



Addendum No. 4

TENDER FOR:

**Supply, Delivery and Installation of
SCADA System on Various Corridors**

TENDER NO: IT-2017-SIG-017

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INTRODUCTION

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1.0 General

- 1.1 Metrolinx is issuing this call for Tenders to retain the services of a Contractor to provide the goods and/or services described herein. Metrolinx intends to award a Contract through an open, fair and competitive process.
- 1.2 You are invited to send your Submission for IT-2017-SIG-017, as more particularly described in this Tender Document as required by Metrolinx, which Work relates to the supply, delivery and installation of SCADA system at various corridors.
- 1.3 The Work includes, but shall not be limited to:
 - 1.3.1 the supply of labour, material, equipment, installation, testing and commissioning of a Railway Equipment Company (RECO) supervisory control and data acquisition (SCADA) system.

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- 1.0 In this Tender Document,
- 1.1 **"Addenda"** is the formal release of additions, deletions, revisions, clarifications to this Tender Document that form a part of the Contract.
- 1.2 **"Bidder"** means the legal entity that sends a Submission in response to this Tender Document and who if selected for award shall execute the Contract with Metrolinx for provision of the Work.
- 1.3 **"Bid Deposit"** shall have the meaning ascribed in Section 11 of the Instructions to Bidders.
- 1.4 **"CCDC"** means Canadian Construction Documents Committee.
- 1.5 **"Closing"** means, the deadline for Metrolinx to receive Submissions as specified in Section 1.4 of Instructions to Bidders.
- 1.6 **"Conflict of Interest"** means:
- 1.6.1 in relation to this Tender Process, the Bidder has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having, or having access to, confidential information of Metrolinx in the preparation of its Submission that is not available to other Bidders, (ii) communicating with any person with a view to influencing preferred treatment in this Tender Process (including but not limited to the lobbying of decision makers involved in this Tender Process), or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of this Tender Process; or
- 1.6.2 in relation to the performance of its contractual obligations contemplated in the Contract that is the subject of this procurement, the Bidder's other commitments, relationships or financial interests (i) could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement, or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.
- 1.7 **"Consultant"** shall have the same meaning ascribed in Supplementary Definitions of the Contract.
- 1.8 **"Contract"** shall have the same meaning ascribed in Definitions of the Contract.
- 1.9 **"Contract Documents"** shall have the same meaning ascribed in Definitions of the Contract.

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- 1.10 **"Contractor"** shall have the same meaning ascribed in Definitions of the Contract.
- 1.11 **"Drawings"** shall have the meaning ascribed in Definitions of the Contract.
- 1.12 **"EBS"** means Electronic Bid Submission.
- 1.13 **"E-Bid Authorized Signer"** is the designated individual in the Bidder's organization who has the authority to bind the Bidder to each and every term, condition, article and obligation of the Tender Document and any resultant Contract.
- 1.14 **"E-Bid Confirmation Number"** is the receipt received by a Bidder from MERX indicating that the Submission was uploaded successfully.
- 1.15 **"FIPPA"** shall have the same meaning ascribed in Section 27.0 of Instructions to Bidders.
- 1.16 **"Joint Venture"** means a business arrangement of two or more parties proposed for this Tender Process further described in Section 22.0 of Instructions to Bidders.
- 1.17 **"Metrolinx"** is a provincial crown agency continued under the *Metrolinx Act*, S.O. 2006, Chapter 16, and its successors and assigns and shall have the same meaning ascribed to "Owner" in Definitions of the Contract.
- 1.18 **"Notice to Proceed"** means the written communication issued by Metrolinx to the Contractor authorizing the Contractor to proceed with the Work and establishing the date from which the Submittals and activities described in the Contract Documents are to be provided or completed.
- 1.19 **"Option"** means a component of the Work that is to be exercised at the sole discretion of Metrolinx.
- 1.20 **"Owner"** shall have the same meaning ascribed in the Definition of the Contract and is also known as Metrolinx.
- 1.21 **"PDF"** means Portable Document Format
- 1.22 **"Participant in Charge"** shall have the same meaning ascribed in Section 22.3 of Instructions to Bidders.
- 1.23 **"Place of the Work"** shall have the same meaning ascribed in Definitions of the Contract.
- 1.24 **"Procurement Office"** means the Metrolinx Procurement Services office located at 277 Front Street West, 4th Floor, Toronto, Ontario, Canada, M5V 2X4.

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- 1.25 **"Procurement Representative"** means the following individual in the Procurement Services Department:

Douglas Hambly, Procurement Specialist – IT	
Telephone number	(416) 202-5693
Email	douglas.hambly@metrolinx.com

- 1.26 **"Project"** shall have the same meaning ascribed in Definitions of the Contract.
- 1.27 **"Submission"** means all documentation and other materials and information submitted (sent) by the Bidder in response to this Tender Document or in respect of this Tender Process.
- 1.28 **"Subcontractor"** shall have the same meaning ascribed in Definition of the Contract.
- 1.29 **"Substantial Performance of the Work"** shall have the same meaning ascribed in Definitions of the Contract.
- 1.30 **"Supplier"** shall have the same meaning ascribed in Definitions of the Contract.
- 1.31 **"Specifications"** shall have the same meaning ascribed in Definitions of the Contract.
- 1.32 **"Tender Document"** means this Tender document comprised of sections listed in the List of Contents, issued by Metrolinx for the Work to be provided, and any Addenda thereto.
- 1.33 **"Tender Document Forms"** means any sections of this Tender Document which require completion and must be included with the Submission.
- 1.34 **"Tender Process"** means the Tender procurement process set out in the Tender Document herein.
- 1.35 **"Total Contract Price"** shall have the same meaning ascribed to "Contract Price" in Definitions of the Contract.
- 1.36 **"Total Performance of the Work"** shall have the same meaning ascribed in Supplementary Definitions of the Contract.
- 1.37 **"Vendor Performance Management"** or **"VPM"** has the meaning ascribed in Section 31.0 of the Instructions to Proponents.

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- 1.38 **“Vendor Performance Rating”** or **“VPR”** has the meaning ascribed in Section 31.0 of the Instructions to Proponents.
- 1.39 **“Work”** means the supply of labour, material, equipment, installation, testing and commissioning of OEM SCADA system.
- 1.40 **“Work Blocks”** means the blocks of time for specific designated areas of the Railway Right-of-Way (ROW) that have been authorized for construction or maintenance work.
- 1.41 **“Working Day”** shall have the same meaning ascribed in Definitions of the Contract.

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1.0 General

1.1 ***NOTE: ELECTRONIC BID SUBMISSION

Your Submission for this opportunity must be sent to Metrolinx through the use of **MERX EBS**. Bidders shall be solely responsible for the delivery of their Submission using MERX EBS by the Closing, in accordance with these Instructions to Bidders.

1.2 Your Submission is to be firm and irrevocable for one hundred and twenty (120) calendar days from the Closing.

1.3 Your Submission will be evaluated in accordance with Section 20 – Submission Evaluation of Instructions to Bidders.

1.4 Tender Timetable

Milestone	Date
Issuance of Tender Documents	December 20, 2017
Deadline to Submit Request for Alternate Products and Materials	January 3, 2018
Deadline to Submit Questions	January 8, 2018
Last day for issuance of Addenda	January 22, 2018
Closing	January 25, 2018 @ 3:00 p.m. Toronto time
Deadline to Submit Bid Deposit/Agreement to Bond or Alternative (if Applicable)	January 30, 2018 @ 3:00 p.m. Toronto, Ontario time
Commencement Date of Work	March 2018

Metrolinx may, without liability, cost or penalty and in its sole discretion amend the Tender Timetable.

2.0 Tender Enquiries

2.1 All written enquiries and other communications prior to full Contract execution are to be directed solely to the Procurement Representative.

2.2 Information received from any sources other than the Procurement Representative shall be considered informal and Metrolinx shall not be bound by any information given in such a manner.

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- 2.3 Any questions concerning the Tender Documents, the contents herein, or the Work contemplated herein are to be directed, in writing, to the Procurement Representative prior to the deadline for submitting questions. No questions or requests for clarifications, changes or amendments of Tender Documents shall be entertained after this time regardless of the reason.
- 2.4 All questions/requests for clarification related to the Tender Documents are to be submitted via e-mail to the attention of the Procurement Representative as specified in Section 1.23 of Definitions using the question and answer template which is a Word file attached separately as:
- 2.4.1 Q and A Template_TENDER-IT-2017-SIG-017.xlsx
- Indicate the document section related to each question being submitted as well as page, drawing, section number and details of the specific question/clarification requested. For each set of questions submitted by the Bidder, a new copy of the above referenced Q and A Template should be submitted.
- 2.5 When necessary, revisions to, or clarifications of the Tender Documents will be incorporated into a written addendum issued by the Procurement Representative identified herein. Information regarding the Tender Documents or the Work, whether provided by the Procurement Representative identified herein, or from any other source, whether verbally or in writing, shall be considered informal and Metrolinx shall not be bound by, or liable for, any such information unless incorporated into a written addendum.

3.0 **Mandatory Site / Information Meeting**

Not Applicable

4.0 **Addenda / Changes to the Tender Documents**

- 4.1 In the event that Metrolinx determines in its sole discretion, that clarifications of, or revisions to the Tender Documents are required, all Bidders who received copies of the Tender Documents shall be advised of such clarifications or revisions during the tendering period by written Addenda. Such Addenda shall become part of the Tender Documents and the contents thereof shall be allowed for in the prices bid for the Work.
- 4.2 It is the Bidder's responsibility to ensure that they have received copies of all Addenda, and to ensure that the Addenda have been considered in their Submission. Addenda, if applicable, will be issued through MERX. Information concerning the number of Addenda issued and the date of issue of the most recent Addendum can be found at www.merx.com for this Tender Process.

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Bidders are urged to select automatic notification of Addenda issuance when registering on MERX.

- 4.3 The Bidder, when ascertaining if copies of all Addenda issued have been received, shall be responsible for allowing sufficient time prior to the Closing to receive any missing Addenda and to review and allow for the contents thereof in the Submission.
- 4.4 The Bidder shall remit the Submission using the most current revised Tender Document Forms as issued via Addenda. Failure to use the most current pages of the Tender Document Forms may result in the Bidder's Submission being found non-responsive resulting in disqualification from the Tender Process.

5.0 **Tender Submission**

- 5.1 Submissions shall only be accepted electronically via the Metrolinx MERX portal. Submissions submitted in any other manner shall be found non-compliant and disqualified. Bidders sending a Submission to Metrolinx shall exercise extreme care when completing and submitting all Tender Document Forms.
- 5.2 Bidders shall examine carefully the whole of the Tender Documents and any data referred to therein. They shall make the necessary investigations to inform themselves thoroughly as to the character and magnitude of the Work.
- 5.3 The Bidder shall not claim at any time after the Closing and/or after notification of award of the Contract that there was any misunderstanding or uncertainty in regard to the Tender Documents or any of the contents therein. No plea of ignorance of conditions which exist, or any conditions or difficulties that may be encountered, shall be accepted as a reason for failure to complete the Contract or as a basis for claims for additional compensation or extension of time.
- 5.4 Submissions should be completed fully by the Bidder in a clear and comprehensible manner.
- 5.5 Submissions shall be sent electronically through MetrolinxMERX EBS only. Submissions sent in any other manner shall be deemed non-responsive and automatically disqualified.
- 5.6 The Submission shall be submitted on the original Tender Document Forms as issued by Metrolinx through the MERX website and except for designated sections where the Bidder is to enter information, the Tender Document and Tender Document Forms shall not be altered in any way including, but not limited to, write-ins, strike-outs of the pre-printed provisions or any other conditional and/or qualifying statements.

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- 5.7 Any Submission which contains conditional and/or qualifying statements shall be deemed non-compliant and disqualified unless such conditional and/or qualifying statements are withdrawn in writing by the Bidder in accordance with section 15.1.8.
- 5.8 If during the preparation of their Submission, the Bidder desires to make a change which requires correction, alteration or erasure to any information previously entered in a designated section of the Submission by the Bidder, documents that have been uploaded to MERX using EBS can be added, removed and/or re-submitted as often as required at any time, prior to Closing.
- 5.9 Any Submission documents that are attempted to be uploaded via MERX EBS after the Closing has occurred (as confirmed by the MERX Audit Report) shall be automatically rejected by Metrolinx, regardless of the reason for lateness.
- 5.10 All prices shall be firm and quoted in Canadian funds. The prices quoted in the Submission shall represent full payment for all Work necessary for the proper completion of the Contract.
- 5.11 Submissions shall be sent on MERX by the Bidder's E-bid Authorized Signer.
- 5.11.1 NOTE: The Bidder can have only one (1) E-Bid Authorized Signer which is to be used for any EBS submission process.
- 5.11.2 The E-Bid Authorized Signer does not have to be either the person placing the order for the Tender Document on MERX, nor do they have to be subscribed to MERX. Once an E-Bid Authorized Signer has been setup, a letter from MERX will be sent via email to the E-Bid Authorized Signer.
- 5.11.3 For the purposes of a Joint Venture, the E-Bid Authorized Signer of the Participant-in-Charge shall emit the Submission.
- 5.12 Submissions must be sent electronically through the MERX EBS system. For assistance in using MERX EBS, please watch the online Electronic Bid Submission tutorial at: <http://www.youtube.com/watch?v=To0fgScCW3M> . Alternatively, you can contact MERX directly at 1-800-964-MERX **(6379)** or visit the MERX website at www.merx.com for further instruction or assistance regarding EBS and/or E-Bid Authorized Signer registrations.
- 5.12.1 It is the Bidder's sole responsibility to ensure that all required information for their Submission is uploaded to MERX via EBS. Failure of the Bidder to include all required items may result in the Bidder's Submission being deemed non-responsive and disqualified.
- 5.12.2 In order to complete the Submission, the on-line authorization of the Bidder's E-Bid Authorized Signer will be required. It is the Bidder's sole responsibility to have an E-Bid Authorized Signer PIN number issued from

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Merx at least one (1) day prior to Closing. Visit tenders.merx.com/RequestEBSPin to request a PIN for the Bidder's E-bid Submission Authorized Signer.

- 5.13 Information contained in the most recent Submission sent via MERX EBS and received prior to the Closing will take precedence over the information contained in previously received Submissions from the Bidder.
- 5.14 The Bidder may withdraw a Submission at any time prior to the Closing specified by Metrolinx by logging into MERX on the E-bid Submission screen locating the opportunity and clicking 'Delete' for the opportunity in question. Once deleted, an E-bid is given the status 'Not Submitted'
- 5.15 Submission Deadline
- (a) Submissions must be fully uploaded via MERX EBS by the Closing. Any Submission or portions thereof received after the Closing (as confirmed by MERX Audit Report) shall be deemed non-responsive and the entire Submission shall be disqualified regardless of the reason for lateness. The Bidder shall send the Submission with sufficient time to ensure its arrival before the Closing.
 - (i) It is recommended by MERX to allow at least four (4) hours to send the Submission via EBS, which shall provide the Bidder with the opportunity to upload all documents and resolve any potential issues that may arise. If you have many large documents or you are not running on high speed internet access you may want to give yourself additional time. If the problem persists, call MERX directly at 1-800-964-MERX (6379). Metrolinx staff will be unable to assist with any EBS related issues.
 - (ii) If the Bidder attempts to send their Submission, or portions thereof, after the Closing, such documents shall not be accepted by the MERX system.
 - (iii) In the event that the MERX system allows late Submissions, this will not supersede any stipulations herein regarding late submissions.
 - (b) Upon successful completion of the EBS process, the Bidder shall be provided with an E-bid Confirmation Number from MERX. All reports are kept on the Bidder's MERX account for seven (7) years after the Closing.

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- (c) Notwithstanding the above, Metrolinx reserves the right to postpone the Closing at which time all potential Bidders shall be advised of the new Closing by way of Addenda.
- (d) After the Closing has occurred, all Submission received will be opened by Metrolinx staff.
- (e) Upon execution of the final Contract, all Bidders that have sent a Submission shall be notified in writing of the results of the Tender Process.
- (f) All documentation received by Metrolinx with regards to this Tender Process will be retained by Metrolinx and will not be returned to the Bidder.

6.0 **Clarification of Submissions**

- 6.1 Metrolinx reserves the right, within one hundred and twenty (120) calendar days following the Closing, to request that any Bidder clarify its Submission and such Bidders shall submit responses to such request within five (5) Working Days following receipt of such request or within such shorter time as Metrolinx may require. Metrolinx may, in its sole discretion, choose to meet with some or all of the Bidders to discuss aspects to their Submission. Metrolinx may require Bidders to submit information clarifying any matters contained in their Submission or Metrolinx may prepare a written interpretation of any aspect of a Submission and seek the respective Bidder's acknowledgement of that interpretation.
- 6.2 Such information accepted by Metrolinx, for purposes of clarification, and written interpretations which have been acknowledged by the relevant Bidder shall be considered to form part of the Submission of those Bidders.
- 6.3 After the Closing, only information specifically requested by Metrolinx for purposes of clarification shall be considered as additions to a Bidders Submission.
- 6.4 Metrolinx is not obliged to seek clarification of any aspect of a Submission.

7.0 **Bidder Qualifications**

- 7.1 Only qualified Bidders will be considered for award of this Contract. In order to be considered qualified, the Contractor shall have been successfully prequalified under Metrolinx Prequalification No. SQ-2015-TS-003 to submit a Tender for the Work of this Contract.

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8.0 Insurance

- 8.1 As a condition of award of this Contract, in accordance with and subject to the provisions of GC11.1 Insurance of Supplementary General Conditions of the Contract, the Bidder shall provide to Metrolinx certificates for the following types of insurance and in the amounts specified in GC 11.1 – Insurance of the Supplementary General Conditions within five (5) Working Days of notification of acceptance of its Submission. Failure by the successful Bidder to comply with this requirement shall result in acceptance of the Bidder's Submission to be declared void and forfeiture of the Bidder's Bid Deposit to Metrolinx.
- 8.2 Certificates of Insurance shall include:
- 8.2.1 The Contract name and number;
- 8.2.2 Additional insureds as identified in GC 11.1.4 of Supplementary General Conditions of the Contract; and
- 8.2.3 Confirmation that the policy includes a waiver of subrogation against Metrolinx as required in GC 11.1.1.1 and GC 11.1.1.4 (1) and (2) of Supplementary General Conditions of the Contract.
- 8.3 All Certificates of Insurance shall include a provision requiring the insurer to give Metrolinx thirty (30) days prior written notice of any changes to, or cancellation of, the required insurance policies.
- 8.4 Failure by the Bidder to comply with these requirements shall result in the award of the Contract being declared void and forfeiture of the Bidder's Bid Deposit to Metrolinx.

9.0 Workplace Safety and Insurance Clearance Certificate

- 9.1 The Bidder shall send as part of its Submission a valid Workplace Safety and Insurance Clearance Certificate for the premium rate class, subclass or group as appropriate for the Work of this Contract, as issued by the Workplace Safety and Insurance Board. Failure to comply with this requirement shall cause the Submission to be deemed non-responsive and disqualified.
- 9.2 In addition, the Bidder to whom this Contract is awarded shall furnish a valid Workplace Safety and Insurance Clearance Certificate for the premium rate class, subclass or group as appropriate for the Work of this Contract, as issued by the Workplace Safety and Insurance Board, within five (5) Working Days of notification of acceptance of its Submission by Metrolinx. Failure by the Bidder to comply with this requirement shall result in the Contract award being declared VOID and forfeiture of the Bidder's Bid Deposit to Metrolinx.

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10.0 Parent Company Indemnity

- 10.1 If requested by Metrolinx, as a condition of award of Contract, a subsidiary company shall be required to submit a 'Guarantee' from its parent company, included as Attachment #3 – Parental Guarantee, or in a form satisfactory to Metrolinx and agrees to provide all the necessary financial and technical support for the proper completion of the said Contract and shall guarantee the performance of the said Contract in accordance with the terms and conditions, including timely completion thereof, and agrees to guarantee the Work for the warranty period(s) stipulated therein.
- 10.2 Failure by the successful Bidder to comply with this requirement shall result in acceptance of the Bidder's Submission to be declared void and forfeiture of the Bidder's Bid Deposit to Metrolinx.

11.0 Bid Deposit

- 11.1 The Bidder shall comply with "Tender Document Form: Mandatory Corporate, Personnel and Technical Requirements" as it relates to the Bid Deposit requirement. Failure to comply with the aforementioned requirement shall result in the Submission being found non-compliant and disqualified.
- 11.2 The Bidder shall submit the required original Bid Deposit to Metrolinx Procurement Office no later than the deadline indicated in Section 1.4, Tender Timetable of Instructions to Bidders.
- 11.2.1 If hand delivering the Bid Deposit to the Procurement Office, the Bidder must present government issued photo identification to the security desk representative(s) upon arrival. Inform the security representative that an envelope is being delivered to the Metrolinx mail room on the 4th floor at 277 Front St. West, Toronto, Ontario. The Bidder will not be provided with a receipt upon drop off of any documentation, envelopes or packages. The envelope should be clearly labelled as follows:
- (a) "URGENT: Agreement to Bond/Bid Deposit
Attention: [Insert Name of Procurement Representative]
Procurement Services
Tender No. [Insert Tender No.]
Hand Delivered on: [Insert Date and Time the package was delivered]
- (b) The Bidder should send an email to the Procurement Representative indicating that the Bid Deposit has been delivered to the Procurement Office.

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- 11.3 The Bid Deposit shall be in the form of a original bid bond from a recognized Canadian Surety or an original certified cheque or bank draft or letter of credit drawn upon a recognized Canadian Financial institution, payable to "Metrolinx" in the amount of \$100,000.00 (the "Bid Deposit"). The bid bond shall be duly executed by the Surety and signed by the Bidder. Certified Cheques, Bank Drafts or Letters of Credit shall be duly executed by the financial institution. All signatures and seals (if required) shall be originals.
- 11.3.1 Failure by a Bidder to provide their original Bid Deposit by the deadline stated in Section 1.2, Tender Timetable of Instructions to Bidders shall result in the Bidder's Submission being found non-compliant and disqualified, and may also result in the Bidder's bidding rights being suspended by Metrolinx for a period of twelve (12) months. It is the responsibility of the Bidder to properly arrange for the delivery of the original Bid Deposit to the Procurement Office to ensure that Metrolinx receives such original Bid Deposit within the timeframe specified in this Section 12.0, Bid Deposit.
- 11.4 The Bid Deposit should include the Contract name and number.
- 11.5 Certified cheques and bank drafts shall not be deposited and interest shall therefore not be paid.
- 11.6 The original Bid Deposit will be retained until all Submissions received have been reviewed and evaluated by Metrolinx. The Bid Deposits, with the exception of those belonging to the three (3) lowest priced responsive Submissions received, may be returned to Bidders upon request, ten (10) Business Days after the Closing. Otherwise the Bid Deposits, with the exception of a bid bond, shall be returned after a Contract for the Work has been executed.
- 11.7 The Bidder acknowledges and agrees that its Bid Deposit will be forfeited to Metrolinx as liquidated damages upon the occurrence of any of the following events:
- 11.7.1 Withdrawal of the Submission by the Bidder after the Closing where such withdrawal has not been requested by Metrolinx; or
- 11.7.2 Failure by the Bidder to execute the Contract; or
- 11.7.3 Failure by the Bidder to provide any of the documents required by the Tender Documents as a condition of entering into the Contract, including, but not necessarily limited to, the Contract Security, Insurance Certificates or Workplace Safety and Insurance Clearance Certificate within the timeframes specified in this Tender Document.

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12.0 Contract Security

- 12.1 The Bidder shall comply with "Tender Document Form: Mandatory Corporate, Personnel and Technical Requirements" as it relates to the Agreement to Bond or specified alternative requirement. Failure to comply with the aforementioned requirement shall result in the Submission being found non-compliant and disqualified. A sample Agreement to Bond is provided under Attachments.
- 12.2 The Bidder shall submit the required original Agreement to Bond or specified alternative to the Metrolinx Procurement Office no later than by the deadline stated in Section 1.2, Tender Timetable of Instructions to Bidders.
- 12.3 If hand delivering the Agreement to Bond or alternative to the Procurement Office, the Bidder must present government issued photo identification to the security desk representative(s) upon arrival. Inform the security representative that an envelope is being delivered to the Metrolinx mail room on the 4th floor at 277 Front St. West, Toronto, Ontario. The Bidder will not be provided with a receipt upon drop off of any documentation, envelopes or packages to the Procurement Office. The envelope should be clearly labelled as follows:
- "URGENT: Agreement to Bond/Bid Deposit
Procurement Services
Attention: [Insert Name of Procurement Representative]
Tender No. [Insert Tender No.]
Hand Delivered on: [Insert Date and Time the package was delivered]"
- 12.4 The Bidder should send an email to the Procurement Representative indicating that the Agreement to Bond or alternative has been delivered to the Procurement Office.
- 12.5 The original Agreement to Bond:
- (a) shall be issued by a recognized Canadian Surety,
 - (b) shall be for a Performance Bond and a Labour and Materials Payment Bond each equal to fifty percent (50%) of the Total Contract Price;
 - (c) shall be in favour of Metrolinx;
 - (d) shall be duly executed and sealed by the Surety;
 - (e) shall be executed by the Bidder; and
 - (f) should be duly sealed by the Bidder (if required by the form).

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12.6 Specified Alternatives

- (a) In lieu of an Agreement to Bond the Bidder may submit an original of one of the following specified alternative forms:
 - (i) Letter of Credit
 - (A) An original written surety statement from a recognized Canadian financial institution, in the amount of twenty-five percent (25%) of the Total Contract Price as specified in Tender Document Form: Contract Prices, stating that a Letter of Credit shall be available upon acceptance of the Bidder's Submission. The surety statement shall be duly executed by the financial institution."ⁱ
 - (B) The Letter of Credit to be provided by the Bidder to Metrolinx upon acceptance of the Bidder's Submission, shall expressly state that it may be drawn upon by Metrolinx on the delivery of a certificate from the President and CEO of Metrolinx confirming that the Bidder has defaulted in the performance of its obligations under the Contract. No other documentary evidence is required to be provided by Metrolinx.
 - (C) The Letter of Credit shall indicate that "Metrolinx" is the named beneficiary and should include the Contract name and number.
 - (ii) Certified Cheque/Bank Draft
 - (A) If a certified cheque or bank draft is used in lieu of an Agreement to Bond, it must be submitted as an original, in the amount of twenty-five percent (25%) of the Total Contract Price as specified in Tender Document Form: Contract Prices.
 - (B) Certified Cheques and Bank Drafts shall be made payable to "Metrolinx" and shall be duly signed and sealed (if a seal is required) by the financial institution.
 - (C) The certified cheque or bank draft should reference the Bidder's full legal company name, the Contract number and title.

12.7 All original specified alternative forms of Contract Security submitted shall have original signatures and original seals where required.

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- 12.8 Failure by a Bidder to provide the Agreement to Bond or specified alternative by the deadline stated in Section 1.4, Tender Timetable of Instructions to Bidders shall result in the Bidder's Submission being found non-compliant and disqualified and may also result in the Bidder's bidding rights being suspended by Metrolinx for a period of twelve (12) months. It is the responsibility of the Bidder to properly arrange for the delivery of the Agreement to Bond or specified alternative to the Procurement Office and to ensure that Metrolinx receives the original Agreement to Bond or specified alternative within the timeframe provided.
- 12.9 As a pre-condition to execution of the Contract, the Bidder shall deliver the Performance Bond and Labour and Materials Payment Bond, or specified alternative, to Metrolinx within five (5) Business Days of notification of acceptance of its Submission by Metrolinx. The Performance Bond and the Labour and Materials Payment Bond should include the Contract number and title. Failure of the Bidder to fulfill this requirement shall result in acceptance of the Submission by Metrolinx being cancelled and forfeiture of the Bidder's Bid Deposit.

