"C" GENERAL CONDITIONS

I N D E X

GC1 INTERPRETATION 1
GC2 SUCCESSORS AND ASSIGNS 2
GC3 ASSIGNMENT OF CONTRACT 2
GC4 SUBCONTRACTING BY CONTRACTOR 2
GC5 AMENDMENTS 2
GC6 NO IMPLIED OBLIGATIONS 3
GC7 TIME OF ESSENCE 3
GC8 INDEMNIFICATION BY CONTRACTOR 3
GC9 INDEMNIFICATION BY THE OWNER 3
GC10 MEMBERS OF HOUSE OF COMMONS AND SENATE NOT TO BENEFIT 3
GC11 NOTICES TO CONTRACTOR 3
GC12 MATERIAL, PLANT AND REAL PROPERTY SUPPLIED BY OWNER 4
GC13 MATERIAL, PLANT AND REAL PROPERTY BECOME PROPERTY OF OWNER 4
GC14 MUNICIPAL PERMIT 5
GC15 PERFORMANCE OF WORK UNDER DIRECTION OF ENGINEER 5
GC16 CO-OPERATION WITH OTHER CONTRACTORS 5
GC17 EXAMINATION OF WORK 6
GC18 CLEARING OF SITE 6
GC19 CONTRACTOR'S SUPERINTENDENT 6
GC20 NATIONAL SECURITY 7
GC21 SECURITY REQUIREMENTS DURING THE NAVIGATION SEASON 7
GC22 UNSUITABLE WORKERS 7
GC23 INCREASED OR DECREASED COSTS 7
GC24 CANADIAN LABOUR AND MATERIAL 8
GC25 PROTECTION OF WORK AND DOCUMENTS 8
GC26 PERSONAL INFORMATION AND PRIVACY 9
GC27 PUBLIC CEREMONIES AND SIGNS 9
GC28 PRECAUTIONS AGAINST DAMAGE, INFRINGEMENT OF RIGHTS, FIRE, AND OTHER HAZARDS 9
GC29 INSURANCE AND WORKPLACE SAFETY AND INSURANCE BOARD (WSIB) OR *COMMISSION DE LA SANTE ET DE LA SECURITE DU TRAVAIL (CSST).* 10
GC30 INSURANCE PROCEEDS 10
GC31 CONTRACT SECURITY 11
GC32 CHANGES IN THE WORK 11
GC33 INTERPRETATION OF CONTRACT BY ENGINEER 12
GC34 WARRANTY AND RECTIFICATION OF DEFECTS IN WORK 12
GC35 NON COMPLIANCE BY CONTRACTOR 13
GC36 PROTESTING ENGINEER'S DECISIONS 13
GC37 CHANGES IN SOIL CONDITIONS AND NEGLECT OR DELAY BY THE OWNER 14
GC38 EXTENSION OF TIME 14
GC39 ASSESSMENTS AND DAMAGES FOR LATE COMPLETION 14
GC40 TAKING THE WORK OUT OF THE CONTRACTOR'S HANDS 15
GC41 EFFECT OF TAKING THE WORK OUT OF THE CONTRACTOR'S HANDS 16
GC42 SUSPENSION OF WORK BY PRESIDENT 16
GC43 TERMINATION OF CONTRACT 17
GC44 CLAIMS AGAINST AND OBLIGATIONS OF THE CONTRACTOR OR SUBCONTRACTOR 17
GC45 SECURITY DEPOSIT - FORFEITURE OR RETURN 18

I N D E X

GC46 ENGINEER'S CERTIFICATES 18
GC47 RETURN OF SECURITY DEPOSIT 19
GC48 CLARIFICATION OF TERMS IN GC49 TO GC52 19
GC49 ADDITIONS OR AMENDMENTS TO PRICE TABLE 19
GC50 DETERMINATION OF COST - PRICE TABLE 20
GC51 DETERMINATION OF COST - NEGOTIATION 20
GC52 DETERMINATION OF COST - FAILING NEGOTIATION 20
GC53 RECORDS TO BE KEPT BY CONTRACTOR 21
GC54 ARBITRATION 22

