall provide a Statutory Declaration evidencing that all the *Consultant's* financial obligations in connection with the Commitment for *Services* have been met.

4. Other Supplementary Conditions (if applicable)

Remarks: Use this clause in Architectural and Engineering Consultant Agreement - Buildings.

R0400D (16/02/98) A&E Agreement - Buildings

The following documents and any amendments relating thereto (referred to herein as the "Agreement") form the Agreement between Canada and the Consultant:

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| R1014D | Additional Services Bilingual Construction Documents Resident Services During Construction Other Additional Services |
| R2000D | Calculation of Fees - Buildings Fee Arrangement(s) for Basic Services Payments for Basic Services Fee Arrangement(s) for Additional Services Payments for Additional Services |
| R2001D | Agreement Particulars - Buildings |

Remarks: Use the following clause in Architectural and Engineering Consultant Agreement - Engineering Works.

R0401D (16/02/98) A&E Agreement - Engineering Works

The following documents and any amendments relating thereto (referred to herein as the "Agreement") form the Agreement between Canada and the Consultant:

| | |
|---------------|---|
| R0412D | Articles of Agreement |
| R0425D | Instructions and Conditions |
| R0220D | General Conditions |
| A | GENERAL PROVISIONS |
| A1 | Definitions |
| A2 | Interpretations |
| A3 | Successors and Assigns |
| A4 | Assignment |
| A5 | Administration |
| A6 | Indemnification |
| A7 | Notices |
| A8 | Suspension |
| A9 | Termination |
| A10 | Taking the Services out of the Consultant's Hands |
| A11 | Records to be Kept by the Consultant |
| A12 | National or Departmental Security |
| A13 | Copyright and Reuse of Documents |
| A14 | Conflict of Interest |
| A15 | Status of Consultant |
| A16 | Declaration by Consultant |
| A17 | Insurance |
| A18 | Resolution of Disagreements |
| A19 | Members of House of Commons |
| A20 | Amendments |
| A21 | Entire Agreement |
| A22 | Lobbyist Certification - Contingency Fees |
| A23 | Non-discrimination in Hiring and Employment Practices |
| A24 | Supplementary Conditions |
| B | TERMS OF PAYMENT |
| B1 | Fees |
| B2 | Payments to the Consultant |
| B3 | Delayed Payment |

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- B4** Claims Against, and Obligations of, the Consultant
- B5** No Payment for Errors and Omissions
- B6** Payment for Changes and Revisions
- B7** Suspension Costs
- B8** Termination Costs
- B9** Disbursements

C CONSULTANT SERVICES AND DEPARTMENTAL RESPONSIBILITIES

- C1** Services
- C2** Time Schedule
- C3** Project Information, Decisions, Acceptances, Approvals
- C4** Changes in Services
- C5** Codes, By-Laws, Licences, Permits
- C6** Provision of Staff
- C7** Sub-Consultants
- C8** Cost Control
- C9** Additional Services

- R0300D** Supplementary Conditions
- R1004D** Categories of Services
- R1005D** Terms of Reference and Conceptual Design
- R1006D** Preliminary Design
- R1008D** Documents, Estimate and Schedule
- R1009D** Tender Call, Evaluation & Contract Award
- R1010D** Construction and Contract Administration
- R1011D** Post-Construction Warranty Review
- R1013D** Modification to Categories of Services
- R1014D** Additional Services
 - Bilingual Construction Documents
 - Resident Services During Construction
 - Other Additional Services
- R2002D** Calculation of Fees - Engineering Works
 - Fee Arrangement(s) for Categories of Services
 - Payments for Categories of Services
 - Fee Arrangement(s) for Additional Services
 - Payments for Additional Services
- R2003D** Agreement Particulars - Engineering Works

Remarks: Use the following clause in the Architectural and Engineering Consultant Agreement - General.

R0402D (16/02/98) A&E Agreement - General

The following documents and any amendments relating thereto (referred to herein as the "Agreement") form the Agreement between Canada and the Consultant:

- R0412D Articles of Agreement**
- R0425D Instructions and Conditions**
- R0220D General Conditions**
- A GENERAL PROVISIONS**

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| | |
|------------|---|
| A1 | Definitions |
| A2 | Interpretations |
| A3 | Successors and Assigns |
| A4 | Assignment |
| A5 | Administration |
| A6 | Indemnification |
| A7 | Notices |
| A8 | Suspension |
| A9 | Termination |
| A10 | Taking the Services out of the Consultant's Hands |
| A11 | Records to be Kept by the Consultant |
| A12 | National or Departmental Security |
| A13 | Copyright and Reuse of Documents |
| A14 | Conflict of Interest |
| A15 | Status of Consultant |
| A16 | Declaration by Consultant |
| A17 | Insurance |
| A18 | Resolution of Disagreements |
| A19 | Members of House of Commons |
| A20 | Amendments |
| A21 | Entire Agreement |
| A22 | Lobbyist Certification - Contingency Fees |
| A23 | Non-discrimination in Hiring and Employment Practices |
| A24 | Supplementary Conditions |

B TERMS OF PAYMENT

| | |
|-----------|--|
| B1 | Fees |
| B2 | Payments to the Consultant |
| B3 | Delayed Payment |
| B4 | Claims Against, and Obligations of, the Consultant |
| B5 | No Payment for Errors and Omissions |
| B6 | Payment for Changes and Revisions |
| B7 | Suspension Costs |
| B8 | Termination Costs |
| B9 | Disbursements |

C CONSULTANT SERVICES AND DEPARTMENTAL RESPONSIBILITIES

| | |
|-----------|--|
| C1 | Services |
| C2 | Time Schedule |
| C3 | Project Information, Decisions, Acceptances, Approvals |
| C4 | Changes in Services |
| C5 | Codes, By-Laws, Licences, Permits |
| C6 | Provision of Staff |
| C7 | Sub-Consultants |
| C8 | Cost Control |
| C9 | Additional Services |

| | |
|---------------|--|
| R0300D | Supplementary Conditions |
| R1015D | Description of Required Services |
| R1016D | Additional Services - General Bilingual Construction Documents Resident Services During Construction |
| R2006D | Calculation of Fees - General Fee Arrangement(s) for the Required Services Payments Stages |
| R2007D | Agreement Particulars - General |

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Remarks: Use the following clause in Architectural and Engineering Consultant Agreement - Open.

R0403D (16/02/98) A&E Agreement - Open

The following documents and any amendments relating thereto (referred to herein as the "Agreement") form the Agreement between Canada and the Consultant:

R0412D Articles of Agreement

R0425D Instructions and Conditions

R0220D General Conditions

A GENERAL CONDITIONS

- A1** Definitions
- A2** Interpretations
- A3** Successors and Assigns
- A4** Assignment
- A5** Administration
- A6** Indemnification
- A7** Notices
- A8** Suspension
- A9** Termination
- A10** Taking the Services out of the Consultant's Hands
- A11** Records to be Kept by the Consultant
- A12** National or Departmental Security
- A13** Copyright and Reuse of Documents
- A14** Conflict of Interest
- A15** Status of Consultant
- A16** Declaration by Consultant
- A17** Insurance
- A18** Resolution of Disagreements
- A19** Members of House of Commons
- A20** Amendments
- A21** Entire Agreement
- A22** Lobbyist Certification - Contingency Fees
- A23** Non-discrimination in Hiring and Employment Practices
- A24** Supplementary Conditions

B TERMS OF PAYMENT

- B1** Fees
- B2** Payments to the Consultant
- B3** Delayed Payment
- B4** Claims Against, and Obligations of, the Consultant
- B5** No Payment for Errors and Omissions
- B6** Payment for Changes and Revisions
- B7** Suspension Costs
- B8** Termination Costs
- B9** Disbursements

C CONSULTANT SERVICES AND DEPARTMENTAL RESPONSIBILITIES

- C1** Services
- C2** Time Schedule
- C3** Project Information, Decisions, Acceptances, Approvals
- C4** Changes in Services
- C5** Codes, By-Laws, Licences, Permits
- C6** Provision of Staff
- C7** Sub-Consultants
- C8** Cost Control
- C9** Additional Services

R0301D Supplementary Conditions - Open
Services
Term of this Agreement
Statutory Declaration

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Other Supplementary Conditions

| | |
|---------------|------------------------------|
| R1017D | Services to be Provided |
| R2008D | Calculation of Fees - Open |
| R2009D | Agreement Particulars - Open |

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in Architectural and Engineering Consultant Agreements - Buildings, Engineering Works, Open and General.

R0412D (16/02/98) Articles of Agreement

These Articles of Agreement made the _____ day of _____ 19 _____ ,

between

Canada, represented by the Minister of Public Works and Government Services (referred to herein as the "*Minister*"),

and

_____ (referred to herein as the "*Consultant*").

For the following Project:

Title: _____

Location: _____

Description: _____ (referred to herein as the "*Project*").

Canada and the *Consultant* agree as follows:

1. SERVICES

The *Consultant* shall perform and complete the *Services* that are described in this Agreement.

2. PAYMENT

- (a) Subject to the terms and conditions of this Agreement, and in consideration for the performance of the *Services*, *Canada* shall pay to the *Consultant* a sum of money calculated in accordance with the provisions of the Calculation of Fees and Agreement Particulars.
- (b) The maximum amount payable under this Agreement, including fees and disbursements, shall not exceed the sum specified in the Agreement Particulars, without the prior written authorization of the *Departmental Representative*.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

EXECUTED IN THE PRESENCE OF:

CONSULTANT

WITNESS

Signature

Signature

(Print name of signatory)

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(Print capacity of signatory)

Signature

Signature

(Print name of signatory)

(Print capacity of signatory)

On behalf of Canada

Signature

(Print name of the officer)

(Print capacity of the officer)

Signature

(Print name of the officer)

(Print capacity of the officer)

=====
Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in Architectural Engineering and Consultant Agreements - Buildings, Engineering Works, Open and General.

R0425D (14/05/04) Standard Instructions and Conditions

Standard Acquisition Clauses and Conditions Manual

All instructions, general terms, conditions and clauses identified herein by title, number and date are set out in the *Standard Acquisition Clauses and Conditions Manual* issued by Public Works and Government Services Canada (PWGSC).

An electronic version of the Manual is available on the PWGSC Website:
<http://sacc.pwgsc.gc.ca/sacc/index-e.jsp>.

Terms and Conditions of Agreement

Pursuant to the *Department of Public Works and Government Services Act*, S.C. 1996, c.16, the general terms, conditions and clauses identified herein by title, number and date, are hereby incorporated by reference into and form part of this tender, bid and any resulting contract, as though expressly set out herein, subject to any other express terms and conditions herein contained.

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R0425D (30/05/03) Standard Instructions and Conditions

Effective 14/05/04, this clause is superseded by R0425D.

Remarks: Use this clause in the Architectural and Engineering Consultant Agreement - Buildings.

R1000D (16/02/98) Basic Services

1. Unless otherwise indicated in clauses R1012D, Modification to Basic Services and R2001D, Agreement Particulars, this Agreement includes the following *Basic Services*:
 - (a) Analysis of *Project Brief*
 - (b) Design Concept
 - (c) Design Development
 - (d) Construction Documents, Pre-Tender Construction Cost Estimate and Project Schedule
 - (e) Tender Call, Bid Evaluation and Construction Contract Award
 - (f) Construction and Contract Administration
 - (g) Post-Construction Warranty Review
-
-

Remarks: Use this clause in the Architectural and Engineering Consultant Agreement - Buildings.

R1001D (16/02/98) Analysis of Project Brief

The *Consultant* shall analyze the *Project Brief* and advise the *Departmental Representative* of any noted problems or the need for more information, clarification and direction.

Remarks: Use this clause in the Architectural and Engineering Consultant Agreement - Buildings.

R1002D (16/02/98) Design Concept

1. The *Consultant* shall:
 - (a) submit to the *Departmental Representative*, design concept documents in sufficient detail to illustrate the design concept and to demonstrate compliance with the *Project Brief*;
 - (b) submit a preliminary *Construction Cost Estimate*, *Cost Plan* and *Project Schedule* to confirm the feasibility of the Project, and
 - (c) provide copies of all design concept documents in the type and number specified in clause R2001D, Agreement Particulars.
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Remarks: Use this clause in the Architectural and Engineering Consultant Agreement - Buildings.

R1003D (16/02/98) Design Development

1. The *Consultant* shall, after acceptance of the design concept documents, prepare and
 - (a) submit to the *Departmental Representative*, design development documents in sufficient detail to define the size, intent and character of the entire Project;
 - (b) submit an updated *Construction Cost Estimate* based on the design development documents, and an updated *Cost Plan* and *Project Schedule*; and
 - (c) provide copies of all design development documents in the type and number specified in clause R2001D, Agreement Particulars.
-

Remarks: Use this clause in the Architectural and Engineering Consultant Agreement - Engineering Works.

R1004D (16/02/98) Categories of Service

1. Unless otherwise indicated in clause R1013D, Modification to Categories of Services or clause R2003D, Agreement Particulars, this Agreement includes the following Categories of Services:
 - (a) Analysis of *Terms of Reference* and Conceptual Design,
 - (b) Preliminary Design,
 - (c) Construction Documents, Pre-Tender *Construction Cost Estimate* and *Project Schedule*,
 - (d) Tender Call, Bid Evaluation and *Construction Contract Award*,
 - (e) Construction and Contract Administration,
 - (f) Post-Construction Warranty Review.
-

Remarks: Use this clause in the Architectural and Engineering Consultant Agreement - Engineering Works.

R1005D (16/02/98) Terms of Reference and Conceptual Design

1. The *Consultant* shall:
 - (a) analyze the *Terms of Reference*, and other relevant information and advise the *Departmental Representative* of any noted problems or the need for more information, clarification and direction;
 - (b) study the potential site or sites and related site data and identify any related issues;
 - (c) develop alternative conceptual designs for each potential site, evaluate their feasibility and provide recommendations including a preliminary *Construction Cost Estimate* and *Project Schedule* for each alternative conceptual design;
 - (d) provide copies of all conceptual design documents in the type and number specified in clause R2003D, Agreement Particulars.
-

Remarks: Use this clause in the Architectural and Engineering Consultant Agreement - Engineering Works.

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R1006D (16/02/98) Preliminary Design

1. The *Consultant* shall, after acceptance of the conceptual design, prepare and
 - (a) submit to the *Departmental Representative*, preliminary design documents in sufficient detail to illustrate the preliminary design and to demonstrate compliance with the *terms of reference*;
 - (b) submit a preliminary *Construction Cost Estimate*, *Cost Plan* and *Project Schedule* to confirm the feasibility of the project; and
 - (c) provide copies of all preliminary design documents in the type and number specified in clause R2003D, Agreement Particulars.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - Buildings and Engineering Works. When this clause is used in Buildings requirements, insert "R2001D"; when used in Engineering Works requirements, insert "R2003D".

R1008D (16/02/98) Documents, Estimate and Schedule

Construction Documents

1. The *Consultant* shall, after acceptance of the design development documents, prepare and
 - (a) submit for review to the *Departmental Representative* construction documents detailing the requirements for the construction of the Project at each stage of production as specified in clause _____, Agreements Particulars.
 - (b) submit an updated *Cost Plan* including a *Construction Cost Estimate* and *Project Schedule* at each specified stage of production;
 - (c) provide copies of all construction documents submitted, in the type and number specified in clause _____.

Pre-Tender *Construction Cost Estimate* and *Project Schedule*

The *Consultant* shall prepare for tender call purposes and submit to the *Departmental Representative* for acceptance a final *Construction Cost Estimate* based on the approved construction documents, together with a breakdown thereof, and an updated *Project Schedule*.

Remarks: Use this clause in Architectural and Engineering Consultant Agreements - Buildings and Engineering Works.

R1009D (16/02/98) Tender Call, Evaluation & Contract Award

Tender Call

1. Whereas the *Departmental Representative* shall be responsible for the production of the required number of copies of the tender documents, and for such other documents as are necessary for tender call purposes, the *Consultant* shall, after acceptance of the final submission of the construction documents, provide, in a manner satisfactory to the *Departmental Representative*, one (1) complete set of the approved working drawings on mylar or similar material, suitable for reproduction and microfilming, and two (2) sets of the approved specifications, one set to be suitable for reproduction and the other set to be properly bound and covered. The *Consultant* shall, on request:
 - (a) provide the *Departmental Representative* with information required for interpretation and clarification of the construction documents;

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- (b) assist in the evaluation and approval of equivalent alternative materials, methods and systems;
- (c) assist with the preparation of addenda;
- (d) attend job or site showings as required.

Bid Evaluation and Construction Contract Award

1. Whereas the *Departmental Representative* shall be responsible for assembling and issuing tender documents and arranging for the receipt of tenders and awarding of the *Construction Contract*, the *Consultant* shall, on request:
 - (a) review and evaluate the bids received for the construction of the Project, and advise on their relative merits;
 - (b) provide information to support price negotiations.

Remarks: Use this clause in Architectural and Engineering Consultant Agreements - Buildings and Engineering Works.

R1010D (16/02/98) Construction and Contract Administration

Construction Schedule

1. The *Consultant* shall:
 - (a) as soon as practical after the award of the *Construction Contract*, request from the *Contractor* a detailed construction schedule, and, after review for conformity with the *Project Schedule*, forward two (2) copies of the construction schedule to the *Departmental Representative*;
 - (b) monitor and report to the *Departmental Representative* the progress of the construction; and
 - (c) notify the *Departmental Representative* of any known and anticipated delays which may affect the completion date of the Project, and keep accurate records of the causes of delays.
2. The *Departmental Representative* shall evaluate all requests from the *Contractor* for time extensions, and shall issue directions to the *Contractor* and the *Consultant*.

Construction Meetings

1. The *Consultant* shall:
 - (a) advise the *Contractor* to hold and attend construction meetings as required by the *Construction Contract*;
 - (b) advise the *Departmental Representative* of the dates and times of the proposed meetings;
 - (c) attend all such meetings;
 - (d) maintain a record of the proceedings of such meetings and provide the *Departmental Representative* with a copy thereof.

Clarification and Interpretation

The *Consultant* shall provide clarification and interpretation of the construction documents in written or graphic form, to the *Contractor* for the proper execution and progress of the construction as and when necessary.

Shop Drawings

1. The *Consultant* shall:

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- (a) specify in the construction documents the shop drawings that are to be submitted by the *Contractor*;
- (b) review in a timely manner the shop drawings provided by the *Contractor* to determine conformity with the general concept and intent of the construction documents and indicate to the *Contractor* such conformance with the general concept or lack thereof;
- (c) provide the *Departmental Representative* with one (1) copy when such conformity is confirmed.

Testing and Inspection

1. The *Consultant* shall:
 - (a) recommend the need for, and review, test reports of materials or construction;
 - (b) recommend quality assurance testing to be undertaken during construction, evaluate the results and advise the *Departmental Representative* accordingly;
 - (c) request the *Contractor* to take remedial action when observed material or construction fails to comply with the requirements of the *Construction Contract*, and advise the *Departmental Representative* accordingly;
 - (d) specify in the construction documents product and performance testing to be undertaken by the *Contractor*.

Site Visits

1. The *Consultant* shall:
 - (a) make visits to the site to determine, on an adequate sampling basis, whether this work is in conformity with the construction documents;
 - (b) record and report to the *Departmental Representative* on the progress, non-conformities and deficiencies observed during each site visit, and provide the *Contractor* with written progress reports and lists of deficiencies observed;
 - (c) recommend the action to be taken.

Changes to *Construction Contract*

1. The *Consultant* shall:
 - (a) submit all requests and recommendations for changes to the *Construction Contract* and their implications to the *Departmental Representative* for approval;
 - (b) obtain quotations from the *Contractor* for contemplated changes, review the prices for acceptability, assess the effect on construction progress, and submit recommendations to the *Departmental Representative*.
2. The *Departmental Representative* shall issue Change Orders for all approved changes.

Contractor's Progress Claims

1. The *Consultant* shall:
 - (a) request from the *Contractor* a cost breakdown of the *Construction Contract Award Price* in detail appropriate to the size and complexity of the Project, or as may otherwise be specified in the *Construction Contract*, and submit the cost breakdown to the *Departmental Representative* prior to the *Contractor's* first progress claim;
 - (b) examine progress claims in a timely manner and, if acceptable, certify the progress claims for work completed and materials delivered pursuant to the *Construction Contract*, and submit them to the *Departmental Representative* for approval and processing; and
 - (c) if the construction is based on unit prices, measure and record the quantities of labour, materials and equipment involved for the purpose of certifying progress claims.

Interim Completion of the Project

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1. The *Consultant* shall:
 - (a) review the construction with the *Departmental Representative* and the *Contractor*, and record all unacceptable and incomplete work detected;
 - (b) request from the *Contractor*, review for completeness and adequacy and provide the *Departmental Representative* with, all operation and maintenance manuals and any other documents or items to be provided by the *Contractor*, in accordance with the *Construction Contract*;
 - (c) prepare and submit to the *Departmental Representative* for approval and processing, and as a basis for payment to the *Contractor*, an Interim Certificate of Completion as required by the *Construction Contract*, together with supporting documents properly signed and certified.

As-built and Record Drawings

1. The *Consultant* shall, before issuance of the Final Certificate of Completion:
 - (a) prepare and provide the *Departmental Representative* with a complete set of record drawings of the type and number as specified in clause R2001D, Agreement Particulars;
 - (b) verify that record drawings are suitable for microfilming, incorporating all recorded changes to the original working drawings based on as-built prints, drawings and other information provided by the *Contractor*, together with change orders and site instructions;
 - (c) verify that record drawings are labelled "Record", dated and signed by the *Consultant*, and provide also a marked-up copy of the specifications recording changes related thereto.

Final Completion of the Project

1. The *Consultant* shall:
 - (a) advise the *Departmental Representative* when the construction has been completed in general conformity with the *Construction Contract*;
 - (b) make a final review of the construction with the *Departmental Representative* and the *Contractor* and, if satisfactory, prepare and submit to the *Departmental Representative* for approval and final payment to the *Contractor*, a Final Certificate of Completion as required by the *Construction Contract*, together with supporting documents properly signed and certified, including manufacturers' and suppliers' warranties.

Remarks: Use this clause in Architectural and Engineering Consultant Agreements - Buildings and Engineering Works.

R1011D (16/02/98) Post-Construction Warranty Review

1. The *Consultant* shall:
 - (a) review if requested, during the *Contractor's* warranty period, any defects reported by the *Departmental Representative*;
 - (b) thirty (30) days prior to the expiry of any warranty period, visit the site, and record any defects observed or reported;
 - (c) at the end of any warranty period, carry out a final review of the Project and report to the *Departmental Representative* the status of defects. If the *Departmental Representative* accepts the rectification of the defects, a notice of "Final Warranty Inspection" shall be issued to the *Contractor*.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - Buildings.

R1012D (16/02/98) Modification to Basic Services

The Basic *Services* are modified as follows: _____.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - Engineering Works.

R1013D (16/02/98) Modification to Categories of Service

The Categories of *Services* are modified as follows: _____.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in Architectural and Engineering Consultant Agreements - Buildings and Engineering Works. When this clause is used for Buildings requirements, insert "R2001D"; when used for Engineering Works requirements, insert "R2003D".

R1014D (16/02/98) Additional Services

Bilingual Construction Documents Yes: _____ No: _____

1. The *Consultant* shall:
 - (a) provide construction documents in Canada's two Official Languages;
 - (b) affix a professional seal to both language versions of the construction documents.
2. The total amount payable for the production of bilingual construction documents shall not exceed the amount entered in clause _____, Agreement Particulars, without the prior authorization of the *Departmental Representative*.

Resident Services During Construction Yes: _____ No: _____

1. In addition to the site visits during construction referred to in clause R1010D, Construction and Contract Administration, the *Consultant* shall:
 - (a) provide continuous resident site inspection, compile and maintain up-to-date records of execution of the work;
 - (b) co-ordinate the provision of services for the inspection, testing and evaluation of suitability of materials and equipment in compliance with the *Construction Contract*;
 - (c) maintain and keep available for examination by the *Departmental Representative* an up-to-date record showing the number of persons and items of equipment employed from time to time on the Project by the *Contractor* and provide information necessary to assess the progress, determine the cause of any delays and verify any claims;
2. The total amount payable for the resident services during construction shall not exceed the amount entered in clause _____, without prior authorization of the *Departmental Representative*.

Other Additional Services

1. If applicable, the *Consultant* shall provide other additional *services* that may be required, such as pre-design, *specialist consultant(s)*, co-ordination, sequential tendering, etc., as described below.
2. The total amount payable for other additional *services* shall not exceed the amount entered in clause _____, without prior authorization of the *Departmental Representative*.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in the Architectural and Engineering Consultant Agreement - General.

R1015D (16/02/98) Description of Required Services

Required *Services* to be provided: _____.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in the Architectural and Engineering Consultant Agreement - General.

R1016D (16/02/98) Additional Services - General

Bilingual Construction Documents Yes: _____ No: _____

1. The *Consultant* shall:
 - (a) provide construction documents in Canada's two Official Languages;
 - (b) affix a professional seal to both language versions of the construction documents.
2. The total amount payable for the production of bilingual construction documents shall not exceed the amount entered in clause R2007D, Agreement Particulars, without the prior authorization of the *Departmental Representative*.

Resident Services During Construction Yes: _____ No: _____

1. The *Consultant* shall:
 - (a) provide continuous resident site inspection, compile and maintain up-to-date records of execution of the work;
 - (b) co-ordinate the provision of services for the inspection, testing and evaluation of suitability of materials and equipment in compliance with the *Construction Contract*;
 - (c) maintain and keep available for examination by the *Departmental Representative* an up-to-date record showing the number of persons and items of equipment employed from time to time on the Project by the *Contractor* and provide information necessary to assess the progress, determine the cause of any delays and verify any claims;
 2. The total amount payable for the resident services during construction shall not exceed the amount entered in clause R2007D, without prior authorization of the *Departmental Representative*.
-
-

Remarks: Use the following clause in the Architectural and Engineering Consultant Agreement - Open.

R1017D (16/02/98) Services to be Provided

1. The *Departmental Representative* shall provide a Commitment for *Services* describing the *Services* to be performed by the *Consultant*.
 2. The *Consultant* shall carry out the said *Services* within such time and cost limits as may be stipulated in the Commitment for *Services* or other contract documents.
-
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Remarks: Use the following clause in 1 Stage - 2 Phase proposals.

R1110T (16/12/05) General Instructions to Proponents (GI)

- GI 1 Definitions
- GI 2 Overview of Selection Procedure
- GI 3 Procurement Business Number
- GI 4 Responsive Proposals
- GI 5 Completion of Submission
- GI 6 Proposal Price
- GI 7 Enquiries During the Solicitation Period
- GI 8 Limitation of Submissions
- GI 9 Licensing Requirements
- GI 10 Eligibility Requirements
- GI 11 Federal Contractors Program for Employment Equity
- GI 12 Insurance Requirements
- GI 13 Industrial and Facility Security Requirements
- GI 14 Composition of Consultant Team
- GI 15 Submission of Proposal
- GI 16 Late Submissions
- GI 17 Revision of Proposal
- GI 18 Acceptance of Proposal
- GI 19 Identity or Legal Capacity of the Proponent
- GI 20 Debriefing
- GI 21 Financial Statements
- GI 22 Performance Evaluation

GI 1 (2003-05-30) Definitions

1. In this Request for Proposal (RFP), the following words or phrases have the corresponding meaning.

Consultant Team: The team of consultants, specialists and other firms, including the Proponent, proposed by the Proponent to perform the services required.

Key Personnel: Staff of the Proponent, consultants and specialists proposed to be assigned to this project.

Phase One Rating: A rating assigned to a proposal in the first phase of the selection procedure, the rating being based on the qualifications and experience of the Consultant Team. The rating is subsequently used to establish a Phase One Score for inclusion as a percentage of the total score to be established following the evaluation and rating of proposals submitted in Phase Two.

Phase Two Technical Rating: A rating assigned to the technical component of a proposal in the second phase of the selection procedure and subsequently used to establish a Technical Score for inclusion as a percentage of the total score to be established following the evaluation and rating of proposals submitted in Phase Two.

Price Rating: A rating assigned to the price proposal component of a proposal in the second phase of the selection procedure and subsequently used to establish a Price Score for inclusion as a percentage of the total score to be established following the evaluation and rating of proposals submitted in Phase Two.

Proponent: The prime consultant entity which submits a proposal.

PWGSC Evaluation Board: The board established to evaluate and rate proposals. Board members represent a sufficiently broad cross-section of professional qualifications and experience to properly assess all aspects of the proposals.

GI 2 (2003-05-30) Overview of Selection Procedure

2.1 Phase One Proposal

1. In response to the RFP, interested Proponents submit a Phase One proposal in which they:
 - (a) indicate whether the proposal is submitted by an individual firm or by a joint venture;

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- (b) if the proposal is submitted by a joint venture, describe the proposed legal and working relationships of the joint venture and the benefits to be gained by the formation of the joint venture;
- (c) identify the prime consultants and key sub consultants and specialists proposed for inclusion in the Consultant Team, and the proposed organizational structure of the Team;
- (d) describe the extent to which proposed members of the Consultant Team have successfully performed services for projects comparable to the project which is the subject of the proposal;
- (e) identify the professional accreditation, experience, expertise and competence of the proposed Consultant Team and the Key Personnel proposed to be assigned to perform the required services.
- (f) comply with all other requirements set out in the RFP.

2.2 Phase One Proposal Evaluation and Rating

1. Each responsive proposal received is reviewed, evaluated and rated by a Public Works and Government Services Canada (PWGSC) Evaluation Board in accordance with the evaluation criteria, components and weight factors set out in the RFP. Upon completion of the evaluation, an initial rating (Phase One Rating) is assigned to the proposal. Phase One Ratings are recorded for subsequent incorporation in the final proposal evaluation and rating.
2. Each Proponent submitting a responsive Phase One proposal is notified in writing of its Phase One Rating and, in addition, is provided with the following:
 - (a) an alphabetic list (normally five names) of Proponents with the highest Phase One Ratings;
 - (b) a list of all Phase One Ratings attained (ratings are not linked to Proponents);
 - (c) a date, time, and location for a Phase Two briefing meeting, if applicable;
 - (d) the date and time for receipt of Phase Two proposals, and any supplementary instructions, terms, conditions or addenda which may be applicable to Phase Two proposal preparation and submission.
3. Proponents that submitted non-responsive Phase One proposals are notified accordingly.

2.3 Phase Two Proposal

1. Phase Two proposals are prepared and submitted after Proponents have been advised of the results of evaluation of Phase One proposals. All Proponents submitting responsive proposals in Phase One, regardless of their Phase One Ratings, are eligible to prepare and submit a Phase Two proposal. The decision to continue participating in the selection procedure in Phase Two is a decision to be made by each eligible Proponent.
2. In Phase Two, a Proponent may not substitute or delete any member of the Consultant Team identified in the Phase One proposal.
3. Phase Two proposals are submitted following a "two-envelope" procedure, in which Proponents submit the "technical" component of their proposal in one envelope and the proposed price of the services (price proposal) in a second envelope.
4. The information that Proponents are required to provide is set out in detail throughout the RFP.

2.4 Phase Two Proposal Evaluation and Final Rating

1. Technical components of Phase Two proposals are reviewed, evaluated and rated by a PWGSC Evaluation Board in accordance with the criteria, components and weight factors set out in the RFP. Upon completion of the evaluation, Phase Two Technical Ratings are established.
2. Phase One Rating and Phase Two Technical Rating are combined to establish a Combined Technical Score. Proposals achieving the minimum Combined Technical Score specified in the Submission Requirements and Evaluation section of the RFP are further considered.

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3. The price envelopes of all responsive proposals are opened upon completion of the technical evaluation. An average price is determined by adding all the price proposals together and dividing the total by the number of price proposals opened.
4. All price proposals which are greater than 25 percent above the average price will cause their respective complete proposals to be set aside and receive no further consideration.
5. The remaining price proposals are rated as follows:
 - (a) The lowest price proposal receives a Price Rating of 100.
 - (b) The second, third, fourth and fifth lowest prices receive Price Ratings of 80, 60, 40, and 20 respectively. All other price proposals receive a Price Rating of 0.
 - (c) On the rare occasion where two (or more) price proposals are identical, these price proposals receive the same rating and the corresponding number of following ratings are skipped.
 - (d) The Price Rating is multiplied by a predetermined percentage factor to establish a Price Score.
6. A price proposal in excess of any maximum funding limit, when this limit has been set in the Supplementary Instructions to Proponents, will result in disqualification of the complete proposal.

2.5 Total Score

1. The total overall score (Total Score) assigned to each Proponent's complete proposal is calculated as the aggregate of:
 - (a) the Phase One Score (Phase One proposal on qualifications and experience), and
 - (b) the Phase Two Technical Score (first envelope of Phase Two proposal), and
 - (c) the Price Score (second envelope of Phase Two proposal).
2. The Proponent receiving the highest Total Score is the first entity that the PWGSC Evaluation Board will recommend be approached in order to finalize details of an agreement for the provision of the required services.

2.6 Notification

PWGSC normally expects to advise in writing unsuccessful Proponents within one week after PWGSC has entered into a contractual arrangement with the successful Proponent.

GI 3 (2004-05-14) Procurement Business Number

1. For procurement purposes, the Government of Canada uses a unique Procurement Business Number (PBN) to identify a company and its branches, divisions, or offices, where appropriate. The PBN is created using the entity's Canada Revenue Agency Business Number.
2. All Canadian companies are required to have a PBN prior to contract award in order to receive a PWGSC contract. In exceptional circumstances, PWGSC may decide to award, at its own discretion, a contract to a company without a PBN. Non-Canadian companies are strongly encouraged to obtain a PBN.
3. Companies may register for a PBN in the Supplier Registration Information (SRI) service on line at the Contracts Canada Internet site at: <http://contractscanada.gc.ca>. In order for companies to be sourced by government buyers, they must complete the registration process and activate their account in the SRI service.
4. For non-Internet registration, contact the Contracts Canada InfoLine at 1-800-811-1148 or (819) 956-3440, in the National Capital Area, to obtain the telephone number of the nearest Supplier Registration Agent.

GI 4 (2003-05-30) Responsive Proposals

To be considered responsive, a proposal must meet all of the mandatory requirements set out in the RFP. No further consideration in the selection procedure will be given to a Proponent submitting a non-responsive proposal.

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GI 5 (2003-12-12) Completion of Submission

The Proponent shall base the proposal on the applicable proposal documents listed in the Supplementary Instructions to Proponents. It is the responsibility of the Proponent to obtain clarification of any of the terms, conditions or technical requirements contained in the RFP.

GI 6 (2003-05-30) Proposal Price

Unless specified otherwise elsewhere in the proposal documents:

- (a) the price proposal shall be in Canadian currency, and
- (b) the price proposal shall not include any amount for the Goods and Services Tax or the Harmonized Sales Tax as may be applicable, and
- (c) exchange rate fluctuation protection is not offered, and
- (d) any request for exchange rate fluctuation protection will not be considered, and will render the proposal non-responsive.

