THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 10-086

BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH AECON CONSTRUCTION AND MATERIALS LIMITED

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

That the Mayor and Clerk be hereby authorized to execute an agreement between The Corporation of the City of Peterborough and AECON Construction and Materials Limited for the Design and Build Integrated Team for Construction Work at the Peterborough Airport (Report PLPD10-033) (Request for Proposal P-10-10), in the form attached hereby as Schedule “A”, and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 17th day of May, 2010.

(Sgd.) D. Paul Ayotte, Mayor

(Sgd.) John Kennedy, Deputy Clerk
AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER
For use when a stipulated price is the basis of payment.

This Agreement made as of the 17th day of May , in the year 2010,

by and between

THE CORPORATION OF THE CITY OF PETERBOROUGH
hereinafter called the "Owner"

and

AECOS CONSTRUCTION AND MATERIALS LIMITED
hereinafter called the "Design-Builder"

The Owner and the Design-Builder agree as follows:

ARTICLE A-1 THE WORK
The Design-Builder shall:

1.1 perform the Work required by the Contract Documents for the design and construction work located at the Peterborough Municipal Airport for which the Agreement has been signed by the parties, and for which Turner & Townsend cm2r is acting as, and is hereinafter called, the "Consultant",

1.2 do and fulfil everything indicated by the Contract Documents, and

1.3 commence the Work by the 20th day of May , in the year 2010, and, subject to adjustment in Contract Time as provided for in the Contract Documents, attain Substantial Performance of the Work:

1.3.1 28th day of February , in the year 2010; or

1.3.2 within weeks after receipt of all approvals from authorities having jurisdiction.
ARTICLE A-2 AGREEMENTS AND AMENDMENTS

2.1 The Contract as described in Article A-3 of the Agreement - CONTRACT DOCUMENTS supersedes all prior negotiations, representations, or agreements, either written or oral, relating in any manner to the Work.

2.2 The Contract may be amended only as provided in the Contract Documents.

ARTICLE A-3 CONTRACT DOCUMENTS

3.1 The following are the Contract Documents referred to in Article A-1 of the Agreement - THE WORK:

- Agreement Between Owner and Design-Builders
- Definitions of the Design-Build Stipulated Price Contract
- General Conditions of the Design-Build Stipulated Price Contract
- Owner's Statement of Requirements
- Construction Documents, after they have been accepted by the Owner
- Information List found in the Owner's Statement of Requirements is superseded by the attached List found in Appendix A to this Agreement.

Amendments to CCA 14-2000 Design-Build Stipulated Price Contract

(Insert here, attaching additional pages if required, a list identifying all other Contract Documents e.g. Supplementary Conditions; Proposals; Specifications, giving a list of contents with section numbers and titles, number of pages, and date. Drawings, giving drawing number, title, date, revision date or mark; Addenda, giving title, number, date)
ARTICLE A-4 CONTRACT PRICE

4.1 The Contract Price, which excludes Value Added Taxes, is:

FI F I N E V I L L E M I L L I O N F I V E H U N D R E D A N D F I F T Y - E I G H T T H O U S A N D

$15,558,000.00

4.2 Value Added Taxes (of __________ %) payable by the Owner to the Design-Builder are:

5% Goods and Services Tax ("GST") for work performed prior to July 1, 2010 and 13% Harmonized Sales Tax ("HST") for work performed on or after July 1, 2010, subject to the General Transitional Rules

4.3 Total amount payable by the Owner to the Design-Builder for the Work is:

$__________________________

4.4 All amounts are in Canadian funds.

4.5 These amounts shall be subject to adjustments as provided in the Contract Documents.

ARTICLE A-5 PAYMENT

5.1 Subject to the provisions of the Contract Documents, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback of ______________ percent (_______ %), the Owner shall:

1. make progress payments to the Design-Builder on account of the Contract Price when due in the amount certified by Turner & Townsend cm2r

5.2 In the event of loss or damage occurring where payment becomes due under the property and boiler and machinery insurance policies, payments shall be made to the Design-Builder in accordance with the provisions of GC 11.1 - INSURANCE.

5.3 Interest

1. Should either party fail to make payments as they become due under the terms of the Contract or in an award by arbitration or court, interest at ______________ percent (_______ %) per annum above the prime rate on such unpaid amounts shall also become due and payable until payment. Such interest shall be compounded on a monthly basis. The prime rate shall be the lowest rate of interest quoted by the Royal Bank of Canada for prime business loans.
2 Interest shall apply at the rate and in the manner prescribed by paragraph 5.3.1 of this Article on the amount of any claim advanced and for which the Design-Builder is thereafter entitled to payment, either pursuant to Part 8 of the General Conditions - DISPUTE RESOLUTION, or otherwise, from the date the amount would have been due and payable under the Contract, had it not been in dispute, until the date it is paid.

ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES

6.1 Notices in writing between the parties or between them and the Consultant shall be considered to have been received by the addressee on the date of delivery if delivered to the individual, or to a member of the firm, or to an officer of the corporation for whom they are intended by hand or by registered post, or if sent by regular post, to have been delivered within 5 Working Days of the date of mailing when addressed as follows:

The Owner at 500 George Street North, Peterborough, Ontario K9H 3R9  
post office or district, province, postal code

The Design-Builder at 20 Carlson Court, Suite 800, Toronto, Ontario M5W 7K6  
post office or district, province, postal code

The Consultant at One St. Clair Avenue East, 7th Floor, Toronto, Ontario M4T 2V9  
post office or district, province, postal code

The Payment Certifier at One St. Clair Avenue East, 7th Floor, Toronto, Ontario M4T 2V9  
post office or district, province, postal code

* Delete this paragraph if inapplicable.

ARTICLE A-7 LANGUAGE OF THE CONTRACT

7.1 When the Contract Documents are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English language shall prevail.

* Complete this statement by striking out inapplicable term.

7.2 This Agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.

ARTICLE A-8 SUCCESION

8.1 The Contract shall be to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and permitted assigns.
In witness whereof the parties hereto have executed this Agreement and by the hands of their duly authorized representatives.

SIGNED AND DELIVERED
in the presence of:

Owner

THE CORPORATION OF THE CITY OF PETERBOROUGH

name of Owner

WITNESS

signature

D. Paul Ayotte, Mayor

name and title of person signing

signature

John Kennedy, Deputy Clerk

name and title of person signing

Design-Builder

AECOM CONSTRUCTION AND MATERIALS LIMITED

name of Design-Builder

WITNESS

signature

name and title of person signing

signature

name and title of person signing

N.B.: Where legal jurisdiction, local practice, or Owner or Design-Builder requirement calls for:
(a) proof of authority to execute this document, attach such proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Agreement for and on behalf of the corporation or partnership, or
(b) the affixing of a corporate seal, this Agreement should be properly sealed.
The following table is a list of documents available to the Proponents for information purposes:

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<td>Site Servicing Extension, D.M. Wills</td>
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<td>Site Servicing Expansion, D.M. Wills</td>
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DEFINITIONS OF THE DESIGN-BUILD STIPULATED PRICE CONTRACT

The following Definitions shall apply to all Contract Documents.

1. Change Directive
   A Change Directive is a written instruction signed by the Owner directing a change in the Work within the general scope of the Contract Documents.

2. Change Order
   A Change Order is a written amendment to the Contract signed by the Owner and the Design-Builder stating their agreement upon:
   - a change in the Work;
   - an amendment to the Owner’s Statement of Requirements, if any;
   - the method of adjustment or the amount of the adjustment in the Contract Price, if any; and
   - the extent of the adjustment in the Contract Time, if any.

3. Construction
   Construction means the total construction and related services required by the Contract Documents.

4. Construction Documents
   The Construction Documents consist of the drawings and specifications that are prepared based on the Contract Documents by or on behalf of the Design-Builder and that are accepted and signed by the Owner and the Design-Builder after execution of the Agreement, as meeting the general functional intent of the Contract Documents.

5. Consultant
   The Consultant is the person or entity identified as such in the Agreement. The term Consultant means the Architect, the Engineer, or entity licensed to practice in the province or territory of the Place of the Work and engaged by the Design-Builder to provide the Consultant’s Design Services and to coordinate the provision of the Design Services of all other consultants employed by the Design-Builder. The term Consultant means the Consultant or the Consultant’s authorized representative as designated by the Design-Builder to the Owner in writing.

6. Contract
   The Contract is the undertaking by the parties to perform their respective duties, responsibilities, and obligations as prescribed in the Contract Documents and represents the entire agreement between the parties.

7. Contract Documents
   The Contract Documents consist of those documents listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS and amendments thereto agreed upon between the parties.

8. Contract Price
   The Contract Price is the amount stipulated in Article A-4 of the Agreement - CONTRACT PRICE.

9. Contract Time
   The Contract Time is the time stipulated in paragraph 1.3 of Article A-1 of the Agreement - THE WORK from commencement of the Work to Substantial Performance of the Work.

10. Design-Builder
    The Design-Builder is the person or entity identified as such in the Agreement. The term Design-Builder means the Design-Builder or the Design-Builder’s authorized representative as designated by the Design-Builder to the Owner in writing.

11. Design Services
    Design Services means the professional services for the design and construction administration performed by the Consultant or other consultants under the Contract.
12. Owner
The Owner is the person or entity identified as such in the Agreement. The term Owner means the Owner or the Owner's authorized agent or representative as designated by the Owner to the Design-Builder in writing.

13. Owner's Statement of Requirements
The Owner's Statement of Requirements consists of the site information and program requirements provided by the Owner and as listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS and amendments thereto agreed upon between the parties.

14. Payment Certifier
The Payment Certifier is the person or entity identified as such in the Agreement responsible for the issuance of certificates for payment. The Payment Certifier may be the Consultant, Owner, or any knowledgeable third party, as designated by the Owner.

15. Place of the Work
The Place of the Work is the designated site or location of the Construction identified in Article A-1 of the Agreement - THE WORK.

16. Product
Product or Products means material, machinery, equipment, and fixtures forming part of the Work, but does not include machinery and equipment used to prepare, fabricate, convey, or erect the Work, which are referred to as construction machinery and equipment.

17. Project
The Project means the Owner's enterprise of which the Work may be the whole or a part.

18. Provide
Provide means to supply and install.

19. Subcontractor
A Subcontractor is a person or entity, other than the Consultant or other consultants, having a direct contract with the Design-Builder to perform a part or parts of the Work, or to supply Products worked to a special design for the Work.

20. Substantial Performance of the Work
Substantial Performance of the Work is as defined in the lien legislation applicable to the Place of the Work. If such legislation is not in force or does not contain such definition, or if the Work is governed by the Civil Code of Quebec, Substantial Performance of the Work shall have been reached when the Work is ready for use or is being used for the purpose intended and is so certified by the Consultant.

21. Supplier
A Supplier is a person or entity having a direct contract with the Design-Builder to supply Products not worked to a special design for the Work.

22. Value Added Taxes
Value Added Taxes means such sum as shall be levied upon the Contract Price by the Federal or any Provincial or Territorial Government and is computed as a percentage of the Contract Price and includes the Goods and Services Tax, the Quebec Sales Tax, Harmonized Sales Taxes, and any similar tax, the payment or collection of which, by the legislation imposing such tax, is an obligation of the Design-Builder.

23. Work
The Work means the Design Services and Construction required by the Contract.

24. Working Day
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.
PART I GENERAL PROVISIONS

GC 1.1 CONTRACT DOCUMENTS

1.1.1 The intent of the Contract Documents is to include the Design Services, Construction, and other services necessary for the performance of the Work in accordance with these documents. It is not intended, however, that the Design-Builder shall supply products or perform work not consistent with, not covered by, or not properly inferable from the Contract Documents.

1.1.2 Nothing contained in the Contract Documents shall create any contractual relationship between the Owner and the Consultant, an other consultant, a Subcontractor, a Supplier, or their agent, employee, or any other person performing any of the Work.

1.1.3 If the Payment Certifier is not the Consultant or the Owner, the Owner shall, if requested in writing by the Design-Builder, disclose the contractual relationship between the Owner and the Payment Certifier by provision of a copy of the contract with the Payment Certifier to the Design-Builder.

1.1.4 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all.

1.1.5 Words and abbreviations which have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

1.1.6 References in the Contract Documents to the singular shall be considered to include the plural as the context requires.

1.1.7 The specifications are that portion of the Contract Documents, wherever located and whenever issued, consisting of the written requirements and standards for Products, systems, workmanship, and the services necessary for the performance of the Construction.

1.1.8 The drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location, and dimensions of the Construction, generally including plans, elevations, sections, details, schedules, and diagrams.

1.1.9 Neither the organization of the specifications into divisions, sections, and parts, nor the arrangement of drawings shall control the Design-Builder in dividing the work among Subcontractors and Suppliers or in establishing the extent of the work to be performed by a trade.

1.1.10 If there is a conflict within the Contract Documents:

1.1.10.1 the order of priority of documents, from highest to lowest, shall be:

- the Agreement between the Owner and the Design-Builder,
- the Definitions,
- Supplementary Conditions,
- the General Conditions,
- the Owner's Statement of Requirements,
- the Construction Documents:
  - Division 1 of the specifications,
  - Divisions 2 through 16 of the specifications,
  - material and finishing schedules,
  - drawings.

2. drawings of larger scale shall govern over those of smaller scale of the same date.

3. dimensions shown on drawings shall govern over dimensions scaled from drawings.

4. later dated documents shall govern over earlier documents of the same type.

1.1.11 Copyright for the design and drawings prepared by or on behalf of the Design-Builder belongs to the Consultant or other consultants who prepared them.

1.1.12 Plans, sketches, drawings, graphic representations, and specifications, including computer generated designs, when prepared by the Consultant, or other consultants are instruments of their service and shall remain their property whether the Construction for which they are made is executed or not.
1.1.13 Submissions or distribution of the Consultant or other consultants’ plans, sketches, drawings, graphic representations, and specifications to meet official regulatory requirements or for other purposes in connection with the Work is not to be construed as publication in derogation of their reserved rights.

1.1.14 The Owner may retain copies, including reproducible copies, of plans, sketches, drawings, graphic representations, and specifications for information and reference in connection with the Owner’s design and construction and the Owner’s use and occupancy of the Work. As a condition precedent to the use of such documents, the Owner shall have paid in full for any Design Services rendered. The Design-Builder will, prior to any payment being issued under this Contract, deliver to the Owner a consent and acknowledgement signed by the Consultant confirming the Consultant’s agreement that the Owner may use any material produced by the Consultant and in which the Consultant retains any copyright in the manner set forth in paragraphs 1.1.13 to 1.1.16.

1.1.15 Except for reference purposes, the plans, sketches, drawings, graphic representations, and specifications shall not be used for additions or alterations to the Work or on any other project.

1.1.16 Models and architectural renderings furnished by the Design-Builder at the Owner’s expense are the property of the Owner.

GC 1.2 OWNER SUPPLIED INFORMATION

1.2.1 Unless the Contract Documents specifically state otherwise, the Design-Builder, Consultant and other consultants may rely on the accuracy and completeness of all information provided by the Owner without regard for the source of such information.

1.2.2 Notwithstanding any other provision of the Contract, the Design-Builder is not responsible for any design errors or omissions in any designs or specifications provided by or on behalf of the Owner unless the Design-Builder has been specifically requested to review and has accepted in writing those designs and specifications under the Contract.

1.2.3 The Owner shall furnish the information and services required under the Contract promptly to avoid delay in the performance of the Contract.

1.2.4 The Owner’s Statement of Requirements may include:

1. Site information e.g. site description, topographical and boundary surveys, environmental, geotechnical and designated substance investigation reports, utility information, and covenants and restrictions on the property; and

2. The Owner’s program requirements e.g. design objectives and parameters, performance requirements, constraints and criteria, spatial and functional requirements and relationships, flexibility and potential for expansion, special equipment and systems, and site requirements and budget.

1.2.5 The Design-Builder shall review the Owner’s Statement of Requirements and shall report promptly to the Owner any significant error, inconsistency, or omission the Design-Builder may discover.

1.2.6 The review by the Design-Builder under paragraph 1.2.5 shall be to the best of the Design-Builder’s knowledge, information, and belief and in making such review the Design-Builder does not assume any responsibility to the Owner for the accuracy of the review with respect to the Owner’s Statement of Requirements prepared by or on behalf of the Owner.

1.2.7 The Design-Builder shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the Owner’s Statement of Requirements prepared by or on behalf of the Owner which the Design-Builder did not discover.

1.2.8 If the Design-Builder does discover any significant error, inconsistency, or omission in the Owner’s Statement of Requirements prepared by or on behalf of the Owner, the Design-Builder shall not proceed with the Work affected until the Design-Builder and the Owner have discussed how the information should be corrected or supplied.

GC 1.3 LAW OF THE CONTRACT

1.3.1 The law of the Place of the Work shall govern the interpretation of the Contract.

GC 1.4 RIGHTS AND REMEDIES

1.4.1 Except as expressly provided in the Contract Documents, the duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.
1.4.2 Except as expressly provided in the Contract Documents, no action or failure to act by the Owner, Design-Builder, or the Consultant shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed to in writing.

GC 1.5 ASSIGNMENT

1.5.1 Neither party to the Contract shall assign all or any part of the Contract without the written consent of the other, which consent shall not be unreasonably withheld.