13.0 **Alternate Products and Materials**

- 13.1 Bidders wishing to propose alternate products or materials, other than those specified in the Tender Documents for use in the Work shall, no later than the date specified in Section 1.4, Tender Timetable of Instructions to Bidders, submit a request in writing to the Procurement Representative seeking approval for the proposed alternate. The request must include supporting documentation to establish the proposed alternate's equivalence to the product or material specified.
- 13.2 Metrolinx shall, prior to Closing, respond as follows:
- 13.2.1 Should Metrolinx, in its sole discretion, approve the proposed alternate, it shall issue an Addendum, identifying the alternate and stating it is approved for use as part of the Work; or
- 13.2.2 Should Metrolinx, in its sole discretion, not approve the proposed alternate, it shall only inform the Bidder who proposed the alternate of its decision.
- 13.3 Metrolinx is under no obligation to accept or reject any proposed alternate. Metrolinx shall accept or reject any proposed alternate at its sole discretion. Metrolinx is under no obligation to disclose the reason, or reasons, to any Bidder for the acceptance or rejection of any proposed alternate.

INSTRUCTIONS TO BIDDERS

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14.0 Mandatory Requirements

14.1 Bidders must meet all mandatory requirements in order for their Submission to be considered further. Failure of a Bidder to meet all of the mandatory requirements listed below shall result in the Bidder's Submission to be deemed non-compliant and shall not be considered further.

14.2 The mandatory requirements for this Tender Document are as follows:

14.2.1 The Form of Tender must be submitted by the E-Bid Authorized Signer. For the purposes of a Joint Venture, the E-Bid Authorized Signer of the Participant-in-Charge shall submit the Submission.

14.2.2 Pricing information must be completed and submitted on the Tender Document Forms provided.

14.2.3 Bidders shall submit the required PDF copy of the Bid Deposit, as per Section 11.0 of Instructions to Bidders, with the Submission.

14.2.4 Bidders shall submit the required Workplace Safety and Insurance Clearance Certificate, as per Section 9.1 of the Instructions, with the Submission.

14.2.5 Bidders shall submit a PDF copy of the required Agreement to Bond, or specified alternative, as per Section 12.0 of Instructions to Bidders, with the Submission.

14.2.6 Bidders shall declare any conflicts of interest in Appendix "E" of Form of Tender. If Appendix "E" is left blank the provisions of Section 1.2 of Appendix "E" shall apply.

14.2.7 The Bidder shall provide a completed Appendix "F" – Mandatory Technical Requirements of Form of Tender with the Submission.

15.0 Rights of Metrolinx

15.1 Metrolinx has the right, in its sole discretion:

15.1.1 to cancel this call for Tenders and any acceptance of a Submission for any reason and at any time before the Agreement Between Owner and Contractor has been executed and delivered by both parties, without any obligation whatsoever to a Bidder, except the obligation to return the Bid Deposit;

15.1.2 to reject any or all Submissions. The Submission with the lowest price will not necessarily be accepted. Metrolinx's selection shall be based on

INSTRUCTIONS TO BIDDERS

SUPPLY, DELIVERY AND INSTALLATION OF SCADA SYSTEM AT VARIOUS CORRIDORS CONTRACT NO. IT-2017-SIG-017

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which Bidder has provided a Submission which Metrolinx determines, in its sole discretion, to provide the greatest value based on quality, service and price and determined on the evaluation criteria contained in this Tender Document;

- 15.1.3 to disqualify any Submission which contains misrepresentations or any other inaccurate or misleading information;
- 15.1.4 to waive any requirement of the Tender Documents or request amendment where, in the sole opinion of Metrolinx, there is an irregularity or omission in the information provided that is not material to the Submission unless a specific consequence has been identified herein for the commission of such an irregularity or omission;
- 15.1.5 to waive the requirement to check references;
- 15.1.6 to not respond to a Bidder's questions;
- 15.1.7 to use its own experiences, and the experiences of any other third party, with the Bidder in previous contracts in order to evaluate the Bidder's performance. Specifically to,
 - (a) take into account the experience of Metrolinx itself in dealing with the Bidder in circumstances where the Bidder has carried out (or is carrying out) a project for Metrolinx (whether or not the Bidder has listed such project on Appendix "C" of Form of Tender; and
 - (b) make general inquiries of third parties with respect to the qualifications of a Bidder and take the results of these general inquiries into account (whether or not the Bidder has listed the third party or the applicable project in Appendix "C" of Form of Tender.
- 15.1.8 to award or not award based on submitted references and/or references independently obtained by Metrolinx;
- 15.1.9 to award or not award based on the Bidder's experiences with Metrolinx or other departments or agencies within the Ontario government, if the Bidder:
 - (a) was previously given a "Notification of Award" of contract by a department or agency within the Ontario government and defaulted in proceeding with the work of the contract;
 - (b) failed or refused to comply with any applicable federal, provincial or municipal law governing a bid or a prior contract with a department or agency within the Ontario government;

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- (c) had a previous contract with a department or agency within the Ontario government that was terminated for default in the past year; or
- (d) is an affiliate of or successor to any corporation described in Sections 15.1.9(a) through (c) above, including any firm that is controlled within the meaning of the Ontario Business Corporations Act by the same person or group of persons who so controlled any corporation described in Sections 15.1.9(a) through (c) above.

- 15.1.10 to request a listing of all projects, regardless of scope, complexity or estimated value, completed for or terminated by Metrolinx within the past three (3) years or currently active;
- 15.1.11 to distribute via Addenda, copies of any Bidder's questions received and responses provided by Metrolinx, to all Bidders who received the Tender Documents;
- 15.1.12 to postpone the Closing, at which time all Bidders who received Tender Documents shall be advised of the new Closing via written Addenda;
- 15.1.13 within one hundred and twenty (120) days following the Closing, to request that any Bidder clarify its Submission and such Bidders shall submit responses to such request within five (5) Working Days following receipt of such request or within such shorter time as Metrolinx may require;
- 15.1.14 to prepare a written interpretation of any aspect of a Submission and require the relevant Bidder's acknowledgement of the accuracy of that interpretation;
- 15.1.15 to request that a Bidder voluntarily withdraw its Submission without penalty where in the opinion of Metrolinx the Submission is substantially below internal budget estimates and therefore the Work would not be satisfactorily completed;
- 15.1.16 to correct arithmetical errors in any or all Submissions where such errors affect the Contract Price. Arithmetical corrections will only be made based upon the unit prices submitted by the Bidder. Corrections to extensions, sums, differences or other arithmetical operations based on the unit prices submitted will be identified on the Tender Document by Metrolinx and acknowledged in each instance by the initials of the Bidder's and Metrolinx's authorized signatories. Such corrections will become part of the Bidder's Submission. Failure of the Bidder to

INSTRUCTIONS TO BIDDERS

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acknowledge such corrections will result in its Submission being deemed non-responsive and disqualified..

15.1.17 to, upon failure of the Bidder whose Submission was accepted to fulfil the conditions of Section 16.2 herein, cancel award of Contract and consistent with industry practice award to another qualified Bidder.

15.1.18 to request a Bidder to voluntarily withdraw, without penalty, any conditional and/or qualifying statements in its Submission, as determined by Metrolinx in its sole discretion.

15.1.19 to disqualify any Submission where the Bidder does not voluntarily withdraw parts of, or all of, its Submission, as requested by Metrolinx under sections 15.1.15 or 15.1.18.

16.0 **Contract To Be Executed**

16.1 Metrolinx shall notify the Bidder in writing of acceptance of its Submission by Metrolinx. Metrolinx will prepare the Form of Agreement and bind it into the Contract Documents. Three (3) sets of Contract Documents will be forwarded to the Bidder for review and execution.

16.2 The Form of Agreement shall be executed by the Bidder and delivered to Metrolinx within five (5) Working Days of notification to the Bidder that Metrolinx has accepted its Submission. Failure by the Bidder to execute and deliver the Form of Agreement and Contract Documents with the required Insurance Certificates and Workplace Safety and Insurance Clearance Certificate and the Performance and Labour and Materials Payment Bonds, or specified alternatives, shall result in the cancellation of the Contract award and forfeiture of the Bidder's Bid Deposit.

16.3 Upon failure of the Bidder, whose Submission was accepted, to fulfil the conditions of Section 16.2 herein, Metrolinx may, at its sole discretion, cancel the award of the Contract. Consistent with industry practice, Metrolinx may notify another Bidder who was determined to be qualified in accordance with the evaluation criteria stated herein and who submitted a responsive Submission that its Submission has been accepted and, subsequent to the fulfillment of the conditions of Section 16.2 herein, that Bidder shall be deemed to be the successful Bidder and the Bidder to whom the Contract is awarded.

16.4 There is no binding contract for the supply of the Work unless and until Metrolinx and the Bidder whose Submission has been accepted have executed the written agreements contemplated in the Tender Document.

16.5 The Bidder shall not start the Work before the Contract Documents have been executed by the Bidder and Metrolinx and all documents required by the Tender

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Document, as a condition of award of the Contract, have been delivered to Metrolinx.

17.0 **Commencement and Completion**

17.1 The estimated dates for commencement and completion of the Work as set out in the Form of Agreement.

18.0 **Subcontractors and Suppliers**

18.1 Bidders shall be responsible for the distribution of the Tender Documents, Contract and Addenda as applicable, thereto to all Subcontractors or Suppliers.

18.2 Metrolinx, its Consultant, or their respective representatives shall have no obligation whatsoever to supply any Subcontractor or Supplier with all or part of the Contract Documents, Tender Document and Addenda thereto, and they shall not be liable for any damages suffered by any Bidder, Subcontractor or Supplier who does not receive or review the Tender Document, Contract Documents or Addenda. No claims for payment or for a change order will be entertained because of the failure of any Subcontractor or Supplier to receive or review the Tender Documents, Contract Documents or Addenda which have been supplied to the Bidders up to the Closing.

19.0 **Allowances**

19.1 The Contract Price bid must include any and all Cash and/or Contingency Allowances as stated in Appendix "B" of Form of Tender.

20.0 **Submission Evaluation**

20.1 Subject always to the "Rights of Metrolinx" set out herein and without creating any obligations whatsoever to any Bidder, Metrolinx advises that it shall evaluate Submissions using the following criteria:

20.1.1 Contract Price;

20.1.2 Bidder's Qualifications;

20.1.3 Proper Completion of Tender Documents and Appendices;

20.1.4 Compliance to Tender Document Requirements;

20.1.5 Submission of all Mandatory Requirements; and

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20.1.6 Attendance at Mandatory Site Visit, if any.

20.2 Metrolinx's selection of the successful Submission will be based on which Bidder has provided a Submission which Metrolinx determines in its sole discretion, to be most beneficial to Metrolinx based upon the criteria listed in Section 20.1 herein.

21.0 **Conflict of Interest**

21.1 For the purposes of this section, "Conflict of Interest" shall have the meaning ascribed to it in Appendix "E" of Form of Tender.

21.2 Each Bidder shall disclose to Metrolinx any actual or potential Conflict of Interest that may be relevant to this Tender Process and provide a declaration, in the Form of Tender that, except as disclosed, the Bidder is free of any actual or potential Conflict of Interest.

21.3 The Conflict of Interest declaration included in the Form of Tender shall be completed and provided with the Submission.

21.4 If, at the determination of Metrolinx in its sole discretion, a Bidder is found to be in a Conflict of Interest that cannot be resolved or the Bidder fails to disclose any actual or potential Conflict of Interest, Metrolinx may, at its sole discretion, disqualify the Bidder from the Tender Process or terminate any agreement entered into with the Bidder pursuant to this Tender Process.

22.0 **Joint Ventures**

22.1 If a Joint Venture is proposed, the Bidder shall state in its Submission the Joint Venture arrangements that form the basis on which the Joint Venture plans to carry out its obligations.

22.2 The Joint Venture shall not change its Joint Venture arrangement without the prior written approval of Metrolinx in its sole discretion.

22.3 One of the Joint Venture participants shall be nominated as being in charge during this Tender Process and, in the event of a successful Submission during finalization of the Contract (the "Participant in Charge"). The Participant in Charge shall be authorized by the other joint venture participants to incur liabilities and receive instructions for and on behalf of any and all participants of the joint venture.

22.4 Each Joint Venture participant shall demonstrate its authorization of the Participant in Charge by submitting with their Submissions a power of attorney,

INSTRUCTIONS TO BIDDERS

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or similar document, signed by a legally authorized representative of the Joint Venture participant.

- 22.5 All participants of the Joint Venture shall be legally liable, jointly and severally, during this Tender Process and during the Contract for carrying out the obligations pursuant to the Contract.
- 22.6 If the Bidder is a Joint Venture then the Bid Deposit, the Contract Security and policies of insurance shall either be in the name of the Joint Venture or the Participant-in-Charge.

23.0 **Prohibited Contacts and Lobbying Prohibition**

- 23.1 A Bidder and all of the Bidder's respective Subcontractors, advisors, employees and representatives are prohibited from engaging in any form of political or other lobbying, of any kind whatsoever, to influence the outcome of this Tender Process.
- 23.2 Without limiting the generality of Section 23.1, neither Bidders or any of their respective Subcontractors, advisors, employees or representatives shall contact or attempt to contact, either directly or indirectly, in relation to this Tender Process, at any time during the Tender Process, any directors, officers, employees and advisors of Metrolinx, other than the Procurement Representative.

24.0 **Media Releases, Public Disclosures and Public Announcements**

- 24.1 A Bidder shall not, and shall ensure that its advisors, employees or representatives do not, issue or disseminate any media release, public announcement or public disclosure (whether for publication in the press on the radio, television, internet, or any other medium) that relates to this Tender Process, this Submission or any matters related thereto, without the prior written consent of Metrolinx.
- 24.2 A Bidder and all of the Bidder's respective advisors, employees and representatives shall not make any public comment, respond to questions in a public forum, or carry out any activities to either criticize another Bidder or Submission or to publicly promote or advertise its own qualifications, interest in or participation in the Tender Process without the prior written consent of Metrolinx, which may be withheld in the sole discretion of Metrolinx. Notwithstanding this item, the Bidder, Bidder's team members and all of the Bidder's respective advisors, employees and representatives are permitted to state publicly that it/they are participating in the Tender Process.

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24.3 For greater clarity, this section does not prohibit disclosures necessary to permit the Bidder to discuss the Tender Document with prospective Subcontractors' participation in this Tender Process.

25.0 **Restriction on Communications Between Bidders – No Collusion**

25.1 A Bidder shall not discuss or communicate, directly or indirectly, with any other Bidder, any information whatsoever regarding the preparation of its own Submission or the Submissions of other Bidders. Bidders shall prepare and submit Submissions independently and without any connection, knowledge, comparison of information or arrangements, direct or indirect, with any other Bidder. This obligation extends to all team members of a Bidder and all of the Bidder's respective advisors, employees and representatives.

26.0 **Disclosure of Information**

26.1 The Bidder hereby agrees that any information provided in its Submission, even where it is identified as being supplied in confidence, may be disclosed by Metrolinx where required by law, order of a court, or tribunal.

26.2 The Bidder hereby consents to the disclosure, on a confidential basis, of its Submission by Metrolinx to Metrolinx's advisors retained for the purpose of evaluating or participating in the evaluation of the Submissions.

27.0 **Freedom of Information and Protection of Privacy Act ("FIPPA")**

27.1 Bidders are advised that Metrolinx may be required to disclose all, a part, or parts of a Bidder's Submission and a part or parts of any Submission pursuant to FIPPA.

27.2 Under Ontario's Open Data Directive, Metrolinx is required to publish certain procurement information. Accordingly, the Proponent acknowledges that, subject to any applicable FIPPA exemptions, Metrolinx may publish procurement data including but not limited to the names of the Proponents and the winning bid in accordance with Ontario's Open Data Directive. For more information, see: www.ontario.ca/page/ontarios-open-data-directive.

28.0 **Submission to Be Retained by Metrolinx**

Metrolinx shall not return a Submission or any accompanying documentation, with the exception of a Bid Deposit and/or Contract Security, submitted by a Bidder.

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SUPPLY, DELIVERY AND INSTALLATION OF SCADA SYSTEM AT VARIOUS CORRIDORS CONTRACT NO. IT-2017-SIG-017

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29.0 **Confidential Information of Metrolinx**

29.1 All information provided by or obtained from Metrolinx in any form in connection with the Submission process;

29.1.1 is the sole property of Metrolinx and shall be treated as confidential;

29.1.2 shall not be used for any purpose other than replying to the Tender Document and the performance of any subsequent agreement; and

29.1.3 shall not be disclosed without prior written authorization from Metrolinx.

30.0 **Bidders Shall Bear Their Own Costs**

The Bidder shall bear all costs associated with or incurred in connection with its participation in this Tender Process, including, but not limited to, preparation of its Submission.

31.0 **Vendor Performance Management Program**

31.1 Vendor Performance Management ("VPM") Program means the Metrolinx policy for monitoring, evaluating and recording vendor performance, as same may be amended or replaced from time to time. The Vendor Performance Management Program establishes a standard methodology for the incorporation of a vendor's past performance as a criterion in assessing that vendor's bids or tenders for future work with Metrolinx.

31.2 Pursuant to Metrolinx's VPM Program, Metrolinx may consider a Bidder's past performance under contracts with Metrolinx in evaluating Submissions received in response to this Tender Document. The Vendor Performance Rating ("VPR") is the average of a vendor's performance evaluation scores (as assessed by or on behalf of Metrolinx) for a thirty-six (36) month period preceding the Closing. If a Bidder has not completed any work for Metrolinx in the three (3) years preceding the Closing, for the purpose of evaluating the Submission, the Bidder will be assigned a VPR which is the straight average of all the VPRs of all vendors who have performed services for Metrolinx during the prior fiscal year.

31.3 If the VPR is being applied as a component of the award evaluation for this Tender Process, the legal name of the Bidder stated on the Form of Tender will be used. It is the responsibility of the Bidder to ensure that its proper legal name has been stated on the Form of Tender. Metrolinx will not accept any requests from the Bidder to change the legal name provided after the Closing.

31.4 In case of a Joint Venture where multiple parties will sign the Contract, the VPR of each participant will be added and the average will be applied.

INSTRUCTIONS TO BIDDERS

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- 31.5 For the purposes of this Tender Process, the application of the VPR is set out in Attachment #1– Contract Performance Appraisal.

END OF SECTION

FORM OF TENDER AND APPENDICES

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

The Form of Tender comprised of the documents listed below, form part of the Tender Document and are included herein in Word fillable format, as applicable, with the exception of Appendix "B" which are attached as an Excel file entitled "Appendix B IT-2017-SIG-017"

<u>DOCUMENT TITLE</u>
Agreement/ Declaration
Appendix "A" – List of Tender Documents
Appendix "B" – Contract Prices (Attached as separate Excel file)
Appendix "C" – Bidder's Qualifications
Appendix "D" – Agreement to Bond
Appendix "E" – Conflict of Interest
Appendix "F" - Mandatory Technical/Personnel Requirements
Appendix "G" – Bidder's Submission Checklist

**FORM OF TENDER
AGREEMENT/DECLARATION**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

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CONTRACT NUMBER: IT-2017-SIG-017

CONTRACT DESCRIPTION: Supply, Delivery and Installation of SCADA System at Various Corridors

Submission By: [Click here to enter text.](#)

(Full Legal Name of Bidder)

1.0 Contact Information

1.1 Bidder's registered legal business name (or individual) and any other name under which it carries on business:

[Click here to enter text.](#)

1.1.1 If a Joint Venture, enter the registered legal business name of the Participant-in-Charge:

[Click here to enter text.](#)

1.1.2 If a Joint Venture, enter the registered legal business name of the other Joint Venture members:

[Click here to enter text.](#)

1.2 Bidder's (if Joint Venture, insert Participant-in-Charge information) address, telephone and facsimile numbers:

[Click here to enter text.](#)

1.3 Name, title, address, telephone, e-mail and facsimile numbers of the contact person(s) for the Bidder (if a Joint Venture, insert Participant-in-Charge information)

[Click here to enter text.](#)

1.4 Name of the person who is primarily responsible for the Submission:

[Click here to enter text.](#)

**FORM OF TENDER
AGREEMENT/ DECLARATION**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

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2.0 Total Contract Price

The Bidder, by submitting this Submission, hereby offers to Metrolinx to furnish all goods and services necessary to execute the Work described by the Tender Documents, including Addenda, and to perform this Work for the Total Contract Price quoted in Appendix "B" – Contract Prices subject to Section 1.2.4 of Appendix "B" – Contract Prices of the Form of Tender.

**FORM OF TENDER
AGREEMENT/ DECLARATION**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
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The Contract Price bid in addition to all Unit Prices quoted in Appendix "B" – Contract Prices shall be firm and quoted in Canadian funds. The Contract Price includes all specified cash allowances, contingency allowances (if applicable) and all applicable taxes, except Harmonized Sales Tax (H.S.T.), in force at the date the Submission is sent.

This Form of Tender including all required Appendices is submitted in accordance with the terms and requirements of the Instructions to Bidders.

The Bidder has informed itself of the conditions relating to the Work to be performed and have inspected and is thoroughly familiar with the location of the Work and the plans, Specifications, Drawings and all terms, conditions and covenants of the Contract.

The Contract Price quoted shall represent full payment for all the Work necessary for the proper completion of the Contract.

The Contract Price includes customs duties, royalties, handling, transportation, overhead, profit and all other charges.

The Bidder acknowledges receipt of any and all Addenda issued hereto and that their Submission has been developed in consideration of the Addenda.

The Bidder acknowledges that it meets all mandatory requirements in order for their Submission to be considered further. Failure of a Bidder to meet all of the mandatory requirements shall result in the Bidder's Submission to be deemed non-compliant and shall not be considered further.

The Bidder acknowledges that their Submission includes the appropriate Tender Document Forms. Failure to comply may result in the Bidder's Submission being found non-responsive and disqualified at the sole discretion of Metrolinx.

All Addenda, the Form of Tender and Appendices, the Supplementary Agreement Between Owner and Contractor, the Form of Agreement, the Supplementary Definitions of the Contract, the Supplementary General Conditions of the Contract, the Definitions of the Contract, the General Conditions of the Contract, the General Requirements (Sections 01000 to 01800), Specifications, Drawings and Attachments set out in this Tender Document shall be included in and form part of the Contract. **Remitting a Submission constitutes acknowledgement that the Bidder has read and agrees to be bound by such conditions.**

This Form of Tender including all required Appendices is hereby submitted on the condition and with the full understanding that it is an irrevocable offer by the Bidder for a period of one hundred and twenty (120) calendar days from the Closing and the Bidder hereby covenants that it enter into the Contract with Metrolinx as contemplated by the Tender Documents by executing the CCDC 4, 2011 Unit Price Contract Agreement Between Owner and Contractor and will perform and execute the Work at the Contract Price if it is notified, in writing, by Metrolinx within one hundred and twenty (120) calendar days of the Closing that it is the successful Bidder.

**FORM OF TENDER
AGREEMENT/ DECLARATION**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

PAGE 4 OF 4

The Bidder hereby declares that no Conflict of Interest exists in accordance with Appendix "E" – Conflict of Interest.

The Bidder hereby declares that no person, firm or corporation (including any agent of Metrolinx), other than the undersigned or Suppliers or Subcontractors identified herein or engaged in the ordinary course of business, has any interest in this call for Tenders or the proposed Contract for which the Submission is made.

The remitting of a Submission by a Bidder shall be considered prima facie evidence that the above requirements have been met. Failure to have complied with said requirements shall not relieve the Bidder of its obligation to enter into the Contract and to carry out the Work for the terms and conditions set forth in the Tender Documents.

The Bidder acknowledges that by way of the E-Bid Authorized Signer remitting a Submission, the Bidder is agreeing to be bound to each and every term, condition, article and obligation of the Tender Document and any resultant Contract.

The Bidder acknowledges that consistent with Section 16.2 of Instructions to Bidders, failure by the Bidder, whose Submission was accepted by Metrolinx, to execute and deliver the Form of Agreement and Contract Documents with the required Insurance Certificates, Workplace Safety and Insurance Clearance Certificate and the Performance and Labour and Materials Payment Bonds, or specified alternatives, shall result in the cancellation of the Contract award and forfeiture of the Bidder's Bid Deposit.

**FORM OF TENDER
APPENDIX "A" – LIST OF TENDER DOCUMENTS**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

The following is the list and description of documents which form part of the Tender Document for the Work:

TITLE	NO OF PAGES
List of Contents	2
Any Addenda Issued Hereto.....	1
Introduction	1
Definitions	4
Instructions To Bidders.....	21
Form of Tender	4
Appendix "A" - List of Tender Documents.....	2
Appendix "B" – Contract Prices.....	4
Appendix "C" – Bidder's Qualifications.....	1
Appendix "D" – Agreement to Bond	1
Appendix "E" – Conflict of Interest.....	2
Appendix "F" – Mandatory Technical/Personnel Requirements.....	1
Appendix "G" – Bidder's Submission Checklist	1
Supplementary Agreement Between Owner and Contractor	2
Form of Agreement	1
Supplementary Definitions of the Contract	6
Definitions of the Contract	1
Supplementary General Conditions of the Contract.....	62
General Conditions of the Contract	1

SECTION NO.	TITLE	NO. OF PAGES
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GENERAL REQUIREMENTS

01000	General Instructions.....	6
01200	Mobilization and Demobilization	3
01300	Shop Drawings and Other Submittals.....	4
01400	Quality Control	3
01545	Railway Safety Requirements	8

**FORM OF TENDER
APPENDIX 'A' – LIST OF TENDER DOCUMENTS**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

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01560	Environmental Protection.....	2
01600	Safety Requirements.....	8
01700	Material and Equipment.....	3
01710	Cleaning.....	1
01800	Project Closeout.....	3

SPECIFICATIONS

02000	Scope of Signal Work	3
02955	Railway Flagging Protection	8

DRAWINGS

02500	Kerr St. SCD Plans Typical	8
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ATTACHMENTS

	Bidder Q and A Template	1
	Sample Letter of Credit	1
	Parental Guarantee	1
Attachment # 1	Contract Performance Appraisal	1
Attachment # 2	Rail Corridor Infrastructure Handover Protocol	20
Attachment # 3	Metrolinx Safety guidelines for Contractors, Consultants and Project Coordinators	75
Attachment #4	Locations List	3
Attachment #5	SCD Report-RECO	113

END OF SECTION

**FORM OF TENDER
APPENDIX "B" CONTRACT PRICES**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

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Addendum No. 4

1.0 Contract Unit Prices

- 1.1 Contract Unit Prices are subject to the Form of Tender in addition to this Appendix "B" – Contract Prices.
- 1.2 Payment for services rendered and goods supplied in accordance with the terms and conditions of the Contract shall be based on the requirements of the Tender Document Form - Form of Tender in addition to the following:
 - 1.2.1 The Unit Prices and Contract Price bid shall be firm and quoted in Canadian funds.
 - 1.2.2 The Unit Prices and Contract Price include all specified cash allowances and all applicable taxes, except Harmonized Sales Tax (H.S.T.), in force at the date the Submission is submitted.
 - 1.2.3 The Unit Prices includes all labour, superintendence, plant, tools, appliances, equipment, supplies and other accessories, services and facilities customs duties, royalties, handling, transportation, travel overhead, profit and all other charges.
 - 1.2.4 The quantities shown in the Schedule of Prices are estimated. The Total Contract Price shall be the final sum of the products of the actual quantities that are incorporated in, or made necessary by the Work, as confirmed by count and measurement, and the appropriate Contract Unit Prices, together with any adjustments that are made in accordance with the provisions of the Contract Documents.
 - 1.2.5 Deductions from the said Contract, if any, shall be made at the Unit Prices shown in this Appendix "B" – Contract Prices of the Form of Tender.
 - 1.2.6 The Total Contract Price shall be the sum of the products of the estimated quantities and the appropriate Contract Unit Prices in the Schedule.

2.0 Provisional Items

- 2.1 Not Applicable

3.0 Allowances

- 3.1 Cash Allowances

**FORM OF TENDER
APPENDIX "B" CONTRACT PRICES**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

PAGE 2 OF 3

Addendum No. 4

- 3.1.1 Cash Allowances are subject to GC 4.1 of General Conditions of the Contract.
- 3.1.2 Descriptions of each Cash Allowance are listed below and amounts are specified in the attached Excel spreadsheet.

