



DEPARTMENT OF FACILITIES MANAGEMENT

GENERAL CONDITIONS

AND

AGREEMENT BETWEEN OWNER AND CONTRACTOR

FOR

THE STIPULATED PRICE CONTRACT

June 2020

**GENERAL CONDITIONS AND AGREEMENT
BETWEEN OWNER AND CONTRACTOR FOR THE STIPULATED PRICE CONTRACT**

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1.0 INSTRUCTIONS TO TENDERERS

1.1.0 TENDERS

1.1.1 Tender Submissions

Tenderers are required to submit their tenders for the Work as outlined in the Tender and Acceptance Form and the General Conditions and any other documents forming the tender package.

1.1.2 Tender Closing Time

Closing time and date shall be designated in the tender notice(s) and will be strictly adhered to.

NOTE: In the event that the Memorial University of Newfoundland (“Owner”) is closed earlier than normally expected prior to a scheduled tender closing for that day or for the full day, the closing date for those tenders will be extended to the next business day for the Owner at the same time as listed originally.

1.1.3 Tenderers shall deposit their tenders addressed to:

As indicated on Page 1 of the Tender and Acceptance form.

1.1.4 Unacceptable Tenders

- (a) No oral, facsimile or telephone tenders will be considered.
- (b) Tenders not submitted on the accompanying Tender and Acceptance Form will not be considered.
- (c) Tenders containing qualifications or additional clauses to the Tender and Acceptance Form may be rejected, where, in the opinion of the Owner, there is an unfair advantage to the Tenderer.
- (d) Tenders received after the tender closing time will not be considered.
- (e) Incorrectly prepared tenders may be rejected.
- (f) Incomplete tenders may be rejected.
- (g) The Owner reserves the right to waive any informality in a tender.
- (h) If security is required to be included with the tender and is not provided in the correct form and amount, the tender will be rejected.
- (i) Tenderers may revise their tender by facsimile or letter provided it is received by the Tendering Section, Department of Facilities Management before the tender closing time. Revisions by facsimile must be sent to the fax

number as indicated on Page 1 of the Tender and Acceptance form. The Owner will not be responsible for any failure attributable to the transmission or receipt of the facsimile.

- (j) Tenderers may not submit tenders in the form of a facsimile message. Facsimile messages may only be used to revise a tender provided that such a message is received prior to the tender closing time.
- (k) Tenders may be withdrawn without penalty if the request is received by letter or facsimile prior to the tender closing time.

1.1.5 It shall be understood that all tenders will remain valid for acceptance for a period of thirty (30) days of the closing date established by the Owner for the acceptance of tenders. The preferred Tenderer may be required to execute a formal agreement within a thirty (30) day period from the date of the letter of acceptance of their tender.

1.1.6 The Owner reserves the right to reject any and all tenders, and the lowest tender will not necessarily be accepted.

1.1.7 The Owner reserves the right to accept the tender deemed most favourable to the interest of the Owner, and the award will be made in respect of the tender which gives the greatest value to the Owner based on quality, time, service and price.

1.1.8 With respect to current or prior transactions with the Owner, the Owner may reject a bid where any of the following circumstances present:

- (a) The Tenderer is bankrupt or where, for whatever reason, their activities are rendered inoperable for an extended period of time;
- (b) Evidence, satisfactory to the Owner, of fraud, bribery, fraudulent misrepresentation or failure to comply with any law protecting individuals against discrimination, received by the Owner with respect to the Tenderer, any of their owners, employees or any subcontractor included in part of their tender;
- (c) The Owner has exercised their contractual remedies of suspension or termination for default with respect to a contract with the Tenderer, any of their owners, employees or any subcontractor included as part of their tender;
- (d) The Owner determines that the Tenderer's performance on other contracts, including the efficiency and workmanship as well as the extent to which the Tenderer performed the Work in accordance with the contractual clauses and conditions, is sufficiently poor to jeopardize the successful completion of the project being bid on.

1.1.9 Unbalanced bids, as determined by the Owner, will be rejected (i.e. prices must fairly represent proper compensation for various items of work to be done).

- 1.1.10 Upon withdrawal of a tender by a Tenderer, the Owner has the right to disqualify any tenders submitted by a related person of the Tenderer or a related corporation of the Tenderer as defined by Section 251 of the Income Tax Act, R.S.C., 1985, 5th Supplement, ch. 1, as amended.

1.2.0 TENDER DOCUMENTS

- 1.2.1 The Tender Documents consist of the Instructions to Tenderers, General Conditions of Contract, Supplementary General Conditions of Contract, Special Conditions, Campus Safety and Health Regulations, Contractors Performance Evaluation, Tender and Acceptance Form, Drawings, Specifications and any Addenda to the Contract Documents issued before the tender closing period.
- 1.2.2 Tenderers may, during the tendering period, be advised by written Addenda of required additions to, deletions from or alterations to the requirements of the Tender Documents. All such changes shall become an integral part of the Tender Documents and shall be included in the tender price.
- 1.2.3 Tenderers shall insert, in the space provided in the Tender and Acceptance Form, the Addenda numbers of all Addenda received by them during the tendering period including any bound into the Tender Documents. If no Addenda have been received, the word "NONE" shall be inserted in the space provided.
- 1.2.4 Addenda will not be issued by the Owner after the fourth (4th) day prior to tender closing without providing an extension of time.
- 1.2.5 **EACH TENDERER WILL BE RESPONSIBLE TO VERIFY THAT ALL ADDENDA ISSUED HAVE BEEN RECEIVED BEFORE DEPOSITING THEIR TENDER.**

1.3.0 SITE VISIT

- 1.3.1 Before submitting a tender, Tenderers shall carefully examine the site of the proposed Work and fully inform themselves of the existing condition and limitations. It is the responsibility of the Tenderer to report any unsatisfactory conditions in writing which may adversely affect the proper completion of the Work, to the Architect/Engineer or the Owner, at least five (5) days before the tender closing date. Submission of the tender shall imply acceptance of previously completed Work and the conditions of the site, and the Contractor shall, therefore, be fully responsible for executing the Work in accordance with the Contract Documents.

1.4.0 TENDER SURETY

- 1.4.1 Tenders shall be accompanied by bid security by way of (i) an approved Bid Bond from a surety company acceptable to the Owner and which is licensed to do business in the Province of Newfoundland and Labrador or (ii) an approved certified cheque payable to Memorial University of Newfoundland in the amount of 10 percent of the tender price.

Bid security will not be required for a total contract value of \$100,000 or less (HST included) unless specifically called for elsewhere in the Contract Documents. The bid security will be returned to the Tenderer upon receipt of the required Performance Bond and Labour and Materials Payment Bond.

The terms of the bid security will be invoked and the amount retained by the Owner if: the Tenderer fails to enter into a formal agreement, where one is specified, when notified of the award of the Contract within the tender validity period; or fails to provide the required Performance Bond and Labour and Materials Payment Bond within the time specified.

- 1.4.2 Within seven (7) days of the issuance of the letter of acceptance, the preferred Tenderer shall obtain and deliver to the Owner a Performance Bond in the amount of 50 percent of the tender price which guarantees the successful and complete performance of the Work. The Performance Bond is required as a condition of tender award. In lieu of a Performance Bond an approved certified cheque in the amount of 10 percent of the tender price may, at their option, be accepted for retention by the Owner until the successful completion of the Contract. The certified cheque will be retained until satisfactory completion of the Work including the warranty period after which it will be returned to the Contractor. Performance Bond or other such security will not be required for a contract value of \$100,000 or less. No Work is to be undertaken while the above performance security remains outstanding.
- 1.4.3 Within seven (7) days of issuance of the letter of acceptance, the preferred Tenderer shall obtain and deliver to the Owner a Labour and Materials Payment Bond in the amount of 50 percent of the tender price. The Labour and Materials Payment Bond is required as a condition of the tender award. In lieu of a Labour and Materials Payment Bond, an approved certified cheque in the amount 10 percent of the tender price may, at their option, be accepted for retention by the Owner until successful completion of the Contract. The certified cheque will be retained until substantial completion of the Work as defined by the Mechanics Lien Act and upon receipt of an acceptable statutory declaration form stating that all labour and material obligations due and payable under the Work have been discharged, after which it will then be returned to the Contractor. Labour and Materials Payment Bond or other such security will not be required for a contract value of \$100,000 or less. No Work is to be undertaken while the above labour and materials security remains outstanding.

- 1.4.4 No interest will be paid to the preferred Tenderer for any certified cheques on deposit during the period of retention.
- 1.4.5 The cost of all bid, performance and labour and materials security shall be included in the tender price.

1.5.0 COMPLETION OF TENDER AND ACCEPTANCE FORM

- 1.5.1 Tenders are to be submitted, duly completed, in a sealed envelope using the Envelope Cover Page included in the Tender and Acceptance. The Tenderer should retain a copy of the tender for their records.
- 1.5.2 Type or legibly print the Tenderer's full business name and full mailing address in the spaces provided for "Contractor's Full Business Name and Contractor's Business Mailing Address", respectively. Also ensure that the phone and fax numbers are listed in the space provided.
- 1.5.3 Sign the Tender and Acceptance Form in the space provided as indicated below:

In case of a Sole Proprietorship: Signature of Sole Proprietor in the presence of a witness or witnesses who will sign where indicated. Insert the words "Sole Proprietor" next to the signature.

In the case of a Partnership: Signatures of all partners in the presence of a witness or witnesses who will sign where indicated. Insert the word "Partner" against each signature under Title(s).

In the case of a Joint Venture: Signature of the joint venture representative in the presence of a witness or witnesses who will sign where indicated. Insert the words "Authorized Representative" below the signature. The names of the joint venture members must be listed on the signature page.

In the case of an Incorporated Body: Signatures of authorized signing officers in the presence of a witness or witnesses who will sign where indicated. Enter the corporate title of each signer under Title(s).

Insert the date of signature in the space provided.

- 1.5.4 Where a purchase order is issued by the Owner in addition to the Tender and Acceptance Form or a formal agreement, the purchase order shall not alter the terms herein except to the extent specified in the purchase order.

1.6.0 QUALIFICATION INFORMATION

- 1.6.1 The Owner may require the Tenderer to submit qualification information with the tender or prior to the award of any Contract or nominated Subcontracts.
- 1.6.2 This request includes the submission of details of previous construction experience by this Tenderer and their intended Subcontractors, lists of equipment to be used in the performance of the Work and other pertinent information.
- 1.6.3 Where such information is requested with the tender, spaces or appendices will be provided and all such spaces or appendices must be completed in their entirety by typing or legibly printed in ink.
- 1.6.4 The Owner reserves the right to interpret the qualification information provided. Any decision made by the Owner concerning the Tenderer's and/or their Subcontractors' ability or otherwise to successfully perform the Work shall be final.

1.7.0 SUBSTITUTION OF MATERIALS

- 1.7.1 Tenders shall be based upon using the materials or products as specified without substitution, unless there is an "or approved alternate" clause. Where two or more brand names are specified, the choice shall be left to the Contractor. Where only one brand name is stated, there shall be no substitution.
- 1.7.2 Where the Specifications include the "or approved alternate" clause, substitutions may be proposed provided that the request for a substitution is received in writing at least six (6) days prior to the tender closing date and shall clearly define and describe the product for which the substitution is requested.
- 1.7.3 It is the Tenderer's responsibility to ensure that the substituted article is equivalent to the specified article with regard to design, function, appearance, durability, operation and quality.
- 1.7.4 Request for substitutions made after the award of the contract will be subject to the requirements of Clause **2.37.0 MATERIALS AND SUBSTITUTIONS** in the **General Conditions** of the Contract and will only be considered under special circumstances or where it is clear, at the Engineer's/Architect's discretion, that proposed substitution will provide a substantial benefit to the Owner.
- 1.7.5 Approval of the substitution by the Engineer/Architect shall be in the form of an addendum to the Specifications issued at least four (4) days prior to the Tender

closing date to all of those contractors listed as having received a copy of the Tender Documents. The Engineer/Architect's decision on substitutions will be final.

1.8.0 LIST OF SUBCONTRACTORS, SUPPLIES AND MANUFACTURERS

- 1.8.1 The Subcontractors and Suppliers whose bids have been used by the Tenderer in the preparation of their tender must be listed in Appendix "A" of the Tender and Acceptance Form under the categories indicated therein including any Work to be done by the Tenderer's own forces (B.O.F.). Failure to complete this list may result in the tender being rejected.
- 1.8.2 The Owner reserves the right to reject any Subcontractors or Suppliers proposed for the various parts of Work. If, as a result of the Owner rejecting a Subcontractor or Supplier, the cost to perform the Work by the Tenderer changes then the Tender Price shall be adjusted by the amount of the change. While the Owner may propose a substitute Subcontractor or Supplier, it is recognized that the Contractor shall have a right to object to the use of any Subcontractor proposed by the Owner.
- 1.8.3 The Subcontractors and Suppliers accepted and approved by the Owner shall be the Subcontractors and Suppliers who will actually be employed in the performance of the Work.

