

# General Conditions

## 1. DEFINITIONS

Wherever used in these General Conditions, or in the Supplementary General Conditions, Special Provisions of Contract, Agreement, Plans, Form of Tender, Information for Tenderers, Specifications (under separate cover), Statutory Declarations or other documents forming part of this Contract: "authorized", "directed", "required", "requested", "approved", "ordered", "sanctioned", "considered" and "satisfactory", shall, unless some other meaning is obvious from the context, mean respectively authorized, directed, required, requested, approved, ordered, sanctioned or considered by or satisfactory to the Engineer.

"Owner" means the Windsor Utilities Commission, Water Division, for whom the work is being performed.

"Contract" includes the Agreement to do the work entered into with the Owner, the Specifications, the General Conditions, Information for Tenderers, Special Provisions of Contract, the Plans, the Tender and all other documents referred to in or connected with the said Agreement.

"Contractor" or a pronoun in place thereof means the person or persons or corporation who have undertaken to carry out the Contract.

"Engineer" shall refer to and mean the Chief Engineer of the Windsor Utilities Commission, Water Division, or such other Water Division employee or agent as may be authorized by the Chief Engineer.

"Inspector" means as inspector for the Owner or Engineer acting under the direction of the Engineer.

"Period of maintenance" means the period from the date of substantial completion of the works, as set out in the Certificate of Substantial Completion, to the date of issuance of the Final Certificate and shall be not less than 12 months.

"Plans," means all plans, profiles, drawings, sketches, or copies thereof exhibited, used or prepared for or in connection with the work embraced under the Contract.

"Plant" (unless the context requires a different meaning) means every temporary or accessory means necessary or required to carry on or complete the work and extra work, in the time and manner herein provided.

"Shall", "may", "herein", "person", "writing", or "written", "surety", and "security" and words used in the singular number or the masculine gender, shall have the meaning and effect as given in the Interpretation Act of the Revised Statutes of Ontario.

"Solicitor" means the person for the time being acting as Solicitor for the Owner.

"Sub-Contractor" includes only a person, firm or corporation having a contract for the execution of a part or parts of the work included in the general contract, or a person, firm or corporation furnishing materials called for in the general contract and worked to a special design according to the plans or specifications, but does not include one who merely furnishes material not so worked. "Work" or "works" (unless the context requires a different meaning) means the whole works, materials, matters and things required to be done, supplied, or installed that are mentioned or referred to in the Contract, including all extra or additional work or material, matters, or things which may be ordered by the Engineer, as herein provided.

## **2. TENDERS**

All tenders for the execution of the work herein set forth or referred to must be made on the printed forms supplied for that purpose. No others will be considered. Such tenders must be made without any knowledge, comparisons of figures or arrangements with any other person making any tender or estimate for the same purpose, and the tenderers shall declare that such tenders are in all respects fair and without collusion or fraud, and that no owner or duly authorized representative is, shall be, or shall become interested, directly or indirectly as contracting party, partner, stockholder, surety or otherwise in, or in the performance of, the Contract, or in the supplies, work or business to which it relates, or in any portion of the profits to be used therein or thereof, or in any of the monies to be derived there from. The tender must be verified by the Statutory Declaration of the party or parties making the tender that the several matters stated therein are in all respects true. Tenders must cover the cost of completion of the Contract in every respect, in accordance with the Contract, including all labour, plant, tools, etc. The Contractor agrees that he is fully informed regarding all of the conditions, local or otherwise, affecting the work to be performed and that his information was secured by personal investigation and that he will make no claim against the Owner or Engineer based on any estimate or representation of the Owner or Engineer or of any representative of same.

## **3. SCOPE OF CONTRACT**

Stated in general terms, and without in any way limiting the requirements and intent of the Contract, the work required to be done by the Contractor under the Contract comprises all excavations required for the proper carrying out of the works, the formation, construction, completion and maintenance of the works referred to in the Plans, Specifications (under separate cover), General Conditions or other Contract documents relating thereto and includes the provision, except where otherwise specifically stated in the Contract, of all labour, plant, materials and equipment required for the complete and proper execution of the work. The contract documents are complementary and what is required by any part thereof shall be considered as being required by the whole thereof. Materials and work which are not specifically described or shown in the contract documents but the necessity of which can reasonably be considered as inferable from the contract documents shall be supplied and performed by the Contractor at no additional cost to the Owner and the Contractor shall not claim extra payment therefore or an extension of the time of completion on account thereof.

In the case of discrepancies between drawings, those of larger scale, or if the scales are the same, those of later date shall govern. In the case of a discrepancy between the Drawings and the Specifications, the Specifications shall govern. Special Provisions of Contract shall govern over all other sections of the Contract Documents.

#### **4. SCHEDULE OF CONSTRUCTION**

The Contractor shall, within two weeks after the receipt by him of the Contract executed by the Owner and the Contractor, submit his proposed schedule of construction to the Engineer for approval. The schedule of construction shall show clearly in weekly stages the proposed progress on the main items, structures and sub-trades of the Contract and shall indicate where applicable the labour, construction crews, plant and equipment to be employed.

The Engineer may require the Contractor to revise his proposed schedule at any time as provided for in these General Conditions.

#### **5. PLANT, LABOUR AND MATERIAL**

The Contractor shall provide all necessary storage ground and storage sheds and shall furnish all required skilled and unskilled labour, materials, fuel or other energy, machinery, tools and all plant, so that the Contract, and all work required to be done under it, can and will be carried on continuously and expeditiously to completion, in all respects to the satisfaction of the Engineer.

All material, plant, machinery, tools and equipment acquired, possessed or provided by the Contractor for incorporation into the works shall be the property of the Owner, whether or not such material, plant, machinery, tools and equipment are brought to or upon the works or upon lands of the Owner and the Contractor is prohibited from removing or disposing of the same, or any part thereof, without the consent or instructions of the Engineer in writing.

No materials, plant, machinery or equipment reasonably required for the performance of the Contract and not for incorporation into the works, brought to or upon the works or upon lands of the Owner, shall be removed or disposed of during the progress of the works without the written consent or instruction of the Engineer or his authorized representative. In the case of a difference of opinion between the Contractor and the Engineer or his authorized representative as to whether any of the aforesaid items is reasonably required on the works for the satisfactory progress of the work, the Contractor shall abide by the decision of the Engineer.

#### **6. SAMPLES**

Before any material of any kind is used on the work, the Contractor shall submit samples thereof for the approval of the Engineer and must obtain such approval. No material shall be used on the work, which is in any way inferior to the approved samples. The giving of such approval shall not obligate the Owner to pay for any material other than in accordance with the Contract, shall not prevent the rejection of any material which may be found, in the opinion of the Engineer, to be unsound or unfit for use on the work or not in accordance with the approved samples or the requirements of the Contract and shall not be deemed to be a waiver of objection to the work or any part thereof at any time on account of the materials used not being satisfactory or on any other account. The decision of the Engineer with respect to the approval or rejection of samples shall be final.

#### **7. CONDEMNED AND SURPLUS MATERIALS**

Should any plant, appliances or materials which the Engineer may deem to be inferior or unfit for use in or on the works, be brought on the ground, or used, the same shall be wholly removed there from within twenty-four (24) hours after notification to that effect from the Engineer, and in the case

of failure or neglect on the part of the Contractor to remove the same, the Engineer may cause the same to be taken away at the Contractor's expense and deposited, wasted, or otherwise disposed of, in any locality, place or way he considers convenient or proper, and the Contractor shall forthwith pay to the Owner on demand, all expenses incurred, including storage, if any, or the same may be deducted or collected by the Owner as provided in the section hereof entitled "Monies Due Owner".

No surplus or other material of any kind, arising from any portion of the work, shall be sold, thrown away, dumped, wasted, or otherwise disposed of without the written sanction of the Engineer, and if so disposed of the Engineer may ascertain as nearly as he conveniently can the quantities and value, and deduct the same from the Contractor's next progress payment certificate.

All material, sold to the Contractor in accordance with Section 9 of the General Conditions and not used on the project, is to be returned to the Owner at no charge.

All excavated material shall be disposed of in the manner set forth in the Plans and Specifications for the work or as directed by the Engineer.

All excavated material of value to, or required by the Owner, including materials from existing structures, such as old lumber, concrete blocks, stone, rubble, crushed stone, sand or gravel, sewer or other pipe, sewer brick, manhole tops or other castings, valves, hydrants, and earth or any other materials, must be neatly piled, deposited or evenly spread by the Contractor in such place as may be directed by the Engineer, the whole expense, including that of hauling, unloading and spreading to be borne by the Contractor. The materials must be removed and deposited as above required, as soon as excavated, or as soon thereafter as the Engineer may direct.

Surplus excavated material not required by the Owner shall be disposed of by the Contractor off the line of the works, on sites obtained by him, in such a manner as not to cause a nuisance, injury or inconvenience to the Owner, or to public or private parties; otherwise the Contractor will in all cases be held liable for, and must indemnify the Owner against, all claims in respect thereof.

## **8. EQUIVALENTS**

Where pursuant to the Specifications the Contractor is required to supply an article or group of related articles designated by a trade or other name or an "approved equal", the tender shall be based only upon supplying the article or group of articles so designated, which shall be regarded as the standard quality required by the Specifications. After the acceptance of a tender, the Contractor may apply to the Engineer to substitute as an approved equal another article or group of related articles identified by a different trade or other name for an article or group of related articles designated as aforesaid. The application shall be in writing and shall state the price for the proposed substitute article or group of related articles, the price for the article or group of articles designated as aforesaid and such other information as the Engineer may require.