3.2 Description of Cash Allowances

3.2.1 Cash Allowance – Utility Locates

- (a) This Cash Allowance is to be used solely for work pertaining to obtaining locates of buried utilities and signal assets pertaining to servicing Snow Clearing Devices

3.2.2 Cash Allowance – Ancillary Work

- (a) This Cash Allowance is to be used solely for any support or ancillary work from other maintenance contractors, utilities or parties required as part of the Work.

3.2.3 Cash Allowance – Capital Work

- (a) This Cash Allowance is to be used solely for any refurbishment, replacement or retrofit of Snow Clearing Devices found in the field inspected by the Contractor that show evidence of damage, deterioration or defect while the Contractor is already mobilized at the site.

3.3 Contingency Allowances

- 3.3.1 If applicable, Contingency Allowances are subject to GC 4.2 of General Conditions of the Contract.

4.0 Completion of Appendix B

- 4.1 Bidders shall fully complete the Excel file entitled "Appendix B" and insert a Unit Price into each space provided under the Contract Unit Price column.
- 4.2 The file entitled "Appendices B", must be returned as a separate file preferably in Excel format and may not be retyped or recreated. Failure to follow the submission instructions or format requirements may result in the Submission being found non-responsive and disqualified.
- 4.3 It is Metrolinx preference that Bidders submit the pricing using the appended Excel file format to facilitate the Metrolinx pricing evaluation process.

**FORM OF TENDER
APPENDIX "B" CONTRACT PRICES**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

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Addendum No. 4

- 4.4 The Excel spreadsheet pricing table is numbered, under the "Item No." column to correspond with the following stages of the Work:
- (a) PART 'A' - Oakville Subdivision; Fort York Mile 2.2
 - (b) PART 'B' - Oakville Subdivision; Dufferin Mile 2.4
 - (c) PART 'C' - Oakville Subdivision; Gardiner Mile 5.6
 - (d) PART 'D' - Oakville Subdivision; Mimico East Mile 6.3
 - (e) PART 'E' - Oakville Subdivision; Mimico Layover Mile 7.15
 - (f) PART 'F' - Oakville Subdivision; Port Credit Mile 13.7
 - (g) PART 'G' - Oakville Subdivision; 9th Line Mile 19.28
 - (h) PART 'H' - Oakville Subdivision; Oakville Yard Mile 20.61
 - (i) PART 'I' - Oakville Subdivision; Kerr Street Mile 22.0
 - (j) PART 'J' - Oakville Subdivision; Burloak Mile 27.03
 - (k) PART 'K' - Oakville Subdivision; Burlington East Mile 30.59
 - (l) PART 'L' - Kingston Subdivision; Danforth Mile 329.1
 - (m) PART 'M' - Newmarket Subdivision; Steeles Mile 12.89
 - (n) PART 'N' - Weston Subdivision; Parkdale Mile 3.01
- 4.5 If a "0" is entered in any of the spaces where price information is to be provided, it shall be interpreted as meaning the Contractor shall provide the specified service to Metrolinx at no charge.
- 4.6 If any space is left blank or an entry of "N/C" or "N/A" or "—" is entered where price information should be entered then the Submission may be found non-responsive and disqualified consistent with the provisions of the Instructions to Bidders.

**FORM OF TENDER
APPENDIX "C" – BIDDERS QUALIFICATIONS**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
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PAGE 1 OF 1

Not applicable.

**FORM OF TENDER
APPENDIX "D" AGREEMENT TO BOND**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

PAGE 1 OF 1

Name of Owner: **METROLINX**

Description of Work: **Supply, Delivery and Installation of SCADA System at Various Corridors**

Location: **Various Corridor Locations**

Contract No: **IT-2017-SIG-017**

For good and valuable consideration, the undersigned surety (the "Bonding Company") hereby agrees to be bound as surety for

Type in Full Legal Name of Bidder
(Full Legal Name of Bidder)

in a Performance Bond and a Labour and Materials Payment Bond each totalling Fifty Per Cent (50%) of the Contract Price (the "Bond Amount") pursuant to the Tender Documents to which this Agreement to Bond is attached, for the full and due performance of the Work (as defined herein), if the Tender for the Contract is accepted by Metrolinx.

It is a condition of the Tender Process that if the Bidder's Submissions is accepted, application for a Performance Bond and a Labour and Material Payment Bond by the Bidder must be completed with the undersigned within five (5) Working Days of acceptance of the Submission by Metrolinx. The undersigned acknowledges that failure to obtain a Performance Bond and a Labour and Materials Payment Bond equal to the Bond Amount within the time period stipulated herein may result in the immediate revocation of acceptance of the Bidder's Submission by Metrolinx and forfeiture of the Bidders' Bid Deposit.

In witness whereof the Bonding Company has executed this agreement this ___ day of _____, 20____.

(Name of Bonding Company)

(Signature of authorized person signing for Bonding Company)

(Position)

**FORM OF TENDER
APPENDIX "E" - CONFLICT OF INTEREST**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

1.0 Conflict of Interest

1.1 If the box below is left blank, the Bidder will be deemed to declare that (a) there was no Conflict of Interest in preparing its Submission; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the Tender Document. Otherwise, if the statement below applies, check ("X") the box.

The Bidder declares that there is an actual or potential Conflict of Interest relating to the preparation of its Submission, and/or the Bidder foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the Tender Document.

1.2 If the Bidder declares an actual or potential Conflict of Interest by marking the box above, the Bidder must set out below details of the actual or potential Conflict of Interest:

Type detail conflict of interest

Type detail conflict of interest

Type detail conflict of interest

1.3 The following individuals, as employees, advisers, or in any other capacity (a) participated in the preparation of our Submission (whether as employees, advisers, or in any other capacity); AND (b) were employees, advisers or consultants of Metrolinx at any time within the twelve (12) months prior to the Closing:

Name of Individual: <u>Type</u>
Job Classification: <u>Type</u>
Department: <u>Type</u>
Last Date of Employment with Metrolinx:
Name of Last Supervisor:
Brief Description of Individual's Job Functions:
Brief Description of Nature of Individual's Participation in the Preparation of the Submission: <u>Type</u>

1.4 (Repeat above for each identified individual)

**FORM OF TENDER
APPENDIX "E" - CONFLICT OF INTEREST**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

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The Bidder agrees that, upon request, the Bidder shall provide Metrolinx with additional information from each individual identified above in the form prescribed by Metrolinx.

**FORM OF TENDER
APPENDIX "F" – MANDATORY TECHNICAL/PERSONNEL
REQUIREMENTS**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
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- 1.0 Bidders shall complete the mandatory technical/personnel requirements compliance checklist below, and send this Appendix "F" with your Submission. Failure of a Bidder to complete and submit this Appendix "F", may result in the Bidder's Submission being found non-responsive and disqualified.
- 2.0 Bidders must meet all mandatory requirements stated below in order for their Submission to be considered further. Failure of a Bidder to meet all of the mandatory requirements listed below shall result in the Bidder's Submission being considered non-responsive. Non-responsive Submissions shall not be considered further and shall be disqualified.
- 3.0 Bidders shall provide supporting documentation to substantiate compliance to each of the listed mandatory requirements. Failure of a Bidder to provide information required to substantiate compliance to a mandatory requirement, may result in the Bidder's Submission being found non-responsive and disqualified.
- 4.0 Metrolinx has the right but not the obligation, to carry out further investigations to ensure the Bidder and/or designated Subcontractor can meet the mandatory technical/personnel requirements to the satisfaction of Metrolinx in its sole discretion.

Reference Section No.	Mandatory Technical/Personnel Requirements	Compliance (Check Yes or No)	Supporting Documentati on Required to Substantiate Compliance
5.0 of Section 01000 – General Instructions	The Bidder has achieved COR™ "Certified" status with IHSA.	YES <input type="checkbox"/> NO <input type="checkbox"/>	The Bidder shall provide a screen shot demonstrating "Certified" status with IHSA as it pertains to COR™.

**FORM OF TENDER
APPENDIX "G" – BIDDERS SUBMISSION CHECKLIST**

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

PAGE 1 OF 1

1.0 Submission Checklist

The following checklist provides the Bidder with a consolidated listing of the requirements for the Submission. Bidders should review the checklist prior to Submission to ensure compliance.

Requirement	Confirmation (left click with your mouse in the box to select)
The Submission has been remitted by the E-Bid Authorized Signer.	<input type="checkbox"/>
Contact information for the individual responsible for the Submission has been included in the Form of Tender.	<input type="checkbox"/>
The Bidder understands the requirements for Electronic Bid Submission and will comply with the Submission requirements.	<input type="checkbox"/>
The Bidder's Submission has been prepared in accordance with the Instructions to Bidders (i.e. mandatory formats, templates and requirements) as outlined in the Tender Documents.	<input type="checkbox"/>
The Bidder's Price Submission has been completed in full and included with the Submission.	<input type="checkbox"/>
The Bidder has read through all the Tender Documents including any Addenda that have been issued and these have all been considered in your Submission.	<input type="checkbox"/>
The Bidder has reviewed the mandatory criteria and acknowledges that it meets all mandatory requirements in order for their Submission to be considered further.	<input type="checkbox"/>
The Bidder has reviewed the Tender Timetable and understands all the dates and timelines associated with the Tender Process	<input type="checkbox"/>
The Bidder has not included any qualifying statements in its Submission	<input type="checkbox"/>
If a Joint Venture, attach a copy of the Joint Venture agreement electing the Participant-in-Charge.	<input type="checkbox"/>

SUPPLEMENTARY AGREEMENT BETWEEN OWNER AND CONTRACTOR

SUPPLY, DELIVERY AND INSTALLATION OF SCADA SYSTEM AT VARIOUS CORRIDORS CONTRACT NO. IT-2017-SIG-017

PAGE 1 OF 2

The "Agreement Between Owner and Contractor" of CCDC 4 2011 Unit Price Contract, is hereby amended as follows:

1.0 **Article A-1 The Work**

Paragraph 1.3 is amended as follows:

- 1.3 Add the words ", and attain *Total Performance of the Work* by the 31st day of August in the year 2018" after the words "in the year 2018" in the third line of paragraph 1.3.

2.0 **Article A-3 Contract Documents**

Paragraph 3.1 is amended as follows:

- 3.1 Add the words "Supplementary Agreement Between Owner and Contractor
Supplementary Definitions of the *Contract*
Supplementary General Conditions of the *Contract*"
to the list of *Contract Documents* in paragraph 3.1.

3.0 **Article A-6 Receipt Of And Addresses For Notices In Writing**

Paragraph 6.1 is amended as follows:

- 6.1 Delete the words "or other form of electronic communication" from the second line of paragraph 6.1.

Delete the words "or other form of electronic communication" from the seventh line of paragraph 6.1.

Delete the words "email address" from the signature lines for the Owner, Contractor and Consultant in paragraph 6.1.

4.0 **Article A-9 Severability**

Add new Article A-9 as follows:

"ARTICLE A-9 SEVERABILITY

- 9.1 If any provision of this *Contract* is found to be invalid or unenforceable in any circumstances, the remainder of this *Contract*, and the application of such provision in any other circumstances, shall not be affected."

SUPPLEMENTARY AGREEMENT BETWEEN OWNER AND CONTRACTOR

**SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017**

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5.0 **Article A-10 Time Of Essence**

Add new Article A-10 as follows:

"ARTICLE A-10 TIME OF ESSENCE

10.1 Time shall be of the essence of the *Contract* and under all *Contract Documents*."

END OF SECTION

FORM OF AGREEMENT

SUPPLY, DELIVERY AND INSTALLATION OF SCADA SYSTEM AT VARIOUS CORRIDORS CONTRACT NO. IT-2017-SIG-017

PAGE 1 OF 1

1.0 Form of Agreement

The "Agreement Between Owner and Contractor" in CCDC 4 2011 Unit Price Contract is referred to herein as the Form of Agreement and shall constitute the form of agreement of this Contract in its entirety. CCDC 4 2011 is available for purchase at www.ccdc.org.

The Owner is: Metrolinx
277 Front Street West, 4th Floor
Toronto, Ontario
M5V 2X4

The Consultant is: Metrolinx

The Work is: Supply, Delivery and Installation of SCADA System at Various Corridors

Contract No. IT-2017-SIG-2017

Article A-1: Date of Commencement of Work: **April 16, 2018**
Date of Substantial Performance of the Work: **August 1, 2018**
Date of Total Performance of the Work: **August 31, 2018**

Article A-2: Contract Documents:

This list of Contract Documents are the documents as listed in Appendix "A" of the Form of Tender, as completed and submitted by the Contractor, including any Addenda, and as accepted by Metrolinx.

END OF SECTION

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT
SUPPLY, DELIVERY AND INSTALLATION
OF SCADA SYSTEM AT VARIOUS CORRIDORS
CONTRACT NO. IT-2017-SIG-017

PAGE 1 OF 6

The "Definitions" of CCDC 4 2011 Unit Price Contract, are hereby amended as follows:

1.0 Consultant Consultant

1.1 Consultant is hereby amended as follows:

1.1.1 Consultant is hereby deleted in its entirety and replaced as follows:

Consultant

The Consultant is the entity identified as the Consultant in the Agreement Between Owner and Contractor and may be either the Owner or a Third party engaged by the Owner. The term Consultant shall mean Metrolinx.

2.0 Contract Documents

Add the words "in writing" after the word "upon" in the second line of the definition of Contract Documents.

3.0 Contract Time

Delete the word "*Substantial*" and substitute the word "*Total*" in the second line.

4.0 Working Days

Delete the definition of "Working Days" in its entirety and replace with the following:

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

SUPPLY, DELIVERY AND INSTALLATION OF SCADA SYSTEM AT VARIOUS CORRIDORS CONTRACT NO. IT-2017-SIG-017

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"Working Days

Working Days means any day other than: (a) a Saturday or Sunday and (b) any other day on which Metrolinx is not open for business. Each *Working Day* will end at 4:00 p.m. on that day."

5.0 **Applicable Law**

Add new definition, "Applicable Law", as follows:

"Applicable Law

Applicable Law means all applicable laws, statutes, regulations, orders, by-laws, treaties, judgements, decrees and ordinances applicable from time to time and, whether or not having the force of law, all applicable approvals, standards, codes, requirements, requests, directives, rules, guidelines, instructions, circulars, manuals, and policies of any Governmental Authority having or purporting to have jurisdiction or authority over a party, property, transaction or event, including laws relating to workplace safety and insurance, occupational health and safety and employment standards."

6.0 **Act**

Add new definition, "Act", as follows:

"Act

Act means the Construction Lien Act (Ontario) as amended."

7.0 **Confidential Information**

Add new definition, "Confidential Information", as follows:

"Confidential Information

Confidential Information means all information of a confidential nature (as determined with reference to its treatment by the Owner) which is provided, disclosed or made available (orally, electronically or in writing or by any other media) by the Owner or the Consultant (or its representatives) to the Contractor (including to employees, contractors, or other representatives thereof). For greater certainty, Confidential Information also includes all construction documents, Personal Information and all of the Owner's materials provided by the Owner, which includes: (a) specifications, drawings, images, software, audio or video recordings, specifications, performance requirements, software development tools, technologies, content, data (including all information whether or not contained in or on any database or electronic information storage system or media owned by or in the custody or control of the Owner), (b) technical information, and any other recorded information, in any form and on any media, that are proprietary to, or controlled or licensed by, the Owner or the Consultant and provided to the Contractor; (c) all procurement documents issued by the Owner; (d) all documentation or source materials (including source code) related to any of the foregoing; and (e) all

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

SUPPLY, DELIVERY AND INSTALLATION OF SCADA SYSTEM AT VARIOUS CORRIDORS CONTRACT NO. IT-2017-SIG-017

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copies, translations, improvements, modifications, enhancements, adaptations, or derivations made to the aforementioned Owner's materials by the Owner or any third party not performing work under this Contract."

8.0 **FIPPA**

Add new definition, "FIPPA", as follows:

"FIPPA

FIPPA means the Freedom of Information and Protection of Privacy Act (Ontario) as amended."

9.0 **FIPPA Records**

Add new definition, "FIPPA Records" as follows:

"FIPPA Records

FIPPA Records means all information, data, records and materials, however recorded, in the custody or control of the Owner, including Confidential Information and Personal Information (as defined in FIPPA). For the purposes of this definition, documents held by the *Contractor* in connection with this *Contract* are considered to be in the control of the *Owner*."

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

SUPPLY, DELIVERY AND INSTALLATION OF SCADA SYSTEM AT VARIOUS CORRIDORS CONTRACT NO. IT-2017-SIG-017

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10.0 **GC**

Add new definition, "GC", as follows:

"GC

GC means the General Conditions of the Contract, as amended by the Supplementary General Conditions".

11.0 **Governmental Authority**

Add new definition, "Governmental Authority", as follows:

"Governmental Authority

Governmental Authority means any domestic government, including any federal, provincial, territorial, municipal, regional or other local government, and any government established court, agency, tribunal, commission or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions respecting government; provided, however, "Governmental Authority" does not include Metrolinx."

12.0 **OHSA**

Add new definition, "OHSA", as follows:

"OHSA

OHSA means the Occupational Health and Safety Act (Ontario), as amended."

13.0 **Personal Information**

Add new definition, "Personal Information" as follows:

"Personal Information

Personal Information has the meaning as set out for the term in FIPPA.

14.0 **Submittals**

Add new definition, "Submittals", as follows:

"Submittals

Submittals are any or all documents or items required by the *Contract Documents* to be provided by the *Contractor* to the *Owner* or the *Consultant*, including but not limited to:

- Shop Drawings, samples, models, specifications, mock-ups to indicate details or characteristics, before the portion of the *Work* that they represent can be incorporated into the *Work*;
- Construction Schedule; and

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

SUPPLY, DELIVERY AND INSTALLATION OF SCADA SYSTEM AT VARIOUS CORRIDORS CONTRACT NO. IT-2017-SIG-017

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- As-built drawings and manuals to provide instructions for the operation and maintenance of the *Work*."

15.0 **Standard of Care**

Add new definition, "Standard of Care", as follows:

"Standard of Care

Standard of Care shall have the meaning set out in GC 3.15."

16.0 **Total Performance of the Work**

Add new definition, "Total Performance of the Work", as follows:

"Total Performance of the Work

Total Performance of the Work means when the entire *Work*, except for those items arising from GC 12.3 – WARRANTY, has been performed in accordance with the requirements of the *Contract Documents* and is so certified by the *Consultant*."

17.0 **Toxic and Hazardous Substances**

Add new definition, "Toxic and Hazardous Substances", as follows:

"Toxic and Hazardous Substances

Toxic and Hazardous Substances means, collectively, any contaminant, waste, subject waste, pollutant, toxic substance, dangerous goods, asbestos, petroleum, its derivatives, by-products or other hydrocarbons, as defined in or pursuant to any applicable laws, regulations, by-laws, guidelines or orders rendered by any governmental authority having jurisdiction or any other substance or material which, when released to, or present in, the natural environment, is likely to cause in some immediate or foreseeable future time, material harm or degradation of the natural environment or material risk to human health."

18.0 **Railway**

Add new definition, "Railway", as follows:

"Railway

Railway or *Railways* means one or more of the Canadian National Railway Company, Canadian Pacific Railway Company, Metrolinx, or The Toronto Terminals Railway Company Limited, owning or operating the *Railway Right-of-Way* on which all or part of the *Work* may be performed."

19.0 **Railway's Engineer**

Add new definition, "Railway's Engineer", as follows:

"Railway's Engineer

Railway's Engineer means the person designated as such by the applicable *Railway* or the *Owner*."

20.0 **Railway Flag Person**

Add new definition, "Railway Flag Person", as follows:

"Railway Flag Person

Railway Flag Person means the person designated as such by the applicable *Railway* or the *Owner* to provide flagging services."

21.0 **Railway Right-of-Way**

Add new definition, "Railway Right-of-Way", as follows:

"Railway Right-of-Way

Railway Right-of-Way means the land, property, trackage, equipment and facilities of the *Railway*, including main tracks, side tracks, branch lines, yards and terminals owned or controlled by the *Railway* or the *Owner*."

22.0 **WSIB**

Add new definition, "WSIB", as follows:

"WSIB

WSIB means the Workplace Safety and Insurance Board."

23.0 **Unit Price**

Add the words "The Unit Price includes customs duties, royalties, handling, transportation, overhead, profit and all other charges." to the end of the definition of Unit Price

DEFINITIONS OF THE CONTRACT

SUPPLY, DELIVERY AND INSTALLATION OF SCADA SYSTEM AT VARIOUS CORRIDORS CONTRACT NO. IT-2017-SIG-017

PAGE 1 OF 1

1.0 Definitions of the Contract

- 1.1 The "Definitions" of CCDC 4 2011 Unit Price Contract shall constitute the Definitions of the Contract in their entirety as amended by the Supplementary Definitions herein. CCDC 4 2011 can be purchased at www.ccdc.org.

END OF SECTION

GENERAL CONDITIONS OF THE CONTRACT

Where a General Condition or paragraph of the General Conditions of the Contract is deleted in its entirety by these Supplementary General Conditions, it shall be noted as "Intentionally left blank". The numbering of the remaining General Conditions or paragraphs shall remain unchanged, and the numbering of the deleted item will be retained. The General Conditions of the Contract is amended as follows:

PART 1 GENERAL PROVISIONS

1.1 GC 1.1 CONTRACT DOCUMENTS

1.1.1 GC 1.1.7

Delete GC 1.1.7 in its entirety and replace with the following:

"1.1.7 If there is a conflict with the *Contract Documents*, it shall be resolved be in accordance with the order of priority set out in Article A-3 *Contract Documents* of the Agreement between the Owner and the Contractor."

1.1.2 GC 1.1.8

Delete GC 1.1.8 in its entirety and replace with the following:

"1.1.8 The *Owner* shall provide the *Contractor*, without charge, up to ten copies of the *Contract Documents*. If requested by the *Contractor*, the *Owner* shall provide additional copies, at the cost of the *Contractor*."

1.1.3 GC 1.1.11

Add GC 1.1.11 as follows:

"1.1.11 Subject to paragraph 1.1.9, all surveys, reports, drawings, calculations, designs, plan, specifications and other data, information, materials, collected, compiled, drawn or produced, including computer printouts, pursuant to the *Contract* are the property of the *Owner*. The *Contractor* shall transfer the copyright, including an express waiver and release of all moral rights, of all *Drawings*, plans, *Specifications*, models, photos, and other written or graphic materials produced under the *Contract* to the *Owner* which will be free to use them as it sees fit. Any waiver or release obtained under this clause may include a reasonable exclusion of liability regarding the use of materials for other projects. In the event of any dispute or disagreement pertaining

to the *Work* between the *Owner* and the *Contractor*, the *Owner* will have the unqualified right and license to use the design as it may have evolved from time to time and any *Drawings*, *Specifications*, documents, materials of any nature and kind which may now or hereafter exist and which the *Contractor* may have any right, title, interest or copyright for the purpose of completing the design and construction of the *Work* for which they were prepared."

1.1.4 GC 1.1.12

Add GC 1.1.12 as follows:

"1.1.13 Wherever in the *Contract Documents* items are noted as "N.I.C." ("Not In Contract") the *Owner* will provide such items either during or after the *Contract Time*. The *Contractor* shall accommodate the entry of such items into the *Work* when N.I.C. items are delivered to the *Place of the Work*."

1.2 GC 1.2 LAW OF THE CONTRACT

1.2.1 GC 1.2.1

Delete GC 1.2.1 in its entirety and replace with the following:

"1.2.1 The parties agree that the law of Ontario, Canada shall govern the interpretation of the *Contract* and irrevocably attorn to the exclusive jurisdiction of the courts of Ontario, Canada and all lawful courts to which decisions can be appealed therefrom."

1.3 GC 1.3 RIGHTS AND REMEDIES

1.3.1 GC 1.3.3

Add GC 1.3.3 as follows:

"1.3.3 Notwithstanding paragraph 1.3.1, the *Owner* shall not be liable, whether in contract, tort or any other theory of law, for any claim arising from any prior negotiation, representation, or agreement, whether written or oral, which is superseded by the *Contract* under Article A-2 of the Agreement – Agreements and Amendments."

1.4 GC 1.4 ASSIGNMENT

1.4.1 GC 1.4.1

Delete GC 1.4.1 in its entirety and replace with the following:

"1.4.1 The *Contractor* shall not assign the *Contract*, either whole or in part, without the prior written consent of the *Owner*. The *Owner* may assign the *Contract*, either in whole or in part, with written notice to the *Contractor*."

1.5 GC 1.5 ADVERTISING AND PUBLIC NOTICES

1.5.1 Add **GC 1.5 – ADVERTISING AND PUBLIC NOTICES** as follows:

"GC 1.5 – ADVERTISING AND PUBLIC NOTICES

1.5.1 The *Contractor* will obtain the *Owner's* prior written approval for any public advertising, written public sales promotions, press release or other general publicity matter, in which the name or trademarks of the *Owner* or any *Railway* are mentioned or used or in which words are used from which any connection with the *Owner* or any *Railway* or their trademarks may be inferred. The *Contractor* will not allow or permit any public ceremony in connection with the *Work* without the prior written permission of the *Owner*. The *Contractor* will not erect or permit the erection of any sign or advertising without the prior written approval of the *Owner*. The *Contractor* shall not publish, issue or make any public statements or news release, electronic or otherwise concerning the *Contract* or the *Work*, without the express written consent of the *Owner*."

1.6 GC 1.6 CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION

1.6.1 Add **GC 1.6 - CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION** as follows:

"GC 1.6 – CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION

1.6.1 The *Contractor* shall not disclose or provide any Confidential Information to third parties who do not require that information or data to complete any portion of the *Work* and who are not authorized by the *Owner* to receive, or have access to, such Confidential Information.

1.6.2 The *Contractor* acknowledges that the *Owner* is a provincial crown agency subject to the *Freedom of Information and Protection of Privacy Act* (Ontario), and agrees that all *FIPPA Records* are subject to, and the collection, use, storage and treatment thereof, is governed by *FIPPA*. The *Contractor* agrees to keep all *FIPPA*

Records secure and available, in accordance with the requirements of *FIPPA*. In the event of a conflict between the requirements of this Contract and the requirements of *FIPPA*, the requirements of *FIPPA* shall take precedence.

1.6.3 In the event that a request is made under *FIPPA* for the disclosure of any *FIPPA Records*, the Owner shall provide prompt written notice thereof to the Contractor and the Contractor shall provide any and all relevant *FIPPA Records* to the Owner on demand for the purposes of responding to an access request under *FIPPA*. In these circumstances, the Contractor shall provide all *FIPPA Records* requested to the Owner's Freedom of Information Coordinator (or equivalent) within seven (7) *Working Days* of receipt of the request from the Owner. Notwithstanding anything to the contrary in this Contract and subject to the Contractor's rights of appeal pursuant to Section 28(9) of *FIPPA*, the Owner shall determine what *FIPPA Records* will be disclosed in connection with any such request, in accordance with the requirements of *FIPPA* (including, without limitation, the requirements with respect to affected persons set out in Section 28 thereof).

1.6.4 For greater certainty, the Contractor shall advise its representatives and all *Subconsultants* of the requirements of this GC 1.6, and associated requirements set out elsewhere in this *Contract*, and take appropriate action to ensure compliance by such representatives with the terms of this GC 1.6. In addition to any other liabilities of the Contractor pursuant to this *Contract* or otherwise at law or in equity, the Contractor shall be liable for all claims arising from any non-compliance with this GC 1.6 by the Contractor, *Subconsultant* and their respective personnel."

1.7 GC 1.7 RECORDS AND AUDIT

1.7.1 Add **GC 1.7 - RECORDS AND AUDIT** as follows:

"GC 1.7 - RECORDS AND AUDIT

1.7.1 The Contractor shall maintain complete and accurate books, payrolls, accounts, records and invoices in relation to the Contract and shall grant the Owner, full audit rights in respect of all said books, records, accounts and invoices relating to the performance of the Work. Such records shall include, but not limited to:

- .1 a daily log or report containing details on weather conditions, the condition of the Place of the Work, work

force of the Contractor, Subcontractor, Suppliers, third parties and any other forces on site at the Place of the Work, and also record general activities and performance for the day. Such log or report shall also include any extraordinary or emergency events which may occur.