1.9.0 COMPLETION DATE

Tenderers shall state the time required to complete the Contract from time of tender award. The Contractor shall, within seven (7) days after the Contract is award, submit a construction schedule indicating as closely as possible the starting and completion dates for the major sections of the Work. A sample schedule is provided in Appendix D of the Tender and Acceptance form.

1.10.0 LABOUR CONDITIONS

- 1.10.1 The Tenderers shall be aware that the majority of hourly paid and maintenance workers employed within the Owner's organization are unionized. It is of utmost importance that any labour force used by the preferred Tenderer neither disrupts nor be disrupted by any labour conditions existing on the Owner's property. Failure by the preferred Tenderer to familiarize themselves with labour conditions on the Owner's property or disruptions to the preferred Tenderer's own labour force because of labour conditions on the Owner's property will not relieve the Tenderer of their obligations to furnish all labour and materials necessary to carry out the requirements of the Contract.

1.11.0 SAFETY

1.11.1 General Contractors and their sub-contractors who have complied with 1.11.2 will be permitted to commence physical work on the site however no work shall be performed by the General Contractor, their sub-contractors until such a time as they comply with 1.11.2.

1.11.2 Prior to signing of contract, the preferred General Contractor shall provide proof of compliance with 1.11.3.

Within seven (7) calendar days after a pre-signing start up meeting the General Contractor shall provide proof of compliance of themselves and their subcontractors with 1.11.3 as well as provide the information requested in Section 1.11.4(a) (b).

1.11.3 All Contractors, and their Subcontractors, shall be required to submit confirmation of a current third party occupational health and safety program certification (Letter of Assurance). These may include, but not be limited to, Certificate of Recognition (COR), OHSAS 18001, and CSA Z.1000.

Tenderers and their Subcontractors can have one of the three (3) possible designations of: "COR", "Audit Pending" or "In the Process".

Failure to provide the requested documentation within the specified time may result in the tender being rejected.

1.11.4 Contractors shall also provide the following:

- (a) health and safety policy statement;
- (b) safety program table of contents; and
- (c) site hazard assessment;

The hazard assessment shall be updated by the General Contractor and re-submitted whenever the conditions, work practices or work forces change to the extent that new hazards can be identified.

1.11.5 In lieu of a Subcontractors 3rd party program, Contractors shall be required to integrate the Subcontractor(s) into the Contractors program and provide proof of same.

1.11.6 Memorial reserves the right to request and audit the full safety program of Contractors and Subcontractors and their associated documentation. This documentation may include, but not be limited to the following:

- (a) safety program and/or manual
- (b) applicable documented safe work practices;
- (c) inspection reports and schedules;
- (d) required employee safety training certifications and qualifications; and
- (e) updated list of OHS Committee and/or a worker health and safety

representative, or workplace health and safety designate.

Request for submission shall be complied with within 7 calendar days of a written request from Memorial's Environmental Health and Safety unit.

Failure to provide the requested documentation within the specified time may result in the Contract being cancelled.

1.11.7 Memorial reserves the right to:

- (1) Reject any Contractor that fails to meet the requirements or schedules outlined herein;
- (2) The University reserves the right to stop any work or portion of work where the risk presents an immediate danger.

1.11.8 Contractors will comply with applicable Federal and Provincial legislation and applicable MUN safety procedures. Contractor responsibilities include but not limited to:

- report all incidents immediately to the required University project team followed by a written incident report within 24 hours;
- be responsible for the safety of subcontractors including those not under their employ;
- stop work if the conditions are such that work cannot be performed safely;
- perform evaluation, monitoring of the workplace to identify potential hazards and associated risks and ensure corrective actions are implemented;
- ensure daily task specific hazard assessments are completed; and
- maintain the accountability of persons responsible for the reporting and correction of hazards.

1.11.7 The Owner reserves the right to reject any Tenderer that is not in compliance with Owner's standards for Safety.

1.12.0 ACCESS TO SITE

1.12.1 All successful Tenderer and Subcontractors/Suppliers to be used by the Tenderer in the execution of the Contract shall give advance notification of when they will be on site. While on site, normal hours of work will be from 8 a.m. to 5 p.m., Monday to Friday. Any work to be performed outside these hours must have advanced approval by the Owner.

Any discontinuation of Work which causes a Contractor or their Subcontractors/Suppliers to suspend operation on site, will require the following:

- (a) Contractor/Subcontractors/Suppliers shall notify the Owner of the stop work date;

- (b) Contractor/Subcontractors/Suppliers shall ensure the site is left in a safe and secure conditions;
- (c) Contractor/Subcontractors/Suppliers shall conduct a site visit with MUN's Safety Officer before leaving the site;
- (d) Contractor/Subcontractors/Suppliers shall ensure that locks and tags on mechanical and/or electrical systems are removed and, where necessary, replaced by MUN;
- (e) Contractor/Subcontractors/Suppliers shall not return to site without expressed prior permission from the Owner.

2.0 GENERAL CONDITIONS

2.1.0 DEFINITIONS

2.1.1 Contract Documents

The Contract Documents consist of the Instructions to Tenderers, Executed Agreement between the Owner and the Contractor, General Conditions of Contract, Supplementary General Conditions of Contract, Special Conditions, Campus Safety and Health Regulation, Contractor Performance Evaluations, Specifications, Drawings and such other documents forming part of the Tender, including all amendments thereto incorporated before their execution and subsequent amendments thereto made pursuant to the provisions of the Contract or agreed upon between the parties. The successful Tenderers Tender and any Addenda to the Specifications issued during the bidding period shall also form part of the Contract Documents.

2.1.2 Owner, Engineer/Architect, Contractor

The Owner, Engineer/Architect and Contractor are the persons, firms or corporation identified as such in the Agreement. The term Owner, Engineer/Architect and Contractor means the Owner, Engineer/Architect and Contractor or their authorized representatives as designated by each party in writing.

2.1.3 Subcontractors

A Subcontractor is a person, firm or corporation having a direct contract with the Contractor to perform a part or parts of the Work included in the Contract, or to supply products worked to a special design according to the Contract Documents, but does not include one who merely supplies products not so worked.

2.1.4 The Project

The Project is the total construction contemplated of which the Work performed under the Contract Documents may be the whole or a part.

2.1.5 The Work

The Work means the total construction and related services required by the Contract Documents.

2.1.6 Place of Work

The Place of Work is the designated site or location of the project of which the Work may be the whole or a part.

2.1.7 Products/Materials/Equipment

The term Products/Materials/Equipment means all materials, machinery, equipment and fixtures forming the Work as required by the Contract Documents but does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work and normally referred to as construction machinery and equipment.

2.1.8 Other Contractor

The term Other Contractor means any persons, firm or corporation employed by or having a separate contract directly or indirectly with the Owner for Work other than that required by the Contract Documents.

2.1.9 Time

- a) The Contract Time is the time stated in the Tender and Acceptance Form for substantial performance of the Work.
- b) The date of substantial performance of the Work is the date certified by the Engineer/Architect.
- c) The term day, as used in the Contract Documents, shall mean the calendar day.
- d) The term working day means any day observed by the construction industry in the area of the place of the Work.

2.1.10 Substantial Performance of the Work

A Contract shall be deemed to be substantially performed:

- a) When the Work or a substantial part thereof is ready for use or is being used for the purpose intended; and
- b) When the Work to be done under the Contract is capable of completion or correction at a cost of not more than:
 - (i) Three per centum of the first two hundred and fifty thousand dollars (\$250,000) of the Contract Price;
 - (ii) Two per centum of the next two hundred and fifty thousand dollars (\$250,000) of the Contract Price; and
 - (iii) One per centum of the balance of the Contract Price.
- c) When the Work or a substantial part thereof is ready for use or is being used for the purpose intended and where the Work cannot be completed expeditiously for

reasons beyond the control of the Contractor, the value of the remaining Work to be completed shall be deducted from the Contract Price in determining substantial performance.

2.1.11 Total Performance of the Work

Total Performance of the Work shall mean when the entire Work except those items arising from the provision **2.26.0 WARRANTY** has been performed to the requirements of the Contract Documents and is so certified by the Engineer/Architect.

2.1.12 Changes in the Work

Changes in the Work means additions, deletions or other revisions to the Work within the general scope of Work as contemplated by the Contract Documents.

2.1.13 Extra Work

Extra Work means any additional work or service, the performance of which is beyond the scope of Work as contemplated by the Contract Documents.

2.2.0 DOCUMENTS

2.2.1 The Contract Documents shall be signed in triplicate by the Owner and the Contractor.

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

2.2.3 In the event of conflicts between Contract Documents, the following shall apply:

- a) Documents of later date shall govern;
- b) Figured dimensions shown on the drawings shall govern even though they may differ from scaled dimensions on the same drawing;
- c) Drawings of larger scale shall govern over those of smaller scale of the same date;
- d) Specifications shall govern over drawings;
- e) Special Conditions shall govern over Specifications;
- f) The General Conditions of Contract shall govern over Specifications;
- g) Supplementary General Conditions shall govern over the General Conditions of the Contract;

h) The Executed Agreement between the Owner and the Contractor shall govern over all documents.

2.2.4 The Contractor will be provided, without charge, up to twelve (12) sets of Contract Documents or parts thereof as are reasonably necessary for the performance of the Work.

2.2.5 The Contractor shall keep a copy of all current Contract Documents and shop drawings on the site, in good order and available to the Engineer/Architect and or their representatives. This requirement shall not be deemed to include the executed Contract Documents.

2.2.6 Drawings, specifications, models and copies thereof furnished to the Contractor are to be used only with respect to the Work. Such documents and models are not to be otherwise used or revised in any manner without the written authorization of the Owner.

2.2.7 Models furnished by the Contractor at the Owner's expense are the property of the Owner.

2.3.0 ADDITIONAL INSTRUCTIONS AND SCHEDULE OF WORK

2.3.1 During the progress of the Work, the Engineer/Architect shall furnish to the Contractor such additional instructions as may be necessary to supplement the Contract Documents. All such instructions shall be consistent with the intent of the Contract Documents.

2.3.2 Additional instructions may include minor changes to the Work which affect neither the Contract Price nor the Contract Time.

2.3.3 Additional instructions may be in the form of drawings, samples, models or written instructions.

2.3.4 Additional instructions will be issued by the Engineer/Architect with reasonable promptness and in accordance with any schedule agreed upon for such instructions.

2.3.5 The Contractor shall prepare and update, as required, a construction schedule indicating the timing of major activities of the Work. The schedule shall be designed to conform with the Contract Time. The schedule shall be submitted to the Engineer/Architect within seven (7) days of the date of the Owner's letter of award. The contractor shall monitor the progress of the Work relative to the schedule and advise the Engineer/Architect of any revisions required as a result of delays, as provided for in **2.5.0 DELAYS**, and indicating what action will be taken to complete the Work within the Contract Time.

2.4.0 ENGINEER/ARCHITECT'S DECISIONS

- 2.4.1 The Engineer/Architect, in the first instance, shall decide on questions arising under the contract Documents and interpret the requirements therein. Such decisions shall be given in writing.
- 2.4.2 The Contractor shall notify the Engineer/Architect in writing within fourteen (14) days of receipt of a decision of the Engineer/Architect referred to in 2.4.1, should they hold that a decision by the Engineer/Architect is in error and/or at variance with the Contract Documents. Unless the Contractor fulfils this requirement, subsequent claims by them for extra compensation arising out of the decision will not be accepted.
- 2.4.3 If the question of error and/or variance is not resolved immediately, and the Engineer/Architect decides that the disputed work shall be carried out, the Contractor shall act according to the Engineer/Architect's written decision.

Any questions of change in Contract Price and/or extension of Contract Time due to such error and/or variance shall be decided as provided in **2.11.0 DISPUTES**.

2.5.0 DELAYS

- 2.5.1 If it can be clearly shown that the Contractor is delayed in the performance of the Work by any act or fault of the Owner, Engineer/Architect, then the Contract Time shall be extended for such reasonable time as the Engineer/Architect may decide in consultation with the Owner and the Contractor. The Contractor shall be entitled to be reimbursed for any costs incurred by them as a result of such a delay occasioned by the act or fault, provided that it can be clearly shown that the Contractor's forces cannot work efficiently elsewhere on the project and that the incurred cost is limited to that which could not reasonably have been avoided.
- 2.5.2 If the Contractor is delayed in the performance of the Work by a Stop Work Order issued by any court or other public authority and providing that such order was not issued as the result of any act or fault of the Contractor or of anyone employed by them directly or indirectly then the Contract Time shall be extended for such reasonable time as the Engineer/Architect may decide in consultation with the Contractor.
- 2.5.3 If the Contractor is delayed in the performance of the Work by civil disorders, labour disputes, strikes, lockouts, (including lockouts decreed or recommended for its members by a recognized Contractor's Association, of which the Contractor is a member) fire, unusual delay by common carriers or unavoidable casualties, or without limit to any of the foregoing, by any cause of any kind whatsoever beyond the Contractor's control, then the Contract Time shall be extended for such reasonable time as may be decided by the Engineer/Architect in consultation with the Owner and the Contractor, but in no case shall the extension of time be less than the time lost as the result of the event causing the delay, unless such shorter extension of time be agreed to by the Contractor.