GC1 Interpretation

1.1 In the contract

1.1.1 where reference is made to a part of the contract by means of numbers preceded by letters, the reference shall be construed to be a reference to the particular part of the contract that is identified by that combination of letters and numbers and to any other part of the contract referred to therein;

1.1.2 "contract" means the contract documents referred to in the Articles of Agreement;

1.1.3 "contract security" means any security given by the Contractor to the Owner in accordance with the contract;

1.1.4 "Engineer" means the officer or employee of the Owner who is designated pursuant to the Articles of Agreement and includes a person specially authorised by him to perform, on his behalf, any of his functions under the contract;

1.1.5 "review by the Engineer" means that the Engineer reviews documents, procedures or requests submitted and grants permission to proceed with the work according to the documents or procedures submitted, or accepts the request submitted. Permission to proceed is granted when the Engineer indicates that no corrections are noted. Permission to proceed may also be granted conditionally to the implementation of corrections, which the Engineer has indicated on the documents. The Contractor may not proceed if the document is rejected or the review stamp requires a revised document to be resubmitted. Review by the Engineer does not, in any way, relieve the Contractor from full responsibility for the correctness of submitted documents, procedures and of the Contractor's work and their conformity with the contract documents and the field conditions.

1.1.6 "material" includes all commodities, articles and things required to be furnished by or for the Contractor under the contract for incorporation into the work;

1.1.7 "person" includes, unless the context otherwise requires, a partnership, proprietorship, firm, joint venture, consortium and a corporation;

1.1.8 "plant" includes all animals, tools, implements, machinery, vehicles, buildings, structures, equipment and commodities, articles and things other than material, that are necessary for the due performance of the contract;

1.1.9 "President" means the person holding the position of President of The St. Lawrence Seaway Management Corporation, and includes a person acting for, or if the office is vacant, in the place of such President, and his successors in the office, and his or their lawful deputy and any of his or their representatives appointed for the purpose of the contract;

1.1.10 "subcontractor" means a person to whom the Contractor has, subject to GC4, subcontracted the whole or any part of the work;

1.1.11 "superintendent" means the employee of the Contractor who is designated by the Contractor to act pursuant to GC19;

1.1.12 "work" includes, subject only to any express stipulation in the contract to the contrary, everything that is necessary to be done, furnished or delivered by the Contractor to perform the contract.

GC 1 Interpretation (cont'd)

1.2 The headings in the contract documents, other than in the Specifications and Drawings, form no part of the contract but are inserted for convenience of reference only.

1.3 In interpreting the contract, in the event of discrepancies or conflicts between anything in the Specifications and Drawings, and the General Conditions, the General Conditions govern.

1.4 In interpreting the Specifications and Drawings, in the event of discrepancies or conflicts between

1.4.1 the Specifications and Drawings, the Specifications govern;

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

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

GC2 Successors and Assigns

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

GC3 Assignment of Contract

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

GC4 Subcontracting by Contractor

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

4.2 The Contractor shall notify the Engineer of his intention to subcontract.

4.3 A notification referred to in GC4.2 shall identify the part of the work, and the subcontractor with whom it is intended to subcontract.

4.4 The Engineer may, within 10 working days of receipt by the Engineer of notification referred to in GC4.2, reject the intended subcontractor.

4.5 If the Engineer rejects the subcontractor pursuant to GC4.4, the Contractor shall not enter into the intended subcontract.

4.6 The Contractor shall not, without the written consent of the Engineer, change a subcontractor who has been engaged by him in accordance with these General Conditions.

4.7 Every subcontract entered into by the Contractor shall adopt all of the terms and conditions of this contract that are of general application.

4.8 Neither a subcontracting nor the fact that the Engineer has not rejected a sub-contractor proposed by the Contractor shall be construed to relieve the Contractor from any obligation under the contract or to impose any liability upon the Owner.