- .2 records with details on manpower and material resourcing of the Work, including records which document the activities of the Contractor in connection with the construction schedule, and comparing that resourcing to the resourcing anticipated against the most recent version of the construction schedule.

1.7.2 The *Owner* may inspect and audit such books, payrolls, accounts records and invoices of the *Contractor* from time to time, at any time as deemed necessary by the *Owner* prior to the date of Final Certificate for Payment and thereafter for a period of two (2) years to verify the *Contractor's* estimates, valuation of changes in the *Work*, the performance of the *Contractor*, and claims, and the *Contractor* shall supply certified copies of books, payrolls, accounts, invoices and other records to the *Owner* or access to same as required by the *Owner*.

1.7.3 If the *Contractor* fails to keep adequate records to document the estimate, valuation of a change in the *Work*, the *Contractor's* performance, or claim or fails to provide certified copies or access to such records when requested, the *Contractor* shall forfeit all right to payment for the change in the *Work* or claim which it may otherwise have had. Any amount already paid by the *Owner* in respect of such change in *Work*, or claim, shall become immediately repayable to the *Owner* on demand for same."

1.8 GC 1.8 FURTHER ASSURANCES

1.8.1 Add **GC 1.8 - FURTHER ASSURANCES** as follows:

"GC 1.8 - FURTHER ASSURANCES

1.8.1 Each party agrees that it shall at any time and from time to time, at its own expense, execute and deliver such further documents and do such further acts and things as the other party may reasonably request for the purpose of giving effect to the *Contract* or carrying out the intention of facilitating the performance of the *Contract*.

1.8.2 Without limiting the generality of GC 1.8.1 and notwithstanding any other provisions of the *Contract*, the *Contractor* acknowledges

that it may, from time to time during the *Contract Time*, be requested to provide its agreement to indemnify, or to directly indemnify third parties for any liability, damages or claims which may arise in connection with the performance of the *Work* and as a result of the acts or omissions of the *Contractor* or those persons or entities for who it is responsible at law, and the *Contractor* shall reasonably cooperate with the *Owner* and shall execute and deliver such documents and agreements as may be required and requested by the *Owner*."

PART 2 ADMINISTRATION OF THE CONTRACT

1.9 GC 2.1 AUTHORITY OF THE CONSULTANT

1.9.1 GC 2.1

Delete GC 2.1 in its entirety and replace with the following:

"GC 2.1 AUTHORITY OF THE CONSULTANT

- 2.1.1 The *Consultant* shall be appointed by the *Owner* and shall be the *Owner's* representative during construction and until the issuance by the *Consultant* of a certificate attesting to the Total Performance of the *Work*, or at a date specified by the *Owner*. All instructions to the *Contractor* including instructions from the *Owner* will be issued by the *Consultant*. The *Consultant* will have the authority to act on behalf of the *Owner* only to the extent provided in the *Contract Documents*.
- 2.1.2 The *Consultant* shall inspect the *Work* for its conformity with the plans and Specifications, and record the necessary data to establish payment quantities under the schedule of tender quantities and unit prices or to make an assessment of the value of the *Work* completed in the case of a lump sum price contract.
- 2.1.3 The *Consultant* shall will investigate all claims of a change in the *Work* made by the *Contractor* and issue appropriate instructions
- 2.1.4 In the case of non-compliance with the provisions of the *Contract* by the *Contractor*, the *Consultant*, after consultation with the *Owner*, will have the authority to suspend the *Work* for such reasonable time as may be necessary to remedy such non-compliance. The *Contractor* shall not be entitled to any compensation for suspension of the *Work* in these circumstances.

2.1.5 The duties, responsibilities and limitations of authority of the *Consultant* as set forth in the *Contract Documents* may be modified or extended by the *Owner* in writing.

2.1.6 If the *Consultant's* employment is terminated, the *Owner* shall appoint a replacement *Consultant* whose status under the *Contract Documents* shall be that of the former *Consultant*."

1.10 GC 2.2 ROLE OF THE CONSULTANT

1.10.1 GC 2.2.3

Delete the second sentence of GC 2.2.3.

1.10.2 GC 2.2.6

Add the word "schedules" after the word "techniques," in the second line of GC 2.2.6.

1.10.3 GC 2.2.7

Delete GC 2.2.7 in its entirety and replace with the following:

"2.2.7 The *Consultant* will be, in the first instance, the interpreter of the requirements of the *Contract Document*."

1.10.3 GC 2.2.14

Delete the word "submittals," and replace with the words "*Submittals* which are provided" after the word "*Contractor's*" in the first line of GC 2.2.14.

1.10.4 GC 2.2.16

Delete GC 2.2.16 in its entirety and replace with the following:

"2.2.16 The *Consultant* will conduct reviews of the *Work* to determine the dates of *Substantial Performance of the Work* and *Total Performance of the Work*.

1.11 GC 2.3 REVIEW AND INSPECTION OF THE WORK

1.11.1 GC 2.3.8

Add 2.3.8 as follows:

"2.3.8 The *Contractor* shall immediately inform the *Owner* and the *Consultant* of any notices, warnings or asserted violations issued by any regulatory or government agencies having jurisdiction relating to the *Work*."

1.11.2 GC 2.3.9

Add GC 2.3.9 as follows:

"2.3.9 No review of the *Work* or *Submittals* by the *Owner* or the *Consultant* shall relieve the *Contractor* from its responsibility to perform the *Work* in accordance with the *Contract Documents* or create any liability against the *Owner* or the *Consultant*."

1.11.3 GC 2.3.10

Add GC 2.3.10 as follows:

"2.3.10 Where standards of performance are specified in the *Contract Documents* and the *Work* does not comply with the performance specified, such deficiency shall be corrected as directed by the *Consultant*. Any testing of work identified as defective in accordance with GC 2.4, including retesting required by the *Owner* to verify performance, shall be done at the *Contractor's* expense."

1.12 GC 2.4 DEFECTIVE WORK

1.12.1 GC 2.4.1

Delete GC 2.4.1 in its entirety and replace with the following:

"2.4.1 The *Contractor* shall promptly correct 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 into the *Work* and whether or not the defect is the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the *Contractor* at no additional cost to the *Owner*. If the said defective work was in any way identified as a result of, or during the course of, an inspection by the *Owner*, the *Contractor* shall reimburse the *Owner* in full for any costs or expenses incurred by the *Owner* in respect of, or as a result of, the inspection.

.1 The *Contractor* shall rectify, in a manner acceptable to the *Owner* and the *Consultant*, all defective *Work* and deficiencies throughout the *Work*, whether or not they are specifically identified by the *Consultant*.

- .2 The *Contractor* shall prioritize the correction of any defective *Work* which, in the sole discretion of the *Owner*, adversely affects the day to day operations of the *Owner*."

1.12.2 GC 2.4.3

Delete the words "the difference in value between the work as performed and that called for by" and replace with "the value of such work as is necessary to correct any non-compliance with" in the second and third lines of GC 2.4.3.

PART 3 EXECUTION OF THE WORK

1.13 GC 3.1 CONTROL OF THE WORK

1.13.1 GC 3.1.2

Add the word "schedules" after the word "techniques" in the first line of GC 3.1.2.

1.13.2 GC 3.1.3

Add GC 3.1.3 as follows:

"3.1.3 Notwithstanding paragraphs 3.1.1 and 3.1.2, the Contractor agrees that it shall fully comply with all policies and procedures of the Owner which are relevant to any activity of the Contractor to be performed under the Contract. The Contractor further agrees that it will use reasonable efforts to inquire from the Owner if such policies or procedures exist which are relevant to any activity of the Contractor to be performed under the Contract. The Owner agrees that it will use reasonable efforts to communicate to the Contractor all policies or procedures it may have which are relevant to any such activity."

1.13.3 GC 3.1.4

Add GC 3.1.4 as follows:

"3.1.4 Prior to commencing individual procurement, fabrication and construction activities, the Contractor 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 Contractor shall immediately notify the Consultant in writing and obtain written instructions from the Consultant before proceeding with any part of the affected work."

1.14 GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

1.14.1 GC 3.2.2

Delete GC 3.2.2 in its entirety.

1.15 GC 3.4 DOCUMENT REVIEW

1.15.1 GC 3.4.1

Delete GC 3.4.1 in its entirety and replace with the following:

"3.4.1 The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* any error, inconsistency or omission the *Contractor* may discover. Such review by the *Contractor* shall comply with the standard of care described in GC 3.15 STANDARD OF CARE. Except for its obligation to make such review and report the result, the *Contractor* does not assume any responsibility to the *Owner* or to the *Consultant* for the accuracy of the *Contract Documents*. The *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* could not reasonably have discovered. If the *Contractor* does discover any error, inconsistency or omission in the *Contract Documents*, the *Contractor* shall not proceed with the *Work* affected until the *Contractor* has received corrected or missing information from the *Consultant*."

1.15.2 GC 3.4.2

Add GC 3.4.2 as follows:

"3.4.2 If the Contractor finds discrepancies in or omissions from the Contract Documents or has any doubt as to the meaning or intent of any part thereof, the Contractor shall immediately notify the Consultant, who will provide written instructions or explanations. Neither the Owner nor the Consultant will be responsible for oral instructions."

1.16 GC 3.5 CONSTRUCTION SCHEDULE

1.16.1 GC 3.5.1

Delete GC 3.5.1 in its entirety and replace with the following:

"3.5.1 The Contractor shall submit to the Owner and Consultant, and thereafter from time to time, a construction schedule in accordance with the Contract Document."

1.16.2 GC 3.5.2

Add GC 3.5.2 as follows:

"3.5.2 The *Contractor* shall monitor the progress of the Work relative to the construction schedule and provide an updated schedule in accordance with the Specifications. The Contractor shall submit such updated and accepted schedule with every application for progress payment in accordance with GC 5.2.8."

1.16.3 GC 3.5.3

Add GC 3.5.3 as follows:

"3.5.3 The Contractor shall immediately advise the Consultant of any revisions required to the construction schedule as the result of extensions of the Contract Time as provided in Part 6 of the General Conditions – CHANGES IN THE WORK."

1.16.5 GC 3.5.4

Add GC 3.5.4 as follows:

"3.5.4 If, at any time, it should appear to the *Owner* or the *Consultant* that the actual progress of the Work is behind schedule or is likely to become behind schedule, or if the *Contractor* has given notice of such to the *Owner* or the *Consultant* pursuant to GC 3.5.3, the *Contractor* shall take appropriate steps to cause the actual progress of the *Work* to conform to the schedule or minimize the resulting delay and shall produce and present to the *Owner* and the *Consultant* a recovery plan demonstrating how the *Contractor* will achieve recovery of the schedule."

1.17 GC 3.6 SUPERVISION

1.17.1 GC 3.6.1

Add the words "with the prior consent of the Owner" at the end of GC 3.6.1.

1.17.2 GC 3.6.3

Add GC 3.6.3 as follows:

"3.6.3 The *Contractor* shall provide the *Owner* and the *Consultant* with the name, address, and telephone number of the representative referred to in GC 3.6.1 and other responsible persons who may be contacted for emergency and other reasons during non-working hours throughout the course of the *Work*."

1.17.3 GC 3.6.4

Add GC 3.6.4 as follows:

"3.6.4 The *Owner* may, at any time, object to any representative or employee of the Contractor, Subcontractors or Suppliers and require the *Contractor* to remove, dismiss or replace, or cause to be removed, dismissed or replaced, the said representative or employee."

1.18 GC 3.7 SUBCONTRACTS AND SUPPLIERS

1.18.1 GC 3.7.1.4

Add GC 3.7.1.4 as follows:

".4 ensure that the *Contractor*, all *Subcontractors* and *Suppliers*, and anyone employed or engaged by them directly or indirectly, have the qualifications, technical skills, levels of experience and knowledge required, and all applicable permits, licences and approvals necessary, to discharge the work to be performed by them in accordance with the terms of the *Contract*."

1.18.2 GC 3.7.3

Delete GC 3.7.3 in its entirety and replace with the following:

"3.7.3 The Contractor may subcontract any part of the Work, subject to these General Conditions and the terms set out in the Contract Documents."

1.18.3 GC 3.7.4

Delete GC 3.7.4 in its entirety and replace with the following:

"3.7.4 The Contractor shall notify the Consultant, in writing, of its

intention to subcontract. Such notification shall identify the part or parts of the Work and the Subcontractor with whom it is proposing to subcontract."

1.18.4 GC 3.7.5

Delete GC 3.7.5 in its entirety and replace with the following:

"3.7.5 The Contractor shall not, without the written consent of the Owner, and whose consent shall not be unreasonably withheld, change a Subcontractor who has been engaged in accordance with this General Condition. The *Contractor* shall advise the *Owner* in writing, giving the *Contractor's* reasons for the change."

1.18.5 GC 3.7.7

Add GC 3.7.7 as follows:

"3.7.7 The Contractor shall preserve and protect the rights of the Owner with respect to that part of the Work to be performed under subcontract and shall enter into agreements with the intended Subcontractors to require them to perform their Work in accordance with the Contract Documents and shall be as fully responsible to the Owner for acts and omissions of the Contractor's Subcontractors and of persons directly and indirectly employed by them as for acts and omissions of persons employed directly by the Contractor."

1.18.6 GC 3.7.8

Add GC 3.7.8 as follows:

"3.7.8 The *Owner's* consent to subcontracting by the *Contractor* shall not be construed as relieving the *Contractor* from any obligation under the *Contract* and shall not impose any liability on the *Owner*. Nothing contained in the *Contract Documents* shall create a contractual relationship between a *Subcontractor* and the *Owner*."

1.18.7 GC 3.7.9

Add GC 3.7.9 as follows:

"3.7.9 Subcontracting shall be conducted in a manner consistent with the principles of open, fair and transparent procurement, and the Contractor shall keep records demonstrating compliance with this requirement in accordance with GC 1.7 RECORDS AND AUDIT."

1.18.8 GC 3.7.10

Add GC 3.7.10 as follows:

"3.7.10 The *Contractor* shall not be entitled to compensation by the *Owner* or any extension to the *Contract Time* arising out of, or in any way relating to, any breach of contract or failure to perform work by any *Subcontractor* or *Supplier* for any reason, including but not limited to, the insolvency or bankruptcy of the *Subcontractor* or *Supplier*, even though the *Subcontractor* or *Supplier* may have been designated or pre-qualified by the *Owner* or the *Consultant*."

1.19 GC 3.8 LABOUR AND PRODUCTS

1.19.1 GC 3.8.2

Add the following sentence to the end of GC 3.8.2:

"The *Contractor* shall not change the source of supply of any *Product* without the written authorization of the *Consultant*."

1.19.2 GC 3.8.3

Add the words "and qualified" after the word "skilled" in the first line of GC 3.8.3.

1.19.3 GC 3.8.4

Add GC 3.8.4 as follows:

"3.8.4 The *Owner* may at any time, for reasonable cause, require the *Contractor* to promptly remove from the *Place of the Work* any employee of the *Contractor* as well as any *Subcontractor* or employee of any *Subcontractor*."

1.19.4 GC 3.8.5

Add GC 3.8.5 as follows:

"3.8.5 The *Contractor* is responsible for the safe on-site storage of *Products* and their protection (including *Products* supplied by the *Owner* and other contractors to be installed under the *Contract*) in such ways as to avoid dangerous conditions or contamination to the *Products* or other persons or property and in locations at the *Place of the Work* to the satisfaction of the *Owner* and the *Consultant*. The *Owner* shall provide all relevant information to the *Contractor* in relation to the *Products* to be supplied by the *Owner*."

1.19.5 **GC 3.8.6**

Add GC 3.8.6 as follows:

"3.8.6 The *Contractor* shall ensure that all *Products* are of good quality, fit for their intended purpose and maintained in a safe, serviceable condition in accordance with this *Contract* and good industry practice."

1.19.6 **GC 3.8.7**

Add GC 3.8.7 as follows:

"3.8.7 Where more than one *Product* is specified for a use, the *Contractor* may select any of the *Products* so specified unless the *Specifications, Drawings or Contract Documents* indicate otherwise. The *Contractor* shall assume all responsibility for liabilities and additional costs that may arise as a result of the *Contractor's* choice to use one of the named *Products*."

1.19.7 **GC 3.8.8**

Add GC 3.8.8 as follows:

"3.8.8 The *Contractor* may apply to the *Consultant* to substitute a *Product* for an equivalent *Product*. Such application shall be in writing and made at the earliest opportunity with sufficient time for the *Consultant* to assess the application. The application shall include the following:

- .1 reasons for the proposed substitution (eg. significant delay in delivery, strikes, unavailability, improved quality or field service, amount of contract cost reduction etc.); and
- .2 sufficient description and technical information, specifications, references and samples and any other information requested by the *Consultant*;

in order for the *Consultant* to thoroughly assess the proposed substitution and compare the proposed substitute with that specified."

1.19.8 **GC 3.8.9**

Add GC 3.8.9 as follows:

"3.8.9 The *Consultant's* assessment of proposed substitutions shall include, but not limited to, criteria such as quality, durability, performance, ease of operation, safety, technical support, service and parts, availability and estimated cost of warranty and adherence to *Specifications*. All applications and submissions related to the proposed substitution shall only be made by the *Contractor* and not by any *Subcontractors* or *Suppliers*."

1.19.9 GC 3.8.10

Add GC 3.8.10 as follows:

"3.8.10 The approval or rejection of a proposed substitution shall be at the discretion of the *Consultant*, whose decision shall be final. Regardless of the *Consultant's* decision on a proposed substitution, the *Owner* reserves the right to assess and apply to the *Contractor*, all costs related to the *Consultant's* and the *Owner's* review of the proposed substitution."

1.19.10 GC 3.8.11

Add GC 3.8.11 as follows:

"3.8.11 The *Contractor's* prices shall be based on the *Products* specified. No tender shall be based on a presumed acceptance by the *Consultant* of a substitute *Product*."

1.19.11 GC 3.8.12

Add GC 3.8.12 as follows:

"3.8.12 Acceptance by the *Consultant* of an equivalent *Product* shall apply to this *Contract* only."

1.19.12 GC 3.8.13

Add GC 3.8.13 as follows:

"3.8.13 The *Contractor* shall assume all responsibility for liabilities and additional costs that may subsequently arise as a result of his proposed substitution being accepted by the *Consultant*."

1.19.3 GC 3.8.14

Add GC 3.8.14 as follows:

"3.8.14 Any changes necessitated by the use of the substituted *Products* shall be at the expense of the *Contractor*. The *Contractor* shall be responsible for assuring the proper fit and matching of all substituted *Products* to the surrounding materials."

1.20 GC 3.10 SHOP DRAWINGS AND OTHER SUBMITTALS

1.20.1 GC 3.10

Add the words "AND OTHER SUBMITTALS" to the end of the heading for GC 3.10 – SHOP DRAWINGS

1.20.2 GC 3.10.1, GC 3.10.2, GC 3.10.3, GC 3.10.4, GC 3.10.7, GC 3.10.8, GC 3.10.9, GC 3.10.10 and GC 3.10.11

Add the words "and *Submittals*" after the words "*Shop Drawings*" in GC's 3.10.1, 3.10.2, 3.10.3, 3.10.4, 3.10.7, 3.10.8, 3.10.9, 3.10.10 and 3.10.11.

1.20.3 GC 3.10.1

Add the following to the end of GC 3.10.1:

"All *Shop Drawings* and *Submittals*, shall be submitted electronically on a FTP site supplied by the *Contractor*, and should be kept up-to-date during the *Contract*."

1.20.4 GC 3.10.8.2

Add the words "and *Submittal*" after the words "*Shop Drawing*" in the first line of GC 3.10.8.2.

1.21 GC 3.11 USE OF THE WORK

1.21.1 GC 3.11.1

Add the words "the *Owner's* reasonable instructions," after the word "permits," in the second line of GC 3.11.1.

1.21.2 GC 3.11.2

Add the words ", individuals and the areas adjacent to the work." to the end of GC 3.11.2.

1.21.3 GC 3.11.3

Add GC 3.11.3 as follows:

"3.11.3 Subject to paragraph 9.4.6 of GC 9.4 - CONSTRUCTION SAFETY, The *Owner* shall have the right to enter and occupy the *Place of the Work* in whole or in part for the purpose of placing materials, fittings, and equipment, or for any other use at any time before completion of the *Contract* if, in the reasonable opinion of the *Consultant*, such entry and occupation does not prevent or interfere with the *Contractor* in achieving *Substantial Performance of the Work* within the *Contract Time* stipulated in the *Contract*."

1.21.4 **GC 3.11.4**

Add GC 3.11.4 as follows:

"3.11.4 No entry or occupation by the *Owner* as referenced in paragraph 3.11.3 shall constitute or be considered as acceptance of the *Work* in whole or in part, or in any way relieve the *Contractor* of its responsibility to complete the *Contract*."

1.22 GC 3.13 CLEANUP

1.22.1 **GC 3.13.2**

Add the words "all to the satisfaction of the *Consultant* and the *Owner*, acting reasonably." to the end of GC 3.13.2.

1.22.2 **GC 3.13.4**

Add GC 3.13.4 as follows:

"3.13.4 The *Owner* shall have the right to back charge the cost of cleaning and removal if such cleaning and removal is not completed within twenty-four (24) hours of written notice to clean or remove. The *Owner* shall also have the right to back charge the cost of damage to the *Place of the Work* caused by the *Contractor's*, *Subcontractor's* or *Supplier's* transportation in and out of the *Place of the Work* if not repaired within five (5) *Working Days* of written notice to repair or before final payment, whichever is earlier."

1.23 GC 3.14 INTERFERENCE

1.23.1 GC 3.14

Add GC 3.14 INTERFERENCE as follows:

"GC 3.14 INTERFERENCE

- 3.14.1 If the *Work*, in whole or in part, involves the renovation of, or addition to, existing and occupied premises:
- .1 the *Contractor* shall maintain normal business operations and traffic flow, with a minimum of inconvenience to the tenants and occupants of the *Place of the Work*;
 - .2 subject to the provisions of the *Contract Documents*, the *Contractor* shall ensure that no essential services such as electric power, water supply or other public utilities are interrupted;
 - .3 in every case where an interruption to existing services or utilities is to occur during execution of the *Work*, the *Contractor* shall give the *Owner* five (5) *Working Days* prior written notice. The *Contractor* shall reschedule any such interruption if requested to do so in writing by the *Owner*, and
 - .4 any work by the *Contractor* that generates excessive noise shall be subject to the restrictions set out elsewhere in the *Contract Documents*."

1.24 GC 3.15 – PERFORMANCE BY CONTRACTOR AND STANDARD OF CARE

1.24.1 GC 3.15

Add GC 3.15 PERFORMANCE BY CONTRACTOR AND STANDARD OF CARE as follows:

"GC 3.15 PERFORMANCE BY CONTRACTOR AND STANDARD OF CARE

- 3.15.1 In performing its services and obligations under the *Contract*, the *Contractor* shall exercise a standard of care, skill and diligence that would normally be provided by an experienced and prudent contractor supplying similar services for similar projects ("**Standard of Care**"). The *Contractor* acknowledges and agrees that throughout the *Contract*, the *Contractor's* obligations, duties and responsibilities shall be interpreted in accordance with

this standard. The *Contractor* shall exercise the same standard of due care and diligence in respect of any *Products*, personnel, or procedures which it may recommend to the *Owner*.

- 3.15.2 The *Contractor* further represents, covenants and warrants to the *Owner* that:
- .1 the personnel it assigns are appropriately experienced and qualified;
 - .2 it has a sufficient staff of qualified and competent personnel to replace its designated supervisor and project manager, subject 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 *Contractor* to perform its work under the *Contract*."

1.25 GC 3.16 – RISK OF LOSS AND TITLE

1.25.1 Add GC 3.16 RISK OF LOSS AND TITLE as follows:

"3.16 RISK OF LOSS AND TITLE

- 3.16.1 Title to portions of the *Work* completed or in the process of being completed and title to all *Product* and material produced and received by the *Contractor* shall pass to the *Owner* on the earlier of payment by the *Owner* or the delivery of any such portion of the *Work* and materials to the *Owner*; provided that the *Owner* is then in compliance with its payment obligations under the *Contract* and that the total value of such portion of the *Work*, *Products* and materials is not greater than the amount of money paid by the *Owner* at that time, to the *Contractor* under this *Contract*.
- 3.16.2 Risk of loss or damage to any part of the *Work* or *Products* shall remain with the *Contractor* until issuance of the *Consultant's* certificate of *Total Performance of the Work*.

- 3.16.3 The Contractor shall take reasonable and proper care of all property, title to which is vested in the Owner, while the same is in, on or about the plant and premises of the Contractor or otherwise in his possession or subject to his control and shall be responsible for any loss or damage resulting from his failure to do so other than loss or damage caused by ordinary wear and tear."

PART 4 ALLOWANCES AND PROVISIONAL ITEMS

1.26 PART 4 ALLOWANCES AND PROVISIONAL ITEMS

1.26.1 Part 4

Add the words "AND PROVISIONAL ITEMS" to the end of the heading for PART 4 ALLOWANCES.

1.27 GC 4.1 CASH ALLOWANCE

1.27.1 GC 4.1.3

Delete GC 4.1.3 in its entirety and replace with following:

- "4.1.3 Cash allowances shall be used and expended solely for purposes specified and at the sole discretion of Owner, and work under a cash allowance is not guaranteed. Cash allowance items shall be administered and authorized as follows:
- .1 The Owner, via the Consultant, shall notify the Contractor a request to proceed with a cash allowance item.
 - .2 Upon receipt of such request from the Consultant, the Contractor shall, in respect of the identified cash allowance item provide to the Owner a response setting out: the schedule for the Work and expected milestones and completion date; the personnel and subcontractors which the Contractor proposes to perform the Work and the costs of such Work, with up to three (3) quotations for any or all of the Work if requested by the Owner; and any other information requested by the Owner.
 - .3 Upon receipt and review of such response, the Owner, via the Consultant, shall approve such cash allowance item in writing. No amounts shall be payable in respect of any cash allowance items unless and until the Owner has approved such expenditure in writing."

1.27.2 GC 4.1.4

Delete "the Contract Documents" from GC 4.1.4 and replace with "GC 6.1.3".

1.28 GC 4.3 PROVISIONAL ITEMS

1.28.1 GC 4.3

Add GC 4.3 PROVISIONAL ITEMS as follows:

"GC 4.3 PROVISIONAL ITEMS

- 4.3.1 The *Contract Price* includes the *Provisional Items*, if any, stated in the *Contract Documents*.
- 4.3.2 The *Provisional Items* shall be authorized individually in writing by the *Owner* through the *Consultant*. The *Contractor* shall not proceed with any *Provisional Item* without such prior written authorization.
- 4.3.3 The prices stated for any and all items identified as "Provisional Items" in Appendix "C" of Form of Tender shall be for the completed *Work* "in place" and shall be inclusive of all costs related thereto including, but not necessarily limited to, all overhead, profit and applicable taxes, except Harmonized Sales Tax, unless otherwise specified by the Owner.
- 4.3.4 Provisional Items are options to be exercised at the sole discretion of the Owner. In the event the Owner decides, in its sole discretion, to:
- .1 not proceed with any or all of the identified Provisional Items; or
 - .2 proceed with any or all of the identified Provisional Items but increases or reduces the quantity of such Provisional Items;

the *Contract Price* shall be adjusted proportionally based on the extended price stated for such Provisional Items in Appendix "B"– Provisional Items of Form of Tender. The extended price shall form the basis of all adjustments without any additional compensation or markup. For greater certainty, the markups provided in GC 6.1.3 and GC 6.7.4 are not applicable to Provisional Items."

PART 5 PAYMENT

1.29 GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

1.29.1 GC 5.1.1

Delete GC 5.1.1 in its entirety.