GI 7 (2003-12-12) Enquiries During the Solicitation Period

1. Any question or request for clarification during the solicitation period must be submitted in writing by the prime contact of a Proponent to the person identified on the front page of the RFP. Responses will be sent by PWGSC to the prime contact of the Proponent, who will be responsible for internal distribution as required within the Proponent's Consultant Team.
2. To ensure equality of information provided to Proponents, answers to significant enquiries will be forwarded simultaneously to each Proponent.
3. Enquiries are to be directed ONLY to the person referred to in paragraph 1 above. Non-compliance with this condition during the solicitation period may, for that reason alone, result in the disqualification of the proposal.

GI 8 (2003-05-30) Limitation of Submissions

1. While there is no requirement for firms to participate in this procurement in joint venture, they may elect to do so if they see fit. However, only one submission per proponent will be accepted, whether it is submitted by a firm as an individual Proponent or by that firm as part of a joint venture Proponent. If more than one submission is received from a firm acting either individually or in joint venture, all such submissions shall be rejected and no further consideration shall be given to the firm or to any proposed joint venture of which the firm forms part.
2. A joint venture is defined as an association of two or more parties which combine their money, property, knowledge, skills, time or other resources in a joint business enterprise agreeing to share the profits and the losses and each having some degree of control over the enterprise.
3. An arrangement whereby Canada contracts directly with a prime consultant who may retain sub-consultants or specialist consultants to perform portions of the services is not a joint venture arrangement. A sub-consultant or specialist consultant firm may, therefore, be proposed as part of the Consultant Team by more than one Proponent.
4. Notwithstanding subsection 3 above, in order to avoid any conflict of interest, or any perception of conflict of interest, no firm acting as an individual Proponent or as part of a joint venture Proponent, shall be proposed as a member of another Proponent's Consultant Team, either as a sub-consultant or specialist consultant or as part of another joint venture Proponent. Failure to comply with this limitation will result in all submissions so involved being rejected.
5. The Phase Two portion of the proposal must be made in the same name as the entity named as the Proponent in the Phase One portion. Proponents must utilize, in the preparation of their Phase Two proposal, the same Consultant Team, firms and individuals named in the Phase One proposal.
6. Any joint venture entered into for the provision of professional services or other services must be in full compliance with the requirements of any provincial or territorial law pertaining thereto in the Province or Territory in which the project is located.

GI 9 (2003-05-30) Licensing Requirements

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1. Consultant Team members and Key Personnel shall be, or be eligible to be licensed, certified or otherwise authorized to provide the necessary professional services to the full extent that may be required by provincial or territorial law in the Province or Territory in which the project is located.
2. By virtue of submission of a Phase One proposal, the Proponent certifies that the Proponent is satisfied that the proposed Consultant Team and Key Personnel are in compliance with the requirements of subsection 1. The Proponent acknowledges that PWGSC reserves the right to verify any information in this regard and that false or erroneous certification may result in the proposal being declared non-responsive.
3. Should a verification by PWGSC disclose that the certification referred to in subsection 2 is false or in error, PWGSC shall have the right to reject any Phase Two proposal arising from the Phase One proposal.

GI 10 (2003-05-30) Eligibility Requirements

1. Proponents are advised that a Proponent may be deemed to be ineligible for selection at any time if:
 - (a) any firm or individual included in the Consultant Team has been convicted under section 121 ("Frauds on the government" & "Contractor subscribing to election fund"), 124 ("Selling or purchasing office"), or 418 ("Selling defective stores to Her Majesty") of the Criminal Code;
 - (b) the Proponent has been declared ineligible for selection, following unsatisfactory performance in a previous project as determined in accordance with the department's performance review procedures;
 - (c) any firm or individual included in the Consultant Team has been declared ineligible, for selection for work with the department in accordance with the performance review procedure referred to in paragraph 1. (b), which ineligibility would render the individual ineligible for selection for the work, or the portion of the work the individual is to perform, under any contractual arrangement resulting from submission of the proposal;
 - (d) with respect to current or prior transactions with the Government of Canada,
 - (i) the Proponent is bankrupt or where, for whatever reason, its activities are rendered inoperable for an extended period;
 - (ii) evidence, satisfactory to Canada, of fraud, bribery, fraudulent misrepresentation or failure to comply with any law protecting individuals against any manner of discrimination, has been received with respect to any firm or individual included in the Consultant Team;
 - (iii) Canada has previously exercised or intends to exercise the contractual remedy of taking the services out of the consultant's hands with respect to any commission or contract with any firm or individual included in the Consultant Team;
 - (iv) Canada determines that the performance of the Proponent on other contracts or commissions, including the quality of the services provided and the quality and timeliness of the delivery of the project, is sufficiently poor to jeopardize the successful completion of the requirement which is the subject of the Initial Proposal.
2. Where Canada intends to declare a firm ineligible pursuant to the provisions contained in subsection 1 above, other than provision 1. (b), the Minister will so inform the firm and provide the firm ten (10) days within which to make representations, prior to making a final decision regarding the ineligibility of the firm.

GI 11 (2004-12-10) Federal Contractors Program for Employment Equity

1. The Federal Contractors Program for Employment Equity (FCP-EE) requires that some organizations making proposals for federal government contracts, valued at \$200,000 or more (including all applicable taxes), make a formal commitment to implement employment equity, as a condition precedent to the contract award. If the Proponent is subject to the Program, evidence of its commitment must be provided prior to the award of any contract.
2. Proponents that have been declared "Ineligible Proponents" by the Department of Human Resources and Skills Development (HRSD) are no longer eligible to receive government

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contracts over the threshold for solicitation of bids as set out in the *Government Contract Regulations* (currently at \$25,000, including all applicable taxes), either as a result of a finding of non-compliance by the Department of HRSD, or following their voluntary withdrawal from the Program for a reason other than the reduction in their workforce. Any proposal from ineligible proponents will not be considered for award.

3. The Proponent certifies its status with FCP-EE, as follows:

The Proponent

- (a) is not subject to FCP-EE, having a workforce of less than 100 permanent full or part-time employees in Canada,
 - (b) is not subject to FCP-EE, being a regulated employer under the *Employment Equity Act*,
 - (c) is subject to the requirements of FCP-EE, having a workforce of 100 or more permanent full or part-time employees in Canada, but has not previously obtained a certificate number from the Department of HRSD, (having not submitted proposals on requirements of \$200,000 or more), in which case a duly signed certificate of commitment is provided herewith (attached);
 - (d) is subject to FCP-EE, and has a valid certification number as follows: (e.g. has not been declared "Ineligible Proponent" by the Department of HRSD).
4. If the Proponent does not fall within the exceptions enumerated in 3. (a) or (b), the Program requirements do apply, and as such, the Proponent is required to submit to the Department of HRSD form LAB 1168, Certificate of Commitment to Implement Employment Equity, DULY SIGNED or a valid Certificate number confirming its adherence to the FCP-EE.
5. The Proponent acknowledges that the Minister shall rely on this certification to award the Contract. Should a verification by the Minister disclose a misrepresentation on the part of the Proponent, the Minister shall have the right to treat any contract resulting from this proposal as being in default, and to terminate it pursuant to the Default provisions of the Contract.
6. When submitting a proposal, the Proponent should complete and return with the proposal the applicable certification for the "Federal Contractors Program for Employment Equity" included in the Declaration Form attached hereto.
7. In all cases, the Proponent is required to produce evidence or supporting information on demand prior to contract award, if such evidence is not included with its proposal.

NOTE: *Information on the FCP-EE and the Certificate of Commitment (LAB 1168), are available on the following Department of HRSD Website: <http://www.hrsc.gc.ca/en/gateways/topics/wzp-qxr.shtml> and <http://www100.hrdc.gc.ca/labswenm1e.shtml>, respectively.*

GI 12 (2003-05-30) Insurance Requirements

1. The successful Proponent shall be required to obtain and maintain Professional Liability and Commercial General Liability insurance coverage in accordance with the requirements set out elsewhere in the proposal documents.
2. No insurance requirement stipulated in the proposal documents should be construed as limiting any insurance required by federal, provincial or municipal law or as may be required under GC 9.1 (R0202D). Neither should it limit any coverage which the successful Proponent and other members of the Consultant Team may consider to be necessary for their own protection or to fulfill their obligations.
3. By virtue of submission of a proposal, the Proponent certifies that the Proponent and the other members of the Consultant Team as may be applicable are capable of obtaining, and will obtain and maintain liability insurance in accordance with the requirements set out in the proposal documents.

GI 13 (2003-05-30) Industrial and Facility Security Requirements

1. Proponents shall take note of, and comply with, any industrial security or facility security requirement which may be stipulated as a requirement in the proposal and Agreement documents. If industrial security or facility security is required, employees and staff of the Proponent and other members of the Consultant Team involved in the project implementation must either be in possession of, or agree to be investigated for, a valid, appropriate level of personnel security screening that may be required under the provisions of the RFP.

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2. If security screening is required, each person involved in the project implementation must hold such security screening prior to the commencement of any work.
3. In all contractual arrangements with persons who are to be employed in the performance of the services, the successful Proponent shall make provision for the performance of any obligation that may be imposed upon the Proponent under the provisions of this clause.

GI 14 (2003-05-30) Composition of Consultant Team

By submitting a proposal, the Proponent represents and warrants that the entities and persons proposed in the proposal to perform the required services will be the entities and persons that will perform the services in the fulfillment of the project under any contractual arrangement arising from submission of the proposal. If the Proponent has proposed any person in fulfillment of the project who is not an employee of the Proponent, the Proponent warrants that it has written permission from such person (or the employer of such person) to propose the services of such person in relation to the services to be performed.

GI 15 (2003-05-30) Submission of Proposal

1. It is the Proponent's responsibility to:
 - (a) submit a signed Phase One proposal, duly completed, IN THE FORMAT REQUESTED, on or before the closing date and time set for Phase One proposals;
 - (b) submit, at the Proponent's discretion, a signed Phase Two proposal, duly completed, IN THE FORMAT REQUESTED, on or before the closing date and time set for Phase Two proposals;
 - (c) direct proposals ONLY to the designated office identified on the front page of the RFP;
 - (d) the proposal shall be signed in accordance with the following requirements:
 - (i) **Corporation**
The signatures of the authorized signatories shall be affixed and their names and titles typed or printed.
 - (ii) **Partnership**
The signatures of the partners shall be affixed and their names typed or printed. If not all of the partners sign or if the signatory is not a partner then a certified true copy of the agreement signed by all partners authorizing such person or persons to execute the document on their behalf shall accompany the proposal.
 - (iii) **Sole Proprietorship**
The signature of the sole proprietor shall be affixed and the name typed or printed. In the event that the signatory is not the sole proprietor then a certified true copy of the agreement signed by the sole proprietor authorizing such person or persons to execute the document shall accompany the proposal.
 - (iv) **Joint Venture**
The signatures of the authorized signatories of each member of the joint venture shall be affixed and their names and titles typed or printed. Each of the participating signatories shall sign the document in the manner applicable to their particular business arrangement which is more particularly described in (i) to (iii) above.
 - (e) ensure that the following information is clearly visible:
 - (i) Proponent's name and address,
 - (ii) Name of Proponent's prime contact person,
 - (iii) Solicitation Number and Description,
 - (iv) Closing date and time for receipt of proposals.
 - (f) provide a comprehensive and sufficiently detailed proposal for each phase that will permit a complete evaluation in accordance with the criteria set out in this RFP.
2. The technical and price components of the Phase Two proposal must be submitted in separate, easily identified envelopes in accordance with the instructions contained in the proposal documents. Both envelopes shall be submitted as one package which shall clearly and conspicuously display and indicate on the outside of the package the information identified in paragraph GI 15.1(e) above.

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3. Timely and correct delivery of proposals to the office designated for receipt of proposals is the sole responsibility of the Proponent. PWGSC will not assume or have transferred to it those responsibilities. All risks and consequences of incorrect delivery of proposals are the responsibility of the Proponent.
4. Proposals and supporting information may be submitted in either English or French.

GI 16 (2003-05-30) Late Submissions

It is PWGSC policy to return, unopened, submissions delivered after the stipulated closing date and time.

GI 17 (2003-05-30) Revision of Proposal

A proposal submitted in accordance with these requirements may be amended by letter or facsimile provided the revision is received at the office designated for the receipt of proposals, on or before the date and time set for the receipt of proposals. The revision must be on the Proponent's letterhead or bear a signature that identifies the Proponent, and must clearly identify the change(s) to be applied to the original proposal. The revision must also include the information identified in paragraph GI 15.1(e).

GI 18 (2003-05-30) Acceptance of Proposal

1. Canada may accept any proposal, or may reject any or all proposals.
2. In the case of error in the extension or addition of unit prices, the unit price will govern.
3. While Canada may enter into an agreement or contractual arrangement without prior negotiation, Canada reserves the right to negotiate with Proponents on any procurement.

GI 19 (2003-05-30) Identity or Legal Capacity of the Proponent

In order to establish the legal capacity under which a Proponent proposes to enter into a contractual arrangement, any Proponent who carries on business in other than its own personal name shall, if requested, provide proof of the legal capacity under which it carries on business prior to the contractual arrangement being entered into. Such proof may be in the form of a copy of the articles of incorporation or a copy of the registration of the business name of a sole proprietor, of a trade name, of a partnership, etc.

GI 20 (2003-05-30) Debriefing

A debriefing will be provided, on request, only following entry by PWGSC into a contractual arrangement with the successful Proponent. Should a Proponent desire a debriefing, the Proponent should contact the person identified on the front page of the RFP. The debriefing will include an outline of the reasons the submission was not successful, making reference to the evaluation criteria. The confidentiality of information relating to other submissions will be protected.

GI 21 (2003-05-30) Financial Statements

1. In order to confirm a Proponent's financial capability to perform the subject requirement, the Contracting Authority reserves the right to have access, during the proposal evaluation phase, to current proponent financial information. If requested, the financial information to be provided shall include, but not be limited to, the Proponent's most recent audited financial statements or financial statements certified by the Proponent's chief financial officer.
2. Should the proponent provide the requested information to Canada in confidence while indicating that the disclosed information is confidential, then Canada will treat the information in a confidential manner as provided in the *Access to Information Act*.
3. In the event that a proposal is found to be non-compliant on the basis that the proponent is considered NOT to be financially capable of performing the subject requirement, official notification shall be provided to the proponent.

GI 22 (2005-12-16) Performance Evaluation

Proponents shall take note that the performance of the Consultant during and upon completion of the services shall be evaluated by Canada. The evaluation include all or some of the following criteria: Design, Quality of Results, Management, Time and Cost. Should the Consultant's performance be considered unsatisfactory, the Consultant may be declared ineligible for future Real Property contracts. An electronic version of the form PWGSC-TPSGC 2913-1, SELECT - Consultant Performance Evaluation Report, used to record the performance is available on the PWGSC Website: <http://www.pwgsc.gc.ca/acquisitions/text/forms/forms-e.html> .

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R1110T (10/12/04) General Instructions to Proponents (GI)

Effective 16/12/05, this clause is superseded by R1110T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause in 1 Stage - 2 Phase proposals.

R1120T (30/05/03) Supplementary Instructions to Proponents

SI 1 (30/05/03) Introduction

1. Public Works and Government Services Canada (PWGSC) intends to retain an individual consulting firm or joint venture to provide the professional services for the project as set out in this Request for Proposal (RFP).
2. Because of the considerable time and expense involved in the preparation, submission and evaluation of full proposals, Proponents responding to this RFP are requested to submit a proposal in two phases. Phase One proposals cover only the qualifications, experience and organization of the proposed Consultant Team. Following evaluation and rating of these proposals, Proponents are advised of their competitive standing and have the opportunity to decide whether or not to continue their participation by submitting a Phase Two proposal. Phase Two proposals cover the detailed approach to the work, and the pricing offered. A combination of the Phase One and Phase Two submissions constitutes the final proposal. This procedure follows "open tendering" procedures in the context of Canada's trade agreements. It is followed, however, whether or not the procurement is covered by any trade agreement.
3. Initially, firms are invited to submit a proposal in the first phase of the selection procedure outlined herein. Only the Phase One information asked for in the RFP is to be included in the Phase One proposal, and evaluation and rating of Phase One proposals will be carried out only on the Phase One information requested.

SI 2 (30/05/03) Questions or Requests for Clarification

Questions or requests for clarification during the Phase One solicitation period must be submitted in writing to the Contracting Authority as early as possible. Enquiries should be received no later than ten (10) working days prior to the closing date identified on the front page of the Request for Proposal. Enquiries received after that date may not be answered prior to the closing date of the solicitation.

SI 3 (30/05/03) Canada's Trade Agreements

This procurement is covered under the provisions of the: [North American Free Trade Agreement (NAFTA)] [World Trade Organization - Agreement on Government Procurement (WTO-AGP)] [Agreement on Internal Trade (AIT)].

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause in 1 Stage - 2 Phase proposals.

R1130T (12/12/03) Proposal Documents

1. The following are the proposal documents:
 - (a) R1110T, General Instructions to Proponents (GI);
Supplementary Instructions to Proponents (SI)

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Proposal Documents;
Project Brief;
Submission Requirements and Evaluation (SRE);
Any amendment to the solicitation document issued prior to the date set for receipt of Phase Two proposals

- (b) the general terms, conditions and clauses, as amended, identified as:
Agreement
R1205D, General Conditions - Table of Contents
R1210D, GC 1 - General Provisions
R1215D, GC 2 - Administration of the Contract
R1220D, GC 3 - Consultant Services
R1226D, GC 4 - Copyright and Reuse of Documents
R1230D, GC 5 - Terms of Payment
R1235D, GC 6 - Changes
R1240D, GC 7 - Taking the Services Out of the Consultant's Hands, Suspension or Termination
R1245D, GC 8 - Dispute Resolution
R1250D, GC 9 - Indemnification and Insurance
R1270D, International Sanctions
Agreement Particulars
 - (c) the duly completed and signed Phase One proposal and Declaration Form when received and accepted;
 - (d) the duly completed and signed Phase Two proposal and Price Proposal Form when received and accepted;
 - (e) the document entitled "Doing Business with A&ES".
2. Submission of a proposal constitutes acknowledgment that the Proponent has read and agrees to be bound by these documents.
 3. Pursuant to the *Department of Public Works and Government Services Act*, S.C. 1996, c.16, the general terms, conditions and clauses identified herein by title, number and date, are hereby incorporated by reference into and form part of this solicitation and any resultant contract, as though expressly set out herein, subject to any other express terms and conditions herein contained.
 4. All instructions, general terms, conditions and clauses identified herein by title, number and date are set out in the *Standard Acquisition Clauses and Conditions Manual* issued by Public Works and Government Services Canada (PWGSC).

An electronic version is available at the following PWGSC Website:
<http://sacc.pwgsc.gc.ca/sacc/index-e.jsp>.

R1130T (30/05/03) Proposal Documents

Effective 12/12/03, this clause is superseded by R1130T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. If supplementary insurance is required, contact the appropriate group to determine the required instructions that should be included here. Use in conjunction with R1330D.

R1150T (30/05/03) Supplementary Insurance

This procurement contains a supplementary insurance requirement described in R1330D, Supplementary Insurance Requirements.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Insert the following clause only if the procurement is subject to a maximum funding limit. This clause should always be used with caution.

R1160T (30/05/03) Funding Limit for the Services

Funding available is limited to \$ _____ (Goods and Services Tax or Harmonized Sales Tax extra, as appropriate). A proposal valued in excess of this amount will be considered non-responsive. This disclosure of available funds does not commit Canada to pay such an amount.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause in 1 Stage - 2 Phase proposals.

R1180T (30/05/03) Team Identification Form

The prime consultant and other members of the Consultant Team shall be, or eligible to be, licensed, certified or otherwise authorized to provide the necessary professional services to the full extent that may be required by provincial or territorial law.

Prime Consultant (Proponent):
Name:

Key Individuals and provincial professional licensing status:

Key Sub Consultants / Specialists:

Name:

Key Individuals and provincial professional licensing status:

Name:

Key Individuals and provincial professional licensing status:

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation.

R1185T (10/12/04) Declaration Form

This Request for Proposal (RFP) Declaration Form must form part of any proposal. Failure to include such representation and warranty with the proposal by executing the signature block below will render the proposal as non-responsive. The completed form should be included with your Phase One Proposal.

NAME OF PROPONENT: _____

Street Address: _____ Mailing Address (if different than street address) _____

City: _____

City: _____

Prov./Terr./State: _____

Prov./Terr./State: _____

Postal/ZIP Code: _____

Postal/ZIP Code: _____

Telephone Number: () _____

Fax Number: () _____

E-Mail: _____

Procurement Business Number: _____

TYPE OF ORGANIZATION

Sole Proprietorship _____ Partnership _____ Corporation _____ Joint Venture _____

SIZE OF ORGANIZATION

Number of Employees: _____ Graduate Architects/Prof. Engineers: _____

Other Professionals: _____ Technical Support: _____

Other: _____

FEDERAL CONTRACTORS PROGRAM FOR EMPLOYMENT EQUITY

1. The Federal Contractors Program for Employment Equity (FCP-EE) requires that some organizations making proposals for federal government contracts, valued at \$200,000 or more (including all applicable taxes), make a formal commitment to implement employment equity, as a condition precedent to the contract award. If the Proponent is subject to the Program, evidence of its commitment must be provided prior to the award of any contract.

Proponents that have been declared "Ineligible Proponents" by the Department of Human Resources and Skills Development (HRSD) are no longer eligible to receive government contracts over the threshold for solicitation of bids as set out in the *Government Contract Regulations* (currently at \$25,000, including all applicable taxes), either as a result of a finding of non-compliance by the Department of HRSD, or following their voluntary withdrawal from the Program for a reason other than the reduction in their workforce. Any proposal from ineligible proponents will not be considered for award.

2. The Proponent certifies its status with FCP-EE, as follows:

The Proponent

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- (a) is not subject to FCP-EE, having a workforce of less than 100 permanent full or part-time employees in Canada,
- (b) is not subject to FCP-EE, being a regulated employer under the *Employment Equity Act*;
- (c) is subject to the requirements of FCP-EE, having a workforce of 100 or more permanent full or part-time employees in Canada, but has not previously obtained a certificate number from the Department of HRSD, (having not submitted proposals on requirements of \$200,000 or more), in which case a duly signed certificate of commitment is provided herewith (attached);
- (d) is subject to FCP-EE, and has a valid certification number as follows: _____ (e.g. has not been declared "Ineligible Proponent" by the Department of HRSD).
3. If the Proponent does not fall within the exceptions enumerated in 2. (a) or (b), the Program requirements do apply, and as such, the Proponent is required to submit to the Department of HRSD form LAB 1168, Certificate of Commitment to Implement Employment Equity, DULY SIGNED, or a valid Certificate number confirming its adherence to the FCP-EE.
4. The Proponent acknowledges that the Minister shall rely on this certification to award the Contract. Should a verification by the Minister disclose a misrepresentation on the part of the Proponent, the Minister shall have the right to treat any contract resulting from this proposal as being in default, and to terminate it pursuant to the Default provisions of the Contract.
5. In all cases, the Proponent is required to produce evidence or supporting information on demand prior to contract award, if such evidence is not included with its proposal.

NOTE: Information on the FCP-EE and the Certificate of Commitment (LAB 1168), are available on the following Department of HRSD Website:
<http://www.hrsdc.gc.ca/en/gateways/topics/wzp-gxr.shtml> and
<http://www100.hrdc.gc.ca/lab1swenm1e.shtml>, respectively.

DECLARATION:

I, the undersigned, being a principal of the Proponent, hereby certify that the information given on this form and in the attached Proposal is accurate to the best of my knowledge.

Name (print): _____

Capacity: _____

Signature: _____

Telephone Number: () _____

Fax Number: () _____

Date: _____

PWGSC contact will be with the above named person.

=====

R1185T (14/05/04) Declaration Form

Effective 10/12/04, this clause is superseded by R1185T.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation.

R1190T (10/06/05) Price Proposal Form

Instructions:

Complete this Price Proposal Form and submit in a **separately sealed envelope** with the Name of Proponent, Name of Project, Public Works and Government Services Canada Solicitation Number, and the words "**Price Proposal Form**" typed on the outside of the envelope. Price Proposals are not to include Goods and Services Tax (GST).

Proponents shall not alter this form

Name of Proponent: _____
 Address: _____

 Phone / Fax: _____
 Procurement Business Number: _____

The following will form part of the evaluation process:

Required Services

Percentage Fee

Firm Percentage Fee of: _____ %
 Indicative Estimate of Construction Cost (Class D): X \$ _____ (including GST)
 \$ _____

The actual percentage fee for Required Services will recognize the variability of the Construction Cost Estimate as the project develops (refer to formula specified in paragraph 1(a) of GC 5.2). Payments will be made as specified in paragraph 1 of GC 5.4).

Fixed Fee

| Services | Fixed Fee |
|--------------------|-----------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Maximum Fixed Fees | \$ _____ |

Fixed Fee - Unit Price

| # of Units | Services | Cost / Unit | Fixed Fee |
|--------------------|----------|--------------|-----------|
| _____ | _____ | @ \$ _____ = | \$ _____ |
| _____ | _____ | @ \$ _____ = | \$ _____ |
| _____ | _____ | @ \$ _____ = | \$ _____ |
| _____ | _____ | @ \$ _____ = | \$ _____ |
| Maximum Fixed Fees | | \$ _____ | |

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Time Based Fees

| Services | Time Based Fee |
|-------------------------|----------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Maximum Time Based Fees | \$ _____ |

Hourly rates are to be provided below.

Total maximum fee for Required Services \$ _____

The following will not form part of the evaluation process:

Canada may accept or reject any of the following fees, disbursements, hourly rates and/or payroll factor(s). Canada reserves the right to negotiate on these fees, disbursements, hourly rates and/or payroll factor(s).

Disbursements

At cost without allowance for mark-up or profit, supported by invoices/receipts. (See GC 5.12):

(specify and enter limit)

| | |
|----------------------------------|----------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Maximum Amount for Disbursements | \$ _____ |

The following hourly rates may be used in the event that the original services change during the course of the contract.

Principals - All inclusive hourly rate to be fixed for the duration of the Contract.

| Name | \$ per hour |
|-------|-------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

Staff - Payroll Cost Factor to be fixed for the duration of the contract. For the administration of the Contract, Hourly Rate increases for staff are to be documented to PWGSC for approval.

| Name / Position | \$ per hour (excluding factor) | Factor |
|-----------------|--------------------------------|--------|
| _____ | \$ _____ | _____ |
| _____ | \$ _____ | _____ |
| _____ | \$ _____ | _____ |
| _____ | \$ _____ | _____ |

Canadian Based Firms: Economic Impact

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You are requested to indicate below the number of jobs that would be created or maintained should a contract to your firm result from this solicitation. This information is required for statistical/reporting purposes only and will not form part of the proposal evaluation.

Number of Jobs Created: _____

Number of Jobs Maintained: _____

Period of Time: _____

Signature of Consultant or Joint Venture Consultants.

The Consultant agrees to provide **all** services requested in the Request For Proposal.

Name Signature

Title

I/We have authority to bind the Corporation / Partnership / Sole Proprietorship / Joint Venture

Name Signature

Title

I/We have authority to bind the Corporation / Partnership / Sole Proprietorship / Joint Venture

Name Signature

Title

I/We have authority to bind the Corporation / Partnership / Sole Proprietorship / Joint Venture

END OF PRICE PROPOSAL FORM

=====
R1190T (30/05/03) Price Proposal Form

Effective 10/06/05, this clause is superseded by R1190T.

=====
Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause in 1 Stage - 2 Phase proposals.

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R1200D (16/12/05) Agreement

1. The Consultant understands and agrees that upon acceptance of the offer by Canada, a binding Agreement shall be formed between Canada and the Consultant and the documents forming the Agreement shall be the following:
 - (a) the Front Page and this Agreement clause;
 - (b) the general terms, conditions and clauses, as amended, identified as:

| | | |
|--------|--------------|---|
| R1205D | (2005-12-16) | General Conditions - Table of Contents |
| R1210D | (2004-05-04) | GC 1 - General Provisions |
| R1215D | (2003-05-30) | GC 2 - Administration of the Contract |
| R1220D | (2003-12-12) | GC 3 - Consultant Services |
| R1226D | (2003-05-30) | GC 4 - Copyright and Reuse of Documents |
| R1230D | (2003-05-30) | GC 5 - Terms of Payment |
| R1235D | (2003-05-30) | GC 6 - Changes |
| R1240D | (2003-05-30) | GC 7 - Taking the Services Out of the Consultant's Hands, Suspension or Termination |
| R1245D | (2003-05-30) | GC 8 - Dispute Resolution |
| R1250D | (2005-12-16) | GC 9 - Indemnification and Insurance |
| R1270D | (2003-05-30) | International Sanctions |

Agreement Particulars;
 - (c) Project Brief;
 - (d) the document entitled "Doing Business with A&ES";
 - (e) any amendment to the solicitation document incorporated in the Agreement before the date of the Agreement;
 - (f) the duly completed and signed Phase One proposal and Declaration Form;
 - (g) the duly completed and signed Phase Two proposal and Price Proposal Form.
2. Pursuant to the *Department of Public Works and Government Services Act*, S.C. 1996, c.16, the general terms, conditions and clauses identified herein by title, number and date, are hereby incorporated by reference into and form part of this Agreement, as though expressly set out herein, subject to any other express terms and conditions herein contained.
3. All instructions, general terms, conditions and clauses identified herein by title, number and date are set out in the *Standard Acquisition Clauses and Conditions Manual* issued by Public Works and Government Services Canada (PWGSC). The Manual is available on the following PWGSC Website: <http://sacc.pwgsc.gc.ca/sacc/index-e.jsp>.
4. Order of Precedence

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

 - (a) any amendment or variation in the Agreement that is made in accordance with the terms and conditions of the Agreement;
 - (b) any amendment to the solicitation document incorporated in the Agreement before the date of the Agreement;
 - (c) this Agreement clause;
 - (d) Supplementary Conditions;
 - (e) General Terms, Conditions and Clauses;
 - (f) Agreement Particulars;
 - (g) Project Brief;
 - (h) the document entitled "Doing Business with A&ES";
 - (i) the duly completed and signed proposal.

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R1200D (14/05/04) Agreement

Effective 16/12/05, this clause is superseded by R1200D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation.

R1205D (16/12/05) General Conditions - Table of Contents

R1210D (2004-05-14) GC 1 - General Provisions

| | |
|---------|---|
| GC 1.1 | Definitions |
| GC 1.2 | Interpretations |
| GC 1.3 | Successors and Assigns |
| GC 1.4 | Assignment |
| GC 1.5 | National or Departmental Security |
| GC 1.6 | Conflict of Interest |
| GC 1.7 | Status of Consultant |
| GC 1.8 | Members of House of Commons |
| GC 1.9 | Entire Agreement |
| GC 1.10 | Lobbyist Certification - Contingency Fees |
| GC 1.11 | Changes in Taxes and Duties |
| GC 1.12 | Provincial Sales Tax |
| GC 1.13 | Goods and Services Taxes (GST)/Harmonized Sales Tax (HST) |
| GC 1.14 | Tax Withholding of 15 Percent |
| GC 1.15 | Joint and Several Liability |

R1215D (2003-05-30) GC 2 - Administration of the Contract

| | |
|--------|---|
| GC 2.1 | Notices |
| GC 2.2 | Time and Cost Records to be Kept by the Consultant |
| GC 2.3 | Non-discrimination in Hiring and Employment Practices |

R1220D (2003-12-12) GC 3 - Consultant Services

| | |
|---------|--|
| GC 3.1 | Declaration by Consultant |
| GC 3.2 | Services |
| GC 3.3 | Standard of Care |
| GC 3.4 | Time Schedule |
| GC 3.5 | Project Information, Decisions, Acceptances, Approvals |
| GC 3.6 | Changes in Services |
| GC 3.7 | Codes, By-Laws, Licences, Permits |
| GC 3.8 | Provision of Staff |
| GC 3.9 | Sub-Consultants |
| GC 3.10 | Changes in the Consultant Team |
| GC 3.11 | Cost Control |

R1226D (2003-05-30) GC 4 - Copyright and Reuse of Documents

R1230D (2003-05-30) GC 5 - Terms of Payment

| | |
|---------|--|
| GC 5.1 | Fees |
| GC 5.2 | Fee Arrangement(s) for Services |
| GC 5.3 | Payments to the Consultant |
| GC 5.4 | Payments for Services |
| GC 5.5 | Delayed Payment |
| GC 5.6 | Claims Against, and Obligations of, the Consultant |
| GC 5.7 | No Payment for Errors and Omissions |
| GC 5.8 | Payment for Changes and Revisions |
| GC 5.9 | Extension of Time |
| GC 5.10 | Suspension Costs |
| GC 5.11 | Termination Costs |
| GC 5.12 | Disbursements |
| GC 5.13 | T1204 Government Service Contract Payments |

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| | | |
|---------------|---------------------|--|
| R1235D | (2003-05-30) | GC 6 - Changes |
| R1240D | (2003-05-30) | GC 7 - Taking the Services out of the Consultant's Hands, Suspension or Termination |
| GC 7.1 | | Taking the Services Out of the Consultant's Hands |
| GC 7.2 | | Suspension |
| GC 7.3 | | Termination |
| R1245D | (2003-05-30) | GC 8 - Dispute Resolution |
| R1250D | (2005-12-16) | GC 9 - Indemnification and Insurance |
| GC 9.1 | | Indemnification |
| GC 9.2 | | Insurance Requirements |
| R1270D | (2003-05-30) | International Sanctions |

R1205D (14/05/04) **General Conditions - Table of Contents**

Effective 16/12/05, this clause is superseded by R1205D.

R1210D (14/05/04) **GC 1 - General Provisions**

GC 1.1 (30/05/03) Definitions

Average Bank Rate means the simple arithmetic mean of the Bank Rate in effect at 4:00 p.m. Eastern Standard Time each day during the calendar month which immediately precedes the calendar month in which payment is made.

Bank Rate means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which it makes short term advances to members of the Canadian Payments Association.

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

Construction Contract means a contract entered into between Canada and a Contractor for the construction of the Project;

Construction Contract Award Price means the price at which a Construction Contract is awarded to a Contractor;

Construction Cost Estimate means an anticipated amount for which a Contractor will execute the construction of the Project;

Construction Cost Limit means that portion of the total amount of Project funds which shall not be exceeded on construction of the Project;

Consultant means the party which submitted a responsive proposal which was accepted by Canada to perform the Consultant Services under the Agreement, and includes the officer or employee of the Consultant identified in writing by the Consultant;

Contracting Authority means the party identified on the front cover page responsible for the establishment of the agreement, its administration and any contractual issues related to it;

Contractor means a person, firm or corporation with whom Canada enters, or intends to enter, into a Construction Contract;

Cost Plan means the allocation of proposed costs among the various elements of the Project, as described in the Project Brief or Terms of Reference;

Days means continuous calendar days, including weekends and statutory public holidays;

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Departmental Representative means the officer or employee of Canada identified to the consultant in writing by a duly authorized departmental officer to perform the Departmental Representative's duties under the Agreement;

Mediation is a process of dispute resolution in which a neutral third party assists the parties involved in a dispute to negotiate their own settlement;

Minister includes a person acting for, or if the office is vacant, in place of, the Minister of Public Works and Government Services and the Minister's successors in the office. Minister also includes the Minister's lawful deputy and any of the ministers or their representatives appointed for the purpose of the Agreement;

Payroll Cost means the actual cost of any person employed by the Consultant or the Consultant's Sub-Consultants as a staff member, including principals employed as staff members, and includes an amount for salary, statutory holidays, vacations with pay, unemployment insurance premiums and worker's compensation contributions where applicable, pension plan contributions, sick time allowance, medical/dental insurance premiums, and such other employee benefits as may be approved by the Departmental Representative;

Project Brief or Terms of Reference means a document describing in sufficient detail the Services to be provided by the Consultant to permit the Consultant to proceed with the Services and may include general project information, scope of the work, site and design data, and time plan, specifically related to the Project;

Project Schedule means a time plan, including the sequence of tasks, milestone dates and critical dates which must be met for the implementation of the planning, design and construction phases of the Project;

Services means the services provided by the Consultant and the services required by the project, as set forth in the Agreement;

Specialist Consultant means any Architect, Professional Engineer, or other specialist, other than the Consultant, engaged by Canada directly or, at the specific request of Canada, engaged by the Consultant;

Sub-Consultant means any Architect, Professional Engineer, or other specialist engaged by the Consultant for the Services included in the Agreement;

Technical Documentation includes designs, reports, photographs, physical models, surveys, drawings, specifications, computer software developed for the purpose of the Project, computer printouts, design notes, calculations, CADD (Computer-aided Design and Drafting) files, and other data, information and material, prepared, computed, drawn, or produced and operating and maintenance manuals either prepared or collected for the Project.