4.9 The Contractor shall not subcontract the work or any part of the work to another contractor if the said contractor had submitted a bid for the current contract, was the lowest bidder and was disqualified or withdrew his bid after submission.

GC5 Amendments

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

GC6 No Implied Obligations

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

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

GC7 Time of Essence

7.1 Time is of the essence of the contract.

GC8 Indemnification by Contractor

8.1 The text of paragraph GIC 1 of the document titled "I" Insurance Conditions applies to this part.

GC9 Indemnification by the Owner

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

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

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

GC10 Members of House of Commons and Senate Not to Benefit

10.1 As required by Law, no member of the House of Commons or Senate shall be admitted to any share or part of the contract or to any benefit arising therefrom.

GC11 Notices to Contractor

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

11.1.1 to the Contractor, if delivered personally to the Contractor or the Contractor's superintendent, or forwarded by mail or facsimile to the Contractor at the address set out in A4.1 of the Articles of Agreement, or

11.1.2 to the Owner, if delivered personally to the Engineer, or forwarded by mail or facsimile to the Engineer at the address set out in A5.1 of the Articles of Agreement.

GC11 Notices to Contractor (cont'd)

11.2 Any such notice, consent, order, decision, direction or other communication given in accordance with GC11.1 shall be deemed to have been received by either party

11.2.1 if delivered personally, on the day that it was delivered,

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

11.2.3 if forwarded by facsimile, 24 hours after it was transmitted.

11.3 Any notice delivered personally, shall be delivered to the Contractor if the Contractor is doing business as a sole proprietor or, if the Contractor is a partnership or corporation, to an officer thereof.

11.4 Where the postal service is disrupted by a strike, a notice, consent, order, direction, decision or other communication may be given to the Contractor by facsimile and shall be deemed to have been received by the Contractor twenty-four hours after it was transmitted.

GC12 Material, Plant and Real Property Supplied by Owner

12.1 Subject to GC12.2, the Contractor is liable to the Owner for any loss of or damage to material, plant or real property that is supplied or placed in the care, custody and control of the Contractor by the Owner for use in connection with the contract, whether or not that loss or damage is attributable to causes beyond the Contractor's control.

12.2 The Contractor is not liable to the Owner for any loss or damage to material, plant or real property referred to in GC12.1 if that loss or damage results from and is directly attributable to reasonable wear and tear.

12.3 The Contractor shall not use any material, plant or real property referred to in GC12.1 except for the purpose of performing this contract.

12.4 When the Contractor fails to make good any loss or damage for which he is liable under GC12.1 within a reasonable time after being required to do so by the Engineer, the Engineer may cause the loss or damage to be made good at the Contractor's expense, and the Contractor shall thereupon be liable to the Owner for the cost thereof and shall, on demand, pay to the Owner an amount equal to that cost.

12.5 The Contractor shall keep such records of all material, plant and real property referred to in GC12.1 as the Engineer from time to time requires and shall satisfy the Engineer, when requested, that such material, plant and real property are at the place and in the condition in which they ought to be.

GC13 Material, Plant and Real Property Become Property of Owner

13.1 All material and plant and the interest of the Contractor in all real property, licenses, powers and privileges acquired, used or provided by him for the contract shall, from the time of their acquisition, use or provision, be the property of the Owner for the purposes of the work and they shall continue to be the property of the Owner.

13.1.1 in the case of material, until the Engineer indicates that he is satisfied that it will not be required for the work, and

13.1.2 in the case of plant, real property, licenses, powers and privileges, until the Engineer indicates that he is satisfied that the interest vested in the Owner therein is no longer required for the purposes of the work.

GC13 Material, Plant and Real Property Become Property of Owner (cont'd)

13.2 Material or plant that is the property of the Owner by virtue of GC13.1 shall not be taken away from the work site or used or disposed of except for the purposes of the work without the written consent of the Engineer.

13.3 The Owner is not liable for loss of or damage from any cause to the material or plant referred to in GC13.1 and the Contractor is liable for such loss or damage notwithstanding that the material or plant is the property of the Owner.