GC 1.6 CONFIDENTIALITY

1.6.1 The Owner and the Design-Builder shall keep confidential all matters respecting technical, commercial, and legal issues relating to or arising out of the Work or the performance of the Contract and shall not, without the prior written consent of the other party, disclose any such matters, except in strict confidence, to its professional advisors.

PART 2 DESIGN SERVICES AND ADMINISTRATION OF THE CONTRACT

GC 2.1 CONSULTANT

2.1.1 The Design-Builder shall engage the Consultant under a contract pursuant to which the Consultant’s services, duties and responsibilities will include:

1. the review of the Owner’s Statement of Requirements;
2. the review with the Owner of reasonable alternative approaches to the design;
3. the preparation of a design that meets the criteria set forth in the Contract Documents;
4. the coordination required to integrate all parts of the Design Services;
5. the preparation of schematic design documents to illustrate the scale and character of the Work and how the parts of the Work functionally relate to each other;
6. the preparation of design development documents, based on the schematic design documents accepted by the Owner, consisting of drawings and other documents appropriate to the size of the Work to describe the size and character of the entire Work including architectural, mechanical and electrical systems, materials, and such other elements as may be appropriate;
7. the preparation of Construction Documents setting forth in detail the requirements for Construction based on the design development documents accepted by the Owner;
8. the provision of assistance to the Owner and Design-Builder to obtain approvals, permits, and licenses for the Construction;
9. the conducting of general review of the progress of the Construction, to the extent necessary, in order to determine to the Consultant’s satisfaction that the Construction is performed in general conformity with the requirements of:
   (1) The Contract Documents, and
   (2) The applicable statutes, regulations, codes, and bylaws of all authorities having jurisdiction over the Work;
10. the assurances required by regulatory authorities respecting substantial conformance of the design with the applicable building regulations, other than construction safety issues;
11. the preparation of Change Orders and Change Directives as set out in GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE;
12. the determining of amounts owing to the Design-Builder based on the Consultant’s observations and evaluation of the Design-Builder’s applications for payment;
13. the issuance of certificates for payment in the value proportionate to the amount of the Contract, for Work performed and Products delivered to the Place of the Work;
14. the interpretation, in the first instance, of the requirements of the Construction Documents and the making of findings as to the performance thereunder by both the Owner and the Design-Builder without showing partiality to either the Owner or the Design-Builder, and in no event incurring liability for the result of such interpretations or findings rendered in good faith in such capacity;
15. the interpretation and finding, in the first instance, of claims, disputes, and other matters in question relating to the performance of the Work or the interpretation of the Contract Documents, except for GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER.
16. the rejecting of work which does not conform to the requirements of the Contract Documents;
.17 the requiring of special testing and inspection of the Construction at the sole discretion of the Consultant, whether or not such Construction has been fabricated, installed, or completed;
.18 the determining of the date of Substantial Performance of the Work and the issuing of a certificate attesting to same;
.19 the verification of the Design-Builder's application for final payment and the issuing of a certificate for payment;
.20 the reviewing of any defects or deficiencies in the Work during the period described in GC 12.3 - WARRANTY and the issuance of appropriate instructions for the correction of same; and
.21 such other work that may be required from time to time that is agreed to by the Owner and the Design-Builder in writing and is acceptable to the Consultant.

2.1.2 In performing the above duties, the Consultant will provide the necessary services as expeditiously as is required for the orderly progress of the Work.

2.1.3 All certificates issued by the Consultant shall be to the best of the Consultant's knowledge, information, and belief. By issuing any certificate, the Consultant does not guarantee the Work is correct or complete.

2.1.4 The Consultant shall perform the Design Services and fulfill the Consultant's duties and responsibilities to the standard of diligence, skill, and care that consultants would customarily provide in similar circumstances and in the same relative geographic location, subject to the Consultant's professional and legal obligations.

2.1.5 The Owner waives any right of action in negligence or otherwise against the Consultant or any other consultant employed by the Design-Builder in respect of performance of the Design Services except to the extent the Owner may be entitled to make a claim against the Design-Builder under the Contract.

2.1.6 If the Consultant's engagement is terminated, the Design-Builder shall engage a new Consultant to provide the Consultant's services. The Design-Builder shall notify the Owner in writing before appointing or reappointing a Consultant to provide the Design Services. The Design-Builder shall not appoint any Consultant to whom the Owner may reasonably object.

GC 2.2 OWNER'S REPRESENTATIVE

2.2.1 The Owner shall designate a representative authorized to act on the Owner's behalf and shall specify in written notice to the Design-Builder any limits on the representative's authority.

2.2.2 Subject to any notified limitations in authority, the Design-Builder may rely upon any written instructions or directions provided by the Owner's representative.

2.2.3 The Owner's representative shall take all reasonable steps to be accessible to the Design-Builder during performance of the Contract and shall render any necessary decisions or instructions promptly to avoid delay in the performance of the Contract.

2.2.4 The Owner and Owner's representatives shall not communicate with any Subcontractors performing the Work except through the Design-Builder or a person designated by the Design-Builder.

GC 2.3 REVIEW AND INSPECTION OF THE WORK

2.3.1 The Design-Builder shall
.1 permit the Owner to review all material aspects of the design of the Work as the design proceeds, and
.2 provide a copy of all drawings, specifications, and diagrams to the Owner when required for review and acceptance.

2.3.2 From time to time, the Design-Builder may request and, on request, the Owner shall examine certain aspects of the design as set out on design development documents or Construction Documents to confirm that the design aspects are in general compliance with:
.1 the qualitative, functional layout, operational, and other Owner requirements for the Work; and
.2 the standards of finish, comfort, or aesthetics as required by the Contract Documents.

2.3.3 The Owner, the Consultant and the Payment Certifier shall have access to the Construction at all times. The Design-Builder shall provide sufficient, safe, and proper facilities at all times for their review of the Construction and the inspection of the Construction by authorized agencies. If parts of the Construction are in preparation at locations other than the Place of the Work, the Owner, the Consultant and the Payment Certifier shall be given access to such work whenever it is in progress.

CCA-CSC-RAIC Document 14 – 2000
2.3.4 If work is designated for tests, inspections, or approvals in the Contract Documents, or by the instructions of the Owner or the Consultant, or the laws or ordinances of the Place of the Work, the Design-Builder shall give the Owner reasonable notice of when the work will be ready for review and inspection. The Design-Builder shall arrange for and shall give the Owner reasonable notice of the date and time of inspections by other authorities.

2.3.5 The Design-Builder shall furnish promptly to the Consultant and to the Owner, on request, a copy of certificates and inspection reports relating to the Work.

2.3.6 If the Design-Builder covers, or permits to be covered, work that has been designated for special tests, inspections, or approvals before such special tests, inspections, or approvals are made, given or, completed, the Design-Builder shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good the covering work at the Design-Builder's expense.

2.3.7 The Owner may order any portion or portions of the Construction to be examined to confirm that such work is in accordance with the requirements of the Contract Documents. If the work is not in accordance with the requirements of the Contract Documents, the Design-Builder shall correct the work and pay the cost of examination and correction. If the work is in accordance with the requirements of the Contract Documents, the Owner shall pay all costs incurred by the Design-Builder as a result of such examination and restoration.

2.3.8 The Consultant shall provide any required assurances to regulatory authorities respecting substantial conformance of the Construction with the design approved by that authority for issuance of the building permit.

GC 2.4 DEFECTIVE WORK

2.4.1 The Design-Builder shall promptly remove from the Place of the Work and replace or re-execute defective work that has been rejected by the Consultant as failing to conform to the Contract Documents whether or not the defective work has been incorporated in the Work and whether or not the defect is the result of poor workmanship, design, use of defective products, or damage through carelessness or other act or omission of the Design-Builder.

2.4.2 The Design-Builder shall make good promptly other contractors' work destroyed or damaged by such removals or replacements at the Design-Builder's expense.

2.4.3 If, in the opinion of the Owner, it is not expedient to correct defective work or work not performed as provided in the Contract Documents, the Owner may deduct from the amount otherwise due to the Design-Builder the difference in value between the work as performed and that called for by the Contract Documents. If the Design-Builder does not agree on the difference in value, the Design-Builder shall refer the dispute to Part 8 of the General Conditions - DISPUTE RESOLUTION.

PART 3 EXECUTION OF THE WORK

GC 3.1 CONTROL OF THE WORK

3.1.1 The Design-Builder shall have total control of the Work and shall effectively direct and supervise the Work so as to ensure conformity with the Contract Documents.

3.1.2 The Design-Builder shall be solely responsible for construction means, methods, techniques, sequences, and procedures with respect to the Construction and for co-ordinating the various parts of the Construction under the Contract.

3.1.3 The Design-Builder shall keep the Owner informed of the progress of the Work.

3.1.4 The Design-Builder is solely responsible for the quality of the Work and shall undertake any quality control activities specified in the Contract Documents or, if none are specified, as may be reasonably required to ensure such quality.

GC 3.2 CONSTRUCTION DOCUMENTS

3.2.1 During the progress of the Work, the Design-Builder shall furnish to the Owner the Construction Documents that describe details of the design required by the Contract Documents. At the time of submission the Design-Builder shall notify the Owner in writing of any significant deviations in the Construction Documents from the requirement of the Contract Documents.
3.2.2 The **Design-Builder** shall submit the **Construction Documents** to the **Owner** to review in orderly sequence and sufficiently in advance so as to cause no delay in the **Work**. Upon request of the **Owner** or the **Design-Builder**, they jointly shall prepare a schedule of the dates for submission and return of **Construction Documents**.

3.2.3 The **Owner** shall review the **Construction Documents** in accordance with the schedule agreed upon, or in the absence of an agreed schedule with reasonable promptness so as to cause no delay. The **Owner**’s review is for conformity to the intent of the **Contract Documents**. The **Owner**’s review shall not relieve the **Design-Builder** of responsibility for errors or omissions in the **Construction Documents** or for meeting all requirements of the **Contract Documents** unless the **Owner** expressly accepts a deviation from the **Contract Documents**.

3.2.4 No later than 7 days after completing the review, the **Owner** shall notify the **Design-Builder** in writing that the **Owner** has accepted and has signed the **Construction Documents** or shall notify the **Design-Builder**, giving reasons in writing, why the **Owner** rejects the **Construction Documents**. Upon request by the **Owner**, the **Design-Builder** shall revise and resubmit **Construction Documents** which the **Owner** has rejected. The **Design-Builder** shall notify the **Owner** in writing of any revisions to any resubmission other than those requested by the **Owner**.

3.2.5 When the **Construction Documents** are accepted and signed by the **Owner** and the **Design Builder**, such **Construction Documents** shall become part of the **Contract Documents**.

3.2.6 When a change is required to the **Construction Documents** that have been accepted and signed by the **Owner**, it shall be made in accordance with GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, or GC 6.3 - CHANGE DIRECTIVE.

**GC 3.3 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS**

3.3.1 The **Owner** reserves the right to award separate contracts in connection with other parts of the **Project** to other contractors and to perform work with own forces.

3.3.2 When separate contracts are awarded for other parts of the **Project**, or when work is performed by the **Owner**’s own forces, the **Owner** shall:
1. provide for the co-ordination of the activities and work of other contractors and **Owner**’s own forces with the **Work** of the **Contract**;
2. assume overall responsibility for compliance with the applicable health and construction safety legislation at the **Place of the Work**;
3. enter into separate contracts with other contractors under conditions of contract which are compatible with the conditions of the **Contract**;
4. ensure that insurance coverage is provided to the same requirements as are called for in GC 11.1 - INSURANCE and co-ordinate such insurance with the insurance coverage of the **Design-Builder** as it affects the **Work**; and
5. take all reasonable precautions to avoid labour disputes or other disputes on the **Project** arising from the work of other contractors or the **Owner**’s own forces.

3.3.3 When separate contracts are awarded for other parts of the **Project**, or when work is performed by the **Owner**’s own forces, the **Design-Builder** shall:
1. afford the **Owner** and other contractors reasonable opportunity to introduce and store their products and use their construction machinery and equipment to execute their work;
2. co-ordinate and schedule the **Work** with the work of other contractors and **Owner**’s own forces and connect as specified or shown in the **Contract Documents**;
3. participate with other contractors and the **Owner** in reviewing their schedules when directed by the **Owner**; and
4. where part of the **Work** is affected by or depends upon for its proper execution the work of other contractors or **Owner**’s own forces, promptly report to the **Owner** in writing and prior to proceeding with that part of the **Work**, any apparent deficiencies in such work. Failure by the **Design-Builder** to so report shall invalidate any claims against the **Owner** by reason of the deficiencies in the work of other contractors or **Owner**’s own forces except those deficiencies not then reasonably discoverable.

3.3.4 Where a change in the **Work** is required as a result of the co-ordination and connection of the work of other contractors or **Owner**’s own forces with the **Work**, the changes shall be authorized and valued as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.

3.3.5 Claims, disputes, and other matters in question between the **Design-Builder** and other contractors shall be dealt with as provided in Part 8 of the General Conditions - DISPUTE RESOLUTION provided the other contractors have reciprocal obligations. The **Design-Builder** shall be deemed to have consented to arbitration of any dispute with any other contractor whose contract with the **Owner** contains a similar requirement to arbitrate such dispute.
GC 3.4 SCHEDULE OF THE WORK

3.4.1 The Design-Build shall:
1. prepare and submit to the Owner prior to the first application for payment, a schedule of the Work that indicates the timing of the major activities of the Work and provides sufficient detail of the critical events and their inter-relationship to demonstrate the Work will be performed in conformity with the Contract Time;
2. monitor the progress of the Design Services and Construction relative to the schedule of the Work and update the schedule on a monthly basis or as stipulated by the Contract Documents; and
3. advise the Owner in writing of any revisions required to the schedule as the result of extensions of the Contract Time as provided in Part 6 of the General Conditions - CHANGES IN THE WORK.

GC 3.5 CONSTRUCTION SAFETY

3.5.1 Subject to paragraph 3.3.2.2 of GC 3.3 - CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, the Design-Build shall be solely responsible for construction safety at the Place of the Work and for compliance with the rules, regulations, and practices required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Construction.

GC 3.6 SUPERVISOR

3.6.1 The Design-Build shall employ a competent supervisor and necessary assistants who shall be in attendance at the Place of the Work while the Construction is being performed. The supervisor shall not be changed except for valid reason.

3.6.2 The supervisor shall represent the Design-Build at the Place of the Work and notices and instructions given to the supervisor by the Owner shall be held to have been received by the Design-Build.

GC 3.7 OTHER CONSULTANTS, SUBCONTRACTORS, AND SUPPLIERS

3.7.1 The Design-Build shall preserve and protect the rights of the parties under the Contract with respect to work to be performed under subcontract, and shall:
1. enter into contracts or written agreements with the Consultant, and other consultants to require them to perform their design and other services as provided in the Contract Documents;
2. enter into contracts or written agreements with Subcontractors and Suppliers to require them to perform their work and related services as required by the Contract Documents;
3. incorporate the terms and conditions of the Contract Documents into all contracts or written agreements with the Consultant, other consultants, Subcontractors, and Suppliers insofar as they are applicable; and
4. be as fully responsible to the Owner for acts and omissions of the Consultant, other consultants, Subcontractors, Suppliers, and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the Design-Build.

3.7.2 The Design-Build shall indicate in writing, at the request of the Owner, other consultants, Subcontractors, or Suppliers whose proposals or bids have been received by the Design-Build which the Design-Build would be prepared to accept for the performance of a portion of the Work. Should the Owner not object before signing the Contract, the Design-Build shall employ other consultants, Subcontractors, or Suppliers so identified by the Design-Build in writing for the performance of that portion of the Work to which their proposal or bid applies.

3.7.3 The Owner may, for reasonable cause, at any time before the Design-Build has signed the subcontract, object to the use of a proposed other consultant, Subcontractor, or Supplier and require the Design-Build to employ another proposed other consultant or subcontract bidder.

3.7.4 If the Owner requires the Design-Build to change a proposed other consultant, Subcontractor, or Supplier, the Contract Price and Contract Time shall be adjusted by the differences occasioned by such required change.

3.7.5 The Design-Build shall not be required to employ as an other consultant, Subcontractor, or Supplier, a person of firm to whom the Design-Build may reasonably object.

3.7.6 The Owner may provide to other consultants, Subcontractors, or Suppliers information as to the percentage of their work which has been certified for payment.
GC 3.3 LABOUR AND PRODUCTS

3.3.1 The Design-Builder shall provide and pay for labour, Products, tools, construction machinery and equipment, water, heat, light, power, transportation, and other facilities and services, including Design Services, necessary for the performance of the Work in accordance with the Contract.

3.3.2 Unless otherwise specified, all Products provided shall be new. Products which are not specified shall be of a quality consistent with those similar products specified.

3.3.3 The Design-Builder shall maintain good order and discipline among the Design-Builder’s employees engaged on the Work and shall not employ on the Work anyone not skilled in the tasks assigned.

GC 3.9 DOCUMENTS AT THE SITE

3.9.1 The Design-Builder shall keep one copy of current Contract Documents, submittals, reports, and records of meetings at the Place of the Work, in good order and available to the Owner.

GC 3.10 SHOP DRAWINGS

3.10.1 Shop drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures, product, and other data which illustrate details of a portion of the Work.