GC 1.2 (30/05/03) Interpretations

1. Words importing the singular only also include the plural, and vice versa, where the context requires;
2. Headings or notes in the Agreement shall not be deemed to be part thereof, or be taken into consideration in its interpretation;
3. "Herein", "hereby", "hereof", "hereunder" and similar expressions refer to the Agreement as a whole and not to any particular subdivision or part thereof.

GC 1.3 (30/05/03) Successors and Assigns

The Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their lawful heirs, executors, administrators, successors and assigns.

GC 1.4 (30/05/03) Assignment

1. The Agreement shall not be assigned, in whole or in part, by the Consultant without the prior written consent of the Minister. After a request for assignment has been received from the Consultant, a decision shall be given by the Minister to the Consultant in a timely manner.
2. An assignment of the Agreement without such consent shall not relieve the Consultant from any obligation under the Agreement, or impose any liability upon Canada or the Minister.

GC 1.5 (30/05/03) National or Departmental Security

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1. If the Departmental Representative is of the opinion that the Project is of a class or kind that involves national or departmental security, the Consultant may be required:
 - (a) to provide any information concerning persons employed for purposes of the Agreement unless prohibited by law;
 - (b) to remove any person from the Project and its site if that person cannot meet the prescribed security requirements; and
 - (c) to retain the Project Technical Documentation while in the Consultant's possession in a manner specified by the Departmental Representative.
2. Notwithstanding the provision of GC 4, if the Project is of a class or kind that involves national or departmental security, the Consultant shall not issue, disclose, discard or use the Project Technical Documentation on another project without the written consent of the Departmental Representative.

GC 1.6 (12/12/03) Conflict of Interest

1. The Consultant declares that the Consultant has no pecuniary interest in the business of any third party that would cause, or seem to cause, a conflict of interest in carrying out the Services, and should such an interest be acquired during the life of the Agreement, the Consultant shall declare it immediately to the Departmental Representative.
2. The Consultant shall not have any tests or investigations carried out by any persons, firms, or corporations, that may have a direct or indirect financial interest in the results of those tests or investigations.
3. The Consultant shall not submit, either directly or indirectly, a bid for any Construction Contract related to the Project.
4. No individual for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders (1994) or the Values and Ethics Code for the Public Service (2003) apply, shall derive a direct benefit from this Agreement unless that individual is in compliance with the applicable post-employment provisions.
5. The Consultant shall not be eligible to compete as a consultant or sub-consultant for a project which may result from the provision of the Services if the Consultant is involved in the development of a Project Brief or Terms of Reference, a Request for Proposal or similar documents for such project.

GC 1.7 (30/05/03) Status of Consultant

1. The Consultant is engaged under the Agreement as an independent Consultant for the sole purpose of providing Services.
2. Neither the Consultant nor any of the Consultant's employees shall be regarded as employees or agents of Canada.
3. The Consultant, as employer, agrees to be solely responsible for any and all payments and deductions required to be made by law, including those required for Canada or Quebec Pension Plans, Employment Insurance, Worker's Compensation, and Income Tax.

GC 1.8 (30/05/03) Members of House of Commons

No member of the House of Commons shall be admitted to any share or part of the Agreement, or to any benefit that may arise therefrom.

GC 1.9 (30/05/03) Entire Agreement

The Agreement constitutes the entire arrangement between the parties with respect to the subject matter of the Agreement, and supersedes all previous negotiations, communications and other arrangements relating to it, unless incorporated by reference herein.

GC 1.10 (30/05/03) Lobbyist Certification - Contingency Fees

1. The Consultant certifies that it has not directly or indirectly paid or agreed to pay and covenants that it will not directly or indirectly pay a contingency fee for the solicitation, negotiation or

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obtaining of the Agreement to any person other than an employee acting in the normal course of the employee's duties.

2. All accounts and records pertaining to payments of fees or other compensation for the solicitation, obtaining or negotiation of the Agreement shall be subject to the accounts and audit provisions of the Agreement.
3. If the Consultant certifies falsely under this section or is in default of the obligations contained therein, the Minister may either take the services out of the Consultant's hands in accordance with the conditions of the Agreement or recover from the Consultant by way of reduction to the Basic Fee or otherwise the full amount of the contingency fee.

4. In this clause,

"Contingency fee" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining a Government Agreement or negotiating the whole or any part of its term.

"Employee" means a person with whom the Consultant has an employer/employee relationship.

"Person" includes an individual or group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes any individual who is required to file a return with the registrar pursuant to section 5 of the *Lobbyist Registration Act*, R.S. 1985 c.44 (4th Supplement) as the same may be amended from time to time.

GC 1.11 (30/05/03) Changes in Taxes and Duties

1. In the event of any change (including a new imposition or repeal), on or after the date of submission of the proposal, of any tax, customs or other duty, charge, or any similar imposition that is imposed under sales or excise tax legislation of the Government of Canada and which affects the cost to the Consultant of the Services, the amount payable to the Consultant shall be adjusted to reflect the increase or decrease in the cost to the Consultant.
2. There shall be no adjustment under subsection 1 in respect of any change that would increase the cost to the Consultant of the Services if public notice of the change was given before the proposal submission date in sufficient detail to permit the Consultant to have calculated the effect on the Consultant's cost before that date.
3. The Consultant shall forward to the Minister a certified statement showing the increase or decrease in cost to the Consultant that is directly attributable to the change in the imposition. The Minister or the Departmental Representative may verify the increase or decrease in cost by audit.

GC 1.12 (12/12/03) Provincial Sales Tax

1. Federal government departments and agencies are not required to pay any ad valorem sales tax levied by the province in which the taxable goods or services are delivered. This exemption is provided to federal government departments and agencies under the authority of the following:
 - (a) Provincial Sales Tax Exemption (PST) Licence Numbers, for the provinces of:

| | |
|----------------------|--------------|
| Prince Edward Island | OP-10000-250 |
| Ontario | 11708174G |
| Manitoba | 390-516-0 |
| British Columbia | 005521 |
 - (b) An Exemption Certification, for Quebec, Saskatchewan, the Yukon Territory, and the Northwest Territories, which certifies that the property and/or services ordered/purchased hereby are for the use of, and are being purchased by the federal government with Canada funds, and are therefore not subject to provincial/territorial sales and consumption taxes.
2. Currently, in Alberta, the Yukon Territory, and the Northwest Territories, provincial sales taxes do not apply to goods or services delivered to the federal government.
3. The Consultant is not exempt from paying PST under the above Exemption Licence Numbers or Exemption Certification. The Consultant is required to pay PST on taxable goods or services used or consumed in the performance of the Contract (as per appropriate provincial legislation), including material incorporated into real property.

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GC 1.13 (14/05/043) Goods and Services Taxes (GST)/Harmonized Sales Tax (HST)

1. All prices and amounts of money in the agreement are exclusive of GST/HST, as applicable, unless otherwise indicated.
2. Any amount levied in respect of the GST/HST will be billed as a separate item in invoices and will be paid in addition to the amount approved for Services performed, in accordance with GC 5.3
3. The Consultant agrees to remit to the Canada Revenue Agency any amounts of GST and HST paid or due.

GC 1.14 (30/05/03) Tax Withholding of 15 Percent

If the Consultant is a non-resident entity as defined in the *Income Tax Act*, the Consultant acknowledges and agrees that, pursuant to the provisions of that Act, Canada is empowered to withhold an amount of 15 percent of the price to be paid to the Consultant for services performed in Canada. This amount will be held on account with respect to any liability for taxes which may be owed to Canada.

GC 1.15 (30/05/03) Joint and Several Liability

If at any time there is more than one legal entity constituting the Consultant, their covenants under the Agreement shall be considered to be joint and several and apply to each and every entity. If the Consultant is or becomes a partnership or joint venture, each legal entity who is a member or becomes a member of the partnership or joint venture or its successors is and continues to be jointly and severally liable for the performance of the services and all the covenants of the Consultant pursuant to this Agreement, whether or not that entity ceases to be a member of the partnership, joint venture or its successor.

R1210D (12/12/03) GC 1 - General Provisions

Effective 14/05/04, this clause is superseded by R1210D.

R1215D (30/05/03) GC 2 - Administration of the Contract

GC 2.1 (30/05/03) Notices

1. Any notice, request, direction, consent, decision, or other communication that is required to be given or made by either party pursuant to the Agreement, shall be in writing, and shall be deemed to have been effectively given when:
 - (a) served personally, on the day it is delivered;
 - (b) forwarded by registered mail, on the day the postal receipt is acknowledged by the other party; or
 - (c) forwarded by facsimile, e-mail or other electronic means of transmission at the time of transmission.
2. The address of either party, or the person authorized to receive notices, may be changed by notice in the manner set out in this provision.

GC 2.2 (30/05/03) Time and Cost Records to be Kept by the Consultant

1. Time charged and the accuracy of the Consultant's time recording system may be verified by the Departmental Representative before or after payment is made to the Consultant under the terms and conditions of the Agreement.

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2. The Consultant shall keep accurate time and cost records and, if required for the purposes of the Agreement, shall make these documents available at reasonable times to the Departmental Representative who may make copies and take extracts therefrom.
3. The Consultant shall afford facilities for audit and inspection at mutually agreeable times and at places where the relevant documents are located, and shall provide the Departmental Representative with such information as may be required from time to time with reference to the documents referred to in subsection 2 above.
4. The Consultant shall, unless otherwise specified, keep the time and cost records available for audit and inspection for a period of at least two (2) years following completion of the Services.
5. If the verification is done after payment, the Consultant agrees to repay any overpayment immediately upon demand by Canada.

GC 2.3 (30/05/03) Non-discrimination in Hiring and Employment Practices

1. For the purpose of this General Condition, "person" includes the Consultant, the Consultant's Sub-Consultants and other firms forming the Consultant team, and their respective employees, agents, licensees or invitees, and any other individual involved in the performance of the services.
2. The Consultant shall not refuse to employ, encourage or ignore harassment, and will 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 Consultant to comply with 2.(a) and 2.(b) above.
3. Within two (2) working days immediately following receipt of a written complaint pursuant to subsection 2 above, the Consultant shall
 - (a) cause to have issued a written direction to the person or persons named by the complainant to cease all actions that form the basis of the complaint; and
 - (b) forward a copy of the complaint to the Departmental Representative by registered mail.
4. Within twenty four (24) hours immediately following receipt of a direction from the Departmental Representative to do so, the Consultant shall cause to have removed from the Consultant team any person or persons whom the Departmental Representative believes to be in breach of the provisions of subsection 2 above.
5. No later than thirty (30) days after receipt of the direction referred to in subsection 4 above, the Consultant shall cause the necessary action to be commenced to remedy the breach described in the direction.
6. If a direction is issued pursuant to subsection 4 above, Canada may withhold from monies that are due and payable to the Consultant an amount representing the sum of the costs and payment referred to in subsections 8 and 9 below.
7. If the Consultant fails to proceed in accordance with subsection 6 above, the Departmental Representative shall take the necessary action to have the breach remedied, and shall determine all supplementary costs incurred as a result by Canada.
8. Canada may make a payment directly to the complainant from monies that are due and payable to the Consultant upon receipt from the complainant of:
 - (a) a written award issued pursuant to the federal *Commercial Arbitration Act*, R.S., 1985, c. C-34.6; or
 - (b) a written award issued pursuant to the *Canadian Human Rights Act*, R.S., 1985, c.H-6; or
 - (c) a written award issued pursuant to provincial or territorial human rights legislation; or
 - (d) a judgment issued by a court of competent jurisdiction.

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9. The Consultant shall be liable for and upon demand shall pay to Canada the supplementary costs referred to in subsection 8 above. If the Consultant fails to make payment on demand, Canada may deduct the same from any amount due and payable to the Consultant.
 10. A payment made pursuant to subsection 8 above is, to the extent of the payment, a discharge of Canada's liability to the Consultant under the terms of the Agreement and may be deducted from any amount due and payable to the Consultant.
 11. If the Departmental Representative is of the opinion that the Consultant has breached any of the provisions of this General Condition, the Minister may take the services out of the Consultant's hands pursuant to GC 7.
 12. The Consultant shall ensure that the provisions of this General Condition are included in all agreements and contractual arrangements entered into as a consequence of this work.
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R1220D (12/12/03) GC 3 - Consultant Services

GC 3.1 (30/05/03) Declaration by Consultant

The Consultant declares that based on the information provided pertaining to the Services required under the Agreement, the Consultant has been provided sufficient information to enable the Services required under the Agreement to proceed and is competent to perform the Services and has the necessary licences and qualifications including the knowledge, skill and ability to perform the Services.

GC 3.2 (30/05/03) Services

The Consultant shall perform the Services described herein, in accordance with the terms and conditions of the Agreement.

GC 3.3 (30/05/03) Standard of Care

In performing the services, the Consultant shall provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices and procedures developed by professional bodies in the performance of similar services at the time when and at the location in which the services are provided.

GC 3.4 (30/05/03) Time Schedule

1. The Consultant shall:
 - (a) submit in a timely manner to the Departmental Representative, for approval, a time schedule for the Services to be performed, in detail appropriate to the size and complexity of the Project, and in the prescribed format;
 - (b) adhere to the approved time schedule and, if changes in the approved time schedule become necessary, indicate the extent of, and the reasons for such changes, and obtain the approval of the Departmental Representative.

GC 3.5 (30/05/03) Project Information, Decisions, Acceptances, Approvals

1. The Departmental Representative shall provide, in a timely manner, project information, written decisions and instructions, including acceptances and approvals relating to the Services provided by the Consultant.
2. No acceptance or approval by the Departmental Representative, whether expressed or implied, shall be deemed to relieve the Consultant of the professional or technical responsibility for the Services provided by the Consultant.

GC 3.6 (30/05/03) Changes in Services

1. The Consultant shall:
 - (a) make changes in the Services to be provided for the Project, including changes which may increase or decrease the original scope of Services, when requested in writing by the Departmental Representative with the approval of the Minister; and

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- (b) prior to commencing such changes, advise the Departmental Representative of any known and anticipated effects of the changes on the Construction Cost Estimate, Consultant fees, Project Schedule, and other matters concerning the Project.

GC 3.7 (30/05/03) Codes, By-Laws, Licences, Permits

The Consultant shall comply with all statutes, codes, regulations and by-laws applicable to the design and where necessary, shall review the design with those public authorities having jurisdiction in order that the consents, approvals, licences and permits required for the project may be applied for and obtained.

GC 3.8 (30/05/03) Provision of Staff

1. The Consultant shall, on request, submit to the Departmental Representative for approval, the names, addresses, qualifications, experience and proposed roles of all persons, including principals, to be employed by the Consultant to provide the Services for the Project and, on request, submit any subsequent changes to the Departmental Representative for approval.
2. When fees are on a Payroll Cost basis, the Consultant shall submit to the Departmental Representative, for approval, a statement of Payroll Costs, and any amendments thereof, for all persons to be employed by the Consultant to provide the Services for the Project.

GC 3.9 (12/12/03) Sub-Consultants

1. The Consultant shall:
 - (a) notify the Departmental Representative of those Sub-Consultants identified during the negotiations of the Agreement with whom the Consultant will enter into Agreements for part of the Services and, on request, provide details of the terms, and Services to be performed under the said Agreements and the qualifications and names of the personnel of the Sub-Consultants proposed to be employed on the Project;
 - (b) subsequent to the Agreement notify the Departmental Representative of any other Sub-Consultants with whom the Consultant intends to enter into Agreements for part of these Services and, on request, provide details of the terms and Services to be performed under the said Agreements and the qualifications and names of the personnel of these Sub-Consultants proposed to be employed on this Project;
 - (c) include in any Agreements entered into with Sub-Consultants such provisions of the Agreement as they apply to the Sub-Consultants' responsibilities; and
 - (d) upon written notice by a Sub-Consultant, with whom the Consultant has a direct contract, inform the Sub-Consultant of the Consultant's obligations to the Sub-Consultant under the Agreement.
2. The Departmental Representative may object to any Sub-Consultant within six (6) days of receipt of notification given in accordance with paragraph 1.(b) above and, on notification of such objection, the Consultant shall not enter into the intended Agreement with the Sub-Consultant.
3. Neither an Agreement with a Sub-Consultant nor the Departmental Representative's consent to such an Agreement by the Consultant shall be construed as relieving the Consultant from any obligation under the Agreement, or as imposing any liability upon Canada.

GC 3.10 (30/05/03) Changes in the Consultant Team

1. Should an entity or person named in the Consultant's proposal as an entity or person who is to perform the Services or part of the Services be unable to perform or complete the Services, the Consultant shall obtain the concurrence of the Departmental Representative prior to performing or completing the Services, or entering into an agreement with another equally qualified entity or person to perform or complete the Services, such concurrence not to be unreasonably withheld.
2. In seeking to obtain the concurrence of the Departmental Representative referred to in paragraph 1 above, the Consultant shall provide notice in writing to the Departmental Representative containing:
 - (a) the reason for the inability of the entity or person to perform the Services;
 - (b) the name, qualifications and experience of the proposed replacement entity or person, and

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- (c) if applicable, proof that the entity or person has the required security clearance granted by Canada.
- 3. The Consultant shall not, in any event, allow performance of any part of the Services by unauthorized replacement entities or persons, and acceptance of a replacement entity or person by the Departmental Representative shall not relieve the Consultant from responsibility to perform the Services.
- 4. The Departmental Representative, with the authority of the Minister, may order the removal from the Consultant Team of any unauthorized replacement entity or person and the Consultant shall immediately remove the entity or person from the performance of the Services and shall, in accordance with paragraphs 1 and 2 above, secure a further replacement.
- 5. The fact that the Departmental Representative does not order the removal of a replacement entity or person from the performance of the Services shall not relieve the Consultant from the Consultant's responsibility to meet all the Consultant's obligations in the performance of the Services.

GC 3.11 (30/05/03) Cost Control

- 1. Throughout Project development, the Construction Cost Estimate prepared by the Consultant shall not exceed the Construction Cost Limit.
- 2. In the event that the Consultant considers that the Construction Cost Estimate will exceed the Construction Cost Limit, the Consultant shall immediately notify the Departmental Representative and
 - (a) if the excess is due to factors under the control of, or reasonably foreseeable by the Consultant, the Consultant shall, if requested by the Departmental Representative, and at no additional cost to Canada, make such changes or revisions to the design as may be necessary to bring the Construction Cost Estimate within the Construction Cost Limit; or
 - (b) if the excess is due to factors that are not under the control of the Consultant, changes or revisions may be requested by the Departmental Representative. Such changes or revisions shall be undertaken by the Consultant at Canada's expense, and the cost involved shall become an amount to be mutually agreed, prior to performance of the said changes or revisions.
- 3. If the lowest price obtained by bid process or negotiation exceeds the Construction Cost Limit, and if the excess is due to reasons within the control of, or reasonably foreseeable by the Consultant, the Consultant shall, if requested by the Departmental Representative, and without additional charge, shall be fully responsible for revising the Project scope and quality as required to reduce the construction cost and shall modify the construction documents as necessary to comply with the Construction Cost Limit.

R1220D (30/05/03) GC 3 - Consultant Services

Effective 12/12/03, this clause is superseded by R1220D.

R1225D (30/05/03) GC 4 - Intellectual Property

GC 4.1 (30/05/03) Rights to Intellectual Property

- 1. Definitions

"Background" means all Technical Output that is not Foreground and that is proprietary to or the confidential information of the Consultant, the Consultant's Sub-Consultants, or any other entity engaged by the Consultant in the performance of the Services;

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"Foreground" means any Invention first conceived, developed or reduced to practice as part of the Services and all other Technical Output conceived, developed, produced or implemented as part of the Services;

"IP Rights" means any intellectual property rights recognized by law, including any intellectual property right protected through legislation (such as that governing copyright, patents, industrial design, or integrated circuit topography) 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 and without limiting the foregoing the term includes any unique design and construction system;

"Technical Output" means: (i) all information of a scientific, technical, or artistic nature relating to the Services, 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, reports, photographs, physical models, surveys, drawings, specifications developed for the purpose of the Project; as well as (ii) computer printouts, design notes, calculations, CADD (Computer-aided Design and Drafting) files, and other data, information and material, prepared, computed, drawn, or produced for the purpose of the Project; and (iii) operating and maintenance manuals prepared or collected for the Project; and (iv) any buildings, built works, structures and facilities constructed as, or as part of, the Project. Technical Output does not include data concerned with the administration of the Agreement by Canada or the Consultant, such as internal financial or management information, unless it is a deliverable under the terms of the Agreement.

2. Identification and Disclosure of Foreground

The Consultant shall:

- (a) promptly report and fully disclose to the Minister all Foreground that could be Inventions, and shall report and fully disclose to the Minister all other Foreground not later than the time of completion of the Services or such earlier time as the Minister or the Agreement may require, and
- (b) for each disclosure referred to in (a), indicate the names of all Sub-Consultants at any tier, if any, in which IP Rights to any Foreground have vested or will vest.

Before and after final payment to the Consultant the Minister shall have the right to examine all records and supporting data of the Consultant which the Minister reasonably decides is pertinent to the identification of the Foreground.

3. IP Rights Vest with Consultant

Subject to subsections 10 and 11 and the provisions of GC 1.5 and without affecting any IP Rights or interests therein that have come into being prior to the Agreement or that relate to information or data supplied by Canada for the purposes of the Agreement, all IP Rights in the Foreground shall immediately, as soon as they come into existence, vest in and remain the property of the Consultant.

4. Ownership Rights in Deliverables

Notwithstanding the Consultant's ownership of the IP Rights in the Foreground that is a prototype, built work, building, structure, facility, 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 the right to sell them.

5. Licence to Foreground

Without limiting any implied licences that may otherwise vest in Canada, and in consideration of Canada's contribution to the cost of development of the Foreground, the Consultant hereby grants to Canada a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free licence to exercise all IP Rights in the Foreground that vest in the Consultant pursuant to subsection 3, for the purpose of:

- (a) the construction or implementation of any building, built works, structures and facilities, contemplated by the Project;

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- (b) the further development or alteration or evolution of any part of the constructed or implemented Project, including procurement of materials and components for this purpose;
- (c) the further development, modification (including additions or deletions), completion, translation, or implementation of the Foreground and any addition to it as Canada may require for the purposes of the completion, utilization and subsequent evolution of the Project;
- (d) the use, occupancy, operation, exploitation, maintenance, repair or restoration of the constructed or implemented or subsequently modified Project, including the procurement of replacement materials and components required for any such purpose; and
- (e) the publishing and transmission of reproductions of the Project or any part thereof in the form of paintings, drawings, engravings, photographs or cinematographic works, to the public, in hard copy or by any electronic or other means, except for copies in the nature of architectural drawings or plans.

6. Licence to Foreground for Other Projects

The Consultant hereby grants to Canada a non-exclusive, perpetual, world-wide, irrevocable licence to exercise all IP Rights that vest in the Consultant pursuant to subsection 3 for the purpose of planning, designing and constructing or otherwise implementing any project other than the Project, and for any purpose set out in subsection 5 as it relates to such other project. In the event that Canada exercises such IP Rights in an other project, and provided that Canada does not already have equivalent rights under a previous contract or otherwise, Canada agrees to pay to the Consultant reasonable compensation determined in accordance with current industry practice and having regard to Canada's contribution to the cost of development of the Foreground. The Consultant shall ensure that in any sale, assignment, transfer or licence of any of the IP Rights that vest in the Consultant under this Agreement, the purchaser, assignee, transferee or licensee agrees to be bound by the terms of this provision and to accept reasonable compensation as is contemplated herein. The Consultant shall also ensure that any such purchaser, assignee, transferee or licensee of the IP Rights is required to impose the same obligations on any subsequent purchaser, transferee, assignee or licensee.

7. Licence to Background

Without limiting any implied licences that may otherwise vest in Canada, the Consultant hereby grants to Canada a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free licence to exercise such of the IP Rights in any Background incorporated into the Services or necessary for the performance of the Services as may be required

- (a) for the purposes contemplated in subsections 5 and 6;
- (b) for disclosure to any contractor engaged by Canada, or bidder for such a contract, to be used solely for a purpose set out in subsections 5 and 6;

and the Consultant agrees to make any such Background available to Canada upon request.

8. Canada's Right to Disclose and Sub-licence

The Consultant acknowledges that Canada may wish to award contracts, which may include a competitive process, for any of the purposes contemplated in subsections 5, 6 and 7. The Consultant agrees that Canada's licence in relation to the IP Rights in the Foreground and in the Background, includes the right to disclose that Foreground and Background to bidders for such contracts, and to sub-licence or otherwise authorize the use of that Foreground and Background by any contractor or consultant engaged by Canada for the purpose of carrying out such a contract.

9. Consultant's Right to Grant Licence

- (a) The Consultant represents and warrants that the Consultant has, or the Consultant shall obtain without delay, the right to grant to Canada the licence to exercise the IP Rights in the Foreground and the Background as required by the Agreement.
- (b) Where the IP Rights in any Background or Foreground are or will be owned by a Sub-Consultant, the Consultant shall either obtain a licence from that Sub-Consultant that permits compliance with subsections 5, 6 and 7 or shall arrange for the Sub-Consultant to convey directly to Canada the same rights by execution of the form

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provided for that purpose by the Minister no later than the time of disclosure to Canada of that Background and Foreground.

10. Trade Secrets and Confidential Information

The Consultant shall not use or incorporate any trade secrets or confidential information in any Foreground or Background used or created in performance of this contract.

11. Canada Supplied Information

- (a) here performance of the Services involves the preparation of a compilation using information supplied by Canada, then the IP Rights that shall vest under subsection 3 shall be restricted to the IP Rights in Foreground that are capable of being exploited without the use of the information supplied by Canada. All IP Rights in any compilation, the Foreground in which cannot be exploited without the use of such Canada supplied information shall vest in Canada. The Consultant agrees that the Consultant shall not use or disclose any Canada supplied information for any purpose other than completing the performance of the Services. The Consultant shall maintain the confidentiality of such information. Unless the Agreement otherwise expressly provides, the Consultant shall deliver to Canada all such information together with every copy, draft, working paper and note thereof that contains such information upon the completion or termination of the Agreement, or at such earlier time as the Minister may require.
- (b) If the Consultant wishes to make use of any Canada supplied information that was supplied for purposes of the Agreement, for the commercial exploitation or further development of any of the Foreground, then the Consultant may make a written request for a licence to exercise the required IP Rights in that Canada supplied information, to the Minister. The Consultant shall give the Minister an explanation as to why such a licence is required. Should the Minister agree to grant such a licence, it shall be on terms and conditions to be negotiated between the parties including payment of compensation to Canada.

12. Transfer of IP Rights

- (a) If the Minister takes the Services out of the Consultant's hands in accordance with GC 7 of the General Conditions, in whole or in part, or if the Consultant fails to disclose any Foreground in accordance with subsection 2, the Minister may upon reasonable notice, require the Consultant to convey to Canada all of the IP Rights in the Foreground or in the case of a failure to disclose, all the IP Rights in the Foreground not provided. The IP Rights to be conveyed shall include the IP Rights in any Foreground that have vested or are to vest in a Sub-Consultant. In the case of IP Rights in Foreground which have been sold or assigned to a party other than a Sub-Consultant, the Consultant shall not be obligated to convey those IP Rights to Canada, but shall pay to Canada on demand an amount equal to the consideration which the Consultant received from the sale or assignment of the IP Rights in that Foreground or, in the case of a sale or assignment was not at arm's length, the fair market value of the IP Rights in that Foreground, in each case including the value of future royalties or licence fees.
- (b) In the event of the issuance by the Minister of a notice referred to in (a), the Consultant shall, at the Consultant's own expense and without delay, execute such conveyances or other documents relating to title to the IP Rights as Canada may require, and the Consultant shall, at Canada's expense, afford the Minister all reasonable assistance in the preparation of applications and in the prosecution of any applications for, or any registration of, any IP Right in any jurisdiction, including without limitation the assistance of the inventor in the case of Inventions.
- (c) Until the Consultant completes the performance of the Services and discloses all of the Foreground in accordance with subsection 2, and subject to the provisions of GC 1.5, the Consultant shall not, without the prior written permission of the Minister, sell, assign or otherwise transfer title to the IP Rights in any of the Foreground, or license or otherwise authorize the use of the IP Rights in any of the Foreground by any person.
- (d) In any sale, assignment, transfer or licence of IP Rights in Foreground by the Consultant except a sale or licence for end use of a product based on Foreground, the Consultant shall impose on the other party all of its obligations to Canada in relation to the IP Rights in the Foreground and any restrictions set out in the Agreement on the use or disposition of the IP Rights in the Foreground (and, if applicable, the Foreground itself), including the obligation to impose the same obligations and restrictions on any subsequent transferee, assignee or licensee. The Consultant shall promptly notify Canada of the name, address and other pertinent information in regard to any transferee, assignee or licensee.

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R1226D (30/05/03) GC 4 - Copyright and Reuse of Documents

1. Except as otherwise specified in the Supplementary Conditions any copyright in any and all documents which are instruments of the Services for this Project, and are prepared by or under the direction of the Consultant, shall belong to the Consultant.
 2. Canada may, after consultation with the Consultant, reuse for another Project the documents referred to in paragraph 1 above and shall pay to the Consultant for such reuse an appropriate fee based on current practice.
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R1230D (30/05/03) GC 5 - Terms of Payment

GC 5.1 (30/05/03) Fees

1. Subject to the terms and conditions of the Agreement, and in consideration for the performance of the Services, Canada shall pay to the Consultant a sum of money calculated in accordance with the provisions herein and the Agreement Particulars.
2. The Consultant's fees are only payable when the Consultant has performed the Services as determined by the Departmental Representative. Payment in respect of a Service, or part of a Service, is not to be deemed a waiver of Canada's rights of set-off at law or under the Agreement for costs or expenses arising from default or negligence of the Consultant.
3. The maximum amount payable under the Agreement, including fees and disbursements, shall not exceed the sum specified in the Agreement Particulars, without the prior written authorization of the Departmental Representative in accordance with the terms of the Agreement.

GC 5.2 (30/05/03) Fee Arrangement(s) for Services

1. The fee to be paid to the Consultant for the Services described herein, shall be determined by one or more of the following arrangements as specified in the Agreement Particulars:

(a) Percentage Fee

The calculation of the total fee recognizes the variability of the Construction Cost Estimate as the Project develops. The fee for the various Services of the Project development shall be calculated on the basis of the following formula:

An amount equal to $F \times A$

Where F = the percentage specified in the Agreement Particulars, and A = as follows:

- (i) At Analysis of Project Requirements and Design Concept:
 A = the Construction Cost Estimate at the time of signing the Agreement.
- (ii) At Design Development:
 A = the accepted preliminary Construction Cost Estimate prepared on completion of the design concept documents.
- (iii) At Construction Documents:
 A = the accepted updated Construction Cost Estimate prepared on completion of the design development documents.
- (iv) At Tender Call and Tender Evaluation:
 A = the accepted final Construction Cost Estimate prepared on completion of the construction documents.
- (v) At Construction and Contract Administration and Post Construction Warranty Review:
 A = the Construction Contract Award Price.

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The total fee is adjusted in accordance with the terms of any authorization pursuant to GC 5.8.

(b) Fixed Fee

The fixed fee may be in the form of a fixed lump sum or an amount made up of fixed unit prices multiplied by a number of units of deliverables in the amount(s) specified in the Agreement Particulars.

(c) Time Based Fee

(i) Principals and executives, and other personnel approved in that capacity by the Departmental Representative shall be paid at the hourly rate specified in the Agreement Particulars.

(ii) Staff approved by the Departmental Representative shall be paid at Payroll Cost multiplied by the factor(s) specified in the Agreement Particulars, except that the multiplying factor shall not be applied to the premium portion of authorized overtime included in Payroll Cost.

(iii) Normal Working Hours
The normal working hours per day for principals, executives and Consultant's employees, shall be deemed to be seven and a half (7.5) hours of any day during which they are actually engaged in the performance of the Services.

(iv) Travel Time
Travel time during normal working hours, that is related to the Project and authorized by the Departmental Representative, shall be chargeable as time worked.

Travel time outside normal working hours, that is related to the Project and authorized by the Departmental Representative, shall be chargeable up to a maximum of three (3) hours per day, unless otherwise authorized.

(v) Maximum Amount(s) Payable
The maximum amount(s) that applies (apply) to the Services to be carried out at time rates shall be as specified in the Agreement Particulars, which amount(s) shall not be exceeded without the prior authorization of the Departmental Representative, with the approval of the Minister.

GC 5.3 (30/05/03) Payments to the Consultant

1. The Consultant shall be entitled to receive progress payments at monthly or other agreed intervals, subject to the limitations of the Calculation of Fees clause herein, if applicable. Such payments shall be made prior to or on the due date. The due date shall be the 30th day following receipt of a properly submitted invoice.
2. The properly submitted invoice shall be an invoice delivered to the Departmental Representative in the agreed format with sufficient detail and information to permit verification. The invoice shall also identify, as separate items:
 - (a) the amount of the progress payment being claimed for Services satisfactorily performed,
 - (b) the amount for any tax calculated in accordance with the applicable federal legislation, and
 - (c) the total amount which shall be the sum of the amounts referred to in (a) and (b) above.
3. The amount of the tax shown on the invoice shall be paid by Canada to the Consultant in addition to the amount of the progress payment for Services satisfactorily performed.
4. The Departmental Representative shall notify the Consultant within fifteen (15) days after the receipt of an invoice of any error or missing information therein. Payment shall be made prior to or on the thirtieth (30) day after receipt of the corrected invoice or the required information.
5. Upon completion of each Service as described elsewhere in the Agreement, provided at least one progress payment has been made, the Consultant shall provide a Statutory Declaration evidencing that all the Consultant's financial obligations for Services rendered to the Consultant or on the Consultant's account, in connection with the Agreement, have been satisfied, before any further payment is made.