1.29.2 GC 5.1.2

Delete GC 5.1.2 in its entirety.

1.30 GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT

1.30.1 GC 5.2.4

Delete the words "calendar days" and replace with "*Working Days*" in the first line of GC 5.2.4.

1.30.2 GC 5.2.7

Add the following sentence to the end of GC 5.2.7:

"Any Products delivered to the Place of the Work but not yet incorporated into the Work shall remain at the risk of the Contractor notwithstanding that title has passed to the Owner pursuant to GC 3.16 RISK OF LOSS AND TITLE."

1.30.3 GC 5.2.8

Add GC 5.2.8 as follows:

"5.2.8 The *Contractor* shall submit, with each application for progress payment after the first, a *WSIB* clearance certificate, an updated schedule acceptable to the Owner in accordance with GC 3.5 CONSTRUCTION SCHEDULE, and a Statutory Declaration, on an original form of CCDC Document 9A-2001 Statutory Declaration of Progress Payment Distribution by Contractor, stating that payments in connection with the *Work*, as noted in the Statutory Declaration, have been made to the end of the period immediately preceding that covered by the current application and, if requested by the *Owner*, a Statutory Declaration from any *Subcontractor*, as may be identified by the Owner, on an original form of CCDC Document 9B-2001 Statutory Declaration of Progress Payment Distribution by Subcontractor. The Statutory Declarations shall be dated the same date as the *Contractor's* application for payment."

1.30.4 **GC 5.2.9**

Add GC 5.2.9 as follows:

"5.2.9 The *Contractor* 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*, including but not limited to architectural, structural, mechanical, electrical, cabling, *Shop Drawings*, single-line diagrams and any other graphical representations, and shall be maintained by the *Contractor* and made available to the *Consultant* for review with each application for progress payment."

1.30.5 **GC 5.2.10**

Add GC 5.2.10 as follows:

"5.2.10 Payment for bonds and insurance will be paid one hundred percent (100%) on the first progress payment, provided that respective invoices are submitted as proof of payment."

1.31 GC 5.3 PROGRESS PAYMENT

1.31.1 **GC 5.3.1.2**

Add the following sentence to the end of GC 5.3.1.2:

"For clarity, the ten (10) calendar day period referenced herein shall not commence until such time as the *Consultant* has determined that he has received from the Contractor all required documents supporting the invoice and evidencing the Work being invoiced, including but not limited to the documents listed in GC 5.2.8 and GC 5.2.9, all to the *Consultant's* satisfaction."

1.31.2 **GC 5.3.1.3**

Delete GC 5.3.1.3 in its entirety and replace with following:

".3 the *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement – Payment no later than twenty (20) calendar days after the date of issuance by the *Consultant* of a certificate for payment."

1.31.3 **GC 5.3.3**

Add GC 5.3.3 as follows:

"5.3.3 Certificates for payment may provide for retention of amounts as determined by the *Consultant* to ensure correction or replacement of deficient work done or unacceptable product provided."

1.32 GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

1.32.1 GC 5.4.3

Delete GC 5.4.3 in its entirety and replace with the following:

"5.4.3 Immediately prior to the issuance of the certificate of *Substantial Performance* of the *Work*, the *Contractor*, in consultation with the *Consultant*, shall establish a schedule for completion of the *Work* and correcting deficiencies in the *Work*, and the construction schedule shall be deemed to be amended to include this completion schedule."

1.32.2 GC 5.4.4

Add GC 5.4.4 as follows:

"5.4.4 Prior to submitting its written application for *Substantial Performance of the Work*, the *Contractor* shall submit to the *Consultant* all:

- .1 guarantees;
- .2 warranties, completed as per GC 12.3;
- .3 certificates;
- .4 testing and balancing reports;
- .5 distribution system diagrams;
- .6 spare parts;
- .7 maintenance/operation manuals;
- .8 training manuals;
- .9 samples;
- .10 reports and correspondence from authorities having jurisdiction in the Place of the Work;
- .11 Shop Drawings, and marked up Drawings;
- .12 completed as-built drawings in the latest edition of a Computer Assisted Design Drawing software program;
- .13 inspection certificates;

and other materials or documentation required to be submitted under the *Contract*, together with written proof acceptable to the Owner and the *Consultant* that the *Work* has been substantially performed in conformance with the requirements of municipal, governmental and utility authorities having jurisdiction in the *Place of the Work*."

1.33 GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

1.33.1 GC 5.5.1.2

Add the words "and, if requested by the *Owner*, as Statutory Declaration from any *Subcontractor*, as may be identified by the *Owner*, on an original form of CCDC Document 9B – 2001 Statutory Declaration of Progress Payment Distribution by Subcontractor." to the end of GC 5.5.1.2.

1.33.2 GC 5.5.2

Delete the words "the statement" and replace with the words "the documents" in the first line of GC 5.5.2.

1.33.3 GC 5.5.3

Delete GC 5.5.3 in its entirety.

1.33.4 GC 5.5.4

Delete GC 5.5.4 in its entirety and replace with the following:

"5.5.4 This Contract shall be subject to the *Construction Lien Act (Ontario)* (the "Act"). In accordance with the Act, the Owner may retain any amounts which are: required by law to satisfy any liens against the *Work*, in respect of claims of third parties made to the *Owner* in respect of the *Contract* or the *Work*, and in respect of any claims the *Owner* may have against the *Contractor*."

1.33.5 GC 5.5.5

Delete GC 5.5.5 in its entirety.

1.34 GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK

1.34.1 GC 5.6.1

Delete 5.6.1 in its entirety and replace with following:

"5.6.1 Where the work of a Subcontractor or Supplier has been performed prior to Substantial Performance of the Work and is certified as completed in accordance with the Act and evidence of such is submitted by the Contractor, along with a clearance certificate or letter from the Workplace Safety and Insurance Board relating to the subcontract, to the satisfaction of the Consultant, the Owner shall pay the Contractor the holdback amount retained for such subcontract work, or the Products supplied by such Supplier, on the first calendar day following the expiration of the holdback period for such work stipulated in the Act. The Owner may retain out of the holdback amount any sums required by law to satisfy any liens against the Work and any amounts in respect of claims of third parties made to the Owner in respect of the Contract or the Work."

1.35 GC 5.7 FINAL PAYMENT

1.35.1 GC 5.7.1

Delete GC 5.7.1 in its entirety and replace with the following:

"5.7.1 When the *Contractor* considers that the Work has been totally performed, the Contractor shall submit an application for final payment, together with a written application for review by the *Consultant* to establish *Total Performance of the Work*, and any other documents or materials not yet delivered pursuant to GC 5.4.4 and as listed in GC 5.7.5. The Work shall not be deemed to have been performed until all of the aforementioned documents and materials have been delivered, and the Owner may withhold payment in respect of the delivery of any documents or materials in an amount determined by the Consultant in accordance with the provisions of GC 5.8 WITHHOLDING OF PAYMENT and GC 12.1 INDEMNIFICATION. The Consultant shall advise the Contractor upon receipt of an application for final payment if additional documents or materials are required pursuant to this GC 5.7.1 and the Contractor shall respond promptly with such documents or materials."

1.35.2 GC 5.7.2

Delete GC 5.7.2 in its entirety and replace with following:

- "5.7.2 The Consultant will, no later than 10 calendar days after the receipt of an application from the Contractor for final payment, review the Work to verify the validity of the application and:
- .1 advise the Contractor in writing that the Work is not totally performed and give reasons why, or
 - .2 state the date of *Total Performance of the Work* in a certificate and issue a copy of that certificate to each of the *Owner* and the *Contractor*."

The above time period for response shall not commence until all documents and materials required pursuant to GC 5.7.1 have been received by the Consultant."

1.35.3 GC 5.7.3

Delete the words "finds the *Contractor's* application for final payment valid" and substitute the words "issues the certificate of *Total Performance of the Work*" in the first line of GC 5.7.3.

1.35.3 GC 5.7.4

Delete the number "5" and replace with "15" in the second line of GC 5.7.4.

1.35.4 GC 5.7.5

Add GC 5.7.5 as follows:

- "5.7.5 The *Contractor* shall submit to the *Consultant*, with the application for final payment, the following documentation:
- .1 all closeout documentation required by the *Contract Documents*, including but not limited to, warranties, manuals, guarantees, as-built drawings and all other relevant literature from *Suppliers* and manufacturers including, but not limited to:
 - (a) equipment, maintenance and operations manuals;
 - (b) equipment specifications, data sheets and brochures, parts lists and assembly drawings, performance curves and other related data;
 - (c) line drawings, value charts and control sequences with description of the sequence of operations;

- (d) warranty documents;
- (e) service and maintenance reports as applicable;
- (f) specifications;
- (g) shop drawings;
- (h) testing results;
- (i) commissioning and quality assurance documentation, and
- (j) HVAC balance reports.

- .2 a Statutory Declaration, on an original form of CCDC Document 9A – 2001, stating that payments in connection with the *Work*, as noted in the statutory declaration, have been made to the end of the period immediately preceding that covered by the application for final payment and, if requested by the *Owner*, as Statutory Declaration from any *Subcontractor*, as may be identified by the *Owner*, on an original form of CCDC Document 9B – 2001 Statutory Declaration of Progress Payment Distribution by Subcontractor.”

1.36 GC 5.8 WITHHOLDING OF PAYMENT

1.36.1 GC 5.8

Add “Subject to GC 12.1 INDEMNIFICATION,” at the beginning of GC 5.8.1.

1.37 GC 5.10 CLAIMS FOR LIEN

1.37.1 GC 5.10

Add GC 5.10 CLAIMS FOR LIEN as follows:

“GC 5.10 CLAIMS FOR LIEN

- 5.10.1 The *Contractor* shall cause any and all construction liens and certificates of action relating to the *Work* registered or preserved by any *Subcontractor*, *Supplier*, *Contractor's* employees, or any other party to whom the *Contractor* is or may be responsible at law, to be discharged or vacated, or cause to be discharged or vacated, immediately but in any case no later than five (5) *Working Days* of the date of registration or reservation, all at the *Contractor's* sole expense. The *Contractor* shall not be entitled to

receive any payment from the *Owner* until all such claims for lien and certificates of action have been vacated or discharged.

5.10.2 The *Contractor* shall cause any and all written notices of lien relating to the *Work* given to any person, including, but not limited to, the *Owner* by any *Subcontractor*, sub-subcontractor, *Supplier*, *Contractor's* employees, or any party to whom the *Contractor* is or may be responsible at law, to be withdrawn, and the *Contractor* shall do so immediately but in any case no later than five (5) *Working Days* of the written notice of lien having been given, all at the *Contractor's* sole expense.

5.10.3 If the *Contractor* fails to discharge or vacate any such lien or certificate of action, or to have any such written notice of lien withdrawn, within five (5) *Working Days*, then the *Owner* shall have the right but not the obligation, do so and set off and deduct from any amount owing to the *Contractor*, all costs and expenses of so doing, and of defending any related action, including without limitation, the costs of borrowing the appropriate cash, letter of credit or bond as security, and legal fees and disbursements on a full indemnity basis. If there is no amount owing by the *Owner* to the *Contractor*, then the *Contractor* shall reimburse the *Owner* for all of the said costs and expenses of so doing."

PART 6 CHANGES IN THE WORK

1.38 GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

1.38.1 GC 6.1.3

Add GC 6.1.3 as follows:

"6.1.3 For the purpose of valuing cash allowances pursuant to GC 4.1.4, contingency allowances pursuant to GC 4.2.2, changes which result in an increase in the *Contract Price*, and any other items under the *Contract Documents* which provide for payment to the *Contractor* of overhead and profit, allowances for overhead and profit shall be included as follows:

- .1 *Contractor's* combined mark-up for overhead and profit shall be fifteen percent (15%) on work and services completed by its own forces, and five percent (5%) on work and services completed by its *Subcontractors*.
- .2 *Subcontractors'* combined mark-up for overhead and profit shall be fifteen percent (15%) on work and services

completed by their own forces, and five percent (5%) on work and services completed by their subcontractors.”

1.38.2 GC 6.1.4

Add GC 6.1.4 as follows:

“6.1.4 The mark-ups provided for in GC 6.1.3 shall constitute the only compensation the Contractor shall be entitled to for any and all overhead and profit related to the change, cash allowance or contingency allowance.”

1.38.3 GC 6.1.5

Add GC 6.1.5 as follows:

“6.1.5 The *Contractor's* and *Subcontractor's* overhead as set out in GC 6.1.3 shall be deemed to include direct and indirect costs arising from: preparation of change order, change directive, supplemental instruction; obtaining quotations and preparation and submission of any documentation or materials; computer services; cleaning and cleaning services; any increase in the cost of obtaining or maintaining all bonds and insurance policies; any increase in performance, labour and materials payment bonds values and durations; any increase in insurance and workplace safety insurance values and durations; any increase in warranty or guarantee values or durations; estimating, costing, accounting, payroll administration; office administration, processing correspondence, timekeeping, material consumed in the construction contract administration and management process; reproduction, office, shop drawing review and preparation; permits and statutory fees; plant and equipment including operators and equipment rentals; vehicles; place of work office and head office overheads; place of work site contractor and subcontractor superintendence, supervisors and assistants; material re-handling; safety equipment, safety wear and first aid; security; technical staff; telephone, mobile phone, and facsimile services and charges; temporary heat, light and power; temporary protection; temporary place of work offices, trailers and storage compounds; timekeeping and the like.”

1.39 GC 6.2 CHANGE ORDER

1.39.1 GC 6.2.1

Delete the words "promptly present," and substitute the words ", within five (5) *Working Days* of receiving the written description, present" in the second line of GC 6.2.1.

1.39.2 GC 6.2.4

Add GC 6.2.4 as follows:

"6.2.4 When the *Contractor* submits an invoice from a *Subcontractor* or *Supplier* as part of its detailed breakdown of the cost of a change, as may be required by GC 6.2 CHANGE ORDER or GC 6.3 CHANGE DIRECTIVE, the *Contractor* is deemed to represent and warrant to the *Owner* that the amount shown on the invoice is the amount that the *Contractor* is liable to pay for the services and materials described in the invoice, net of all discounts, unless the *Contractor* indicates otherwise when submitting its detailed breakdown. When the *Contractor* submits an estimate or quotation from a *Subcontractor* or *Supplier* as part of its detailed breakdown of the estimated cost of a change, the *Contractor* is deemed to represent and warrant to the *Owner* that, subject to any qualifications on the face of the estimate or quotation and any qualifications made by the *Contractor* within the detailed breakdown, that the amount set out in the estimate or quotation is the amount the *Contractor* has agreed to pay should the *Contractor* be authorized to proceed with the change, net of all discounts. Notwithstanding the foregoing, the *Contractor* shall be entitled to take a commercially reasonable early payment discount (if offered) when the *Contractor* pays its *Subcontractor* or *Supplier* prior to receiving payment from the *Owner*."

1.39.3 GC 6.2.5

Add GC 6.2.5 as follows:

"6.2.5 In the event any of the change in the Work, contains items or parts that, in the opinion of the *Consultant*, are the same or equivalent to items for which the Contractor submitted Unit Prices in the tender submitted by the Contractor, then the Unit Prices in the tender shall be the prices paid by the Owner for that work or parts of the Work in respect of any such change in the Work."

1.39.4 GC 6.2.6

Add GC 6.2.6 as follows:

"6.2.6 No compensation for any change in the Work shall be allowed unless such change is first ordered in writing by the Consultant and authorized by the Owner."

1.40 GC 6.3 CHANGE DIRECTIVE

1.40.1 GC 6.3.6

Delete the words "the Contractor's percentage fee" from GC 6.3.6.1 and replace with "the Contractor's markup for overhead and profit as set out in GC 6.1.3".

Delete the words "without adjustment for the Contractor's percentage fee" from GC 6.3.6.2.

Delete GC 6.3.6.3 in its entirety.

1.40.2 GC 6.3.7

Delete GC 6.3.7.1 in its entirety and replace with following:

".1 salaries, wages and benefits paid to personnel in the direct employ of the Contractor, applying the labour rates set out in the wage schedule in the Contract Documents or as otherwise agreed between the Owner and Contractor for personnel,

- (1) carrying out the Work on-site at the *Place of the Work*, including necessary supervisory services;
- (2) engaged in expediting the production or transportation of material or equipment, at shops or on the road;
- (3) engaged in the preparation of Shop Drawings, fabrication drawings, coordination drawings and *Contract* as-built drawings, or,
- (4) carrying out clerical work to process changes in the *Work*."

1.40.3 GC 6.3.8

Add the words "except for GC 6.3.14" after the word "Contract" in the first line.

1.40.4 **GC 6.3.14**

Add GC 6.3.14 as follows:

"6.3.14 For greater certainty, any adjustment of the *Contract Price* for the Work attributable to the *Change Directive* shall not include, and no payment shall be made for:

- .1 head office salaries and benefits and all other overhead or general expenses, except only for the salaries, wages and benefits of personnel described in paragraph 6.3.7.1 and the contributions, assessments or taxes referred to in paragraphs 6.3.7.2;
- .2 capital expenses and interest on capital;
- .3 general clean-up, except where the performance of the Work in the Change Directive causes specific additional clean-up requirements;
- .4 wages paid for project managers, superintendents, assistants, watch persons and administrative personnel, provided the Change Directive does not result in an extension of Contract Time;
- .5 wages, salaries, rentals, or other expenses that exceed the rates that are standard in the locality of the Place of the Work that are otherwise deemed unreasonable by the *Consultant*;
- .6 any costs or expenses attributable to the negligence, improper Work, deficiencies, or breaches of Contract by the *Contractor* or *Subcontractor*, and
- .7 any cost of quality assurance, such as inspection and testing services, charges levied by authorities, and any legal fees unless any such costs or fees are pre-approved in writing by the *Owner*."

1.41 GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

1.41.1 **GC 6.4.5**

Add GC 6.4.5 as follows:

"6.4.5 The *Contractor* confirms that, prior to bidding, it carefully investigated the character of the *Work*, the *Place of the Work*, and all local conditions which might affect its obligations and that it has satisfied itself as to the nature and extent of the *Work*, the *Contract Documents* and the *Contract* and as to the facilities and difficulties in attending and completing the execution of the *Work*. The *Owner* shall, upon written request, co-operate with, and provide reasonable assistance to, the *Contractor* during such investigations. The *Contractor* confirms that it has applied to its investigations as aforesaid the degree of care and skill described in paragraph 3.15.1, given the amount of time provided between the issuance of the bid documents and the actual closing of bids, and the degree of access provided to the *Contractor* prior to submission of bids. The *Contractor* is not entitled to compensation or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such careful investigation undertaken prior to the submission of its bid."

1.41.2 GC 6.4.6

Add GC 6.4.6 as follows:

"6.4.6 To the extent the *Contractor* has not investigated as referenced in paragraph 6.4.5, the *Contractor* willingly assumes responsibility for all losses, damages, costs, expenses (including all legal costs on a full indemnity basis), liabilities, claims, actions, and demands, whether arising under statute, contract or at common law, which such investigations might have avoided or reduced and shall indemnify and save harmless the *Owner* from all risk which might make it more onerous and more expensive to fulfill or perform the *Work* than was contemplated or known when the *Contract* was signed, and for any and all liability, responsibility and obligations which the *Owner* may have to any third parties resulting from any failure to investigate."

1.41.3 GC 6.4.7

Add GC 6.4.7 as follows:

"6.4.7 If the finding made pursuant to paragraph 6.4.2 is that the subsurface or otherwise concealed physical conditions differ materially and this would cause an increase or decrease in the *Contractor's* cost or time to perform the *Work*, and if the said conditions were otherwise discoverable by the *Contractor* in the proper performance of its duties and obligations under the *Contract*, all costs and expenses resulting from any delay

(excluding, for clarity, the direct cost of remediating the said conditions) in the completion of the *Work* that is caused, or contributed to, as a result of the said conditions, will be borne by the *Contractor*."

1.42 GC 6.5 DELAYS

1.42.1 GC 6.5.1 and GC 6.5.2

Add after the phrase "as the result of such delay" at the end of GC 6.5.1 and GC 6.5.2, respectively, the following:

", as determined by the *Consultant*, subject to GC 6.5.9 and the the following:

- .1 the Contractor shall not be reimbursed for any consequential, incidental, indirect or special damages including, without limitation, loss of profits, loss of opportunity or loss of productivity resulting from such delay; and
- .2 the Contractor shall not be reimbursed for any costs which, regardless of the delay, would be expected to have been incurred in the regular course of business, including but not limited to the costs of the Contractor's head office personnel during or in relation to such delay; and

1.42.2 GC 6.5.6

Add GC 6.5.6 as follows:

"6.5.6 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor*, any *Subcontractor*, or anyone employed or engaged by them, directly or indirectly, or by any cause within the *Contractor's* control, the *Contractor* shall devote such additional resources and take all steps necessary (all at the *Contractor's* own cost and expense), to ensure that the date for attaining *Substantial Performance of the Work* and *Total Performance of the Work* under the *Contract*, as may have been amended in accordance with the provisions of Part 6 of the General Conditions – Changes in the Work, is met. The *Owner* shall be reimbursed by the *Contractor* for all reasonable costs incurred by the *Owner* as a result of such delay, as determined by the *Consultant*."

1.42.3 GC 6.5.7

Add GC 6.5.7 as follows:

"6.5.7 The *Contractor* 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 paragraphs 6.5.1, 6.5.2 or 6.5.3. In the event of such suspension, the *Contractor* shall be reimbursed by the *Owner* for the reasonable costs incurred by the *Contractor* for such care, maintenance and protection. The *Contractor's* entitlement to costs pursuant to this paragraph 6.5.7, if any, shall be in addition to amounts, if any, to which the *Contractor* is entitled pursuant to paragraphs 6.5.1, 6.5.2 or 6.5.3."

1.42.4 **GC 6.5.8**

Add GC 6.5.8 as follows:

"6.5.8 Without limiting the obligations of the Contractor described in GC 3.2 – CONSTRUCTION BY OWNER OR OTHER CONTRACTORS and GC 9.4 – CONSTRUCTION SAFETY, the Owner may, by Notice in Writing, direct the Contractor 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 Contractor receives such notice, it shall immediately stop the Work and secure the Project site. The Contractor 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 Contractor to an extension of the Contract Time or the reimbursement of the Contractor's costs as provided in GC 6.5.1, 6.5.2 or 6.5.3."

1.42.5 **GC 6.5.9**

Add GC 6.5.9 as follows:

"6.5.9 Regardless of the reason or cause of delay, the *Contractor* shall:

- .1 have a duty to mitigate the expenses or costs which may be incurred as a result of any delay, which mitigation measures shall include, but not be limited to, reducing the number of the *Contractor's* and *Subcontractor's* personnel at the *Place of the Work*, reducing the amount of supplies or the use of *Equipment*, and there shall be no reimbursement for any costs or expenses that could reasonably have been mitigated; and

- .2 keep such records and documentation as may be necessary to support any claim for reimbursement for expenses or costs which may be incurred as a result of any delay, including any records or documentation which demonstrates compliance with GC 6.5.9.1, and there shall be no reimbursement for any costs that are not sufficiently supported by such necessary records and documentation, as determined by the *Consultant*."

1.42.6 GC 6.5.10

Add GC 6.5.10 as follows:

- "6.5.10 Any finding or recommendation of the Consultant under GC 6.5 not accepted by either party shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION."

1.43 GC 6.7 QUANTITY VARIATIONS

1.43.1 GC 6.7.2

Delete the words "or falls short of" in the second line of GC 6.7.2.

1.43.2 GC 6.7.4

Delete GC 6.7.4 in its entirety and replace with following:

- "6.7.4 Where Work has been performed for a Unit Price Item, and the actual quantity of such Work performed is less than the estimated quantity by more than 15%, the *Contractor* shall be compensated for such Work performed based on the original Contract Unit Price for that item. The Contractor will be entitled to a combined markup of 15% for profit and overhead, on the amount of the underrun in excess of 15% of the estimated quantity. The underrun shall be defined as the difference between the estimated quantity and the actual work performed.

- .1 Where no Work has been performed for a Unit Price item, the Owner shall be entitled to a credit to the Contract Price based on the original Contract Unit Price for that item. The Contractor shall not be entitled to any compensation or payment on account of such deletion of Work."

PART 7 DEFAULT NOTICE

1.44 GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, SUSPEND THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT

1.44.1 GC 7.1

Add the words "suspend the work" after the words "perform the work" in the first line of the heading for GC 7.1.

1.44.2 GC 7.1.5.5

Add GC 7.1.5.5 as follows:

".5 charge the Contractor for any damages the Owner may have sustained as a result of the default."

1.44.3 GC 7.1.7

Add GC 7.1.7 as follows:

"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*, terminate the *Contractor's* right to continue with the *Work* or terminate the *Contract*, in whole or in part, by giving *Notice in Writing* to that effect to the *Contractor*. 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. The *Owner's* entitlement to so terminate or suspend shall be absolute and unconditional and exercisable by the *Owner* in its sole discretion."

1.44.4 GC 7.1.8

Add GC 7.1.8 as follows:

"7.1.8 The *Contractor* upon receiving notice of suspension or termination from the *Owner* shall suspend all operations as soon as reasonably possible except for work which, in the *Contractor'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 *Contractor* 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."

1.44.5 **GC 7.1.9**

Add GC 7.1.9 as follows:

"7.1.9 During any period of suspension, the *Contractor* shall not remove from the site any part of the *Work*, or any *Product* or materials without the consent of the *Owner*."

1.44.6 **GC 7.1.10**

Add GC 7.1.10 as follows:

"7.1.10 If the *Work* should be suspended for a period of sixty (60) consecutive calendar days or less, the *Contractor*, 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 omission of the *Contractor*, the *Contract Price* and *Contract Time* shall be adjusted as provided in paragraph 6.5.1 of GC 6.5 - Delays."

1.44.7 **GC 7.1.11**

Add GC 7.1.11 as follows:

"7.1.11 If after sixty (60) consecutive calendar days from the date of notice of suspension of the *Work*, the *Owner* and the *Contractor* agree to continue with and complete the *Work*, the *Contractor* shall resume operations and complete the *Work* in accordance with any terms and conditions agreed upon by the *Owner* and the *Contractor*. Failing such an agreement, the provisions of paragraph 7.2.2 shall become applicable."

1.44.8 **GC 7.1.12**

Add GC 7.1.12 as follows:

"7.1.12 If the *Owner* terminates the *Contract* pursuant to paragraph 7.1.7, the *Contractor* shall only be entitled to receive payment for all work performed up to the date of termination as certified by the *Consultant* and the direct costs associated with the termination incurred by the *Contractor*, including the costs of the demobilization, losses sustained on *Products* and *Construction Equipment* and *Subcontractor* and sub-subcontractor cancellation costs (which costs shall not include loss of profit claims) reasonably incurred by the *Contractor*. The *Contractor* shall not be entitled to any additional reimbursement on account of the termination including, without limitation, indirect, incidental,

special, consequential or other damages, including loss of profits,
notwithstanding any other provision of the *Contract Documents*."

1.45 GC 7.2 CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

1.45.1 GC 7.2.1

Delete GC 7.2.1 in its entirety.

1.45.2 GC 7.2.2

Delete the words "*20 Working Days*" and substitute the words "sixty (60) consecutive calendar days" in the first line of paragraph 7.2.2.

1.45.3 GC 7.2.3.1

Delete GC 7.2.3.1 in its entirety.

1.45.4 GC 7.2.3.3

Add the words ", except where the *Owner* has a claim against the *Contractor* for set-off," after the word "*Consultant*" in GC 7.2.3.3.

1.45.5 GC 7.2.3.4

Delete the words ", except for GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER," from the first and second lines of GC 7.2.3.4.

1.45.6 GC 7.2.4

Add the following sentence to the end of GC 7.2.4:

"If the default cannot be corrected within the 5 Working Days specified herein, the Owner shall be deemed to have cured the default if it

- .1 commences the correction of the default within the specified time; and
- .2 provides the Contractor with an acceptable schedule for such correction; and
- .3 completes the correction in accordance with such schedule."