3.10.2 The Design-Builder shall provide shop drawings as described in the Contract Documents or as the Owner may reasonably request.

3.10.3 The Design-Builder, the Consultant and where appropriate, other consultants, shall review all shop drawings. The Design-Builder represents by this review that: the Design-Builder has determined and verified all field measurements and field construction conditions, or will do so; Product requirements; catalogue numbers; and similar data and that the Design-Builder has checked and coordinated each shop drawing with the requirements of the Work and of the Contract Documents.

3.10.4 Shop drawings which require approval of any authority having jurisdiction shall be submitted to such authority by the Design-Builder.

3.10.5 If the Owner requests to review shop drawings, the Design-Builder shall submit them in orderly sequence and sufficiently in advance so as to cause no delay in the Work or in the work of other contractors. The Owner and the Design-Builder shall jointly prepare a schedule of the dates for submission and return of shop drawings.

3.10.6 The Owner’s review under paragraph 3.10.5 is for conformity to the intent of the Contract Documents and for general arrangement only. The Owner’s review shall not relieve the Design-Builder of the responsibility for errors or omissions in the shop drawings or for meeting all requirements of the Contract Documents. The Owner expressly accepts a deviation from the Contract Documents.

GC 3.11 USE OF THE WORK

3.11.1 The Design-Builder shall confine construction machinery and equipment, storage of Products, and operations of employees to limits indicated by laws, ordinances, permits, or the Contract Documents and shall not unreasonably encumber the Construction.

3.11.2 The Design-Builder shall not load or permit to be loaded any part of the Construction with a weight or force that will endanger the safety of the Project.

GC 3.12 CUTTING AND REMEDIAL WORK

3.12.1 The Design-Builder shall do the cutting and remedial work required to make the several parts of the Construction come together properly.

3.12.2 The Design-Builder shall co-ordinate the Work to ensure that this requirement is kept to a minimum.

3.12.3 Cutting and remedial work shall be performed by specialists familiar with the Products affected and shall be performed in a manner to neither damage nor endanger the Construction.
GC 3.13 CLEANUP

3.13.1 The Design-Builder shall maintain the Place of the Work in a tidy condition and free from the accumulation of waste products and debris, other than that caused by the Owner, other contractors, or their employees.

3.13.2 The Design-Builder shall remove waste products and debris, other than that resulting from the work of the Owner, other contractors, or their employees, and shall leave the Place of the Work clean and suitable for occupancy by the Owner before attainment of Substantial Performance of the Work. The Design-Builder shall remove products, tools, construction machinery, and equipment not required for the performance of the remaining work.

3.13.3 Prior to application for the final certificate for payment, the Design-Builder shall remove products, tools, construction machinery and equipment, and waste products and debris, other than that resulting from the work of the Owner, other contractors, or their employees.

GC 3.14 SIGNAGE

3.14.1 Unless reasonably objected by the Owner, the Design-Builder and the Consultant shall be entitled to sign the building by inscription or otherwise on a suitable and reasonably visible part of the permanent fabric of the building.

3.14.2 The Design-Builder may erect a sign identifying the Design-Builder, the Consultant, other consultants, and Subcontractors at the Place of the Work during the construction.

PART 4 ALLOWANCES

GC 4.1 CASH ALLOWANCES

4.1.1 The Contract Price includes cash allowances stated in the Contract Documents, which allowances shall be expended as the Owner directs.

4.1.2 Cash allowances cover the cost to the Design-Builder of services, Products, construction machinery and equipment, freight, unloading, handling, storage, installation, and other authorized expenses incurred in performing the Work stipulated under the cash allowances but do not include any Value Added Taxes payable by the Owner to the Design-Builder.

4.1.3 The Contract Price, and not the cash allowances, includes the Design-Builder's overhead and profit in connection with such cash allowances.

4.1.4 Where costs under a cash allowance exceed the amount of the allowance, the Design-Builder shall be compensated for any excess incurred and substantiated plus an amount for overhead and profit as provided in GC 6.1 - CHANGES.

4.1.5 The Contract Price shall be adjusted by Change Order to provide for any difference between the actual cost and each cash allowance.

4.1.6 The value of the Work performed under a cash allowance is eligible to be included in progress payments.

4.1.7 The Design-Builder and the Owner shall jointly prepare a schedule that shows when the Owner must authorize ordering of items called for under cash allowances to avoid delaying the progress of the Work.

GC 4.2 CONTINGENCY ALLOWANCE

4.2.1 The Contract Price includes the contingency allowance, if any, stated in the Contract Documents.

4.2.2 Expenditures under the contingency allowance shall be authorized and valued as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.

4.2.3 The Contract Price shall be adjusted by Change Order to provide for any difference between the expenditures authorized under paragraph 4.2.2 and the contingency allowance.
PART 5 PAYMENT

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

5.1.1 The Owner shall, at the request of the Design-Builder, prior to execution of the Agreement, and promptly from time to time as requested thereafter, furnish to the Design-Builder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract.

5.1.2 The Owner shall notify the Design-Builder in writing of any material change in the Owner's financial arrangements during the performance of the Contract.

GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT

5.2.1 Applications for payment on account as provided in Article A.5 of the Agreement - PAYMENT may be made monthly as the Work progresses.

5.2.2 The Design-Builder shall submit to the Owner, at least 14 days before the first application for payment, a schedule of values for the parts of the Work, aggregating the total amount of the Contract Price, so as to facilitate evaluation of applications for payment.

5.2.3 The schedule of values shall be made out in such form and supported by such evidence as accepted by the Owner and shall be used as the basis for applications for payment, unless it is found to be in error.

5.2.4 Applications for payment shall be dated the last day of the agreed monthly payment period. They shall be issued to the Owner and unless the Payment Certifier is identified to be the Consultant, the Payment Certifier. The amount claimed shall be for the value, proportionate to the amount of the Contract, of Work performed and Products delivered to the Place of the Work at that date.

5.2.5 The Design-Builder shall include a statement based on the schedule of values with each application for payment and a certificate for payment issued by the Consultant to the Design-Builder in the amount applied for by the Design-Builder.

5.2.6 Claims for Products delivered to the Place of the Work but not yet incorporated into the Work shall be supported by such evidence as the Owner may reasonably require to establish the value and delivery of the Products.

GC 5.3 PROGRESS PAYMENT

5.3.1 If the Payment Certifier is not the Consultant or the Owner, the Payment Certifier will issue to the Owner, and if the Payment Certifier is the Owner, the Owner shall issue, no later than 10 days after the receipt of an application for payment from the Design-Builder submitted in accordance with GC 5.2 - APPLICATION FOR PROGRESS PAYMENT, a certificate for payment in the amount applied for or in such other amount as the Payment Certifier determines to be properly due. If the Payment Certifier amends the application, the Payment Certifier will promptly notify the Design-Builder in writing giving reasons for the amendment.

5.3.2 The Owner shall make payment to the Design-Builder on account as provided in Article A.5 of the Agreement - PAYMENT no later than 15 days after the receipt of a certificate for payment issued by the Payment Certifier or after the Owner has issued a certificate as contemplated by paragraph 5.3.1.

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

5.4.1 When the Design-Builder considers that the Work is substantially performed, or if permitted by the lien legislation applicable to the Place of the Work a designated portion thereof which the Owner agrees to accept separately is substantially performed, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected and apply for a review by the Owner. Failure to include an item on the list does not alter the responsibility of the Design-Builder to complete the Contract.

5.4.2 The Design-Builder's list and application for Substantial Performance of the Work shall include a statement from the Consultant representing to the Design-Builder the validity of the list and the date of Substantial Performance of the Work or designated portion of the Work. Where required by the applicable lien legislation, the Consultant shall issue a certificate of Substantial Performance of the Work.
5.4.3 If the Consultant is not the Payment Certifier and the applicable lien legislation requires the Payment Certifier to determine whether the Contract has been substantially performed, the Owner shall require the Payment Certifier within 7 days after receipt of the Design-Builder's application for Substantial Performance of the Work, issue a certificate of the Substantial Performance of the Work which shall state the date of Substantial Performance of the Work or advise the Design-Builder in writing of the reasons for which such a certificate is not issued.

5.4.4 Immediately following the issuance of a certificate of Substantial Performance of the Work, the Design-Builder, in consultation with the Owner, will establish a reasonable date for finishing the Work.

GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

5.5.1 After the issuance of the certificate of Substantial Performance of the Work as in accordance with GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK, the Design-Builder shall:

1. submit an application for payment of the holdback amount;
2. submit a sworn statement that all accounts for the Design Services, labour, subcontracts, Products, construction machinery and equipment, and other indebtedness which may have been incurred by the Design-Builder in the Substantial Performance of the Work and for which the Owner might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback, or those amounts not yet paid by the Owner to the Design-Builder for work done which amounts in the Design-Builder's hands would be payable by the Design-Builder to those with whom it is bound by contract for the performance of the Work or any amounts identified by the Design-Builder, the payment of which is in dispute.

5.5.2 After the receipt of an application for payment from the Design-Builder and the sworn statement as provided in paragraph 5.5.1, the Payment Certifier will issue a certificate for payment of the holdback amount.

5.5.3 Where the holdback amount has not been placed in a separate holdback account as may be required by the lien legislation applicable to the Place of the Work, the Owner shall, 10 days prior to the expiry of the holdback period stipulated in the lien legislation applicable to the Place of the Work, place the holdback amount in a bank account in the joint names of the Owner and the Design-Builder.

In the Common Law provinces GC 5.5.4 shall read as follows:

5.5.4 The holdback amount authorized by the certificate for payment of the holdback amount is due and payable on the day following the expiration of the holdback period stipulated in the lien legislation applicable to the Place of the Work. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice, or provisions which may be agreed to between the parties. The Owner may retain out of the holdback amount any sums required by law to satisfy any liens against the Work or, if permitted by the lien legislation applicable to the Place of the Work, other third party monetary claims against the Design-Builder which are enforceable against the Owner.

In the Province of Quebec GC 5.5.4 shall read as follows:

5.5.4 The holdback amount authorized by the certificate for payment of the holdback amount is due and payable no later than 30 days after the date of Substantial Performance of the Work. The Owner may retain out of the holdback amount any sums required by law to satisfy any legal hypothec that have been taken or could be taken against the Work or other third party monetary claims against the Design-Builder which are enforceable against the Owner.

GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK

In the Common Law provinces GC 5.6.1 shall read as follows:

5.6.1 Where legislation permits and where, upon application by the Design-Builder, the Consultant has certified that the work of a Subcontractor or Supplier has been performed prior to Substantial Performance of the Work, the Owner shall pay the Design-Builder the holdback amount retained for such subcontract work, or the Products supplied by such Supplier, on the day following the expiration of the holdback period for such work stipulated in the lien legislation applicable to the Place of the Work.
In the Province of Quebec GC 5.6.1 shall read as follows:

5.6.1 Where, upon application by the Design-Builder, the Consultant has certified that the work of a Subcontractor or Supplier has been performed prior to Substantial Performance of the Work, the Owner shall pay the Design-Builder the holdback amount retained for such subcontract work, or the Products supplied by such Supplier no later than 30 days after the date of Substantial Performance of the Work. The Owner may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken or could be taken against the Work or other third party monetary claims against the Design-Builder which are enforceable against the Owner.

5.6.2 Notwithstanding the provisions of the preceding paragraph, and notwithstanding the wording of such certificates, the Design-Builder shall ensure that such subcontract work or Products is protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when such certificates were issued.

GC 5.7 FINAL PAYMENT

5.7.1 When the Design-Builder considers that the Work is completed, the Design-Builder shall submit an application for final payment and a certificate for payment issued by the Consultant to the Design-Builder in the amount applied for by the Design-Builder.

5.7.2 Unless the Payment Certifier is identified to be the Consultant, the Payment Certifier will review the Work to verify the validity of the application after the receipt of the Design-Builder’s application for final payment and the Consultant’s certificate for payment. The Payment Certifier will review the Work within 10 days of receipt of the Design-Builder’s application and will issue to the Owner, no later than 7 days after reviewing the Work, a certificate for payment in the amount applied for or in such other amount as the Payment Certifier determines to be proper due. If the Payment Certifier amends the application, the Payment Certifier will promptly notify the Design-Builder in writing giving reasons for the amendment.

5.7.3 Subject to the provision of paragraph 10.4.1 of GC 10.4 - WORKERS' COMPENSATION, and any lien legislation applicable to the Place of the Work, the Owner shall make payment to the Design-Builder on account as provided in Article A-5 of the Agreement - PAYMENT no later than 15 days after the receipt of a final certificate for payment issued by the Payment Certifier.

GC 5.8 WITHHOLDING OF PAYMENT

5.8.1 If because of climatic or other conditions reasonably beyond the control of the Design-Builder, there are items of the Work that cannot be performed, payment in full for that portion of the Work which has been performed as certified by the Payment Certifier shall not be withheld or delayed by the Owner on account thereof, but the Owner may withhold, until the remaining portion of the Work is finished, only such an amount that the Payment Certifier determines is sufficient and reasonable to cover the cost of performing such remaining work.

GC 5.9 NON-CONFORMING WORK

5.9.1 No payment by the Owner under the Contract nor partial or entire use or occupancy of the Work by the Owner shall constitute an acceptance of any portion of the Work or Products which are not in accordance with the requirements of the Contract Documents.

PART 6 CHANGES IN THE WORK

GC 6.1 CHANGES

6.1.1 The Owner, without invalidating the Contract, may make changes in the Work consisting of additions, deletions, or other revisions to the Work by Change Order or Change Directive.

6.1.2 The Design-Builder shall not perform a change in the Work without a Change Order or a Change Directive except as provided in paragraph 6.1.6.

6.1.3 If a change in the Work results in a net increase in the Contract Price, an allowance for overhead and profit shall be included.

6.1.4 If a change in the Work results in a net decrease in the Contract Price, the amount of the credit shall be the net cost, without deduction for overhead or profit.
6.1.5 When both additions and deletions covering related work or substitutions are involved in a change in the Work, the allowance for overhead and profit shall be calculated on the basis of the net increase, if any, with respect to that change in the Work.

6.1.6 The Design-Builder, without invalidating the Contract, may make minor adjustments in the Work consistent with the intent of the Contract Documents without a Change Order and shall advise the Owner in writing of such adjustments. Such adjustments in the Work shall not involve adjustment in the Contract Price or Contract Time.

GC 6.2 CHANGE ORDER

6.2.1 When a change in the Work is proposed or required, the Owner or the Design-Builder shall provide a notice in writing describing the proposed change in the Work to the other party. The responding party shall present, in a form acceptable to the other party, an amendment to the Owner's Statement of Requirements, if any, and a method of adjustment or an amount of adjustment for the Contract Price, if any, and the adjustment in the Contract Time, if any, for the proposed change in the Work.

6.2.2 When the Owner and Design-Builder agree to the amendment to the Owner's Statement of Requirements, the adjustments in the Contract Price and Contract Time, or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a Change Order and signed by the Owner and Design-Builder. The value of the Work performed as the result of a Change Order shall be included in applications for progress payment.

6.2.3 If the Owner requests the Design-Builder to submit a proposal for a change in the Work and then elects not to proceed with the change, a Change Order shall be issued for the Owner to reimburse the Design-Builder for all costs incurred in any Design Services rendered.

GC 6.3 CHANGE DIRECTIVE

6.3.1 If the Owner requires the Design-Builder to proceed with a change in the Work within the general scope of the Work prior to the Owner and the Design-Builder agreeing upon the adjustment in Contract Price and Contract Time, the Owner shall direct the preparation of a Change Directive.

6.3.2 Upon receipt of a Change Directive, the Design-Builder shall proceed promptly with the change in the Work.

6.3.3 The adjustment in the Contract Price for a change carried out by way of a Change Directive shall be determined on the basis of the cost of expenditures and savings to perform the work attributable to the change.