No ruling on a proposed substitution will be made prior to the acceptance of a tender. No substitution shall be made without the prior approval of the Engineer. The approval or rejection of a proposed substitution shall be at the discretion of the Engineer and his decision shall be final. If the proposed substitution is approved by the Engineer, the Contractor shall be entitled to the first \$100.00 of the aggregate saving in cost by reason of such substitution and to 50% of any additional saving in cost in excess of such \$100.00. Each such approval shall be conveyed to the Contractor in writing by the Engineer and if any adjustment to the Contract Price is to be made by reason of such substitution, a Contract Change Order shall be issued to this effect.

## **9. MATERIALS AND EQUIPMENT SUPPLIED BY THE OWNER**

All materials and equipment shall be supplied by the Contractor with the exception of such material or equipment as is specifically stated to be sold by the Owner for the sum of \$1.00. In all cases where materials or equipment are sold by the Owner every effort will be made to have a sufficient supply of such material or equipment tested, examined and approved and ready for use at such times as they may be required, but in case the Owner fails to furnish a sufficient supply at any time, the Contractor will not be entitled to any compensation for delay on that account (except as may be allowed in accordance with Section 12 hereof) other than an extension of the time for completion, the extent of which shall be determined by the Engineer and shall be as nearly as possible equivalent to the time delayed.

When the Contractor is required to make provision for and convey Owner-sold materials or equipment as above from railway cars, he shall do so as soon as the cars are delivered to the nearest siding. Any demurrage on account of his inattention will be borne by him.

Unless otherwise specified, all materials and equipment sold by the Owner shall be transported to the work by the Contractor from the point for their supply, at the expense of the Contractor.

Once material or equipment has been sold to the Contractor by the Owner, its storage prior to use is his responsibility. Any loss, theft, or damage occurring after the material is in the Contractor's custody, shall be at his expense.

Before taking delivery of Owner-sold materials or equipment, whether they are being delivered by truck or by rail, the Contractor shall examine such materials or equipment and satisfy himself as to possible damage, which they may have suffered in transit. Where damage has occurred the Contractor shall immediately notify the Engineer so that a claim may be made against the carrier. Should the Contractor fail to notify the Engineer of damage to materials or equipment, the Contractor will be liable for the cost of making good any damage subsequently found.

## **10. APPROVALS AND PERMITS**

The construction of the works and all operations connected therewith are subject of the approval, inspection, by-laws and regulations of all municipal, provincial and federal and other authorities having jurisdiction in respect to any matter embraced in this Contract.

The Owner will obtain and pay the fees, if any, for approvals and permits relating to the design and location of the permanent works required from the Ministries of Transportation and Communications, Labour, Environment, Public Works or Transport, from railway or pipeline companies or from hydro-electric, canal or seaway and conservation authorities. Unless otherwise specifically stated in the tender documents, the Contractor shall obtain and pay the fees for all other approvals and permits required for or in respect of the works.

## **11. ERRORS AND OMISSIONS BY CONTRACTOR**

Errors, mistakes, omissions or unauthorized changes made by the Contractor or his agents, workmen or employees and all damage that may result there from shall be rectified by the Contractor at his own expense.

## **12. DELAYS**

If, after the execution of the Contract, the Contractor suffers damage by reason of delay with respect to construction of the works arising from causes other than adverse weather or labour disputes and beyond his control, the Owner may in his discretion compensate the Contractor wholly or in part for such damage.

The Contractor shall take all steps necessary or advisable to reduce or eliminate all damage or loss by reason of delay with respect to construction of the works arising from any cause whatsoever.

## **13. ORAL ARRANGEMENTS**

In all cases of misunderstandings or disputes, oral arrangements will not be considered, but the Contractor must produce written authority in support of his contentions, and shall advance no claim in the absence of such written authority, and shall not use, or attempt to use, against the Owner any conversation with any parties.

## **14. DECISIONS BY THE ENGINEER**

Should any discrepancies appear or differences of opinion or misunderstandings arise as to the meaning of the Contract or as to any omissions there from or statements therein in any respect, or as to the quality or dimensions or sufficiency of the materials, plant or work or any part thereof, or as to the due and proper execution of the works, or as to the measurement or quantity or valuation of any works executed or to be executed under this Contract, or as to extras thereto or deductions there from, or as to any other questions or matters arising out of the Contract, the same shall, subject to the terms of the Contract, be determined by the Engineer, who shall have the right at all reasonable times to visit, enter and carry out inspections at any buildings, factories, workshops, works or sites of the Contractor or others wherever any materials are being prepared, manufactured or treated, or other work is being done in connection with this Contract and the right also to take such samples there from as he may deem necessary and the Contractor shall immediately when ordered by the Engineer, proceed with and execute the work or works, or any part thereof, forthwith in accordance with such order and with such additions to or deductions from the contract price as are provided under the terms of the Contract, without making any claim for any extension of time in completing the work, unless arranged in writing with the Engineer as herein provided.

## **15. INSPECTOR AND INSPECTION**

All work to be done under the contract shall be done to the satisfaction of the Engineer or of an agent or inspector authorized to act for him. The Inspection is required by the Engineer to see that the provisions of the contract are faithfully adhered to, especially as regards the quality of the workmanship and materials, and may stop the work entirely if there is not a sufficient quantity of suitable and approved material on the site to carry on the work properly or for any good and sufficient reason. In particular, but without limiting the powers of the Inspector, orders given by the Inspector relating to the quality of material or workmanship or in respect of safety or public convenience must at once be obeyed by the Contractor.

Materials and equipment and the process or manufacture of materials or equipment shall at all times be subject to inspection, testing and rejection at any stage by the Engineer or his agent.

The Engineer will give the Contractor reasonable notice of the materials and equipment in respect of which the Engineer proposes to have inspection or testing carried out during the process or preparation or manufacture, save that in the case of materials or equipment specifically stated in the contract as required to be tested or inspected by or in the presence of the Engineer or his agent, the Engineer shall not be obliged to give such notice. The Contractor shall notify the Engineer in writing at least seven days previous to the commencement of preparation or manufacture of each item of such materials or equipment of the time and place at which such preparation or manufacture is to commence in order that the Engineer or his agent may be present.

Notwithstanding compliance by the Contractor with the foregoing paragraph hereof, if any materials or equipment prepared or manufactured away from the site of the works and required by the Contract or by the Engineer to be inspected or tested by or in the presence of the Engineer or his agent at the place of preparation or manufacture become ready for delivery to the site of the works but have not been inspected or tested as required, the Contractor shall so notify the Engineer in writing and shall not have such materials or equipment delivered to the site of the works until authorized to do so in writing by the Engineer.

In any event, no materials or equipment required by the contract or by the Engineer to be inspected or tested by or in the presence of the Engineer or his agent shall be incorporated into the work until the required inspection or testing has been carried out to the satisfaction of the Engineer.

The Contractor shall provide, and shall ensure that all Sub-Contractors and those carrying out the process of preparation or manufacture shall provide, every reasonable facility and co-operation to assist the Engineer or Inspector or others designated by the contract or by the Engineer in carrying out inspection and testing.

The Contractor shall not backfill or otherwise cover up any work without either having it inspected and passed by the Inspector or first notifying the Inspector in a manner approved or as directed by the Engineer that the work is ready to be covered up and allowing the Inspector reasonable notice and opportunity for carrying out an inspection. Any work covered up other than in accordance with the foregoing shall, if ordered by the Inspector or the Engineer, be uncovered or opened up for inspection and the Contractor shall, as directed by and to the satisfaction of the Inspector or the Engineer, make good again all openings, excavations and disturbances of any property, real or personal, resulting there from, all at the Contractor's expense; but if the Contractor has backfilled or otherwise covered up any work in accordance with the foregoing, the cost of any covering or opening up and making good shall be borne as provided for in Section 31 (e) hereof.

No approval by an Inspector or by the Engineer or failure of an Inspector or the Engineer to carry out an inspection shall relieve the Contractor of any of his obligations under the Contract or shall be interpreted as being an acceptance of defective or improper work or material which must in every case be removed and replaced properly or otherwise rectified in a satisfactory manner whenever discovered at any time as provided for in Sections 31 and 51 hereof.

If, in addition to the inspection provided for above, the Contractor is required by the Contract, by law, by local bylaw or by the Engineer to have any part of the works inspected by others, the Contractor shall give the Engineer and the others concerned reasonable notice of the time and date proposed for the additional inspection.

## **16. OCCUPANCY OF THE WORKS**

The use or occupancy of the works or any part thereof by the Owner shall not be taken in any manner as an acceptance by the Owner of any work or material not in accordance with the Contract or to relieve the Contractor or his surety from liability, whether heretofore or hereafter incurred or arising, in respect of the observance or performance of any covenant or condition in the Contract not then performed, whether such covenant or condition be by way of indemnity to the Owner or otherwise, save to the extent that loss or damage is caused during such use or occupancy by the Owner or by employees of the Owner for whom the Owner is responsible. In particular, without limiting the generality of the foregoing, the use or occupancy of the work or any part thereof by the Owner shall not release the Contractor from liability to pay to the Owner or waive or impair the right of the Owner to deduct and retain, liquidated damages and resident engineers' and inspectors' fees, in accordance with the Contract.

## **17. ABSENCE OF ENGINEER AND HIS AGENT**

The Owner may appoint an engineer or firm of consulting engineers for the purpose of inspecting the work performed under this Contract. In the absence of the Engineer or his duly authorized agent, any assistants who have been designated by the agent to superintend the work shall have full power to decide as to the manner of conducting and executing the work in every particular and the Contractor shall follow the instructions or orders of the person so designated.