GC14 Municipal Permit

14.1 The Contractor shall, within 30 days after the date of the contract, tender to a municipal authority an amount equal to all fees and charges that would be lawfully payable to that municipal authority in respect of building permits as if the work were being performed for a person other than the Owner.

14.2 Within 10 days of making a tender pursuant to GC14.1, the Contractor shall notify the Engineer of his action and of the amount tendered and whether or not the municipal authority has accepted that amount.

14.3 If the municipal authority does not accept the amount tendered pursuant to GC14.1 the Contractor shall pay that amount to the Owner within 6 days after the time stipulated in GC14.2.

14.4 For the purposes of GC14.1 and GC14.3 "municipal authority" means any authority that would have jurisdiction respecting permission to perform the work if the owner were not the Owner.

GC15 Performance of Work under Direction of Engineer

15.1 The Contractor shall

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

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

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

GC16 Co-operation with Other Contractors

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

16.2 If

16.2.1 the sending onto the work or its site of other contractors or workers pursuant to GC16.1 could not have been reasonably foreseen or anticipated by the Contractor when entering into the contract, and

16.2.2 the Contractor incurs, in the opinion of the Engineer, extra expense in complying with GC16.1, and

GC16 Co-operation with Other Contractors (Cont'd)

16.2.3 the Contractor has given the Engineer written notice of his claim for the extra expense referred to in GC16.2.2 within 30 days of the date that the other contractors or workers were sent onto the work or its site

the Owner shall pay the Contractor the cost, calculated in accordance with GC50 to GC52, of the extra labour, plant and material that was necessarily incurred.

GC17 Examination of Work

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

17.2 If, as a result of an examination of the work referred to in GC17.1, it is established that the work was not performed in accordance with the contract, then, in addition to and without limiting or otherwise affecting any of the Owner's rights and remedies under the contract either at law or in equity, the Contractor shall pay the Owner, on demand, all reasonable costs and expenses that were incurred by the Owner in having that examination performed.

GC18 Clearing of Site

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

18.2 Before the issue of an interim certificate referred to in GC46.2, the Contractor shall remove all the plant and material not required for the performance of the remaining work, and all waste material and other debris, and shall cause the work and its site to be clean and suitable for occupancy by the Owner's employees, unless otherwise stipulated in the contract.

18.3 Before the issue of a final certificate referred to in GC46.1, the Contractor shall remove from the work and its site all of the surplus plant and material and any waste material and other debris.

18.4 The Contractor's obligations described in GC18.1 to GC18.3 do not extend to waste material and other debris caused by the Owner's employees or contractors and workers referred to in GC16.1.

GC19 Contractor's Superintendent

19.1 The Contractor shall, forthwith upon the award of the contract, designate a superintendent.

19.2 The Contractor shall forthwith notify the Engineer of the name, address and telephone number of a superintendent designated pursuant to GC19.1.

19.3 A superintendent designated pursuant to GC19.1 shall be in full charge of the operations of the Contractor in the performance of the work and is authorised to accept any notice, consent, order, direction, decision or other communication on behalf of the Contractor that may be given to the superintendent under the contract.

19.4 The Contractor shall, until the work has been completed, keep a competent superintendent at the work site during working hours.

19.5 The Contractor shall, upon the request of the Engineer, remove any superintendent who, in the opinion of the Engineer, is incompetent or has been conducting himself improperly and shall forthwith designate another superintendent who is acceptable to the Engineer.

GC19 Contractor's Superintendent (Cont'd)

19.6 Subject to GC19.5, the Contractor shall not substitute a superintendent without the written consent of the Engineer.

19.7 A breach by the Contractor of GC19.6 entitles the Engineer to refuse to issue any certificate referred to in GC46 until the superintendent has returned to the work site or another superintendent who is acceptable to the Engineer has been substituted.

GC20 National Security

20.1 If the President is of the opinion that the work is of a class or kind that involves the national security, he may order the Contractor

20.1.1 to provide him with any information concerning persons employed or to be employed by him for purposes of the contract; and

20.1.2 to remove any person from the work and its site if, in the opinion of the President, that person may be a risk to the national security.