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6. Upon written notice by a Sub-Consultant, with whom the Consultant has a direct contract, of an alleged non payment to the Sub-Consultant, the Departmental Representative may provide the Sub-Consultant with a copy of the latest approved progress payment made to the Consultant for the Services.
7. Upon the satisfactory completion of all Services, the amount due, less any payments already made, shall be paid to the Consultant not later than thirty (30) days after receipt of a properly submitted invoice, together with the Final Statutory Declaration in accordance with subsection 5 above.

GC 5.4 (30/05/03) Payments for Services

1. Payments in respect of the percentage fee arrangement shall be made during the performance of the Services, on the basis of the fee calculations as described in GC 5.2.1.(a), for each of the Services equal to the amounts specified below:
 - (a) Payment for Analysis of Project Requirements and Design Concept:
Upon acceptance of the design concept documents, an amount equal to 10 percent of the fee;
 - (b) Payment for Design Development:
Upon acceptance of the design development documents, an amount equal to 15 percent of the fee;
 - (c) Payment for Construction Documents:
Upon acceptance of the construction documents, an amount equal to 45 percent of the fee;
 - (d) Payment for Tender Call, Tender Evaluation and Contract Award:
Upon award of the Construction Contract, or upon completion of tender evaluation(s) in such cases where Canada does not award a Construction Contract for reasons other than those specified in paragraph 6 below, an amount equal to 5 percent of the fee;
 - (e) Payment for Construction and Contract Administration:
Upon interim completion of the Construction Contract, an amount equal to 22 percent of the fee;
 - (f) Payment for Final Completion and Post Construction Warranty Review:
Upon reporting to the Departmental Representative on the status of the defects at the end of the warranty period(s) an amount equal to 3 percent of the fee.
2. Payments in respect of the fixed fee arrangement shall be made upon satisfactory performance of the Services but such payments shall not exceed the amount(s) as specified in the Agreement Particulars, for each Service.
3. Payments in respect of the time based fee arrangement shall be made upon satisfactory performance of the Services but such payments shall not exceed the amount(s) as specified in the Agreement Particulars, for each Service.
4. Progress payments, in respect of all fee arrangements, shall be made in accordance with GC 5.3 of the Agreement, but such payments shall not exceed the value of the fee indicated for each Service under consideration.
5. Progress payments in respect of construction and contract administration for percentage fee or fixed fee arrangements may be made in proportion to the percentage of the construction work completed and approved for payment under the Construction Contract.
6. If, for reasons attributable to the Consultant, a price cannot be obtained by a tender or negotiation within the Construction Cost Limit, or acceptable to the Departmental Representative for the award of the Construction Contract, the Consultant shall be entitled to receive payment for the tender call, bid evaluation and construction contract award Services, only when the requirements of GC 3.11.3, have been met.

GC 5.5 (30/05/03) Delayed Payment

1. If Canada delays in making a payment that is due in accordance with GC 5.3, the Consultant will be entitled to receive interest on the amount that is overdue for the period of time as defined in subsection 2 below including the day previous to the date of payment. Such date of payment shall be deemed to be the date on the cheque given for payment of the overdue amount. An

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amount is overdue when it is unpaid on the first day following the due date described in GC 5.3.1.

2. Interest shall be paid automatically on all amounts that are not paid by the due date or fifteen (15) days after the Consultant has delivered a Statutory Declaration in accordance with GC 5.3.5 or GC 5.3.7 whichever is the later.
3. The rate of interest shall be the Average Bank Rate plus 3 percent per year on any amount which is overdue pursuant to subsection 1 above.

GC 5.6 (30/05/03) Claims Against, and Obligations of, the Consultant

1. Canada may, in order to discharge lawful obligations of and satisfy lawful claims against the Consultant by a Sub-Consultant, with whom the Consultant has a direct contract, for Services rendered to, or on behalf of, the Consultant, pay an amount from money that is due and payable to the Consultant directly to the claimant Sub-Consultant.
2. For the purposes of subsection 1 a claim shall be considered lawful when it is so determined
 - (a) by a court of legal jurisdiction, or
 - (b) by an arbitrator duly appointed to arbitrate the said claim, or
 - (c) by a written notice delivered to the Departmental Representative and signed by the Consultant authorizing payment of the said claim or claims.
3. A payment made pursuant to subsection 1 is, to the extent of the payment, a discharge of Canada's liability to the Consultant under the Agreement and will be deducted from any amount payable to the Consultant under the Agreement.
4. Subsection 1 shall only apply to claims and obligations
 - (a) the notification of which has set forth the amount claimed to be owing and a full description of the Services or a part of the Services for which the claimant has not been paid. The notification must be received by the Departmental Representative in writing before the final payment is made to the Consultant and within one hundred twenty (120) days of the date on which the claimant
 - (i) should have been paid in full under the claimant's Agreement with the Consultant where the claim is for an amount that was lawfully required to be held back from the claimant; or
 - (ii) performed the last of the Services pursuant to the claimant's Agreement with the Consultant where the claim is not for an amount referred to in sub-paragraph 4.(a)(i), and
 - (b) the proceedings to determine the right to payment of which shall have commenced within one year from the date that the notification referred to in paragraph 4.(a) was received by the Departmental Representative.
5. Canada may, upon receipt of a notification of claim referred to in paragraph 4.(a), withhold from any amount that is due and payable to the Consultant pursuant to the Agreement the full amount of the claim or any portion thereof.
6. The Departmental Representative shall notify the Consultant in writing of receipt of any notification of claim and of the intention of Canada to withhold funds pursuant to subsection 5. The Consultant may, at any time thereafter and until payment is made to the claimant, post with Canada, security in a form acceptable to Canada in an amount equal to the value of the said claim. Upon receipt of such security Canada shall release to the Consultant any funds which would be otherwise payable to the Consultant, that were withheld pursuant to the provision of subsection 5.
7. The Consultant shall discharge all lawful obligations and shall satisfy all lawful claims against the Consultant for Services rendered to, or on behalf of, the Consultant in respect of the Agreement at least as often as the Agreement requires Canada to discharge its obligations to the Consultant.

GC 5.7 (30/05/03) No Payment for Errors and Omissions

The Consultant shall not be entitled to payment in respect of costs incurred by the Consultant in remedying errors and omissions in the Services that are attributable to the Consultant, the Consultant's employees, or persons for whom the Consultant had assumed responsibility in performing the Services.

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GC 5.8 (30/05/03) Payment for Changes and Revisions

1. Payment for any additional or reduced Services authorized by the Departmental Representative prior to their performance, and for which a basis of payment has not been established at the time of execution of the Agreement, shall be in an amount or amounts to be mutually agreed upon from time to time, subject to these Terms of Payment and the approval of the Minister.
2. Where it is not possible, or not appropriate, to agree upon a fixed price fee or percentage fee prior to the performance of the additional or reduced Services, payment shall be made on the basis of a time based fee in accordance with GC 5.2.1.(c). Disbursements shall be paid in accordance with GC 5.12.
3. Prior to the performance of additional or reduced Services on the basis of a time based fee, the Consultant shall comply with any request made by the Departmental Representative pursuant to GC 3.8, regarding persons to be employed by the Consultant or the Consultant's subconsultants to provide the additional or reduced Services. In addition, the Consultant and the Departmental Representative shall negotiate hourly rates and payroll cost factors as applicable for any of those persons for whom the relevant information does not appear in the Agreement Particulars.
4. Payment for additional Services not identified at the time of execution of the Agreement shall be made only to the extent that
 - (a) the additional Services are Services that are not included in stated Services in the Agreement,
 - (b) the additional Services are required for reasons beyond the control of the Consultant, and
 - (c) any fee adjustment for Services resulting from an adjustment in the Construction Cost Estimate arising from the additional Services is not commensurate with the additional Services performed.

GC 5.9 (30/05/03) Extension of Time

If, and to the extent that, the time for completion of the Construction Contract is exceeded or extended through no fault of the Consultant in the opinion of Canada, payment for the Services required for such extended period of the contract administration shall be subject to review and equitable adjustment.

GC 5.10 (30/05/03) Suspension Costs

1. During a period of suspension of the Services pursuant to GC 7.2, the Consultant shall minimize all costs and expenses relating to the Services that may occur during the suspension period.
2. Within fourteen (14) days of notice of such suspension, the Consultant shall submit to the Departmental Representative a schedule of costs and expenses, if any, that the Consultant expects to incur during the period of suspension, and for which the Consultant will request reimbursement.
3. Payment shall be made to the Consultant for those costs and expenses that, in the opinion of Canada, are substantiated as having been reasonably incurred during the suspension period.

GC 5.11 (30/05/03) Termination Costs

1. In the event of termination of the Agreement pursuant to GC 7.3, Canada shall pay, and the Consultant shall accept in full settlement, an amount based on these Terms of Payment, for Services satisfactorily performed, plus an amount to compensate the Consultant for reasonable costs and expenses, if any, that are related to the Services not performed and incurred after the date of termination.
2. Within fourteen (14) days of notice of such termination, the Consultant shall submit to the Departmental Representative a schedule of costs and expenses incurred plus any additional costs that the Consultant expects to incur after the date of termination, and for which the Consultant will request reimbursement.
3. Payment shall be made to the Consultant for those costs and expenses that in the opinion of Canada are substantiated as having been reasonably incurred after the date of termination.

GC 5.12 (30/05/03) Disbursements

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1. Subject to any provisions specifically to the contrary in the Supplementary Conditions, the following costs shall be included in the fees required to deliver the consultant services and shall not be reimbursed separately;
 - (a) reproduction and delivery costs of drawings, CADD files, specifications and other Technical Documentation specified in the Project Brief;
 - (b) standard office expenses such as any photocopying, computer costs, Internet, cellular phone costs, long distance telephone and fax costs, including that between the Consultant's main office and branch offices or between the Consultant's offices and other team members offices;
 - (c) courier and delivery charges for deliverables specified in the Project Brief;
 - (d) plotting;
 - (e) presentation material;
 - (f) parking fees;
 - (g) taxi charges;
 - (h) travel time;
 - (i) travel expenses; and
 - (j) local project office.
2. Subject to any provisions specifically to the contrary in the Supplementary Conditions, the following disbursements reasonably incurred by the Consultant, that are related to the Services and approved by the Departmental Representative, shall be reimbursed to the Consultant at actual cost:
 - (a) reproduction and delivery costs of drawings, CADD files, specifications and other Technical Documentation additional to that specified in the Project Brief;
 - (b) transportation costs for material samples and models additional to that specified in the Project Brief;
 - (c) project related travel and accommodation additional to that specified in the Project Brief shall be reimbursed in accordance with current Treasury Board Travel Policy; and
 - (d) other disbursements made with the prior approval and authorization of the Departmental Representative.
3. Disbursements shall be Project related and shall not include expenses that are related to the normal operation of the Consultant' business. The amounts payable, shall not exceed the amount entered in the Agreement Particulars, without the prior authorization of the Departmental Representative.

GC 5.13 (30/05/03) T1204 Government Service Contract Payments

Pursuant to paragraph 221 (1)(d) of the *Income Tax Act*, payments made by departments and agencies to consultants under applicable services contracts (including contracts involving a mix of goods and services) must be reported on a T1204 Government Service Contract Payments slip. To enable departments and agencies to comply with this requirement, the Consultant is required to provide its Procurement Business Number (PBN). The Consultant is to ensure the accuracy of its PBN information in the Supplier Registration Information System.

R1235D (30/05/03) GC 6 - Changes

The Agreement may not be amended, or modified, nor shall any of its terms and conditions be waived, except by agreement in writing executed by both parties.

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R1240D (30/05/03) GC 7 - Taking the Services out of the Consultant's Hands, Suspension or Termination

GC 7.1 (30/05/03) Taking the Services Out of the Consultant's Hands

1. The Minister may take all or any part of the Services out of the Consultant's hands and may employ reasonable means necessary to complete such Services in the event that:
 - (a) the Consultant has become insolvent or has committed an act of bankruptcy, and has neither made a proposal to the Consultant's creditors nor filed a notice of intention to make such a proposal, pursuant to the *Bankruptcy and Insolvency Act*, or
 - (b) the Consultant fails to perform any of the Consultant's obligations under the Agreement or, in the Minister's opinion, so fails to make progress as to endanger performance of the Agreement, in accordance with its terms.
2. If the Consultant has become insolvent or has committed an act of bankruptcy, and has either made a proposal to the Consultant's creditors or filed a notice of intention to make such a proposal, pursuant to the *Bankruptcy and Insolvency Act*, the Consultant shall immediately forward a copy of the proposal or the notice of intention to the Consulting Authority.
3. Before the Services or any part thereof are taken out of the Consultant's hands under paragraph 1.(b), the Departmental Representative shall provide notice to the Consultant, and may require such failure of performance or progress to be corrected. If within fourteen (14) days after receipt of such notice such default shall not have been corrected or corrective action initiated to correct such fault, the Minister may, by notice, without limiting any other right or remedy, take all or any part of the Services out of the Consultant's hands.
4. If the Services or any part thereof have been taken out of the Consultant's hands, the Consultant shall be liable for, and upon demand pay to Canada, an amount equal to all loss and damage suffered by Canada by reason of the non-completion of the Services by the Consultant.
5. If the Consultant fails to pay on demand for the loss or damage as a result of subsection 4, Canada shall be entitled to deduct and withhold the same from any payments due and payable to the Consultant.
6. The taking of the Services, or any part thereof, out of the Consultant's hands does not relieve or discharge the Consultant from any obligation under the Agreement, or imposed upon the Consultant by law, in respect to the Services or any part thereof that the Consultant has performed.

GC 7.2 (30/05/03) Suspension

1. The Departmental Representative, with the authority of the Minister, may require the Consultant to suspend the Services being provided, or any part thereof, for a specified or unspecified period.
2. If a period of suspension does not exceed sixty (60) days and when taken together with other periods of suspension does not exceed ninety (90) days, the Consultant shall, upon the expiration of that period, resume the performance of the Services in accordance with the terms of the Agreement, subject to any agreed adjustment of the time schedule as referred to in GC 3.4.
3. If a period of suspension exceeds sixty (60) days or when taken together with other periods of suspension, the total exceeds ninety (90) days, and:
 - (a) the Departmental Representative and the Consultant agree that the performance of the Services shall be continued, then the Consultant shall resume performance of the Services, subject to any terms and conditions agreed upon by the Departmental Representative and the Consultant, or
 - (b) the Departmental Representative and the Consultant do not agree that the performance of the Services shall be continued, then the Agreement shall be terminated by notice given by the Minister to the Consultant, in accordance with the terms of GC 7.3.
4. Suspension costs related to this clause are as outlined in GC 5.10.

GC 7.3 (30/05/03) Termination

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The Minister may terminate the Agreement at any time, and the fees paid to the Consultant shall be in accordance with the relevant provisions in GC 5.11.

R1245D (30/05/03) GC 8 - Dispute Resolution

1. In the event of a disagreement regarding any aspect of the Services or any instructions given under the Agreement:
 - (a) the Consultant may give a notice of disagreement to the Departmental Representative. Such notice shall be promptly given and contain the particulars of the disagreement, any changes in time or amounts claimed, and reference to the relevant clauses of the Agreement;
 - (b) the Consultant shall continue to perform the Services in accordance with the instructions of the Departmental Representative; and
 - (c) the Consultant and the Departmental Representative shall attempt to resolve the disagreement by negotiations conducted in good faith. The negotiations shall be conducted, first, at the level of the Consultant's project representative and the Departmental Representative and, secondly and if necessary, at the level of a principal of the Consultant firm and a senior departmental manager.
 2. The Consultant's continued performance of the Services in accordance with the instructions of the Departmental Representative shall not jeopardize the legal position of the Consultant in any disagreement.
 3. If it was subsequently agreed or determined that the instructions given were in error or contrary to the Agreement, Canada shall pay the Consultant those fees the Consultant shall have earned as a result of the change(s) in the Services provided, together with those reasonable disbursements arising from the change(s) and which have been authorized by the Departmental Representative.
 4. The fees mentioned in subsection 3 shall be calculated in accordance with the Terms of Payment set out in the Agreement.
 5. If the disagreement is not settled, the Consultant may make a request to the Departmental Representative for a written departmental decision and the Departmental Representative shall give notice of the departmental decision within fourteen (14) days of receiving the request, setting out the particulars of the response and any relevant clauses of the Agreement.
 6. Within fourteen (14) days of receipt of the written departmental decision, the Consultant shall notify the Departmental Representative if the Consultant accepts or rejects the decision.
 7. If the Consultant rejects the departmental decision, the Consultant, by notice may refer the disagreement to Mediation.
 8. If the disagreement is referred to Mediation, the Mediation shall be conducted with the assistance of a skilled and experienced mediator chosen by the Consultant from a list of mediators proposed by the Minister, and departmental Mediation procedures shall be used unless the parties agree otherwise.
 9. Negotiations conducted under the Agreement, including those conducted during Mediation, shall be without prejudice.
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Remarks: This clause requires a minimum of \$1M insurance. Use the clause R1650D for the projects where only a minimum of \$250,000 insurance is required.

R1250D (16/12/05) GC 9 - Indemnification and Insurance

GC 9.1 (2003-05-30) Indemnification

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1. The Consultant shall indemnify and save harmless Canada, its employees and agents, from losses arising out of the errors, omissions or negligent acts of the Consultant, its employees and agents, in the performance of the Services under the Agreement.
2. The Consultant's liability to indemnify or reimburse Canada under the Agreement shall not affect or prejudice Canada from exercising any other rights under law.

GC 9.2 (2005-12-16) Insurance Requirements

1. General

1. The Consultant, at the Consultant's expense, shall obtain and maintain, or shall cause to be obtained and maintained, insurance coverage in respect of the Services, in accordance with the requirements of this General Condition.
2. If requested in writing by the Contracting Authority, the Consultant shall provide an Insurer's Certificate of Insurance (form PWGSC-TPSGC 357-1), available on the following Public Works and Government Services Canada's Website:
<http://www.pwgsc.gc.ca/acquisitions/text/forms/forms-e.html>.
3. This insurance coverage is not intended to cover all of the Consultant's indemnification obligations. Any additional insurance coverage the Consultant may deem necessary to fulfill the Consultant's obligations shall be at the Consultant's discretion and expense.
4. The payment of monies up to any deductible amount made in satisfaction of any claim shall be at the Consultant's expense.
5. Legal or defence costs incurred in respect of a claim or claims shall not operate to decrease the limit of liability when the policy is not in excess of \$2,000,000.

2. Comprehensive General Liability

1. The Comprehensive General Liability insurance policy shall be in an amount usual for the nature and scope of the Services but, shall have a limit of liability of not less than \$1,000,000 for any one occurrence or series of occurrences arising out of one cause.
2. The policy shall insure Canada, the Consultant, and the Consultant's Sub-Consultants for the performance of the Services, and shall include but not be limited to the following coverage/provisions:
 - (a) "Additional Insured: Canada as represented by the Minister of Public Works and Government Services is named as an Additional Insured under any liability insurance policies for Canada's respective rights and interests under the contract for the performance of the Services."
 - (b) "Cross Liability: Any act or omission by one or another of the Insured hereunder shall not prejudice the rights or interests of any other Insured. This policy, subject to its limits of liability, shall apply to each Insured in the same manner and to the same extent as if a separate policy had been issued to each. The inclusion herein of more than one Insured shall not operate to increase the limits of the Insurers' liability."
 - (c) "Notice of Cancellation or Amendments of Insurance Coverage: The Insurer agrees to give the Contracting Authority at least thirty (30) days' prior written notice of any policy cancellation".

3. Professional Liability

1. The Professional Liability insurance coverage shall be in an amount usual for the nature and scope of the Services but, shall have a limit of liability of not less than \$1,000,000 per claim, and be continually maintained from the commencement of performance of the Services until five (5) years after their completion.
2. The following provision must be incorporated into the conditions of the Consultant's Professional Liability insurance coverage:

"Notice of Cancellation of Insurance Coverage: The Insurer agrees to give the Contracting Authority at least thirty (30) days' prior written notice of any policy cancellation."

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R1250D (10/06/05) GC 9 - Indemnification and Insurance

Effective 16/12/05, this clause is superseded by R1250D.

R1270D (30/05/03) International Sanctions

1. Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions.

Details on existing sanctions can be found at:
<http://www.dfait-maeci.gc.ca/trade/sanctions-e.asp>.

2. It is a condition of this Contract that the Consultant not supply to the Government of Canada any goods or services which are subject to economic sanctions.
 3. By law, the Consultant must comply with changes to the regulations imposed during the life of the Contract. During the performance of the Contract, should the imposition of sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services cause an impossibility of performance for the Consultant, the situation will be treated by the Parties as a force majeure. The Consultant shall forthwith inform Canada of the situation; the procedures applicable to force majeure shall then apply.
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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation.

R1290D (30/05/03) Agreement Particulars

REQUIRED SERVICES

PERCENTAGE FEE

Firm Percentage Fee of _____%

Indicative Estimate of Construction Cost (Class D): X \$ _____ (including GST)
\$ _____

The actual percentage fee for Required Services will recognize the variability of the Construction Cost Estimate as the project develops (refer to formula specified in GC 5.2.1.(a). Payments will be made as specified in GC 5.4.1

FIXED FEE

| | |
|--------------------|-----------|
| Services | Fixed Fee |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Maximum Fixed Fees | \$ _____ |

FIXED FEE - UNIT PRICE

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| # of Units | Services | Cost / Unit | Fixed Fee |
|--------------------|----------|-------------|-----------|
| _____ | _____ | @\$ _____ = | \$ _____ |
| _____ | _____ | @\$ _____ = | \$ _____ |
| _____ | _____ | @\$ _____ = | \$ _____ |
| Maximum Fixed Fees | | | \$ _____ |

TIME BASED FEES

| Services | Time Based Fee |
|-------------------------|----------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Maximum Time Based Fees | \$ _____ |

Hourly rates are to be provided below.

TOTAL MAXIMUM FEE FOR REQUIRED SERVICES \$ _____

DISBURSEMENTS

At cost without allowance for mark-up or profit, supported by invoices/receipts:

(specify and enter limit)

| | |
|----------------------------------|----------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Maximum Amount For Disbursements | \$ _____ |

The following hourly rates may be used in the event that the original services change during the course of the contract.

PRINCIPALS - All inclusive hourly rate to be fixed for the duration of the Contract.

| Name | \$ per hour |
|-------|-------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

STAFF - Payroll Cost Factor to be fixed for the duration of the contract. For the administration of the Contract, Hourly Rate increases for staff are to be documented to PWGSC for approval.

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| Name / Position | \$ per hour (excluding factor) | Factor |
|-----------------|-----------------------------------|--------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Remarks: The contracting officer must edit the clause as required by the situation. Use the following clause in Agreements where the consultant must be capable of providing services in both official languages.

R1320D (30/05/03) Language Requirements

1. Communication between Canada and the Consultant shall be in the language of choice of the Consultant Team, which shall be deemed to be the language of the Consultant's proposal. Bilingual services (such as bilingual construction documentation) are separate requirements which are described in detail in the Project Brief - under Description of Services.
2. The Consultant's services during tender call (such as addenda preparation, tenderers' briefing meetings, technical answers to questions by bidders) shall be provided expeditiously in both languages, as necessary.
3. The Consultant's services during construction shall be provided in the language of choice of the Contractor. The successful bidder(s) will be asked to commit to one or other of Canada's official languages upon award of the Construction Contract and, thereafter construction and contract administration services will be conducted in the language chosen by the Contractor.
4. The Consultant Team, including the Prime Consultant, Sub-Consultants and Specialists Consultants shall ensure that the services being provided in either language shall be to a professional standard.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. If there are modifications required to clause GC 9 in R1250D or in R1650D, these must be reflected here.

R1330D (30/05/03) Supplementary Insurance Requirements

1. Supplementary to what is required under GC 9.2, the Consultant shall maintain the following supplementary insurance coverage:

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- (a) Commercial General Liability shall have a limit of liability of not less than \$ _____ for any one occurrence or series of occurrences arising out of one cause, and shall have property damage deductible of not more than \$ _____ per occurrence.
 - (b) Professional Liability shall have a limit of liability of not less than \$ _____ per claim.
 - (c) the premium, if any, for Supplementary Insurance bringing the liability coverage from \$1,000,000 to \$ _____ shall be reimbursed to the Consultant at actual cost. The amount payable, shall not exceed the amount entered in the Agreement Particulars, without the prior authorization of the Departmental Representative.
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Remarks: Use the following clause in 1 Stage - 1 Phase proposals.

R1410T (16/12/05) General Instructions to Proponents (GI)

- GI 1 Definitions
- GI 2 Overview of Selection Procedure
- GI 3 Procurement Business Number
- GI 4 Responsive Proposals
- GI 5 Completion of Submission
- GI 6 Proposal Price
- GI 7 Enquiries During the Solicitation Period
- GI 8 Limitation of Submissions
- GI 9 Licensing Requirements
- GI 10 Eligibility Requirements
- GI 11 Federal Contractors Program for Employment Equity
- GI 12 Insurance Requirements
- GI 13 Industrial and Facility Security Requirements
- GI 14 Composition of Consultant Team
- GI 15 Submission of Proposal
- GI 16 Late Submissions
- GI 17 Revision of Proposal
- GI 18 Acceptance of Proposal
- GI 19 Identity or Legal Capacity of the Proponent
- GI 20 Debriefing
- GI 21 Financial Statements
- GI 22 Performance Evaluation

GI 1 (2003-05-30) Definitions

1. In this Request for Proposal (RFP), the following words or phrases have the corresponding meaning.

Consultant Team: The team of consultants, specialists and other firms, including the Proponent, proposed by the Proponent to perform the services required.

Key Personnel: Staff of the Proponent, consultants and specialists proposed to be assigned to this project.

Technical Rating: A rating assigned to the technical component of a proposal in the selection procedure and subsequently used to establish a Technical Score for inclusion as a percentage of the total score.

Price Rating: A rating assigned to the price component of a proposal and subsequently used to establish a Price Score for inclusion as a percentage of the total score to be established following the evaluation and rating of technical proposals.

Proponent: The prime consultant entity which submits a proposal.

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PWGSC Evaluation Board: The board established to evaluate and rate proposals. Board members represent a sufficiently broad cross-section of professional qualifications and experience to properly assess all aspects of the proposals.

Technical Rating: A rating assigned to the technical component of a proposal in the selection procedure and subsequently used to establish a Technical Score for inclusion as a percentage of the total score.

GI 2 (2003-05-30) Overview of Selection Procedure

2.1 Proposal

1. Proposals are submitted following a "two-envelope" procedure, in which Proponents submit the "technical" component of their proposal in one envelope and the proposed price of the services (price proposal) in a second envelope.
2. The information that Proponents are required to provide is set out in detail elsewhere in the RFP.
3. In response to the RFP, interested Proponents submit a proposal in which they:
 - (a) indicate whether the proposal is submitted by an individual firm or by a joint venture;
 - (b) if the proposal is submitted by a joint venture, describe the proposed legal and working relationships of the joint venture and the benefits to be gained by the formation of the joint venture;
 - (c) identify the prime consultants and key sub consultants and specialists proposed for inclusion in the Consultant Team, and the proposed organizational structure of the Team;
 - (d) describe the extent to which proposed members of the Consultant Team have successfully performed services for projects comparable to the project which is the subject of the proposal;
 - (e) identify the professional accreditation, experience, expertise and competence of the proposed Consultant Team and the Key Personnel proposed to be assigned to perform the required services.
 - (f) comply with all other requirements set out in the RFP.

2.2 Proposal Evaluation and Rating

1. Technical components of all responsive proposals are reviewed, evaluated and rated by a Public Works and Government Services Canada (PWGSC) Evaluation Board in accordance with the criteria, components and weight factors set out in the RFP. Upon completion of the evaluation, Technical Ratings are established.
2. Proposals achieving the minimum Technical Score specified in the Submission Requirements and Evaluation section of the RFP are further considered.
3. The price envelopes of all responsive proposals are opened upon completion of the technical evaluation. An average price is determined by adding all the price proposals together and dividing the total by the number of price proposals opened.
4. All price proposals which are greater than 25 percent above the average price will cause their respective complete proposals to be set aside and receive no further consideration.
5. The remaining price proposals are rated as follows:
 - (a) The lowest price proposal receives a Price Rating of 100.
 - (b) The second, third, fourth and fifth lowest prices receive Price Ratings of 80, 60, 40, and 20 respectively. All other price proposals receive a Price Rating of 0.

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- (c) On the rare occasion where two (or more) price proposals are identical, these price proposals receive the same rating and the corresponding number of following ratings are skipped.
 - (d) The Price Rating is multiplied by a predetermined percentage factor to establish a Price Score.
6. A price proposal in excess of any maximum funding limit, when this limit has been set in the Supplementary Instructions to Proponents, will result in disqualification of the complete proposal.

2.3 Total Score

1. The total overall score (Total Score) assigned to each Proponent's complete proposal is calculated as the aggregate of:
 - (a) the Technical Score (first envelope of the proposal), and
 - (b) the Price Score (second envelope of the proposal).
2. The Proponent receiving the highest Total Score is the first entity that the PWGSC Evaluation Board will recommend be approached in order to finalize details of an agreement for the provision of the required services.

2.4 Notification

PWGSC normally expects to advise in writing unsuccessful Proponents within one week after PWGSC has entered into a contractual arrangement with the successful Proponent.

GI 3 (2004-05-14) Procurement Business Number

1. For procurement purposes, the Government of Canada uses a unique Procurement Business Number (PBN) to identify a company and its branches, divisions, or offices, where appropriate. The PBN is created using the entity's Canada Revenue Agency Business Number.
2. All Canadian companies are required to have a PBN prior to contract award in order to receive a PWGSC contract. In exceptional circumstances, PWGSC may decide to award, at its own discretion, a contract to a company without a PBN. Non-Canadian companies are strongly encouraged to obtain a PBN.
3. Companies may register for a PBN in the Supplier Registration Information (SRI) service on line at the Contracts Canada Internet site at: <http://contractscanada.gc.ca>. In order for companies to be sourced by government buyers, they must complete the registration process and activate their account in the SRI service.
4. For non-Internet registration, contact the Contracts Canada InfoLine at 1-800-811-1148 or (819) 956-3440, in the National Capital Area, to obtain the telephone number of the nearest Supplier Registration Agent.

GI 4 (2003-05-30) Responsive Proposals

To be considered responsive, a proposal must meet all of the mandatory requirements set out in the RFP. No further consideration in the selection procedure will be given to a Proponent submitting a non-responsive proposal.

GI 5 (2003-05-30) Completion of Submission

The Proponent shall base the proposal on the applicable proposal documents listed in the Supplementary Instructions to Proponents. It is the responsibility of the Proponent to obtain clarification of any terms, conditions or technical requirements contained in the RFP.

GI 6 (2003-05-30) Proposal Price

Unless specified otherwise elsewhere in the proposal documents:

- (a) the price proposal shall be in Canadian currency, and

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- (b) the price proposal shall not include any amount for the Goods and Services Tax or the Harmonized Sales Tax as may be applicable, and
- (c) exchange rate fluctuation protection is not offered, and
- (d) any request for exchange rate fluctuation protection will not be considered, and will render the proposal non-responsive.

GI 7 (2003-05-30) Enquiries During the Solicitation Period

1. Any questions or requests for clarification during the solicitation period must be submitted in writing by the prime contact of a Proponent to the person identified on the front page of the Request for Proposal. Responses will be sent by PWGSC to the prime contact of the Proponent, who will be responsible for internal distribution as required within the Proponent's Consultant Team.
2. To ensure equality of information provided to Proponents, answers to significant enquiries will be forwarded simultaneously to each Proponent.
3. Enquiries are to be directed ONLY to the person referred to in paragraph 1 above. Non-compliance with this condition during the solicitation period may, for that reason alone, result in the disqualification of the proposal.

GI 8 (2003-05-30) Limitation of Submissions

1. While there is no requirement for firms to participate in this procurement in joint venture, they may elect to do so if they see fit. However, only one submission per proponent will be accepted, whether it is submitted by a firm as an individual Proponent or by that firm as part of a joint venture Proponent. If more than one submission is received from a firm acting either individually or in joint venture, all such submissions shall be rejected and no further consideration shall be given to the firm or to any proposed joint venture of which the firm forms part.
2. A joint venture is defined as an association of two or more parties which combine their money, property, knowledge, skills, time or other resources in a joint business enterprise agreeing to share the profits and the losses and each having some degree of control over the enterprise.
3. An arrangement whereby Canada contracts directly with a prime consultant who may retain sub-consultants or specialist consultants to perform portions of the services is not a joint venture arrangement. A sub-consultant or specialist consultant firm may, therefore, be proposed as part of the Consultant Team by more than one Proponent.
4. Notwithstanding paragraph 3. above, in order to avoid any conflict of interest, or any perception of conflict of interest, no firm acting as an individual Proponent or as part of a joint venture Proponent, shall be proposed as a member of another Proponent's Consultant Team, either as a sub-consultant or specialist consultant or as part of another joint venture Proponent. Failure to comply with this limitation will result in all submissions so involved being rejected.
5. Any joint venture entered into for the provision of professional services or other services must be in full compliance with the requirements of any provincial or territorial law pertaining thereto in the Province or Territory in which the project is located.

GI 9 (2003-05-30) Licensing Requirements

1. Consultant Team members and Key Personnel shall be, or be eligible to be licensed, certified or otherwise authorized to provide the necessary professional services to the full extent that may be required by provincial or territorial law in the Province or Territory in which the project is located.
2. By virtue of submission of a proposal, the Proponent certifies that the Proponent is satisfied that the proposed Consultant Team and Key Personnel are in compliance with the requirements of paragraph 1. The Proponent acknowledges that PWGSC reserves the right to verify any information in this regard and that false or erroneous certification may result in the proposal being declared non-responsive.

GI 10 (2003-05-30) Eligibility Requirements

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1. Proponents are advised that a Proponent may be deemed to be ineligible for selection at any time if :
 - (a) any firm or individual included in the Consultant Team has been convicted under section 121 ("Frauds on the government" & "Contractor subscribing to election fund"), 124 ("Selling or purchasing office"), or 418 ("Selling defective stores to Her Majesty") of the Criminal Code;
 - (b) the Proponent has been declared ineligible for selection, following unsatisfactory performance in a previous project as determined in accordance with the department's performance review procedures;
 - (c) any firm or individual included in the Consultant Team has been declared ineligible, for selection for work with the department in accordance with the performance review procedure referred to in paragraph 1.(b), which ineligibility would render the individual ineligible for selection for the work, or the portion of the work the individual is to perform, under any contractual arrangement resulting from submission of the proposal;
 - (d) with respect to current or prior transactions with the Government of Canada,
 - (i) the Proponent is bankrupt or where, for whatever reason, its activities are rendered inoperable for an extended period;
 - (ii) evidence, satisfactory to Canada, of fraud, bribery, fraudulent misrepresentation or failure to comply with any law protecting individuals against any manner of discrimination, has been received with respect to any firm or individual included in the Consultant Team;
 - (iii) Canada has previously exercised or intends to exercise the contractual remedy of taking the services out of the consultant's hands with respect to any commission or contract with any firm or individual included in the Consultant Team;
 - (iv) Canada determines that the performance of the Proponent on other contracts or commissions, including the quality of the services provided and the quality and timeliness of the delivery of the project, is sufficiently poor to jeopardize the successful completion of the requirement which is the subject of the Initial Proposal.
2. Where Canada intends to declare a firm ineligible pursuant to the provisions contained in paragraph 1. above, other than provision 1.(b), the Minister will so inform the firm and provide the firm ten (10) days within which to make representations, prior to making a final decision regarding the ineligibility of the firm.