## **18. CONTRACTOR'S ABSENCE**

In the absence of the Contractor from the works (whether permanent or temporary) he must provide and leave a competent and reliable superintendent in charge of the entire works for him, and such person shall be considered as acting in his place, and all notices, communications, orders or instructions given or sent to or served upon such person shall be taken as served upon and received by the Contractor.

## **19. CONVENIENCES**

The Contractor must provide, and properly maintain in clean condition, suitable and convenient privy or water closet accommodation for his men.

From the first of November to the thirtieth of April, the Contractor shall provide at his own expense, an adequate, warm, comfortable shelter, accessible during the noon hour and inclement weather to all the men employed on the work, and its location shall be approved by the Engineer.

## **20. PUBLIC CONVENIENCE AND SAFETY**

All regulations of the Occupational Health & Safety Act and Regulations for Industrial Establishments, pursuant to the revised Statutes of Ontario, 1980 C.321 and amendments thereto and, pursuant to the Revised Regulations of Ontario, 1980 and amendments thereto.

All employees of a Contractor, shall wear hard hats and C.S.A. approved safety shoes when on Commission property or on Commission work sites. If above ground level work is being performed by the Contractor, the area of work must be clearly designated and roped off at the ground level to avoid hazard to Commission employees and members of the public.

When working on Commission property, all posted instruction signs dealing with smoking, vehicle speeds and restricted areas, shall be compiled with by a Contractors employees.

Local conditions may require additional safety precautions as directed by the Commission.

If at any time the Engineer or his authorized representative considers the work to be unsafe, he may order the Contractor to take measures forthwith to ensure adequate safety. Should the Contractor fail to take adequate measures, the Engineer or his representative may order, the work to cease until such measures have been taken. The Contractor shall not be entitled to additional payment for, or an extension of time for the performance of the Contract by reason of, such safety measures. The fact that the Engineer or his representative has ordered, or has failed to order, additional safety measures shall not relieve the Contractor of responsibility for the adequacy of the safety measures taken.

The Contractor during the progress of the work shall keep the site and the work in as tidy a condition as practicable. He shall not deposit any material on any portion of street, sidewalk, boulevard, grass plot, or public property, without permission of the Engineer, and shall remove it without delay when and as directed by the Engineer. Upon completion of the work, and subject to Section 7, he shall remove all false work, plant and surplus materials, as well as any rubbish accumulated on account of his operations and shall leave the site in a condition satisfactory to the Engineer.

Unless all surplus material, plant, rubbish, false work, etc. are removed from time to time, when and as directed, the Engineer will proceed to do whatever is necessary to restore the site, street sidewalk, boulevard, grass plot or public property to a tidy condition and will charge the cost thereof against the Contractor. Whenever and wherever any work is closed, suspended or stopped for the winter, all material of every description must be gathered up from the street, sidewalks, boulevards and grass plots, and removed there from and the site shall be left in a safe and tidy condition and shall be maintained in a safe condition until work is resumed.

The method of use and the character of all explosives shall be subject to the approval of the Engineer. The Contractor shall ensure that the charges of explosives used by the Contractor and the time at which they are exploded shall be such as not to cause damage to person or property or to cause unreasonable inconvenience.

Explosives shall be properly housed and protected as provided by law, and no explosives known to have deteriorated shall be used. Approved methods of handling and thawing of frozen explosives shall be followed, and the greatest care shall be exercised at all times by the Contractor in blasting operations.

The Contractor shall provide, erect and maintain a sufficient number of detour signs, and other notices as per municipal requirements.

When work is carried out during the night, the Contractor shall provide, erect and operate a sufficient number of lights to enable the work to be performed satisfactorily and these provisions must conform to municipal requirements as stated elsewhere in this section.

## 21. RESTORATION

Where the Contractor enters into the land or buildings of the Province or of any municipality or of any person or enters into any highway or road under the jurisdiction and control of any public authority for the purpose of making any survey, examination, investigation, inspection or other arrangement or lays any pipes or appurtenances in, upon, through, over or under any highway or road under the jurisdiction and control of any public authority and in so doing disturbs any such lands, buildings, highways or roads, such lands, buildings, highways or roads shall be restored to their original condition without unnecessary delay.

## 22. DRAINAGE

The Contractor shall keep all portions of his work properly and efficiently drained during construction and until completion, and he will be held responsible for all damage which may be caused or result from water backing up or flowing over, through, from or along any part of the works.

## 23. BARRIERS, LIGHTS AND DETOURS

The Contractor must, at his own expense, and without further or other order, provide, erect and maintain all requisite barriers, fences or other proper protection; and must provide, keep and maintain watchmen and lights with red or amber globes, as may be necessary or as may be ordered by the Engineer, in order to ensure safety to the public as well as to those engaged about the premises or works. Should the Contractor neglect to carry out the above requirement, the Engineer is hereby authorized to place such watchmen, lights, barriers, etc., as are required, and to charge the cost to the Contractor, without relieving the Contractor of any claims for damages or accident. The Contractor must (where it is practicable in the opinion of the Engineer) keep the roadway open for travel for the use of the public, for such width as the Engineer may direct. Where, in the opinion of the Engineer, it is not practicable to keep a roadway open for the full flow of traffic, he may permit the Contractor to close or partially close such roadway to provide for a detour of the traffic or a part thereof. In each such case and before putting into effect the closure or detour, the Contractor shall present his proposal for closure or detour to the municipal or other authority or authorities having jurisdiction over any of the roadways which will be affected by the proposed closure or detour and shall obtain the written authorization to such proposal of the said authority or authorities. The Contractor must provide a sufficient number of "**NO THOROUGHFARE**", "**DETOUR**" or other proper notices, which he must cause to be placed and maintained in good order in conspicuous places wherever any roadway, sidewalk, or thoroughfare is torn up or dangerous, and so long as it remains unsafe or unfinished.

When any work is carried on at night, the Contractor must supply, at his own expense, a sufficient number of electric or other approved efficient lights, to enable the same to be done in an efficient and satisfactory manner, and the Engineer shall have the power to order additional lights to be put on at the Contractor's expense if, in the opinion of the Engineer, they are, or may be required.

## 24. LIABILITY

The Contractor shall assume the defence of and shall indemnify and save harmless the Commission, its officers, servants and agents, from all claims, the following actions and demands whatsoever which may be made or brought against the Commission, its officers, servants and agents.

- (a) resulting from the prosecution of the Work, or
- (b) resulting from any of the Contractor's operations, or
- (c) caused by reason of the existence, location or condition of the Work, or
- (d) caused by reason of any material, plant or labour used in the Work, or
- (e) arising from any act of commission or omission on the part of the Contractor, or
- (f) relating to inventions, copyrights, trademarks, patents (and rights to them) used in doing the Work, or in the use and operation of work on completion, unless otherwise specified.

## **25. LIABILITY INSURANCE**

The Contractor shall, at his expense, insure and maintain insurance against liability for bodily injury and property damage that may arise with respect to the Work being performed under the Contract. Any exclusion shall be disclosed to the Owner. Such insurance shall:

- (a) name the Commission and its consultants, the contractor and the subcontractor as name insured.
- (b) include coverage for:
  - (1) Contractual Liability and
  - (2) Cross Liability, and
  - (3) Contingent Employer's Liability, and
  - (4) Completed Operations Liability, and
- (c) have an inclusive limit at least equal to Two Million Dollars (\$2,000,000.00) unless otherwise specified, and
- (d) remain in force until the issue by the Engineer of the Final Payment Certificate
- (e) contain no exclusions in respect of shoring, underpinning, demolition, pile-driving caissons, collapse of any structure, subsidence of any property, structure or land and use of explosives.

## **26. VEHICLE INSURANCE**

The Contractor shall, at his expense, insure and maintain insurance against liability for bodily injury and property damage caused by vehicles owned by the Contractor and used on the Work. The Contractor shall also, at his expense, insure and maintain insurance against liability for bodily injury and property damage caused by vehicles not owned by the Contractor and used on the Work. Such insurances shall each have an inclusive limit at least equal to Two Million Dollars (\$2,000,000.00). A vehicle shall be as defined in the Highway Traffic Act.

## **27. INSURANCE POLICIES AND CERTIFICATES**

- (a) When the successful Tenderer is notified that his Tender has been accepted, and prior to any work being commenced in accordance with the Contract, he shall deposit with the Commission copies of liability and vehicle insurances, or insurance certificates.
- (b) Insurance policies shall stay in force and not be amended, cancelled or allowed to lapse without thirty (30) days' prior notice by registered mail to the Owner and to the Engineer.

- (c) The Contractor shall deposit certificates with the Owner indicating that the Contractor has paid assessments under the Workmen's Compensation Act when so requested by the Owner.

## **28. LOSS OR DAMAGE**

The Owner shall not be answerable or accountable for loss or damage by fire or otherwise of the Work, or part of the Work, or for any material, equipment, or similar items to be incorporated into the Work.

The Contractor shall properly guard the Works and make good all loss or damage of whatever nature or origin that may arise out of the Contract, until the Work is complete as indicated by the issue by the Engineer of the Acceptance Certificate.

## **29. NIGHT, SUNDAY AND HOLIDAY WORK**

The Engineer may order the work to proceed on a two or three eight-hour shift basis if he deems this necessary to speed up the work, or he may order any work to be carried out in whole or in part at night, and the Contractor shall have no claim for extra compensation in respect thereof. No work, however, shall be undertaken at night without the consent in writing of the Engineer.