1.45.7 GC 7.2.5

Delete GC 7.2.5 in its entirety and replace with following:

"7.2.5 If the *Contractor* terminates the *Contract* under the conditions set out above, the *Contractor* shall be entitled to be paid for all work performed to the date of termination. The *Contractor* shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization, and losses sustained on *Products* and *Construction Equipment*. The *Contractor* shall not be entitled to any additional reimbursement on account of any such termination including, without limitation, indirect, incidental, special, consequential or other damages, including loss of profits, notwithstanding any other provision of the *Contract Documents*."

1.45.8 **GC 7.2.6**

Add GC 7.2.6 as follows:

"7.2.6 The *Owner's* withholding of a progress payment, holdback payment or final payment due to the *Contractor's* failure to pay a *Subcontractor* or *Supplier*, to protect the *Owner's* interest in the event of the registration of a lien or receipt of notice of lien, or otherwise pursuant to the terms of the *Contract*, shall not constitute a default under paragraph 7.2.3 which would permit the *Contractor* to stop the *Work* or terminate the *Contract*. In such circumstances, the *Contractor* shall continue with the *Work*."

1.45.9 **GC 7.2.7**

Add GC 7.2.7 as follows:

"7.2.7 If the *Contractor* stops the *Work* or terminates the *Contract* in accordance with this GC 7.2 – Contractor's Right To Suspend The Work Or Terminate The Contract, the *Contractor* shall leave the *Place of the Work* and the *Work* in a secure condition."

PART 8 – DISPUTE RESOLUTION

1.46 GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

1.46.1 **GC 8.1.3**

Delete GC 8.1.3 in its entirety and replace with following:

"8.1.3 Unless the *Contract* has been terminated or completed, the *Contractor* shall in every case, regardless of claim or dispute, continue to proceed with the *Work* with due diligence in accordance with the *Consultant's* instructions. It is understood by

the parties that such actions will not jeopardize any claim that the parties may have.”

1.46.2 **GC 8.2.6**

Delete GC 8.2.6 in its entirety and replace with following:

“8.2.6 When a dispute has not been resolved through negotiation or mediation, within 10 Working Days after the date of termination of the mediated negotiations under GC 8.2.5, either party may give a Notice in Writing to the other party and to the Consultant inviting the other party to agree to submit the dispute to be resolved by arbitration pursuant to the Arbitration Act, 1991. If the other party wishes to accept the invitation to submit the dispute to arbitration, it shall so indicate by the delivery of a responding Notice in Writing within 10 Working Days of receipt of the invitation. If, within the required times, no invitation is made, or, if made, is not accepted, either party may refer the dispute to the courts or any other form of dispute resolution, which they have agreed to use.”

1.46.3 **GC 8.2.7**

Delete GC 8.2.7 in its entirety.

1.46.4 **GC 8.2.8**

Delete GC 8.2.8 in its entirety.

PART 9 – PROTECTION OF PERSONS AND PROPERTY

1.47 GC 9.1 PROTECTION OF WORK AND PROPERTY

1.47.1 **GC 9.1.1**

Delete GC 9.1.1 in its entirety and replace with following:

“9.1.1 The Contractor shall be responsible for security at the *Place of the Work* and will take such other security measures as may be necessary in respect of the *Work* and the *Place of the Work*, as may be determined by the *Owner* in its sole discretion, and shall protect the *Work*, the *Place of the Work*, the *Railway Property*, and the *Owner's* property and property adjacent to the *Place of the Work* and the *Railway Property* from damage which may arise as the result of the Contractor'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* which the Contractor could not have discovered applying the Standard of Care;
- .2 acts or omissions by the Owner, the Consultant, other contractors, and their agents and employees."

1.47.2 GC 9.1.2

Delete GC 9.1.2 in its entirety and replace with the following:

"9.1.2 Before commencing any Work, the Contractor shall determine the locations of all underground utilities and structures indicated in or inferable from the Contract Documents, or that are inferable from an inspection of the Place of the Work."

1.47.3 GC 9.1.3

Add the words "*Railway* property," after the word "*Work*," in the first line.

1.47.4 GC 9.1.4

Add the words, "*Railway's* property," after the word "*Work*" in the first line of paragraph 9.1.4 and add the words "*and Railway's* property" after the word "property" in the second line of GC 9.1.4.

1.48 GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

1.48.1 GC 9.2.1, 9.2.2, 9.2.3, 9.2.4, 9.2.5, 9.2.6, 9.2.7 and 9.2.8

Delete the words "toxic and hazardous substances" from GC 9.2.1, 9.2.2, 9.2.3, 9.2.4, 9.2.5, 9.2.6, 9.2.7 and substitute the words "*Toxic and Hazardous Substances*" in their place.

1.48.2 GC 9.2.5.5

Add GC 9.2.5.5 as follows:

- ".5 take all reasonable steps to mitigate the impact on Contract Time and Contract Price."

1.48.3 GC 9.2.7.4

Delete GC 9.2.7.4 in its entirety.

1.48.4 **GC 9.2.8.2**

Add the words "*Railway's* property," after the words "damage to the *Work*," in the first line of GC 9.2.8.2.

1.49 GC 9.4 CONSTRUCTION SAFETY

1.49.1 Delete 9.4.1 in its entirety and replace with the following:

"9.4.1 The Contractor 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 Work."

1.49.2 **GC 9.4.2**

Not Applicable

1.49.3 **GC 9.4.3**

Add GC 9.4.3 as follows:

"9.4.3 The *Contractor* represents and warrants that it is familiar with the obligations imposed on an "employer" as defined in the *Occupational Health and Safety Act (Ontario)*, and that it has in place a health and safety program to ensure the health and safety of all workers for which it has responsibility under the said *Act*."

1.49.4 **GC 9.4.4**

Add GC 9.4.4 as follows:

"9.4.4 The *Contractor* shall comply in all respects with the requirements of the *Occupational Health and Safety Act (Ontario)* and its own health and safety program to take all steps reasonable in the circumstances to ensure the health and safety of all workers for which it has responsibility under the said *Act*. The *Contractor* shall maintain and strictly enforce its health and safety program. The *Contractor* shall also provide such information within such timeframes as may be required in order to allow the *Owner* to fulfill its obligations pursuant to the *Occupational Health and Safety Act (Ontario)*, including, without limitation, the obligation to notify the Director under such *Act* in the event of an accident causing personal injury."

1.49.5 GC 9.4.5

Add GC 9.4.5 as follows:

"9.4.5 The *Contractor* shall comply with all requirements of the Workplace Hazardous Materials System (WHMIS) regarding the use, handling and storage of controlled products."

1.49.6 GC 9.4.6

Add GC 9.4.6 as follows:

"9.4.6 Prior to commencing the *Work* the *Contractor* shall:

- .1 ensure that all prescribed posting requirements are posted on site for all workers to view;
- .2 provide a copy of the *Contractor's* Health & Safety Policy to the *Owner*;
- .3 prepare and submit to the *Owner* a Site Specific Safety Plan (Job Safety Analysis);
- .4 review and comply with facility specific hazard, safety and orientation requirements as applicable; and
- .5 prepare and submit site-specific hazardous assessment plans as applicable pertaining to but not limited to: live power work, lock out/tag out/shut down/switch covers, confined space entry, cranes and crane lifts, and other hazardous assessment plans as required."

1.49.7 GC 9.4.7

Add GC 9.4.7 as follows:

"9.4.7 The *Contractor* shall indemnify and save harmless the *Owner*, its agents, officers, directors, employees, consultants, successors and assigns from and against the consequences of any and all safety infractions committed by the *Contractor* or any of its *Subcontractors* or their subcontractors under the construction health and safety legislation applicable to the *Place of the Work*, including but not limited to, payment of legal fees and disbursements on a full indemnity basis."

1.50 GC 9.5 MOULD

1.50.1 GC 9.5.2.2

Add the words "*Railway's* property," after the words "damage to the *Work*," in the first line of GC 9.5.2.2.

1.50.2 **GC 9.5.3.4**

Delete paragraph 9.5.3.4 in its entirety.

PART 10 GOVERNING REGULATIONS

1.51 GC 10.1 TAXES AND DUTIES

1.51.1 **GC 10.1.2**

Add the following sentence to the end of GC 10.1.2:

"For greater certainty, the Contractor shall not be entitled to any mark-up for overhead or profit on any increase in such taxes and duties."

1.51.2 GC 10.1.3

Add GC 10.1.3 as follows:

"10.1.3 Where the Owner is entitled to an exemption or a recovery of sales taxes, customs duties, excise taxes or Value Added Taxes (including Harmonized Sales Tax) applicable to the Contract, the Contractor shall, at the request of the Owner or the Owner's representative, assist with the application for any exemption, recovery or refund of all such taxes and duties and all amounts recovered or exemptions obtained shall be for the sole benefit of the Owner. The Contractor agrees to endorse over to the Owner any cheques received from the federal or provincial governments, or any other taxing authority, as may be required to give effect to this section."

1.51.3 GC 10.1.4

Add GC 10.1.4 as follows:

"10.1.4 The Contractor shall maintain accurate records of Construction Equipment, Product and component costs reflecting the taxes, customs duties, excise taxes and Value Added Taxes paid."

1.51.4 GC 10.1.5

Add GC 10.1.5 as follows:

"10.1.5 Any refund of taxes, including, without limitation, any government sales tax, customs duty, excise tax or Value Added Tax, whether or not paid, which is found to be inapplicable or for which exemption may be obtained, is the sole and exclusive property of the Owner. The Contractor agrees to cooperate with the Owner and to obtain from all Subcontractors and Suppliers cooperation with the Owner in the application for any refund of any taxes, which cooperation shall include but not be limited to, making or concurring in the making of an application for any such refund or exemption, and providing to the Owner copies, or where required,

originals of records, invoices, purchase orders and other documentation necessary to support such applications or exemptions or refunds. All such refunds shall either be paid to the Owner, or shall be a credit to the Owner against the Contract Price, in the Owner's discretion. The Contractor agrees to enable, assist with and submit to any reasonable audit requested by the Owner with respect the potential refunds under this section."

1.51.5 GC 10.1.6

Add 10.1.6 as follows:

"10.1.6 Customs duties penalties, or any other penalty, fine or assessment levied against the Contractor, shall not be treated as a tax or customs duty for the purpose of this GC 10.1."

1.52 GC 10.2 LAWS, NOTICES, PERMITS AND FEES

1.52.1 GC 10.2.1

Add the following sentence to the end of GC 10.2.1:

"The Contractor shall comply with all Applicable Law."

1.52.2 GC 10.2.3

Add the words "The *Contractor* shall provide the *Owner* with copies of all such permits, licenses, inspections and certificates." at the end of GC 10.2.3.

1.52.2 GC 10.2.4

Delete the word "laws" and substitute the words "Applicable Laws" in the first line of GC 10.2.4.

Delete the words "or codes" and substitute the words "codes, and industry best practices and guidelines" after the word "regulations," in the first line of GC 10.2.4.

Add the words "to the environment," after the words "relate to the *Work*," in the second line of GC 10.2.4.

Add the words "The *Contractor* shall provide the *Owner* with copies of all such required notices and related health and safety documents." at the end of GC 10.2.4.

1.52.3 GC 10.2.5

Delete the word "The" and substitute the words "Subject to paragraph 3.4.1, the" at the beginning of GC 10.2.5.

Delete the words "applicable laws" and substitute the words "Applicable Laws" in the third line of GC 10.2.5.

1.52.4 GC 10.2.6

Delete GC 10.2.6 in its entirety and replace with the following:

"10.2.6 If the Contractor fails to notify the Owner and the Consultant in writing, fails to obtain direction as required in GC 10.2.5, and/or performs work that it knows or ought to have known that contravenes Applicable Laws, ordinances, guidelines, standards, permits, statutes, by-laws, rules, regulations, or codes, the Contractor 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, guidelines, standards, permits, statutes, by-laws, rules, regulations, or codes, and, notwithstanding any limitations described in paragraph 12.1.1, shall indemnify and hold harmless the Owner and the Consultant from and against any claims, demands, losses, costs, damages, actions, suits or proceedings resulting from such failure or breach of law."

1.52.5 GC 10.2.8

Add GC 10.2.8 as follows:

"10.2.8 Without limiting the generality of any other provision in the *Contract Documents*, the Contractor shall cause all certificates to be furnished that are required by or given by the appropriate governmental or quasi-governmental authorities as evidence that the Work as installed conforms with Applicable Laws and regulations of any authorities having jurisdiction over the Place of the Work, including, without limitation, certificates of compliance for the Owner's occupancy or partial occupancy. The certificates are to be final certificates giving complete clearance of the Work, in the event that such governmental or quasi- governmental authorities furnish such certificates."

1.53 GC 10.4 WORKER'S COMPENSATION

1.53.1 GC 10.4.1

Add the words "with each application for progress payment," after the word "*Work*," in the first line of GC 10.4.1.

Add the words "the Certificate of Clearance and" after the word "provide" in the third line of GC 10.4.1.

PART 11 INSURANCE AND CONTRACT SECURITY

1.54 GC 11.1 INSURANCE

1.54.1 GC 11.1

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

"GC 11.1 INSURANCE

11.1.1 Without restricting the generality of GC 12.1 - INDEMNIFICATION, and unless the *Owner* and the *Contractor* agree to obtain project-specific insurance, or higher insurance limits, the Contractor 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 Contractor, the Owner and the Consultant with limits of not less than five million dollars (\$10,000,000) per occurrence and with a property damage deductible of not more than five thousand dollars (\$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 Contractor 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 (2) years after the date of *Substantial Performance of the Work*. The policy shall include a waiver of subrogation against Owner.

.2 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 *Contractor*. The policy shall have limits of not less than five million dollars (\$5,000,000) inclusive per occurrence. If the policy is issued pursuant to a government-operated automobile

insurance system, the Contractor shall provide the *Owner* with confirmation of automobile insurance coverage for all automobiles registered in the name of the Contractor.

.3 Aircraft and Watercraft Liability Insurance:

Not Applicable.

.4 Property and Boiler and Machinery Insurance:

(1) All Risks Property Insurance

All Risks Property Insurance shall be in the joint names of the Contractor, the Owner, the Consultant and all Subcontractors. The insurance coverage shall not be less than the insurance required by IBC 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 Contract Documents. The policy shall have a deductible of not more than ten thousand dollars (\$10,000). The policy shall include a waiver of subrogation against the Owner.

(2) Boiler and Machinery Insurance

Not Applicable

(3) The policy/policies shall allow for partial or total use or occupancy of the Work. If because of such use or occupancy the Contractor is unable to provide coverage, the Contractor 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 Contractor 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 subparagraph (1). The Contractor shall refund to the Owner the unearned premiums applicable to the Contractor's policies upon termination of coverage.

(4) The policy/policies shall provide that, in the case of a loss or damage, payment shall be made to the Owner and the Contractor as their respective interests may

appear. The Contractor 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 Contractor 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 Contractor shall be entitled to a reasonable extension of Contract Time.

(5) The Contractor 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 Contractor shall be entitled to receive from the payments made by the insurer the amount of the Contractor's interest in the restoration of the Work.

(6) In the case of loss or damage to the Work arising from the work of another contractor, or Owner's own forces, the Owner, in accordance with the Owner's obligations under paragraph 3.2.2.4 of GC 3.2 - CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, shall pay the Contractor the cost of restoring the Work as the restoration of the Work proceeds and as provided in GC 5.2 - APPLICATIONS FOR PROGRESS PAYMENT and GC 5.3 - PROGRESS PAYMENT.

.5 Equipment Insurance:

The policy covers construction machinery and equipment used by the Contractor 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 Contractor 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 Contractor 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 Contractor'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 Proof of Insurance Coverage:

.1 Prior to commencement of the Work and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the Contractor 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.

.2 Certificates for General Liability Insurance shall include, in addition to the Contractor, Owner, and Consultant, the following as additional insureds:

- a) Metrolinx
- b) PNR Railworks Inc.
- c) A&B Rail Services Inc.
- d) Bombardier Transportation Canada Inc.
- e) VIA Rail Canada Inc.
- f) Amtrak (National Railroad Passenger Corp.)
- g) Canadian National Railway Company
- h) Canadian Pacific Railway Company and;
- i) Genesee & Wyoming Inc.

.3 Certificates of All Risks Property Insurance and Boiler and Machinery Insurance shall include the Contractor, Owner, Consultant and all Subcontractors as additional insureds.

.4 All Certificates of Insurance shall also include the Contract name and number.

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 one or more of the types of insurance requirement.

- 11.1.6 If the Contractor 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 Contractor and the Consultant. The Contractor 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 Contractor.
- 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 thirty (30) calendar days' notice in writing in advance of any cancellation and material amendment or change restricting coverage.
- 11.1.9 All insureds shall cooperate with the Contractor 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."

1.55 GC 11.2 CONTRACT SECURITY

1.55.1 GC 11.2.1

Add the following to the end of GC 11.2.1:

"The *Contractor* shall provide and maintain, at its own cost, the following Contract security:

Performance Bond

Labour and Materials Payment Bond"

1.55.2 GC 11.2.3

Add GC 11.2.3 as follows:

"11.2.3 The premiums for the bonds required by the *Contract Documents* are included in the *Contract Price*. Prior to commencement of the Work, the *Contractor* shall promptly provide the *Owner* with confirmation of the *Contract* security with documentary evidence and thereafter provide confirmation and evidence of up-to-date Contract security from time to time upon request by the *Owner*. If approved changes pursuant to the

Contract result in approved increases to the *Contract Price*, the *Contractor* shall promptly acquire additional bonding if required by the *Owner* and provide the *Owner* with confirmation and evidence of the up-to-date *Contract* security."

PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY

1.56 GC 12.1 INDEMNIFICATION

1.56.1 GC 12.1.1

Delete paragraph 12.1.1 in its entirety and replace with the following:

"12.1.1 Without restricting the *Contractor's* obligation to indemnify as described in paragraph 12.1.4, the *Contractor* shall indemnify and hold harmless the *Owner* from and against all claims, demands, losses, costs, damages, actions, suits or proceedings whether in respect to losses suffered by the *Owner* or in respect to claims by third parties that arise out of, or are attributable in any respect to the *Contractor's* involvement as a party to this *Contract*, provided such claims are caused by:

- .1 the negligent acts or omissions of the *Contractor* or anyone for whose acts or omissions the *Contractor* is liable, or
- .2 a failure of the *Contractor* to fulfil the terms or conditions of the *Contract*; and
- .3 made by *Notice in Writing* within a period of six (6) years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.4.2.2 of GC 5.4 – SUBSTANTIAL PERFORMANCE THE WORK or within such shorter period as may be prescribed by any limitation statute of the Province of Ontario.

The *Owner* expressly waives the right to indemnity for claims other than those provided for in this *Contract*."

1.56.2 GC 12.1.12

Delete GC 12.1.12 in its entirety.

1.56.3 GC 12.1.3

Delete the words "either party to indemnify the other" and substitute the words "the *Contractor* to indemnify the *Owner*" in the first line of GC 12.1.3.

1.56.4 GC 12.1.4

Delete the words "The *Owner* and the *Contractor* shall indemnify and hold harmless the other" and substitute the words "The *Contractor* shall indemnify and hold harmless the *Owner*" in the first line of GC 12.1.4.

Delete the word "their" and substitute the words "the *Contractors*" in the second line of GC 12.1.4.

1.56.5 GC 12.1.5

Delete GC 12.1.5 in its entirety.

1.56.6 GC 12.1.6

Delete words "or the *Contractor*" from the first line of GC 12.1.6.

1.56.7 GC 12.1.6.2

Delete GC 12.1.6.2 in its entirety and replace with the following:

"12.1.6.2 Should the *Contractor* be required as a result of its obligation to indemnify the *Owner* to pay or satisfy a final order, judgment or award made against the *Owner*, then the *Contractor* upon assuming all liability for any costs that might result shall have the right to appeal in the name of the *Owner* until such rights of appeal have been exhausted."

1.56.8 GC 12.1.7

Add GC 12.1.7 as follows:

"12.1.7 Notwithstanding anything contained in the *Contract Documents* to the contrary, the *Owner* shall have the right to set-off the amount of any claims for which *Notice in Writing* has been given by the *Owner* to the *Contractor* in accordance with GC 6.6 CLAIMS FOR A CHANGE TO CONTRACT PRICE or GC 12.1 INDEMNIFICATION against any amounts which may be otherwise owing or payable to the *Contractor* pursuant to the terms of the *Contract*."

1.56.9 GC 12.1.8

Add GC 12.1.8 as follows:

"12.1.8 In addition to and without limiting any other rights the Owner may have under this Contract and at law, the Owner may retain from monies owing to the Contractor under this Contract, at any time, an amount sufficient to cover any outstanding or disputed liabilities including the cost to remedy deficiencies in the Work, the reduction in value of substandard portions of the Work, claims for damages by third parties, undetermined claims by the Owner, and any assessment due to the Workplace Safety and Insurance Board."

1.57 GC 12.2 WAIVER OF CLAIMS

1.57.1 GC 12.2.1.2 and 12.2.1.3

Delete GC 12.2.1.2 and GC 12.2.1.3 in its entirety.

1.57.2 GC 12.2.2

Delete the words "those referred in paragraphs 12.2.1.2 and 12.2.1.3 and" from GC 12.2.2.

1.58 GC 12.3 WARRANTY

1.58.1 GC 12.3.1

Delete the words "one year" and substitute the words "two years" in the first line of GC 12.3.1.

Add the words "The warranty on replaced or rectified parts and workmanship shall be extended for a period of two (2) years from the date of acceptance by the *Owner* of the replacement or rectification of the parts and workmanship" at the end of GC 12.3.1.

1.58.2 GC 12.3.2

Delete the word "The" and substitute the words "Subject to paragraph 3.4.1, the" at the beginning of GC 12.3.2.

1.58.3 GC 12.3.4

Delete the words "one year" from the second line of GC 12.3.4 and substitute the words "two years".

1.58.4 **GC 12.3.6**

Add the words "in a form acceptable to the *Consultant*, and to submit said warranties to the *Consultant* upon *Substantial Performance of the Work* or at such earlier date as may be required by the *Consultant*, acting reasonably" after the words "from the warrantor" in the fourth line of GC 12.3.6.

1.59 GC 13 FRENCH LANGUAGE SERVICES

1.59.1 **GC 13**

Add GC 13 FRENCH LANGUAGE SERVICES as follows:

"GC 13 FRENCH LANGUAGE SERVICES

- 13.1 Insofar the Contractor is providing services, including but not limited to construction signage, directly to the public on behalf of Metrolinx, the French Language Services Act, R.S.O. 1990, c. F. 32 and any amendments thereto (hereinafter referred to as "the FLSA") shall be applicable.

1.59 GC 14 CONTRACTOR WORK PERFORMANCE RATING

1.59.1 **GC 14**

Add GC 14 CONTRACTOR WORK PERFORMANCE RATING, as follows:

"GC 14 CONTRACTOR WORK PERFORMANCE RATING

- 14.1 Metrolinx shall during the term of the Contract, maintain a record of the performance of the Contractor completing Work for Metrolinx. This information shall be used to complete a "Contractor Performance Review" report, a copy of which will be forwarded to the Contractor upon completion of Total Performance of the Work. Interim "Contractor Performance Review" reports may be issued, as deemed appropriate by the Owner's Representative, at any time during the term of the Contract.
- 14.2 The overall history of the Contractor in performing work for Metrolinx will be considered in the evaluation of future bids from the Contractor.

- 14.3 Metrolinx reserves the right in future tenders to reject any bid submitted by a company with an unsatisfactory performance history with the Owner.
- 14.4 Non-compliance with Contract requirements will be identified to the Contractor.
- 14.5 The information contained in the "Contractor's Performance Review" may be provided to the Ministry of Transportation and other government agencies, and such performance reviews may be relied upon to disqualify a company from providing a bid on future tenders.

1.60 GC 15 CONFLICT OF INTEREST

1.60.1 GC 15

Add GC 15 CONFLICT OF INTEREST, as follows:

"GC 15 CONFLICT OF INTEREST

- 15.1 For the purposes of this Contract, a "Conflict of Interest" includes any situation or circumstances where, in relation to the performance of its contractual obligations in this Contract, the Contractor's other commitments, relationships or financial interests:
 - .1 could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or
 - .2 could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations.
- 15.2 The Contractor shall:
 - .1 avoid all Conflict of Interest in the performance of its contractual obligations;
 - .2 disclose to the Owner without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and
 - .3 comply with any requirements prescribed by the Owner to resolve any Conflict of Interest.

- 15.3 In addition to all other contractual rights or rights available at law or in equity, Owner shall have the right to immediately terminate this Contract, by giving notice in writing to the Contractor, where:
- .1 the Contractor fails to disclose an actual or potential Conflict of Interest;
 - .2 the Contractor fails to comply with any requirements prescribed by Owner to resolve a Conflict of Interest; or
 - .3 the Contractor's Conflict of Interest cannot be resolved.
- 15.4 This section shall survive any termination or expiry of this Contract.

1.61 GC 16 PERFORMANCE INCENTIVE BONUS

Intentionally Deleted

1.61 GC 17 LIQUIDATED DAMAGES

1.61.1 GC 17

Add GC 17 LIQUIDATED DAMAGES, as follows:

“GC 17 LIQUIDATED DAMAGES

17.3 LIQUIDATED DAMAGES FOR TRAIN DELAYS AND CANCELLATIONS

The Contractor acknowledges and agrees that the Owner will suffer harm in the event of a train delay or cancellation caused by delay. In the event of, and for each and every occurrence of, an in-service Metrolinx or VIA Rail passenger train or Canadian Pacific or CN freight train, being delayed by any act or omission of the Contractor contrary to the terms of the Contract, the Contractor shall pay to Metrolinx as liquidated damages, and not as a penalty, the following:

- 17.3.1 The sum of five thousand dollars (\$5,000) per minute for the first five (5) minutes of each and every train delay;
- 17.3.2 The sum of one thousand dollars (\$1,000) per minute for each subsequent ten (10) minute interval of each and every delay; and
- 17.3.3 For the purpose of calculating the liquidated damages payable by the Contractor in accordance with this GC 17.3, the timing of any delay and cancellation (including

commencement, duration and cessation), shall be based on the train schedule and train data that is established and maintained by the GO Transit Control Centre.

GENERAL CONDITIONS OF THE CONTRACT

**SUPPLY, DELIVERY AND INSTALLATION
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1.0 **General Conditions of the Contract**

- 1.1 The "General Conditions of the Unit Price Contract" of CCDC 4 2011 Unit Price Contract are herein called the General Conditions of the Contract and shall constitute the General Conditions of this Contract in their entirety as amended by the Supplementary General Conditions of the Contract herein. CCDC 4 2011 is available for purchase on www.ccdc.org.

END OF SECTION

**GENERAL REQUIREMENTS
GENERAL INSTRUCTIONS**

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**SECTION 01000
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1.0 Documents Required

- 1.1 Maintain at the Place of Work, one (1) copy of following:
 - 1.1.1 Contract Drawings;
 - 1.1.2 Specifications;
 - 1.1.3 addenda;
 - 1.1.4 reviewed Shop Drawings;
 - 1.1.5 Change Orders;
 - 1.1.6 other modifications to Contract;
 - 1.1.7 field test reports; and
 - 1.1.8 Contractor's Occupational Health and Safety Policy, the program to implement the Occupational Health and Safety Policy and the Site Safety Plan.

2.0 Work Schedule

- 2.1 Interim reviews of Work progress based on schedule submitted by the Contractor will be conducted. Update Contractor's schedule and cash flow chart when requested by Consultant.

3.0 Hours of Work

- 3.1 The Contractor's hours of work for this Contract are 07:00 a.m. to 7:00 p.m., Monday to Friday, statutory holidays excluded, however the Contractor shall conduct work during evenings and weekends subject to track availability.