6.3.4 The Design-Builder shall keep and present, in such form as the Owner may require, an itemized accounting of the cost of expenditures and savings referred to in paragraph 6.3.3 together with supporting data. The cost of performing the work attributable to the Change Directive shall be limited to the actual cost of all of the following:

1. wages and benefits paid for labour in the direct employ of the Design-Builder under applicable collective bargaining agreements, or under a salary or wage schedule agreed upon by the Owner and Design-Builder;
2. salaries, wages, and benefits of the Design-Builder's personnel, when stationed at the field office, in whatever capacity employed; and personnel engaged at shops or on the road, in expediting the production or transportation of materials or equipment;
3. salaries, wages, and benefits of the Design-Builder's office personnel engaged in a technical capacity, and other personnel identified in the agreed wage schedule for the time spent in the performance of the Work;
4. contributions, assessments, or taxes incurred for such items as employment insurance, provincial health insurance, workers' compensation, and Canada or Quebec Pension Plan, insofar as such cost is based on wages, salaries, or other remuneration paid to employees of the Design-Builder and included in the cost of the work as provided in paragraphs 6.3.4.1, 6.3.4.2, and 6.3.4.3;
5. travel and subsistence expenses of the Design-Builder's personnel described in paragraphs 6.3.4.1, 6.3.4.2, and 6.3.4.3;
6. the cost of Design Services including all fees and disbursements of the Consultant or other consultants engaged or employed to provide such services;
7. the cost of all Products including cost of transportation thereof;
8. the cost of materials, supplies, equipment, temporary services and facilities, and hard tools not owned by the workers, including transportation and maintenance thereof, which are consumed; and cost less salvage value on such items used but not consumed, which remain the property of the Design-Builder;
9 rental cost of all tools, machinery, and equipment, exclusive of hand tools, whether rented from or provided by the Design-Builder or others, including installation, minor repairs and replacements, dismantling, removal, transportation and delivery cost thereof;
10 deposits lost;
11 the amounts of all subcontracts;
12 the cost of quality assurance such as independent inspection and testing services;
13 charges levied by authorities having jurisdiction at the Place of the Work;
14 royalties, patent license fees, and damages for infringement of patents and cost of defending suits therefor subject always to the Design-Builder's obligations to indemnify the Owner as provided in paragraph 10.3.1 of GC 10.3 - PATENT FEES;
15 any adjustment in premium for all bonds and insurance which the Design-Builder is required, by the Contract Documents, to purchase and maintain in relation to the performance of the Work;
16 any adjustment in taxes and duties for which the Design-Builder is liable in relation to the performance of the Work;
17 charges for long distance telephone and facsimile communications, courier services, expressage, photocopying, reproduction of Contract Documents, and petty cash items incurred in relation to the performance of the Work;
18 the cost of removal and disposal of waste products and debris;
19 costs incurred due to emergencies affecting the safety of persons or property;

6.3.5 Pending determination of the final amount of a Change Directive, the undisputed value of the work performed as the result of a Change Directive is eligible to be included in progress payments.

6.3.6 If the Owner and Design-Builder do not agree on the proposed adjustment in the Contract Time or the method of determining it, the adjustment shall be referred to the Consultant for determination.

6.3.7 If at any time after the start of the Work directed by a Change Directive, the Owner and the Design-Builder reach agreement on the amendment to the Owner's Statement of Requirements or the adjustment to the Contract Price and to the Contract Time, this agreement shall be recorded in a Change Order signed by the Owner and the Design-Builder.

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

6.4.1 If the Owner or the Design-Builder discover conditions at the Place of the Work which are:
   1 subsurface or otherwise concealed physical conditions which existed before the commencement of the Work which differ materially from those indicated in the Contract Documents; or
   2 physical conditions of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents;
then the observing party shall notify the other party in writing, if possible before conditions are disturbed, and in no event later than 5 Working Days after first observance of the conditions.

6.4.2 The Consultant or other consultants will promptly investigate such conditions. The Consultant will notify the Owner and the Design-Builder of the finding in writing. If the finding is that the conditions differ materially and this would cause an increase or decrease in the Design-Builder's cost or time to perform the Work, the Owner shall issue appropriate instructions for a change in the Work as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.

6.4.3 If the Consultant finds that the conditions at the Place of the Work are not materially different or that no change in the Contract Price or the Contract Time is justified, the Consultant shall notify the Owner and Design-Builder in writing.

GC 6.5 DELAYS

6.5.1 If the Design-Builder is delayed in the performance of the Work by an action or omission of the Owner or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the Contract Documents, then the Contract Time shall be extended for such reasonable time as agreed between the Owner and the Design-Builder. Design-Builder shall be reimbursed by the Owner for reasonable costs incurred by the Design-Builder as the result of such delay.
If the Design-Builder is delayed in the performance of the Work by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or fault of the Design-Builder or any person employed or engaged by the Design-Builder directly or indirectly, then the Contract Time shall be extended for such reasonable time as agreed between the Owner and the Design-Builder. The Design-Builder shall be reimbursed by the Owner for reasonable costs incurred by the Design-Builder as the result of such delay.

If the Design-Builder is delayed in the performance of the Work by labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors’ association, of which the Design-Builder is a member or to which the Design-Builder is otherwise bound), fire, unusual delay by common carriers or unavoidable casualties, or without limit to any of the foregoing, by a cause beyond the Design-Builder’s control, then the Contract Time shall be extended for such reasonable time as agreed between the Owner and the Design-Builder. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the Design-Builder agrees to a shorter extension. The Design-Builder shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the Owner.

No extension shall be made for delay unless notice in writing of claim is given promptly to the Owner and in no event later than 10 Working Days after the commencement of delay, providing however, that in the case of a continuing cause of delay only one notice of claim shall be necessary.

Any adjustment to Contract Price and Contract Time required as a result of GC 6.5 - DELAYS shall be made as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.

PART 7 DEFAULT NOTICE

GC 7.1 OWNER’S RIGHT TO PERFORM THE WORK, SUSPEND THE WORK, OR TERMINATE THE CONTRACT

7.1.1 If the Design-Builder should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the Design-Builder’s insolvency, or if a receiver is appointed because of the Design-Builder’s insolvency, the Owner may, without prejudice to any other right or remedy the Owner may have, by giving the Design-Builder or receiver or trustee in bankruptcy notice in writing, terminate the Design-Builder’s right to continue with the Work.

7.1.2 If the Design-Builder should neglect to prosecute the Work properly or otherwise fails to comply with the requirements of the Contract to a substantial degree, the Owner may, without prejudice to any other right or remedy the Owner may have, notify the Design-Builder in writing that the Design-Builder is in default of the Design-Builder’s contractual obligations and instruct the Design-Builder to correct the default in the 5 Working Days immediately following the receipt of such notice.

7.1.3 If the default cannot be corrected in the 5 Working Days specified, the Design-Builder shall be in compliance with the Owner’s instructions if the Design-Builder:
1. commences the correction of the default within the specified time, and
2. provides the Owner with an acceptable schedule for such correction, and
3. corrects the default in accordance with such schedule.

7.1.4 If the Design-Builder fails to correct the default in the time specified or subsequently agreed upon, without prejudice to any other right or remedy the Owner may have, the Owner may:
1. correct such default and deduct the cost thereof from any payment then or thereafter due to the Design-Builder, or
2. terminate the Design-Builder’s right to continue with the Work in whole or in part or terminate the Contract.

7.1.5 If the Owner terminates the Design-Builder’s right to continue with the Work as provided in paragraphs 7.1.1 and 7.1.4, the Owner shall be entitled to:
1. take possession of the Construction, and Products; utilize the Construction Documents, construction machinery, and equipment; subject to the rights of third parties, finish the Work by whatever reasonable method the Owner may consider expedient, but without undue delay or expense;
2. withhold further payment to the Design-Builder until a final certificate for payment is issued;
3. charge the Design-Builder the amount by which the full cost of finishing the Work and a reasonable allowance to cover the cost of corrections to Work performed by the Design-Builder that may be required under GC 12.3 - WARRANTY, exceeds the unpaid balance of the Contract Price; however, if such cost of finishing the Work is less than the unpaid balance of the Contract Price, the Owner shall pay the Design-Builder the difference; and
.4 on expiry of the warranty period, charge the Design-Builder the amount by which the cost of corrections to the Design-Builder’s work under GC 12.3 - WARRANTY exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the Design-Builder the difference.

7.1.6 The Design-Builder’s obligation under the Contract as to quality, correction, and warranty of the work performed by the Design-Builder up to the time of termination shall continue in force after such termination.

7.1.7 The Owner may, if conditions arise which make it necessary for reasons other than as provided in paragraphs 7.1.1 and 7.1.4, suspend performance of the Work or terminate the Contract by giving written notice to that effect to the Design-Builder identifying the reason for the suspension and the expected length of the suspension. Such suspension or termination shall be effective in the manner specified in said notice and shall be without prejudice to any claims which either party may have against the other.

7.1.8 The Design-Builder upon receiving notice of suspension or termination from the Owner shall suspend all operations as soon as reasonably possible except Work which, in the Design-Builder’s opinion, is necessary for the safety of personnel and for the care and preservation of the Work, the materials and plant. Subject to any directions in the notice of suspension or termination, the Design-Builder shall discontinue ordering materials, facilities, and supplies and make every reasonable effort to delay delivery of existing orders and, in the event of termination, to cancel existing orders on the best terms available.

7.1.9 During the period of suspension, the Design-Builder shall not remove from the site any part of the Work, or any Product or materials without the consent of the Owner.

7.1.10 If the Work should be suspended for a period of 30 days or less, the Design-Builder, upon the expiration of the period of suspension, shall resume the performance of the Work in accordance with the Contract Documents. If the suspension was not due to an act or an omission of the Design-Builder, the Contract Price and Contract Time shall be adjusted as provided in paragraph 6.5.1 of GC 6.5 - DELAYS.

7.1.11 If, after 30 days from the date of notice of suspension of the Work the Owner and the Design-Builder agree to continue with and complete the Work, the Design-Builder shall resume operations and complete the Work in accordance with any terms and conditions agreed upon by the Owner and the Design-Builder.

GC 7.2 DESIGN-BUILDER’S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

7.2.1 If the Owner should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the Owner’s insolvency, or if a receiver is appointed because of the Owner’s insolvency, the Design-Builder may, without prejudice to any other right or remedy the Design-Builder may have, by giving the Owner or receiver or trustee in bankruptcy notice in writing, terminate the Contract.

7.2.2 If the Work should be suspended or otherwise delayed for a period of 30 days or more under the Owner’s direction as provided in paragraph 7.1.7 of GC 7.1 - OWNER’S RIGHT TO PERFORM THE WORK, SUSPEND THE WORK, OR TERMINATE THE CONTRACT or under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the Design-Builder or of anyone directly or indirectly employed or engaged by the Design-Builder, the Design-Builder may, without prejudice to any other right or remedy the Design-Builder may have, by giving the Owner notice in writing, terminate the Contract.

7.2.3 The Design-Builder may notify the Owner in writing that the Owner is in default of the Owner’s contractual obligations if:
- the Owner fails to furnish, when so requested by the Design-Builder, reasonable evidence that financial arrangements have been made to fulfil the Owner’s obligations under the Contract,
- the Owner fails to pay the Design-Builder the amounts due under the Contract or awarded by arbitration or court,
- the Owner has made an assignment of the Contract without the required consent of the Design-Builder, or
- the Owner persistently disregards communications or reasonable requests from the Design-Builder for information or instructions, or otherwise violates the requirements of the Contract to a substantial degree.

7.2.4 The Design-Builder’s notice in writing to the Owner provided under paragraph 7.2.3 shall advise that if the default is not corrected within 5 Working Days following the receipt of the notice, the Design-Builder may, without prejudice to any other right or remedy the Design-Builder may have, suspend the Work or terminate the Contract.
7.2.5 If the Design-Builder terminates the Contract under the conditions set out above, the Design-Builder shall be entitled to be paid for all Work performed including reasonable profit, for loss sustained upon Products and construction machinery and equipment, and such other damages as the Design-Builder may have sustained as a result of the termination of the Contract.

PART 8 DISPUTE RESOLUTION

GC 8.1 AUTHORITY OF THE CONSULTANT

8.1.1 Differences between the parties to the Contract as to the interpretation, application, or administration of the Contract or any failure to agree where agreement between the parties is called for, collectively referred to as disputes, which are not resolved in the first instance by findings of the Consultant as provided in GC 2.1 - CONSULTANT, shall be settled in accordance with the requirements of Part 8 of the General Conditions - DISPUTE RESOLUTION.

8.1.2 If a dispute is not resolved promptly, the Consultant shall give such written instructions as in the Consultant's opinion are necessary for the proper performance of the Work and to prevent delays pending settlement of the dispute. The Design-Builder shall act immediately according to such instructions, it being understood that by so doing the Design-Builder will not jeopardize any claim the Design-Builder may have. If it is subsequently determined that such instructions were in error or at variance with the Contract Documents, the Owner shall pay the Design-Builder costs incurred by the Design-Builder in carrying out such instructions which the Design-Builder was required to do beyond what the Contract Documents correctly understood and interpreted would have required, including costs resulting from interruption of the Work.

GC 8.2 NEGOTIATION, MEDIATION, AND ARBITRATION

8.2.1 In accordance with the latest edition of the Rules for Mediation of Construction Disputes as provided in CCDC 40, the parties shall appoint a Project Mediator

1. within 30 days after the Contract was awarded, or
2. if the parties neglected to make an appointment within the 30 day period, within 15 days after either party by notice in writing requests that the Project Mediator be appointed.

8.2.2 A party shall be conclusively deemed to have accepted a finding of the Consultant under GC 2.1 - CONSULTANT and to have expressly waived and released the other party from any claims in respect of the particular matter dealt with in that finding unless, within 15 Working Days after receipt of that finding, the party sends a notice in writing of dispute to the other party and to the Consultant, which contains the particulars of the manner in dispute and the relevant provisions of the Contract Documents. The responding party shall send a notice in writing of reply to the dispute within 10 Working Days after receipt of the notice of dispute setting out particulars of this response and any relevant provisions of the Contract Documents.

8.2.3 The parties shall make all reasonable efforts to resolve their disputes by amicable negotiations and agree to provide, without prejudice, frank, candid, and timely disclosure of relevant facts, information, and documents to facilitate these negotiations.

8.2.4 After a period of 10 Working Days following receipt of a responding party's notice in writing of reply under paragraph 8.2.2, the parties shall request the Project Mediator to assist the parties to reach agreement on any unresolved dispute. The mediated negotiations shall be conducted in accordance with the latest edition of the Rules for Mediation of Construction Disputes as provided in CCDC 40.

8.2.5 If the dispute has not been resolved within 10 Working Days after the Project Mediator was requested under paragraph 8.2.4 or within such further period agreed by the parties, the Project Mediator shall terminate the mediated negotiations by giving notice in writing to both parties.

8.2.6 By giving a notice in writing to the other party, not later than 10 Working Days after the date of termination of the mediated negotiations under paragraph 8.2.5, either party may refer the dispute to be finally resolved by arbitration under the latest edition of the Rules for Arbitration of Construction Disputes as provided in CCDC 40. The arbitration shall be conducted in the jurisdiction of the Place of the Work.

8.2.7 On expiration of the 10 Working Days, the arbitration agreement under paragraph 8.2.6 is not binding on the parties and, if a notice is not given under paragraph 8.2.6 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.
If neither party requires by notice in writing given within 10 Working Days of the date of notice requesting arbitration in paragraph 8.2.6 that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.2.6 shall be

1. held in abeyance until
   (1) Substantial Performance of the Work,
   (2) the Contract has been terminated, or
   (3) the Design-Builder has abandoned the Work,
   whichever is earlier, and

2. consolidated into a single arbitration under the rules governing the arbitration under paragraph 8.2.6.

GC 8.3 RETENTION OF RIGHTS

8.3.1 It is agreed that no act by either party shall be construed as a renunciation or waiver of any rights or recourses, provided the party has given the notices required under Part 8 of the General Conditions - DISPUTE RESOLUTION and has carried out the instructions as provided in paragraph 8.1.2.

8.3.2 Nothing in Part 8 of the General Conditions - DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the Place of the Work and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.2.6 to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

PART 9 PROTECTION OF PERSONS AND PROPERTY

GC 9.1 PROTECTION OF WORK AND PROPERTY

9.1.1 The Design-Builder shall protect the Work and the Owner's property and property adjacent to the Place of the Work from damage which may arise as the result of the Design-Builder's operations under the Contract, and shall be responsible for such damage, except damage which occurs as the result of:

1. errors in the Contract Documents issued by the Owner;
2. acts or omissions by the Owner, other contractors, their agents and employees.

9.1.2 Should the Design-Builder in the performance of the Contract damage the Work, the Owner's property, or property adjacent to the Place of the Work, the Design-Builder shall be responsible for the making good such damage at the Design-Builder's expense.

9.1.3 Should damage occur to the Work or Owner's property for which the Design-Builder is not responsible, as provided in paragraph 9.1.1, the Design-Builder shall at the Owner's expense make good such damage to the Work and, if the Owner so directs, to the Owner's property. The Contract Price and Contract Time shall be adjusted as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.

GC 9.2 DAMAGES AND MUTUAL RESPONSIBILITY

9.2.1 If either party to the Contract should suffer damage in any manner because of any wrongful act or neglect of the other party or of anyone for whom the other party is responsible in law, then that party shall be reimbursed by the other party for such damage. The reimbursing party shall be subrogated to the rights of the other party in respect of such wrongful act or neglect if it be that of a third party.

9.2.2 Claims for damage under paragraph 9.2.1 shall be made in writing to the party liable within reasonable time after the first observance of such damage and if undisputed shall be confirmed by Change Order. Disputed claims shall be resolved as set out in Part 8 of the General Conditions - DISPUTE RESOLUTION.

9.2.3 If the Design-Builder has caused damage to the work of another contractor on the Project, the Design-Builder agrees upon due notice to settle with the other contractor by negotiation or arbitration. If the other contractor makes a claim against the Owner on account of damage alleged to have been so sustained, the Owner shall notify the Design-Builder and may require the Design-Builder to defend the action at the Design-Builder's expense. The Design-Builder shall satisfy a final order or judgment against the Owner and pay the costs incurred by the Owner arising from such action.

9.2.4 If the Design-Builder becomes liable to pay or satisfy a final order, judgment, or award against the Owner, then the Design-Builder, upon undertaking to indemnify the Owner against any and all liability for costs, shall have the right to appeal in the name of the Owner such final order or judgment to any and all courts of competent jurisdiction.
GC 9.3 TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS

9.3.1 For the purposes of applicable environmental legislation, the Owner shall be deemed to have control and management of the Place of the Work with respect to existing conditions.