20.2 The Contractor shall, in all contracts with persons who are to be employed in the performance of the contract, make provision for his performance of any obligation that may be imposed upon him under GC19 to GC22.

20.3 The Contractor shall comply with an order of the President under GC20.1.

GC21 Security Requirements During the Navigation Season

21.1 The following security requirements shall apply during the navigation season for all work on the Owner's property:

21.1.1 The Contractor shall supply a list of all personnel to be employed on site.

21.1.2 All Contractor personnel are subject to verification and identify check.

21.1.3 The Engineer will supply Temporary Access Badges for all Contractor personnel.

21.1.4 All Contractor personnel shall wear Temporary Badges while on site.

21.1.5 Temporary Badges shall be visible at all times.

21.1.6 Temporary Badges shall be returned to the Engineer at the completion of the work.

21.1.7 The Contractor is responsible for ensuring that:

21.1.7.1 All Contractor personnel are reliable and trustworthy individuals;

21.1.7.2 All personnel wear their Temporary Badges at all times while on the Owner's property.

21.1.8 In addition to the above requirements, all Contractor personnel accessing the restricted areas, as determined by the Engineer, will be required to wear personal identification with a photograph.

GC22 Unsuitable Workers

22.1 The Contractor shall, upon the request of the Engineer, remove any person employed by him for purposes of the contract who, in the opinion of the Engineer, is incompetent or has conducted himself improperly, and the Contractor shall not permit a person who has been removed to return to the work site.

GC23 Increased or Decreased Costs

23.1 The amount set out in the Articles of Agreement shall not be increased or decreased by reason of any increase or decrease in the cost of the work that is brought about by an increase or decrease in the cost of labour, plant or material or the wage rates set out in or prescribed pursuant to any applicable labour laws.

23.2 Notwithstanding GC23.1 and GC37, an amount set out in the Articles of Agreement shall be adjusted in the manner provided in GC23.3, if any change in a tax imposed under the *Excise Act*, the *Excise Tax Act*, the *Old Age Security Act*, the *Customs Act* or the *Customs Tariff* or any Provincial Sales Tax legislation imposing a Retail Sales Tax on the purchase of tangible personal property incorporated into Real Property

23.2.1 occurs after the date of the submission by the Contractor of his tender for the contract,

23.2.2 applies to material, and

23.2.3 affects the cost to the Contractor of that material.

23.3 If a change referred to in GC23.2 occurs, the appropriate amount set out in the Articles of Agreement shall be increased or decreased by an amount equal to the amount that is established by an examination of the relevant records of the Contractor referred to in GC53 to be the increase or decrease in the cost incurred that is directly attributable to that change.

23.4 For the purpose of GC23.2, where a tax is changed after the date of submission of the tender but public notice of the change has been given by the Minister of Finance before that date, the change shall be deemed to have occurred before the date of submission of the tender.

GC24 Canadian Labour and Material

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

24.2 Subject to GC24.1, the Contractor shall, in the performance of the work, employ labour from the locality where the work is being performed to the extent to which it is available, and shall use the offices of Human Resources Development Canada for the recruitment of workers wherever practicable.

GC25 Protection of Work and Documents

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

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

25.3 The Contractor shall provide all facilities necessary for the purpose of maintaining security, and shall assist any person authorised by the President to inspect or to take security measures in respect of the work and its site.

25.4 The Engineer may direct the Contractor to do such things and to perform such additional work as the Engineer considers reasonable and necessary to ensure compliance with or to remedy a breach of GC25.1 to GC25.3.

GC26 Personal Information and Privacy

26.1 With respect to Personal Information, the Contractor shall comply with the *Personal Information Protection and Electronic Documents Act, 2001* (PIPEDA) and any other applicable laws or regulations concerning the protection of privacy. The Owner will handle any Personal Information provided by the Contractor in the course of providing services to the Owner in accordance with the Owner's Privacy Policy and the PIPEDA.