2.5.4 No extension shall be made for delays unless written notice of claims is given to the Engineer/Architect within fourteen (14) days of its commencement, providing that in the case of the continuing cause of delay one notice shall be necessary.

2.5.5 If no schedule is provided under **2.3.0 ADDITIONAL INSTRUCTIONS AND SCHEDULE OF WORK**, no claim for delay will be considered because of failure to furnish instructions until fourteen (14) days after a demand for such instructions had been made and not then unless such claim is reasonable.

2.6.0 OWNER'S RIGHT TO PERFORM WORK, STOP WORK AND/OR TERMINATE CONTRACT

2.6.1 If the Contractor should be adjudged bankrupt or makes a general assignment for the benefit of creditors because of their insolvency or if a Receiver is appointed on account of their insolvency, the Owner may, without prejudice to any other right or remedy they may have, by giving the Contractor or Receiver or Trustee in Bankruptcy written notice, terminate the Contract. If a Performance Bond has been provided by the Contractor guaranteeing faithful performance of the Work, the Owner shall give written notice to the Surety invoking the terms of the bond.

2.6.2 The Owner may notify the Contractor in writing that they are in default of their contractual obligations, if the Contractor:

- a) Fails to proceed regularly and diligently with the Work; or
- b) Without reasonable cause wholly suspends the carrying out of the Work before the completion thereof; or
- c) Refuses or fails to supply sufficient, properly skilled workmen for proper workmanship, products or construction machinery and equipment for the scheduled performance of the Work within five (5) working days of receiving written notice from the Engineer/Architect except in those cases provided in **2.5.0 DELAYS**; or
- d) Fails to make payments due to their Subcontractors, their Suppliers for their workmen; or
- e) Persistently disregards laws or ordinances, or the Engineer/Architect's instructions; or
- f) Otherwise violates the provisions of their Contract to a substantial degree.

Such written notice by the Owner shall instruct the Contractor to correct the default within five (5) working days from the receipt of the written notice. If a Performance Bond has been provided by the Contractor, a copy of such written notice will be provided to the Surety.

- 2.6.3 If the correction of the default cannot be completed within the five (5) working days specified, the Contractor shall be considered to be in compliance with the Owner's instruction if they:
- a) Commence the correction of the default within the specified time; and
 - b) Provide the Owner with an acceptable schedule for such correction; and
 - c) Complete the correction in accordance with such schedule.
- 2.6.4 If the Contractor fails to correct the default within the time specified or subsequently agreed upon, the Owner may, without prejudice to any other right or remedy they may have:
- a) Correct such default and deduct the cost thereof as certified by the Engineer/Architect from any payment due under the Contract; or
 - b) Terminate the Contract by written notice to the Contractor. If a Performance Bond has been provided by the Contractor, the Owner will provide the Surety with a copy of such notice.
- 2.6.5 If the Owner terminates the Contract under the conditions set out above, they are entitled to:
- a) Take possession of the premises and products and utilize the temporary buildings, plants, tools, construction machinery and equipment, goods and materials, intended for, delivered to and placed on or adjacent to the Work and may complete the Work by whatever method they may deem expedient but without undue delay or expense;
 - b) Withhold any further payments to the Contractor until the Work is finished;
 - c) Upon total performance of the Work, charge the Contractor the amount by which the full cost of finishing the Work as certified by the Engineer/Architect including compensation to the Engineer/Architect for their additional services and a reasonable allowance to cover the cost of any corrections required by **2.26.0 WARRANTY** exceeds the unpaid balance of the Contract Price; or if such cost of finishing the Work is less than the unpaid balance of the Contract Price, pay the Contractor the difference;
 - d) On expiry of the warranty period, charge the Contractor the amount by which the cost of corrections under **2.26.0 WARRANTY** exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the Contractor the difference;

e) Invoke the terms of the Performance Bond if such Bond has been provided under the Contract.

2.6.6 The Contractor's obligation under the Contract as to the performance of the Work up to the time of termination will remain in force after such termination.

2.7.0 CONTRACTOR'S RIGHT TO STOP WORK AND/OR TERMINATE CONTRACT

2.7.1 If the Owner should be adjudged bankrupt or makes a general assignment for the benefit of creditors or if a Receiver is appointed on account of their insolvency, the Contractor may, without prejudice to any other right or remedy they may have, by giving the Owner written notice, terminate the Contract.

2.7.2 If the Work should be stopped or otherwise delayed for a period of thirty (30) days or more under an order of any court or other public authority and providing that such order was not issued as the result of any act or fault of the Contractor or of anyone directly or indirectly employed by him, the Contractor may, without prejudice to any other right or remedy they may have, by giving the Owner fifteen (15) days' written notice, terminate the Contract.

2.7.3 The Contractor may notify the Owner in writing that the Owner is in default of their contractual obligations if:

- a) The Engineer/Architect fails to issue a certificate in accordance with **2.16.0 CERTIFICATES AND PAYMENTS;**
- b) The Owner fails to pay the Contractor when due any amount certified by the Engineer/Architect and verified by the audit of the Owner;
- c) The Owner violates the provisions of the Contract to a substantial degree.

Such written notice shall advise the Owner that if such default is not corrected within fifteen (15) days from the receipt of the written notice, the Contractor may, without prejudice to any other right or remedy they may have, stop the Work and/or terminate the Contract.

2.7.4 If the Contractor terminates the Contract under the conditions set out above, they shall be entitled to be paid for all work performed including reasonable overhead and profit and for any loss sustained upon products, construction machinery and equipment and other damages as the Contractor may have sustained as a result of the termination of the Contract.

2.8.0 OTHER CONTRACTORS

- 2.8.1 The Owner reserves the right to let separate contracts in connection with the project of which the Work is part or do certain work by their own forces.
- 2.8.2 The Owner shall, in such cases, coordinate the Work and insurance coverage of other Contractors as it affects the Work of this Contract.
- 2.8.3 The Contractor shall coordinate their work with that of other Contractors and connect as specified or shown in the Contract Documents. Any change in the costs incurred by the Contractor in the planning and performance of such work which was not shown or included in the Contract Documents as of the date of signing the Contract, shall be evaluated as provided under **2.14.0 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK** and authorized as provided in **2.13.0 CHANGES IN THE WORK AND EXTRA WORK**.
- 2.8.4 The Contractor shall report to the Engineer/Architect any apparent deficiencies in other Contractor's work which would affect this Contract immediately as they come to their attention and shall confirm such report in writing. Failure by the Contractor to so report shall invalidate any claims against the Owner by reason of the deficiencies of other Contractor's work except as to those of which they were not reasonably aware.

2.9.0 ASSIGNMENT

- 2.9.1 The Contractor shall not assign the Contract or any part thereof or any benefit or interest therein or thereunder without the written consent of the Owner.

2.10.0 SUBCONTRACTORS

- 2.10.1 The Contractor agrees to preserve and protect the rights of the Owner under the Contract with respect to any work to be performed under subcontract. The Contractor shall:
- a) Require their Subcontractors to perform their work in accordance with and subject to the terms and conditions of the Contract Documents; and
 - b) Be fully responsible to the Owner for acts and omissions of their Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by them.

The Contractor, therefore, agrees that they will incorporate all the terms and conditions of the Contract Documents into all Subcontractor Agreements they enter into with their Subcontractors.

- 2.10.2 The Contractor shall employ those Subcontractors proposed by them in writing and accepted by the Owner prior to the signing of the Contract for such portions of the Work as may be designated in the bidding requirements.
- 2.10.3 The Owner may, for reasonable cause, object to the use of a proposed Subcontractor and require the Contractor to employ one of the other Subcontractor Tenderers.
- 2.10.4 In the event that the Owner requires a change from any proposed Subcontractor, the Contract price shall be adjusted by the difference in cost occasioned by such required change.
- 2.10.5 The Contractor shall not be required to employ as a Subcontractor any person or firm to whom they may reasonably object.
- 2.10.6 The Engineer/Architect may, upon reasonable request and at their discretion, provide to a Subcontractor information as to the percentage of the Subcontractor's work which has been certified for payment.
- 2.10.7 Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the Owner.

2.11.0 DISPUTES

- 2.11.1 Differences between the parties to the Contract as to the interpretation, application or administration of this Contract or any failure to agree where agreement between the parties is called for, herein collectively called disputes, which are not resolved in the first instances by decision of the Engineer/Architect pursuant to the provisions of **2.4.0 ENGINEER/ARCHITECT'S DECISIONS** shall be settled in accordance with the requirement of the General Conditions.
- 2.11.2 The Claimant shall give written notice of such dispute to the other party no later than fourteen (14) days after the receipt of the Engineer/Architect's decisions given under **2.4.0 ENGINEER/ARCHITECT'S DECISIONS**. Such notice shall set forth particulars of the matters in dispute, the probable scope, extent and value of the dispute and relevant provisions of the Contract Documents. The other party shall reply to such notice no later than fourteen (14) days after they receive or are considered to have received it, setting out in such reply their grounds and other relevant provisions of the Contract Documents.
- 2.11.3 Pending settlement of the dispute, the Engineer/Architect will give such instructions as, in their opinion, are necessary for the proper performance of the Work or to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim they may have. If it is subsequently determined that such instructions were in error or at variance with the Contract Documents, the Owner shall pay the Contractor cost incurred by the Contractor in carrying out such instructions which they were

required to do beyond what the Contract Documents correctly understood and interpreted would have required them to do, including costs resulting from interruption of the Work.

- 2.11.4 It is agreed that no act by either party shall be construed as a renunciation or waiver of any of their rights or recourse, provided they have given the notices in accordance with Paragraph 2.11.2 and have carried out the instructions as provided in Paragraph 2.11.3.
- 2.11.5 If the dispute or claim cannot be resolved to the satisfaction of both parties, either party may refer the matter to such judicial tribunal as the circumstances require.
- 2.11.6 In recognition of the obligation of the Contractor to perform the disputed work as provided in Paragraph 2.11.3, it is agreed that settlement of dispute proceedings may be commenced immediately following the dispute in accordance with the afore going settlement of dispute procedures.

2.12.0 INDEMNIFICATION

- 2.12.1 Except as provided in Paragraph 2.10.2, the Contractor shall be liable for and shall indemnify and hold harmless the Owner and the Engineer/Architect, their agents and employees from and against all claims, demands, losses, costs, damages, actions, suits or proceedings whatsoever arising under any statute or Common law.
- a) In respect of personal injury to or the death of any person whomsoever arising out of or in the course of or caused by the carrying out of the Work; and
- b) In respect of any injury or damage whatsoever to any property, real or personal or any chattel real, insofar as such injury or damage arises out of or in the course of or by reason of the carrying out of the Work.
- 2.12.2 The Contractor shall not be liable under Paragraph 2.12.1 if the injury, death, loss or damage is due to any act or neglect of the Owner or Engineer/Architect, their agents or employees.

2.13.0 CHANGES IN THE WORK AND EXTRA WORK

- 2.13.1 The Owner may, without invalidating the Contract, make changes by altering, adding to or deducting from the Work, with the Contract Price and the Contract Time being adjusted accordingly; and
- 2.13.2 No change in the Work shall be made without prior written order from the Owner, and no claim for an addition or deduction to the Contract Price or change in the Contract Time shall be valid unless so ordered and at the same time valued or agreed to be valued as provided in **2.14.0 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK**. Signed faxed copies are acceptable at the discretion of the Owner.

2.14.0 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK

2.14.1 The value of any change shall be determined in one or more of the following methods:

- a) By estimate and acceptance in a lump sum;
- b) By unit prices subsequently agreed upon;
- c) By cost and a fixed or percentage fee.

In the case of changes in the Work valued as outlined in Paragraph 2.14.1(a) (as will be the usual case), the Contractor will submit an itemized estimate of all materials and labour (including Subcontractor's work) to complete the change.

In the case of changes in the Work as valued in Paragraph 2.14.1 (c), the Contractor shall submit detailed invoices, vouchers and time sheets for all materials and labour to complete the change.

The submissions in both cases shall be in the manner acceptable to the Engineer/Architect and will show separately the following percentages for overhead and profit:

- (i) Subcontractors shall include, in the breakdown, their 15 percent mark-up (10 percent of the estimated cost for the overhead and 5 percent for profit).
- (ii) The Contractor shall include, in the breakdown, the percentages as outlined in (i) for the overhead and profit on their portion of the Work.
- (iii) The Contractor shall add 10 percent to the Subcontractor's pricing for their own profit and overhead combined.

2.14.2 Notwithstanding the provisions of Paragraph 2.14.1, in case of changes in the Work, the amount charged for equipment rentals shall be that provided in the rental Contract, and no additional amount shall be paid as markup for overhead or profit for the Contractor or Subcontractor.