GI 11 (2004-12-10) Federal Contractors Program for Employment Equity

1. The Federal Contractors Program for Employment Equity (FCP-EE) requires that some organizations making proposals for federal government contracts, valued at \$200,000 or more (including all applicable taxes), make a formal commitment to implement employment equity, as a condition precedent to the contract award. If the Proponent is subject to the Program, evidence of its commitment must be provided prior to the award of any contract.
2. Proponents that have been declared "Ineligible Proponents" by the Department of Human Resources and Skills Development (HRSD) are no longer eligible to receive government contracts over the threshold for solicitation of bids as set out in the *Government Contract Regulations* (currently at \$25,000, including all applicable taxes), either as a result of a finding of non-compliance by the Department of HRSD, or following their voluntary withdrawal from the Program for a reason other than the reduction in their workforce. Any proposals from ineligible proponents will not be considered for award.
3. The Proponent certifies its status with FCP-EE, as follows:

The Proponent

 - (a) is not subject to FCP-EE, having a workforce of less than 100 permanent full or part-time employees in Canada,

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- (b) is not subject to FCP-EE, being a regulated employer under the *Employment Equity Act*;
 - (c) is subject to the requirements of FCP-EE, having a workforce of 100 or more permanent full or part-time employees in Canada, but has not previously obtained a certificate number from the Department of HRSD, (having not submitted proposals on requirements of \$200,000 or more), in which case a duly signed certificate of commitment is provided herewith (attached);
 - (d) is subject to FCP-EE, and has a valid certification number as follows: (e.g. has not been declared "Ineligible Proponent" by the Department of HRSD).
4. If the Proponent does not fall within the exceptions enumerated in 3. (a) or (b), the Program requirements do apply, and as such, the Proponent is required to submit to the Department of HRSD form LAB 1168, Certificate of Commitment to Implement Employment Equity, DULY SIGNED or a valid Certificate number confirming its adherence to the FCP-EE.
 5. The Proponent acknowledges that the Minister shall rely on this certification to award the Contract. Should a verification by the Minister disclose a misrepresentation on the part of the Proponent, the Minister shall have the right to treat any contract resulting from this proposal as being in default, and to terminate it pursuant to the Default provisions of the Contract.
 6. When submitting a proposal, the Proponent should complete and return with the proposal the applicable certification for the "Federal Contractors Program for Employment Equity" included in the Declaration Form attached hereto.
 7. In all cases, the Proponent is required to produce evidence or supporting information on demand prior to contract award, if such evidence is not included with its proposal.

NOTE: Information on the FCP-EE and the Certificate of Commitment (LAB 1168), are available on the following Department of HRSD Website:
<http://www.hrsdc.gc.ca/en/gateways/topics/wzp-gxr.shtml> and
<http://www100.hrdc.gc.ca/labswenm1e.shtml>, respectively.

GI 12 (2003-05-30) Insurance Requirements

1. The successful Proponent shall be required to obtain and maintain Professional Liability and Commercial General Liability insurance coverage in accordance with the requirements set out elsewhere in the proposal documents.
2. No insurance requirement stipulated in the proposal documents should be construed as limiting any insurance required by federal, provincial or municipal law or as may be required under GC 9.1. Neither should it limit any coverage which the successful Proponent and other members of the Consultant Team may consider to be necessary for their own protection or to fulfill their obligations.
3. By virtue of submission of a proposal, the Proponent certifies that the Proponent and the other members of the Consultant Team as may be applicable are capable of obtaining, and will obtain and maintain liability insurance in accordance with the requirements set out in the proposal documents.

GI 13 (2003-05-30) Industrial and Facility Security Requirements

1. Proponents shall take note of, and comply with, any industrial security or facility security requirement which may be stipulated as a requirement in the proposal and Agreement documents. If industrial security or facility security is required, employees and staff of the Proponent and other members of the Consultant Team involved in the project implementation must either be in possession of, or agree to be investigated for, a valid, appropriate level of personnel security screening that may be required under the provisions of the RFP.
2. If security screening is required, each person involved in the project implementation must hold such security screening prior to the commencement of any work.
3. In all contractual arrangements with persons who are to be employed in the performance of the services, the successful Proponent shall make provision for the performance of any obligation that may be imposed upon the Proponent under the provisions of this clause.

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GI 14 (2003-05-30) Composition of Consultant Team

By submitting a proposal, the Proponent represents and warrants that the entities and persons proposed in the proposal to perform the required services will be the entities and persons that will perform the services in the fulfillment of the project under any contractual arrangement arising from submission of the proposal. If the Proponent has proposed any person in fulfillment of the project who is not an employee of the Proponent, the Proponent warrants that it has written permission from such person (or the employer of such person) to propose the services of such person in relation to the services to be performed.

GI 15 (2003-05-30) Submission of Proposal

1. It is the Proponent's responsibility to:
 - (a) submit a signed proposal, duly completed, IN THE FORMAT REQUESTED, on or before the closing date and time set;
 - (b) direct proposals ONLY to the designated office identified on the front page of the RFP;
 - (c) the proposal shall be signed in accordance with the following requirements:
 - (i) **Corporation**
The signatures of the authorized signatories shall be affixed and their names and titles typed or printed.
 - (ii) **Partnership**
The signatures of the partners shall be affixed and their names typed or printed. If not all of the partners sign or if the signatory is not a partner then a certified true copy of the agreement signed by all partners authorizing such person or persons to execute the document on their behalf shall accompany the proposal.
 - (iii) **Sole Proprietorship**
The signature of the sole proprietor shall be affixed and the name typed or printed. In the event that the signatory is not the sole proprietor then a certified true copy of the agreement signed by the sole proprietor authorizing such person or persons to execute the document shall accompany the proposal.
 - (iv) **Joint Venture**
The signatures of the authorized signatories of each member of the joint venture shall be affixed and their names and titles typed or printed. Each of the participating signatories shall sign the document in the manner applicable to their particular business arrangement which is more particularly described in (i) to (iii) above.
 - (d) ensure that the following information is clearly visible:
 - (i) Proponent's name and address,
 - (ii) Name of Proponent's prime contact person,
 - (iii) Solicitation Number and Description,
 - (iv) Closing date and time for receipt of proposals.
 - (e) provide a comprehensive and sufficiently detailed proposal that will permit a complete evaluation in accordance with the criteria set out in this RFP.
2. The technical and price components of the proposal must be submitted in separate, easily identified envelopes in accordance with the instructions contained in the proposal documents. Both envelopes shall be submitted as one package which shall clearly and conspicuously display and indicate on the outside of the package the information identified in paragraph 1.(d) above.
3. Timely and correct delivery of proposals to the office designated for receipt of proposals is the sole responsibility of the Proponent. PWGSC will not assume or have transferred to it those responsibilities. All risks and consequences of incorrect delivery of proposals are the responsibility of the Proponent.
4. Proposals and supporting information may be submitted in either English or French.

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GI 16 (2003-05-30) Late Submissions

It is PWGSC policy to return, unopened, submissions delivered after the stipulated closing date and time.

GI 17 (2003-05-30) Revision of Proposal

A proposal submitted in accordance with these requirements may be amended by letter or facsimile provided the revision is received at the office designated for the receipt of proposals, on or before the date and time set for the receipt of proposals. The revision must be on the Proponent's letterhead or bear a signature that identifies the Proponent, and must clearly identify the change(s) to be applied to the original proposal. The revision must also include the information identified in GI 15.1.(e).

GI 18 (2003-05-30) Acceptance of Proposal

1. Canada may accept any proposal, or may reject any or all proposals.
2. In the case of error in the extension or addition of unit prices, the unit price will govern.
3. While Canada may enter into an agreement or contractual arrangement without prior negotiation, Canada reserves the right to negotiate with Proponents on any procurement.

GI 19 (2003-05-30) Identity or Legal Capacity of the Proponent

In order to establish the legal capacity under which a Proponent proposes to enter into a contractual arrangement, any Proponent who carries on business in other than its own personal name shall, if requested, provide proof of the legal capacity under which it carries on business prior to the contractual arrangement being entered into. Such proof may be in the form of a copy of the articles of incorporation or a copy of the registration of the business name of a sole proprietor, of a trade name, of a partnership, etc.

GI 20 (2003-05-30) Debriefing

A debriefing will be provided, on request, only following entry by PWGSC into a contractual arrangement with the successful Proponent. Should a Proponent desire a debriefing, the Proponent should contact the person identified on the front page of the RFP. The debriefing will include an outline of the reasons the submission was not successful, making reference to the evaluation criteria. The confidentiality of information relating to other submissions will be protected.

GI 21 (2003-05-30) Financial Statements

1. In order to confirm a Proponent's financial capability to perform the subject requirement, the Contracting Authority reserves the right to have access, during the proposal evaluation phase, to current proponent financial information. If requested, the financial information to be provided shall include, but not be limited to, the Proponent's most recent audited financial statements or financial statements certified by the Proponent's chief financial officer.
2. Should the Proponent provide the requested information to Canada in confidence while indicating that the disclosed information is confidential, then Canada will treat the information in a confidential manner as provided in the *Access to Information Act*.
3. In the event that a proposal is found to be non-compliant on the basis that the Proponent is considered NOT to be financially capable of performing the subject requirement, official notification shall be provided to the proponent.

GI 22 (2005-12-16) Performance Evaluation

Proponents shall take note that the performance of the Consultant during and upon completion of the services shall be evaluated by Canada. The evaluation include all or some of the following criteria: Design, Quality of Results, Management, Time and Cost. Should the Consultant's performance be considered unsatisfactory, the Consultant may be declared ineligible for future Real Property contracts. An electronic version of the form PWGSC-TPSGC 2913-1, SELECT - Consultant Performance Evaluation Report, used to record the performance is available on the PWGSC Website: <http://www.pwgsc.gc.ca/acquisitions/text/forms/forms-e.html>.

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R1410T (10/12/04) General Instructions to Proponents (GI)

Effective 16/12/05, this clause is superseded by R1410T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause in 1 Stage - 1 Phase proposals.

R1420T (30/05/03) Supplementayu Instructions to Proponents (SI)

SI 1 (30/05/03) Introduction

1. Public Works and Government Services Canada (PWGSC) intends to retain an individual consulting firm or joint venture to provide the professional services for the project as set out in this Request for Proposal (RFP).
2. This is a single phase selection process. The nature of the requirement and the anticipated limited number of response by the industry leads PWGSC to believe that this approach will not unduly force a large number of firms to expend an overall unreasonable amount of effort in response to PWGSC.
3. Proponents responding to this RFP are requested to submit a full and complete proposal. The proposal will cover not only the qualifications, experience and organization of the proposed Consultant Team, but also the detailed approach to the work, and the pricing and terms offered. A combination of the technical and price of services submissions will constitute the proposal.

SI 2 (30/05/03) Questions or Requests for Clarification

Questions or requests for clarification during the Phase One solicitation period must be submitted in writing to the Contracting Authority as early as possible. Enquiries should be received no later than ten (10) working days prior to the closing date identified on the front page of the RFP. Enquiries received after that date may not be answered prior to the closing date of the solicitation.

SI 3 (30/05/03) Canada's Trade Agreements

This procurement is covered under the provisions of the [North American Free Trade Agreement (NAFTA)] [World Trade Organization - Agreement on Government Procurement (WTO-AGP)] [Agreement on Internal Trade (AIT)].

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause in 1 Stage - 2 Phase proposals.

R1430T (12/12/03) Proposal Documents

1. The following are the proposal documents:
 - (a) R1410T, General Instructions to Proponents (GI);
Supplementary Instructions to Proponents (SI)
Proposal Documents;
Project Brief;
Submission Requirements and Evaluation (SRE);

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Any amendment to the solicitation document issued prior to the date set for receipt of proposals.

- (b) the general terms, conditions and clauses, as amended, identified as:
Agreement
R1205D, General Conditions - Table of Contents
R1210D, GC 1 - General Provisions
R1215D, GC 2 - Administration of the Contract
R1220D, GC 3 - Consultant Services
R1226D, GC 4 - Copyright and Reuse of Documents
R1230D, GC 5 - Terms of Payment
R1235D, GC 6 - Changes
R1240D, GC 7 - Taking the Services Out of the Consultant's Hands, Suspension or Termination
R1245D, GC 8 - Dispute Resolution
R1250D, GC 9 - Indemnification and Insurance
R1270D, International Sanctions
Agreement Particulars
- (c) the duly completed and signed proposal, Declaration Form and Price Proposal Form when received and accepted;
- (d) the document entitled "Doing Business with A&ES".
2. Submission of a proposal constitutes acknowledgment that the Proponent has read and agrees to be bound by these documents.
3. Pursuant to the *Department of Public Works and Government Services Act*, S.C. 1996, c.16, the general terms, conditions and clauses identified herein by title, number and date, are hereby incorporated by reference into and form part of this solicitation and any resultant contract, as though expressly set out herein, subject to any other express terms and conditions herein contained.
4. All instructions, general terms, conditions and clauses identified herein by title, number and date are set out in the *Standard Acquisition Clauses and Conditions Manual* issued by Public Works and Government Services Canada (PWGSC).

An electronic version is available at the following PWGSC Website:
<http://sacc.pwgsc.gc.ca/sacc/index-e.jsp>.

R1430T (30/05/03) Proposal Documents

Effective 12/12/03, this clause is superseded by R1430T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause in 1 Stage - 1 Phase proposals.

R1485T (10/12/04) Declaration Form

This Request for Proposal (RFP) Declaration Form must form part of any proposal. Failure to include such representation and warranty with the proposal by executing the signature block below will render the proposal as non-responsive. The completed form should be included with your Proposal.

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NAME OF PROPONENT: _____

Street Address: _____ Mailing Address (if different than street address) _____

City: _____

City: _____

Prov./Terr./State: _____

Prov./Terr./State: _____

Postal/ZIP Code: _____

Postal/ZIP Code: _____

Telephone Number: () _____

Fax Number: () _____

E-Mail: _____

Procurement Business Number: _____

TYPE OF ORGANIZATION

Sole Proprietorship _____ Partnership _____ Corporation _____ Joint Venture _____

SIZE OF ORGANIZATION

Number of Employees: _____ Graduate Architects/Prof. Engineers: _____

Other Professionals: _____ Technical Support: _____

Other: _____

FEDERAL CONTRACTORS PROGRAM FOR EMPLOYMENT EQUITY

1. The Federal Contractors Program for Employment Equity (FCP-EE) requires that some organizations making proposals for federal government contracts, valued at \$200,000 or more (including all applicable taxes), make a formal commitment to implement employment equity, as a condition precedent to the contract award. If the Proponent is subject to the Program, evidence of its commitment must be provided prior to the award of any contract.

Proponents that have been declared "Ineligible Proponents" by the Department of Human Resources and Skills Development (HRSD) are no longer eligible to receive government contracts over the threshold for solicitation of bids as set out in the *Government Contract Regulations* (currently at \$25,000, including all applicable taxes), either as a result of a finding of non-compliance by the Department of HRSD, or following their voluntary withdrawal from the Program for a reason other than the reduction in their workforce. Any proposal from ineligible proponents will not be considered for award.

2. The Proponent certifies its status with FCP-EE, as follows:

The Proponent

- (a) () is not subject to FCP-EE, having a workforce of less than 100 permanent full or part-time employees in Canada,
- (b) () is not subject to FCP-EE, being a regulated employer under the *Employment Equity Act*;
- (c) () is subject to the requirements of FCP-EE, having a workforce of 100 or more permanent full or part-time employees in Canada, but has not previously obtained a certificate number from the Department of HRSD, (having not submitted proposals on requirements of \$200,000 or more), in which case a duly signed certificate of commitment is provided herewith (attached);

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- (d) () is subject to FCP-EE, and has a valid certification number as follows: _____
(e.g. has not been declared "Ineligible Proponent" by the Department of HRSD).
3. If the Proponent does not fall within the exceptions enumerated in 2. (a) or (b), the Program requirements do apply, and as such, the Proponent is required to submit to the Department of HRSD form LAB 1168, Certificate of Commitment to Implement Employment Equity, DULY SIGNED, or a valid Certificate number confirming its adherence to the FCP-EE.
 4. The Proponent acknowledges that the Minister shall rely on this certification to award the Contract. Should a verification by the Minister disclose a misrepresentation on the part of the Proponent, the Minister shall have the right to treat any contract resulting from this proposal as being in default, and to terminate it pursuant to the Default provisions of the Contract.
 5. In all cases, the Proponent is required to produce evidence or supporting information on demand prior to contract award, if such evidence is not included with its proposal.

NOTE: *Information on the FCP-EE and the Certificate of Commitment (LAB 1168), are available on the following Department of HRSDC Website:*
<http://www.hrsdc.gc.ca/en/gateways/topics/wzp-gxr.shtml> and
<http://www100.hrdc.gc.ca/labswenm1f.shtml>, respectively.

DECLARATION:

I, the undersigned, being a principal of the Proponent, hereby certify that the information given on this form and in the attached Proposal is accurate to the best of my knowledge.

Name (print): _____

Capacity: _____

Signature: _____

Telephone Number: () _____

Fax Number: () _____

Date: _____

PWGSC contact will be with the above named person.

=====

R1485T (14/05/04) Declaration Form

Effective 10/12/04, this clause is superseded by R1485T.

=====

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause in One Stage - One Phase requirements.

R1500D (16/12/05) Agreement

1. The Consultant understands and agrees that upon acceptance of the offer by Canada, a binding Agreement shall be formed between Canada and the Consultant and the documents forming the Agreement shall be the following:
 - (a) the Front Page and this Agreement clause;
 - (b) the general terms, conditions and clauses, as amended, identified as:

| | | |
|--------|--------------|---|
| R1205D | (2005-12-16) | General Conditions - Table of Contents |
| R1210D | (2004-05-14) | GC 1 - General Provisions |
| R1215D | (2003-05-30) | GC 2 - Administration of the Contract |
| R1220D | (2003-12-12) | GC 3 - Consultant Services |
| R1226D | (2003-05-30) | GC 4 - Copyright and Reuse of Documents |
| R1230D | (2003-05-30) | GC 5 - Terms of Payment |
| R1235D | (2003-05-30) | GC 6 - Changes |
| R1240D | (2003-05-30) | GC 7 - Taking the Services Out of the Consultant's Hands, Suspension or Termination |
| R1245D | (2003-05-30) | GC 8 - Dispute Resolution |
| R1250D | (2005-12-16) | GC 9 - Indemnification and Insurance |
| R1270D | (2003-05-30) | International Sanctions |

Agreement Particulars;
 - (c) Project Brief;
 - (d) the document entitled "Doing Business with A&ES";
 - (e) any amendment to the solicitation document incorporated in the Agreement before the date of the Agreement;
 - (f) the duly completed and signed proposal, Declaration Form and Price Proposal Form.
2. Pursuant to the *Department of Public Works and Government Services Act*, S.C. 1996, c.16, the general terms, conditions and clauses identified herein by title, number and date, are hereby incorporated by reference into and form part of this Agreement, as though expressly set out herein, subject to any other express terms and conditions herein contained.
3. All instructions, general terms, conditions and clauses identified herein by title, number and date are set out in the *Standard Acquisition Clauses and Conditions* Manual issued by Public Works and Government Services Canada (PWGSC). The Manual is available at the following PWGSC Website: <http://sacc.pwgsc.gc.ca/sacc/index-e.jsp>.
4. Order of Precedence
In the event of any inconsistency or conflict in the contents of the following documents, such documents shall take precedence and govern in the following order:
 - (a) any amendment or variation in the Agreement that is made in accordance with the terms and conditions of the Agreement;
 - (b) any amendment to the solicitation document incorporated in the Agreement before the date of the Agreement;
 - (c) this Agreement clause;
 - (d) Supplementary Conditions;
 - (e) General Terms, Conditions and Clauses;
 - (f) Agreement Particulars;
 - (g) Project Brief;
 - (h) the document entitled "Doing Business with A&ES";
 - (i) the duly completed and signed proposal.

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R1500D (14/05/04) Agreement

Effective 16/12/05, this clause is superseded by R1500D.

Remarks: This clause requires a minimum of \$250,000 insurance which is the industry standard for smaller projects. Use clause R1250D for the projects advertized on the Government Electronic Tendering Service or where a minimum of \$1M insurance is required.

R1650D (16/12/05) GC 9 - Indemnification and Insurance

GC 9.1 (2003-05-30) Indemnification

1. The Consultant shall indemnify and save harmless Canada, its employees and agents, from losses arising out of the errors, omissions or negligent acts of the Consultant, its employees and agents, in the performance of the Services under the Agreement.
2. The Consultant's liability to indemnify or reimburse Canada under the Agreement shall not affect or prejudice Canada from exercising any other rights under law.

GC 9.2 (2005-12-16) Insurance Requirements

1. General

1. The Consultant, at the Consultant's expense, shall obtain and maintain, or shall cause to be obtained and maintained, insurance coverage in respect of the Services, and in accordance with the requirements of this General Condition.
2. The Consultant shall, if required, furnish evidence satisfactory to the Departmental Representative of such insurance and any renewals thereof.
3. This insurance coverage is not intended to cover all of the Consultant's indemnification obligations. Any additional insurance coverage the Consultant may deem necessary to fulfill the Consultant's obligations shall be at the Consultant's discretion and expense.
4. The payment of monies up to any deductible amount made in satisfaction of any claim shall be at the Consultant's expense.
5. Legal or defence costs incurred in respect of a claim or claims shall not operate to decrease the limit of liability.

2. Professional Liability

1. The Professional Liability insurance coverage shall be in an amount usual for the nature and scope of the Services but, shall have a limit of liability of not less than \$250,000 per claim, and be continually maintained from the commencement of performance of the Services until five (5) years after their completion.
2. The following provision must be incorporated into the conditions of the Consultant's Professional Liability insurance coverage:

"Notice of Cancellation of Insurance Coverage: The Insurer agrees to give the Contracting Authority at least thirty (30) days' prior written notice of any policy cancellation."

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R1650D (10/06/05) GC 9 - Indemnification and Insurance

Effective 16/12/05, this clause is superseded by R1650D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause with Open Agreements only.

R1800D (16/12/05) Agreement

1. The Consultant understands and agrees that upon acceptance of the offer by Canada, a binding Agreement shall be formed between Canada and the Consultant and the documents forming the Agreement shall be the following:
 - (a) the Front Page and this Agreement clause;
 - (b) the general terms, conditions and clauses, as amended, identified as:

| | | |
|--------|--------------|---|
| R1805D | (2005-12-16) | General Conditions - Open - Table of Contents |
| R1210D | (2004-05-14) | GC 1 - General Provisions |
| R1215D | (2003-05-30) | GC 2 - Administration of the Contract |
| R1220D | (2003-12-12) | GC 3 - Consultant Services |
| R1226D | (2003-05-30) | GC 4 - Copyright and Reuse of Documents |
| R1830D | (2003-05-30) | GC 5 - Terms of Payment |
| R1235D | (2003-05-30) | GC 6 - Changes |
| R1240D | (2003-05-30) | GC 7 - Taking the Services Out of the Consultant's Hands, Suspension or Termination |
| R1245D | (2003-05-30) | GC 8 - Dispute Resolution |
| R1650D | (2005-12-16) | GC 9 - Indemnification and Insurance |
| R1270D | (2003-05-30) | International Sanctions |
| R1810D | (2003-05-30) | Supplementary Conditions - Open |

Agreement Particulars - Open;
 - (c) the document entitled "Doing Business with A&ES";
 - (d) the duly completed and signed proposal.
2. Pursuant to the *Department of Public Works and Government Services Act*, S.C. 1996, c.16, the general terms, conditions and clauses identified herein by title, number and date, are hereby incorporated by reference into and form part of this Agreement, as though expressly set out herein, subject to any other express terms and conditions herein contained.
3. All instructions, general terms, conditions and clauses identified herein by title, number and date are set out in the *Standard Acquisition Clauses and Conditions Manual* issued by Public Works and Government Services Canada (PWGSC). The Manual is available on the following PWGSC Website: <http://sacc.pwgsc.gc.ca/sacc/index-e.jsp>.
4. Order of Precedence

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

 - (a) any Commitment for Services that is made in accordance with the terms and conditions of the Agreement;
 - (b) any amendment or variation in the Agreement that is made in accordance with the terms and conditions of the Agreement;
 - (c) this Agreement clause;
 - (d) Supplementary Conditions;
 - (e) General Terms, Conditions and Clauses;

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- (f) Agreement Particulars - Open;
 - (g) the document entitled "Doing Business with A&ES";
 - (h) the duly completed and signed proposal.
-

R1800D (14/05/04) Agreement

Effective 16/12/05, this clause is superseded by R1800D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause with Open Agreements only.

R1805D (16/12/05) General Conditions - Open - Table of Contents

R1210D (2004-05-14) GC 1 - General Provisions

- GC 1.1 Definitions
- GC 1.2 Interpretations
- GC 1.3 Successors and Assigns
- GC 1.4 Assignment
- GC 1.5 National or Departmental Security
- GC 1.6 Conflict of Interest
- GC 1.7 Status of Consultant
- GC 1.8 Members of House of Commons
- GC 1.9 Entire Agreement
- GC 1.10 Lobbyist Certification - Contingency Fees
- GC 1.11 Changes in Taxes and Duties
- GC 1.12 Provincial Sales Tax
- GC 1.13 Goods and Services Taxes (GST)/Harmonized Sales Tax (HST)
- GC 1.14 Tax Withholding of 15 Percent
- GC 1.15 Joint and Several Liability

R1215D (2003-05-30) GC 2 - Administration of the Contract

- GC 2.1 Notices
- GC 2.2 Time and Cost Records to be Kept by the Consultant
- GC 2.3 Non-discrimination in Hiring and Employment Practices

R1220D (2003-12-12) GC 3 - Consultant Services

- GC 3.1 Declaration by Consultant
- GC 3.2 Services
- GC 3.3 Standard of Care
- GC 3.4 Time Schedule
- GC 3.5 Project Information, Decisions, Acceptances, Approvals
- GC 3.6 Changes in Services
- GC 3.7 Codes, By-Laws, Licences, Permits
- GC 3.8 Provision of Staff
- GC 3.9 Sub-Consultants
- GC 3.10 Changes in the Consultant Team
- GC 3.11 Cost Control

R1226D (2003-05-30) GC 4 - Copyright and Reuse of Documents

R1830D (2003-05-30) GC 5 - Terms of Payment

- GC 5.1 Fees
- GC 5.2 Fee Arrangement(s) for Services
- GC 5.3 Payments to the Consultant

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| | |
|---------|--|
| GC 5.4 | Delayed Payment |
| GC 5.5 | Claims Against, and Obligations of, the Consultant |
| GC 5.6 | No Payment for Errors and Omissions |
| GC 5.7 | Payment for Changes and Revisions |
| GC 5.8 | Extension of Time |
| GC 5.9 | Suspension Costs |
| GC 5.10 | Termination Costs |
| GC 5.11 | Disbursements |
| GC 5.12 | T1204 Government Service Contract Payments |

R1235D (2003-05-30) GC 6 - Changes

R1240D (2003-05-30) GC 7 - Taking the Services out of the Consultant's Hands, Suspension or Termination

| | |
|--------|---|
| GC 7.1 | Taking the Services Out of the Consultant's Hands |
| GC 7.2 | Suspension |
| GC 7.3 | Termination |

R1245D (2003-05-30) GC 8 - Dispute Resolution

R1650D (2005-12-16) GC 9 - Indemnification and Insurance

| | |
|--------|------------------------|
| GC 9.1 | Indemnification |
| GC 9.2 | Insurance Requirements |

R1270D (2003-05-30) International Sanctions

R1810 (2003-05-30) Supplementary Conditions - Open (SC)

| | |
|------|------------------------|
| SC 1 | Services |
| SC 2 | Term of this Agreement |
| SC 3 | Statutory Declaration |

R1805D (14/05/04) General Conditions - Open - Table of Contents

Effective 16/12/05, this clause is superseded by R1805D.

Remarks: Use the following clause with Open Agreements only.

R1810D (30/05/03) Supplementary Conditions - Open (SC)

SC 1 (30/05/03) Services

1. This Agreement - Open is for the acquisition of Services to be performed by the Consultant for projects to be designated from time to time by the Departmental Representative.
2. The Consultant agrees to provide only the Services required under a Commitment for Services. The Commitments for Services shall be provided by the Departmental Representative for the designated project(s).
3. The Commitment for Services shall be the written instructions and any amendments, provided by the Departmental Representative from time to time, describing, among other things
 - (a) the Services to be provided
 - (b) the terms of payment agreed upon for such Services.
4. The Consultant shall carry out the said Services within such time and cost limits as may be stipulated in the Commitment for Services or other contract documents.

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SC 2 (30/05/03) Term of this Agreement

This Agreement shall remain in effect until either party gives notice that no further Services shall be required or performed, or in the absence of such notice, until the expiration of two years from the date of this Agreement. In the event that Services undertaken prior to the two year expiry date are not fully completed at the said expiry date, the Agreement will expire upon completion of such Services, or upon notice from the Minister in accordance with the provisions in GC 7.3.

SC 3 (30/05/03) Statutory Declaration

Before final payment is made under each Commitment for Services, the Consultant shall provide a Statutory Declaration evidencing that all the Consultant's financial obligations in connection with the Commitment for Services have been met.

Remarks: Use the following clause with Open Agreements only.

R1830D (30/05/03) GC 5 - Terms of Payment

GC 5.1 (30/05/03) Fees

1. Subject to the terms and conditions of the Agreement, and in consideration for the performance of the Services, Canada shall pay to the Consultant a sum of money calculated in accordance with the provisions herein.
2. The Consultant's fees are only payable when the Consultant has performed the Services as determined by the Departmental Representative. Payment in respect of a Service, or part of a Service, is not to be deemed a waiver of Canada's rights of set-off at law or under the Agreement for costs or expenses arising from default or negligence of the Consultant.
3. The maximum amount payable under the Agreement, including fees and disbursements, shall not exceed the sum specified in the Agreement Particulars, without the prior written authorization of the Departmental Representative in accordance with the terms of the Agreement.

GC 5.2 (30/05/03) Fee Arrangement(s) for Services

1. The fees and disbursements are only payable when the Consultant has performed the Services in accordance with the Commitment for Services.
2. Canada shall pay to the Consultant as consideration for the execution of the Services described in the Commitment for Services a sum of money calculated by one or several of the following methods which shall be specified in the Commitment for Services documents:
 - (a) **Percentage Fee**
A fee calculated as an agreed percentage of the approved Construction Cost Estimate payable as described in the Commitment for Services.
 - (b) **Fixed Fee**
An agreed fixed fee being the total amount payable for Services rendered pursuant to the Commitment for Services.
 - (c) **Time Based Fee**
 - (i) Principals and executives, and other personnel approved in that capacity by the Departmental Representative shall be paid at the hourly rate specified in the Commitment for Services;
 - (ii) Staff approved by the Departmental Representative shall be paid at Payroll Cost multiplied by the factor(s) specified in the Commitment for Services, except that the multiplying factor shall not be applied to the premium portion of authorized overtime included in Payroll Cost;

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- (iii) **Normal Working Hours**
The normal working hours per day for principals, executives and Consultant's employees, shall be deemed to be seven and a half (7.5) hours of any day during which they are actually engaged in the performance of the Services;
- (iv) **Travel Time**
Travel time during normal working hours, that is related to the Project and authorized by the Departmental Representative, shall be chargeable as time worked. Travel time outside normal working hours, that is related to the Project and authorized by the Departmental Representative, shall be chargeable up to a maximum of three (3) hours per day, unless otherwise authorized;
- (v) **Maximum Amount(s) Payable**
The maximum amount(s) that applies (apply) to the Services to be carried out at time rates shall be as specified in the Commitment for Services, which amount(s) shall not be exceeded without the prior authorization for the Departmental Representative.

GC 5.3 (30/05/03) Payments to the Consultant

1. The Consultant shall be entitled to receive progress payments at monthly or other agreed intervals, subject to the limitations of the Calculation of Fees clause herein, if applicable. Such payments shall be made prior to or on the due date. The due date shall be the 30th day following receipt of a properly submitted invoice.
2. The properly submitted invoice shall be an invoice delivered to the Departmental Representative in the agreed format with sufficient detail and information to permit verification. The invoice shall also identify, as separate items:
 - (a) the amount of the progress payment being claimed for Services satisfactorily performed,
 - (b) the amount for any tax calculated in accordance with the applicable federal legislation, and
 - (c) the total amount which shall be the sum of the amounts referred to in (a) and (b) above.
3. The amount of the tax shown on the invoice shall be paid by Canada to the Consultant in addition to the amount of the progress payment for Services satisfactorily performed.
4. The Departmental Representative shall notify the Consultant within fifteen (15) days after the receipt of an invoice of any error or missing information therein. Payment shall be made prior to or on the thirtieth (30) day after receipt of the corrected invoice or the required information.
5. Upon completion of each Service as described elsewhere in the Agreement, provided at least one progress payment has been made, the Consultant shall provide a Statutory Declaration evidencing that all the Consultant's financial obligations for Services rendered to the Consultant or on the Consultant's account, in connection with the Agreement, have been satisfied, before any further payment is made.
6. Upon written notice by a Sub-Consultant, with whom the Consultant has a direct contract, of an alleged non payment to the Sub-Consultant, the Departmental Representative may provide the Sub-Consultant with a copy of the latest approved progress payment made to the Consultant for the Services.
7. Upon the satisfactory completion of all Services, the amount due, less any payments already made, shall be paid to the Consultant not later than thirty (30) days after receipt of a properly submitted invoice, together with the Final Statutory Declaration in accordance with subsection 5 above.

GC 5.4 (30/05/03) Delayed Payment

1. If Canada delays in making a payment that is due in accordance with GC 5.3, the Consultant will be entitled to receive interest on the amount that is overdue for the period of time as defined in subsection 2 below including the day previous to the date of payment. Such date of payment shall be deemed to be the date on the cheque given for payment of the overdue amount. An

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amount is overdue when it is unpaid on the first day following the due date described in GC 5.3.1.

2. Interest shall be paid automatically on all amounts that are not paid by the due date or fifteen (15) days after the Consultant has delivered a Statutory Declaration in accordance with GC 5.3.5 or GC 5.3.7 whichever is the later.
3. The rate of interest shall be the Average Bank Rate plus 3 percent per year on any amount which is overdue pursuant to subsection 1 above.