9.3.2 Prior to the Design-Builder commencing the Work, the Owner shall
   1. take all reasonable steps to determine whether any toxic or hazardous substances or materials are present at the Place of the Work, and
   2. provide the Design-Builder with a written list of any such substances and materials.

9.3.3 The Owner shall take all reasonable steps to ensure that no person suffers injury, sickness, or death and that no property is injured, damaged, or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances or materials which were at the Place of the Work prior to the Design-Builder commencing the Work.

9.3.4 Unless the Contract Documents expressly provides otherwise, the Owner shall be responsible for taking all necessary steps, in accordance with legal requirements, to dispose of, store or otherwise render harmless, toxic or hazardous substances or materials which were present at the Place of the Work prior to the Design-Builder commencing the Work.

9.3.5 If the Design-Builder
   1. encounters toxic or hazardous substances or materials at the Place of the Work, or
   2. has reasonable grounds to believe that toxic or hazardous substances or materials are present at the Place of the Work
   which were not disclosed by the Owner, as required under paragraph 9.3.2, or which were disclosed but have not been dealt with as required under paragraph 9.3.4, the Design-Builder shall
   3. take all reasonable steps, including stopping the Work, to ensure that no person suffers injury, sickness, or death and that no property is injured or destroyed as a result of exposure to or the presence of the substances or materials, and
   4. immediately report the circumstances to the Owner in writing.

9.3.6 If the Design-Builder is delayed in performing the Work or incurs additional costs as a result of taking steps required under paragraph 9.3.5.3, the Contract Time shall be extended and the Design-Builder shall be reimbursed for all reasonable costs incurred as a result of the delay and as a result of taking those steps.

9.3.7 The Owner and the Design-Builder may jointly rely upon the advice of an independent expert in a dispute under paragraphs 9.3.6 and, in that case, the expert shall be jointly selected, retained, and paid by the Owner and the Design-Builder.

9.3.8 The Owner shall indemnify and hold harmless the Design-Builder, Consultant, other consultants, Subcontractors, Suppliers, and their agents and employees, from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of or resulting from exposure to, or the presence of, toxic or hazardous substances or materials which were at the Place of the Work prior to the Design-Builder commencing the Work. This obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity set out in GC 12.1 - INDEMNIFICATION or which otherwise exist respecting a person or party described in this paragraph.

9.3.9 GC 9.3 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS shall govern over the provisions of paragraph 1.4.1 of GC 1.4 - RIGHTS AND REMEDIES or GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.

PART 10 GOVERNING REGULATIONS

GC 10.1 TAXES AND DUTIES

10.1.1 The Contract Price shall include all taxes and customs duties in effect at the time of the proposal or bid closing except for Value Added Taxes payable by the Owner to the Design-Builder as stipulated in Article A-4 of the Agreement - CONTRACT PRICE.

10.1.2 Any increase or decrease in costs to the Design-Builder due to changes in such included taxes and duties after the time of the proposal or bid closing, as the case may be, shall increase or decrease the Contract Price accordingly.

10.1.3 Refunds that are properly due to the Owner and have been recovered by the Design-Builder will be promptly refunded to the Owner.
GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

10.2.1 The Owner shall obtain and pay for the permanent easements and rights of servitude.

10.2.2 Unless otherwise stated, the Design-Builder shall obtain and pay for the building permit and other permits, licences, or certificates necessary for the performance of the Work which were in force at the time of the proposal or bid closing.

10.2.3 The Design-Builder shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the Work and relate to the Work, to the preservation of the public health, and to construction safety.

10.2.4 The Design-Builder shall not be responsible for verifying that the Owner's Statement of Requirements is in substantial compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the Work. If, after the time of the proposal or bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the Contract Documents, the Design-Builder shall notify the Owner in writing requesting direction immediately upon such variance or change becoming known. Changes shall be made as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.

10.2.5 If the Design-Builder fails to notify the Owner in writing, fails to obtain direction as required in paragraph 10.2.4, and performs work knowing it to be contrary to any laws, ordinances, rules, regulations, or codes, the Design-Builder shall be responsible for and shall correct the violations thereof, and shall bear the costs, expenses, and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations, or codes.

GC 10.3 PATENT FEES

10.3.1 The Design-Builder shall pay the royalties and patent licence fees required for the performance of the Contract. The Design-Builder shall hold the Owner harmless from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the Design-Builder's performance of the Contract which are attributable to an infringement or an alleged infringement of a patent of invention by the Design-Builder or anyone for whose acts the Design-Builder may be liable.

10.3.2 The Owner shall hold the Design-Builder harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the Design-Builder's performance of the Contract which are attributable to an infringement or an alleged infringement of a patent of invention in executing anything for the purpose of the Contract, the model, plan, or design of which was supplied to the Design-Builder as part of the Contract Documents.

GC 10.4 WORKERS' COMPENSATION

10.4.1 Prior to commencing the Work, Substantial Performance of the Work, and the application for final payment, the Design-Builder shall provide evidence of compliance with workers' compensation legislation at the Place of the Work, including payments due under it.

10.4.2 At any time during the term of the Contract, when requested by the Owner, the Design-Builder shall provide such evidence of compliance by the Design-Builder and Subcontractors and any other person performing the Work who is required to comply with such legislation.

PART 11 INSURANCE — BONDS

GC 11.1 INSURANCE

11.1.1 Without restricting the generality of GC 12.1 - INDEMNIFICATION, and unless the Owner and the Design-Builder agree to obtain project-specific insurance, or higher insurance limits, the Design-Builder shall provide, maintain, and pay for the minimum insurance coverages specified in GC 11.1 - INSURANCE.

1. General Liability Insurance:
   The policy shall be in the joint names of the Design-Builder, the Owner, the Consultant and other consultants, with limits of not less than $2,000,000 per occurrence and with a property damage deductible of not more than $5,000. The insurance coverage shall not be less than the insurance required by IBC Forms 2100 and 2320, or their equivalent replacement. Umbrella or excess liability insurance may be used to achieve the desired limit. Where the Design-Builder maintains a single, blanket policy, the addition of the Owner is limited to liability arising out of the Work and all operations necessary or incidental thereto.
Completed Operations Liability coverage shall be maintained continuously from the commencement of the Construction until two years after Substantial Performance of the Work.

2 Errors and Omissions Insurance:
The Design-Builder shall ensure that the Consultant and other consultants engaged in the performance of the Design Services each carry Errors and Omissions Insurance that have limits of not less than $250,000 per claim and with an aggregate limit of not less than $500,000 within any policy year. The Consultant or other consultants found to be at fault will be responsible for the deductible amount. The policy shall be maintained continuously from the commencement of the Work, until 2 years after Substantial Performance of the Work.

3 Automobile Liability Insurance:
The policy covers for bodily injury, death, and damage to property with respect to all licensed vehicles owned or leased by the Design-Builder. The policy shall have limits of not less than $2,000,000 inclusive per occurrence. If the policy is issued pursuant to a government-operated automobile insurance system, the Design-Builder shall provide the Owner with confirmation of automobile insurance coverage for all automobiles registered in the name of the Design-Builder.

4 Aircraft and Watercraft Liability Insurance:
The policy shall be for owned or non-owned aircraft and watercraft used directly or indirectly by the Design-Builder in the performance of the Work, including use of additional premises. The policy shall have limits of not less than $2,000,000 inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof and limits of not less than $2,000,000 for aircraft passenger hazard.

5 Property and Boiler and Machinery Insurance:
(1) "All risks" property insurance shall be in the joint names of the Design-Builder, the Owner, the Consultant, all other consultants, and all Subcontractors. The insurance coverage shall not be less than the insurance required by IRC Forms 4042 and 4047, or their equivalent replacement. The insurance provided shall have limits of not less than the sum of the amount of the Contract Price, the applicable Value Added Taxes, and the full value of products provided by the Owner for incorporation into the Work as specified in the Supplementary Conditions. The policy shall have a deductible of not more than $10,000.
(2) Boiler and machinery insurance shall be in the joint names of the Design-Builder, the Owner, the Consultant, all consultants, and all Subcontractors. The insurance coverage shall not be less than the insurance provided by the "Comprehensive Boiler and Machinery Form". The insurance provided shall have limits of not less than the replacement value of the boilers, pressure vessels, and other insurable objects forming part of the Work.

(3) The policies shall allow for partial or total use or occupancy of the Work. If because of such use or occupancy the Design-Builder is unable to provide coverage, the Design-Builder shall notify the Owner in writing. Prior to such use or occupancy, the Owner shall provide, maintain, and pay for all risk property and boiler insurance in the amounts described in sub-paragraphs (1) and (2), including coverage for such use or occupancy and shall provide the Design-Builder with proof of such insurance. The policies shall be amended to include permission for completion of Construction and shall include all insureds as specified in sub-paragraph (1). The Design-Builder shall refund to the Owner the unearned premiums applicable to the Design-Builder’s policies upon termination of coverage.

(4) The policies shall provide that, in the case of a loss or damage, payment shall be made to the Owner and the Design-Builder as their respective interests may appear. The Design-Builder shall act on behalf of the Owner for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the Design-Builder shall proceed to restore the Work. Loss or damage shall not affect the rights and obligations of either party under the Contract except that the Design-Builder shall be entitled to a reasonable extension of Contract Time.

(5) The Design-Builder shall be entitled to receive from the Owner, in addition to the amount due under the Contract, the amount at which the Owner's interest in restoration of the Work has been appraised, such amount to be paid as the restoration of the Work proceeds and as provided in GC 5.2 - APPLICATIONS FOR PROGRESS PAYMENT and GC 5.3 - PROGRESS PAYMENT. In addition the Design-Builder shall be entitled to receive from the payments made by the insurer the amount of the Design-Builder’s interest in the restoration of the Work.
6. Equipment Insurance:
The policy covers construction machinery and equipment used by the Design-Builder for the performance of the Work, including boiler insurance on temporary boilers and pressure vessels. The policy shall be in a form acceptable to the Owner and shall not allow subrogation claims by the insurer against the Owner. Subject to satisfactory proof of financial capability by the Design-Builder for self-insurance, the Owner agrees to waive the equipment insurance requirement.

11.1.2 Unless otherwise stipulated, the duration of each insurance policy shall be from the date of commencement of the Work until the date of the final certificate for payment.

11.1.3 The Design-Builder shall be responsible for deductible amounts under the policies except where otherwise provided in GC 11.1 - INSURANCE or where such amounts may be excluded from the Design-Builder's responsibility by the terms of GC 9.1 - PROTECTION OF WORK AND PROPERTY and GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.

11.1.4 Prior to commencement of the Work and upon the placement, removal, amendment, or extension of all or any part of the insurance, the Design-Builder shall promptly provide the Owner with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements.

11.1.5 Where the full insurable value of the Work is substantially less than the Contract Price, the Owner may reduce the amount of insurance required or waive the Property and Boiler and Machinery Insurance requirement.

11.1.6 If the Design-Builder fails to provide or maintain insurance as required by the Contract Documents, then the Owner shall have the right to provide and maintain such insurance and give evidence to the Design-Builder and the Consultant. The Design-Builder shall pay the cost thereof to the Owner on demand or the Owner may deduct the amount which is due or may become due to the Design-Builder.

11.1.7 All required insurance policies shall be placed with insurers licensed to underwrite insurance in the jurisdiction of the Place of the Work.

11.1.8 All required insurance policies shall be endorsed to provide the Owner with not less than 30 days notice in writing in advance of any cancellation and material amendment or change restricting coverage.

11.1.9 All insurers shall cooperate with the Design-Builder to comply with any reporting requirements of the insurance policies in order to maintain the policies in good standing, to give notice in writing of any incidents which may result in a claim or loss covered by the policies and to provide documentation necessary in the defence or settlement of claims.

GC 11.2 BONDS

11.2.1 The Design-Builder shall, prior to commencement of the Work or within the time specified in the Contract, provide to the Owner such surety bonds as are required by the Contract Documents.

11.2.2 Such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the province or territory of the Place of the Work and shall be maintained in good standing until the fulfilment of the Contract. The surety bonds shall be in accordance with the latest edition of the CCDC approved bond forms.
PART 12. INDEMNIFICATION — WAIVER — WARRANTY

GC 12.1 INDEMNIFICATION

12.1.1 The Design-Builder shall indemnify and hold harmless the Owner, the Owner's agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings (hereinafter called "claims"), by third parties that arise out of, or are attributable to, the Design-Builder's performance of the Work, provided such claims are:

1. attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, and
2. caused by negligent acts or omissions of the Design-Builder, the Consultant, all other consultants, all Subcontractors or anyone for whose acts the Design-Builder may be liable, and
3. made in writing within a period of 2 years from the date of Substantial Performance of the Work or within such shorter period as may be prescribed by any limitation statute of the province or territory of the Place of the Work. The Owner expressly waives the right to indemnity for claims other than those stated above.

12.1.2 The obligation of the Design-Builder to indemnify under this Contract shall be limited to the insurance coverages and limits as agreed to be provided in GC 11.1 - INSURANCE.

12.1.3 The Owner shall indemnify and hold harmless the Design-Builder, the Consultant, all other consultants, all Subcontractors, all Suppliers, their agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the Design-Builder's performance of the Design Services and Construction, which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the Place of the Work or a negligent act or omission or wilful default of the Owner, its agents and employees or any other person in respect of those acts the Owner may be liable.

12.1.4 GC 12.1 - INDEMNIFICATION shall govern over the provisions of paragraph 1.4.1 of GC 1.4 - RIGHTS AND REMEDIES or GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.

GC 12.2 WAIVER OF CLAIMS

12.2.1 Waiver of Claims by Owner

As of the date of the final certificate for payment, the Owner expressly waives and releases the Design-Builder, the Consultant, all other consultants, all Subcontractors, all Suppliers, and their agents and employees from all claims against them including without limitation those that might arise from the negligence or breach of contract by the Design-Builder, the Consultant, all other consultants, all Subcontractors, and their agents and employees except one or more of the following:

1. those made in writing prior to the date of the final certificate for payment and still unsettled;
2. those arising from the provisions of GC 12.1 - INDEMNIFICATION or GC 12.3 - WARRANTY;
3. those arising from the provisions of paragraph 9.3.5 of GC 9.3 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS and arising from the Design-Builder bringing or introducing any toxic or hazardous substances and materials to the Place of the Work after the Design-Builder commences the Work.

In the Common Law provinces GC 12.2.1.4 shall read as follows:

4. those made in writing within a period of 2 years from the date of Substantial Performance of the Work or within such shorter period as may be prescribed by any limitation statute of the province or territory of the Place of the Work and arising from any liability of the Design-Builder for damages resulting from the Design-Builder's performance of the Contract with respect to substantial defects or deficiencies in the Work for which the Design-Builder is proven responsible. As used herein "substantial defects or deficiencies" means those defects or deficiencies in the Construction which affect the Work to such an extent or in such a manner that a significant part or the whole of the Construction is unfit for the purpose specified in the Contract Documents.

In the Province of Quebec GC 12.2.1.4 shall read as follows:

4. those arising under the provisions of Article 2118 of the Civil Code of Quebec.

12.2.2 Waiver of Claims by Design-Builder

As of the date of the final certificate for payment, the Design-Builder expressly waives and releases the Owner from all claims against the Owner including without limitation those that might arise from the negligence or breach of contract by the Owner except:

1. those made in writing prior to the Design-Builder's application for final payment and still unsettled; and
2. those arising from the provisions of GC 9.3 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS or GC 10.3 - PATENT FEES.
12.2.3 GC 12.2 - WAIVER OF CLAIMS shall govern over the provisions of paragraph 1.4.1 of GC 1.4 - RIGHTS AND REMEDIES or GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.

GC 12.3 WARRANTY

12.3.1 The warranty period with regard to the Contract is one year from the date of Substantial Performance of the Work or such other periods specified in the Contract Documents for certain portions of the Work or Products.

12.3.2 The Design-Builder warrants that the Design Services meet the standard described in GC 2.1.4, and that the Work is in accordance with the Contract Documents.

12.3.3 Except for the provisions of paragraphs 12.3.2 and 12.3.6, the Design-Builder shall correct promptly, at the Design-Builder's expense, any work which is not in accordance with the Contract Documents or defects or deficiencies in the Work which appear prior to and during the warranty periods specified in the Contract Documents.

12.3.4 The Owner shall promptly give the Design-Builder notice in writing of observed defects and deficiencies that occur during the warranty period.

12.3.5 The Design-Builder shall correct or pay for damage resulting from the defects or deficiencies and the corrections made under the requirements of paragraph 12.3.3.

12.3.6 The Design-Builder shall be responsible for obtaining Product warranties in excess of one year on behalf of the Owner from the manufacturer. These Product warranties shall be issued by the manufacturer to the benefit of the Owner.

12.3.7 The Design-Builder does not warrant against the effects of corrosion, erosion or wear and tear of any Product or failure of any Product due to faulty operations or maintenance by the Owner or conditions of operation more severe than those specified for the Product.