2.14.3 When a change in the Work is proposed or required, the Contractor shall present to the Engineer/Architect for approval their claim for the change in the Contract Price and/or change in the Contract Time in a form acceptable to the Engineer/Architect and including the appropriate documentation. The Engineer/Architect shall satisfy themselves as to the correctness of such claim, and when approved by the Owner, a change order will be issued to the Contractor to proceed with the change. The value of Work performed in the change shall be included for payment with the regular certificates for payment.

- 2.14.4 In the case of changes in the Work to be paid for under methods (b) and (c) of Paragraph 2.14.1, the form of presentation of costs and methods of measurement shall be agreed to by the Engineer/Architect and Contractor before proceeding with the change. The Contractor shall keep accurate records, as agreed upon, of quantities or costs and present an account of the cost of the change in the Work, together with vouchers where applicable.
- 2.14.5 If the method of valuation, measurement and the change in Contract Price and/or change in Contract Time cannot be promptly agreed upon, and the change is required to be proceeded with, then the valuation, measurement and the change in Contract Price and/or Contract Time will be subject to final determination in the manner set out in **2.11.0 DISPUTES**. In this case, the Engineer/Architect shall, with the consent of the Owner, issue a written authorization for the change setting out the method of valuation and, if by lump sum, their valuation of the change in Contract Price and/or Contract Time.
- 2.14.6 In the case of a dispute in the valuation of a change authorized in the Work and pending final determination of such value, the Engineer/Architect shall certify the value of the Work performed in accordance with their own evaluation of the change and include the amount with the regular certificates for payment. The Contractor shall keep accurate records of quantities and cost of such work.
- 2.14.7 It is intended in all matters referred to above that both the Engineer/Architect and Contractor shall act promptly.
- 2.14.8 Should the Owner direct the Contractor not to correct work that has been damaged or that was not performed in accordance with the Contract Document, an equitable deduction from the Contract amount by the Architect/Engineer shall be made to compensate the Owner for the uncorrected or uncompleted work.
- 2.14.9 Credits will be based on the net cost of material and labour or the net difference in the unit price quantities.

2.15.0 APPLICATION FOR PAYMENT

- 2.15.1 Applications for payment on account may be made monthly as the Work progresses.
- 2.15.2 Applications for payment shall be made monthly on a date to be agreed upon between the Owner and the Contractor, and the amount claimed shall be for the value proportionate to the amount of the Contract, of the Work performed and products delivered to the site at that date.
- 2.15.3 The Contractor shall submit to the Engineer/Architect, before the first application for payment, a schedule of values of the various parts of the Work aggregating the total amount of the Contract Price and divided so as to facilitate evaluation of applications for payment.

- 2.15.4 This schedule shall be made out in such form and supported by such evidence as to its correctness as the Engineer/Architect may reasonably direct and, when approved by the Engineer/Architect, shall be used as the basis for application for payment.
- 2.15.5 When making application for payment, the Contractor shall submit a statement based upon this schedule. Claims for products delivered to the site but not yet incorporated into the Work shall be supported by such evidence as the Engineer/Architect may reasonably require to establish the value and delivery of the products.
- 2.15.6 With each monthly claim for payment, except the first, the Contractor shall submit a Statutory Declaration attesting that they have made all payments to Subcontractors, Suppliers, and workmen on behalf of whom amounts were included in the previous claim for payment.
- 2.15.7 Applications for release of holdback monies following the substantial performance of the Work and the application for final payment shall be made at the time in the manner set forth in **2.16.0 CERTIFICATES AND PAYMENTS**.
- 2.15.8 For **all** projects, it should be clearly understood that the University's policy is as follows:
- a) Each Progress Claim must be accompanied by a breakdown indicating amounts included for each Subcontractor;
 - b) When the University makes a Progress Payment, it is made in prorated amounts on behalf of those Subcontractors for whom amounts have been included in the corresponding Progress Claim;
 - c) The Contractor submitting the Progress Claim **must** make payment of the amounts included for the various Subcontractors to the various Subcontractors within ten (10) working days of issuance of the Progress Payment by the University.
 - d) Monthly payment amounts are not final or conclusive as to their value or quality of work performed and are subject to reopening and readjustment
- 2.15.9 Contractors not following the above procedures will be considered to be in default of their Contract, and the University may proceed in accordance with **Article 2.6.0 OWNER'S RIGHT TO PERFORM WORK, STOP WORK AND/OR TERMINATE CONTRACT** Subsection **2.6.2 (d)** of the General Conditions.

2.16.0 CERTIFICATES AND PAYMENTS

2.16.1 The Engineer/Architect shall, within ten (10) days of receipt of an application for payment from the Contractor submitted in accordance with **2.15.0 APPLICATION FOR PAYMENT**, issue a certificate for payment in the amount applied for or such amount as they shall determine to be properly due. If the Engineer/Architect amends the application, they shall promptly notify the Contractor in writing, giving their reason(s) for the amendment.

2.16.2 The Owner shall, within thirty (30) days of receipt and approval by the Owner of a certificate for payment from the Engineer/Architect, make payment to the Contractor on account.

2.16.3 Notwithstanding any other provisions of the Contract:

- a) Where legislation permits and where, upon application by the Contractor, the Engineer/Architect has certified that a Subcontract has been totally performed to their satisfaction prior to the Substantial Performance of this Contract, the Owner may, at their discretion, pay the Contractor the holdback retained for such Subcontractor on the day following the expiration of the Statutory Limitations Period stipulated in the Mechanic's Lien Act applicable to the place of the Work and subject to the following conditions:
 - (i) A copy of the Contract between the Subcontractor and the General Contractor must be submitted.
 - (ii) The Subcontract is completed without deficiencies.
 - (iii) The warranty for the Subcontract will not start until Substantial Performance of the General Contract.
 - (iv) The General Contractor provides an approved Statutory Declaration that all monies have been paid to the said Subcontractor.
 - (v) The General Contractor provides an approved Waiver of Lien from this Subcontractor.
 - (vi) The Contractor and the Subcontractor provide an approved Waiver of Claim for all work associated with this Subcontractor.
 - (vii) A certificate is issued by the Engineer/Architect indicating that the Subcontract has been totally completed to their satisfaction.
 - (viii) The Owner will, at that time, release the total amount specified on the Subcontractor's Contract.

- 2.16.4 Notwithstanding the provisions of Paragraph 16.3 (a) and notwithstanding the wording of such certificate, the Contractor shall ensure that such work is protected pending the Total Performance of the Contract and be responsible for the correction of any defects in it regardless of whether or not they were apparent when such certificates were issued.
- 2.16.5 The Engineer/Architect shall within ten (10) days of receipt of an application from the Contractor for a Certificate of Substantial Performance make an inspection and assessment of the Work to verify the validity of the application. The Engineer/Architect shall within seven (7) days of their inspection notify the Contractor of their approval or the reasons for their disapproval of the application. When the Engineer/Architect finds the Work to be substantially performed, they shall issue such a certificate. The date of this certificate shall be the date of Substantial Performance of the Contract. Immediately following the issuance of the Certificate of Substantial Performance, the Engineer/Architect, in consultation with the Contractor, shall establish a reasonable date for the Total Performance of the Contract.
- 2.16.6 Following the issuance of the Certificate of Substantial Performance and upon receipt from the Contractor of all documentation called for in the Contract Documents, the Engineer/Architect shall issue a Certificate for Payment of holdback monies, providing that no lien or privilege claims against the Work exists, that the Contractor has submitted to the Owner a sworn statement that all accounts for labour, Subcontracts, products, construction machinery and equipment and any other indebtedness which may have been incurred by the Contractor in the Substantial Performance of the Work and for which the Owner might in any way be held responsible, have been paid in full and that the Contractor has submitted to the Owner a waiver of all claims associated with this project except holdback monies properly retained. The holdback monies will become due and payable on the day following the expiration of the Statutory Limitation Period stipulated in the Mechanic's Lien Act applicable to the place of buildings. The Owner may retain out of such holdback monies any sum required by law to satisfy any liens against the Work or other monetary claims against the Contractor which may be enforceable against the Owner.
- 2.16.7 The Engineer/Architect shall, within ten (10) days of receipt of an application from the Contractor for payment upon Total Performance of the Contract, make an inspection and assessment of the Work to verify the validity of the application. The Engineer/Architect shall, within seven (7) days of their inspection, notify the Contractor of their approval or the reasons for their disapproval of the application. When the Engineer/Architect finds the Work to be totally performed to their satisfaction, they shall issue a Certificate of Total Performance and certify for payment the remaining monies due to the Contractor under the Contract, less any holdback monies which are required to be retained. The date of this certificate shall be the date of Total Performance of the Contract. The Owner shall, within thirty (30) days of issuance of such certificate, make payment to the Contractor in accordance with the provisions of the Contract.
- 2.16.8 The release of any remaining holdback monies shall become due and payable on the day following the expiration of the Statutory Limitation period stipulated in the

Mechanics' Lien Act of the place of building provided that no claims against the Work exists and that the Contractor has submitted to the Owner a sworn statement that all accounts for labour, Subcontractors, products, construction machinery and equipment and any other indebtedness which may have been incurred by the Contractor in the Total Performance of the Work and for which the Owner might in any way be held responsible have been paid in full, except holdback monies properly retained.

2.16.9 No certificate for payment, any payment made thereunder or any partial or entire use of occupancy of the Work by the Owner shall constitute an acceptance of any work or products not in accordance with the Contract Documents.

2.16.10 As of the date of Total Performance of the Work as set out in the Certificate of Total Performance of the Work, the Owner expressly waives and releases the Contractor from all claims against the Contractor including, without limitation, those that might arise from the negligence or breach of Contract by the Contractor except one or more of the following:

- a) Those made in writing prior to the date of the Total Performance of the Work and still unsettled;
- b) Those arising from the provisions of **2.12.0 INDEMNIFICATION** or **2.26.0 WARRANTY**;
- c) Those made 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 or within such shorter period as may be prescribed by any Limitation Statute of the Province of Newfoundland and Labrador and arising from any liability of the Contractor for damages resulting from their performance of the Contract with respect to substantial defects or deficiencies in the Work for which the Contractor is proven responsible.

As used herein, "substantial defects or deficiencies" means those defects or deficiencies in the Work which affect the Work to such an extent or in such manner that a significant part or the whole of the Work is unfit for the purpose intended by the Contract Documents.

2.16.11 As of the date of Total Performance of the Work, as set out in the Certificate of Total Performance of Work, the Contractor expressly waives and releases the Owner from all claims against the Owner including, without limitation, those that might arise from the negligence or breach of Contract by the Owner except those made in writing prior to the Contractor's application for payment upon Total Performance of the Work and still unsettled.

2.16.12 In the event of conflict between the provisions of the General Conditions and **2.24.0 DAMAGES AND MUTUAL RESPONSIBILITY**, the provisions of this General Condition shall govern.

2.16.13 The holdback to be used by the Engineer/Architect when issuing certificates of payment will be ten (10) percent of the value of the Work completed at the date of Contractor's claim.

2.16.14 Notwithstanding any other provision of this Contract, the Owner may:

- a) In the event of a claim by the Owner against the Contractor for damages arising out of the performance or non-performance of the Contract, withhold payment of any amount equal to the alleged damages until the liability for damages is established, and no amount of interest will be paid on amounts held under this Clause;
- b) Set-off amounts owing by the Contractor to the Owner;
- c) Following the issuance of the Certificate of Substantial Performance, withhold payment of an amount equal to twice the cost as estimated by the Engineer/Architect of remedying deficiencies until the issuance of a Certificate of Total Performance, and no amount of interest will be paid on amounts held under this Clause.

2.17.0 TAXES AND DUTIES

2.17.1 Unless otherwise stated in the Supplementary General Conditions, the Contractor shall pay all applicable government sales taxes, goods and services taxes, customs duties and excise taxes with respect to the Contract.

2.17.2 Any increase or decrease in costs to the Contractor due to changes in such taxes and duties after the date of the Agreement and up to the agreed date of completion shall increase or decrease the Contract Price accordingly. If the Owner so desires, the Contractor is to cooperate with the Engineer/Architect and Owner and permit access to books and records in order to establish the amount of such taxes involved.

2.17.3 The Contractor shall maintain full records of their estimates and of actual costs to them of the Work, together with all proper tender calls, quotations, contracts, correspondence, invoices, receipts, payments to Subcontractors and Suppliers and vouchers relating thereto and shall make them available to audit and inspection by the Owner, the Auditor General for Newfoundland and Labrador or by persons acting on their behalf and shall furnish them with any information which they may require from time to time in connection with such records.

2.18.0 LAWS, NOTICES, PERMITS AND FEES

2.18.1 The laws of the Province of Newfoundland and Labrador shall govern the Work.

2.18.2 The Contractor shall obtain all permits, licenses and certificates and pay all fees required for the performance of the Work which are in force at the date of tender closing with the following exceptions:

- a) The Contractor shall obtain building permits for the Work but are not required to pay for said permits.
- b) The Contractor shall not include the obtaining of permanent easements or rights of servitude.