4.0 Subcontractors and Suppliers

- 4.1 The Contractor shall submit within five (5) Working Days of final execution of the Contract a complete list of Subcontractors and Suppliers that shall include the names of all Subcontractors and Suppliers that will be employed to perform or supply the following Divisions or Sections of the Work:
 - 4.1.1 See Section 02955 – Railway Flagging Protection

**GENERAL REQUIREMENTS
GENERAL INSTRUCTIONS**

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4.2 Pre-qualified Subcontractors and Suppliers

4.2.1 Contractors shall note that for some Sections or Divisions of the Work specific Subcontractors or Suppliers may be named in the Contract Documents as having been pre-qualified to perform or supply that Section or Division of Work. In such instances only those Subcontractors or Suppliers are to be named as performing or supplying, and shall perform or supply, those Sections or Divisions of the Work. The Contractor shall not use "Own Forces" for such Sections or Divisions of the Work unless the Contractor is named in the Contract Documents as having been pre-qualified for the Section or Division of the Work.

4.2.2 Where more than one Subcontractor or Supplier is named as having been pre-qualified to supply a Section or Division of the Work, the Contractor shall select one of its own choice from those so named.

4.2.3 Only the following pre-qualified Subcontractors below, are permitted to perform the Work of this section of this Contract. No other Subcontractor will be permitted to perform this Work. The Contractor shall not use its "Own Forces" for this section of the Work unless its name appears on the list below:

(a) Railway Flagging Contractors

(i) A&B Rail Services Ltd.

(ii) PNR Railworks Inc.

(iii) Toronto Terminal Railways Co. Ltd.

4.2.4 Only the following pre-qualified Subcontractors below, are permitted to perform the Work of this section of this Contract. No other Subcontractor will be permitted to perform this Work. The Contractor shall not use its "Own Forces" for this section of the Work unless its name appears on the list below.

4.3 Not Applicable The Contractor shall not change the identified Subcontractors or Suppliers listed without written consent of Owner.

5.0 **Certificate of Recognition**

5.1 Throughout the Term of the Contract, the Contractor must achieve and maintain the following milestone related to COR™ certification:

5.1.1 COR™ "Certified" status with IHSA.

**GENERAL REQUIREMENTS
GENERAL INSTRUCTIONS**

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6.0 Contractor's Use of Site

- 6.1 Perform Work in a manner that will interfere as little as possible with the Owner's operations.
- 6.2 Storage of materials and equipment and Contractor's temporary office must be contained within designated Contractor's area(s).
- 6.3 Schedule deliveries to interfere as little as possible with the Owner's operations.
- 6.4 Park on site only within the designated Contractor's area.

7.0 Codes and Standards

- 7.1 Perform Work in accordance with Ontario Building Code, Ontario Hydro Electrical Safety Code and applicable acts administered by other authorities having jurisdiction.
- 7.2 Work to meet or exceed requirements of specified standards, codes and referenced documents.
- 7.3 Codes, specification standards, manuals and installation, application and maintenance instructions, referred to in the Contract Documents shall be of latest published editions at date of closing of Tender.

8.0 Project Meetings

- 8.1 Hold project meetings at times and locations approved by Consultant.
- 8.2 Notify parties concerned of meetings, to ensure proper co-ordination of Work.
- 8.3 Designated parties shall take required action on decisions made at meeting. Consultant will record minutes of meetings and distribute to parties prior to next meeting.

9.0 Sublet of Work

- 9.1 Administration, supply and installation of Work specified is the sole responsibility of Contractor.

**GENERAL REQUIREMENTS
GENERAL INSTRUCTIONS**

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10.0 Examination

- 10.1 Examine site of Work, and investigate all matters relating to nature of Work to be undertaken.
- 10.2 Examine areas to receive specific Work and ensure that conditions are satisfactory to receive subsequent Work. Do not proceed with subsequent work, until unsatisfactory conditions are corrected.

11.0 Setting Out of Work

- 11.1 Setting out of Work is sole responsibility of the Contractor.
- 11.2 Lay out Work in accordance with Contract Drawings.
- 11.3 Verify all grades, lines, and levels and dimensions indicated, and report errors or inconsistencies to the Consultant before commencing Work or as soon as discovered.

12.0 Location of Equipment and Fixtures

- 12.1 Location of equipment, fixtures and outlets indicated or specified are to be considered as approximate. Final actual placement location within a reasonable distance from that shown on Drawings shall be carried out at no additional cost to the Owner.
- 12.2 Locate equipment, fixtures and outlets to provide minimum interference and maximum usable space and in accordance with manufacturer's recommendations for safety, access and maintenance.
- 12.3 Obtain manufacturer's literature for roughing in and hook-up of equipment and fixtures.
- 12.4 Inform the Consultant of impending installation and obtain his approval for final actual location.
- 12.5 Submit field drawings to indicate relative position of various services and equipment when requested by Consultant.

13.0 Concealment

- 13.1 Conceal wiring in wall and ceiling construction of finished areas except where indicated otherwise.

**GENERAL REQUIREMENTS
GENERAL INSTRUCTIONS**

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14.0 Cutting, Fitting and Patching

- 14.1 Execute cutting, fitting and patching required to make Work fit properly together.
- 14.2 Where new Work connects with existing and where existing Work is altered, cut, patch and make good to match existing Work.
- 14.3 Obtain Consultant's approval before cutting, boring or sleeving load-bearing members.
- 14.4 Make cuts with clean, true, smooth edges. Make patches inconspicuous in final assembly.

15.0 Existing Services

- 15.1 Before commencing Work, establish location and extent of service lines in area of Work and notify the Owner of findings.
- 15.2 Where unknown services are encountered, immediately advise authorities having jurisdiction and Consultant and confirm findings in writing.
- 15.3 Record locations of maintained, re-routed and abandoned service lines.

16.0 Protection

- 16.1 Contractor is cautioned to use appropriate construction methods in order to fully protect existing building(s) or plant from any damage. These facilities shall be inspected prior to construction and existing defects noted in a written report, witnessed by Consultant. Repair or restore defects resulting from construction under this Contract to the satisfaction of the Owner, at no additional expense to the Owner.

17.0 Trades Qualification

- 17.1 The Contractor shall ensure that persons (trades workers) performing work that the *Trades Qualification and Apprenticeship Act* (TQAA) sets out certification requirements for, are properly qualified under the TQAA.
- 17.2 The Contractor shall further ensure these trades workers can, upon request, provide written proof of TQAA trades qualification, such as a certificate of qualification or apprenticeship contract, to the Owner, the Consultant or other authority having jurisdiction.

**GENERAL REQUIREMENTS
GENERAL INSTRUCTIONS**

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18.0 **Additional Drawings**

- 18.1 Consultant may furnish additional Drawings to assist proper execution of Work. These Drawings will be issued for clarification only. Such Drawings shall have the same meaning and intent as if they were included with Contract Documents referred to in Article A-3 of the Articles of Agreement.

END OF SECTION

**GENERAL REQUIREMENTS
MOBILIZATION AND DEMOBILIZATION**

**SUPPLY, DELIVERY AND INSTALLATION
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**SECTION 01200
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1.0 General

- 1.1 Be responsible for familiarization with the Place of the Work, the location of the Work and any limitations and constraints.
- 1.2 Before commencing Mobilization, where required by the Contract Documents, obtain all required Access Permits before entering onto land impacted by the Work.
- 1.3 Commence Mobilization at the Notice to Proceed date unless otherwise required by the Contract Documents and directed by Consultant.
- 1.4 Transport personnel, equipment and supplies and materials to the Place of the Work, including Contractor's offices, buildings, and other necessary facilities, Consultant's Work Trailer and portable toilet for the Consultant's use at the Place of Work.
- 1.5 Be responsible for all required permits for transportation of the Contractor's equipment.
- 1.6 Check on any roadway and bridge loading and restricted height clearances.
- 1.7 Equipment and materials shall be mobilized and demobilized in accordance with all local, provincial and federal regulations and acts related to transportation and safety.
- 1.8 Mobilize and demobilize equipment by means of access routes shown on the Drawings.
- 1.9 Upon completion of the Work, restore all access areas to the same condition as prior to the start of the Work.
- 1.10 Be responsible for security of Contractor's equipment and materials at the place of the Work.

2.0 Definitions

- 2.1 **Mobilization and Demobilization:** means the mobilization and demobilization of the Contractor's forces and equipment, supplies, appurtenances and the like, manned and ready for prosecuting the Work required under the Contract, and the subsequent demobilization and removal from the Place of the Work of said equipment, materials appurtenances and the like upon completion of the Work. Mobilization will not be considered as work in fulfilling the Contract requirements for commencement of the Work.

**GENERAL REQUIREMENTS
MOBILIZATION AND DEMOBILIZATION**

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3.0 Mobilization

3.1 Mobilization is deemed to include the provision of the following:

3.1.1 Construction permits not obtained by the Owner;

3.1.2 Initial Construction Schedule;

3.1.3 Initial Work Block Schedule;

3.1.4 Initial Shop Drawings and other submittal Schedules;

3.1.5 Initial Contractor's Cash Flow Schedule; and

3.1.6 Site Specific Safety Plan.

3.2 Mobilization includes assembly and delivery to the Place of the Work plant equipment, materials and supplies, necessary for the prosecution of the Work that are not intended to be incorporated into the Work; the clearing of and preparation of the Contractor's work area; the complete assembly, in working order, of all equipment necessary to perform the required work; personnel services, and all other preparatory work required to allow commencement of the actual Work on the construction items for which payment is provided under the Contract.

3.3 Mobilization is deemed not to include the provision of the following, which are deemed to be elements of the Contractor's overhead, profit and contract administration costs included and incidental to the Work and included in and incidental to the Unit Prices and Lump Sum Prices as quoted in the Schedule of Contract Prices for each Work Item:

3.3.1 Overhead and Profit; and

3.3.2 Labour and costs.

4.0 Demobilization

4.1 Demobilization includes all activities and costs for transportation of personnel, equipment and supplies and materials not used in the Contract, including disassembly, removal from the Place of the Work, the Contractor's offices, buildings, and other facilities including the Consultant's Work Trailer and portable toilet for the Consultant's use, removal and site cleanup of any offices, buildings or other facilities assembled at the Place of Work for the Contract.

**GENERAL REQUIREMENTS
MOBILIZATION AND DEMOBILIZATION**

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- 4.2 Demobilization included submission and acceptance of final documentation required to meet the requirements of the Contract.

5.0 Changes to the Work

- 5.1 If additional mobilization and demobilization are required during the performance of the Contract because of changes to the Work, deleted or added items of Work, the Contractor is entitled to an adjustment in the Contract Price, compensation for such costs will be included in the Price of the approved Change Order or Orders for the item or items of Work changed or added.

6.0 Management and Disposal of Mobilization and Demobilization Materials

- 6.1 Dispose of materials resulting from Mobilization and Demobilization activities from the Place of the Work within forty-eight (48) hours of Total Performance of the Work.

END OF SECTION

**GENERAL REQUIREMENTS
SHOP DRAWINGS AND OTHER SUBMITTALS**

**SUPPLY, DELIVERY AND INSTALLATION
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**SECTION 01300
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1.0 General

- 1.1 Submit to Consultant for review, product data specified.
- 1.2 Conform to General Condition No. GC 3.10 Shop Drawings.
- 1.3 Until submission is reviewed, work involving relevant product may not proceed.

2.0 Product Data

- 2.1 Manufacturer's standard schematic drawings, catalogue sheets, diagrams, schedules, performance charts, illustrations and other standard descriptive data will only be accepted in lieu of Shop Drawings when authorized by Consultant.
- 2.2 Above will only be accepted if it conforms to the following:
 - 2.2.1 delete information which is not applicable to project;
 - 2.2.2 supplement standard information to provide additional information applicable to project;
 - 2.2.3 show dimensions and clearances required;
 - 2.2.4 show performance characteristics and capacities; and
 - 2.2.5 show wiring diagrams and controls.

3.0 Shop Drawings

- 3.1 Within five (5) Working Days of execution of the Contract, submit for review by the Consultant, a schedule of Shop Drawings indicating dates, review dates, fabrication and lead times.
- 3.2 Drawings to be originals prepared by Contractor, Subcontractor, Supplier or Distributor, which illustrate appropriate portion of Work, showing fabrication, layout, setting or erection details as specified in appropriate Sections.
- 3.3 Identify details by reference to sheet and detail numbers shown on Contract Drawings.
- 3.4 Maximum sheet size 48" x 36" (1220mm x 915mm).

**GENERAL REQUIREMENTS
SHOP DRAWINGS AND OTHER SUBMITTALS**

**SUPPLY, DELIVERY AND INSTALLATION
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- 3.5 All Shop Drawings of structural components shall show all pieces, dimensions, materials, weld types and sizes, material treatments and finish to a large scale (metric) suitable to the Product.

4.0 Samples & Mock-Ups

- 4.1 Submit samples in sizes and quantities specified.
- 4.2 Where specified, shown or considered necessary, submit duplicate samples for Consultant's approval.
- 4.3 Where colour, pattern or texture is criterion, submit full range of samples.
- 4.4 Samples must correspond in every aspect to materials supplied for the project.
- 4.5 Construct field samples and mock-ups at locations acceptable to Consultant.
- 4.6 Construct each sample of mock-up completely, including work of all trades required to finish.
- 4.7 Do not proceed with fabrication or delivery of materials until samples are approved.
- 4.8 Reviewed samples or mock-ups will become standards of workmanship and material against which installed work will be checked on project.
- 4.9 Approval of samples does not imply acceptance of finished work.

5.0 Coordination of Submissions

- 5.1 Review Shop Drawings, Product data and samples prior to submission. Any Shop Drawing not bearing evidence of having been checked by the Contractor will not be accepted by the Consultant.
- 5.2 Indicate on Shop Drawings that they have been checked by applying stamp "checked and certified for construction", including date and Contractor's signature.
- 5.3 No claim for delay will be considered as a result of time lost for Drawings returned because the Contractor has failed to check the Drawings as stated above.
- 5.4 Check Shop Drawings and Product data sheets before submission as follows:

**GENERAL REQUIREMENTS
SHOP DRAWINGS AND OTHER SUBMITTALS**

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- 5.4.1 Against Contract Documents and other applicable Shop Drawings to ensure that work adjacent to and affecting other work is accurately detailed.
 - 5.4.2 To ensure work conforms to requirements of Contract Documents.
 - 5.4.3 Verify field measurements, field construction criteria, catalogue number and similar data.
 - 5.5 Coordinate each submission with requirements of Work and Contract Documents. Individual Shop Drawings will not be reviewed until all related drawings are available.
 - 5.6 Consultant's review of Shop Drawings and data sheets pertain to general design only. Errors in dimensions, quantities or interference will be marked if noticed, but this will not in any way relieve the Contractor from his responsibility to complete the Work as shown and specified.
 - 5.7 Contractor's responsibility for deviations in submission from requirements of Contract Documents is not relieved by the Consultant's review of submission, unless Consultant gives written acceptance of specified deviations.
 - 5.8 Notify Consultant, in writing at time of submission, of deviations from requirements of Contract Documents.
 - 5.9 Do not proceed with Work covered by Shop Drawings and data sheets until reviewed by Consultant. Any such installation will not be considered for payment until Shop Drawings are approved.
 - 5.10 After Consultant's review, distribute copies to all trades affected.
- 6.0 **Submission Requirements**
- 6.1 Schedule submissions at least ten (10) Working Days before dates reviewed submissions will be needed.
 - 6.2 Submissions shall be as follows:
 - 6.2.1 Four (4) white prints of Shop Drawings and Product data bearing the review stamp of the Contractor, three (3) of which will be retained by the Consultant;
 - 6.2.2 The fourth set will be returned to the Contractor, who is responsible for preparing all additional copies for distribution, and distributing to all required parties; and

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- 6.2.3 Submit final Shop Drawings as noted in Section 01800 Project Closeout.

- 6.3 Additional copies of Shop Drawings, Product data, reports, procedures, plans and certificates shall be required for distribution by the Contractor.

END OF SECTION

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1.0 Inspection

- 1.1 Refer to GC 2.3 – REVIEW AND INSPECTION OF THE WORK.
- 1.2 The materials furnished by the Contractor shall be inspected by the Consultant at the time of delivery and at such other times as the Consultant may elect.
- 1.3 The Owner and the Consultant shall have access to the work. If parts of the work are in preparation at locations other than the Place of the Work, access shall be given to such work whenever it is in progress.
- 1.4 The Consultant may order any part of the work to be examined if such work is suspected to be not in accordance with the Contract. If, upon examination such work is found not in accordance with the Contract, correct such work and pay the cost of examination and correction. If such Work is found in accordance with the Contract, the Owner will pay the cost of examination and replacement.
- 1.5 The review of the information covering materials and equipment by the Consultant shall in no release the Contractor from his responsibility for the proper design, installation and performance of any material, equipment or arrangement or from the liability to replace same should it prove defective or deficient.

2.0 Independent Inspection Agencies

- 2.1 Independent Inspection/Testing Agencies will be engaged by the Consultant for inspecting and/or testing portions of work.
- 2.2 Cost of such services will be borne by the Contractor under the appropriate Cash Allowance item in the Form of Tender.
- 2.3 Provide samples and/or assistance required for inspection and testing by the appointed agencies.
- 2.4 Employment of Inspection/Testing Agencies does not remove the responsibility to perform Work in accordance with the Contract Documents.
- 2.5 If defects are revealed during inspection and/or testing, the appointed agency will request additional inspection and/or testing to ascertain full degree of defect. Correct defects and irregularities as advised by the Consultant at no cost to the Owner. Pay costs for retesting and re-inspection.

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3.0 Procedures

- 3.1 Notify the appropriate agency and Consultant a minimum of two (2) working days in advance of the requirement for tests, in order that arrangements can be made with the testing company.
- 3.2 Submit samples and/or materials required for testing, as specifically requested in Specifications. Submit with reasonable promptness and in an orderly sequence so as not to cause delay in the Work.
- 3.3 Provide labour and equipment to obtain and handle samples and materials on site.

4.0 Rejected Work

- 4.1 Refer to GC 2.4 – DEFECTIVE WORK.
- 4.2 If, in the opinion of the Consultant, it is not expedient to correct defective work, or work not performed in accordance with the Contract Documents, the Owner may deduct from the Contract Price the difference in value between the work performed and that called for by the Contract Documents, the amount of which shall be determined by the Consultant.

5.0 Reports

- 5.1 Reports on materials testing as arranged by the Consultant shall contain the following information:
 - 5.1.1 Date and time of inspection or test.
 - 5.1.2 Weather conditions and ambient air temperatures during the inspection.
 - 5.1.3 Testing method employed by proper standard reference and specific paragraph or other detailed information as applicable.
 - 5.1.4 Inspection description and detailed and other relevant information.
 - 5.1.5 Test results in detail, complete with applicable graphs and other clarifying documents and information.
 - 5.1.6 Printed name and signature of person having conducted inspection or test, and name, title and signature of Supervisor having verified the report.

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- 5.2 Inspection and Testing Agency shall provide a written report for each inspection and test made, three copies to the Consultant; three copies to the Contractor direct, who shall forward one copy to the Subcontractor, supplier or manufacturer concerned.

END OF SECTION

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1.0 Railway Safety, Orientation and Permits

- 1.1 The Contractor shall ensure that all persons employed or hired by the Contractor who are granted access to **Metrolinx** right-of-way are trained and current in one of the following railway safety training courses:
 - 1.1.1 GO-Safe Railway Orientation (available at www.go transitcontractor.com) or Metrolinx approved Canadian Railway Operating Rules and GO Transit Track worker Safety Instructions; and
 - 1.1.2 Any other railway safety training as applicable to the Owner's property.
- 1.2 The Contractor shall maintain an up-to-date list of all such trained employees on site and ensure all such trained employees wear the sticker, issued upon successful completion of the course on a readily visible location on their hardhats, or carry the wallet card issued upon successful completion of the course, at all times when within the railway right-of-way. Authority to commence construction will only be given when this requirement has been fulfilled.
- 1.3 The Contractor shall ensure that appropriate railway entry/access permits are completed and on site prior to starting Work in the railway corridor.

2.0 Alcohol and Drug Abuse Prevention

- 2.1 The following rules shall apply to all persons while at the Place of Work and/or on the Owner's property while carrying out all aspects of the Work:
 - 2.1.1 The use, possession, distribution and/or sale of illegal drugs or drug paraphernalia is prohibited;
 - 2.1.2 The use, possession, distribution and/or sale of any form of alcohol, including alcoholic beverages;
 - 2.1.3 Workers must know and understand the possible effects of drugs, medication or mood altering agents, including those prescribed by a doctor, which will adversely affect, in any way and to any extent, their ability to work safely;
 - 2.1.4 Individuals shall ensure that prescribed or over-the-counter medications are used responsibly and in accordance with the applicable instructions. Persons taking prescription drugs shall advise their supervisor if there is potential for performance to be negatively affected;

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- 2.1.5 No distribution, offering or sale of prescription medications is permitted; and
- 2.1.6 Individuals must report for duty, free of the negative effects of alcohol and other drugs, including the effects of such use, and remain so during the entire period of duty.
- 2.2 Where a worker is suspected of being intoxicated, the following procedures must be followed:
 - 2.2.1 The worker will be escorted to a safe location away from the work area, and asked to remain there pending further action;
 - 2.2.2 The worker's supervision, worker health and safety representative (if applicable), union steward (if applicable) and the designated Owner Contract representative will be requested to attend;
 - 2.2.3 The group present will determine an appropriate course of action and a means of transport to a suitable safe location;
 - 2.2.4 Where there are differences of opinion with respect to the worker's fitness for duty, the dispute will be resolved with a view to ensuring safety, and the worker will be transported home, or required to remain in a safe location until this can be arranged; and
 - 2.2.5 The local police may be called if the worker was operating any motorized vehicle requiring a valid driver's license.
- 2.3 The Owner will maintain a position of zero tolerance to any violations of these rules. At the sole discretion of the Owner, rule contraventions may result in:
 - 2.3.1 Verbal and written reporting to the person's supervisor/employer;
 - 2.3.2 Issuance of a written warning, and recording of same;
 - 2.3.3 Reporting to the appropriate police department for investigation and subject to criminal prosecution;
 - 2.3.4 An order to leave the project site temporarily or permanently; or
 - 2.3.5 Remedies as may be specified in the Contract Documents.

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3.0 Work Blocks

- 3.1 The Contractor shall request Work Blocks in writing each Wednesday by 12:00 p.m. for the following week. Metrolinx will then issue a bulletin of agreed Work Blocks on the subsequent Friday by 12:00 p.m. for the following week commencing on the Saturday.
- 3.2 Work cannot commence in a Work Block until the appointed Flagperson has protected the worksite by the application of a Track Occupancy Permit.
- 3.3 All Work must remain within the limits of the Work Block and must not foul adjacent tracks.
- 3.4 Any misuse of a Work Block and any cancellation of a Work Block by the Contractor after the Work Blocks have been arranged will result in the Contractor being charged for the costs associated with the unused Work Block.

4.0 Track Protection

- 4.1 Work within the Railway corridor will be subject to the limitations stipulated within Canadian Rail Operating Rules (CROR). Track Protection by means of flagging protection will be required in accordance with CROR and Metrolinx Track Worker Safety Instructions (TWSI).
- 4.2 The Vendor is responsible for providing flagging for the work from Metrolinx approved flagging subvendors. Costs for the provision of flagging is to be included into the quoted price.
- 4.3 Installation of railway-approved temporary barriers, enclosures or platforms to separate off track equipment and workers from live track, eliminate equipment from entering the track clearance envelope or debris from falling to the track, will require a task specific risk assessment subject to approval by Metrolinx, and may reduce or eliminate the need for a flag person, or reduce the type of flagging protection required.
- 4.4 The Contractor will be responsible for ensuring that construction operations are carried out without interfering with the continued safe movement of rail traffic.
- 4.5 The Contractor shall ensure that a flag person is present at all times when work is executed within the Railway Corridor or within 10 meters of the nearest rail or above the track(s) where the work, in the opinion of Metrolinx, may be exposed to or interfere with the operation of trains. The Contractor shall arrange for a site meeting with Metrolinx no earlier than four weeks prior to flagging to confirm flagging protection requirements.
- 4.6 Equipment operators on track must be CROR and TWSI trained.

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- 4.7 The Contractor shall advise Metrolinx of work to be performed, using task specific method statements, in order to schedule flagging protection. Subject to Metrolinx approval of the method statement, the Contractor shall advise Metrolinx of the scheduled flagging times on the corridor at least (3) three weeks in advance for Metrolinx's planning and coordination purposes. Metrolinx reserves the right to make adjustments to flagging as required.
- 4.8 Ensure that a responsible person is present at all times to whom the Railway personnel will issue orders regarding work near the tracks. Comply immediately with such orders and instructions.
- 4.9 The colour red shall not be used for safety vests or survey markers on railway right-of-way in order to avoid conflict with Railway Operational Practice. Other highly visible colours such as orange are acceptable provided they comply with the CSA Class 2 requirements for outer garments Dark coloured outer wear with high visibility striping is not acceptable for use within Metrolinx railway corridors.
- 4.10 At no time shall idling equipment be left unattended by the operator.
- 4.11 The Contractor shall ensure that both rails of the same track are never connected with any conductor of electricity such as steel measuring tapes or metal traction equipment.
- 4.12 All accidents/incidents that have the potential to impact worker safety, the safe operation of trains, or damage to railway property must be reported immediately to the railway flag person. The appropriate railway authority and the GO Transit Control Center shall be advised immediately of any violations of the Canadian Railway Operating Rules.

5.0 Provision of Railway Flagging

- 5.1 Pre-qualified Railway Flagging Sub-contractors
 - 5.1.1 Contractors shall note that for some Sections or Divisions of the Work specific Subcontractors or Suppliers may be named in the Contract Documents as having been pre-qualified to perform or supply that Section or Division of Work. In such instances only those Subcontractors or Suppliers are to be named as performing or supplying, and shall perform or supply, those Sections or Divisions of the Work. The Contractor shall not use "Own Forces" for such Sections or Divisions of the Work unless the Contractor is named in the Contract Documents as having been pre-qualified for the Section or Division of the Work

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- 5.1.2 Where more than one Subcontractor or Supplier is named as having been pre-qualified to supply a Section or Division of the Work, the Contractor shall select one of its own choice from those so named.
- 5.1.3 Only the following pre-qualified Subcontractors identified in section 01000 4.2.3, are permitted to perform the Work of this section of this Contract (provision of Rail Traffic Protection). No other Sub-contractor will be permitted to perform this Work. The Contractor shall not use its "Own Forces" for this section of the Work unless its name appears on the list provided below in this section.
- 5.1.4 All track protection (railway flagging) will be done in accordance with the Canadian Railway Operating Rules approved by Metrolinx and the GO Track Worker Safety Instructions approved by Rail Corridors.
- 5.1.5 Rail Corridors will audit compliance to the rules and instructions and investigate any and all reported or observed violations or safety concerns related to the rules and instructions noted in Specification 02955 Railway Flagging Protection.
- 5.1.6 The list of Subcontractors authorized to provide Rail Traffic Protection services to be used for this Contract are as follows:

A & B Rail Services Ltd.	Dave Wilfong <davewilfong@universalrail.com>	12623 Coleraine Drive, Bolton ON L7E 3B5
PNR Railworks Inc.	Nikita Tirskikh <ntirskikh@pnrrailworks.com>	2380 Royal Windsor Drive, Unit 11, Mississauga, ON L5J 1K7
Toronto Terminals Railways Co. Ltd.	George Huggins <George.huggins@ttrly.com>	50 Bay. St. Suite 1400B Toronto, Ont. M5J 3A5

6.0 Protection of Infrastructure

- 6.1 Ensure protection of the rails, ties and ballast from falling materials (i.e. trees, rocks, debris, etc.) by use of timber mats or equivalent material. Prevent excavated material from contaminating ballast and sub-ballast.
- 6.2 The Contractor shall restore any track structure that is disturbed during construction activities as follows:
- 6.2.1 the track shall be mechanically lined, tamped, surfaced, compacted and stabilized with the appropriate equipment to ensure that the track structure is safe for train traffic at a minimum speed of 30 mph prior to the end of the closure;

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- 6.2.2 after the required tonnage has travelled over the affected area, the track shall be in such a state so as to allow for the authorized track speed as per GO Track Standards.