Whenever, in the judgement of the Engineer, it may be necessary or expedient, in order to preserve and maintain traffic over or on any street or road, to do work at night or after or before the regular time of ending or beginning labour, such night or overtime work shall be performed by the Contractor without additional or extra cost to the Owner beyond the price bid for the work.

No Sunday work will be permitted, except in the case of emergency and then only with the written permission of the Engineer and to such extent as he may judge to be necessary.

The Contractor shall, as far as possible, refrain from working on days which are legal holidays. In case he desires to work on any such holiday he shall notify the Engineer in writing to that effect at least four (4) days in advance of such holiday, stating those places where the said work will be conducted. If the Contractor fails to give such notice in advance of any holiday, such failure shall be considered as an indication that no work requiring the presence of an engineer or inspector is to be done by the Contractor on such a holiday.

## **30. NOTICE TO CONTRACTOR**

Any notice or communication to the Contractor shall be deemed to be well and sufficiently given and served if handed to the Contractor or any of his clerks or agents, or if posted or sent to the address given in the Agreement, or to his domicile or usual place of business, or to the place where the work is to be or is being carried on, or if posted to or left at his last known address, and any papers so left, sent or addressed shall be considered to be, and to have been legally served upon the Contractor. In any written or printed notice to the Contractor in respect of general, special, or other repairs, or of any work of any nature required to be done under any of the provisions of the Contract, or of any other matter, it shall not be obligatory upon the Engineer to specify minutely or in detail everything required, nor to specify by measurement the exact extent thereof, or the precise spot or spots where the work or material may be defective or faulty or where any of the requirements of the Specifications have not been observed; but a reference in such notice to the clause or clauses bearing upon the matter, and a description of the locality in general terms, and sufficiently clear, in the opinion of the Engineer, to indicate where the defect or trouble

exists, shall be deemed to be, and shall be, ample notice.

### **31. RECTIFICATION AND MAINTENANCE**

- (a) The Contractor guarantees and warrants that with ordinary wear and tear the work shall, until the end of the period of maintenance, remain in such condition as will meet with the approval of the Engineer, and that he will be responsible for rectification in a manner satisfactory to the Engineer, and for the cost thereof, of any imperfect work due to or arising from materials, equipment of plant incorporated into or used in the construction thereof, or due to or arising from workmanship or methods of construction, that is discovered by any means at any time prior to the issuance of the Final Certificate. The Engineer shall decide as to the nature, extent, cause of, and responsibility for imperfect work and the necessity for and the method of rectification thereof.
- (b) Prior to the expiration of the period of 12 months from the date of substantial completion, as set out in the Certificate of Substantial Completion, the Engineer or his agent shall carry out an inspection of the work and shall notify the Contractor of any imperfections therein disclosed by such inspection provided that the failure of the Engineer or his agent to carry out such an inspection or to give such notification shall not relieve the Contractor or his surety from any responsibility or obligation under, or any term or provision of, the Contract.
- (c) If, as a result of imperfect work for which the Contractor is responsible, the Owner incurs any costs, and without limiting the generality of the foregoing, including cost of engineering and investigation and all costs of administration, or sustains damage or loss of any kind, the Contractor and his surety or sureties shall be liable to the Owner for such costs, damage and loss. The amount of such costs, damage or loss shall be determined or estimated by the Engineer and, upon such determination or estimation, shall be deemed to be "Monies payable to the Owner" under Section 49 of the General Conditions and may be deducted or collected by the Owner as therein provided for.
- (d) No payment, certificate, document, act, failure to act, statement or representation of, by or on behalf of the Owner or its employees or agents, no dealing, transaction, forbearance or forgiveness which may take place between the Contractor or his surety or sureties and the Owner or its employees or agents and no exercise or forbearance to exercise any of the rights or powers of the Owner or of the Engineer under the Contract, other than the Final Certificate, or a release duly executed by the Owner, shall release the Contractor or his surety or sureties from any term or provision of or any responsibility, obligation or liability under the Contract, or otherwise, or shall waive or impair any of the rights and powers of the Owner or of the Engineer.
- (e) The Contractor shall, at any time or times prior to the issuance of the Final Certificate and when required to do so by the Engineer, make such openings, tests, inspections, excavations, examinations, or other investigations in, through, of or in the vicinity of the work as the Engineer may direct and shall, if required, make good again, to the satisfaction of the Engineer, any openings, excavations or disturbances of any property, real or personal, resulting there from. If, in the opinion of the Engineer, any imperfect work for which the Contractor is responsible is found in the work by such investigations, the cost of such investigations and such making good shall be borne by the Contractor; but if, in the opinion of the Engineer, no such imperfect work is found by such investigations, the said cost shall be borne by the Owner, except as otherwise provided in Section 15 of the General Conditions.

### **32. CONTRACT BONDS**

The Contractor shall, unless otherwise directed by the Owner, furnish to the Owner contract bonds in accordance with the requirements of the Information for Tenderers.

### **33. CONTRACTOR'S DISCHARGE OF LIABILITIES**

The Contractor shall discharge all liabilities incurred by him for labour, materials or services, used or reasonably required for use in the performance of this Contract on the date upon which each becomes due.

The Construction Lien Act, any amendments thereto and any regulations made there under apply to the performance of this Contract, but do not limit the provisions of this Contract, and the Owner has all the rights and powers set out therein and in the Contract.

The Contractor shall cause every Sub-Contractor engaged in the performance of this Contract to discharge all liabilities incurred by such Sub-Contractor for labour, materials or services used or reasonably required for use in the performance of this Contract. Workmen employed by a Sub-Contractor shall be paid in full at intervals not less frequently than semi-monthly and other liabilities of the Sub-Contractor, as aforesaid, shall be discharged on the date upon which each becomes due. At the request of the Owner, the Contractor shall furnish the Owner with evidence satisfactory to it that his liabilities and those of the Sub-Contractors, as aforesaid, have been discharged.

The Owner may, in writing, require the Contractor to send to it, by registered mail, within fifteen days from the date of the mailing of the demand, a list of the names and addresses of and the amounts owing to his creditors in a form satisfactory to the Engineer.

No payment to which the Contractor is otherwise entitled under this Contract shall in the discretion of the Owner be due and payable to him so long as he or any of such Sub-Contractors are in default under this section, and upon such default occurring, the Engineer may notify the Contractor to discontinue all work under the Contract and the Owner shall have the same rights and privileges as are provided in Section 52 of these General Conditions. The Owner may after notice in writing to the Contractor and his Surety, if any, (a) pay any such liability of the Contractor and of the Sub-Contractors, as aforesaid or (b) make a direct payment at any time, with or without default, to a creditor of the Contractor or of a Sub-Contractor arising out of these works, and in each such case deduct the amount so paid from any monies due or that may become due to the Contractor on any account, and, if there are insufficient monies due or to become due to the Contractor to permit of such deduction, the Contractor shall pay to the Owner upon demand an amount sufficient to make up the deficiency. In making payments under this Section, the Owner may act upon any evidence that it deems sufficient and may compromise any disputed liability.

The Contractor shall submit to the Engineer in duplicate, together with each monthly statement, except the first one, required by Section 41 of the General Conditions, a "Statutory Declaration re Payment of Accounts" in the form bound herein (or in such other form as may be required by the Owner) signed by an authorized signing officer of the Contractor stating that all workmen employed by the Contractor in the performance of the Contract have been paid in full and in accordance with the requirements of the Contract not less frequently than semi-monthly and up to and including the pay-day immediately preceding the date of the declaration and that all other liabilities incurred by the Contractor arising out of work performed or materials supplied as set forth

in the Monthly Estimate relating to the last monthly statement previously submitted have been discharged. The Owner may withhold approval of a Monthly Payment Certificate if the Contractor fails to submit such a declaration or if the Contractor submits an improperly completed declaration.

Before any holdback will be released to the Contractor, the statutory declaration required by Section 35 (c) of the General Conditions must have been submitted to the Owner by the Contractor.

The Owner may in its discretion require the Contractor to submit such additional statutory declaration relating to discharge of liabilities as the Owner may require before the Owner will release to the Contractor any remaining holdback.

### **34. COMMENCEMENT AND COMPLETION**

The work shall not be commenced, nor shall any material be procured, until the Contractor has signed the Contract and obtained or received a written order, or orders, to commence the same, signed by the Engineer, and it shall thereupon be at once begun and continuously carried on to completion, (subject as herein provided) and shall be completed and full possession thereof given the Owner within the period provided in the Contract, unless an extension of time, in writing, shall be allowed by the Engineer, in which case it shall be carried on to completion and possession given to the Owner within the additional period so allowed.

If ordered by the Engineer, the Contractor and his agents and employees shall be required to work continuously throughout the twenty-four (24) hours of the day for six days per week in the performance of the work under the Contract.

In case the Contractor shall fail to complete the work in accordance with the Contract and to the satisfaction of the Engineer, within the time or times specified, the Contractor shall pay to the Owner (in addition to amounts payable by the Owner in respect of site supervision of the work) the sum specified in the Contract for each and every day that the work or works shall remain unfinished after the time so specified; which said sum or sums in view of the difficulty of ascertaining the losses which the Owner may suffer by reason of delay in the performance of the said works, is hereby agreed upon, fixed and determined by the parties hereto as the liquidated damages that the Owner will suffer by reason of said delay and default, and not as a penalty; and the Owner may deduct and retain the amounts of such liquidated damages out of the monies which may be due or become due to the Contractor under the Contract, as provided in Section 49 hereof, entitled, "Monies Due Owner".