2.18.3 The Contractor shall give all required notices and comply with all laws, ordinances, rules, regulations, codes and order of all authorities having jurisdiction relating to the Work, to the preservation of the public health and construction safety which are or become in force during the performance of the Work.

2.18.4 The Contractor shall not be responsible for verifying that the Contract Documents are in compliance with the applicable laws, ordinances, rules, regulations and codes relating to the Work. If the Contract Documents are a variance therewith or changes which necessitate modifications to the Contract Documents are required by the authorities having jurisdiction subsequent to the date of tender closing, the Contractor shall notify the Engineer/Architect in writing requesting direction immediately when any such variance or change is observed by them. The Engineer/Architect will make the changes required to the Contract Documents, and the Contract Price and/or Contract Time shall be adjusted in accordance with **2.13.0 CHANGES IN THE WORK AND EXTRA WORK** and evaluated in accordance with **2.14.0 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK**.

2.18.5 If the Contractor fails to notify the Engineer/Architect in writing and obtain their direction as required in 2.18.4 and performs any work knowing it to be contrary to any laws, ordinances, rules, regulation, codes and orders of any authority having jurisdiction, they shall be responsible for and shall correct any violations thereof and shall bear all costs, expense and damages, attributable to their failure to comply with the provisions of such laws, ordinances, rules, regulations, codes and orders.

2.19.0 PATENT FEES

2.19.1 The Contractor shall pay all royalties and patent license fees required for the performance of the Contract and such royalties or fees shall be deemed to have been included in the Contract Price. They shall hold the Owner harmless from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor's performance of the Contract which are attributable to an infringement or an alleged infringement of any patent or invention by the Contractor or anyone for whose acts they may be liable.

2.19.2 The Owner shall hold the Contractor harmless against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor's performance of the Contract which are attributable to an infringement or an alleged

infringement of any patent or invention in executing anything for the purpose of the Contract, the model, plan or design of which was supplied to the Contractor by the Owner.

2.20.0 WORKERS' COMPENSATION

2.20.1 The Contractor shall be registered with and shall remain in good standing with the Workplace Health and Safety Compensation Commission during the term of their Contract.

2.20.2 At any time during the term of the Contract when requested by the Owner, the Contractor shall provide evidence of compliance by themselves and any or all of their Subcontractors.

2.21.0 LIABILITY INSURANCE

2.21.1 Comprehensive General Liability Insurance

- a) Without restricting the generality of **2.12.0 INDEMNIFICATION**, the Contractor shall provide and maintain, either by way of a separate policy or by an endorsement to their existing policy, Comprehensive General Liability Insurance acceptable to the Owner and subject to limits set out in detail below, inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof.
- b) The insurance shall be in the joint names of the Contractor and the Owner. It shall also cover as named Insureds all Subcontractors and anyone employed directly or indirectly by the Contractor or their Subcontractors to perform a part or parts of the Work but excluding Suppliers whose only function is to supply and/or transport products to the project site.
- c) The insurance shall also include as Named Insureds the architectural and engineering consultants of the Owner and Engineer/Architect.
- d) The insurance shall preclude subrogation claims by the Insurer against anyone insured thereunder.
- e) The Comprehensive General Liability Insurance will not be limited to, but shall include coverage for:
 - (i) Premises and Operations Liability
 - (ii) Products or Completed Operations Liability
 - (iii) Blanket Contractual Liability

- (iv) Cross Liability
- (v) Elevator and Hoist Liability
- (vi) Contingent Employer's Liability
- (vii) Personal Injury Liability arising out of false arrest, detention or imprisonment or malicious prosecution, libel, slander or defamation of character, invasion of privacy or wrongful entry
- (viii) Shoring, blasting, excavating, underpinning, demolition, pile driving and caisson work, work below ground surface, tunnelling and grading, as applicable
- (ix) Liability with respect to non-owned, licensed vehicles.

2.21.2 The Contractor shall provide and maintain liability insurance in respect of owned licensed vehicles subject to limits set out in detail in Article **2.21.0 LIABILITY INSURANCE** subsection **2.21.6**.

2.21.3 All liability insurance shall be maintained continuously until twelve (12) months after the date the Engineer/Architect issues a Certificate of Substantial Performance.

2.21.4 The Contractor shall provide the Owner with evidence of all liability insurance prior to the commencement of the Work and shall promptly provide the Owner with a certified true copy of each insurance policy.

2.21.5 All liability insurance policies shall contain an endorsement to provide all Named Insureds with prior notice of changes and cancellations. Such endorsements shall be in the following form:

"It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way nor cancelled until thirty (30) days after written notice of such change or cancellation shall have been given to all Named Insureds."

2.21.6 The Contractor shall protect themselves and indemnify and save the Owner harmless from any and all claims which may arise from the Contractor's performance or failure of performance of the Contract and for this purpose shall, without restricting the generality of the foregoing, maintain insurance acceptable to the Owner to the following limits:

- a) Where the contract value exceed \$100,000 (inclusive of HST)
 - Comprehensive General Liability = \$3,000,000.00;
 - Standard Automobile Policy Liability = \$3,000,000.00.

- b) Where the contract value is less than \$100,000 (inclusive of HST)
 - Comprehensive General Liability = \$2,000,000.00;
 - Standard Automobile Policy Liability = \$2,000,000.00.

Prior to the commencement of any work hereunder, the Contractor shall file with the Owner a copy of each insurance policy and certificate required.

2.22.0 *PROPERTY INSURANCE*

2.22.1 The Contractor shall provide and maintain property insurance acceptable to the Owner insuring the full value of the Work in the amount of the replacement cost or the Contract value, whichever is greater, and the full value as stated of products for incorporation into the Work. The insurance shall be in the joint names of the Contractor, the Owner, the Subcontractors as Unnamed Insured or, if they specifically request, as Named Insured. The policies shall preclude subrogation claims by the Insurer against anyone insured thereunder.

2.22.2 Such coverage shall be provided by EITHER an ALL RISKS Builders' Risk Policy OR by a combination of a Coverage and Malicious Damage Endorsements and a Builder's Risk Difference in Conditions Policy providing equivalent coverage of Piers, Wharves and Docks, Government Structures Policy.

2.22.3 The policies shall insure against all risks of direct loss or damage. Such coverage shall apply to:

- a) All products, labour and supplies of any nature whatsoever, the property of the Insureds or of others for which the Insureds may have assumed responsibility, to be used in or pertaining to the site preparations, demolition of existing structures, erections and/or fabrication and/or reconstruction and/or repair of the insured project, while on the site or in transit, subject to the exclusion of the property specified.
- b) The installation, testing and any subsequent use of machinery and equipment including boilers, pressure vessels or vessels under vacuum.
- c) Damage to the Work caused by an accident to and/or the explosion of any boiler(s) or pressure vessel(s) forming part of the Work.

Such coverage shall exclude construction machinery, equipment, temporary structural and other temporary facilities, tools and supplies used in the construction of the Work and which are not expendable under the Contract.

2.22.4 The Contractor shall provide the Owner with evidence of all insurance prior to the commencement of the Work and shall promptly provide the Owner with a certified true copy of each insurance policy.

Policies provided shall contain an endorsement to provide all Named Insureds with prior notice of changes and cancellations. Such endorsements shall be in the following form:

"It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way or cancelled until thirty (30) days after written notice of such change or cancellation shall have been given to all Named Insureds."

2.22.5 All such insurance shall be maintained continuously until ten (10) days after the date the Engineer/Architect issues a certificate of Total Performance. All such insurance shall provide for the Owner to take occupancy of the Work or any part thereof during the terms of this insurance. Any increase in the cost of this insurance arising out of such occupancy shall be at the Owner's expense.

2.22.6 The policies shall provide that, in the event of a loss, payment for damage to the Work shall be made to the Owner and the Contractor as their respective interests may appear. Damage shall not affect the rights and obligations of either party under the Contract except that the Contractor shall be entitled to such reasonable extension of time for Substantial and Total Performance of the Work as the Engineer/Architect may decide.

2.22.7 The Contractor and/or their Subcontractors, as may be applicable, shall be responsible for any deductible amounts under the policies and for providing such additional insurance as may be required to protect the Insureds against loss on items excluded from the policies.

2.22.8 When this Contract pertains to a new building or structure with a total tender amount greater than \$25,000.00, the Contractor shall maintain All Risk Builder's Risk Insurance acceptable to the Owner in the joint names of the Owner and Contractor in the amount of 100 percent of the total value of the Work done and material delivered to the site and payable to the Owner and Contractor as their respective interest may appear.

2.23.0 PROTECTION OF WORK AND PROPERTY

2.23.1 The Contractor shall protect the property adjacent to the project site from damage as the result of their operations under the Contract.

2.23.2 The Contractor shall protect the Work and the Owner's property from damage and shall be responsible for any damage which may arise as the result of their operations under the Contract except damage which occurs as the result of:

- a) Errors in the Contract documents; and/or
- b) Acts or omissions by the Owner, their agents, employees or other Contractors.

2.23.3 Should the Contractor, in the performance of this Contract, damage the Work and/or Owner's property and/or property adjacent to the place of the Work, the Contractor shall be responsible for making good such damage at their own expense or pay all costs incurred by others in making good such damage.

2.23.4 Should any damage occur to the Work and/or Owner's property for which the Contractor is not responsible as provided in of **2.12.0 INDEMNIFICATION**, they shall make good such damage to the Work and, if the Owner so directs, to the Owner's property, and the contract Price and Contract Time shall be adjusted in accordance with in **2.13.0 CHANGES IN THE WORK AND EXTRA WORK** and evaluated in accordance with in **2.14.0 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK**.

2.23.5 The Contractor shall be completely responsible for the safety of the Work as it applies to protection of the public and property and construction of the Work.

The codes that must be followed and enforced for safety are:

- a) The National Building Code, Part 8, Safety Measures at Construction and Demolition Sites (Latest Edition);
- b) Canadian Code for Construction Safety (Latest Edition) as issued by the Associate Committee of the National Building Code;
- c) The Occupational Health and Safety Act (1979) and Regulations.

2.23.6 Any person not following stipulated safety regulations shall be dismissed.

2.24.0 DAMAGES AND MUTUAL RESPONSIBILITY

2.24.1 If either party to this Contract should suffer damage in any manner because of any wrongful act or neglect of the other party or anyone employed by them then they shall be reimbursed by the other party for such damages. The party reimbursing the other party shall be subrogated to the rights of the other party in respect of such wrongful act or neglect if it be that of a third party.

2.24.2 Claims under this Contract shall be made in writing to the party liable within two (2) weeks after the first observance of such damage and may be adjusted by agreement or in the manner set out in **2.11.0 DISPUTES**.

2.24.3 If the Contractor has caused damage to any other Contractor on the Work, the Contractor agrees upon due notice to settle with such other Contractor by agreement or arbitration, if they will so settle. If such other Contractor sues the Owner on account of any damage alleged to have been sustained, the Owner shall notify the Contractor and may require the Contractor to defend the action at the Contractor's expense. If

any final order or judgment against the Owner arises therefrom, the Contractor shall pay or satisfy it and pay all costs incurred by the Owner.

2.24.4 If the Contractor becomes liable to pay or satisfy any final order, judgment or award against the Owner then the Contractor, upon undertaking to indemnify the Owner against any and all liability for costs, shall have the right to appeal in the name of the Owner such final order or judgment to any and all courts of competent jurisdiction.

2.24.5 Should the Contractor fail to meet the date to substantially perform the Work, as indicated in the Agreement between the Owner and the Contractor, and is unable to provide justification acceptable to the Owner for the delay then the Contractor will be held liable for any liquidated damage amount indicated in **3.0 SUPPLEMENTARY GENERAL CONDITIONS** and may be held liable for payment to the Owner for other damages and losses suffered by the Owner as a result of the Contractor's delay including additional costs for Engineering/Architectural supervision.

2.25.0 BONDS

2.25.1 The Contractor shall promptly provide the Owner the surety bonds called for in the Tender Documents.

2.25.2 All such bonds shall be issued by a duly incorporated surety company approved by the Owner and authorized to transact a business or surety-ship in the Province of Newfoundland and Labrador.

2.25.3 If bonds are called for in the Tender and Acceptance form, Instructions to Tenderers or Supplementary General Conditions, the costs attributable to providing such bonds shall be included in the tender price.

2.25.4 Should the Owner require the provision of a bond or bonds by the Contractor other than those provided for under 2.25.3, the Contract Price shall be increased by all costs attributable to providing such bonds.

2.26.0 WARRANTY

2.26.1 The Contractor shall be responsible for the proper performance of the Work to the extent that the design and specifications permit such performance.