7.0 Restrictions on Construction Operations

In order to ensure the continued safe movement of rail traffic, certain restrictions shall be imposed on the construction operations. Without in any way limiting the generality of the foregoing statement, the following are some of the limitations or restrictions that shall be imposed.

- 7.1 The Contractor shall acknowledge that the Works within the Rail Corridor will be carried out on or adjacent to operating railway tracks and that the productive hours of work are affected by the passage of trains and associated stoppages of work are required to ensure railway safety. The safe uninterrupted passage of trains shall take priority over the construction of the Works.
- 7.2 The Contractor shall comply fully with Metrolinx in planning, scheduling and control of the work within the Rail Corridor.
- 7.3 The Contractor shall acknowledge and agree to provide continued safe movement of rail traffic by following the restrictions that shall be imposed on the construction operations including the following limitations or restrictions included in the GO Track Standards.
- 7.4 All workers and equipment within ten (10) meters or thirty (30) feet from the nearest rail must stop working on the approach of a train and remain stopped until permission has been given to resume work by the flag person.
- 7.5 Do not work closer than four (4) meters or thirteen (13) feet from the nearest rail without the prior consent of Metrolinx and only during such times as there is track protection provided by the Railway.
- 7.6 The Contractor shall secure all scaffolding, formwork and other protective coverings to be used on the project in such a manner that they will not come loose by the movement of passing trains.
- 7.7 Prior to undertaking any work, the Contractor shall delineate the work outside of the Rail Corridor from work within the Rail Corridor with construction fences. The Contractor shall coordinate the exact location and placement of the fencing with Metrolinx.
- 7.8 In the event of an incident that may impact rail operations, the Contractor shall notify the flag person immediately for an assessment and action.

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8.0 Crossing Tracks

- 8.1 Do not cross tracks of the Railway Company with scrapers, bulldozers, trucks, barrows or other mechanical equipment at grade nor place crossing planks except by authority of Metrolinx, at locations designated by him.
- 8.2 The Contractor shall not cross the track with any equipment or vehicles without prior approval from Metrolinx. If the Contractor's schedule of operations requires construction equipment to cross the track, the Contractor shall make a request to Metrolinx for a Temporary Construction Crossing.
- 8.3 Each rail of the track shall be protected by use of rubber mats or tires, before any crawler mounted equipment is allowed to cross the track affected.
- 8.4 Construction equipment shall not cross the track except at an approved Construction Crossing designated by the Metrolinx. Crossings shall only be used by equipment when flagging protection has been provided. Refer to RC-0506-02 TRK GO Transit Track Standards, Section 13.6 Construction/Temporary Crossings.
- 8.5 If necessary, the Contractor shall be responsible for constructing and maintaining the crossing, the manually operated rising barriers and the approaches to the crossing to a standard acceptable to GO Transit Track Standards. Refer to RC-0506-02 TRK GO Transit Track Standards, Section 13.6 Construction/Temporary Crossings
- 8.6 The Contractor shall install the temporary manually operated rising barriers, approved by Metrolinx, to prevent use of the crossings by unauthorized personnel and keep gates locked when crossings are not in use. Metrolinx reserves the right to open the locks and use the gates at any time in order to access Metrolinx property.
- 8.7 Upon completion of all construction requiring use of the temporary crossings, the Contractor shall remove the crossing planking, the manually operated rising barriers, and the approaches and restore the track ballast section in accordance with the GO Transit Track Standards.

9.0 Site Material Storage

- 9.1 Due to the area of the work and the possibility of vandalism, all materials must be physically removed from the site or placed in secure bins or areas on a daily basis. No loose material will be allowed on site.
- 9.2 The Contractor shall be held accountable for all damages to Owner operations or property, railway operations or property, and all persons or their property, that is

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found to be a result of improper materials storage practices by the Contractor or their Subcontractors.

- 9.3 The Contractor shall not store materials or equipment on the Rail Corridor. The Rail Corridor must remain clear for railway use at all times. Equipment shall not be positioned to block the railway access road, track area or any part of the Rail Corridor without prior Metrolinx approval.

END OF SECTION

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1.0 Fires

1.1 Fire and burnings of rubbish at the Place of Work will not be permitted.

2.0 Disposal of Wastes

2.1 Do not bury rubbish and waste materials on site.

2.2 Do not dispose of waste or volatile materials, such as mineral spirits, oil or paint thinner into waterways, storm or sanitary sewers.

2.3 Except as indicated otherwise, surplus materials shall become the property of the Contractor and shall be removed from the premises promptly as they become surplus, at the cost of the Contractor.

3.0 Drainage

3.1 Divert surface drainage water away from excavation.

3.2 Provide temporary drainage and pumping as necessary to keep excavations and site free from water from whatever source until backfill operations are completed.

3.3 Do not pump water containing suspended materials into waterways, sewer or drainage systems.

3.4 Provide pumping units of sufficient number to comply with the above requirements and keep a minimum of one (1) unit in operating condition as a spare on site.

4.0 Pollution Control

4.1 Operations generating smoke, fumes, gases, dusts, vapours and odours shall be exhausted at source in a manner approved by the Consultant.

4.2 Take precautions necessary to keep dust, smoke, fumes, dirt and vibration to an acceptable level as determined by the Consultant.

4.3 Prevent extraneous materials from contaminating the environment immediately to and beyond the application area, by providing temporary enclosures or other appropriate preventative measures.

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5.0 Noise

- 5.1 Prevent excessive noise which will be disturbing to the occupant of building. Machine tools which are set up in fixed locations shall be so located to minimize noise and suitable sound deflectors shall be used if directed by the Consultant.
- 5.2 Use air compressors and pneumatic hammers only with the expressed authorization of the Consultant.

6.0 Spills

- 6.1 The Contractor shall provide the Owner with a written program for spills response and reporting. Copies of training records shall also be provided.
- 6.2 All spills shall immediately be reported to the Rail Operations Control Centre, (416) 601-2174, or as directed by the Consultant.

7.0 Dust Control

- 7.1 The Contractor shall take any and all steps necessary to prevent a dust nuisance occurring as a result of his performance of the Work.
- 7.2 Where the Work requires the sawing or grinding of concrete, wet type blades and grinders shall be used together with sufficient water to prevent the occurrence of dust. Cost of all such preventative measures shall be borne by the Contractor.

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SAFETY REQUIREMENTS**

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1.0 Construction Safety Measures

- 1.1 For the purposes of the Contract, the term "Constructor", as defined in Ontario's *Occupational Health and Safety Act* (OHSa), shall mean the entity that shall be responsible for ensuring that the provisions of the statutes, regulations and by-laws pertaining to the safe performance of the Work are to be observed. The "Constructor" shall submit the Notice of Project to the Ministry of Labour, if required by the Work as defined by the Construction Projects Regulation. The Contractor shall be listed as the Constructor and Metrolinx listed as the Owner.
- 1.2 The Contractor's Site Supervisor shall be defined as and perform all the functions of the "Supervisor" of the "Constructor" for the "Project", where these terms have the same meanings as defined in Section 1 of the OHSa. The "Supervisor" shall also be deemed to be the "Supervisor" designated by the "Owner" should the Owner also fit the definition of a "Constructor" under OHSa. The supervisor shall not be changed except for valid reason.
- 1.3 The Contractor's Site Supervisor shall be present at the Place of Work during the performance of the Work. In the case of the Contractor's Site Supervisor's absence, the Contractor will name another person, in writing to the Consultant, who is competent to assume these responsibilities as the Contractor's Site Supervisor.

2.0 Project Responsibilities

- 2.1 The Contractor and the Contractor's representative shall ensure that:
- 2.1.1 All measures and procedures prescribed by the most recent version of the following documents are carried out at the Place of Work;
- (a) The *Occupational Health and Safety Act* and applicable Regulations made thereunder;
 - (b) The *Rail Safety Act* and applicable Regulations made thereunder;
 - (c) The *Environmental Protection Act* and applicable Regulations made thereunder;
 - (d) The *Smoke-Free Ontario Act* and Regulation;
 - (e) Metrolinx's Construction Safety Management Program (CSMP), Project Owner Stream; and

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- (f) Any other legislation, regulations and standards as applicable.
- 2.2 The Contractor shall ensure that every employer and every worker performing work at the Place of Work shall comply with all measures and procedures prescribed by the latest versions of the following Acts, Regulations and Metrolinx documents referred to in Section 2.1 above.
- 2.3 The Contractor shall ensure that the health and safety of workers and the general public are protected in relation to the work performed on site. The Contractor shall comply with, or cause to be complied, all occupational health and safety legislation, including every employer and every worker performing Work at the Place of Work, who shall demonstrate a willingness to participate in occupational health and safety program(s).

3.0 Deliverables

- 3.1 The Contractor shall, within five (5) Working Days of the date of final execution of the Agreement Between Owner and Contractor, submit the following to the Owner for its review:
 - 3.1.1 A copy of the Contractor's Occupational Health and Safety Policy and Program, which shall comply with all applicable legislation; and
 - 3.1.2 A copy of the Contractor's Site Specific Safety Plan that includes site-specific hazard and risk assessment plans that will effectively prevent and control incidents and/or accidents.
- 3.2 Work shall not commence at Place of Work until the Owner has received the above referenced documents. The Contractor shall not be entitled to claim for any extension to the Contract Time or the Contract Price as a result of the Contractor's failure to submit an Occupational Health and Safety and/or program and Site Specific Safety Plan that are acceptable to the Owner.
- 3.3 The Contractor shall, within five (5) Working Days of the date of final execution of the Agreement Between Owner and Contractor, deliver to the Owner copies of all training records for Occupational Health and Safety related courses taken by a "competent person" as defined by the Occupational Health and Safety Act, and designated as the Contractor's Site Supervisor as per OHS Act Section 25(2)(c). Relevant course subjects may, without limitation, include or be similar to the following:
 - 3.3.1 Certified Joint Health and Safety Committee Member Training;
 - 3.3.2 Basics of Supervising;

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- 3.3.3 Construction Health and Safety Representative;
 - 3.3.4 Occupational Health and Safety legislation;
 - 3.3.5 Due Diligence;
 - 3.3.6 Accident Investigation and Reporting; and
 - 3.3.7 Any other courses that relate directly to the Occupational Health and Safety Act.
- 3.4 The Contractor shall deliver to the Consultant as required:
- 3.4.1 A copy of all weekly inspection reports made by the Contractor in compliance with the Constructor's responsibility under O.Reg.213/91, the Construction Projects Regulation.
 - 3.4.2 A copy of all safety information pertaining to the Contract made and furnished by the Contractor's own "Safety Officer" or outside consultants/advisers engaged for the purpose of inspecting the workplace for occupational health and safety.
 - 3.4.3 A copy of the Contractor's Emergency and Evacuation Plans for review by the Owner.
 - 3.4.4 A copy of Access / Traffic Control Plans for review by the Owner.
 - 3.4.5 A copy of the Contractor's risk assessment documents.
 - 3.4.6 Where requested, copies of all injury and accident reports for occurrences on site. This shall include copies of all remedial measures taken to prevent recurrence.
 - 3.4.7 Copies of all weekly safety talks shall be maintained on file for review by the Owner upon request.
 - 3.4.8 Statistical information for the purpose of determining injury frequency and severity rates (hours worked, first-aid injuries, medical aid/reportable injuries, lost time injuries, restricted workday injuries, incident/accident and significant occurrence data), in a timely manner on a monthly basis or as required by the Owner.
 - 3.4.9 The immediate reporting to Construction Management Office (CMO) of all instances that are defined in the Occupational Health and Safety Act as "Notices of Injuries" and "Occurrences" under Sections 51, 52 and 53 and

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any other incidents as prescribed by applicable Metrolinx Construction Safety documents.

3.4.10 The Owner reserves the right to require additional or amended deliverables pertaining to safety during the duration of the Work at no additional cost to the Owner.

4.0 Due Diligence

4.1 The Contractor acknowledges that it has read and understands the measures and procedures relating to occupational health and safety as prescribed in Article 2 above. The Contractor acknowledges and understands its duties as therein set out and hereby expressly undertakes and agrees to comply with all such requirements and standards in their entirety and at the Contractor's expense.

4.2 The Contractor further agrees to fully cooperate with all health and safety requirements, rules, regulations, standards and criteria set out in the Contract Documents, which agreement is in furtherance of the Contractor's duties and responsibilities under occupational health and safety legislation.

4.3 The Contractor agrees that if, in the opinion of the Owner, the health and safety of a person or persons is endangered or the effective operation of the system put in place to ensure the health and safety of workers on the Place of Work is not being implemented, the Owner may take such action as it deems necessary and appropriate in the circumstances, including, without limitation, the following:

4.3.1 Require the Contractor to correct the condition forthwith at no expense to the Owner;

4.3.2 Require that the Place of Work be shut down in whole or in part until such time as the condition has been corrected. The Owner will not reimburse the Contractor for any costs caused by such a delay nor will the Owner extend the time to complete the Work of the Contract because of such a delay;

4.3.3 Correct the problem and deduct the cost thereof from any payment then or thereafter due the Contractor; and/or

4.3.4 Terminate the Contract in whole or in part.

5.0 Barricades

5.1 Observe all necessary precautions and provide, erect and maintain suitable signs, barricades and lights to protect all persons from injury and all vehicles from

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damage during the progress of the work, in accordance with the Construction Safety Management Program (CSMP) to the approval of the Consultant, or any authority having jurisdiction at this location.

- 5.2 Provide all means necessary to prevent the entrance of unauthorized personnel onto the work site and from using access roads.
- 5.3 Protect the work in conformity with the Contract.

6.0 Vehicle Traffic Protection

- 6.1 Provide qualified signal persons to protect vehicular and pedestrian traffic during the operations, at any time when workers or equipment could endanger such traffic, all to the complete satisfaction of the Consultant and any other authority having jurisdiction at this location.
- 6.2 Accept responsibility for any damage to vehicles and damage and injury to pedestrians or occupants of vehicles resulting from the operations or the operating of equipment by others. Provide adequate protection to the satisfaction of the Consultant.
- 6.3 Wherever the Place of Work is intersected by public or private roads, provide convenient openings to pass and maintain all crossings in a condition so they can be used safely and without any just grounds for complaint during the progress of the work; all to the satisfaction of the Consultant and respective Road Authority.
- 6.4 Shall submit any permits as requested by the Consultant or Road Authority.

7.0 Hot Work Permit

- 7.1 Where hot work will be performed within an existing operational facility or adjacent to one such that operations or passengers may be negatively affected, the Contractor shall not undertake any Hot Work or otherwise cause a source of ignition to be created at the Place of Work without being issued a Hot Work Permit by the Owner and ensuring all measures have been implemented to prevent a fire from starting.

8.0 Working at Heights

- 8.1 The Contractor shall comply with the following instructions for scaffold installations:

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- 8.1.1 Obtain authorization from the Owner before erecting scaffolds on existing Owner's structures or new structures under construction.
- 8.1.2 Scaffolds must be positioned so that minimum clearance for road or other traffic including operating construction equipment is always provided.
- 8.2 All horizontal lifelines used for fall protection shall be designed and installed in accordance with the following CSA Standards:
 - 8.2.1 CAN/CSA Z259.13-04 Flexible horizontal lifeline systems
 - 8.2.2 CAN/CSA Z259.16-04 Design of active fall protection systems
- 8.3 The Contractor shall comply with the following instructions for fall protection system installations:
 - 8.3.1 Obtain written authorization from the Owner before suspending, attaching or erecting fall protection devices on existing Owner structures or new Owner structures under construction.
 - 8.3.2 Components attached to structures must be placed on neoprene pads to prevent damage to the structures as directed by the Owner.
 - 8.3.3 Fall protection systems shall be positioned so that minimum clearance for road and other traffic including operating construction equipment is always provided.
- 8.4 Rescue Equipment and Training
 - 8.4.1 Before considering the Fire Department (911) as a primary means for rescuing an employee, the Contractor shall:
 - (a) Ensure a complete risk assessment of the fall protection system, or confined space, has been carried out by a competent person; and
 - (b) Ensure the risk assessment and rescue plan have been reviewed and signed off by the appropriate municipal authority indicating they have:
 - (i) An appropriate response time; and
 - (ii) The necessary rescue equipment; and
 - (iii) The specialized rescue training required.

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- (c) Ensure all documentation has been submitted to the Owner, System Safety, for final review and approval prior to project start-up.

8.4.2 If it has been determined that the Fire Department (911) cannot adequately respond to the emergency, and specialty rescue equipment and/or training is required, the Contractor shall ensure that:

- (a) Specific rescue equipment for Confined Space Rescue or Fall Protection Rescue is on site as required and in readiness at all times; and
- (b) A sufficient number of employees are fully qualified as "rescuers" and are on site in order to carry out an efficient and effective rescue of a co-worker.

9.0 Metrolinx Construction Safety – Project Owner Stream

- 9.1 The Owner will issue an appropriate number of copies of its Construction Safety Management Program (CSMP) to the Contractor at the pre-construction meeting.
- 9.2 Contractors are responsible for familiarizing themselves and their employees with the contents of this manual, Project Owner Stream.
- 9.3 Contractors shall distribute copies of the CSMP to their Subcontractors and shall ensure that they, and their employees, are familiar with its content.
- 9.4 The requirements of the CSMP shall apply to the Work and the Place of the Work.

10.0 Site Safety Personnel

- 10.1 In the event the Owner deems it necessary, because of the Work and/or Safety Performance, the Contractor shall assign to the Place of Work a full time "Safety Officer" to assist the Contractor's representative in the discharging of safety responsibility on site, at no additional costs.
- 10.2 The Contractor shall ensure that the Safety Officer has the training, experience and credentials to ensure compliance to the Occupational Health and Safety Act at the Place of Work.

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11.0 Site Security

- 11.1 The Contractor shall ensure all personnel employed at the Place of Work, whether its own employees or a Subcontractor's, wear an identification badge. At Owner locations where access is restricted the Owner shall supply the identification badges. At all other locations it shall be the Contractor's responsibility to provide the identification badges.
- 11.2 The Contractor shall maintain a daily site log of all persons granted access to the "Place of Work" under the control and custody of the Contractor.
- 11.3 The Contractor shall ensure that all required documentation is available upon request by the Consultant.
- 11.4 The Contractor shall not allow "Unauthorized" persons to access the "Place of Work".

12.0 Site Requirements

- 12.1 For night work activities, the Contractor shall supply and maintain adequate temporary lighting and associated generators at the Site such that all the work in these areas can be carried out safely and in a workmanlike manner. The Contractor shall use quiet available generators to minimize noise levels. At no time shall the Contractor direct the lights in such a manner that will impede or deter the safe passage of rail traffic or affect any adjacent properties.

END OF SECTION

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MATERIALS AND EQUIPMENT**

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1.0 General

- 1.1 Provide material and equipment of specified design and quality, performing to published ratings and for which replacement parts are readily available.
- 1.2 Use products of one manufacturer for equipment or material of same type or classification unless otherwise specified.

2.0 Manufacturer's Instructions

- 2.1 Unless otherwise specified, comply with manufacturer's latest printed instructions for materials and installation methods.
- 2.2 Notify the Owner in writing of any conflict between these Specifications and manufacturer's instructions. The Owner will designate which document is to be followed.

3.0 Fastenings

- 3.1 Provide metal fastenings and accessories in same texture, colour and finish as base metal in which they occur. Prevent electrolytic action between dissimilar metals. Use non-corrosive fasteners, anchors and spacers for securing exterior work.
- 3.2 Space anchors within limits of load bearing or shear capacity and ensure that they provide positive permanent anchorage. Wood plugs are not acceptable.
- 3.3 Keep exposed fastenings to minimum, space evenly and lay out neatly.
- 3.4 Fastenings which cause spalling or cracking of material to which anchorage is made are not acceptable.
- 3.5 Do not use explosive actuated fastening devices.

4.0 Fastening Equipment

- 4.1 Use fastenings of standard commercial sizes and patterns with material and finish suitable for service.
- 4.2 Use heavy hexagon heads, semi-finished unless otherwise specified.
- 4.3 Bolts may not project more than one diameter beyond nuts.

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4.4 Use plain type washers on equipment, sheet metal and shaft gasket lock type washers where vibrations occur. Use resilient washers with stainless steel.

5.0 Delivery and Storage

5.1 Deliver, store and maintain packaged material and equipment with manufacturer's seals and labels intact.

5.2 Prevent damage, adulteration and soiling of material and equipment during delivery, handling and storage. Immediately remove rejected material and equipment from the site.

5.3 Store material and equipment in accordance with suppliers' instructions.

5.4 Touch-up damaged factory finished surfaces to the Owner's satisfaction. Use primer or enamel to match original. Do not paint over name plates.

6.0 Origin of Materials

6.1 Materials, plant and equipment supplied for Work shall be as far as possible and unless otherwise specified, of Canadian manufacture.

7.0 Ownership of Materials

7.1 Unless otherwise specified, materials existing on site at time of signing Contract shall remain the property of Owner.

7.2 Equipment and materials delivered on site to form part of Work shall be property of the Owner but the Owner shall not be liable for any loss or damage from any cause.

7.3 Contractor shall remove surplus or rejected materials off site when notified by Consultant as required by site conditions.

8.0 Specified Material and Equipment

8.1 Materials and equipment shall be as specified.

9.0 Substitutions After Award of Contract

9.1 Request for substitutions of specified materials and equipment other than alternatives accepted prior to award of contract will not be considered unless

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request is accompanied by a written statement from Contractor giving reasons why specified item cannot or should not be used, evidence of quality of substitution and amount of change in Contract Amount.

9.2 Written statement shall include full details, stating clearly name of manufacturer or supplier, together with a detailed description of substitutions, and stating reduction from or addition to contract price, if any for the use of alternative material or equipment.

9.3 The Consultant reserves right to accept or reject substitution as he sees fit and also to claim for the Owner financial benefit of substitution if accepted. Rejection by Consultant of proposed alternative material or equipment is final and does not become obligated to give any reason for his action.

9.4 Approved equipment substitutions must not exceed space requirements allocated on Drawings. Be responsible for additional cost resulting from acceptance of a substitute piece of equipment for this Division of Work.

9.5 Substitutions shall not be considered accepted unless authorized in writing by the Consultant.

10.0 **Date-Related Compliance**

10.1 All materials, equipment, systems and components thereof used in connection with the provision of the Work, individually or in combination as the case may be, shall accurately and automatically process any and all date and date-related data including, but not limited to calculating, comparing and sequencing when used in accordance with the documentation provided by the Contractor.

END OF SECTION

**GENERAL REQUIREMENTS
CLEANING**

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1.0 General

- 1.1 Conduct cleaning and disposal operations to comply with local ordinances and anti-pollution laws.
- 1.2 Store volatile wastes in covered metal containers, and remove from premises daily.
- 1.3 Prevent accumulation of wastes which create hazardous conditions.
- 1.4 Provide adequate ventilation during use of volatile or noxious substances.

2.0 Products

- 2.1 Use only cleaning materials recommended by manufacturer of surface to be cleaned, and as recommended by cleaning material manufacturer.

3.0 Execution

3.1 Cleaning During Construction

- 3.1.1 Ensure that the work site is kept clean and tidy at all times throughout the construction period. Remove all rubbish and debris promptly as it accumulates. Ensure that all sub-trades conform similarly.
- 3.1.2 Promptly remove from site and dispose of surplus materials.
- 3.1.3 Do not accumulate scrap piles at any time. Fires will not be permitted on the site.
- 3.1.4 Provide on-site containers for collection of waste materials, and rubbish.
- 3.1.5 Vacuum clean interior work areas when ready to receive finish painting, and continue vacuum cleaning on an as-needed basis until work area is ready for substantial completion or occupancy.
- 3.1.6 Schedule cleaning operations so that resulting dust and other contaminants will not fall on wet, newly painted surfaces.

END OF SECTION

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PROJECT CLOSEOUT**

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1.0 Final Cleaning

- 1.1 Remove dust and soil from all surfaces affected by Work by vacuuming, damp mopping, washing or scrubbing, as required.
- 1.2 Clean all equipment and accessories.
- 1.3 Remove all temporary labels, protective coatings, markings and tags, and thoroughly clean adhesive off surfaces.
- 1.4 Avoid contamination of surrounding surfaces with cleaning fluids. Install temporary protection, if required, and remove same immediately upon completion of cleaning operation involved.
- 1.5 Methods of cleaning shall be in accordance with Manufacturer's recommendations of the finishes involved.
- 1.6 Soaps, detergents, waxes, and other cleaning materials and methods shall be as recommended by Manufacturer of finish surface material involved.
- 1.7 Use a heavy duty type industrial machine for all vacuum cleaning.
- 1.8 Exercise extreme care with abrasive and chemical cleaning agents and verify their compatibility with finish and material to be cleaned.

2.0 Systems Demonstration

- 2.1 Prior to final inspection, demonstrate operation of each system to the Owner.
- 2.2 Instruct personnel in operation, adjustment, and maintenance of equipment and systems, using provided operation and maintenance data as basis for instruction.

3.0 Project Record Drawings

- 3.1 The Consultant will provide one set of white prints for each major trade section of this Contract for recording "as constructed" information.
- 3.2 The Contractor shall co-ordinate and maintain project "as-constructed" record drawings and record accurately significant deviations from Contract Documents caused by site conditions and changes ordered by Consultant and approved by the Owner.
- 3.3 Record following information:

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- 3.3.1 field changes of dimension and detail; and
 - 3.3.2 changes made by Change Order or Field Instructions.
 - 3.4 At each project meeting "as-constructed" record drawings shall be reviewed for completeness.
 - 3.5 At completion of project and prior to final inspection, submit "as-constructed" drawings to Consultant.
- 4.0 **Operations and Maintenance Data**
- 4.1 On completion of project, submit to Consultant four (4) copies of Operations Data and Maintenance Manual, made up as follows:
 - 4.1.1 bind data in vinyl, hard covered, three ring, loose leaf binder for 215 x 280mm sized paper;
 - 4.1.2 enclose title sheet, labelled "Operation Data and Maintenance Manual", project name, date and list of contents; and
 - 4.1.3 organize contents into applicable sections of work. Mark each section by labelled tabs protected with celluloid covers fastened to hard paper dividing sheets.
 - 4.2 Include following information plus data specified:
 - 4.2.1 description operation and maintenance instructions for equipment and systems, including a complete list of equipment and parts list. Indicate nameplate information such as make, size, capacity, serial number;
 - 4.2.2 names, addresses and phone numbers of subcontractors and suppliers;
 - 4.2.3 guarantees, warranties and bonds showing:
 - (c) name and address of projects;
 - (d) guarantee commencement date (date of Final Certificate of Completion);
 - (e) duration of guarantee;
 - (f) clear indication of what is being guaranteed and what remedial action will be taken under guarantee; and
 - (g) signature and seal of Contractor; and

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- 4.2.4 additional material used in project listed under various sections showing name of manufacturer and source supply.
 - 4.3 Neatly type lists and notes. Use clear Drawings, diagrams or manufacturer's literature.
 - 4.4 Include four complete sets of final Shop Drawings, bound separately, indicating corrections and changes made during fabrication and installation.
- 5.0 **Inspection/Takeover Procedures**
- 5.1 Procedures for Substantial and Total Performance of Work and completion takeover procedures shall be according to the latest version of OAA/OGCA Document No. 100.
- 6.0 **Date-Related Compliance**
- 6.1 The Owner may, at no additional cost to itself, require the Contractor to demonstrate Date-Related Compliance as specified by Article 10 of Section 01700 - Material and Equipment and/or compliance techniques and test procedures the Contractor followed in order to comply with these requirements.

END OF SECTION

SPECIFICATIONS

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The Specifications listed in Appendix "A" of Form of Tender are provided as separate electronic files and form part of the Specifications of this Tender Document.

DRAWINGS

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The Drawings listed in Appendix "A" of Form of Tender are provided as separate electronic files and form part of the Drawings of this Tender Document.

ATTACHMENTS

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The Attachments listed in Appendix A of Form of Tender are attached as separate electronic files and form part of this Tender Document.