12.3.8 The warranties and guarantees specified in GC 12.3 - WARRANTY or elsewhere in the Contract Documents are the only warranties and guarantees of the Design-Builder applicable to the Work and no other warranties or guarantees, statutory or otherwise, are or will be implied.
AMENDMENTS TO CCA 14 – 2000 DESIGN–BUILD STIPULATED PRICE CONTRACT

AGREEMENT, DEFINITIONS AND GENERAL CONDITIONS
The Standard Construction Document CCA 14 – 2000 for the Design-Build Stipulated Price Contract, consisting of the Agreement between the Owner and the Design-Builder, Definitions and General Conditions of the Design-Build Stipulated Price Contract, Parts 1 to 12 inclusive, governing the same is made part of these Contract Documents, with the following amendments, additions and modifications:

AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER

ARTICLE A-5 -- PAYMENT

Delete sub-paragraphs 5.3.1 and 5.3.2 entirely and replace with the following:

"5.3.1 Should either party fail to make payments as they become due under the terms of the Contract or in an award by arbitration or court, interest on such unpaid amounts shall also become due and payable from the date that is 30 calendar days after the date when the payment became due until payment, at the rate of 1.5% per annum above the prime rate quoted by the Bank of Canada."

ARTICLE A-6 -- RECEIPT OF AND ADDRESSES FOR NOTICES

Delete the text of ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES (retaining the provision for the addresses of the Owner, Design-Builder, Consultant and Payment Certifier) and replace it with the following:

"6.1 Notices in writing between the parties or between them and the Consultant shall be considered to have been received by the addressee on the date of receipt if delivered by hand, or by electronic communication, during the transmission of which no indication of failure of receipt is communicated to the sender, or by commercial courier, or if sent during normal business hours by fax and addressed as set out below. Such notices in writing will be deemed to be received by the addressee on the next business day if sent by fax after normal business hours or if sent by overnight commercial courier. Such notices in writing will be deemed to be received by the addressee on the fifth Working Day following the date of mailing, if sent by pre-paid registered post, when addressed as set out below."

DEFINITIONS

Amend Definition 13 – Owner’s Statement of Requirements by deleting the words “the site information and program requirements provided by the Owner” and inserting the words “Request for Proposals Document No. P-10-10, Design and Build Integrated Team for Construction Work at the Peterborough Airport, together with all addenda”.

Add a new Definition 25, OHSA, as follows:

"25. OHSA

OHSA means the Occupational Health and Safety Act (Ontario)."
AMENDMENTS TO THE GENERAL CONDITIONS OF THE DESIGN-BUILD STIPULATED PRICE CONTRACT

GC 1.1 CONTRACT DOCUMENTS

Add a new sentence to the end of paragraph 1.1.9 as follows:

"The specifications are divided into divisions and sections for convenience but shall be read as a whole and neither such division nor anything else contained in the Contract Documents will be construed to place responsibility on the Consultant to settle disputes among the Subcontractors and Suppliers or as between them and the Design-Builder with respect to such divisions."

Delete “Supplementary Conditions” and replace with “Amendments to CCA 14 – 2000 Design-Build Stipulated Price Contract”, add “Successful Proponent Submission dated April 29, 2010” after “Owner’s Statement of Requirements” and then “drawings” before “Division 1 of the specifications,” under Construction Documents in paragraph 1.1.10. Delete “drawings” as the last item in the paragraph.

Add new paragraphs 1.1.10.5 and 1.1.10.6 as follows:

1.1.10.5 In case of discrepancies, noted materials and annotations shall take precedence over graphic indications in the Contract Documents.

1.1.10.6 should requirements respecting environmental protection, fire safety, public safety, or occupational health and safety set out in reference standards, regulations, or other reference specifications conflict with the specifications, the more stringent shall govern.”

GC 1.5 ASSIGNMENT

Delete paragraph 1.5.1 and replace with the following:

“The Owner may assign all or any part of the Contract without the written consent of the Design-Builder. The Design-Builder may not assign all or any part of the Contract without the written consent of the Owner.”

GC 1.6 CONFIDENTIALITY

Add the following to paragraph 1.6.1:

“The Design-Builder acknowledges that the Owner is bound by the provisions of the Municipal Freedom of Information and Protection of Privacy Act ("MFIPPA"). The Design-Builder further acknowledges that the Owner may be required to disclose confidential information and personal information in the event that it is compelled to do so by law, through a request under MFIPPA, or by the rules of any applicable regulatory authority, and in such event, the Owner will promptly notify the Contractor so that the Contractor may take such action as it deems appropriate.”

GC2.1 CONSULTANT

Amend paragraph 2.1.1.11 by deleting the words “and GC 6.3 – CHANGE DIRECTIVE”.

Delete paragraphs 2.1.1.12, 2.1.1.13, 2.1.1.14, 2.1.1.18 and 2.1.1.19 in their entirety.
In paragraph 2.1.1.15, in the second/third line, delete the words “, except with respect to GC 5.1 -- FINANCING INFORMATION REQUIRED OF THE OWNER”.

Delete paragraph 2.1.5 in its entirety.

GC 2.3 REVIEW AND INSPECTION OF THE WORK

Add the following new paragraph:

“2.3.9 Where standards of performance are specified and the Work does not comply with the performance specified, such deficiency shall be corrected as directed by the Owner. Subsequent testing to ensure that specified performance is achieved (including re-testing by the Owner or a specialized testing company) shall be performed at the Design-Builders expense.”

GC 2.4 DEFECTIVE WORK

Add a new paragraph 2.4.1.1 as follows:

“2.4.1.1 The Design-Builders shall prioritize the correction of any defective Work which, in the sole discretion of the Owner, adversely affects the day to day operation of the Owner.”

GC3.1 CONTROL OF THE WORK

Add a new paragraph 3.1.5 as follows:

“3.1.5 Prior to commencing individual procurement, fabrication and construction activities, the Design-Builders shall verify, at the Place of the Work, all relevant measurements and levels necessary for proper and complete fabrication, assembly and installation of the Work and shall further carefully compare such field measurements and conditions with the requirements of the Contract Documents. Where dimensions are not included or exact locations are not apparent, the Design-Builders shall immediately notify the Owner and the Consultant in writing and obtain written instructions from the Owner and the Consultant before proceeding with any part of the affected Work.”

GC 3.3 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

Delete subparagraphs 3.3.2.1 and 3.3.2.2 in their entirety.

Add a new paragraph 3.3.3.5 as follows:

“3.3.3.5 Subject to GC3.5 CONSTRUCTION SAFETY, for the Owners own forces and for other contractors, including all contractors of the tenants and the tenants’ own forces, assume overall responsibility for compliance with all aspects of the applicable health and safety legislation of the Place of the Work, including all the responsibilities of the ‘contractor’ under OSHA. Notwithstanding the foregoing, the Design-Builders obligations pursuant to this 3.3.3.5 are subject always to the restrictions of the Design-Builders collective agreements. In the event that the Owners own forces or other contractors, including all contractors of the tenants and the tenants’ own forces (collectively, “Other Contractors”), are not in harmony with the requirements of the Design-Builders collective agreements, the parties will use their best efforts to find a commercially reasonable solution to give effect to this paragraph 3.3.3.5. Furthermore, it is an express condition of this paragraph 3.3.3.5...
that any Other Contractors be required to acknowledge and be bound to the Design-Build's Health and Safety Management Manual. "Place of the Work”, as used in this subsection only, means the footprint of the Design-Build’s construction area as set out in P-10-10-001 - Peterborough Airport Master Plan and P-10-10-002 — Peterborough Airport General Aviation Area.”

GC 3.4 SCHEDULE OF THE WORK

Delete paragraph 3.4.1 in its entirety and replace it with the following:

"3.4.1.1 prior to site mobilization, submit to the Owner for approval a baseline schedule indicating the critical path for the Project, including all predecessor activities and including manpower loading expressed in man hours. Employ a scheduling program demonstrating that the Work will be performed in conformity with the Contract Time. The Design-Build shall provide the schedule information required by this paragraph 3.4.1.1 in both electronic format and hard copy and the baseline schedule shall be prepared in collaboration with, and be supported by, the Subcontractors and Suppliers whose activities affect the critical path. Once accepted by the Owner, the construction schedule submitted by the Design-Build shall become the baseline construction schedule.

3.4.1.2 provide the expertise and resources, such resources including manpower and equipment, as are necessary to maintain progress under the construction schedule referred to in paragraph 3.4.1.1 or any successor or revised schedule approved by the Owner pursuant to GC3.4.

3.4.1.3 continuously monitor the progress of the Work and provide a monthly progress schedule covering all of the baseline activities and including the actual start, actual finish and percentage completion of those activities. Each month, the Design-Build shall submit, for the Owner’s approval, any changes made to the baseline logic and activity durations.

3.4.2 Without limiting the other obligations of the Design-Build under GC3.4, the Design-Build shall not amend the baseline schedule described in paragraph 3.4.1.1 without the prior written consent of the Owner. In addition, at each site construction meeting, the Design-Build shall provide to the Owner a two (2) week look-ahead schedule indicating the major activities to be undertaken or constructed in such two (2) week period."

GC 3.5 CONSTRUCTION SAFETY

Delete paragraph 3.5.1 in its entirety and replace it with the following:

"3.5.1 The Design-Build shall be solely responsible for construction safety at the Place of the Work and for compliance with the rules, regulations, and practices required by OHSA, including, be not limited to those of “constructor” and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Work. Without limiting the foregoing, the Design-Build shall be solely responsible for construction safety in respect of its own consultants, Subcontractors and Suppliers, the Owner’s own forces and other contractors, and any other contractors retained by any of the Owner’s tenants and the tenants’ own forces, during the life of the Project.

Add new paragraphs 3.5.2, 3.5.3, 3.5.4 and 3.5.5 as follows:

Add new paragraphs 3.5.2, 3.5.3, 3.5.4 and 3.5.5 as follows:
3.5.2 Prior to the commencement of the Work, the Design-Builder shall submit to the Owner:

1. evidence of compliance with the workers' compensation legislation in force at the Place of the Work;

2. copies of the Design-Builder's certificates of insurance having application to the Project or certificates of insurance, at the option of the Owner;

3. documentation of the Design-Builder's in-house safety-related programs;

4. prior to site mobilization, a copy of the "Notice of Project" filed with the Ministry of Labour naming itself as "constructor" under OHSA, or the equivalent required under the occupational health and safety legislation in force at the Place of the Work.

3.5.3 The Design-Builder shall indemnify and save harmless the Owner, their agents, officers, directors, employees, consultants, successors and assigns from and against the consequences of any and all safety infractions committed by the Design-Builder under OHSA, or any other occupational health and safety legislation in force at the Place of the Work, including the payment of legal fees and disbursements on a substantial indemnity basis. Such indemnity shall apply to the extent to which the Owner is not covered by insurance, provided that the indemnity contained in this paragraph shall be limited to costs and damages resulting directly from such infractions and shall not extend to any consequential, indirect or special damages.

3.5.4 The Design-Builder shall comply with all relevant aspects of the Aviation Safety Management System ("SMS") operated by Peterborough Municipal Airport (the "Airport"). In particular, the Design-Builder shall:

a. participate in relevant safety and other committee meetings for the duration of the Work, and share related safety information with the Airport Manager or designate;

b. ensure that employees of the Design-Builder have been advised of the non-punitve reporting policy at the Airport; are aware of the mechanisms to report hazards and occurrences, have ready access to hazard report forms and are encouraged to submit such reports;

c. advise employees of the Design-Builder of restrictions that apply to the movement of personnel and vehicles on the Airport;

d. if required, conduct hazard analyses or risk assessments in accordance with the Airport's safety policies and procedures; and

e. grant access to the Airport's safety advisor to conduct safety audits or evaluations of Work related activities as they relate to Airport safety.

The Design-Builder shall be responsible for ensuring the supervision of staff and associated equipment for all airside construction activities during and outside of normal Airport operating hours by qualified personnel who are familiar with Airport operational practices and procedures. All vehicle operators operating on airside restricted areas, including active runways and taxiways, must possess or be escorted by personnel holding a valid Airside Vehicle Operators Permit ("AVOP") and radio license. If the Design-Builder cannot directly provide
supervisory staff that possess an AVOP, then these services may be provided by the Design-Builder under contract to a third party. The Design-Builder shall ensure that no construction employees, employees of Subcontractors or Suppliers, or other persons enter any part of the air operations areas from the construction site unless they are authorized to do so.

3.5.5 The Owner undertakes to include in its contracts with other contractors and/or in its instructions to its own forces the requirement that the other contractor or own forces, as the case may be, will comply with directions and instructions from the Design-Builder with respect to occupational health and safety and related matters.

GC 3.6 SUPERVISOR

Delete paragraph 3.6.1 in its entirety and replace it with the following:

"3.6.1 The Design-Builder shall provide full time supervision and appoint competent representatives who shall be in attendance at the Place of the Work while Work is being performed. The appointed representatives shall not be changed except for valid reasons, and upon the Design-Builder obtaining the Owner's written consent.

Delete paragraph 3.6.2 in its entirety and replace it with the following:

"3.6.2 The supervisor, and any project manager appointed by the Design-Builder, shall represent the Design-Builder at the Place of the Work and shall have full authority to act on written instructions given by the Owner. Instructions given to the supervisor or the project manager shall be deemed to have been given to the Design-Builder and both the supervisor and any project manager shall have full authority to act on behalf of the Design-Builder and bind the Design-Builder in matters related to this Contract."

Add a new paragraph 3.6.3 as follows:

"3.6.3 The Owner, acting reasonably, shall have the right to order the Design-Builder to remove from the Project any representative or employee of the Design-Builder, Subcontractors or Suppliers who, in the opinion of the Owner, are a detriment to the Project, upon written notice to the Design-Builder."

GC 3.7 OTHER CONSULTANTS, SUBCONTRACTORS, AND SUPPLIERS

Amend paragraph 3.7.2 by adding "and the Design-Builder shall not change or replace any other consultants, Subcontractors or Suppliers without the prior written consent of the Owner." to the end of the paragraph.

GC 3.8 LABOUR AND PRODUCTS

Amend paragraph 3.8.1 by adding the following sentence at the end of that paragraph:

"The Design-Builder represents and warrants that the Products provided for in accordance with the Contract are not subject to any conditional sales contract and are not subject to any security rights obtained by any third party which may subject any of the Products to seizure and/or removal from the Place of the Work."

Delete paragraph 3.8.2 and replace it with the following: [ ]
"3.8.2 Products, except as set out herein, provided shall be new and shall conform to all current applicable specifications of the Canadian Standards Association, Canadian Standards Board or General Standards Board, ASTM, National Building Code, Ontario Building Code, National Fire Prevention Association, the Technical Standards and Safety Authority (also known as TSSA) and all government authorities having jurisdiction at the Place of the Work, unless otherwise specified. Products which are not specified shall be of a quality consistent with those specified and their use acceptable to the Owner. Products brought on to the Place of the Work by the Design-Builder shall be deemed to be the property of the Owner, but the Owner shall be under no liability for loss thereof or damage thereto arising from any cause whatsoever. The said Product shall be at the sole risk of the Design-Builder. Recycled Products will not be accepted by the Owner for the site or site areas. Provided that the Product meets all of the technical requirements of a new Product, recycled Products for the ground site works will be accepted by the Owner."

Amend paragraph 3.8.3 by adding the words, "..., agents, Subcontractors and Suppliers..."after the "employees" toward the end of line one.

Further amend paragraph 3.8.3 by adding three new sentences to the end of the paragraph which reads as follows:

"Without in any way limiting the generality of the foregoing, the Design-Builder shall draft job site rules for the review and approval of the Owner. Any such job site rules prepared by the Design-Builder shall be consistent with the Design-Builder’s duties and obligations under the OHSA, or the equivalent occupational health and safety legislation in force at the Place of the Work and shall also include provisions making smoking and the consumption of alcohol or non-prescription drugs on the Project site the subject of discipline proceedings and/or termination of employment."

Add new paragraphs 3.8.4, 3.8.5 and 3.8.6 as follows:

"3.8.5 Upon receipt of a written notice from the Owner, the Design-Builder shall dismiss from the Place of the Work tradesmen and labourers whose Work is unsatisfactory to the Owner or who are considered by the Owner to be unskilled or otherwise objectionable.

3.8.6 The Design-Builder shall not employ any persons on the Work whose labour affiliation, or lack thereof, is incompatible with other labour employed in connection with the Work. Any costs arising from labour disputes, as a result of the employ of any such person by the Design-Builder, its Subcontractors or Suppliers shall be the sole expense of the Design-Builder. In the event of an actual or threatened objection or grievance by, to, or on behalf of labour employed on the site or by any union, the Design-Builder shall make such arrangements and take such actions as may be necessary in the opinion of the Owner to prevent any strikes, slowdowns or other delays and to prevent any damages or expenses to the Owner and shall continue with the performance of the Work notwithstanding any actual or threatened objection or grievance by, to, or on behalf of labour employed on the site or by any union.

3.8.7 The Design-Builder shall cooperate with the Owner and its representatives and shall take all reasonable and necessary actions to maintain stable and harmonious labour relations with respect to the Work at the Place of the Work, including cooperation to attempt to avoid Work stoppages, trade union jurisdictional disputes and other labour disputes."
GC 3.9 DOCUMENTS AT THE SITE

Delete paragraph 3.9.1 in its entirety and replace it with the following:

"3.9.1 The Design-Builder shall keep one copy of the current Contract Documents, supplemental instructions, contemplated Change Orders, Change Orders, cash allowance disbursement authorizations, reviewed shop drawings, submittals, reports, ongoing as-built drawings and records of meetings at the Place of the Work, in good order and available to the Owner."