2.26.2 Subject to Paragraph 2.26.1, the Contractor agrees to correct promptly, at their own expense, defects or deficiencies in the Work which appear prior to and during the period of one (1) year from the date of Substantial Performance of the Work or such longer periods as may be specified for certain products or work.

2.26.3 The Contractor shall correct and/or pay for any damage to other work resulting from any corrections required under the conditions of Paragraph 2.26.2.

2.26.4 Neither the Engineer/Architect's final certificate nor payment thereunder shall relieve the Contractor from their responsibility hereunder.

2.26.5 The Owner and/or Engineer/Architect shall give the Contractor written notice of observed defects promptly.

2.27.0 *CONTRACTOR'S RESPONSIBILITIES AND CONTROL OF THE WORK*

2.27.1 The Contractor shall have complete control of the Work and shall effectively direct and supervise the Work so as to ensure conformance with the requirements of the Contract Documents. They shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all parts of the Work under the Contract.

2.27.2 The Contractor shall have the sole responsibility for the design, erection, operation, maintenance and removal of temporary structural and other temporary facilities and the design and execution of construction methods required in their use. The Contractor shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform these functions where required by law or by the Contract Documents and, in all cases, where such temporary facilities and their method of construction are of such a nature that professional engineering skill is required to produce safe and satisfactory results.

2.27.3 Notwithstanding the provision of Paragraphs 2.27.1 and 2.27.2 above or any provisions to the contrary elsewhere in the Contract Documents where such Contract Documents include designs for temporary structural and other temporary facilities or specify a method of construction in whole or in part, such facilities and methods shall be deemed to comprise part of the overall design of the Work, and the Contractor shall not be held responsible for that part of the design or the specified method of construction. The Contractor shall, however, be responsible for the execution of such design or specified method of construction in the same manner that they are responsible for the execution of the Work.

2.27.4 The Contractor shall carefully examine the Contract Documents and shall promptly report to the Engineer/Architect any error, inconsistency or omission they may discover. The Contractor shall not be held liable for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents which they may discover, and they shall not proceed with the Work affected until they have received corrected or missing information from the Engineer/Architect.

2.28.0 *SUPERINTENDENCE*

2.28.1 The Contractor shall employ a competent Superintendent and necessary assistants who shall be in attendance at the Work site at all times while the Work is being performed.

- 2.28.2 The Superintendent shall be satisfactory to the Engineer/Architect and shall not be changed except for good reason and only then after consultation with and agreement by the Engineer/Architect.
- 2.28.3 The Superintendent shall represent the Contractor at the place of work and instructions given to them by the Engineer/Architect shall be held to have been given to the Contractor. Important instructions shall be confirmed to the Contractor in writing, other instructions will be so confirmed if requested.

2.29.0 *LABOUR AND PRODUCTS*

- 2.29.1 Unless otherwise stipulated elsewhere in the Contract Documents, the Contractor shall provide and pay for all labour, products, tools, construction equipment and machinery, water, heat, light, power, transportation and other facilities and services necessary for the requirements of the Contract Documents.
- 2.29.2 All products provided shall be new unless otherwise specified in the Contract Documents. Any products which are not specified shall be of a quality best suited to the purpose required, and their use shall be subject to the approval of the Engineer/Architect.
- 2.29.3 In carrying out their duties under this Contract, the Contractor shall comply with all Provincial and Federal legislation respecting labour and the employment of labour, where applicable, including the Labour Standards Code and shall not operate in conflict with the Human Rights legislation. In the employment of labour, preference should be given to persons normally residing in Newfoundland and Labrador.
- 2.29.4 The Contractor and Subcontractors shall maintain and keep available for inspection by the Owner, a record of the names and addresses of all persons employed on the project.
- 2.29.5 The Contractor shall maintain good order and discipline among their employees engaged on the Work and shall employ on the Work only employees skilled in their various trades.
- 2.29.6 There shall be no discrimination in the selection of workers for employment on the project in respect to race, religion, views or political affiliation, and the office of the Canada Manpower will be used in the recruitment of workers wherever possible.
- 2.29.7 The Contractor shall pay fair wages and shall pay rates of wages and allowances to the various classes of labour not less favourable than those prevailing in the area where the Work is being performed.
- 2.29.8 The Contractor shall be aware that the majority of hourly-paid and maintenance workers employed within the University are unionized. It is of utmost importance that

any labour force used by the Contractor neither disrupts or be disrupted by any labour conditions existing on the University campus. Failure by the Contractor to familiarize themselves with labour conditions on Campus or disruptions to the Contractor's own labour force because of labour conditions on Campus will not relieve them of their obligations to furnish all labour and materials necessary to carry out the requirements of the Contract.

2.30.0 SUBSURFACE CONDITIONS

2.30.1 The Contractor shall promptly notify the Engineer/Architect in writing if, in their opinion, the subsurface conditions at the project site differ materially from that indicated or reasonably inferred from the Contract Documents.

2.30.2 After prompt investigation, should the Engineer/Architect determine that conditions do differ materially, they shall issue appropriate instructions for changes in the Work as provided for in **2.13.0 CHANGES IN THE WORK AND EXTRA WORK**.

2.31.0 USE OF THE WORK

2.31.1 The Contractor shall confine their apparatus, the storage of products and the operations of their employees to limits indicated by laws, ordinances, permits or by instructions of the Engineer/Architect and shall not unreasonably encumber the premises with their products.

2.31.2 The Contractor shall not load or permit to be loaded any part of the Work with a weight or force that will endanger its safety.

2.31.3 Unless otherwise provided, the Contractor shall, at their own expense and without expense to the Owner, make suitable provision to accommodate all traffic, either pedestrian or vehicular, over or around the project upon which work is being performed in a manner satisfactory to the Engineer/Architect.

2.31.4 The Contractor shall provide and maintain at their own expense such fences, barriers, signs, lights and watchmen as may be necessary to prevent avoidable accidents to University Users or to the public generally.

2.31.5 All work shall be executed with the least possible interference with or disturbance to personnel and the Public. The Contractor shall cooperate with the person in charge of the premises. The Contractor shall ascertain from the Owner's representative the hours during which the work shall be performed, conform to the directions of the representative and to the directions of the said representative in determining the order in which the work shall be done.

2.31.6 The Contractor shall carry out all work required to maintain the building services and to provide necessary access for personnel and vehicles whenever new work affects occupied portions of the building.

2.31.7 Before final completion of the work, the Owner shall be entitled to make use of any portion of the work which is completed and fit for use for the installation of equipment, storage and furniture, supplies, etc., and for occupancy, if such can be arranged without interfering with the progress of the work.

2.32.0 CUTTING AND REMEDIAL WORK

2.32.1 The Contractor shall do all cutting and remedial work that may be required to make the several parts of the Work come together properly and shall coordinate the Work to ensure that this requirement is kept to a minimum.

2.32.2 Should the Owner, the Engineer/Architect, other contractors or anyone employed by them, be responsible for ill-timed work necessitating additional cutting and/or remedial work to be performed, it shall be valued as provided in **2.14.0 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK** and added to the Contract Price.

2.32.3 Cutting and remedial work shall be performed by specialists familiar with the materials affected and shall be performed in a manner to neither damage nor endanger any work.

2.33.0 INSPECTION OF WORK

2.33.1 The Owner, the Engineer/Architect and their authorized representatives shall have access to the Work for inspection wherever it is in preparation or progress. The Contractor shall cooperate to provide reasonable facilities for such access.

2.33.2 If parts of the Work are designated for special tests, inspections or approvals in the Contract Documents or by the Engineer/Architect's instructions or the laws or ordinances of the place of the Work, the Contractor shall give the Engineer/Architect timely notice requesting inspection. Inspection by the Engineer/Architect shall be made promptly. The Contractor shall arrange for inspections by other authorities and shall notify the Engineer/Architect with timely notice of the date and time.

2.33.3 If the Contractor covers or permits to be covered any of the Work that is designated for special tests, inspections or approvals, before such special tests, the Contractor shall, if so instructed by the Engineer/Architect, uncover the Work, have the inspection satisfactorily completed and make good the Work at their own expense.

2.33.4 The Engineer/Architect may order any part of the Work to be specifically examined, should they believe such work not to be in accordance with the requirements of the Contract Documents. If upon examination such work is found not to be in accordance with the requirements of the Contract Documents, the Contractor shall correct such work and pay the cost of examination and correction. If such work is found to be in accordance with the requirements of the Contract Documents, the Owner will pay the cost of examination and replacement.

2.33.5 The Contractors shall furnish promptly to the Engineer/Architect two (2) copies of all certificates and inspection reports relating to the Work.

2.34.0 REJECTED WORK

2.34.1 Defective work, whether the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the Contractor and whether incorporated in the Work or not which has been rejected by the Engineer/Architect as failing to conform to the Contract Documents, shall be removed promptly from the premises by the Contractor and replaced and/or re-executed promptly in accordance with the Contract Documents at the Contractor's expense.

2.34.2 Other contractors' work destroyed or damaged by such removals or replacements shall be made good promptly at the Contractor's expense.

2.34.3 If, in the opinion of the Engineer/Architect, it is not expedient to correct defective work not done in accordance with the Contract Documents, the Owner may deduct from the Contract Price the difference in value between the Work as done and that called for by the Contract, the amount of which shall be determined in the first instance by the Engineer/Architect.

2.35.0 SHOP DRAWINGS AND SAMPLES

2.35.1 The term "shop drawings" means drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are to be provided by the Contractor to illustrate details of a portion of the Work.

2.35.2 The Contractor shall arrange for the preparation of clearly identified shop drawings as called for by the Contract Documents or as the Engineer/Architect may reasonably request.

2.35.3 Prior to submission to the Engineer/Architect, the Contractor shall review all shop drawings. By this review, the Contractor represents that they have determined and verified all field measurements, field construction criteria, materials, catalogue numbers and similar data, or will do so, and that they have checked and coordinated each shop drawing with the requirements of the Work and of the Contract Documents. The Contractor's review of each shop drawing shall be indicated by stamp, date and signature of a responsible person.

2.35.4 The Contractor shall submit shop drawings to the Engineer/Architect for their review with reasonable promptness and in orderly sequence so as to cause no delay in the Work or in the Work of other contractors. If either the Contractor or the Engineer/Architect so requests, they shall jointly prepare a schedule fixing the dates for submission and return of shop drawings. Shop drawings shall be submitted in the form

of reproducible transparencies or prints as the Engineer/Architect may direct. At the time of the submission, the Contractor shall notify the Engineer/Architect in writing of any deviations in the shop drawings from the requirements of the Contract Documents.

- 2.35.5 The Engineer/Architect will review and return shop drawings in accordance with any schedule agreed upon or otherwise with reasonable promptness so as to cause no delay. The Engineer/Architect's review will be for conformity to the design concept and for general arrangements only, and such review shall not relieve the Contractor of responsibility for errors or omissions in the shop drawings or of responsibility for meeting all requirements of the Contract Documents unless a deviation on the shop drawings has been approved in writing by the Engineers/Architects.
- 2.35.6 The Contractor shall make any changes in shop drawings which the Engineer/Architect may require consistent with the Contract Documents and resubmit, unless otherwise directed by the Engineer/Architect. When resubmitting, the Contractor shall notify the Engineer/Architect in writing of any deviations other than those requested by the Engineer/Architect.
- 2.35.7 The Contractor shall submit for the Engineer/Architect's approval such standard manufacturer's samples as the Engineer/Architect may reasonably require. Samples shall be labeled as to origin and intended use in the Work and shall conform to the requirements of the Contract Documents.
- 2.35.8 The Contractor shall provide samples of special products, assemblies or components when so specified. The cost of such samples not specified shall be authorized as an addition to the Contract Price as provided in **2.13.0 CHANGES IN THE WORK AND EXTRA WORK**.

2.36.0 TESTS AND MIX DESIGNS

- 2.36.1 The Contractor shall furnish to the Engineer/Architect test results and mix designs as may be requested. The testing company must first be approved by the Engineer/Architect.
- 2.36.2 The cost of tests and mix designs beyond those called for in the Contract Documents or beyond those required by law, ordinances, rules and regulations relating to the Work and the preservation of public health, shall be authorized as an addition to the Contract Price as provided in **2.13.0 CHANGES IN THE WORK AND EXTRA WORK**.

2.37.0 MATERIALS AND SUBSTITUTIONS

- 2.37.1 Materials described and named in the specifications with "or approved equal" clause after the Manufacturer's name are so described as to the establish quality only, and substitutions of a similar materials may be made before the award of the Contract provided the Engineer/Architect's approval is obtained. Substitutions after the award

may be considered under special circumstances as indicated in Subsection 1.7.4 in the **INSTRUCTIONS TO TENDERERS**.

- 2.37.2 Requests for substitutions must be accompanied by sufficient information in the form of shop drawings, manufacturer's literature, samples and other data to permit proper investigation of the substitutes proposed, together with any increase or decrease in price.
- 2.37.3 Whenever a substitute is proposed for approval, the Contractor shall guarantee that such proposed substitute will not adversely affect the space requirements allocated on the drawings for the material specified, and they shall agree to bear any additional expense incurred due to their use of the proposed substitute.
- 2.37.4 The Engineer/Architect may accept or reject any or all of the proposed substitutions as they see fit, and their decision on a question of equality shall be final.