In the event of delay caused by strikes or combinations on the part of the workmen employed, or by any act of the Owner, or from such other cause as, in the opinion of the Engineer, the Contractor cannot reasonably be held responsible for, or in the event of extra or additional work being ordered by the Engineer, the Engineer may allow such additional time for completion as he may deem fair and reasonable, provided the Contractor applies in writing for an extension of time at the time such delay occurs or such extra or additional work is ordered and satisfies the Engineer that he is justly entitled to a further time allowance.

Notwithstanding the time allowed for completion of the work, if in the opinion of the Engineer the rate of progress of any part or parts of the work or during any period or periods during which work is being carried on or is required to be carried on is unsatisfactory and if amounts are payable by the Owner in respect of site supervision of the work, traffic control, compensation or damages by reason, in the opinion of the Engineer, or such unsatisfactory rate of progress, the Contractor shall

be liable to the Owner for the payment of such amounts and such amounts may be deducted by the Owner from any money due or that may become due to the Contractor under the Contract.

No progress or interim estimate or certificate shall release the Contractor or his surety from any responsibility, or be taken as evidence of any such release, or as acceptance of any work or material, or as a waiver of any condition herein. The whole work and every portion and detail thereof shall, during construction, be protected by the Contractor from damage from any cause whatsoever and shall, at the time of completion, be put and left by the Contractor in good and satisfactory condition, finished in all respects, and, at that time, must be fully up to the requirements of the Contract in every particular; all surplus and refuse material and rubbish removed from the vicinity of the works; the premises left in a neat and tidy condition; all damage to adjacent property, pavements, foot-walks, beaches, boulevards and sodding, or other things, injured or interfered with by the Contractor or his agents or employees, made good, and every other requirement of the Contract complied with.

In case of the Contractor's failure to finish the work properly and fully, and as required, or in case of the work, or any part thereof, being taken out of his hands, as provided in these General Conditions, the Engineer may proceed to finish the work for him, as his agent in this respect, and at his expense, as provided in Section 52 hereof, entitled, "Non-fulfilment of Contract".

### **35. CERTIFICATES OF SUBSTANTIAL PERFORMANCE & COMPLETION**

- (a) The Contract shall be considered as substantially performed when
  - (1) the works have satisfactorily passed the required inspection and testing and are ready for use or are being used for the purposes intended, and
  - (2) the works are capable of being completed or, where there is known defect, corrected at a cost of not more than,
    - (i) 3 percent of the first \$500,000 of the Contract price plus
    - (ii) 2 percent of the next \$500,000 of the Contract price plus
    - (iii) 1 percent of the balance of the Contract price.
- (b) Where the works or a substantial part thereof are ready for use or are being used for the purpose intended but part of the works cannot be completed expeditiously for reasons beyond the control of the Contractor or where the Owner and the Contractor agree to delay completion of the works, the cost, as determined by the Engineer, of completing the outstanding work shall be deducted from the contract price in determining substantial performance of the value of the work completed.
- (c) As soon as, in the opinion of the Engineer, the Contract has been substantially performed in accordance with the foregoing, the Engineer will issue a certificate of Substantial Performance on submission by the Contractor of the following documents:
  - (1) A written undertaking by the Contractor to complete expeditiously any outstanding work and to discharge all unfulfilled obligations under the Contract.
  - (2) The Contractor's final claim (except in respect of outstanding work).
  - (3) A release by the Contractor in a form satisfactory to the Engineer releasing the Owner from all further claims relating to the Contract (except in respect of outstanding work).

- (4) A statutory declaration in a form satisfactory to the Engineer that all liabilities incurred by the Contractor and his Sub-Contractors in carrying out the Contract have been discharged and that all liens in respect of the Contract and sub-contracts there under have expired or have been satisfied, discharged or provided for by payment into Court.
- (5) A satisfactory clearance certificate from the Workers' Compensation Board.
- (d) The Engineer shall set out in the Certificate of Substantial Performance the date on which the Contract was substantially performed and, within seven days after signing the said certificate, he shall provide a copy to the Contractor.
- (e) Upon receipt of a copy of the Certificate of Substantial Performance, the Contractor shall forthwith, as required by Section 32(1) Paragraph 5 of The Construction Lien Act, publish a copy of the said certificate in a construction trade newspaper. Such publication shall include placement in the Daily Commercial News.
- (f) Where the Contractor fails to publish a copy of the Certificate of Substantial Performance as required above within seven days after receiving a copy of the said certificate signed by the Engineer, the Owner may publish a copy of the certificate at the Contractor's expense.
- (g) Except as otherwise provided in Section 31 of The Construction Lien Act, the 45-day period prior to the release of holdback as referred to in Section 41 (f) (3) hereof, shall commence from the date of publication of the Certificate of Substantial Performance as provided for in (e) and (f) above.
- (h) The works shall be deemed to be completed when
  - (1) the works have satisfactorily passed the required inspection and testing, and
  - (2) the cost of completion of all outstanding work and known defects is not more than the lesser of
    - (i) one per cent of the contract price, and,
    - (ii) \$1,000.00.
- (i) As soon as, in the opinion of the Engineer, the works have been completed in accordance with paragraph (h) above, the Engineer will issue a Certificate of Completion on submission by the Contractor of the following documents:
  - (1) The Contractor's final claim (including the value of work completed since the date of the claim referred to in paragraph (c) (2) above).
  - (2) An up-to-date release by the Contractor in a form satisfactory to the Engineer releasing the Owner from all further claims relating to the Contract.
  - (3) An up-to-date statutory declaration in a form satisfactory to the Engineer that all liabilities incurred by the Contractor and his Sub-Contractors in carrying out the Contract have been discharged and that all liens in respect of the Contract and sub-contracts there under have expired or have been satisfied, discharged or provided for by payment into Court.
- (j) The Engineer shall set out in the Certificate of Completion the date on which the works were completed and, within seven days of signing of the said certificate, he shall provide a copy to the Contractor.

- (k) Payment due to the Contractor following issuance of the Certificate of Completion shall be as provided for in Section 41 hereof.
- (l) On the expiration of a period of 12 months from the date of substantial performance, as set out in the Certificate of Substantial Performance, and after all known imperfect work has been rectified in accordance with the Contract and to the satisfaction of the Engineer, and the Engineer is satisfied to the best of his knowledge that the Contractor has discharged all his obligations under the Contract, the Engineer will issue the Final Certificate approving the release to the Contractor of the maintenance security (see Section 41 (h) hereof), less any deduction as provided for in the Contract.
- (m) On the expiration of a period of 12 months from the date of substantial performance, as set out in the Certificate of Substantial Performance, the Engineer may approve the release to the Contractor of a part of the maintenance security on such terms and conditions as the Engineer deems advisable notwithstanding that the Final Certificate has not been issued and that all imperfect work has not been rectified in accordance with the Contract.
- (n) The Engineer may in his discretion direct or approve that the works covered by the Contract be divided into two or more parts for the purpose of issuing certificates of completion and releasing holdback monies. In that event, the Contractor shall submit documentation as set out above in respect of each such part.

**36. RELEASE OF HOLDBACK TO SUB-CONTRACTORS**

Notwithstanding that the Contract as a whole has not yet been substantially performed, the Engineer may, if requested in writing by the Contractor, approve the completion of a sub-contract and the release to a Sub-Contractor through the Contractor of the 10% holdback retained by the Owner in respect of the work covered by the said sub-contract provided that

- (a) the Contractor certifies
  - (1) that the said sub-contract has been completed satisfactorily, or
  - (2) that the said sub-contract has been completed satisfactorily except for work not exceeding in value the lesser of
    - (i) one per cent of the sub-contract price, and
    - (ii) \$1,000.00and gives reasons why the uncompleted work is still outstanding.
- (b) the Engineer is satisfied
  - (1) that the said sub-contract has been completed satisfactorily, or
  - (2) that the said sub-contract has been completed satisfactorily to the fullest extent reasonably possible at that date and that the work remaining to be completed does not exceed in value the sum derived from (a) (2) above.
  - (3) that all required or necessary inspection and testing of the works covered by the said sub-contract have been carried out and that the results are satisfactory.
- (c) the Contractor has furnished to the Engineer
  - (1) a release by the Contractor in a form satisfactory to the Engineer releasing the Owner from all further claims (excepting holdback monies) relating to the said sub-contract.

- (2) evidence satisfactory to the Engineer that the said Sub-Contractor has discharged all liabilities incurred by him in carrying out the said sub-contract and that all liens in respect of the completed sub-contract have expired or have been satisfied, discharged or provided for by payment into Court.
  - (3) a satisfactory clearance certificate or letter from the Workers' Compensation Board relating to the said Sub-Contractor.
  - (4) the required maintenance security in respect of the said sub-contract as provided for in Section 42 hereof.
- (d) the Engineer retains sufficient money to cover the cost of completing any work which remains uncompleted under the said sub-contract.
  - (e) if he so requests, the Engineer is furnished with a photostat copy of the contract between the Contractor and the said Sub-Contractor and with a satisfactory statement showing the total amount due from the Contractor to the said Sub-Contractor.

The Engineer shall, within seven days after he approves a certificate wherein it is certified that the sub-contract has been completed, give a copy of the said certificate to the Contractor and to the Sub-Contractor concerned.

On receipt of the holdback monies from the Owner, the Contractor shall forthwith pass to the Sub-Contractor concerned the payment due under the said sub-contract and shall pass to the Engineer a copy of the transmittal letter showing the amount of the said payment.

The period of maintenance for the work carried out under the said sub-contract shall continue until the issuance of the Final Certificate for the Contract.