GC 5.5 (30/05/03) Claims Against, and Obligations of, the Consultant

1. Canada may, in order to discharge lawful obligations of and satisfy lawful claims against the Consultant by a Sub-Consultant, with whom the Consultant has a direct contract, for Services rendered to, or on behalf of, the Consultant, pay an amount from money that is due and payable to the Consultant directly to the claimant Sub-Consultant.
2. For the purposes of subsection 1 a claim shall be considered lawful when it is so determined
 - (a) by a court of legal jurisdiction, or
 - (b) by an arbitrator duly appointed to arbitrate the said claim, or
 - (c) by a written notice delivered to the Departmental Representative and signed by the Consultant authorizing payment of the said claim or claims.
3. A payment made pursuant to subsection 1 is, to the extent of the payment, a discharge of Canada's liability to the Consultant under the Agreement and will be deducted from any amount payable to the Consultant under the Agreement.
4. Subsection 1 shall only apply to claims and obligations
 - (a) the notification of which has set forth the amount claimed to be owing and a full description of the Services or a part of the Services for which the claimant has not been paid. The notification must be received by the Departmental Representative in writing before the final payment is made to the Consultant and within one hundred twenty (120) days of the date on which the claimant
 - (i) should have been paid in full under the claimant's Agreement with the Consultant where the claim is for an amount that was lawfully required to be held back from the claimant; or
 - (ii) performed the last of the Services pursuant to the claimant's Agreement with the Consultant where the claim is not for an amount referred to in sub-paragraph 4.(a)(i), and
 - (b) the proceedings to determine the right to payment of which shall have commenced within one year from the date that the notification referred to in paragraph 4.(a) was received by the Departmental Representative.
5. Canada may, upon receipt of a notification of claim referred to in paragraph 4.(a), withhold from any amount that is due and payable to the Consultant pursuant to the Agreement the full amount of the claim or any portion thereof.
6. The Departmental Representative shall notify the Consultant in writing of receipt of any notification of claim and of the intention of Canada to withhold funds pursuant to subsection 5. The Consultant may, at any time thereafter and until payment is made to the claimant, post with Canada, security in a form acceptable to Canada in an amount equal to the value of the said claim. Upon receipt of such security Canada shall release to the Consultant any funds which would be otherwise payable to the Consultant, that were withheld pursuant to the provision of subsection 5.
7. The Consultant shall discharge all lawful obligations and shall satisfy all lawful claims against the Consultant for Services rendered to, or on behalf of, the Consultant in respect of the Agreement at least as often as the Agreement requires Canada to discharge its obligations to the Consultant.

GC 5.6 (30/05/03) No Payment for Errors and Omissions

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1. The Consultant shall not be entitled to payment in respect of costs incurred by the Consultant in remedying errors and omissions in the Services that are attributable to the Consultant, the Consultant's employees, or persons for whom the Consultant had assumed responsibility in performing the Services.

GC 5.7 (30/05/03) Payment for Changes and Revisions

1. Payment for any additional or reduced Services authorized by the Departmental Representative prior to their performance, and for which a basis of payment has not been established at the time of execution of the Agreement, shall be in an amount or amounts to be mutually agreed upon from time to time, subject to these Terms of Payment and the approval of the Minister.
2. Where it is not possible, or not appropriate, to agree upon a fixed price fee or percentage fee prior to the performance of the additional or reduced Services, payment shall be made on the basis of a time based fee in accordance with GC 5.2.1.(c). Disbursements shall be paid in accordance with GC 5.11.
3. Prior to the performance of additional or reduced Services on the basis of a time based fee, the Consultant shall comply with any request made by the Departmental Representative pursuant to GC 3.8, regarding persons to be employed by the Consultant or the Consultant's sub-consultants to provide the additional or reduced Services. In addition, the Consultant and the Departmental Representative shall negotiate hourly rates and payroll cost factors as applicable for any of those persons for whom the relevant information does not appear in the Agreement Particulars.
4. Payment for additional Services not identified at the time of execution of the Agreement shall be made only to the extent that
 - (a) the additional Services are Services that are not included in stated Services in the Agreement,
 - (b) the additional Services are required for reasons beyond the control of the Consultant, and
 - (c) any fee adjustment for Services resulting from an adjustment in the Construction Cost Estimate arising from the additional Services is not commensurate with the additional Services performed.

GC 5.8 (30/05/03) Extension of Time

If, and to the extent that, the time for completion of the Construction Contract is exceeded or extended through no fault of the Consultant in the opinion of Canada, payment for the Services required for such extended period of the contract administration shall be subject to review and equitable adjustment.

GC 5.9 (30/05/03) Suspension Costs

1. During a period of suspension of the Services pursuant to GC 7.2, the Consultant shall minimize all costs and expenses relating to the Services that may occur during the suspension period.
2. Within fourteen (14) days of notice of such suspension, the Consultant shall submit to the Departmental Representative a schedule of costs and expenses, if any, that the Consultant expects to incur during the period of suspension, and for which the Consultant will request reimbursement.
3. Payment shall be made to the Consultant for those costs and expenses that, in the opinion of Canada, are substantiated as having been reasonably incurred during the suspension period.

GC 5.10 (30/05/03) Termination Costs

1. In the event of termination of the Agreement pursuant to GC 7.3, Canada shall pay, and the Consultant shall accept in full settlement, an amount based on these Terms of Payment, for Services satisfactorily performed, plus an amount to compensate the Consultant for reasonable costs and expenses, if any, that are related to the Services not performed and incurred after the date of termination.
2. Within fourteen (14) days of notice of such termination, the Consultant shall submit to the Departmental Representative a schedule of costs and expenses incurred plus any additional

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costs that the Consultant expects to incur after the date of termination, and for which the Consultant will request reimbursement.

3. Payment shall be made to the Consultant for those costs and expenses that in the opinion of Canada are substantiated as having been reasonably incurred after the date of termination.

GC 5.11 (30/05/03) Disbursements

1. Subject to any provisions specifically to the contrary in the Supplementary Conditions, the following costs shall be included in the fees required to deliver the consultant services and shall not be reimbursed separately;
 - (a) reproduction and delivery costs of drawings, CADD files, specifications and other Technical Documentation specified in the Project Brief;
 - (b) standard office expenses such as any photocopying, computer costs, Internet, cellular phone costs, long distance telephone and fax costs, including that between the Consultant's main office and branch offices or between the Consultant's offices and other team members offices;
 - (c) courier and delivery charges for deliverables specified in the Project Brief;
 - (d) plotting;
 - (e) presentation material;
 - (f) parking fees;
 - (g) taxi charges;
 - (h) travel time;
 - (i) travel expenses; and
 - (j) local project office.
2. Subject to any provisions specifically to the contrary in the Supplementary Conditions, the following disbursements reasonably incurred by the Consultant, that are related to the Services and approved by the Departmental Representative, shall be reimbursed to the Consultant at actual cost:
 - (a) reproduction and delivery costs of drawings, CADD files, specifications and other Technical Documentation additional to that specified in the Project Brief;
 - (b) transportation costs for material samples and models additional to that specified in the Project Brief;
 - (c) project related travel and accommodation additional to that specified in the Project Brief shall be reimbursed in accordance with current Treasury Board Travel Policy; and
 - (d) other disbursements made with the prior approval and authorization of the Departmental Representative.
3. Disbursements shall be Project related and shall not include expenses that are related to the normal operation of the Consultant's business. The amounts payable, shall not exceed the amount entered in the Agreement Particulars, without the prior authorization of the Departmental Representative.

GC 5.12 (30/05/03) T1204 Government Service Contract Payments

Pursuant to paragraph 221 (1)(d) of the *Income Tax Act*, payments made by departments and agencies to consultants under applicable services contracts (including contracts involving a mix of goods and services) must be reported on a T1204 Government Service Contract Payments slip. To enable departments and agencies to comply with this requirement, the Consultant is required to provide its Procurement Business Number (PBN). The Consultant is to ensure the accuracy of its PBN information in the Supplier Registration Information System.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer must edit the clause as required by the situation. Use the following clause with Open Agreements only.

R1890D (14/05/04) Agreement Particulars - Open

The following hourly rates are fixed for the duration of the Consultant Agreement - Open.

PRINCIPALS - All inclusive hourly rate to be fixed for the duration of the Contract.

| Name | \$ per hour |
|-------|-------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

STAFF - Payroll Cost Factor to be fixed for the duration of the contract. For the administration of the Contract, Hourly Rate increases for staff are to be documented to PWGSC for approval.

| Name / Position | \$ per hour (excluding factor) | Factor |
|-----------------|--------------------------------|--------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

R1890D (30/05/03) Agreement Particulars - Open

Effective 14/05/04, this clause is superseded by R1890D.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - Buildings.

R2000D (16/02/98) Calculation of Fees

1. Fee Arrangement(s) for Basic Services

The basic fee to be paid to the *Consultant* for the *Basic Services* described herein, shall be determined by one or more of the following arrangements:

(a) Percentage Fee

The calculation of the total basic fee recognizes the variability of the *Construction Cost Estimate* as the Project develops. The basic fee for the various *Services* of the Project development shall be calculated on the basis of the following formula:

An amount equal to $F \times A$

Where F = the percentage specified in clause R2001D, Agreement Particulars, and A = as follows:

- (1) At Analysis of *Project Brief* and Design Concept:
 A = the *Construction Cost Estimate* at the time of signing this Agreement.
- (2) At Design Development:
 A = the accepted preliminary *Construction Cost Estimate* prepared on completion of the design concept documents.
- (3) At Construction Documents:
 A = the accepted updated *Construction Cost Estimate* prepared on completion of the design development documents.
- (4) At Tender Call and Tender Evaluation:
 A = the accepted final *Construction Cost Estimate* prepared on completion of the construction documents.
- (5) At Construction and Contract Administration and Post Construction Warranty Review:
 A = the *Construction Contract Award Price*.

The total basic fee is adjusted in accordance with the terms of any authorization pursuant to B6 in clause R0220D, General Conditions.

(b) Fixed Fee

The fixed fee shall be in the amount(s) specified in clause R2001D.

(c) Time Based Fee

- (1) Principals and executives, and other personnel approved in that capacity by the *Departmental Representative* shall be paid at the hourly rate specified in clause R2001D.
- (2) Staff approved by the *Departmental Representative* shall be paid at *Payroll Cost* multiplied by the factor(s) specified in clause R2001D, except that the multiplying factor shall not be applied to the premium portion of authorized overtime included in *Payroll Cost*.
- (3) Normal Working Hours
The normal working hours per day for principals, executives and *Consultant's* employees, shall be deemed to be seven and a half (7.5) hours of any day during which they are actually engaged in the performance of the *Services*.
- (4) Travel Time

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Travel time during normal working hours, that is related to the Project and authorized by the *Departmental Representative*, shall be chargeable as time worked.

Travel time outside normal working hours, that is related to the Project and authorized by the *Departmental Representative*, shall be chargeable up to a maximum of three (3) hours per day, unless otherwise authorized.

- (5) **Maximum Amount(s) Payable**
The maximum amount(s) that applies (apply) to the *Services* to be carried out at time rates shall be as specified in clause R2001D, which amount(s) shall not be exceeded without the prior authorization of the *Departmental Representative*.

2. **Payments for Basic Services**

- (a) Payments in respect of the percentage fee arrangement shall be made during the performance of the *Services*, on the basis of the fee calculations as described in subsection 1.(a) above, for each of the Basic Services equal to the amounts specified below:
- (1) **Payment for Analysis of *Project Brief* and Design Concept:**
Upon acceptance of the design concept documents, an amount equal to 10 percent of the basic fee;
 - (2) **Payment for Design Development:**
Upon acceptance of the design development documents, an amount equal to 15 percent of the basic fee;
 - (3) **Payment for Construction Documents:**
Upon acceptance of the construction documents, an amount equal to 45 percent of the basic fee;
 - (4) **Payment for Tender Call, Tender Evaluation and Contract Award:**
Upon award of the *Construction Contract*, or upon completion of tender evaluation(s) in such cases where Canada does not award a *Construction Contract* for reasons other than those specified in subsection 2.(f) below, an amount equal to 5 percent of the basic fee;
 - (5) **Payment for Construction and Contract Administration:**
Upon interim completion of the *Construction Contract*, an amount equal to 22 percent of the basic fee;
 - (6) **Payment for Final Completion and Post Construction Warranty Review:**
Upon reporting to the *Departmental Representative* on the status of the defects at the end of the warranty period(s) an amount equal to 3 percent of the basic fee.
- (b) Payments in respect of the fixed fee arrangement shall be made upon satisfactory performance of the *Services* but such payments shall not exceed the amount(s) as specified in clause R2001D for each *Service*.
- (c) Payments in respect of the time based fee arrangement shall be made upon satisfactory performance of the *Services* but such payments shall not exceed the amount(s) as specified in clause R2001D for each *Service*.
- (d) Progress payments, in respect of all fee arrangements, shall be made in accordance with clause R0220D of this Agreement, but such payments shall not exceed the value of the fee indicated for each *Service* under consideration.
- (e) Progress payments in respect of construction and contract administration for percentage fee or fixed fee arrangements may be made in proportion to the percentage of the construction work completed and approved for payment under the *Construction Contract*.
- (f) If, for reasons attributable to the *Consultant*, a price cannot be obtained by a tender or negotiation within the *Construction Cost Limit*, or acceptable to the *Departmental Representative* for the award of the *Construction Contract*, the *Consultant* shall be entitled

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to receive payment for the tender call, bid evaluation and construction contract award *Services*, only when the requirements of C8.3, in clause R0220D have been met.

3. Fee Arrangement(s) for Additional Services

Fee arrangement(s) of Additional *Services* described herein shall be determined as follows:

4. Payments for Additional Services

Payments for Additional *Services* shall be made upon satisfactory performance of the Additional *Service(s)* but such payments shall not exceed the amount(s) specified in clause R2001D for each Additional *Service*.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - Buildings.

R2001D (16/02/98) Agreement Particulars

1. Agreement Particulars (as applicable)

- (a) Supplementary Liability Insurance Requirements for this Project (clause R0220D, General Conditions) (as described in clause R0300D, Supplementary Conditions)

Amount of Insurance \$_____

- (b) Design Concept Documents (clause R1002D, Design Concept)

No. of copies:

hard copies

CADD files

- (c) Design Development Documents (clause R1003D, Design Development)

No. of copies:

hard copies

CADD files

- (d) Construction Documents (clause R1008D, Documents, Estimate and Schedule)

No. of copies during development:

hard copies

CADD files

_____ % complete

_____ % complete

_____ % complete

_____ % complete

- (e) Record Drawings (clause R1010D, Construction and Contract Administration)

No. of copies:

hard copies

CADD files

mylar

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(f) Percentage Fee (clause R2000D, Calculation of Fees)

_____ %

(g) Fixed Fee (clause R2000D)

SERVICES

FIXED FEE

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

MAXIMUM FIXED FEES

\$ _____

(h) Time Based Fees (clause R2000D)

Hourly Rates (clause R2000D)

Principals, Executives and other Personnel approved in that capacity:

Per Hour

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

Payroll Cost Factors (clause R2000D)

Staff:

Factor:

Maximum Amount(s) Payable (clause R2000D)

SERVICES

TIME BASED FEE

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

MAXIMUM TIME BASED FEES

(i) Fee Arrangement(s) for Additional *Services* (clause R1014D, Additional Services)

Bilingual Construction Documents:

\$ _____

Resident *Services* During Construction:

\$ _____

Other Additional *Services*:

Pre-design:

\$ _____

Co-ordination:

\$ _____

Sequential Tendering:

\$ _____

Specialist *Consultant(s)*:

\$ _____

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| | |
|--|-----------------|
| | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| TOTAL FEES FOR ADDITIONAL SERVICES: | \$ _____ |
| | |
| (j) Maximum Amount Payable for Disbursements: (clause R0220D) | |
| Disbursements for Basic <i>Services</i> : | \$ _____ |
| Disbursements for Additional <i>Services</i> : | \$ _____ |
| Premium for Supplementary Liability Insurance: (subsection 1.(a) above) | \$ _____ |
| TOTAL DISBURSEMENTS: | \$ _____ |
| | |
| (k) Maximum Amount Payable: | |
| Maximum Fees for Basic <i>Services</i> : | \$ _____ |
| Maximum Fees for Additional <i>Services</i> : | \$ _____ |
| Maximum Disbursements: | \$ _____ |
| Tax: _____ | \$ _____ |
| TOTAL THIS AGREEMENT | \$ _____ |

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - Engineering Works.

R2002D (16/02/98) Calculation of Fees

1. Fee Arrangement(s) for Categories of Services

The basic fee to be paid to the *Consultant* for the Categories of *Services* described herein, shall be determined by one or more of the following arrangements except that the fee for the analysis of the project requirements and conceptual design shall be either a fixed fee or a time based fee, as specified in clause R2003D, Agreement Particulars:

(a) Percentage Fee

Percentage fee for the following Categories of *Services* shall be calculated as follows:

- (1) The fee for Preliminary Design shall be an amount equal to the accepted preliminary *Construction Cost Estimate* prepared by the *Consultant* on completion of the Analysis of the *Terms of Reference* and Conceptual Design multiplied by the percentage specified in clause R2003D for Preliminary Design.
- (2) The fee for Construction Documents and Tender Call shall be an amount equal to the accepted updated *Construction Cost Estimate* prepared by the *Consultant* on completion of Preliminary Design multiplied by the percentage specified in clause R2003D for Construction Documents and Tender Call.
- (3) The fee for the Construction and Contract Administration shall be an amount equal to the *Construction Contract Award Price*, multiplied by the percentage specified in clause R2003D for Construction and Contract Administration.

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- (4) The fee for Post-Construction Warranty Review shall be an amount equal to the *Construction Contract Award Price*, multiplied by the percentage specified in clause R2003D for Post-Construction Warranty Review.
- (b) Fixed Fee
The fixed fee shall be in the amount(s) specified in clause R2003D.
- (c) Time Based Fee
 - (1) Principals and executives, and other personnel approved in that capacity by the *Departmental Representative* shall be paid at the hourly rate specified in clause R2003D.
 - (2) Staff approved by the *Departmental Representative* shall be paid at Payroll Cost multiplied by the factor(s) specified in clause R2003D, except that the multiplying factor shall not be applied to the premium portion of authorized overtime included in *Payroll Cost*.
 - (3) Normal Working Hours
The normal working hours per day for principals, executives and *Consultant's* employees, shall be deemed to be seven and a half (7.5) hours of any day during which they are actually engaged in the performance of the *Services*.
 - (4) Travel Time
Travel time during normal working hours, that is related to the Project and authorized by the *Departmental Representative*, shall be chargeable as time worked. Travel time outside normal working hours, that is related to the Project and authorized by the *Departmental Representative*, shall be chargeable up to a maximum of three (3) hours per day, unless otherwise authorized.
 - (5) Maximum Amount(s) Payable
The maximum amount(s) that applies (apply) to the *Services* to be carried out at time rates shall be as specified in clause R2003D, which amount(s) shall not be exceeded without the prior authorization of the *Departmental Representative*.

2. Payments for Categories of Services

- (a) Payments in respect of the percentage fee arrangement shall be made during the performance of the *Services*, on the basis of the fee calculations as described in 1.(a) above of this Agreement.
- (b) Payments in respect of the fixed fee arrangement shall be made upon satisfactory performance of the *Services* but such payments shall not exceed the amount(s) as specified in clause R2003D for each Category of *Services*.
- (c) Payments in respect of the time based fee arrangement shall be made upon satisfactory performance of the *Services* but such payments shall not exceed the amount(s) as specified in clause R2003D for each Category of *Services*.
- (d) Progress payments, in respect of all fee arrangements, shall be made in accordance with clause R0220D, General Conditions, of this Agreement but such payments shall not exceed the value of the fee indicated for each Category of *Services* under consideration.
- (e) Progress payments in respect of construction and contract administration for percentage fee or fixed fee arrangements may be made in proportion to the percentage of the construction work completed and approved for payment under the *Construction Contract*.
- (f) If, for reasons attributable to the *Consultant*, a price cannot be obtained by a tender or negotiation within the *Construction Cost Limit*, or acceptable to the *Departmental Representative* for the award of the *Construction Contract*, the *Consultant* shall be entitled to receive payment for the tender call, bid evaluation and construction contract award *Services*, only when the requirements of clause R0220D have been met.

3. Fee Arrangement(s) for Additional Services

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Fee arrangement(s) of Additional *Services* described herein shall be determined as follows:

4. Payments for Additional *Services*

Payments for Additional *Services* shall be made upon satisfactory performance of the Additional *Service(s)* but such payments shall not exceed the amount(s) specified in clause R2003D for each Additional *Service*.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - Engineering Works.

R2003D (16/02/98) Agreement Particulars

1. Agreement Particulars (as applicable)

- (a) Supplementary Liability Insurance Requirements for this Project (clause R0220D, General Conditions) (as described in clause R0300D, Supplementary Conditions)

| | Amount of Insurance | \$ _____ | |
|-----|---|-------------|---------------------|
| (b) | Conceptual Design Documents (clause R1005D, Terms of Reference and Conceptual Design) | | |
| | No. of copies: | | |
| | | hard copies | CADD files |
| | | _____ | _____ |
| (c) | Preliminary Design Documents (clause R1006D, Preliminary Design) | | |
| | No. of copies: | | |
| | | hard copies | CADD files |
| | | _____ | _____ |
| (d) | Construction Documents (clause R1008D, Documents, Estimate and Schedule) | | |
| | No. of copies during development: | | |
| | | hard copies | CADD files |
| | Draft Documents | _____ | _____ |
| | Final Documents | _____ | _____ |
| (e) | Record Drawings (clause R1010D, Construction and Contract Administration) | | |
| | No. of copies: | | |
| | | hard copies | CADD files mylar |
| | | _____ | _____ |

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- (f) Percentage Fee (clause R2002D, Calculation of Fees)
- | | |
|--|---------|
| For Preliminary Design | _____ % |
| For Construction Documents and Tender Call | _____ % |
| For Construction and Contract Administration | _____ % |
| For Post Construction Warranty Review | _____ % |

- (g) Fixed Fee (clause R2002D)
- | <i>SERVICES</i> | FIXED FEE |
|---------------------------|-----------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| MAXIMUM FIXED FEES | \$ _____ |

- (h) Time Based Fees (clause R2002D)
- Hourly Rates (clause R2002D)
- | Principals, Executives and other Personnel approved in that capacity: | Per Hour |
|---|----------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

- Payroll Cost Factors* (clause R2002D)
- | Staff | Factor |
|-------|--------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

- Maximum Amount(s) Payable (clause R2002D)
- | <i>SERVICES</i> | TIME BASED FEE |
|--------------------------------|-----------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| MAXIMUM TIME BASED FEES | \$ _____ |

- (i) Fee Arrangement(s) for Additional *Services* (clause R1014D, Additional Services)
- | | |
|---|----------|
| Bilingual Construction Documents: | \$ _____ |
| Resident <i>Services</i> During Construction: | \$ _____ |
| Other Additional <i>Services</i> : | |

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| | |
|---------------------------|----------|
| Pre-design: | \$ _____ |
| Co-ordination: | \$ _____ |
| Sequential Tendering: | \$ _____ |
| Specialist Consultant(s): | |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

TOTAL FEES FOR ADDITIONAL SERVICES: \$ _____

(j) Maximum Amount Payable for Disbursements: (clause R0220D)

| | |
|--|----------|
| Disbursements for Categories of <i>Services</i> | \$ _____ |
| Disbursements for Additional <i>Services</i> : | \$ _____ |
| Premium for Supplementary Liability Insurance: (subsection 1(a) above) | \$ _____ |

TOTAL DISBURSEMENTS: \$ _____

(k) Maximum Amount Payable: (clause R0412D, Articles of Agreement)

| | |
|--|----------|
| Maximum Fees for Categories of <i>Services</i> : | \$ _____ |
| Maximum Fees for Additional <i>Services</i> : | \$ _____ |
| Maximum Disbursements: | \$ _____ |
| Tax: _____ | \$ _____ |

TOTAL THIS AGREEMENT: \$ _____

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - General.

R2006D (16/02/98) Calculation of Fees

1. Fee Arrangement(s) for the Required Services

The basic fee to be paid to the *Consultant* for the Required *Services* described herein, shall be determined by one or more of the following arrangements:

(a) Percentage Fee

The calculation of the total basic fee recognizes the variability of the *Construction Cost Estimate* as the Project develops. The basic fee for the Required *Services* of the Project development shall be calculated on the basis of the following formula:

An amount equal to $F \times A$
 Where F = the percentage specified in clause R2007D, Agreement Particulars,
 and A = the *Construction Cost Estimate*
 or A = the *Construction Contract Award Price*

These calculations are as follows: _____

(b) Fixed Fee

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The fixed fee shall be in the amount(s) specified in clause R2007D.

- (c) Time Based Fee
- (1) Principals and executives, and other personnel approved in that capacity by the *Departmental Representative* shall be paid at the hourly rate specified in clause R2007D.
 - (2) Staff approved by the *Departmental Representative* shall be paid at *Payroll Cost* multiplied by the factor(s) specified in clause R2007D, except that the multiplying factor shall not be applied to the premium portion of authorized overtime included in *Payroll Cost*.
 - (3) Normal Working Hours
The normal working hours per day for principals, executives and *Consultant's* employees, shall be deemed to be seven and a half (7.5) hours of any day during which they are actually engaged in the performance of the Required *Services*.
 - (4) Travel Time
Travel time during normal working hours, that is related to the Project and authorized by the *Departmental Representative*, shall be chargeable as time worked. Travel time outside normal working hours, that is related to the Project and authorized by the *Departmental Representative*, shall be chargeable up to a maximum of three (3) hours per day, unless otherwise authorized.
 - (5) Maximum Amount(s) Payable
The maximum amount(s) that applies (apply) to the Required *Services* to be carried out at time rates shall be as specified in clause R2007D, which amount(s) shall not be exceeded without the prior authorization of the *Departmental Representative*.

2. Payments Stages

- (a) Payments in respect of the percentage fee arrangement shall be made during the performance of the Required *Services*, on the basis of the fee calculations as follows:

- (b) Payments in respect of the fixed fee arrangement shall be made upon satisfactory performance of the Required *Services* but such payments shall not exceed the amount(s) as specified in clause R2007D for each Required *Service*.
- (c) Payments in respect of the time based fee arrangement shall be made upon satisfactory performance of the Required *Services* but such payments shall not exceed the amount(s) as specified in clause R2007D for each Required *Service*.
- (d) Progress payments, in respect of all fee arrangements, shall be made in accordance with clause R0220D, General Conditions, of this Agreement but such payments shall not exceed the value of the fee indicated for each Required *Service* under consideration.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in the Architectural and Engineering Consultant Agreement - General.

R2007D (16/02/98) Agreement Particulars

1. Agreement Particulars (as applicable)

- (a) Supplementary Liability Insurance Requirements for this Project (as described in clause R0300D, Supplementary Conditions)
-

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| | | |
|-----|---|-------------------------------|
| | Amount of Insurance | \$ _____ |
| (b) | Documents for Required <i>Services</i> Documents | No. of copies: hard copies |
| | CADD files | |
| | _____ | _____ |
| | _____ | _____ |
| | _____ | _____ |
| | _____ | _____ |
| | _____ | _____ |
| | _____ | _____ |
| (c) | Percentage Fee (clause R2006D, Calculation of Fees) | _____% |
| (d) | Fixed Fee (clause R2006D) <i>SERVICES</i> | FIXED FEE |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | MAXIMUM FIXED FEES | \$ _____ |
| (e) | Time Based Fees (clause R2006D) Hourly Rates (clause R2006D) Principals, Executives and other Personnel approved in that capacity | Per Hour |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | <i>Payroll Cost Factors</i> (clause R2006D) Staff | Factor |
| | _____ | _____ |
| | _____ | _____ |
| | _____ | _____ |
| | _____ | _____ |
| | Maximum Amount(s) Payable (clause R2006D) <i>SERVICES</i> | TIME BASED FEE |
| | _____ | \$ _____ |
| | _____ | \$ _____ |
| | _____ | \$ _____ |

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| | |
|--|-----------------|
| | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| MAXIMUM TIME BASED FEES | \$ _____ |
| | |
| (f) Fee Arrangement(s) for Additional <i>Services</i> (clause R1016D, Additional <i>Services</i>) | |
| Bilingual Construction Documents: | \$ _____ |
| Resident <i>Services</i> During Construction: | \$ _____ |
| TOTAL FEES FOR ADDITIONAL <i>SERVICES</i>: | \$ _____ |
| | |
| (g) Maximum Amount Payable for Disbursements: (clause R0220D, General Conditions) | |
| Disbursements | \$ _____ |
| Premium for Supplementary Liability Insurance: (subsection 1.(a) above) | \$ _____ |
| TOTAL DISBURSEMENTS | \$ _____ |
| | |
| (h) Maximum Amount Payable: | |
| Maximum Fees for Required <i>Services</i> : | \$ _____ |
| Maximum Fees for Additional <i>Services</i> : | \$ _____ |
| Maximum Disbursements: | \$ _____ |
| Tax: | \$ _____ |
| TOTAL THIS AGREEMENT | \$ _____ |

Remarks: Use the following clause in the Architectural and Engineering Consultant Agreement - Open.

R2008D (16/02/98) Calculation of Fees

1. Fee Arrangements for *Services*

- (a) The fees and disbursements are only payable when the *Consultant* has performed the *Services* in accordance with the Commitment for *Services*.
- (b) Canada shall pay to the *Consultant* as consideration for the execution of the *Services* described in the Commitment for *Services* a sum of money calculated by one or several of the following methods which shall be specified in the Commitment for *Services* document:
 - (1) **Percentage Fee**
A fee calculated as an agreed percentage of the approved *Construction Cost Estimate* payable as described in the Commitment for *Services*.
 - (2) **Fixed Fee**
An agreed fixed fee being the total amount payable for *Services* rendered pursuant to the Commitment for *Services*.
 - (3) **Time Based Fee**
 - (i) Principals and executives, and other personnel approved in that capacity by the *Departmental Representative* shall be paid at the hourly rate specified in the Commitment for *Services*;

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- (ii) Staff approved by the *Departmental Representative* shall be paid at *Payroll Cost* multiplied by the factor(s) specified in the Commitment for Services, except that the multiplying factor shall not be applied to the premium portion of authorized overtime included in *Payroll Cost*;
 - (iii) Normal Working Hours
The normal working hours per day for principals, executives and *Consultant's* employees, shall be deemed to be seven and a half (7.5) hours of any day during which they are actually engaged in the performance of the *Services*;
 - (iv) Travel Time
Travel time during normal working hours, that is related to the Project and authorized by the *Departmental Representative*, shall be chargeable as time worked. Travel time outside normal working hours, that is related to the Project and authorized by the *Departmental Representative*, shall be chargeable up to a maximum of three (3) hours per day, unless otherwise authorized;
 - (v) Maximum Amount(s) Payable
The maximum amount(s) that applies (apply) to the *Services* to be carried out at time rates shall be as specified in the Commitment for *Services*, which amount(s) shall not be exceeded without the prior authorization of the *Departmental Representative*.
-

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in the Architectural and Engineering Consultant Agreement - Open.

R2009D (16/02/98) Agreement Particulars

1. Agreement Particulars (as applicable)

- (a) Supplementary professional liability insurance coverage for the *Services* included in this agreement (clause R0220D, General Conditions) is as described in the Commitment for *Services*.
 - (b) Maximum Amount Payable

The maximum amount payable by Canada under this Agreement including miscellaneous disbursements shall not exceed the total sum of \$_____ without the prior written authorization of the *Departmental Representative*.
-

R2110T (16/12/05) General Instructions to Tenderers - Minor Works

- GI 1 Tender and Contract Documents
- GI 2 Enquiries During the Tender Period
- GI 3 Approval of Alternative Materials
- GI 4 Language of the Tender and Contract Documents
- GI 5 Completion and Submission of Tender
- GI 6 Signing Procedures and Identity or Legal Capacity of the Tenderer
- GI 7 Procurement Business Number
- GI 8 Submission of Tender by Facsimile Transmission
- GI 9 Revision of Tenders
- GI 10 Acceptance of Tender
- GI 11 Additional Information
- GI 12 Negotiations
- GI 13 Minor Irregularities

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- GI 14 Compliance With Applicable Laws
- GI 15 Municipal Capital Development Charges
- GI 16 Goods and Services Tax and Harmonized Sales Tax
- GI 17 Quebec Sales Tax
- GI 18 Certification - Contingency Fees
- GI 19 Hazardous Materials
- GI 20 Condition of Material
- GI 21 Contractor Performance Evaluation Report Form (CPERF)

GI 1 (2005-12-16) Tender and Contract Documents

1. The following are the tender and contract documents:
 - (a) Front page - Invitation to Tender;
 - (b) General Instructions to Tenderers;
 - (c) Supplementary Instructions to Tenderers, if any;
 - (d) Tender and Acceptance form and any appendices attached thereto;
 - (e) Front page - Contract;
 - (f) General Conditions of the Contract;
 - (g) Fair Wages and Hours of Labour - Labour Conditions, if the Total Tender Amount is \$30,000 or more;
 - (h) Fair Wage Schedule for Federal Construction Contracts, if the Total Tender Amount is \$30,000 or more;
 - (i) Any addenda issued prior to the Time and Date set for Tender Closing; and
 - (j) Plans and Specifications or Scope of Work.
2. The documents listed below are incorporated by reference into the tender documents and form part of the tender and any resulting contract:
 - (a) General Instructions to Tenderers - Minor Works, R2110T (2005-12-16);
 - (b) General Conditions of the Contract including
 - (i) GC 1 - General Provisions, R2210D (2003-12-12);
 - (ii) GC 2 - Administration of the Contract, R2220D (2004-05-14);
 - (iii) GC3 - Execution of the Work, R2230D (2003-12-12);
 - (iv) GC 4 - Protection, Health and Safety, R2240D (2003-12-12);
 - (v) GC5 - Terms of Payment, R2250D (2004-12-10);
 - (vi) GC 6 - Changes in the Work, R2260D (2003-12-12);
 - (vii) GC 7 - Default, Suspension or Termination of Contract, R2270D (2003-12-12);
 - (viii) GC8 - Dispute Resolution, R2280D (2004-12-10);
 - (ix) GC 9 - Indemnification and Insurance, R2290D (2003-12-12);
 - (c) Fair Wages and Hours of Labour - Labour Conditions, R0203D (2004-05-14); and
 - (d) Fair Wage Schedules for Federal Construction Contracts
3. Submission of a tender constitutes acknowledgement that the Tenderer has read and agrees to be bound by these document.
4. With the exception of the Fair Wage Schedules for Federal Construction Contracts, the documents incorporated by reference are set out in the *Standard Acquisition Clauses and Conditions* Manual, issued by Public Works and Government Services Canada (PWGSC), and available on the following PWGSC Website: <http://sacc.pwgsc.gc.ca/sacc/index-e.jsp>.
5. Fair Wage Schedules for Federal Construction Contracts may be accessed from the Website located at <http://www.hrsdc.gc.ca/asp/gateway.asp?hr=en/lp/lo/lsw/fw/schedule.shtml&hs=cgp>. Tenderers should note that, in the event of a resulting contract, a copy of the Fair Wage Schedule applicable to the project location and the Fair Wages and Hours of Labour - Labour Conditions must be posted at the work site in a convenient, easily accessible location.
6. Tenderers shall submit their tenders to the Bid Receiving Unit located at the address shown on the front page of the Invitation to Tender.

GI 2 (2003-12-12) Enquiries During the Solicitation Period

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1. Except for the approval of alternative materials as described in subsection GI 3.1 all other enquiries regarding the tender must be submitted in writing to the Contracting Officer named on the front cover of the Specifications as early as possible within the tendering period. Enquiries should be received no later than five (5) calendar days prior to the date set for prime tender closing to allow sufficient time to provide a response. Enquiries received after that time may not result in an answer being provided.
2. Enquiries concerning this procurement may be raised prior to the date set for prime tender closing with the Contracting Officer in order to obtain general guidance. The Contracting Officer and the Departmental Representative shall examine the content of the enquiry and shall decide whether or not to issue an addendum to the Tender Documents.
3. To ensure consistency and quality of the information provided to Tenderers, the Contracting Officer shall provide, simultaneously to all Tenderers to which Tender Documents have been sent, by means of an addendum, any information with respect to significant enquiries received and the replies to such enquiries without revealing the source.
4. All enquiries and other communications sent throughout the tendering period are to be directed ONLY to the Contracting Officer named on the front cover of the Specifications. Non-compliance with this requirement during the tendering period can, for that reason alone, result in disqualification of a tender.