2.38.0 TIME OF ESSENCE

- 2.38.1 Time is of the essence of the Contract.

2.39.0 CASH ALLOWANCE

- 2.39.1 The Contract Price includes cash allowances, if any, stated in the Contract Documents.
- 2.39.2 Cash allowances, unless otherwise specified, cover the net cost to the Contractor of services, products, construction machinery and equipment, freight, unloading, handling, storage, installation and other authorized expenses incurred in performing the Work stipulated under the cash allowances.
- 2.39.3 The cash allowances shall include the Contractor's overhead and profit in connection with such cash allowance.
- 2.39.4 The cash allowance shall not include HST.
- 2.39.5 Where costs under a cash allowance exceed the amount of the allowance, the Contractor shall be compensated for any excess incurred and substantiated plus an allowance for overhead and profit as set out in **2.14.0 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK**.
- 2.39.6 The Contract Price shall be adjusted by written order to provide for any excess or deficit to each cash allowance.
- 2.39.7 Progress payments on account of Work authorized under cash allowance shall be included in the Engineer/Architect's monthly certificates for payment.

2.39.8 A schedule shall be prepared jointly by the Engineer/Architect and Contractor to show the items called for under Cash Allowances. They must be authorized by the Owner for ordering purposes so that the progress of the Work will not be delayed.

2.40.0 CLEANUP AND FINAL CLEANING OF THE WORK

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

2.40.2 When the Work is substantially performed, the Contractor shall remove their surplus products, tools, construction machinery and equipment not required for the performance of the remaining Work. They shall also remove waste products and debris, other than that caused by the Owner, other contractors or their employees, and leave the Work clean and suitable for occupancy by the Owner, unless otherwise specified.

2.40.3 When the Work is totally performed, the Contractor shall remove their surplus products, tools, construction machinery and equipment. They shall also remove waste products and debris other than that caused by the Owner, other contractors or their employees.

3.0 SUPPLEMENTARY GENERAL CONDITIONS

SUPPLEMENTARY GENERAL CONDITIONS

3.1.0 Supplementary Instructions to Bidders

3.1.1 Where information in section 1, Instructions to Tenderers, differs from that in the Open Call and Acceptance Form, the Open Call and Acceptance Form shall take precedence.

3.1.2 Supplementary Safety Information: COVID-19 Requirements



COVID-19 – STANDARDIZED PROTOCOL FOR CONTRACTORS AT MEMORIAL

June 4, 2020

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1.0 Purpose

In accordance with federal, provincial and municipal government public health and safety directives, this protocol for Contractors at Memorial outlines recommended best practices for all Contractors including construction sites in order to maintain the health and safety of all workers required to perform duties at Memorial during the COVID-19 pandemic. The protocols, which include, detection, prevention and rapid response measures, help minimize the impacts of the crisis and ensure business continuity.

2.0 Objectives

The objectives of the protocol are to:

- Prioritize the health and safety of workers and of their surrounding communities;
- Apply directives, recommendations and best practices from federal, provincial and municipal public health authorities;
- Establish and maintain a standardized common COVID-19 Pandemic response plan for Contractors and across construction sites at Memorial University; and
- Foster open communication amongst stakeholders and ensure a respectful work environment.

3.0 Prevention Measures

3.1 Site Access

Contractors should develop a COVID-19 health and safety plan outlining their commitment to maintaining health and safety during the COVID-19 pandemic in accordance with the health and safety measures that have been put in place by the federal, provincial or municipal governments. A COVID-19 health and safety plan should be submitted to Memorial's Project Manager and reviewed by Memorial's Environmental Health and Safety unit prior to the start of work at Memorial. The COVID-19 health and safety plan are complementary to typical workplace risk assessments which are already required under provincial OHS legislation.

Contractors should communicate daily to both workers and Memorial project managers any amendments to the health and safety plan such as screening tools, programing changes, etc. that the Contractor intends to follow.

Each worker should remain inside their designated approved work area related to each project and should not go into any other locations at Memorial to eat lunch, purchase food, visit a friend, etc. and should only use designated washroom facilities. The Contractor is responsible to monitor workers outside of the designated project work areas, and the Contractor should ask workers in violation to leave any area the worker is not designated to be in. Exceptions will be made for workers responding to personal or work-related emergency events.

3.2 Communication and Awareness

All workers are responsible for implementing the following recommended practices for reducing the risk of transmission as identified by the Centers for Disease Control and Prevention (CDC), Health Canada, and the Canada Public Health Agency (PHAC):

- Avoid touching eyes, nose and mouth with unwashed hands; or when coughing or sneezing;
- Cough or sneeze into a tissue or the bend of your arm, not your hand; and dispose of any tissues you have used as soon as possible in a lined waste basket and wash your hands or use hand sanitizer, with at least 60 per cent alcohol, immediately afterwards;
- Clean and disinfect frequently touched objects and surfaces using a regular household cleaning spray or wipe;
- Do not share personal items or supplies such as phones, pens, notebooks, PPE, etc.;
- Avoid common greetings, such as handshakes; and
- Wash hands often with soap and water for at least 20 seconds, and especially after using the washroom; when preparing food, and after blowing nose, coughing, or sneezing. In the absence of hand washing facilities, use hand sanitizer with at least 60 per cent alcohol.

3.2.1 Communication of Suspected Cases of COVID-19

In the event that a worker reports feeling unwell, they should leave site and notify the Contractor's project manager, and the Contractor's project manager must immediately notify the Memorial Project Manager. The Contractor Project Manager must cooperate and share necessary information as applicable with Memorial to ensure the health and safety of all workers and to facilitate any contact tracing as will be required by the provincial Chief Medical Officer of Health.

3.2.2 Construction Sites

The Contractor should post clear signage at entry points on the construction site which outline the commitment of the Contractor to maintain health and safety measures during the COVID-19 pandemic, including any daily updates on the latest developments and guidelines from the NL Provincial government.

3.3 Working Remotely

Where practical, all office employees supporting a project should work remotely. Meetings are to be held through teleconferencing or video conferencing, using videoconference technology approved by Memorial.

3.4 Cleaning Protocols

Contractors should ensure any offices and job sites implement the cleaning measures of common areas as recommended by the CDC and PHAC. All door handles, railings and personal workstation areas should be wiped down at a minimum of twice a day with a disinfectant, such as disinfectant wipes. Individuals are responsible for cleaning their workstation area with disinfectant wipes.

Additional sanitary measures are implemented on site: water stations, a hand washing protocol, hand sanitizer stations, provision of disinfectant wiping products.

3.5 Compartmentalization of Construction Sites

Contractors should ensure that construction sites are delineated to the extent possible in zones or other methods to keep different crews/ trades physically separated at all time. This promotes physical distancing and supports the containment of disease transmission should it arise.

Directional travel should be established wherever practical to minimize worker's contact.

Freight elevators should be operated/occupied by only one individual at a time or where feasible, by respecting the physical distancing guidelines.

3.6 Site Operation

Contractors are encouraged to implement the following controls on site:

- Contractors are encouraged to develop alternate work methods to reduce numbers onsite i.e. split/alternating shifts to avoid extensive intermingling.
- The number of in-person meetings should be limited. If required, they should be held in well ventilated spaces, while maintaining physical distancing of 2 meters.
- Video conferencing or phone calls are recommended in lieu of in-person meetings.
- Stagger break and lunch schedules to minimize the number of workers in close proximity to one another. Socialization is discouraged at lunch time.
- Workers at sites should avoid working within two meters of others for prolonged periods unless their role requires closer proximity. In such cases the Contractor should consider, engineering and administrative control measures (i.e. barriers, or other necessary controls).
- Workers should conform to all PPE requirements of the Contractor, pursuant to the public health directives of the federal, provincial or municipal governments.

4.0 Construction Workers from Outside Newfoundland and Labrador

The following government-required documentation must be completed prior to or on arrival in the province. The documentation listed below is complementary to typical workplace risk assessments required under provincial OHS legislation.

4.1 Asymptomatic Workers from Other Provinces in Territories in Canada

Asymptomatic Workers in trades in NL from other provinces or territories in Canada must self-isolate for 14 days when not working. As of April 27, 2020 exempted asymptomatic workers in trades in NL from other provinces or territories in Canada must complete a declaration form and self-isolation plan <https://www.gov.nl.ca/covid-19/files/Declaration-Self-Isolation-April-27.pdf> (Self-isolation plan is included in the declaration form).

4.2 Workers from Outside of Canada

Workers from outside the country must self-isolate for 14 days in accordance with the Government of Newfoundland and Labrador requirements. All workers from outside Canada must complete the following plans outlined in <https://www.gov.nl.ca/covid-19/files/Guidelines-for-Employers-of-Workers-from-Out-of-Country-April-27.pdf>. Representatives of the Occupational Health and Safety Division of Service NL will review employer self-isolation plans in consultation with the Department of Health and Community Services.

5.0 Detection Measures

5.1 Screening at Entry of Construction Site

Pursuant to provincial government requirements, all workers from outside Canada must complete a daily self-assessment questionnaire as outlined in <https://www.gov.nl.ca/covid-19/files/Guidelines-for-Employers-of-Workers-from-Out-of-Country-April-27.pdf>. Representatives of the Occupational Health and Safety Division of Service NL will review employer self-isolation plans in consultation with the Department of Health and Community Services.

5.2 Response Measures

Any individual exhibiting flu-like symptoms such as fever, coughing or congestion should:

- Not come to work.
- Contact their supervisor and/or human resources department.
- Stay at home and self-isolate as directed.

Pursuant to provincial government requirements, workers who have been identified as having potentially been exposed to the Covid-19 virus (i.e., first degree of separation level) or who exhibit symptoms of the virus are required to not return to work until they receive medical clearance, take a COVID-19 detection test for which the result is negative and have self-isolated for 14 days.

- Refer to <https://www.gov.nl.ca/covid-19/> for the latest information.

4.0 SPECIAL CONDITIONS

4.1.0 LAYOUT OF WORK

- 4.1.1 Other than the original lot lines and a bench mark, both shown on the drawings, establish and maintain all grades, lines, levels and well-built batter boards at all corners of the building. As work progresses, lay out on the forms or rough flooring the exact location of all partitions as a guide to all trades.
- 4.1.2 Verify all grades, lines, levels and dimensions as shown on the drawings and report any errors or inconsistencies in the above to the Engineer/Architect before commencing Work.

4.2.0 JOB SIGN

- 4.2.1 At the start of the job, erect two painted signs as detailed and where located by the Engineer/Architect. This will be the only sign or advertisement permitted on the site unless instructed otherwise by the Engineer/Architect.
- 4.2.2 The signs shall be 8'0" x 8'0" plywood, properly supported. It shall be painted and shall show the names of the building, Owner, Prime Consultant, Major Subconsultants, Contractor and Major Subcontractors. A drawing of the signs to be erected will be supplied by the Engineer/Architect.

4.3.0 TEMPORARY OFFICES AND SHEDS

- 4.3.1 Construct and maintain, until completion of the Contract temporary offices and storage sheds in approved locations on site for the use of staff.
- 4.3.2 Buildings shall be of weatherproof wood stud and plywood construction completely equipped with adequate lighting, heating and ventilation, and in addition, the Contractor's office shall be fully furnished with desks, plan tables, storage cabinets, file drawers, chairs, stools and plan racks.
- 4.3.3 Provide storage sheds for small tools, equipment, perishable materials, etc., as necessary. All buildings shall be equipped with windows for natural light and doors properly fitted and equipped with locks.
- 4.3.4 Maintain offices and storage sheds in good condition to the approval of the Engineer/Architect from start of Work until final completion of Work or, when directed by the Engineer/Architect, remove offices and sheds from the site and leave areas free of debris and waste materials and in a clean and tidy condition.
- 4.3.5 Offices and storage sheds required by Trade Contractors, such as mechanical and electrical, shall be provided by the trade requiring them.

- 4.3.6 Provide an office approximately 120 square feet for the absolute use of the Owner or their representative(s). It shall be properly fitted and furnished with light, heat, telephone, lock and key, shelving, table and chairs and plan rack. The building shall be removed from the site at the completion of the Work.

4.4.0 TEMPORARY SERVICES

4.4.1 Light and Power

Furnish all temporary light and power required to provide such intensity of light and sufficient power as necessary for the Work to be carried out under the best conditions. Obtain and pay for all permits and inspection tests required by Provincial and/or Municipal authorities. Pay all charges and maintain fixtures and equipment in good working order.

4.4.2 Telephone

Install and pay for the operation of one job telephone and one telephone for the use of the Engineer/Architect for the duration of the Contract. Subcontractors requiring individual telephones shall have them installed at their expense. Long distance calls will be at the expense of the party making the calls.