Release of holdback monies by the Owner in respect of a sub-contract in accordance with the foregoing shall not relieve the Contractor or his surety of any of their responsibilities and shall not be made until a period of 45 days has elapsed from the date of approval of the certificate certifying the said sub-contract to be completed.

### **37. MEASUREMENTS**

- (a) Approximate monthly measurements of the works completed under the Contract shall be made by the Engineer at the end of each calendar month except where the work has been delayed or suspended. An authorized representative of the Contractor shall assist the Engineer in taking such measurements and shall furnish all particulars required by the Engineer. The Engineer shall notify the Contractor when such a measurement will be made.
- (b) The said monthly measurements shall not bind the Engineer in any manner in the preparation of his final measurement of the works constructed by the Contractor under this Contract, but shall be construed and held to be approximate only.
- (c) The final measurement shall be prepared in detail as soon as the whole of the works have been completed, and this final measurement shall be approved and accepted in writing by the Engineer. Thereafter the Completion Payment Certificate shall be issued and payment shall be made in accordance with Section 41 hereof.

### **38. ALTERATIONS, EXTRAS, DEDUCTIONS AND CLAIMS**

The Engineer shall have the right to make or order alterations and changes as he may deem advisable at any time before or during the prosecution of the works, in any line, grade, plan or detail thereof, or to suspend or omit any portion of the work, or to increase or decrease the dimensions of any part of the work or works, or to vary in any way the work herein contracted for, or to order any additional or extra work to be done, or additional or extra materials to be furnished and the Contractor shall, in pursuance of written orders of the Engineer to that effect, proceed with, carry out and execute the works as directed, and shall supply such additional materials, and do such additional or extra work as the Engineer requires in pursuance of such orders, without being entitled to any extension of time for completion or any additional payment on account thereof, except only as herein provided. In each and every case where additional or extra work or materials of any kind is ordered to be done or supplied, or where the Contractor does or supplies, or contemplates doing or supplying any work or material which he considers extra or beyond the requirements of the Contract, or upon which he intends claiming any extra or additional payment, he is required before commencing any such work, or procuring any such material, to obtain from the Engineer a written order therefore, stating that the same is an extra and will be paid for as such, and also clearly defining the nature of such extra work or material, and the amount the Contractor is to receive therefore, or the terms under which the same is to be paid for; and the Contractor shall also, before beginning any such extra work or commencing to deliver any such additional material, notify the Engineer in writing of his intention to commence work thereon or delivery thereof, so that a proper account or record of the same may be kept by the Engineer.

In case of the Contractor's neglect or failure to observe fully and faithfully the above conditions in this section contained, he shall forfeit all right to payment therefore which he otherwise might have had, and shall not make any claim in respect thereof, and if made, the Engineer may reject the same as invalid.

### **39. VALUATION OF VARIATIONS**

- (a) The Engineer shall determine the amount, if any, to be added to or deducted from the sum named in the Tender, in respect of any extra or additional work done, or work omitted by his order. All such work shall be valued at the price as set out in the Schedule of Items and Prices and the Schedule of Additional Unit Prices if, in the opinion of the Engineer, the same shall be applicable.
- (b) If the Contract does not contain any prices applicable to the extra, additional, or omitted work, then the Contractor and the Engineer may agree on a price for such work, in which case the price shall be comparable to prices quoted on work of a similar nature.
- (c) If the methods of evaluating extras described in (a) or (b) herein are clearly inapplicable, then the Engineer may direct that extra work shall be done by the Contractor on a cost-plus basis providing for payment as follows:
  - (1) The actual cost of all labour, including allowance for holiday pay, unemployment insurance, levy by Worker's Compensation Board, and other contributions made by the employer to an employee as required by law or a contract, required directly for the performance of extra work plus 15% of the same.
  - (2) The actual cost of materials including transportation charges required directly in the extra work, plus 15% of the same.
  - (3) A reasonable rental to be agreed upon before the work is begun for machinery and

heavy equipment, such as tractors, bulldozers, ditching machines, air compressors, concrete mixers and graders, for the actual time required in operation for the performance of the extra work, to which no percentage shall be added.

If the Contractor is directed to carry out extra or additional work on a cost-plus basis and he proposes to have such work or a part thereof carried out by a Sub-Contractor or a sub-Sub-Contractor, he shall notify the Engineer to that effect before commencing the said work. Provided that the Contractor's proposal and all Sub-Contractors involved have first been approved by the Engineer, the Contractor may claim payment from the Owner for such work as follows:

- (1) In respect of work carried out by the Contractor's own forces, an amount equal to the sum of the amounts provided for under (1), (2) and (3) above.
  - (2) In respect of work carried out by a Sub-Contractor's forces, an amount equal to the sum of the amounts provided for under (1), (2) and (3) above plus 5% of such sum.
  - (3) In respect of work carried out by a sub-Sub-Contractor's forces, an amount equal to the sum of the amounts provided for under (1), (2) and (3) above plus 5% of such sum plus a further 5% of the total so obtained.
- (d) The compensation provided for above shall be payment in full for all charges including superintendence, overhead, the use of small tools and profit.

No compensation for extra work or material shall be allowed unless such work or material is ordered in writing by the Engineer. Whenever any extra work is being performed in accordance with (c) herein, the Contractor shall, each working day, report to the Engineer, in writing, in full detail, the amount and cost of the labour and materials supplied and used in carrying out each order for extra work on the preceding working day, and no claim for compensation for extra work or materials will be considered or allowed unless such report shall have been made. The Engineer will not allow any compensation for the cost of repairs to equipment of any kind or for damage to anything used in performing any such extra work or making any such alterations.

#### **40. BOOKS AND RECORDS OF THE CONTRACTOR**

- (a) The Contractor shall keep proper books and records showing names, trades, and addresses of all workmen in his employ and wages paid to and the time worked by such workmen; also records, books and invoices showing all costs, expenditures, payments, settlements, receipts and balances in connection with the construction of the works.
- (b) The Owner may audit all financial and related records of the Contractor associated with the terms of the Contract, including timesheets, reimbursable out of pocket expenses, material, goods and equipment claimed by the Contractor
- (c) The Contractor shall at all times during the term of the Contractor or Agreement and for a period of six years after the end of the contract, keep and maintain records of the work performed pursuant to this Contract or Agreement. This shall include proper records of quotations, contracts, correspondence, invoices, vouchers, timesheets, and other documents that support actions taken by the Contractor. All such records shall be maintained by the Contractor in accordance with generally accepted accounting principles. The Contractor shall at its own expense make such records available for the inspection and audit (including copies and extracts of records as required) by the Owner or the

representatives duly appointed by the Owner at all reasonable times and without prior notice.

- (d) The obligations of this Section shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors or supplier of goods or services to the extent that those subcontracts relate to the fulfilment of the Contractor's obligations to the Owner. For clarification, the Constrictor shall ensure that the Owner's right to audit shall extend to the financial and related records of any subcontractor or supplier or party associated with the Contractor.
- (e) Cost of any audits conducted under the authority of this Section and not addressed elsewhere will be borne by the Owner unless the audit identifies significant findings that would benefit the Owner. The Contractor shall reimburse the Owner for the total costs, on a full and complete indemnity basis, of an audit that identifies significant findings that would benefit the Owner.
- (f) This Section shall not be construed to limit, revoke or abridge any other rights, powers or obligations relating to audit which the Owner may have by Federal, Provincial or Municipal law, whether those rights, powers, or obligations are express or implied.

#### **41. PAYMENT**

- (a) The Contractor shall submit to the Engineer at the end of each calendar month a fully itemized statement showing the estimated value of the permanent work executed up to the end of the month based on the unit prices shown in the Contract and the section covering Valuation of Variations, together with a fully itemized statement of the value of major items of material and equipment on site for incorporation into the permanent works.
- (b) From each monthly statement, including the statement based on the final measurement, the Engineer will prepare a Monthly Payment Certificate and will include therein so much as he considers fair and reasonable in respect of the value of the work executed and of the major items of material and equipment on site.
- (c) Ten per cent (10%) of all monies due the Contractor in accordance with the Monthly Payment Certificate up to a limit of 10% of the Contract price shall be retained by the Owner except as may be otherwise noted and shall be termed the holdback.
- (d) The Monthly Payment Certificate will show the Engineer's gross valuation of the work performed and materials supplied, the deduction of the appropriate amount of holdback, the previous payments to the Contractor and the amount due him.
- (e) No progress estimate or payment shall be held to bind the Engineer in his valuation of the work on its completion and the Engineer may on any Monthly Payment Certificate make correction or modification to any previous certificate he has made.
- (f) At the time of issuance by the Engineer of the Certificate of Substantial Performance in accordance with Section 35 (c) of the General Conditions, the Engineer shall
  - (1) notify the Contractor of the value of the maintenance security required by Section 42.
  - (2) prepare a Substantial Performance Payment Certificate showing:
    - the value of work complete to date.