GC 3.10 SHOP DRAWINGS

Add new paragraphs 3.10.7, 3.10.8, 3.10.9, 3.10.10, 3.10.11 and 3.10.12 as follows:

"3.10.7 The Design-Builder shall prepare a shop drawing schedule acceptable to the Owner and the Consultant prior to the first application for payment. A draft of the proposed shop drawing schedule shall be submitted by the Design-Builder to the Consultant and the Owner for approval.

3.10.8 Reviewed shop drawings shall not authorize a change in the Contract Price and/or the Contract Time.

3.10.9 The Design-Builder shall not use the term "by others" on shop drawings or other Submittals. The related trade, Subcontractor or Supplier shall be stated.

3.10.10 Certain specifications sections require the shop drawings to bear the seal and signature of a professional engineer. Such professional engineer must be registered in the jurisdiction of the Place of the Work and shall have expertise in the area of practice reflected in the shop drawings.

3.10.11 In addition to the foregoing, the Design-Builder shall submit for review its design at intervals of 30%, 60% and 100% for review by the Owner.

3.10.12 The Owner may procure the services of a compliance consultant to review the Design-Builder’s design submissions at 30%, 60% and 100% completion. It should be noted that a review by the Owner is not deemed to be an approval of the design."

GC 3.13 CLEANUP

Add new paragraph 3.13.4 as follows:

"3.13.4 Immediately prior to the end of each runway closure the Design-Builder shall ensure that no materials and or plant remain within the Runway Strip and that the graded area within the Runway Strip, currently measured at 60m either side of the runway centreline and extending 60m beyond the runway ends, shall be free from obstruction in order to minimize hazards in the event of an airplane running off the runway."

GC 3.15 OCCUPANCY OF THE WORK

Add a new General Condition 3.15 as follows:

"3.15 OCCUPANCY OF THE WORK
3.15.1 The Owner reserves the right to take possession of and use for any intended purpose any portion or all of the undelivered portion of the Project even though the Work may not have reached Substantial Performance of the Work, provided that such taking possession and use will not interfere, in any material way, with the progress of the Work. The taking of possession or use of any such portion of the Project shall not be deemed to be the Owner's acknowledgement or acceptance of the Work or Project nor shall it relieve the Design-Builder of any of its obligations under the Contract.

GC 3.16 DESIGN-BUILDER'S STANDARD OF CARE

Add a new General Condition 3.16 as follows:

"3.16 DESIGN-BUILDER'S STANDARD OF CARE

3.16.1 In performing this Contract, the Design-Builder shall exercise the degree of care, skill and diligence that would normally be exercised by an experienced, skilled and prudent design-builder supplying similar services for similar projects in a first class and expeditious manner. The Design-Builder acknowledges and agrees that, throughout this Contract, the Design-Builder's obligations, duties and responsibilities shall be judged, evaluated and interpreted in accordance with this standard. The Design-Builder shall exercise the same standard of care in respect of any Products, personnel or procedures which it may recommend to the Owner or employ on the Project."

GC 3.17 DESIGN-BUILDER'S COVENANTS

Add a new General Condition 3.17 as follows:

"3.17 DESIGN-BUILDER'S COVENANTS

3.17.1 The Design-Builder further represents, covenants and warrants to the Owner that:

1. the personnel it assigns to the Project are appropriately experienced;

2. it has a sufficient staff of qualified and competent personnel to replace its designated supervisor and project manager, subject to the Owner's approval, in the event of death, incapacity, removal or resignation; and,

3. there are no pending, threatened or anticipated claims that would have a material effect on the financial ability of the Design-Builder to perform its work under the Contract.

GC 4.2 CONTINGENCY ALLOWANCE

Delete GC 4.2 in its entirety.

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

Delete GC 5.1 in its entirety.

GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT

Delete paragraph 5.2.6 in its entirety.
Add new paragraphs 5.2.8, 5.2.9, 5.2.10 and 5.2.11 as follows:

5.2.8 The Design-Builder shall submit, with each application for progress payment after the first, a Statutory Declaration, on an original form of CCDC Document 9A-2001, stating that all accounts for labour, subcontracts, Products, construction equipment and other indebtedness which may have been incurred by the Design-Builder and for which the Owner might in any way be held responsible have been paid in full up to the previous invoice, except for amounts properly retained as a holdback or as an identified amount in dispute.

5.2.9 The Design-Builder shall submit satisfactory evidence of compliance with the workers’ compensation legislation in effect at the Place of the Work with each application for progress payment, including the application for Substantial Performance of the Work.

5.2.10 The Design-Builder shall prepare and maintain current as-built drawings which shall consist of the drawings and specifications revised by the Contractor during the Work, showing changes to the drawings and specifications, which current as-built drawings shall be maintained by the Design-Builder and made available to the Owner for review with each application for progress payment. The Owner reserves the right to retain a reasonable amount for the value of the as-built drawings not presented for review.

5.2.11 In addition to any other holdbacks provided for in the Contract Documents, a reserve fund may be retained by the Owner to secure the correction of deficiencies, the amount of such reserve fund to be based on the Owner’s reasonable estimate of the cost of correcting deficient items. All deficiencies shall be completed within thirty (30) days of the date of certification of Substantial Performance of the Work. In the event that the deficiencies are not corrected by the Design-Builder within that time, the Owner shall be at liberty to retain another contractor to complete the deficiencies, and the cost thereof, plus any of the Owner’s administrative costs and the costs of any property management service provider to the Owner (who may manage the completion of deficiencies on behalf of the Owner) shall be deducted from any further amounts due and owing to the Design-Builder.

GC 5.3 PROGRESS PAYMENTS

Amend paragraph 5.3.1, in the second line, by deleting “10 days” and replacing it with “ten (10) Working Days”.

Amend paragraph 5.3.2, in the second line, by deleting “15 days” and replacing it with “fifteen (15) Working Days”.

Add new paragraph 5.3.3 as follows:

5.3.3 If the Design-Builder fails to provide a statutory declaration as required by paragraph 5.2.8 or the clearance certificate required by paragraph 5.2.9, the Owner shall be entitled to deduct from amounts otherwise payable to the Design-Builder an amount sufficient to cover any liability which it might incur as a result of the Design-Builder’s failure.
GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

Amend paragraph 5.4.3 by changing "7 days" to "fifteen (15) Working Days".

Add the following to the end of paragraph 5.4.4:

"Immediately following the issuance of a certificate of Substantial Performance of the Work, the Design-Builder shall publish the certificate in the manner provided in the construction lien legislation in force at the Place of the Work, if applicable, failing which, the Owner shall be at liberty to publish and back charge the Design-Builder for its reasonable costs for doing so."

Add new paragraphs 5.4.5 as follows:

"5.4.5 Prior to submitting its written application for Substantial Performance of the Work, the Design-Builder shall submit to the Owner all:

1. as built drawings (hard and soft copy AUTOCAD);
2. warranties;
3. certification documentation from Transport Canada;
4. as built documentation (hard and soft copy);
5. commissioning documentation;
6. CCTV survey of drainage systems;
7. letters of compliance from the Engineers of Record certifying that the Work has been completed in accordance with the specifications, drawings, the Owner's Statement of Requirements and Transport Canada's guidelines;
8. ESA certificates;
9. material testing certificates.

and other materials or documentation required to be submitted under the Contract, together with written proof acceptable to the Owner that the Work has been performed in conformance with the requirements of all municipal, governmental, and utility authorities having jurisdiction at the Place of the Work and the Owner's Statement of Requirements.

GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

Delete paragraph 5.5.3 in its entirety.

GC 5.7 FINAL PAYMENT
Delete paragraph 5.7.1 and replace with the following:

"5.7.1 When the Design-Builder considers that the Work is completed, the Design-Builder shall submit an application for final payment. The Design-Builder's application for final payment shall be accompanied with evidence of compliance with the workers' compensation legislation in force at the Place of the Work and a statutory declaration in the CCDC Document 9A - 2001."
GC 5.8 WITHHOLDING OF PAYMENT

Delete in the first line the words "If because of climatic or other" and replace with "If the Owner and the Design-Builder agree that due to".

Add new paragraph 5.8.2 as follows:

"5.8.2 If, within thirty (30) days of the date of Substantial Performance of the Work, the Design-Builder does not completely finish the Work to the satisfaction of the Owner, the Owner shall have the right to complete the Work and deduct the cost thereof, together with an appropriate administration fee from the reserve fund set out in GC 5.3.11."

6.1 CHANGES

Amend paragraph 6.1.1 by adding the words "and changes to the Contract Time for the Work, or any part thereof" after the word "Work" in the second line, deleting the words "or Change Directive" and placing a period after the word "Order" in the second line. Add the following to the end of that paragraph:

"This requirement is of the essence and it is the express intention of the parties that any claims by the Design-Builder for a change in the Contract Price and/or Contract Time shall be barred unless there has been strict compliance with PART 6 CHANGES IN THE WORK. No course of conduct or dealing between the parties, no express or implied acceptance of alterations or additions to the Work and no claims that the Owner has been unjustly enriched by any alteration or addition to the Work, whether in fact there is any such unjust enrichment or not, shall be the basis of a claim for additional payment under this Contract or a claim for any extension of the Contract Time."

Amend paragraph 6.1.2 by deleting the words "or a Change Directive"

Amend paragraph 6.1.3 by add the words "as follows:" to the end of the sentence plus the following chart:

<table>
<thead>
<tr>
<th>Change in the Contract Price</th>
<th>Subcontractor and Design-Builder’s Own Forces Mark-Up (%)(includes overhead and profit)</th>
<th>Design-Builder's Mark-Up (%) on Subcontractor’s work (includes overhead and profit)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - $49,999.99</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Over $50,000.00</td>
<td>8</td>
<td>8</td>
</tr>
</tbody>
</table>

Add a new paragraph 6.1.7 as follows:

"6.1.7 The Design-Builder agrees that changes resulting from construction coordination including but not limited to site surface conditions, site coordination, Subcontractor and Supplier coordination are included in the Contract Price and shall the Design-Builder shall be precluded from making any claim for an increase in the Contract Price as a result of such coordination."
GC 6.2 CHANGE ORDER

Add after the last sentence in paragraph 6.2.1 the following sentence:

"The adjustment in the Contract Time and the Contract Price shall include an adjustment, if any, for delay or for the impact that the change in the Work has on the Work of the Design-Builder, and the Design-Builder shall be precluded from making any further claims for delay or impact with respect to the change in the Work."

GC 6.3 CHANGE DIRECTIVE

Delete entirety of GC 6.3.

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

Delete paragraph 6.4.1 and replace it with the following:

"6.4.1.1 The Design-Builder confirms that it has carefully investigated the Place of the Work and applied to that investigation the degree of care and skill described in paragraph 3.16.1.

6.4.1.2 The Design-Builder shall assume any and all risk of conditions or circumstances now existing or arising in the course of the Work which could make the Work more expensive or more difficult to perform than was contemplated at the time the Contract was executed. No claim by the Design-Builder will be considered by the Owner in connection with such conditions, save and except for the discovery of conditions that were not disclosed in the Owner's Statement of Requirements or any of the site visits made by the Design-Builder during the preparation of its "Proposal" during the "RFP Process" and neither the Owner nor the Design-Builder could have reasonably contemplated the discovery of such conditions."

Delete paragraphs 6.4.2 and 6.4.3 in their entirety.

GC 6.5 DELAYS

Delete this GC 6.5 in its entirety and replace with the following:

"6.5.1 If the Design-Builder is delayed in the performance of the Work by lack of access to the site, or an unreasonable delay in the approval of drawings, by the Owner, or anyone employed or engaged by them directly or indirectly, and contrary to the provisions of the Contract Documents, then the Contract Time shall be extended by the Owner for a reasonable time. The Design-Builder shall be reimbursed by the Owner for direct costs incurred by the Design-Builder as a result of such delay, but the Design-Builder shall not be entitled to reimbursement for indirect costs such as loss of profit, overhead, impact, consequential, special or other damages.

6.5.2 If the Design-Builder is delayed in the performance of the Work by a stop work order issued by a court or other public authority and providing that such order was not issued as a result of an act or fault of the Design-Builder or any person employed or engaged by the Design-Builder directly or indirectly then the Contract Time shall be extended by the Owner for a reasonable time. The Design-Builder shall be reimbursed by the Owner for direct costs incurred by the Design-Builder as the result of such delay, but the Design-Builder shall not be entitled to
reimbursement for indirect costs such as loss of profit, overhead, impact, consequential, special or other damages.

6.5.3 If the Design-Builder is delayed in the performance of the Work by fire, unavoidable casualties, or, by a cause beyond the Design-Builder's control, with the exception of any climatic or weather conditions, the Contract Time shall be extended for a reasonable time by the Owner. The extension of time shall not be less than the time lost as a result of the event causing the delay, unless the Design-Builder agrees to a shorter extension.

6.5.4 No extension or compensation shall be made for delay or impact on the Work unless notice in writing of claim is given to the Owner not later than 10 Working Days after the commencement of delays or impact on the Work providing however, that in the case of a continuing cause of delay or impact on the Work only one notice of claim shall be necessary.

6.5.5 No claim for compensation for delay shall be made and the Contract Time shall not be extended due to climatic conditions or arising from the Design-Builder's efforts to maintain the Contract schedule."

6.5.6 If the Design-Builder is delayed in the performance of the Work by an act or omission of the Design-Builder or anyone employed or engaged by the Design-Builder directly or indirectly, or by any cause within the Design-Builder's control, then the Contract Time shall be extended for such reasonable time as the Owner may decide in consultation with the Design-Builder. The Owner shall be reimbursed by the Design-Builder for all reasonable costs incurred by the Owner as the result of such delay.

6.5.7 The Design-Builder shall be responsible for the care, maintenance and protection of the Work in the event of any suspension of construction as a result of the delay described in paragraph 6.5.1, 6.5.2 or 6.5.3. In the event of such suspension, the Design-Builder shall be reimbursed by the Owner for the reasonable costs incurred by the Design-Builder for such protection, but excluding the costs of the Design-Builder's head office personnel, for such care, maintenance and protection. The Design-Builder's entitlement to costs pursuant to this paragraph 6.5.7, if any, shall be in addition to amounts, if any, to which the Design-Builder is entitled pursuant to paragraph 6.5.1, 6.5.2 or 6.5.3.

6.5.8 Without limiting the obligations of the Design-Builder described in GC3.3 or GC3.5, the Owner may, by notice in writing, direct the Design-Builder to stop the Work where the Owner determines that there is an imminent risk to the safety of persons or property at the Place of the Work. In the event that the Design-Builder receives such notice, it shall immediately stop the Work and secure the site. The Design-Builder shall not be entitled to an extension of the Contract Time or to an increase in the Contract Price unless the resulting delay, if any, would entitle the Design-Builder to an extension of the Contract Time or the reimbursement of the Design-Builder's costs as provided in paragraph 6.5.1, 6.5.2 or 6.5.3."

GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, SUSPEND THE WORK, OR TERMINATE THE CONTRACT

Delete paragraph 7.1.2 and replace with the following:

"7.1.2 If the Design-Builder should neglect to prosecute the Work properly, fails or neglects to maintain the latest schedule provided pursuant to GC 3.4, fails to provide a valid and current Worker's Compensation Clearance Certificate where required to under
the Contract, fails to provide the required certificates of insurance, fails to provide
the required performance and labour and materials payment bonds as required, or
otherwise fails to comply with the requirements of the Contract, the Owner may,
without prejudice to any other right or remedy the Owner may have, notify the
Design-Builder in writing that the Design-Builder is in default of the Design-
Builder's contractual obligations and instruct the Design-Builder to correct the
default in the five (5) Working Days immediately following the receipt of such
notice."

Add the words "as determined by the Owner" after the word "allowance" in the first line of paragraph
7.1.5.3 and delete the balance of the paragraph after the words "Contract Price" in the third line.

Add new paragraph 7.1.12 as follows:

"7.1.12 In addition to and without limiting the generality of any of the provisions of
GC 7.1, the Owner may suspend the Work or terminate the Contract, by giving
the Design-Builder notice in writing, in the event that funding for the Project,
pursuant to the "Infrastructure Stimulus Fund" sponsored by the Province of
Ontario and the Government of Canada, is suspended, revoked, cancelled,
terminated or is otherwise not made available to the Owner for the Project. In
those circumstances, the Owner shall pay the Design-Builder for all Work
performed up to the date of suspension or termination, as certified by the
Payment Certifier. The Design-Builder shall not be entitled to make a claim
and the Owner shall not be liable for the Design-Builder's loss of profit,
consequential, indirect or special damages, or impact costs."

GC7.2 DESIGN-BUILDER'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE
CONTRACT

Delete paragraph 7.2.3.1 in its entirety.

Delete paragraph 7.2.3.2 and replace it with the following:

"7.2.3.2 the Owner fails to pay the Design-Builder when due the amounts due under the
Contract or awarded by arbitration or court, except where the Owner has a bona
fide claim for setoff, or..."

Delete paragraph 7.2.3.3 in its entirety.

Change paragraph 7.2.3.4 to read "the Owner violates to the requirements of the Contract to a substantial
degree."