4.4.3 Toilets

At the start of operations, provide and maintain in sanitary condition sufficient temporary toilets and washing facilities for the use of personnel on the job. Conform to requirements of the Department of Health and other authorities having jurisdiction. Supply adequate quantities of disinfectant and toilet paper. When building toilets and washing facilities are operable, they may be used under the same conditions as the temporary toilets with the latter being removed, leaving all surfaces and areas hygienically clean and in immaculate condition.

4.4.4 Heat

Provide and maintain in good condition a temporary heating system for use when the building is closed in until the project has been handed over to the Owner. Pay for fuel and maintenance of the system. Maintain temperatures at a minimum of 50° F, (higher if required for special trades). Heating equipment not adequately protected or operated in conditions other than those intended by the manufacturer shall be regarded as temporary. Remove all such equipment and replace with new permanent equipment.

When ready for operation, the permanent heating equipment may be used for temporary heating purposes, subject to the conditions of the Mechanical Division of the specifications. Protect all permanent heating equipment used for temporary heating purposes. Provide satisfactory site conditions for the proper operation of this equipment.

4.4.5 Water Supply

Provide in two convenient locations outside the building line a fresh water supply for the use of all trades.

Where connection cannot be made to an existing water supply, provide adequate size tanks and keep them filled for use of all trades.

4.5.0 PLANT AND MACHINERY

4.5.1 Provide all framework, scaffolding, ladders, cranes, derricks, planks, screens, gantries, tarpaulins, tools, equipment and machinery for the proper execution of the Work. Scaffolding shall be erected without damage of the structure or the finishes, be removed to suit the installation of work of other trades and be promptly removed at completion.

4.5.2 Where it is the normal practice for the trade to provide its own scaffolding, it shall be included in the Subcontract.

4.6.0 PROTECTION OF PUBLIC AND WORKMEN

4.6.1 Part 8 of the National Building Code of Canada, latest edition, shall apply to this project in its entirety. This covers fencing, barricades, Fire protection, excavation, use of streets or public property, control of vehicular traffic and mechanical methods of demolition.

4.6.2 The latest edition of Canadian Construction Safety Code shall also apply to all phases of this project.

4.6.3 The Workers' Compensation Board Regulations shall also apply to all phases of this project.

4.7.0 CONSTRUCTION SCHEDULE

4.7.1 The Contractor shall, within seven (7) days after the Contract is awarded, prepare for the use of the Engineer/Architect and Owner, a construction schedule. It shall indicate as closely as possible the starting and completion dates for the major sections of the Work, together with the Subcontractors' names.

4.7.2 With each monthly progress claim, submit two (2) copies of the original construction schedule marked in red to show the actual construction progress on the date of the submission of the claim.

4.8.0 PROGRESS PHOTOGRAPHS

4.8.1 Submit with monthly progress claim three (3) copies each of four (4) progress photographs, 8" x 10", gloss finish, taken from points designated by the Engineer/Architect. In the lower right-hand corner of the prints show the date and name of the project.

4.9.0 OPERATIONS AND MAINTENANCE DATA

4.9.1 On completion of the project, submit to the Engineer/Architect two (2) copies of Operations and Maintenance Data and one (1) electronic copy as original editable format.

- a) Bind data in vinyl hard covered, 3-ring, loose-leaf binder for 215 x 280 mm size paper.
- b) Enclose title sheet, labelled "Operation and Maintenance Data", project number, project name, date and list of contents.
- c) Organize contents into applicable sections of work to parallel project specifications breakdown. Mark each section by labelled tabs protected with celluloid covers fastened to hard paper dividing sheets.
- d) Provide electronic document in CD or DVD as original editable file format or, at the direction of the Owner, pdf format.

4.9.2 Include the following information plus data specified in Division 15 and 16:

- a) Maintenance instruction for finished surface and materials.
- b) Copy of hardware schedules.
- c) Description, operation and maintenance instructions for equipment and systems, including complete list of equipment and parts list. Indicate nameplate information such as make, size capacity and serial number.
- d) Names, addresses, phone and fax numbers of Subcontractors and Suppliers.
- e) Guarantees, warranties and bonds showing:
 - (i) Name and address of project;
 - (ii) Guarantee commencement date (date of Final Certification of Completion).
 - (iii) Duration of guarantee.

(iv) Clear indication of what is being guaranteed and what remedial action will be taken under guarantee.

(v) Signature and Seal of Contractor.

f) Additional materials used in project listed under various sections showing name of manufacturer and source of supply.

4.9.3 Neatly type lists and notes. Use clear drawings, diagrams or manufacturer's literature.

4.9.4 The final certificate will not be issued until the data books have been received and approved by the Engineer/Architect.

4.10.0 COORDINATION OF WORK

4.10.1 The Contractor will coordinate the Work of their Subcontractors and provide necessary instructions and scheduling so as to permit continuous progress in the Work by all trades. They will coordinate work between the Subcontractors on the site to ensure that anchor bolts, plates, attachments, etc., are provided and set in place in a timely manner. They will lay out partitions and assist Subcontractors in establishing the actual location of the fixtures, pipes, outlets, duct conduit, etc., so as to limit the interference of one trade with another. Locations shown on the drawings are approximate. If interference problems are encountered which cannot be resolved on the site, advise the Engineer/Architect before proceeding with the Work. Conceal all mechanical and electrical work unless otherwise indicated.

4.11.0 TRAFFIC MAINTENANCE

4.11.1 Do not close or obstruct streets, sidewalks, driveways, etc., without permission from authorities having jurisdiction. Do not place or store materials in street, sidewalks, parking areas, etc., unless so authorized.

4.12.0 FIRE PROTECTION

4.12.1 Fire protection measures shall include:

- a) An adequate fire alarm signal, the use of fire resistant tarpaulins, the daily inspection of temporary heating system by competent staff and regular fire patrol;
- b) All temporary wiring shall be done by electricians qualified under the applicable local regulations;
- c) Supply and maintenance of fifteen (15) pounds dry chemicals and/or five (5) gallons soda-acid fire extinguishers in such locations that no working crew has to

travel more than fifty (50) feet to an extinguisher station. In any case, there shall be not less than one (1) fully charged extinguisher(s) at the job at any time.

4.13.0 JOB MEETINGS

4.13.1 Where the value of the contract exceeds \$100,000 (HST included) job meetings shall occur at definitely prescribed times (minimum once a month), which will be determined after commencement of work, the Contractor shall organize job meetings and send out notices stating time and place to the Owner's representative, the Engineer/Architect, Subconsultants, to all Subcontractors and to other persons whose presences are required at the meetings. They shall take note of all persons attending these meetings and shall, within one (1) week after each job meeting, submit to the Owner, the Engineer/Architect, the Subconsultants and others present, minutes of the meeting which must show any major decisions made and any instructions or information required.

4.13.2 Where the value of the contract is less than \$100,000 (HST included) job meetings shall occur at the discretion of the University Project Coordinator but shall not occur fewer than once per month.

4.14.0 AS-BUILT DRAWINGS

4.14.1 The Engineer/Architect will issue to the Contractor three (3) sets of prints of architectural, mechanical and electrical drawings for the sole purpose of providing "as-built" drawings. The Contractor shall pass these to the relevant Subcontractor who shall keep two (2) sets in their office and one (1) set on the job. As changes occur, the Subcontractor shall make them on the field set. Upon completion of the project, the Subcontractor shall accurately transfer all changes to the two (2) office sets in red ink and pass them to the Engineer/Architect, through the Contractor, for approval. If they are not approved, the Subcontractor shall prepare new sets for resubmission (purchasing additional white prints for this purpose).

4.14.2 As-built drawings shall be white prints and shall indicate all changes in Architectural, Mechanical and Electrical work, including any changes in location of piping, ducts, panels, etc.

4.14.3 Provide electronic as-builts in CD or DVD as original editable file format or, at the direction of the Owner, pdf format.

4.14.4 The Certificate of Total Performance will not be issued until such drawings have been received and approved.

4.15.0 COMPLETION TIME

4.15.1 The project shall be ready for the use and occupancy by the Owner within the time stated in the Tender and Acceptance Form.

- 4.15.2 Prior to the acceptance by the Owner of the Substantial Performance, the Contractor and the Owner shall sign a list of deficiencies as prepared by the Engineer/Architect for prompt correction and/or completion.

4.16.0 CLOSE DOWN OF WORK

- 4.16.1 Should the Work be closed down for any cause, the Contractor shall assume all responsibility for its proper protection during such period. They must protect all foundation work and other work liable to be damaged.

4.17.0 BROKEN GLASS

- 4.17.1 The Contractor shall be held responsible for any damaged, broken or scratched glass and at completion shall replace all such glass at no additional cost to the Owner.

4.18.0 HOARDING

- 4.18.1 Before starting excavating, construct and thereafter maintain all necessary hoarding required by Municipal or Provincial regulations or by other authorities having jurisdiction.

4.19.0 COMMISSIONING

- 4.19.1 The Contractor is responsible for commissioning the Work to ensure that the various parts are operating in a manner as intended by the Contract Documents. Even through individual components and/or parts of the Work may have been tested and approved prior to the substantial completion, the Contractor must coordinate a final commissioning of the complete Work, including at the place of the Work all their major Subcontractors and Suppliers. The final commissioning will be carried out by the appropriate trades working together in a complementary manner such that the successful operation of the whole Work is completed properly to the satisfaction of the Engineer/Architect. The Substantial Performance Certificate will not be issued until the final commissioning of the Work has been successfully completed.

4.20.0 FINAL CLEAN-UP

- 4.20.1 At the end of the job, thoroughly clean the building of all rubbish and surplus materials.
- 4.20.2 Make good all damaged areas in the building caused as a result of the Work of this Contract.
- 4.20.3 Do final cleaning, waxing and polishing of resilient flooring.

5.0 CAMPUS SAFETY AND HEALTH REGULATIONS

Maintaining a healthy and safe environment for all members of the campus community, as well as visitors, is a priority with the University. This involves a commitment from all sectors of the campus community and extends to outside agencies having occasion to come on campus to conduct business.

The following regulations will apply to all work undertaken by contractors and service personnel on any University property.

5.1.0 REGULATIONS, CODES AND STANDARDS

Contractors shall be familiar with and abide by provisions of various safety codes and standards applicable to the work performed and should refer to Article **23. PROTECTION OF WORK AND PROPERTY** in the **General Conditions**.

In particular, strict adherence shall be required to the Provincial Occupational Health and Safety Act and Regulations and the National Building Code of Canada, Part 8.

5.2.0 GENERAL SAFETY REGULATIONS

- a) Contractors/service agencies shall ensure that members of the campus community are not endangered by any work or process in which they may be engaged. Work areas shall be adequately barricaded, and if dust or fumes are generated, suitable enclosures shall be installed to contain such emissions.
- b) No material shall be stored in such a way as to obstruct walkways or represent a danger to pedestrian traffic.
- c) Adequate protection shall be provided to prevent the possibility of materials falling from scaffolding or elevated areas. Areas where materials are being loaded or offloaded shall be barricaded or otherwise protected to prevent unauthorized entry. Where necessary, appropriate warning signs shall be posted.
- d) The work areas must be kept reasonably clean and free from debris which could constitute a fire hazard. Care must be taken to ensure that the work process does not activate fire alarm detection devices. (Generation of dust and fumes can activate smoke detectors causing a false alarm).
- e) Due consideration shall be given to fire safety in buildings. Flammable materials must be kept away from sources of ignition. No work involving the use of open flame devices must be undertaken around flammable solvents or gases.
- f) Do not alter or disturb any materials believed to contain asbestos materials (unless this is a duly authorized part of the project). Should suspect materials be encountered, consult with University officials before proceeding.

- g) Material Safety Data Sheets shall be procured for any hazardous product used on campus. Such sheets shall be made readily available for consultation as required under the Workplace Hazardous Materials Information System.

NOTE: The above regulations are not to be considered all inclusive and are considered to be complementary to the safety requirements outlined in the agreement between the Owner and the Contractor/Service Agency. Certain conditions and circumstances may require adherence to additional safety regulations.

As a general requirement, contract/service personnel are expected to conduct all work on campus in a professional and safe manner and to give priority to the welfare of members of the campus community.

6.0 CONTRACTOR PERFORMANCE EVALUATION

- 6.1.0 The purpose of this process is to maintain an acceptable level of performance with external contractors carrying out work for the Department of Facilities Management.
- 6.2.0 A record of the performance of external contractors will be maintained to identify the following:
- a) Those contractors who by virtue of satisfactory performance will continue to be eligible to submit tenders for work at the University;
 - b) Those contractors whose performance is considered unsatisfactory and will be advised of the need to improve performance to remain eligible to submit tender bids for work at the University;
 - c) Those contractors whose record of unsatisfactory performance will render them ineligible to submit tenders for work at the University.
- 6.3.0 Contractors' performance will be evaluated on a points rating system relative to quality of work performed, timeliness in completing work and management/administration of contracts/work and safety parameters.