- the value of outstanding or uncompleted work.
  - the value of the required maintenance security.
  - the amount of the 10% holdback (allowing for any previous releases of holdback to the Contractor in respect of completed sub-contracts and deliveries of pre-selected equipment).
  - the amount due the Contractor.
- (3) prepare a payment certificate releasing to the Contractor the 10% holdback due in respect of work performed up to the date of substantial performance. Subject to the provisions of The Construction Lien Act and the submission by the Contractor of the documents required by Section 35 (c) hereof, such holdback shall become payable after 45 days from the date of publication of the Certificate of Substantial Performance.
- (g) At the time of issuance by the Engineer of the Certificate of Completion in accordance with Section 35 (i) of the General Conditions, the Engineer shall:
- (1) Prepare a Completion Payment Certificate showing:
- the Final Contract price.
  - the amount of the further 10% holdback (based on the value of further work completed over and above the value of work completed shown in the Substantial Performance Payment Certificate referred to in (f) above.
  - the amount due the Contractor.
- (2) Prepare a payment certificate releasing to the Contractor the further 10% holdback. Subject to the provisions of The Construction Lien Act and the submission by the Contractor of the documents required by Section 35 (i) hereof, such further 10% holdback shall become payable after 45 days from the date of completion of the works as established by the Certificate of Completion.
- (h) If, when the Engineer issues the Final Certificate at the end of the period of maintenance (see Section 35 (1) hereof), any monies are still being retained by the Owner as maintenance security or for other reasons, the Engineer will issue a Final Payment Certificate releasing the monies due the Contractor.

#### **42. MAINTENANCE SECURITY**

The Contractor shall provide to the Owner for the duration of the period of maintenance a maintenance security the value of which shall be derived from the following table:

CONTRACT PRICE FROM: \$	TO \$	VALUE OF MAINTENANCE SECURITY
Less than	0.1 M	4% of Final Contract Price
0.1 M	0.5 M	4,000 on first 0.1 M + 3.0% on next 0.4 M
0.5 M	1.0 M	16,000 on first 0.5 M + 2.4% on next 0.5 M
1.0 M	2.0 M	28,000 on first 1.0 M + 2.2% on next 1.0 M
2.0 M	4.0 M	50,000 on first 2.0 M + 2.0% on next 2.0 M
4.0 M	6.0 M	90,000 on first 4.0 M + 1.8% on next 2.0 M
6.0 M	10.0 M	126,000 on first 6.0 M + 1.5% on next 4.0 M
Over	10.0 M	186,000 on first 10.0 M + 1.0% on balance

The maintenance security, which is at no time a part of the statutory holdback, shall be retained by the Owner in increments from monies that would otherwise be payable to the Contractor, commencing during the latter part of the period of construction, so that by the date of substantial performance of the Contract the full value of the required maintenance security has been retained.

Except as otherwise provided hereunder, the maintenance security, less any deductions made therefrom as provided for in the Contract shall be paid to the Contractor following the issuance by the Engineer of the Final Certificate at the end of the period of maintenance.

Where the Engineer proposes to release the statutory holdback to a Sub-Contractor through the Contractor, as provided for in Section 36 hereof, the Engineer shall arrange for "the required maintenance security in respect of the said sub-contract", as referred to in section 36 (c)(4) hereof, to be provided by a retention from monies that would otherwise be payable to the Contractor. The value of the required maintenance security shall be determined by applying to the value of the sub-contract work the same effective percentage retention, derived from the foregoing table, as applies to the Contract as a whole.

#### **43. SUSPENSION OF WORK**

The Engineer may, by an order in writing, at any time stop or suspend any part of the work, or direct any portion to be commenced or completed in priority to any other part or portion, or may cancel the order to proceed with the work, or with any part thereof, and the Contractor shall not thereby be entitled to any additional payment, or to claim for loss of profit or anticipated profit, or for damages or otherwise howsoever, by reason of such order except as may be allowed in accordance with Section 14 hereof. When, in the opinion of the Engineer, it is deemed advisable for any reason to discontinue the work or any part thereof for the winter, the Contractor must, on notice from the Engineer of the required discontinuation, forthwith place the work in proper and satisfactory condition for the accommodation and safety of the public and for the effectual protection of the work against damage from rain, snow, frost, ice, wind or other causes, and must

so maintain the work.

When work is ordered or permitted by the Engineer to be done during freezing weather, the Contractor shall provide the necessary means for heating, and all the materials required in the work shall be heated. Unless otherwise directed in writing by the Engineer, all masonry, concrete, painting, roadway and other work liable to be injuriously affected by frost, or which cannot, in the opinion of the Engineer, be satisfactorily proceeded with because of the condition of the weather, must be put in proper and satisfactory condition and be carefully and well protected from damage by frost at all times - all at the cost and expense of the Contractor.

#### **44. SUB-LETTING**

The Contractor shall keep the work under his personal control, and shall not assign, transfer, or sub-let any portion without first obtaining the written consent of the Engineer. The consent of the Engineer to any such assignment, transfer, or sub-letting, shall not, however, relieve the Contractor of any responsibility for the proper commencement, execution, and completion of the work according to the terms of the Contract. If the Engineer consents to any such assignment, transfer or sub-letting the Contractor shall, either in person or through an accredited agent, receive all notices, communications, orders, instructions, or legal service, as if he were performing the work with his own plant and his own men.

#### **45. USE OF HYDRANTS AND WATER**

The Contractor shall make his own arrangements for a supply of water to be used in carrying out the Contract, and shall bear all costs for water and temporary connections unless otherwise specifically provided for in the Contract.

The Contractor shall comply with the regulations of the authority supplying the water regarding the use and care of hydrants. Any damage to hydrants caused by the Contractor's operations shall be his responsibility. In the event the Contractor fails to make good such damage the Engineer will have the necessary repairs made and will retain the cost from monies due the Contractor.

The Contractor shall bear the cost of all water used in testing and chlorinating of all installations.

#### **46. SETTING OUT**

The Engineer will provide the Contractor in writing with benchmarks and points of reference to be used by him in setting out the works. The Owner will be responsible only for the correctness of the information so supplied. From these bench marks and points of reference the Contractor will do his own setting out. The setting out by the Contractor shall include but shall not be limited to the preparation of grade sheets, the installation of centre line stakes, grade stakes, off-sets, site rails and screeds.

The Contractor shall be responsible for the true and proper setting out of the works and for the correctness of the position, levels, dimensions and alignment of all parts of the works, and for the provision of all necessary instruments and labour in connection therewith. The Contractor shall not be responsible for the correctness of the information supplied by the Engineer as herein provided for. If at any time during the progress of the works any error shall appear or arise in the position, levels, dimensions or alignment of any part of the works, the Contractor shall, at his own expense, rectify such error to the satisfaction of the Engineer, unless such error is based on incorrect data supplied in writing by the Engineer. The checking of the setting out of any line or

level by the Engineer shall not in any way relieve the Contractor of his responsibility for the correctness thereof and the Contractor shall carefully protect and preserve all bench marks, stakes and other things used in setting out the works.

#### **47. ASSISTANCE**

The Contractor is to furnish the Engineer or any of his assistants, with any reasonable help, which he or they may require at any time in checking the work. He shall also furnish the said parties, or any of the Inspectors, at all times, with convenient means of access to all parts of the works, and also with all required assistance to facilitate thorough examination of the same, and inspection, culling and removal of doubtful or defective material, and for any other purpose required in connection with the said works or in the discharge of their respective duties, for which services no additional allowance will be made.

#### **48. OTHER'S RIGHTS**

The Contractor must afford all necessary and reasonable facilities to the Owner, or any of its employees or workmen, as well as to any company, corporation or person owning or operating any railway, tramway, wires, pipes or conduits or works or property, on, along, or near the line of the works, or in their vicinity; he shall notify all such parties before interfering with any of their property, rights or privileges and must work in harmony with them; otherwise he shall notify the Engineer in writing of his failure so to do, or of any difficulty that may at any time arise which he may be unable to overcome, in which case the Engineer shall deal with the matter as in his judgement may seem right or proper, and the Contractor shall abide by the decision and the direction of the Engineer. Any property of such parties which the Engineer orders to be moved by the Contractor must be handled with care, and must be neatly piled up and preserved free from injury or loss, and must be properly and satisfactorily replaced, all of which must be done by the Contractor without extra charge (unless specifically provided for in the Contract) and to the satisfaction of the Engineer.

The Engineer shall have the right, at any time before or during the construction, or after the completion of the work, to open up any portion of the work or works, or the ground or roadway, or to grant permission for such opening to be made or left by the Contractor, as he, the Engineer, may deem advisable, for the purpose of examining, repairing or laying any water, gas or other pipe, sewer, drain, track, or other underground or surface construction or to cause any such work as he may deem necessary or advisable to be done, and such permission, or the exercise of such rights, either by the Engineer or by any other person or corporation having the requisite authority (either statutory otherwise), shall not relieve the Contractor from any of his responsibilities or obligations, nor shall the opening up of any portion of the work for these or any other purpose, or by any other parties, relieve the Contractor of such responsibilities or obligations, except only for the portion of the work actually torn up and destroyed, and then only in case the Contractor applies in writing for such relief at the time the work is being done, or within ten days afterwards, and can furnish sufficient cause, in the opinion of the Engineer, why such relief should be granted.

#### **49. MONIES DUE OWNER**

All monies payable to the Owner by the Contractor under any stipulation herein or to the Worker's Compensation Board, may be retained out of any monies then due, or which may become due, from the Owner to the Contractor under this or any other contract with the owner, or otherwise howsoever, or may be recovered from the Contractor or his surety jointly or severally, in any court

of competent jurisdiction, as a debt to the Owner, and the Owner shall have full power to withhold any estimate or certificate if circumstances arise which may indicate to it the advisability of so doing, though the sum to be retained may be unascertained.

## **50. WORKERS' RIGHTS**

The Contractor shall not favour and shall not refuse employment to or otherwise discriminate against any person because of that person's race, colour, religion or national origin or because that person has made a complaint or given information with respect to an alleged failure by the Contractor or a Sub-Contractor to comply with the provisions hereof.