GI 3 (2003-12-12) Approval of Alternative Materials

When materials are specified by trade names or trademarks, or by manufacturers' or suppliers' names, the tender shall be based on use of the named materials. During the tendering period, alternative materials may be considered provided full technical data is received in writing by the Contracting Authority at least ten (10) calendar days prior to the tender closing date. If the alternative materials are approved for the purposes of the tender, an addendum to the tender documents shall be issued.

GI 4 (2003-12-12) Language of the Tender and Contract Documents

Tenderers may request the Tender Documents in either of Canada's two official languages (English or French).

GI 5 (2003-12-12) Completion and Submission of the Tender

1. The tender shall be
 - (a) submitted on the Tender and Acceptance form provided as part of the Tender and Contract Documents or on a clear and legible reproduced copy of this form; the reproduced copy must be identical in every respect to the Tender and Acceptance form referred to in section GI 1;
 - (b) based on the Tender and Contract Documents listed in section GI 1;
 - (c) correctly completed in all respects;
 - (d) signed, with an original signature, by a duly authorized representative of the Tenderer in the space provided for that purpose on the front page; and
 - (e) accompanied by any other document or documents specified elsewhere in the solicitation where it is stipulated that such documents are to accompany the tender.
2. Subject to section GI 13, any alteration to the preprinted or pre-typed sections of the Tender and Acceptance form, or any condition or qualification placed upon the tender shall be cause for disqualification.
3. If no classes of labour, Plant or Material, Units of Measurement and Estimated Quantities are shown in the Unit Price Table on the Tender and Acceptance form, insert the Lump Sum Amount to be tendered in the space provided in section TA 5 of this form.
4. If classes of labour, Plant, Material, Units of Measurement and Estimated Quantities are shown in the Unit Price Table on the Tender and Acceptance form, insert a Unit Price for each Item, multiply the Unit Price by the respective Estimated Quantity, insert the answer in the Total Estimated Price column against each Item and add the Total Estimated Price column to obtain

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the Total Unit Price Amount for the Unit Price portion of the Work. This Amount is to be inserted at the bottom of the Unit Price Table in section TA 6 of this form.

5. Subject to section GI 13, the tender, duly completed and signed, should be enclosed and sealed in an envelope, and shall be addressed and submitted to the Tender Address as shown on the Front Page. The tender must be received on or before the Time and Date set for Tender Closing.
6. Unless specified otherwise in the Tender and Contract Documents the tender amount(s) shall be in Canadian currency.
7. Prior to submitting the tender, the Tenderer shall ensure that the following information is clearly printed or typed on the face of the tender envelope:
 - (a) the Solicitation Number; and
 - (b) the Time and Date set for Tender Closing.
8. Timely and correct delivery of tenders to the Tender Address as shown on the front page is the sole responsibility of the Tenderer. PWGSC shall not assume or have transferred to it those responsibilities. All risks and consequences of incorrect delivery of tenders are the responsibility of the Tenderer.
9. Type or legibly print the Tenderer's business name and address in the spaces provided for on the Tender and Acceptance form for Contractor's Full Business Name and Contractor's Full Business Address respectively.
10. Do not make any entry on the Front Page in areas marked "(For Departmental Use Only)".

GI 6 (2003-12-12) Signing Procedures and Identity or Legal Capacity of the Tenderer

1. The signature of the authorized signatory shall be affixed to the front page of the Invitation to Tender in the space provided.
2. In order to confirm the authority of the person or persons signing the tender or to establish the legal capacity under which the Tenderer proposes to enter into Contract, any Tenderer who carries on business in other than its own personal name shall, if requested by Canada, provide satisfactory proof of
 - (a) such signing authority; and
 - (b) the legal capacity under which it carries on business;

prior to contract award. Proof of signing authority may be in the form of a certified copy of a resolution naming the signatory(ies) that is (are) authorized to sign this tender on behalf of the corporation or partnership. Proof of legal capacity may be in the form of a copy of the articles of incorporation or the registration of the business name of a sole proprietor or partnership.

GI 7 (2004-05-14) Procurement Business Number

1. For procurement purposes, the Government of Canada uses a unique Procurement Business Number (PBN) to identify a company and its branches, divisions, or offices, where appropriate. The PBN is created using the entity's Canada Revenue Agency Business Number.
2. All Canadian companies are required to have a PBN prior to contract award in order to receive a PWGSC contract. Non-Canadian companies are strongly encouraged to obtain a PBN.
3. Companies may register for a PBN in the Supplier Registration Information service on line at the Contracts Canada Website at: <http://contractscanada.gc.ca>.
4. For non-Internet registration, contact the Contracts Canada InfoLine at 1-800-811-1148 or (819) 956-3440, in the National Capital Area, to obtain the telephone number of the nearest Supplier Registration Agent.

GI 8 (2003-12-12) Submission of Tender by Facsimile Transmission

1. Unless specified elsewhere in the Tender and Contract Documents,

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- (a) submission of a correct and fully completed Tender and Acceptance form and the front page by facsimile transmission is acceptable;
 - (b) for tenders transmitted by facsimile, a paper copy of the Tender and Acceptance form with an original signature on the front page of the Invitation to Tender shall be delivered to the Tender Address as shown on the Front Page within two (2) working days immediately following the Tender Closing Date and the form should bear the word "CONFIRMATION".
2. If the Tenderer chooses to submit a tender by facsimile transmission, Canada shall not be responsible for any failure attributable to the transmission or receipt of the facsimile tender including, but not limited to
- (a) receipt of garbled or incomplete tender;
 - (b) availability or condition of the receiving facsimile equipment;
 - (c) incompatibility between the sending and receiving equipment;
 - (d) delay in transmission or receipt of the tender;
 - (e) failure of the Tenderer to properly identify the tender;
 - (f) illegibility of the tender; and
 - (g) security of tender data.

GI 9 (2003-12-12) Revision of Tenders

1. A tender submitted in accordance with these instructions may be revised by letter or facsimile provided the revision is received at the office designated for the receipt of tenders, on or before the date and time set for the closing of tenders. The letter or facsimile shall
 - (a) be on the Tenderer's letterhead or bear a signature that identifies the Tenderer;
 - (b) for the lump sum portion of a tender, clearly identify the amount of the current revision. The total aggregate sum of all revisions submitted, including the current revision, shall be shown separately; and
 - (c) for the Unit Price portion of a tender, clearly identify the change(s) in the Price(s) per Unit and the specific Item(s) to which each change applies. If a revision is to be applied to a specific Item that was previously amended then, in addition to the amount of the current revision, the total aggregate sum of all revisions submitted, including the current revision, for that Item shall be shown separately.
2. A letter or facsimile submitted to confirm an earlier revision shall be clearly identified as "CONFIRMATION ONLY". If a revision is received and is not so identified then the amount noted therein shall be deducted from or added to the identified Price(s) per Unit or Lump Sum tender amount, whichever is applicable, provide it meets the requirements described in subsection GI 8.1.
3. Failure to comply with any of the above provisions shall result in the rejection of the non-compliant revision(s) only. The tender shall be evaluated based on the original tender submitted and all other compliant revision(s).

GI 10 (2003-12-12) Acceptance of Tender

1. Canada may accept any tender, whether it is the lowest or not, or may reject any and all tenders.
2. Without limiting the generality of subsection GI 10.1, Canada may reject any tender, based on an unfavourable assessment as to
 - (a) the adequacy of the tendered price to carry out the work and, in the case of a tender providing Unit Prices, whether each Unit Price reasonably reflects the cost of performing the work related to that Price;
 - (b) whether the Tenderer has the necessary management structure, skilled personnel, experience and equipment to perform competently the work under the Contract; and
 - (c) the Tenderer's performance on other contracts.

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3. In assessing the Tenderer's performance on other contracts pursuant to subsection GI 10.2, Canada may consider, but not be limited to, such matters as
 - (a) the efficiency and workmanship of the Tenderer in performing the work; and
 - (b) the extent to which the Tenderer executed the work in accordance with terms and conditions of the contract.
4. Canada may reject a tender where any of the following circumstances is present:
 - (a) the Tenderer, or any employee or subcontractor included as part of the tender, has been convicted under section 121 ("Frauds on the government" & "Contractor subscribing to election fund"), 124 ("Selling or purchasing office") or 418 ("Selling defective stores to Her Majesty") of the *Criminal Code*; or
 - (b) the Tenderer's tendering privileges have been suspended or are in the process of being suspended;
 - (c) the tendering privileges of an employee or subcontractor included as part of the tender have been suspended or are in the process of being suspended, which suspension or pending suspension would render that employee or subcontractor ineligible to tender on the work, or the portion of the work the employee or subcontractor is to perform;
 - (d) with respect to current or prior transactions with Canada;
 - (i) the Tenderer is bankrupt or where, for whatever reason, its activities are rendered inoperable for an extended period;
 - (ii) evidence, satisfactory to Canada, of fraud, bribery, fraudulent misrepresentation or failure to comply with any law protecting individuals against any manner of discrimination, has been received with respect to the Tenderer, any of its employees or any subcontractor included as part of its tender;
 - (iii) the Minister has previously exercised or intends to exercise the contractual remedy of taking the work out of the contractor's hands with respect to a contract with the Tenderer, any of its employees or any subcontractor included as part of its tender; or
 - (iv) Canada determines that the Tenderer's performance on other contracts is sufficiently poor so as to jeopardize the successful completion of the work being tendered upon.
5. Where Canada intends to reject a tender pursuant to the provisions of subsection GI 10.4, other than paragraph GI 10.4. (b), the Minister shall so inform the Tenderer and provide the Tenderer ten (10) calendar days within which to make representations prior to making a final decision on the tender rejection.

GI 11 (2003-12-12) Additional Information

Prior to contract award, the Tenderer submitting the lowest compliant tender may be requested by the Departmental Representative to submit additional information relating to its tender. The type of information, the amount of detail and the time frame for the provision of such information shall be fully described in a written notice. Failure to provide the information as requested shall result in the disqualification of the tender.

GI 12 (2003-12-12) Negotiations

1. In the event that the lowest compliant tender exceeds the amount of funding Canada has allocated for the construction phase of the work
 - (a) by 15 percent or less, Canada, at its sole discretion, shall either
 - (i) cancel the tender call; or
 - (ii) obtain additional funding and, subject to the provisions of section GI 9, award the Contract to the Tenderer submitting the lowest compliant tender; or

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- (iii) revise the scope of the work accordingly and negotiate, with the Tenderer submitting the lowest compliant tender, a corresponding reduction in its tendered price.
- (b) by more than 15 percent, Canada, at its sole discretion, shall either
 - (i) cancel the tender call; or
 - (ii) obtain additional funding and, subject to the provisions of section GI 9, award the Contract to the Tenderer submitting the lowest compliant tender; or
 - (iii) revise the scope of the work accordingly and invite those who submitted compliant tenders at the original tender call to re-tender the work.
- 2. If negotiations or a re-tender are undertaken as is contemplated in subparagraph GI 12.1 (a)(iii) or (b)(iii), Tenderers shall retain the same subcontractors and suppliers as they carried in their original tenders submissions.
- 3. If Canada elects to negotiate a reduction in the tendered price as is contemplated in subparagraph GI 12.1 (a)(iii) and the negotiations fail to reach an agreement, Canada shall then exercise either of the options referred to subparagraph GI 12.1. (a)(i) or(ii).

GI 13 (2003-12-12) Minor Irregularities

Notwithstanding any other provision contained in these General Instructions to Tenderers, Canada may waive minor irregularities in tenders received if Canada determines that the variation of the tender from the exact requirements set out in the Tender and Contract Documents can be corrected or waived without being prejudicial to other Tenderers.

GI 14 (2003-12-12) Compliance with Applicable Laws

- 1. By submission of this tender, the Tenderer certifies that the Tenderer has the legal capacity to enter into a contract and is in possession of all valid licences, permits, registrations, certificates, declarations, filings, or other authorizations necessary to comply with all federal, provincial and municipal laws and regulations applicable to the submission of the tender and entry into any ensuing contract for the performance of the Work.
- 2. For the purpose of validating the certification in subsection GI 14.1, the Tenderer shall, if requested by written notice, provide a copy of every valid licence, permit, registration, certificate, declaration, filing or other authorization listed in the notice, and shall provide such documentation within the time limit(s) set out therein.
- 3. Failure to comply with the requirements of subsection GI 14.2 shall result in disqualification of the tender.

GI 15 (2003-12-12) Municipal Capital Development Charges

Only fees and charges directly relating to the processing and issue of building permits and inspection permits shall be included in the tender. Tenderers shall not include any moneys in the tender Amount(s) for special municipal development, redevelopment or other fees or charges which the authority having jurisdiction may seek as a prerequisite to the issuance of building permits or inspection permits.

GI 16 (2004-05-14) Goods and Services Tax and Harmonized Sales Tax

Tenderers are not to include any amount for the Goods and Services Tax (GST) or Harmonized Sales Tax (HST) whichever is applicable. Any amount to be levied in respect of the GST or HST shall be billed as a separate item on an invoice or request for progress payment submitted by the Contractor. The appropriate GST or HST levy shall be paid to the Contractor in addition to the amount approved by the Departmental Representative for work performed under the Contract and shall therefore not affect any of the individual amounts or the total amount of the Contract. The Contractor shall be required to remit the appropriate amount to the Canada Revenue Agency in accordance with the applicable legislation.

GI 17 (2003-12-12) Quebec Sales Tax

The Federal Government is exempt from the Quebec Sales Tax (QST). Tenderers shall not include in their tenders any amount that is intended to cover the tax on goods and services performed in the

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execution of the Work except for such amounts for which an Input Tax Refund is not available. The Contractor should make arrangements directly with the Province of Quebec to recover any QST paid in performing this Contract.

GI 18 (2003-12-12) Certification - Contingency Fees

1. By submission of this tender, the Tenderer certifies that it has not directly or indirectly paid or agreed to pay, and covenants that it shall not directly or indirectly pay, a contingency fee for the solicitation, negotiation or obtaining of this Contract to any person other than to an employee of the Tenderer acting in the normal course of the employee's duties.
2. All accounts and records pertaining to payments of fees or other compensation for the solicitation, obtaining or negotiation of the Contract shall be subject to audit by Canada at the discretion of the Minister.
3. If the Tenderer certifies falsely under this section or is in default of the obligations contained herein, the Minister may either take the Work out of the Contractor's hands in accordance with the provisions of the Contract or recover from the Contractor by way of reduction to the Contract Amount or otherwise the full amount of the contingency fee.
4. In this section
 - (a) "Contingency fee" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining a federal Government contract or negotiating the whole or any part of its terms;
 - (b) "Employee" means a person with whom the Contractor has an employer/employee relationship.
 - (c) "Person" includes an individual or group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes any individual who is required to file a return with the registrar pursuant to section 5 of the *Lobbyist Registration Act, R.S., 1985, c. 44* (4th Supplement as the same may be amended from time to time).

GI 19 (2003-12-12) Hazardous Materials

All products supplied to Public Works and Government Services Canada's workplaces must be in compliance with the *Hazardous Products Act* and the *Controlled Products Regulations*. A Workplace Hazardous Materials Information System has been implemented by federal and provincial legislation and requires suppliers of hazardous materials to provide adequate labels and Material Safety Data Sheets as conditions of sale and importation.

GI 20 (2003-12-12) Condition of Material

Unless otherwise specified elsewhere in the Contract, materiel supplied shall be new and conform to the latest issue of the applicable drawing, specification, scope of work or part number that is in effect on the Tender Closing Date.

GI 21 (2005-12-16) Contractor Performance Evaluation Report Form (CPERF)

The performance of the Contractor during and upon completion of the work shall be evaluated by the Minister. The evaluation shall be based on the quality of workmanship; timeliness of completion of the work; project management, contract management and management of health and safety. Should the Contractor's performance be considered unsatisfactory, the Contractor's tendering privileges on future work may be suspended indefinitely. An electronic version of the form PWGSC-TPSGC 2913, Contractor Performance Evaluation Report Form, used to record the performance is available on the PWGSC Website: <http://www.pwgsc.gc.ca/acquisitions/text/forms/forms-e.html>.

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R2110T (10/12/04) General Instructions to Tenderers - Minor Works

Effective 16/12/05, this clause is superseded by R2110T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS.

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GC 9.1 Indemnification

R2210D **(12/12/03)** **GC 1 - General Provisions**

GC 1.1 Definition

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

"Claimant" means a person to whom money may be payable and who has a direct contract with the Contractor or any sub-contractor of the Contractor for labour, equipment, and material, used or reasonably required for use or consumed in the performance of the Contract but excludes the rental of equipment where the rent pursuant to an agreement is to be applied towards the purchase price of the rental equipment.

"Contractor" means a Person, with whom Canada enters into a Contract to do the Work;

"Contract Amount" means the Amount(s) referred to in TA3 of the Tender and Acceptance when the tender has been accepted and executed on behalf of Canada;

"Contract Documents" include Front Page, Instructions to Tenderers, Tender and Acceptance and any Appendices attached thereto, Plans and Specifications or Scope of Work, General Conditions, Fair Wages and Hours of Labour - Labour Conditions and Fair Wage Schedules for Federal Construction Contracts if the Total Tender Amount is \$30,0000 or more, any Addenda issued prior to tender closing and any written direction issued by the Departmental Representative pursuant to the Contract;

"Departmental Representative" means such person as may be specifically designated in writing by or on behalf of the Minister upon the award of the Contract and includes a person specially authorized by the Departmental Representative to act on the Departmental Representative's behalf;

"Final Certificate of Completion" means a certificate issued by the Departmental Representative when the Work reaches completion;

"Final Certificate of Measurement" means a certificate issued by the Departmental Representative showing the Authorized Quantities, Unit Prices, and Total Amounts for labour, Plant and Material performed, used or supplied by the Contractor in performing the part of the Work to which a Unit Price Arrangement applies;

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“Minister” means the Minister of Public Works and Government Services and a person acting for, or if the office is vacant, in place of the Minister and the Minister's successors in the office, and a lawful deputy and any representative appointed for the purposes of the Contract;

“Material” means all commodities, articles, fixtures, and things required to be furnished in accordance with the Contract for incorporation into the Work;

“Plant” means all tools, implements, machinery, vehicles, structures, equipment, articles, and things, other than Material and tools customarily provided by a trades person in practicing a trade, that are necessary for the performance of the Contract;

“Person” includes any partnership, proprietorship, firm, joint venture, consortium and corporation unless there is an express stipulation in the Contract to the contrary;

“Subcontractor” means a Person having a direct contract with the Contractor to perform a part or parts of the Work or to supply Material worked to a special design for the Work; and

“Work” means everything that is necessary to be done, furnished or delivered by the Contractor to perform the Contract in accordance with the Contract Documents.

GC 1.2 Contract Documents

1. References in the Contract Documents to the singular shall be considered to include the plural and vice versa as the context requires.
2. The Contract Documents are complementary and what is required by one shall be as binding as if required by all.
3. The headings in the Tender and Contract Documents, other than in the Plans and Specifications, form no part of the Contract but are inserted for convenience of reference only.
4. In interpreting the Contract, in the event of discrepancies or conflicts between anything in the Plans and Specifications or Scope of Work and the General Conditions, the General Conditions govern.
5. In interpreting the Plans and Specifications, in the event of discrepancies or conflicts between
 - (a) the Plans and Specifications, the Specifications govern;
 - (b) the Plans, the Plans with the largest scale govern; and
 - (c) figured dimensions and scaled dimensions, the figured dimensions govern.
6. Later dates shall govern within each of the above categories of documents.

GC 1.3 Assignment

This Contract shall not be assigned without the written consent of the Minister.

GC 1.4 Subcontracting

1. The Contractor shall
 - (a) not subcontract the whole of the Work;
 - (b) not subcontract any part of the Work without the written consent of the Departmental Representative; and
 - (c) ensure that all subcontracts entered into at any tier shall incorporate all the terms and conditions of the Contract that can reasonably be applied thereto.

GC 1.5 Time is of the Essence

Time is of the essence of the Contract.

GC 1.6 Applicable Laws and By-laws

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1. The Contractor shall comply with all legislative and regulatory provisions whether federal, provincial, territorial or municipal applicable to the performance of the Work.
2. Unless otherwise provided for in the Contract, the Contractor shall obtain all permits and hold all certificates and licenses required for the performance of the Work.
3. From time to time the Departmental Representative may request that the Contractor provides evidence that it complies with all applicable legislative and regulatory provisions and that it holds all required permits, certificates and licenses. Such evidence shall be provided within the time set out in the request or as otherwise stipulated in the Contract.

GC 1.7 Publicity

The Contractor shall not erect or permit to be erected any sign or advertising, or engage in any public ceremony in connection with the Work, unless approved by the Departmental Representative.

GC 1.8 Members of the House of Commons and Former Public Office Holders

1. No Member of the House of Commons shall be admitted to any share or part of the Contract or to any benefit arising therefrom.
2. No former public office holder who is not in compliance with the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders shall derive a direct benefit from the Contract.

GC 1.9 International Sanctions

1. Persons and companies in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions. Details on existing sanctions can be found at: <http://www.dfait-maeci.gc.ca/trade/sanctions-e.asp>.
2. It is a condition of the Contract that the Contractor not supply to the Government of Canada any goods or services which are subject to economic sanctions.
3. By law, the Contractor must comply with changes to the regulations imposed during the life of the Contract. During the performance of the Work should the imposition of sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services cause an impossibility of performance for the Contractor, the Contractor may request that the Contract be terminated in accordance with GC 7.4, Termination of the Contract.

GC 1.10 Status of the Contractor

The Contractor is engaged as an independent Contractor for the sole purpose of performing the Work. Neither the Contractor nor any of its personnel is engaged as an employee, servant or agent of Canada. The Contractor is responsible for all deductions and remittances required by law in relation to its employees including those required for Canada or Quebec Pension Plans, employment insurance, workers' compensation, and income tax.

GC 1.11 National Security

1. If the Minister is of the opinion that the work is of a class or kind that involves the national security, the Minister may order the contractor
 - (a) to provide the Minister with any information concerning persons employed or to be employed by the contractor for purposes of the contract; and
 - (b) to remove any person from the work and its site if, in the opinion of the Minister, that person may be a risk to the national security.
2. The contractor shall, in all contracts with persons who are to be employed in the performance of the contract, make provision for the performance of any obligation that may be imposed upon the contractor under GC 2.2.
3. The Contractor shall comply with an order of the Minister under 1.

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GC 1.12 Severability

If any provision of the Contract is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be severed from the Contract and all other provisions of the Contract shall remain in full force and effect.

R2220D (14/05/04) GC2 - Administration of the Contract

GC 2.1 Departmental Representative's Rights and Obligations

1. The Departmental Representative shall
 - (a) have access to the Work at all times;
 - (b) decide questions regarding what has been done or what the Contractor is required to do;
 - (c) decide questions regarding the acceptability of the quality or quantity of any labour, Plant or Material used or consumed in the execution of the Work; and
 - (d) decide questions regarding the timing and scheduling of the Work.

GC 2.2 Contractor's Superintendent and Workers

The Contractor shall keep a competent superintendent and capable and skilled workers on the site of the Work at all times during the progress of the Work. If, in the opinion of the Departmental Representative, the superintendent or the workers are deemed to be unacceptable because of incompetence or improper conduct, they shall be removed from the site of the Work and replaced forthwith.

GC 2.3 Nondiscrimination in Hiring and Employment of Labour

1. For the purpose of this section "Persons" include the Contractor, its Subcontractors, its suppliers, and their respective employees, agents, licensees and invitees, and any other Person granted access to the site of the Work.
2. 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, marital status of any person having any relationship or association with that Person;
 - (c) of a complaint that has been made or information that has been given by or in respect of that Person relating to an alleged failure by the Contractor to comply with paragraphs 3. (a) and 3. (b) of GC 2.3.
3. Without restricting the provisions of the Labour Conditions
 - (a) the Contractor shall, within two (2) working days immediately following receipt of a written complaint alleging a breach of the Labour Conditions or of subsection 2 of GC 2.3, at the site of the Work
 - (i) cause to have issued a written direction to the Person or Persons named by the complainant to cease all actions that form the basis of the complaint;
 - (ii) forward a copy of the complaint and the written direction referred to in subparagraph 3. (a)(i) of GC 2.3 to the Departmental Representative by registered mail; and

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- (iii) forward a copy of the complaint to the federal Department of Human Resources and Skills Development, to the attention of the appropriate Director as described in the Labour Conditions.
- (b) the Contractor shall
 - (i) within twenty-four (24) hours immediately following receipt of a direction from the Departmental Representative to do so, cause to have removed from the site of the Work any Person or Persons whom the Departmental Representative believes is in breach of the Labour Conditions or of subsection 2 of GC 2.3; and
 - (ii) no later than thirty (30) days after receipt of the direction referred to in subparagraph 3. (b)(i) of GC 2.3, cause to have the necessary action commenced to remedy the breach described in said direction.
- 4. If the direction is issued pursuant to subparagraph 3. (b) of GC 2.3, Canada may withhold from monies that are due and payable to the Contractor or setoff pursuant to this Contract, whichever is applicable, an amount representing the sum of the costs and payment referred to in subsections 5 and 6 respectively of GC 2.3. Canada shall not be obliged to pay interest on any monies withheld under subsection 4 of GC 2.3.
- 5. If the Contractor fails to proceed in accordance with subparagraph 3. (b)(ii) of GC 2.3, the Departmental Representative shall take the necessary action to
 - (a) have the breach remedied; and
 - (b) determine any supplementary costs incurred by Canada.
- 6. Canada may make a payment directly to the complainant from monies that are due and payable to the Contractor upon receipt from the complainant of
 - (a) a written award issued pursuant to the federal *Commercial Arbitration Act*, R.S., 1985, c C-34.6;
 - (b) a written award issued pursuant to the *Canadian Human Rights Act*, R.S., 1985, c. H-6;
 - (c) a written award issued pursuant to provincial or territorial human rights legislation; or
 - (d) a judgment issued by a court of competent jurisdiction.
- 7. If the Departmental Representative is of the opinion that the Contractor has breached any of the provisions of GC 2.3, the Minister may take the Work out of the Contractor's hands pursuant to GC 7.1, Taking the Work Out of the Contractor's Hands.

GC 2.4 Records to be Kept by the Contractor

- 1. The Contractor shall, upon entering into Contract, maintain and keep intact complete records relating to the Work until the expiration of two (2) years after the date that a Final Certificate of Completion is issued or the final invoice is paid if no Final Certificate of Completion is issued. The Contractor shall, upon request from the Departmental Representative, make said records available for copy, audit or inspection to any person(s) acting on behalf of Canada.
- 2. The Contractor shall cause all Subcontractors, and all other Persons or entities directly or indirectly involved with the Work, to comply with the requirements of subsection 1 of GC 2.4.

GC 2.5 Notices

- 1. Any notice shall be in writing and may be delivered by hand, by courier, by registered or regular mail, or by facsimile or other electronic means that provides a paper record of the text of the notice. The notice shall be addressed to the party for whom it is intended at the address in the Contract or at the last address from which the sender has received notice in accordance with this section. Any notice shall be deemed to be effective on the day it is received at that address or four (4) days after being sent, whichever is the earlier.

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R2220D (12/12/03) **GC2 - Administration of the Contract**

Effective 14/05/04, this clause is superseded by R2220D.

R2230D (12/12/03) **GC3 - Execution of the Work**

GC3.1 Material, Plant, and Real Property Become the Property of Canada

1. All Material and Plant used or consumed for the purposes of the Work shall be the property of Canada. The Material and Plant shall be used only for the purposes of the Work, and shall not be removed from the site of the Work until so approved by the Departmental Representative.
2. The Contractor shall be liable for all loss or damage to Material or Plant that is the property of Canada by virtue of this section.

GC 3.2 Cooperation with Other Contractors

1. The Contractor shall cooperate fully with other contractors or workers sent onto the site of the Work by the Departmental Representative.
2. If, at the time the Contract was executed, the Contractor could not have reasonably foreseen the sending of other contractors or workers onto the site of the Work, and
 - (a) the Contractor incurs extra costs in complying with subsection 1 of GC 3.2; and
 - (b) the Contractor gives written notice of claim for the extra costs within ten (10) days from the date upon which the other contractors or workers were sent onto the site of the Work;

Canada shall pay an additional amount to the Contractor, calculated pursuant to GC 5.9.

GC 3.3 Use of the Work and Cleanup of Site

1. The Contractor shall maintain the site of the Work in a tidy condition and free from the accumulation of waste material throughout the duration of the Contract.
2. Before the Departmental Representative issues the Final Certificate of Completion or approves payment of the final invoice, the Contractor shall remove all materials, tools, construction machinery, equipment, waste products and debris from the site of the Work.
3. Where the Work affects occupied portions of a building, the Contractor shall ensure continuity of all building services and shall ensure safe access for all persons requiring access to said the building.
4. Without restricting any warranty or guarantee implied or imposed by law or any extended warranty specified in the Contract, the Contractor shall, upon notice from the Departmental Representative and at its own expense, rectify all defects which appear in the Work within twelve (12) months from the date of issuance of the Final Certificate of Completion if one is issued pursuant to subsection 1 of GC 5.3, or from the date of the negotiable instrument issued as final payment if a Final Certificate of Completion is not issued, whichever is applicable.
5. The notice referred to in subsection 4 of GC 3.3 shall be in writing and shall include the number of days within which the defect or fault is to be rectified.
6. The Contractor shall transfer and assign, to Canada, any subcontractor, manufacturer or supplier extended warranties or guarantees implied or imposed by law or contained in the contract documents covering periods beyond the twelve (12) months stipulated above. Extended warranties or guarantees referred to herein shall not extend the twelve (12) month period

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whereby the Contractor must rectify and make good any defect or fault that appears in the work or comes to the attention of the Minister.

7. The Contractor shall provide to the Departmental Representative prior to the issuance of the Final Certificate of Completion, a list of all extended warranties and guarantees referred to in subsection 6 of GC 3.3.

R2240D (12/12/03) GC4 - Protection, Health and Safety

GC 4.1 Material, Plant and Real Property Supplied by Canada

The Contractor, having care, custody and control of the Work and its site, shall be responsible for any loss or damage, excluding reasonable wear and tear, to any property of Canada arising out of the performance of the Work whether or not such loss arises from causes beyond the Contractor's control.

GC 4.2 Construction Safety

The Contractor shall be responsible for the health and safety of all persons granted access to the site of the Work and for initiating, maintaining and supervising all safety inspections, precautions and programs in connection with the performance of the Work in accordance with the health and safety legislation in force in the province where the Work is being performed.

R2250D (10/12/04) GC5 - Terms of Payment

GC 5.1 Definitions

For the purposes of this section:

"Payment Period" means a period of thirty (30) days or such other longer period as may be agreed between the Contractor and the Departmental Representative.

an amount is "Due and Payable" when it is due and payable by Canada to the Contractor in accordance with the terms of the Contract.

an amount is "Overdue" when it remains unpaid after the day upon which it is due and payable.

"Date of Payment" means the date of the negotiable instrument of an amount due and payable by the Receiver General for Canada.

"Fixed Price Arrangement" means that part of the Contract that prescribes a lump sum as payment for performance of the Work to which it relates.

"Unit Price Arrangement" means that part of the Contract that prescribes the product of a Unit Price multiplied by a number of Units of Measurement of a Class as payment for performance of the Work to which it relates.

"Unit Price Table" means the table set out in the Tender and Acceptance form.

"Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association.

"Average Bank Rate" means the simple arithmetic mean of the Bank Rates in effect at 4:00 EST each day during the calendar month which immediately precedes the calendar month in which payment is made, where the "Bank Rate" means the rate of interest established from time to time by the Bank of

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Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association.

“Duration of the Work” means the number of calendar days required to complete the Work, commencing on the first day following receipt by the Contractor of the fully executed Contract and ending the day on which the Departmental Representative verifies that the Work has been satisfactorily completed.

GC 5.2 Payment - General Provisions

1. It is a condition precedent to Canada's obligation under subsection GC 5.4.4, subsection GC 5.5.1 and subsections GC 5.6.1 and 5.6.2, that the Contractor has made and delivered to the Departmental Representative, a statutory declaration as described in subsection GC 5.2.2.
2. A statutory declaration in a form acceptable to Canada shall contain a declaration that the Contractor has complied with all lawful obligations with respect to workers, to the Labour Conditions if applicable, and that all lawful obligations towards Subcontractors and suppliers in respect of the Work under the Contract have been fully discharged.
3. A payment by Canada pursuant to this section shall not be construed as evidence that the Work is satisfactory or in accordance with the Contract.
4. Delay in making payment by Canada under section GC 5.2 shall not constitute a breach of Contract.
5. Without limiting any right of setoff or deduction given or implied by law or elsewhere in the Contract, Canada may retain from amounts payable to the Contractor under the Contract, any amount payable to Canada by the Contractor under the Contract or any other current contract.
6. No additional payment shall be made for delays where the cause of the delay was under the control of the Contractor.
7. Except as provided for in these General Conditions, the amount payable to the Contractor under the Contract shall not be increased or decreased by reason of any increase or decrease in cost of the Work brought about by any increase in the cost of labour, Plant or Material. In the event of a change, including a new imposition or repeal, of any tax, customs or other duty, charge, or any similar imposition that is imposed under sales or excise tax legislation of the Government of Canada or any Provincial or Territorial legislation, affects the cost of the Work to the Contractor, and occurs
 - (a) after the date of submission by the Contractor of the Contractor's tender; or
 - (b) if the Contractor's tender was revised, after the date of submission of the last revision;

the Contract Amount shall be adjusted by an amount equal to the increased or decreased cost to the Contractor, which amount shall be determined through a detailed examination of the Contractor's records.

GC 5.3 Final Completion

1. For a Contract in which the duration of the work is greater than thirty (30) days, a Final Certificate of Completion shall be issued to the Contractor on the date on which the Work has been completed and the Contractor has complied with the Contract and all orders and directions made pursuant thereto, all to the satisfaction of the Departmental Representative.
2. Where the Contract is, in whole or in part, a Unit Price Arrangement, the Departmental Representative shall, at the same time as the issuance of the Final Certificate of Completion, issue a Final Certificate of Measurement setting out the Authorized Quantities used or employed in respect of the classes and units set out in the Unit Price Table under TA 6 of the Tender and Acceptance form and any subsequent amendments thereto, such certificate to be binding upon the Contractor and Canada.
3. For Contracts in which the duration of the work is equal to or lesser than thirty (30) days, the Departmental Representative shall issue a written notice to the Contractor following the date that the work has been successfully completed and the Contractor has complied with the Contract and all orders and directions made pursuant thereof, all to the satisfaction of the Departmental Representative, confirming its successful completion.