Renumber paragraph 7.2.5 as 7.2.6. Add a new paragraph 7.2.5 as follows:

"7.2.5 If the default cannot be corrected within the five (5) Working Days specified in
paragraph 7.2.4, the Owner shall be deemed to have cured the default if it:

1. commences correction of the default within the specified time;

2. provides the Design-Builder with an acceptable schedule for such
correction; and

3. completes the correction in accordance with such schedule."

Delete renumbered paragraph 7.2.6 in its entirety and replace it with the following:
"7.2.6 If the Design-Builder terminates the Contract under the conditions described in this GC 7.2, the Design-Builder shall be entitled to be paid for all Work performed to the date of termination, as certified by the Payment Certifier. The Design-Builder shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization, losses sustained on Products and construction machinery and equipment. The Design-Builder shall not be entitled to any recovery for any special, indirect or consequential losses or special damages."

Add new paragraph 7.2.7 as follows:

"7.2.7 The Design-Builder shall not be entitled to terminate the Contract in the event that the Owner withholds certificates or payment or both in accordance with the Contract because of:

(a) the Design-Builder’s failure to pay all legitimate claims promptly; or

(b) the failure of the Design-Builder to discharge liens which are registered against the Owner’s property."

GC 8.2 NEGOTIATION, MEDIATION, AND ARBITRATION

In the second line of paragraph 8.2.1 change:

"shall appoint a Project Mediator" to “may appoint a Project Mediator except that such an appointment shall only be made if both the Owner and the Design-Builder agree”

Amend paragraph 8.2.2 by changing the word “Consultant” to “Payment Certifier” in all instances in the paragraph, and deleting the words “under GC 2.1 – CONSULTANT”.

In the second line of paragraph 8.2.4, change "the parties shall request the Project Mediator" to "and subject to paragraph 8.2.1, the parties may request the Project Mediator"

Add to the end of paragraph 8.2.6 the following:

"Notwithstanding the foregoing, arbitration shall only take place if both parties agree."

Insert after "Working Days", in paragraphs 8.2.7 and 8.2.8, the words "subject to paragraph 8.2.6”.

GC 9.1 PROTECTION OF WORK AND PROPERTY

Amend paragraph 9.1.1 by adding the words “, the tenants’ property” after the words “the Owner’s property” in the first line.

Add to end of paragraph 9.1.1.1:

"...which the Design-Builder could not reasonably have discovered applying the degree of care and skill described in paragraph 3.16.1 to its review of the Contract Documents."

Add to end of paragraph 9.1.2:

"...such damages include damage to subsurface or surface utilities, properties, pavement, sidewalks, curbs, buildings, homes or structures adjacent to or in the general area of the Work, through any cause relating to the Work carried out under the Contract. In addition, the Design-Builder shall be fully responsible for all accidents arising by reason of execution
or non-execution, or non-repairs, of the Work, or by reason of any failure to comply with the requirements of this paragraph and shall full indemnify the Owner in respect thereof.”

GC9.3 TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS

Delete GC 9.3 in its entirety and replace with the following:

“9.3.1 The Design-Build confir"m that it has carefully investigated the Place of the Work for toxic and hazardous substances and materials and applied to that investigation the degree of care and skill described in paragraph 3.16.1.

9.3.2 The Design-Build shall assume any and all risk of toxic and hazardous substances and materials and any conditions or circumstances now existing or arising in the course of the Work which could make the Work more expensive or more difficult to perform than was contemplated at the time the Contract was executed. No claim by the Design-Build will be considered by the Owner in connection with toxic and hazardous substances and materials and conditions, save and except for the discovery of toxic and hazardous substances and materials that were not disclosed in the Owner’s Statement of Requirements or in any of the site visits made by the Design-Build during the preparation of its “Proposal” during the “REP Process”, and neither the Owner nor the Design-Build could have reasonably contemplated the discovery of such toxic and hazardous substances and materials.”

9.3.3 Without limiting its other obligations under GC 9.3, the Design-Build acknowledges that its obligations under the Contract include compliance with various environmental programs, including, but not limited to asbestos abatement programs, transportation of hazardous goods and WHMIS. The Design-Build acknowledges that the Owner may suffer loss and damage should the Design-Build fail to comply with the environmental programs and agrees to indemnify and hold harmless the Owner with respect to any loss or damage to which the Owner is exposed by the Design-Build’s failure to comply. The Design-Build expressly agrees that such loss and damage shall be included within the scope of the Design-Build’s indemnity described in paragraph 12.1.1 of the General Conditions. The Design-Build acknowledges that it did fail to comply with the environmental programs, such failure will constitute a failure to comply with the requirements of the Contract within the meaning of paragraph 7.1.2.”

GC 10.1 TAXES AND DUTIES

Amend paragraph 10.1.2 by adding the following sentence at the end of the existing paragraph:

“For greater certainty, the Design-Build shall not be entitled to any mark up for overhead or profit on any increase in such taxes and duties and the Owner shall not be entitled to any credit relating to mark up for overhead or profit on any decrease in such taxes.”

Add the following new paragraph 10.1.4:

“10.1.4 The value of any Work carried out under cash allowances will exclude all Value Added Taxes. Payment of the Value Added Taxes on holdbacks shall be made in accordance with applicable legislation.”
GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

Add the following to the end of paragraph 10.2.2:

"The Design-Builder shall do all things necessary to expedite the building permit and any other approvals required by the authorities having jurisdiction at the Place of the Work. The Design-Builder shall provide the Owner, upon request by the Owner and in a format as advised by the Owner, with evidence of compliance with regulatory requirements respecting notices, permits, licenses, certificates and fees."

Amend paragraph 10.2.4 by deleting the first sentence, and deleting the words "and GC 6.3-CHANGE DIRECTIVE" at the end of the paragraph.

Further amend paragraph 10.2.4 by adding the following to the end of the second sentence:

"...and no further Work on the affected components of the Contract shall proceed until these changes to the Contract Documents have been obtained by the Design-Builder from the Consultant."

Further amend paragraph 10.2.4 by adding the following sentence to the end of the paragraph, as amended:

"The Design-Builder shall notify the Chief Building Official or the registered code agency where applicable, of the readiness, substantial completion, and completion of the stages of construction set out in the building code legislation in force at the Place of the Work. The Design-Builder shall be present at each site inspection by an inspector or registered code agency as applicable under the building code legislation in force at the Place of the Work."

Amend paragraph 10.2.5 by adding the following sentence at the end of that paragraph:

"In the event the Owner suffers loss or damage as a result of the Design-Builder’s failure to comply with paragraph 10.2.4, and notwithstanding any limitations described in paragraph 12.1.1, the Design-Builder agrees to indemnify and to hold harmless the Owner from and against any claims, demands, losses, costs, damages, actions, suits or proceedings resulting from such failure by the Design-Builder."

GC 10.4 WORKERS’ COMPENSATION

Amend paragraph 10.4.1 so that, as amended, it reads as follows:

"Prior to commencing the Work, and with each application for payment thereafter, the Design-Builder shall provide evidence with compliance with the workers’ compensation legislation in force at the Place of the Work."

GC 11.1 INSURANCE

Delete GC 11.1 INSURANCE, in its entirety, and replace with the following:

"11.1 The Design-Builder shall obtain and maintain all insurance policies in full force and effect that are applicable for the performance of the Work, for the duration of the Work, at its own costs and expense, with insurers a secure A.M. Best rating of B+ or greater, or the equivalent, including but not limited to the following:

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11.1.1 commercial contractor’s aviation general liability insurance on an occurrence basis for third party bodily injury, personal injury, property damage occurrence, contractual liability, contingent employers’ liability and employers' liability for employees not covered by workers' compensation, to an inclusive limit of not less than TEN MILLION DOLLARS ($10,000,000.00) per occurrence. The Commercial Contractors' Aviation General Liability insurance policy shall include the following:

a. The Corporation of the City of Peterborough, its elected officials, officers, employees, volunteers, agents and contractors and Her Majesty the Queen in right of Ontario, Her Ministers, directors, officers, agents, appointees and employees and Her Majesty the Queen in right of Canada, Her Ministers, directors, officers, agents, appointees and employees, as additional insureds with respect to liability arising in the course of the performance of the Design-Builders obligations under or otherwise in connection with the Work;

b. a cross liability clause;

c. contractual liability coverage; and,

d. a thirty (30) day written notice of cancellation, termination or material change.

11.1.2 The Design-Builder shall obtain third party liability coverage with a limit of not less than FIVE MILLION DOLLARS ($5,000,000.00) inclusive for the operation of all owned and non-owned automobiles operated on their behalf.

11.1.3 The Design-Builder shall obtain professional liability insurance (errors and omissions) covering the services described in the Contract, in an amount of not less than TWO MILLION DOLLARS ($2,000,000.00) per claim, with a FIVE MILLION DOLLARS ($5,000,000.00) annual aggregate.

11.1.4 Prior to commencing the Work, the Design-Builder shall provide the Owner with a Certificate of Insurance, which sets out and verifies that the insurance coverage set out in paragraphs 11.1.1, 11.1.2 and 11.1.3, and any other coverages that may be required for the performance of the Work. Upon the request of the Owner, the Design-Builder shall provide the Owner with full copies of the applicable policies.

GC 11.2 BONDS

Delete paragraph 11.2.2 in its entirety and replace with the following:

"11.2.2 Such bonds shall be issued by a duly licensed surety company, which has been approved by the Owner, authorized to transact a business of suretyship in the province or territory of the Place of the Work and shall be maintained in good standing until the fulfillment of the Contract, including all warranty and maintenance periods set out in the Contract Documents."

Add new paragraph 11.2.3 as follows:

"11.2.3 It is in the intention of the parties and the Contract that the performance bond shall be applicable to all of the Design-Builder's obligations under the Contract, and, wherever a performance bond is provided with language which conflicts with this intention, it shall be deemed to be amended to comply. The Design-Builder
GC 12.1 INDEMNIFICATION

Delete paragraphs 12.1.1 through 12.1.4 in their entirety and replace them with the following:

"12.1.1 The Design-Builder, both during and after the term of the Contract, shall, at all times, and at its own cost, expense and risk, defend, indemnify and hold harmless the Owner, its elected officials, officers, employees, volunteers, agents and contractors, the Owner’s consultants, Her Majesty the Queen in right of Ontario, Her Ministers, directors, officers, agents, appointees and employees and Her Majesty the Queen in right of Canada, Her Ministers, directors, officers, agents, appointees and employees (collectively, the “Indemnified Parties”) and all of their respective heirs, administrators, executors, successors and assigns from any and all losses, damages, fines, penalties and surcharges, liabilities (including but not limited to any and all liability for damage to property and injury to persons, including death), judgments, claims; demands, causes of action, contracts, suits, actions or other proceedings of any kind (including, but not limited to, proceedings of a criminal, administrative or quasi criminal nature) and expenses (including but not limited to legal fees on a substantial indemnity basis) which the Indemnified Parties may suffer or incur, howsoever caused, otherwise than by reason of the Indemnified Parties’ own negligence or wilful misconduct, arising out of or in consequence of, or in directly attributable to the Work required to be performed by the Design-Builder, or its agents, employees, Subcontractors and Suppliers, the performance of the Contract, the ongoing operation, maintenance and repair of the Work, whether such losses, damages, fines, penalties and surcharges, liabilities, judgments, claims, demands, causes of action, contracts, suits actions or other proceedings of any kind and expenses as set out herein are due to or claimed to be due to the negligence, breach of contract, and/or breach of any applicable law by the Design-Builder, its agents, employees, Subcontractors and Suppliers, or the Owner, its agents or employees. The Design-Builder hereby grants to the Owner full power and authority to settle any action, suit, claim or demand on such terms as the Owner may deem advisable and hereby covenants and agrees to pay the Owner, or demand, all monies paid by the Owner pursuant to any such settlement, together with the reasonable costs of the Owner or its solicitor in defending or settling any such action, suit, claim or demand. Nothing in this paragraph 12.1.1 shall limit any claim that the Owner may have under the insurance coverage to be provided under GC 11.1 - INSURANCE.

12.1.2 The Owner shall indemnify and hold harmless the Design-Builder, his agents and employees from and against claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Design-Builder’s performance of the Contract which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the Place of the Work.

12.1.3 In no event shall the Indemnified Parties be liable for:

a. any bodily injury, death or property damages to the Design-Builder, its employees, agents or consultants, or for any claim, demand or action by any third party against the Design-Builder, its employees, agents or consultants, otherwise than by reason of the Indemnified Parties’ own negligence or wilful misconduct, arising out of or in any way related to the “Canada-Ontario Infrastructure Stimulus Fund Agreement” or the Work or the Contract.
b. any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit to the Design-Builder, its employees, agents or consultants arising out of or in any way related to the “Canada-Ontario Infrastructure Stimulus Fund Agreement” or the Work or the Contract.”

12.1.4 GC12.1 – INDEMNIFICATION shall govern over the provisions of paragraph 1.4.1 of GC14 – RIGHTS AND REMEDIES and GC 9.2 – DAMAGES AND MUTUAL RESPONSIBILITY."

GC 12.2 WAIVER OF CLAIMS

Delete GC 12.2.1 in its entirety.

GC 12.3 WARRANTY

Amend paragraph 12.3.1 by changing the words “one year” to “two years” and by changing “Substantial Performance of the Work” to the earlier of total completion of the Work or six (6) months after Substantial Performance of the Work” as certified by the Payment Certifier”.

Amend paragraph 12.3.2 by adding the words, “Subject to paragraph 3.16.1...” at the beginning of that paragraph.

Add new paragraph 12.3.9 as follows:

"12.3.9 The Design-Builder shall ensure that its Subcontractors are bound to the requirements of GC 12.3 - WARRANTY for the Subcontractor's portion of the Work."

Add "PART 13 – OTHER PROVISIONS”.

Add GC 13.1 OWNERSHIP OF MATERIALS as follows:

"13.1.1 Unless otherwise specified, all materials existing at the Place of the Work at the time of execution of the Contract shall remain the property of the Owner. All Work, Products, and materials delivered by the Design-Builder which form part of the Work shall be considered the property of the Owner upon the Design-Builder receiving payment in full for such Work, Products and materials delivered, but the Design-Builder shall remove all surplus or rejected materials as its property when notified in writing to do so by the Owner."

Add GC13.2 CONTRACTOR DISCHARGE OF LIABILITIES as follows:

"13.2.1 In addition to the obligations assumed by the Design-Builder pursuant to GC3.7, the Design-Builder agrees to discharge all liabilities incurred by it for labour, materials, services, Subcontractors and Products, and Consultants used or reasonably required for use in the performance of the Work, on the date upon which each such liability becomes due."
"13.3.1 Unless otherwise provided in the Contract Documents, the Design-Builder shall prepare as-built or record drawings and provide them to the Owner for review."

Add GC 13.4 DAILY REPORTS/DAILY LOGS as follows:

"13.4.1 The Design-Builder shall cause its supervisor, or such competent person as he or she may delegate, to prepare a daily log or diary reporting on weather conditions, work force of the Design-Builder, Subcontractors, Suppliers and any other forces on site and also record the general nature of Project activities. Such log or diary shall also include any extraordinary or emergency events which may occur and also the identities of any persons who visit the site who are not part of the day-to-day work force.

13.4.2 The Design-Builder shall also maintain records, either at its head office or at the job site, recording manpower and material resourcing on the Project, including records which document the activities of the Design-Builder in connection with GC3.4, and comparing that resourcing to the resourcing anticipated when the most recent version of the schedule was prepared pursuant to GC3.4.

13.4.3 Upon request by the Owner, the Design-Builder shall make available for inspection and copying all of the records generated pursuant to this GC13.4 along with any other routine Project records ordinarily maintained by the Design-Builder."

Add GC 13.5 CONSTRUCTION LIENS as follows:

"13.5.1 In the event that any construction lien is registered against the Project, or any written notice of a lien is provided by or through a Subcontractor or Supplier, or the Consultant, the Design-Builder shall, at its own expense, post the security necessary to vacate or discharge such registered lien, as the case may be. In the event that a lien action is commenced and a Statement of Claim is issued and served, the Design-Builder shall take all reasonable steps to remove the Owner from the main action and to indemnify it and hold it harmless in such action.

Add GC 13.6 ACCOUNTING AND AUDIT as follows:

"13.6.1 The Design-Builder shall keep full and detailed accounts, invoices and records necessary for the performance of the Work, including copies of the Contract Documents. The Owner shall be granted full access, at its own expense, upon reasonable notice during regular business hours, to all of the Design-Builder’s books, records, correspondence, instructions, drawings, receipt vouchers, subcontractor and supplier invoices, subcontractor and supplier subcontracts, Consultant’s invoices and contract, monthly work status reports, quarterly expenditure and job creation reports, progress statements and memoranda relating to the Work (the “Records”) and the Design-Builder shall preserve the Records for a period of 7 years from the date of the final certificate for payment.

13.6.2 To the extent that the Owner requires copies of the Records and any other documents or records for the Owner’s reporting, accounting and review obligations under the “Infrastructure Stimulus Fund” from the Design-Builder, the Design-Builder shall provide copies to the Owner at the Owner’s expense. The Design-Builder shall cooperate and assist the Owner with the Owner’s reporting, accounting and review obligations, as may be requested by the Owner."
END OF AMENDMENTS TO CCA 14 - 2000