## **51. LIENS**

The Contractor and his surety, executors, administrators, successors and assigns, (if assignment is approved as herein provided) and any and all other parties in any way concerned, shall fully relieve and indemnify the Owner and all its officers, servants and employees from any and all liability or expenses in respect to any claim which may be made for a lien or charge at law or in equity or to any claim or liability or to any attempted attachment for debt, garnishee, process or otherwise. The Owner shall not in any case be liable to any greater extent than the amount owing by it to the Contractor, his executors, administrators, successors and assigns, pursuant to this Contract.

## **52. NONFULFILLMENT OF THE CONTRACT**

If, in the opinion of the Engineer, and at any time or times prior to the issuance of the Final Certificate, the Contractor neglects or fails to commence work within seven days after the date of the Engineer's written order to commence work, or becomes bankrupt or insolvent, or compounds with his creditors, or commits any act of insolvency, or transfers, assigns or sublets the Contract or any part thereof without the written consent of the Engineer, or has not executed or is not executing the work or any part thereof in a sound and workmanlike manner and in accordance with the Contract, or is not performing the work so as to ensure its completion within the time stipulated in the Contract or has failed to complete the works within the said time, or fails or refuses to take down, rebuild, repair or rectify any imperfect works for which the Contractor is responsible, or fails to remove any condemned material or to replace such material with proper material, or fails to comply with any reasonable order given to him by the Engineer, or abandons the work, or fails to observe or perform any of the provisions of the Contract, then in each and any such case the Engineer shall, after giving the Contractor 48 hours' written notice, have the right and power, at his discretion without process or action at law, to take possession and control of the whole work, or any part or parts thereof specified in the said notice, from the Contractor, and the Contractor upon receiving the said notice, shall give possession and control of the said work, or the part or parts thereof specified in the said notice, peaceably to the Engineer, and the Engineer may employ such means as he may deem necessary or advisable to complete the work to his satisfaction with such changes therein as in the Engineer's opinion are necessary or advisable by reason of the Contractor's nonfulfillment of the Contract as set out herein. In the event of any emergency in any manner due to the Contractor's nonfulfillment of the Contract as set out above or in Section 31 (a) hereof, the Engineer shall have the right and power at his discretion without process or action at law or any notice to the Contractor to take possession and control of the works, or any part thereof, from the Contractor and the Engineer may take such measures as he may deem necessary or advisable to deal with the emergency and the decision of the Engineer as to the existence of such an emergency and as to the measures to be taken in regard thereto shall be final. If in the event of any emergency as aforesaid, the Engineer takes measures in regard thereto as provided for above, he shall notify the Contractor thereof as soon after the

commencement of the emergency as is practicable. The Contractor and his surety in every case provided for above shall be liable for all loss, damage, expense, expenditures and cost which may be incurred by reason of the Engineer's exercise of the rights and powers provided for herein. If the said loss, damage, expense, expenditure or cost exceeds the sum which would have been payable under the Contract if the same had been completed by the Contractor, the Contractor or his surety shall pay the amount of such excess to the Owner together with the amount of liquidated damages from the date fixed for the completion of the work, and the same may be deducted or collected by the Owner as provided for in Section 49 entitled "Monies due Owner". All the powers of the Engineer with respect to the determination of any doubts, disputes and differences, and the determination of the sum or sums, or balance of money to be paid to or received from the Contractor or his surety in respect of the Contract shall nevertheless continue in force. The fulfilment by the Contractor of any stipulation in the Contract may be enforced by legal proceedings and judgement, or order of court, without prejudice to any other remedy herein contained.

In case possession and control of the work, or any part thereof, is taken from the Contractor as herein provided, the relative obligations of the Owner and the Contractor and his surety in respect of the Contract shall not be affected nor shall the completion of the work be delayed; all property, materials, articles and things whatsoever including all machinery, tools, plant and equipment, and all rights, proprietary or otherwise, licences, powers and privileges, whether relating to or affecting real or personal property, acquired, possessed or provided by the Contractor for the purpose of the work, or by the Engineer under the provisions of this Contract, shall be the property of the Owner and may be used, exercised and employed by the Owner as fully as they might have been used, exercised and employed by the Contractor, and the Owner may sell or otherwise dispose of, at public auction or private sale or otherwise, the whole or any portion of number of such property, materials, articles and things, at such price or prices as it may deem fit and retain the proceeds of any sale or disposition and all other amounts then or thereafter due the Owner to the Contractor, on account of or in part satisfaction of any loss, damage, expense or cost which the Owner may sustain or has sustained by reason aforesaid. If any balance of the Contract price, or any other money payable by the Owner hereunder, shall remain in the hands of the Owner upon the completion of the measures taken by the Engineer and the fulfilment of the Contract, the same shall be payable to the Contractor or the person legally representing him, but neither the Owner nor any officer, employee or agent thereof shall be liable or accountable to the Contractor or his surety in any way for the manner in which, or the price at which, the said work or any portion thereof, may have been or may be done or completed by the Engineer.

Neither an extension of time for any reason beyond the date fixed herein for the completion of the Contract, nor the payment for any portion of the work shall be deemed to be a waiver by the Engineer or the Owner of their rights under the Contract.

### **53. BRIBERY**

Should the Contractor or any of his agents give or offer any gratuity to, or attempt to bribe, any member of the Council of the Corporation, or any officer or servant of the Owner or any agent of the Engineer, the Owner shall be at liberty to cancel the Contract forthwith, or to direct the Engineer to take the whole or any part of the works out of the hands of the Contractor, under the same provisions as those specified in the preceding section hereof.

## 54. DISPUTES

### (a) Contractor's Claims

Any claim which the Contractor may have against the Owner based on any dispute or difference of any kind whatsoever arising out of the Contract or work shall not be grounds for delay in the work, but shall be referred by the Contractor in writing to the Engineer not later than fifteen days after the Contractor becomes aware of the circumstances giving rise to such dispute or difference. Such reference to the Engineer shall contain a concise statement of the relevant facts. The Engineer may require any additional information.

The claim shall be settled by the Engineer who shall communicate his decision in writing to the parties within sixty days of the reference and such decision shall forthwith be given effect by the parties, and the Contractor shall proceed with the works with all due diligence in accordance therewith whether or not such claim shall be referred to arbitration as hereinafter provided.

Except in those circumstances where it is provided in the Contract that the decision of the Engineer shall be final, any dispute or difference persisting after the delivery of the Engineer's decision or after the expiry of the period of sixty days aforementioned, whichever shall first occur, shall, within thirty days, be referred to arbitration in accordance with the Provincial Arbitration Act and as herein provided.

The arbitration shall be by a board of three members except as provided for in the following paragraph hereof. \* Either party shall notify the other party in writing of its desire to submit the dispute or difference to arbitration and the notice shall contain the name of the first party's appointee to the arbitration board. The recipient of the notice shall within fourteen days inform the other party of the name of its appointee to the arbitration board. The two members, so selected, shall within fourteen days of the appointment of the second of them appoint a third person who shall be the chairman.

\*Alternatively, the arbitration board may consist of a sole arbitrator provided that

- (1) The Owner and the Contractor so agree and
- (2) The Owner and the Contractor agree upon the person to be appointed as sole arbitrator.

Either party may appeal from the arbitration award.

Reference to arbitration by the Contractor as herein provided shall be a condition precedent to any legal action by him with respect to any dispute or difference of any kind whatsoever which the Contractor may have with the Owner arising out of the Contract or work.

### (b) Owner's Claim

Any claim which the Owner may have against the Contractor based on any dispute or difference of any kind whatsoever arising out of the Contract or work may, at the option of the Owner, and after notification in writing to the Contractor, be settled in accordance with the procedure set out in subsection (a) hereof and the provisions thereof shall apply, the necessary changes having been made.

## **55. SPECIFICATION EXPLANATION**

- (a) The Specifications may be of the simplified abbreviated type and include incomplete sentences. "The Contractor shall", "in conformity therewith", "as noted on the Drawings", "according to the plans", "a", "an", "the", and "all" are intended. Omitted words or phrases shall be supplied by inference in the same manner as they are when a "note" occurs on the Drawings.
- (b) Whenever the words, "approved", "satisfactory", "reviewed", "directed", "submitted", "inspected" or similar words and phrases are used, it shall be assumed that the words, "Engineer or his representative" follow the verb as the object of the clause such as "approved by the Engineer of his representative".
- (c) All reference to standard specifications or manufacturer's installation directions shall mean the latest edition thereof. (Refer to the *Water Division Specifications, Year 2004* available under separate cover.)

## **56. SHOP DRAWINGS**

The Contractor shall furnish to the Engineer at proper times all shop and setting drawings or diagrams which the Engineer may deem necessary in order to make clear the work intended or to show its relation to adjacent work of other trades. The Contractor shall make any changes in such drawings or diagrams which the Engineer may require consistent with the Contract and shall submit up to six (6) copies of the revised prints to the Engineer for examination or review, two (2) of which shall be returned to the Contractor and the others retained by the Engineer. When submitting such shop and setting drawings, the Contractor shall notify the Engineer in writing of changes made therein from the Engineer's Drawings or Specification. The Engineer's review of such drawings or the revised drawings shall not relieve the Contractor from responsibility for errors made by the Contractor therein or for changes made from the Engineer's Drawings or Specification not covered by the Contractor's written notification to the Engineer. All models and templates submitted shall conform to the spirit and intent of the Contract Documents.

The Contractor shall furnish to the Engineer as called for in the Specification such further drawings as he requires and his Contract Price is to include for the supply of these further drawings.

## **57. YEAR 2000 COMPLIANCE**

The Bidder represents and warrants that it has achieved complete Year 2000 compliance both in its operations and any goods and/or services that may be supplied to the Windsor Utilities Commission.