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GC 5.4 Progress Payments

1. Where the duration of the Work is greater than thirty (30) days, the Contractor shall be entitled to receive progress payments upon submitting a progress claim in a form approved by the Departmental Representative.
2. On the expiration of a Payment Period, the Contractor shall deliver to the Departmental Representative
 - (a) a written progress claim that fully describes any part of the Work that has been satisfactorily completed and any Material that was delivered to the site of the Work but not incorporated into the Work during the Payment Period for which the progress claim relates;
 - (b) a completed and signed statutory declaration as described in subsection GC 5.2.2; and
 - (c) in the case of the initial progress claim and the request for final payment, satisfactory evidence of compliance with workers' compensation legislation that is applicable to the place of the Work.
3. Not later than ten (10) days after receipt of a progress claim properly submitted in accordance with subsection GC 5.4.2, the Departmental Representative shall issue a progress report, a copy of which shall be given to the Contractor, indicating the value of the part of Work and the Material described in the progress claim that, in the opinion of the Departmental Representative, is in accordance with the Contract, and was not included in any previous progress report.
4. Not later than thirty (30) days after the receipt by the Departmental Representative of a properly submitted progress claim and supporting documentation, Canada shall pay the Contractor an amount that is equal to 90 percent of the value that is indicated in the progress report.

GC 5.5 Payments - Duration of Work equal to or less than 30 Days

1. Upon verification by the Departmental Representative and subject to section GC 5.4, payment of the Contractor's invoice for the value of the Work satisfactorily completed, shall be made no later than thirty (30) days after receipt, by the Departmental Representative, of the said invoice, the statutory declaration referred to in subsection GC 5.2.2 and any schedule or update to the schedule as may be specified elsewhere in the Contract.
2. If, within fifteen (15) days of receipt of the invoice referred to in subsection GC 5.5.1, additional information is requested by the Departmental Representative, the 30-day payment period shall commence upon receipt of the requested information.

GC 5.6 Payment - Duration of the Work over 30 Days

1. In the case of a Fixed Price Arrangement, Canada shall pay the Contractor for 90 percent of that portion of the Work that is satisfactorily performed and 90 percent of the price for the Material that is delivered to the site of the Work but not yet installed during the payment period for which the progress payment relates. A progress payment shall be 90 percent of
 - (a) the Contract Amount; plus
 - (b) the aggregate of any increases and decreases to the Contract Amount as may be provided for in the General Conditions or agreed to by the Contractor and the Departmental Representative; less
 - (c) the aggregate of all previous amounts paid for Work satisfactorily performed under the Contract; less
 - (d) the aggregate of all amounts withheld from previous progress payments; less
 - (e) an amount estimated by the Departmental Representative that is equal to the cost to complete the remainder of the Work and correct any known deficiencies; less
 - (f) the aggregate of any amounts payable to or costs and damages claimed by Canada or by a Claimant, against the Contractor.

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2. In the case of a Unit Price Arrangement, Canada shall pay the Contractor 90 percent of the actual quantity of each Class of labour, Plant and Material that was performed, used or supplied to the site of the Work during the Payment Period for which the progress payment relates. The Departmental Representative reserves the right to increase or decrease the quantities submitted by the Contractor if there is a disagreement between the Contractor's invoiced quantities and the quantities shown in the records maintained at the site of the Work. A progress payment shall be 90 percent of the aggregate of
 - (a) the product of the actual quantity for each Class of labour, Plant and Material that was performed, used or supplied to the site of the Work for that Payment Period; multiplied
 - (b) in each case, by the corresponding Unit Price, Goods and Services Tax/Harmonized Sales Tax (GST/HST) extra, as set out in the Unit Price Table; less
 - (c) any amounts payable to or costs and damages claimed by Canada or by a Claimant, against the Contractor.
3. Subject to subsections GC 5.6.4, GC 5.6.5 and GC 5.6.6, the Departmental Representative and the Contractor may, by an agreement in writing, amend a Unit Price as set out in the Unit Price Table for any Class of labour, Plant or Materials provided the Final Certificate of Measurement shows that the Authorized Quantity of the Class of labour, Plant or Material actually performed, used or supplied by the Contractor in performing the Work is
 - (a) less than 85 percent of the Estimated Quantity; or
 - (b) in excess of 115 percent of the Estimated Quantity.
4. In no event shall the total amount of an Item set out in the Unit Price Table that has been amended pursuant to paragraph GC 5.6.3 (a) exceed the amount that would have been Payable to the Contractor had the Estimated Quantity actually been performed, used, or supplied.
5. An amendment that is made necessary by paragraph GC 5.6.3 (b) shall apply only to the quantities that are in excess of 115 percent.
6. Where the Departmental Representative and the Contractor fail to agree on the amount of any adjustment to a Unit Price as contemplated by section GC 5.6, the amended Unit Prices shall be determined in accordance with section GC 5.9.
7. Thirty (30) days after the issue of the Final Certificate of Completion and, in the case of the Unit Price Arrangement, the Final Certificate of Measurement, there shall become due and payable to the Contractor an amount equal to the aggregate of the final Contract Amount, less the aggregate of any amounts payable to or costs and damages claimed by Canada or by a Claimant, against the Contractor, less the aggregate of all progress payments made pursuant to sections GC 5.4 and GC 5.6.

GC 5.7 Interest on Overdue Accounts

1. Canada shall be liable to pay, to the Contractor, simple interest at the Average Bank Rate plus 3 percent per annum on any amount that is Overdue. The interest shall apply from the date such amount becomes Overdue until the day prior to the Date of Payment inclusively.
2. Interest shall be paid to the Contractor without demand on Overdue payments, except, in respect to amounts which are less than fifteen (15) days Overdue, in which case, no interest shall be paid unless the Contractor so demands.
3. Canada shall not be liable to pay interest on Overdue advance payments or where Canada is not responsible for the delay in paying the Contractor.

GC 5.8 Payment in the event of Termination

1. In the case of a Fixed Price Arrangement, if the Contract is terminated pursuant to section GC 7.4, Canada shall pay the Contractor
 - (a) an amount, as agreed upon by the Contractor and the Departmental Representative, for all labour, Plant and Material performed, used or supplied by the Contractor as at the date of termination plus

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- (i) any fully supported termination costs incurred by the Contractor, less
 - (ii) any amounts payable to or costs and damages claimed by Canada or by a Claimant, against the Contractor; or
- (b) failing such an agreement, an amount calculated in accordance with subsection GC 5.9.2.
2. In the case of a Unit Price Arrangement, if the Contract is terminated pursuant to section GC 7.4, Canada shall pay the Contractor
- (a) the product of the Authorized Quantity as described in the Final Certificate of Measurement for each Class of labour, Plant and Material that was performed, used or supplied to the site of the Work as at the date of termination; multiplied
 - (b) in each case, by the corresponding Unit Price, GST/HST extra, as set out in the Unit Price Table or as amended pursuant to subsection GC 5.6.3, less
 - (c) any amounts payable to or costs and damages claimed by Canada or by a Claimant, against the Contractor.

GC 5.9 Determination of Price

1. Prior to Undertaking the Work
- (a) where a Lump Sum Arrangement applies to the Contract or a part thereof, the price of any change shall be the aggregate estimated cost of labour, Plant and Material that is required for the change as agreed upon in writing by the Contractor and the Departmental Representative under the authority of the Minister, plus an allowance for overhead, margin and the risk of undertaking the work within the stipulated amount, which shall be equal to
 - (i) 20 percent of the aggregate estimated cost for that portion of the work done by the Contractor's own forces; and
 - (ii) 15 percent of the aggregate estimated cost for that portion of the work that is done by subcontract;
 - (b) where a Unit Price Arrangement applies to the Contract or a part thereof, the Contractor and the Departmental Representative under the authority of the Minister may, by agreement in writing, add Items, Units of Measurement, Estimated Quantities and Unit Prices to the Unit Price Table;
 - (c) a Unit Price referred to paragraph GC 5.9.1 (b) shall be determined on the basis of the aggregate estimated cost of labour, Plant and Material that is required for the additional Item as agreed upon by the Contractor and the Departmental Representative under the authority of the Minister, plus an amount equal to the allowance set out in paragraph GC 5.9.1 (a);
 - (d) and to facilitate approval of the price of the additional Item, the Contractor shall submit a cost estimate breakdown identifying, as a minimum, the estimated cost of labour, Plant, Material, each subcontract amount, and the amount of the appropriate percentage allowance as described in paragraph GC 5.9.1 (c);
 - (e) if no agreement can be reached as contemplated in paragraph GC5.9.1 (a), the price shall be determined in accordance with subsection GC 5.9.2; and
 - (f) if no agreement can be reached as contemplated in paragraphs GC 5.9.1 (b) and GC 5.9.1 (c), the Departmental Representative shall determine the Class and the Unit of Measurement of the Item of labour, Plant or Material and the Unit Price shall be determined in accordance with subsection GC 5.9.2.
2. Following Completion of the Work
- (a) where it is not possible to predetermine, or where there is failure to agree upon the price of a change in the Work, the price of the change shall be equal to the aggregate of

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- (i) all reasonable and proper amounts actually expended or legally payable by the Contractor in respect of the labour, Plant and Material that fall within one of the classes of expenditure described in paragraph GC 5.9.2 (b), that are directly attributable to the performance of the Contract; plus
 - (ii) an allowance for profit and all other expenditures or costs equal to 10 percent of the sum of the amounts referred to in subparagraph GC 5.9.2 (a)(i); plus
 - (iii) interest, if any, paid by the Contractor on the amounts determined under subparagraphs GC 5.9.2 (a)(i) and (ii), calculated in accordance with section GC 5.7.
- (b) The cost of labour, Plant and Material referred to in subparagraph GC 5.9.2 (a) shall be limited to the following categories of expenditure:
- (i) payments to Subcontractors and suppliers;
 - (ii) wages, salaries and traveling expenses of employees of the Contractor located at the site of the Work and that portion of wages, salaries, bonuses, living and traveling expenses of personnel of the Contractor generally employed at the head office or at a general office of the Contractor provided they are actually and properly engaged on the Work under the Contract;
 - (iii) assessments payable under any statutory authority relating to workers' compensation, employment insurance, pension plan or holidays with pay, provincial health or insurance plans, environmental reviews, and GST collection costs;
 - (iv) rent that is paid for Plant, or an amount equivalent to the said rent if the Plant is owned by the Contractor, that is necessary for and used in the performance of the Work, if the rent or the equivalent amount is reasonable and use of that Plant had been approved by the Departmental Representative;
 - (v) payments for maintaining and operating Plant necessary for and used in the performance of the Work, and payments for effecting repairs thereto that, in the opinion of the Departmental Representative, are necessary for the proper performance of the Contract, other than payments for any repairs to the Plant arising out of defects existing before its allocation to the Work;
 - (vi) payments for Material that is necessary for and incorporated in the Work, or that is necessary for and consumed in the performance of the Contract;
 - (vii) payments for preparation, delivery, handling, erection, installation, inspection, protection and removal of the Plant and Material necessary for and used in the performance of the Contract; and
 - (viii) any other payments made by the Contractor with the approval of the Departmental Representative that are necessary for the performance of the Contract in accordance with the Contract Documents.

GC 5.10 Claims Against and Obligations of the Contractor or Subcontractor

1. The Contractor shall ensure that all its lawful obligations arising out of the performance of the Work are discharged and satisfied at least as often as the Contract requires Canada to pay the Contractor. The Contractor shall provide the Departmental Representative with a Statutory Declaration, as referred to in subsection GC 5.2.2. Among other things, the Statutory Declaration shall also clearly identify the existence and condition of any disputed claims and outstanding obligations.
2. In order to discharge lawful obligations of and satisfy lawful claims against the Contractor or a Subcontractor arising out of the performance of the Work, Canada may
 - (a) pay an amount from money that is due and payable to the Contractor pursuant to the Contract directly to the claimant against the Contractor or the Subcontractor; or

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- (b) withhold from any amount that is due and payable to the Contractor pursuant to the Contract the full amount of the claim or any portion thereof. Monies withheld for this purpose shall not be subject to any interest payment in the event such claims are rejected.
3. The amount referred to in paragraph GC 5.10.2 (a) shall be that amount which the Contractor would have been obliged to pay to such claimant had the provisions of the Provincial or Territorial lien legislation, or in the province of Quebec, the law relating to mortgage, been applicable to the Work. Any such claimant need not comply with the provisions of such legislation setting out the steps by way of notice, registration, or otherwise as might have been necessary to preserve or perfect any claim for lien or mortgage which the claimant might have had.
4. For the purposes of section GC 5.10, a claim shall be considered lawful when it is so determined
- (a) by a court of competent jurisdiction;
 - (b) by an arbitrator duly appointed to arbitrate the said claim; or
 - (c) by written notice delivered to the Departmental Representative and signed by the Contractor authorizing payment of the said claim(s).
5. A payment made pursuant to subsection GC 5.10.2 is, to the extent of the payment, a discharge of Canada's liability to the Contractor under the Contract and may be deducted from any amount payable to the Contractor under the Contract.
6. Subsection GC 5.10.2 shall only apply to claims and obligations where
- (a) the notification of which has set forth the amount claimed to be owing and the person who by Contract is primarily liable;
 - (b) the notification or a copy of the notification was received by the Departmental Representative in writing before final payment is made to the Contractor and within one hundred and twenty (120) days of the date on which the claimant
 - (i) should have been paid in full under the claimant's Contract with the Contractor or Subcontractor where the claim is for money that was lawfully required to held back from the claimant; or
 - (ii) performed the last of the labour or furnished the last of the Plant or Material pursuant to the claimant's Contract with the Contractor or Subcontractor where the claim is not for money referred to in subparagraph GC 5.10.6 (b)(i); and
 - (c) the proceedings to determine the right to payment for the claim shall have commenced within one year from the date that the notice referred to in paragraph GC 5.10.6 (b) was received by the Department Representative.
7. The Departmental Representative shall inform the Contractor in writing of receipt of any notification of claim and of the intention of Canada to withhold funds pursuant to subsection GC 5.10.2. The Contractor may, at any time thereafter and until payment is made to the claimant, post with Canada, security in the form of a Claimant's Payment Bond acceptable to Canada and in an amount equal to the value of the said claim. Upon receipt of such security Canada shall release to the Contractor any funds which would be otherwise payable to the Contractor, that were withheld pursuant to the provisions of subsection GC 5.10.2.

R2250D (12/12/03) GC5 - Terms of Payment

Effective 10/12/04, this clause is superseded by R2250D.

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R2260D (12/12/03) GC6 - Changes in the Work

GC 6.1 Changes in the Work

1. The Minister, or the Departmental Representative under the authority of the Minister, shall have the right to order additional Work, dispense with, or change the whole or any part of the Work described in the Plans and Specifications or Scope of the Work.
2. The Departmental Representative shall decide whether anything done or not done as a result of directions given under subsection 1 of GC 6.1 has increased or decreased the cost of the Work to the Contractor and where the cost of the Work has increased or decreased, the amount payable under the Contract shall be increased or decreased by an amount calculated in accordance with GC5.9.
3. Any change in the terms of the Contract, other than changes that may be ordered by the Minister or the Departmental Representative pursuant to subsection 1 of GC 6.1, may be made only by agreement in writing between Canada and the Contractor.

GC 6.2 Changes in Subsurface Conditions and Delays by Canada

1. No extra payment shall be made to the Contractor for any extra expense, loss or damage for any reason unless the Minister or the Departmental Representative under the authority of the Minister shall certify that such extra expense, loss or damage is directly attributable to
 - (a) a substantial difference between the subsurface conditions as indicated in the Plans and Specifications or Scope of Work and the actual conditions found at the site of the Work; or
 - (b) the neglect or delay by Canada, occurring after the date of award of the Contract,
 - (i) in providing any information or the doing of any act which Canada is required expressly by the Contract to do or as required by a known custom of the trade; or
 - (ii) in suspending the Work pursuant to GC 7.3.
2. The Contractor shall, within ten (10) days immediately after encountering such subsurface conditions or such neglect or delay, give written notice to the Departmental Representative of a claim for such extra expense, loss or damage. Failure to provide such written notice shall render the claim null and void.
3. The amount of any extra payment made under this section shall be calculated in accordance with GC 5.9.
4. If, in the opinion of the Departmental Representative, any difference in subsurface conditions referred to in subsection 1 of GC 6.2 results in a savings to the Contractor, the amount of said savings shall be deducted from the Contract Amount owing to the Contractor.

GC 6.3 Extension of Time

1. Upon written application by the Contractor made before the date fixed for the completion of the Work, the Departmental Representative under the authority of the Minister, may extend the time for completion of the Work if, in the opinion of the Departmental Representative, causes beyond the control of the Contractor have delayed its completion.
2. If the Contractor does not complete the Work by the day fixed for its completion, but completes it thereafter, the Contractor shall
 - (a) pay all Canada's inspection costs relating to the Work incurred after the stipulated completion date; and
 - (b) compensate Canada for any loss or damage resulting from the failure by the Contractor to complete the Work by the completion date fixed by the Contract.

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R2270D (12/12/03) GC7 - Default, Suspension or Termination of Contract

GC7.1 Taking the Work out of the Contractor's Hands

1. By giving notice in writing to the Contractor, the Minister may take all or any part of the Work out of the Contractor's hands, and may employ such means as the Minister sees fit to have the Work completed if the Contractor
 - (a) fails to remedy any delay in the commencement or default in the execution of the Work to the satisfaction of the Departmental Representative within six (6) days of the Minister giving written notice to the Contractor to do so;
 - (b) defaults in the completion of any part of the Work within the time fixed by the Contract for its completion;
 - (c) becomes insolvent or commits an act of bankruptcy and has neither made a proposal to its creditors nor filed a notice of intention to make such a proposal pursuant to the *Bankruptcy and Insolvency Act*;
 - (d) abandons the Work;
 - (e) makes an assignment contrary to GC1.3; and or
 - (f) otherwise fails to observe or perform any of the provisions of the Contract.
2. If the whole or any part of the Work is taken out of the Contractor's hands, the Contractor's right to any further payment that is due or accruing due under the Contract is extinguished.
3. The Contractor shall be liable to pay Canada, upon demand, an amount that is equal to the sum of all losses and damages incurred or sustained by Canada in respect of the Contractor's failure to complete the Work.
4. If the whole or any part of the Work that is taken out of the Contractor's hands pursuant to subsection 1 of GC7.1 is completed by Canada, the Departmental Representative shall calculate the amount, if any, of the holdback or progress claims that had accrued and was due prior to the date on which the Work was taken out of the Contractor's hands.
5. If it is determined that there is an amount that is not required for the purposes of having the Work performed or of compensating Canada for any other loss or damage incurred or sustained by reason of the Contractor's default, Canada may then pay the Contractor the amount determined not to be required pursuant to subsection 4 of GC7.1.

GC7.2 Effect of Taking the Work Out of the Contractor's Hands

1. The taking of the Work or part thereof out of the Contractor's hands pursuant to subsection 1 of GC7.1 does not operate so as to relieve or discharge the Contractor from any obligations under the Contract or imposed upon the Contractor by law except the obligation to complete the performance of that part of the Work that was taken out of the Contractor's hands.
2. All Plant and Material and the interest of the Contractor in all real property, licenses, powers and privileges acquired, used, provided or consumed by the Contractor under the Contract shall continue to be the property of Canada without compensation to the Contractor.
3. When the Departmental Representative certifies that any Plant, Material or any interest of the Contractor referred to in GC7.2, is no longer required for the purpose of the Work, or that it is not in the interests of Canada to retain that Plant, Material or interest, it shall revert to the Contractor.

GC7.3 Suspension of the Contract

1. The Minister may, upon giving notice in writing to the Contractor, suspend the performance of the Work at any time. The Contractor shall comply with such notice immediately, subject to any conditions that may be stipulated in the notice.

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2. If the Minister suspends the Work for thirty (30) days or less the Contractor shall, subject to its remedy under GC5.9, complete the Work when called upon to do so. If the Minister suspends the Work for a period in excess of thirty (30) days, the Contractor may request that the Minister terminate the Contract pursuant to GC7.4.
3. It is the responsibility of the Contractor to mitigate all costs during the suspension period.

GC7.4 Termination of the Contract

1. The Minister may terminate the Contract at any time by giving notice of termination in writing to the Contractor and upon receipt of such notice the Contractor shall cease all operations in performance of the Contract, subject to any conditions that may be stipulated in the notice.
 2. Termination under subsection 1 of GC7.4 shall not relieve the Contractor of any legal or contractual obligations other than that portion of Work that remains to be completed at the time of the termination.
 3. Payment, in event of termination under this subsection, shall be made pursuant to the provision of GC5.8.
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R2280D (10/12/04) GC8 - Dispute Resolution

GC 8.1 Interpretation

1. In these Dispute Resolution Conditions and in clause R0208D, Dispute Resolution - Rules for Mediation,

"dispute" means any disagreement regarding any issue identified by the Contractor in the notice submitted to the Departmental Representative in accordance with section GC 8.3, and includes any claim by the Contractor arising from such disagreement and any counterclaim by Canada, but does not include any claim by either party for punitive or exemplary damages, injury to persons, death, or any claim based on an allegation of libel or slander; and

"Working Day" means a day other than a Saturday, Sunday or a holiday which is observed by the construction industry in the area where the Work is located.
2. The alternative dispute resolution procedures set out in GC 8, do not apply to any claim by Canada against the Contractor except any counterclaim in a dispute, including, but not limited to, any claim of setoff regarding any amount due to Canada under section GC 6.3.

GC 8.2 Consultation and Co-operation

1. The parties agree to maintain open and honest communication throughout the performance of the Contract.
2. The parties agree to consult and co-operate with each other in the furtherance of the Work and the resolution of problems or differences which may arise.

GC 8.3 Authority of Departmental Representative

1. Any differences between the parties to the Contract of any nature arising out of, or in connection with, the Contract which could result in a claim by the Contractor against Canada, and which is not settled by consultation and co-operation as envisaged in section GC 8.2, shall be resolved in the first instance by the Departmental Representative, whose written decision or direction shall be final and binding subject only to the provisions of GC 8. Such written decision or direction includes, but is not limited to, any written decision or direction by the Departmental Representative under any provision of the General Conditions.
2. The Contractor shall be deemed to have accepted the decision or direction of the Departmental Representative referred to in subsection GC 8.3.1 and to have expressly waived and released Canada from any claim in respect of the particular matter dealt with in that decision or direction

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unless, within fifteen (15) working days after receipt of the decision or direction, the Contractor submits to the Departmental Representative a written notice of dispute requesting formal negotiation under GC 8.4. Such notice shall refer specifically to section GC 8.4, and shall specify the issues in contention and the relevant provisions of the Contract.

3. The giving of a written notice in accordance with subsection GC 8.3.2 shall not relieve the Contractor from complying with the decision or direction that is the subject of the dispute. Such compliance, however, shall not be construed as an admission by the Contractor of the correctness of such decision or direction.
4. If a dispute is not resolved promptly, the Departmental Representative shall give such instructions as, in the Departmental Representative's opinion, are necessary for the proper performance of the Work and to prevent delays pending a resolution of the matter. Unless the Minister terminates the Contract, orders the Contractor to suspend the Work, or takes the Work out of the hands of the Contractor, the Contractor shall continue to perform the Work in accordance with the provisions and requirements of the Contract and the instructions of the Departmental Representative. Such performance shall not prejudice any claim that the Contractor may have.
5. Nothing in GC 8 relieves the Contractor from its obligation to provide any other notice required by the Contract within the time specified in the Contract, including, but not limited to, any notice required under section GC 6.2.

GC 8.4 Negotiation

1. Within ten (10) working days after receipt by the Departmental Representative of a notice referred to in subsection GC 8.3.2, or within such other period of time as may be mutually agreed to, the parties shall commence formal negotiations in order to resolve the dispute. Negotiations shall occur initially between representatives of the Contractor and Canada who play a direct supervisory role in the performance, administration or management of the Contract.
2. If the representatives referred to in subsection GC 8.4.1 are unable to resolve some or all of the issues which are the subject of the negotiations within ten (10) working days, the parties shall refer the remaining issues which are in dispute to a second level of negotiation between a principal or principals of the Contractor and a senior level manager or senior level managers representing Canada.
3. If negotiations fail to resolve the dispute within thirty (30) working days from the date of delivery of the notice referred to in subsection GC 8.3.2, or within such longer period as may have been agreed to by the parties, the Contractor may, by giving written notice to the Departmental Representative, in accordance with section GC 2.5, within ten (10) working days from the end of such period, request that mediation be undertaken to assist the parties to reach agreement on the outstanding issues.
4. If the Contractor does not request mediation within the period permitted by subsection GC 8.4.3, the Contractor shall be deemed to have accepted the decision or direction of the Departmental Representative under subsection 1 of GC 8.3, and to have expressly waived and released Canada from any claim in respect of the particular matter dealt with in that decision or direction.

GC 8.5 Mediation

1. If the Contractor has requested mediation in accordance with subsection GC 8.4.3, mediation shall be conducted in accordance with clause R0208D, Dispute Resolution - Rules for Mediation.
2. If a Project Mediator has not previously been appointed for the purposes of the Contract, a Project Mediator shall be appointed in accordance with R0208D, forthwith after delivery of a notice in accordance with subsection GC 8.4.3, requesting mediation.
3. If the dispute has not been resolved within
 - (a) ten (10) working days following the appointment of a Project Mediator in accordance with subsection GC 8.5.2 if a Project Mediator was not previously appointed;
 - (b) ten (10) working days following receipt by the Departmental Representative of a written notice in accordance with subsection GC 8.4.4, if a Project Mediator was previously appointed; or

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(c) such other longer period as may have been agreed to by the parties;

the Project Mediator shall terminate the mediation by giving written notice to the parties stating the effective date of termination.

GC 8.6 Confidentiality

All information exchanged during alternative dispute resolution procedures, by whatever means, shall be without prejudice and shall be treated as confidential by the parties and their representatives, unless otherwise required by law. However, evidence that is independently admissible or discoverable shall not be rendered inadmissible or non-discoverable by virtue of its use during an alternative dispute resolution process.

GC 8.7 Settlement

Any agreement to settle all or any part of a dispute, by whatever means, shall be in writing and be signed by the parties or their authorized representatives.

R2280D (12/12/03) GC8 - Dispute Resolution

Effective 10/12/04, this clause is superseded by R2280D.

R2290D (12/12/03) GC9 - Indemnification and Insurance

GC 9.1 Indemnification

1. The Contractor shall indemnify and save harmless Canada, its servants, agents and all those for whom Canada may be, in law, responsible, from and against all claims, demands, losses, damages, costs and legal proceedings by whomever made, sustained, brought or prosecuted, and in any manner based upon, occasioned by or attributed to the activities of the Contractor, the Contractor's employees, agents or persons for whom the Contractor is, in law, responsible for the performance or purported performance of the Contract, including an infringement or alleged infringement of a patent of invention or any other kind of intellectual property.
2. For the purpose of subsection 1 of GC 9.1, activities include any act improperly carried out and any omission or delay in carrying out an act.
3. The Contractor's liability to indemnify or reimburse Canada under the Contract shall not affect or prejudice Canada from exercising any rights available to Canada at law or in equity.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. The contracting officer is to fill in the necessary information in the areas indicated.

R2310D (14/05/04) Tender and Acceptance Form

TA 1 Project Identification, Facility Security Requirements and Site Visit
TA 2 Offer
TA 3 Addenda
TA 4 General Agreement

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TA 5 Lump Sum
TA 6 Unit Price Table

TA 1 Project Identification, Facility Security Requirements and Site Visit

1. Project Identification

(a) Description of the Work: **(insert description of the Work)**

(b) Requisition Number: _____ **(insert Requisition Number)**

(c) Project Number: _____ **(insert Project Number)**

2. Facility Security Requirements

The facility security requirement for this project is **(insert (x) in appropriate box)**

None
 Enhanced Reliability
 Secret

3. Site Visit

(a) It is **(MANDATORY OR OPTIONAL OR NOT REQUIRED)** that Tenderers attend a site visit at the following designated date, time and location to examine the scope of the work required and the existing site conditions:

SITE VISIT: **(Date)** _____ / _____ / _____ **(Time):** _____
Day / Month / Year

Location of Site Visit: _____

(b) In the event that a mandatory site visit is indicated, an attendance form shall be signed by the Tenderers' representatives in attendance and returned to the Departmental Representative immediately after the visit has been conducted. Tenderers who, for any reason, cannot attend the site visit at the specified date, time and location will not be given an alternative appointment. Therefore tenders submitted by Tenderers who have not attended the site visit or who have failed to sign the attendance form will be rejected as non-responsive for not meeting an essential requirement of the tender documents.

4. Procurement Business Number (PBN)

(a) Tenderers should enter their PBN as described in GI 7 in the space provided below:
PBN: _____.

TA 2 Offer

1. The Tenderer (hereinafter called the "Contractor") hereby offers to Canada as represented by the Minister of Public Works & Government Services Canada (hereinafter called the "Minister") to furnish all necessary labour, Plant, Material, tools and equipment to execute and complete, in a careful and workmanlike manner, the Work as set out in the Plans and Specifications or Scope of Work numbered _____ **(insert Project Number)** and dated _____ **(insert date of Plans and Specifications or Scope of Work)** for the

(a) Lump Sum Amount as set out in TA 5; or

(b) Total Unit Price Amount as set out in TA 6; or

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- (c) Total Tender Amount of \$ _____, Goods and Services Tax/Harmonized Sales Tax (GST/HST) extra, which is the sum of the Amounts set out in TA5 and TA 6;

of this Tender and Acceptance.

2. The above Amount(s) is(are) inclusive of all applicable federal, provincial and municipal taxes. In the event of a change in any tax, customs or other duty, charge, or any similar imposition that is imposed under sales or excise tax legislation of the Government of Canada or any provincial or territorial legislation, that affects the cost to the Contractor of the Work, and that change occurs
- (a) after the date the tender was mailed or delivered; or
- (b) if the tender is revised, after the date the last revision was mailed or delivered;
- the amount of this offer shall be increased or decreased in the manner provided for in GC 5.2.
3. For the purposes of the tender, the GST/HST, whichever is applicable, is not to be considered as an applicable tax. The GST/HST will be paid to the Contractor as a separate amount in addition to the amount paid for Work satisfactorily performed.
4. The Offer is made subject to the provisions contained in the Instructions to Tenderers, and the other Tender and Contract Documents referred to therein in accordance with GI 1, and these Documents together shall be and are the complete tender.
5. The tender supersedes and cancels all prior communications, negotiations and agreements relating to the Work other than those contained in the completed tender.
6. The Plans and Specifications or Scope of Work (**insert (x) in appropriate box**):
- () are attached to this tender package
- () will be distributed at the Site Visit referred to in subsection 3 of TA 1.

TA 3 Addenda

1. By submission of my/our tender, I/we confirm that I/we have read and understand the requirements expressed in all addenda up to and including Addendum No. _____ and have included all costs of these requirements in my/our Total Tender Amount.
2. I/We understand that, if I/we fail to enter the correct number of the last Addenda issued, my/our tender shall be disqualified.

TA 4 General Agreement

1. The Contractor agrees
- (a) to complete the Work within _____ (**insert number of days**) days from the date of notification of acceptance of this tender;
- (b) that this Tender and Acceptance, the Instructions to Tenderers, the Plans and Specifications or Scope of Work referred to in TA 2, the General Conditions, the Labour Conditions and the Fair Wage Schedule (if the Total Tender Amount is \$30,000 or more) and any addenda issued prior to the Tender Closing Date shall be and are the complete tender and this offer is made subject to the provisions contained therein. Submission of a tender constitutes acknowledgment that the Tenderer has read and agrees to be bound by these documents;
- (c) that this tender may not be withdrawn for a period of thirty (30) calendar days immediately following the Tender Closing Date;
- (d) that the complete tender together with, and subject to, all provisions contained therein shall, when accepted and executed on behalf of Canada, constitute a binding Contract between the Contractor and Canada; and

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- (e) that, once accepted and executed on behalf of Canada, this tender becomes the Contract and the Amount referred to in TA 2 becomes the Contract Amount.

TA 5 Lump Sum

1. The contractor agrees that the following is the Lump Sum Amount referred to in TA 2 above: \$ _____ GST/HST extra, for the Fixed Price portion of the Work.
2. The Lump Sum Amount should be entered numerically only.

TA 6 Unit Price Table

1. The following is the Unit Price Table for the purposes of the tender and Contract. A Unit Price shall be entered and the Total Estimated Price should be entered for each Item listed.
2. The Contractor agrees that
 - (a) the following are the Unit Prices referred to in TA 2 above for the Unit Price portion of the Work; and
 - (b) the Unit Prices, as tendered, govern and that any errors in the extension of the Unit Prices and in the addition of the Total Estimated Prices will be corrected by Canada in order to obtain the Total Unit Price Amount to be tendered.

| Item | Labour, Plant & Material | Unit of Measurement | Estimated Quantity | Unit Prices, GST/HST extra | Total Estimated Price, GST/HST extra |
|---|--------------------------|---------------------|--------------------|----------------------------|--------------------------------------|
| | | | | \$ | \$ |
| | | | | \$ | \$ |
| | | | | \$ | \$ |
| | | | | \$ | \$ |
| | | | | \$ | \$ |
| | | | | \$ | \$ |
| | | | | \$ | \$ |
| | | | | \$ | \$ |
| Total Unit Price Amount for the Unit Price portion of the Work, GST/HST extra | | | | | \$ |

R2310D (12/12/03) Tender and Acceptance Form

Effective 14/05/04, this clause is superseded by R2310D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS.

R4000D (16/02/98) Statutory Declaration

Canada, Province or Territory of _____
 IN THE MATTER OF an agreement bearing no. _____ and dated the _____ day of _____, 19 _____
 between Canada, and _____ **{insert full name of Consultant and delete this instruction}** hereinafter referred to as the _____ **{insert Consultant or Manager as applicable and delete this instruction}**, for _____ **{insert description and location of project}**, and IN THE
 MATTER OF ¹ a service completed or ² the final payment for the service (refer to clause R0220D, General Conditions, of the Agreement), as indicated by a CHECKMARK { } in APPLICABLE BOX below.

TO WIT:

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I, _____, of _____
(Name of Declarant) (Declarant's address)

do solemnly declare that I am _____
(Capacity of Declarant)

and as such have personal knowledge of the said agreement and the facts and matters stated herein,
and

¹ that, up to the date of completion of the service described in the agreement as: _____
{insert the service attested to as described in the Agreement and delete this instruction} the
Consultant has complied with and discharged all lawful obligations arising out of the execution of
this service.

OR

² that, up to the date of final completion of the services, the Consultant has complied with and
discharged all its lawful obligations in respect of the services contracted for and discharged and
satisfied all lawful claims against it that arose out of the performance of the services, except for
the amounts owing which total \$ _____.
A detailed explanatory statement of the amounts owing, including any amounts in dispute, must be attached as part of this
Statutory Declaration.

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

Witnessing Authority
Please clearly state authority for receiving solemn declaration

Declarant:

(Notary Public, Commissioner, or other authorized officer)

DECLARED before me at _____

this _____ day of _____, 19 _____

(Signature of person before whom the Declaration is made)

(Signature of Declarant)

(Name of person before whom the Declaration is made)
Notaries affix Notarial Seal

NOTICE:

If this Declaration is not complete in every detail, it will be returned for completion and payment will be delayed.
Sections 131 and 361 of the Criminal Code of Canada which deals with offences relating to affidavits are hereby brought to the attention of the Declarant

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