GC27 Public Ceremonies and Signs

27.1 The Contractor shall not permit any public ceremony in connection with the work without the prior consent of the President.

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

GC28 Precautions against Damage, Infringement of Rights, Fire, and Other Hazards

28.1 The Contractor shall, at his own expense, do whatever is necessary to ensure that

28.1.1 no person, property, right, easement or privilege is injured, damaged or infringed by reason of the Contractor's activities in performing the contract;

28.1.2 pedestrian and other traffic on any public or private road or waterway is not unduly impeded, interrupted or endangered by the performance or existence of the work or plant;

28.1.3 fire hazards in or about the work or its site are eliminated and, subject to any direction that may be given by the Engineer, any fire is promptly extinguished;

28.1.4 the health and safety of all persons employed in the performance of the work is not endangered by the method or means of its performance;

28.1.5 adequate medical services are available to all persons employed on the work or its site at all times during the performance of the work;

28.1.6 adequate sanitation measures are taken in respect of the work and its site; and

28.1.7 all stakes, buoys and marks placed on the work or its site by or under the authority of the Engineer are protected and are not removed, defaced, altered or destroyed.

28.2 The Engineer may direct the Contractor to do such things and to perform such additional work as the Engineer considers reasonable and necessary to ensure compliance with or to remedy a breach of GC28.1.

28.3 The Contractor shall, at his own expense, comply with a direction of the Engineer made under GC28.2.

GC29 Insurance and Workplace Safety and Insurance Board (WSIB) or *Commission de la santé et de la sécurité du travail (CSST)*.

29.1 The Contractor shall, at his own expense, obtain and maintain insurance contracts in respect of the work and shall provide evidence thereof to the Engineer in accordance with the requirements of the Insurance Conditions "I".

29.2 The insurance contracts referred to in GC29.1 shall:

29.2.1 be in a form, of the nature, in the amounts, for the periods and containing the terms and conditions specified in Insurance Conditions "I" and

29.2.2 provide for the payment of claims under such insurance contracts in accordance with GC30.

29.3 The Contractor shall furnish evidence of compliance with all requirements of the applicable Workplace Safety and Insurance Board (WSIB) or Commission de la santé et de la sécurité du travail (CSST) or Ordinance of the province concerned including payments due thereunder.

GC30 Insurance Proceeds

30.1 In the case of a claim payable under a Builders' Risk/Installation Floater (All Risk) insurance contract maintained by the Contractor pursuant to GC29, the proceeds of the claim shall be paid directly to the Owner, and

30.1.1 the monies so paid shall be held by the Owner for the purposes of the contract, or

30.1.2 if the President elects, shall be retained by the Owner, in which event they vest in the Owner absolutely.

30.2 In the case of a claim payable under a Comprehensive General Liability insurance contract maintained by the Contractor pursuant to GC29, the proceeds of the claim shall be paid by the insurer directly to the claimant.

30.3 If an election is made pursuant to GC30.1, the President may cause an audit to be made of the accounts of the Contractor and of the Owner in respect of the part of the work that was lost, damaged or destroyed for the purpose of establishing the difference, if any, between

30.3.1 the aggregate of the amount of the loss or damage suffered or sustained by the Owner, including any costs incurred in respect of the clearing and cleaning of the work and its site and any other amount that is payable by the Contractor to the Owner under the contract, minus any monies retained pursuant to GC30.1.2 and

30.3.2 the aggregate of the amounts payable by the Owner to the Contractor pursuant to the contract up to the date of the loss or damage.

30.4 A difference that is established pursuant to GC30.3, shall be paid forthwith by the party who is determined by the audit to be the debtor to the party who is determined by the audit to be the creditor.

30.5 When payment of a deficiency has been made pursuant to GC30.4, all rights and obligations of the Owner and the Contractor under the contract shall, with respect only to the part of the work that was the subject of the audit referred to in GC30.3, be deemed to have been expended and discharged.

30.6 If an election is not made pursuant to GC30.1.2 the Contractor shall, subject to GC30.7, clear and clean the work and its site and restore and replace the part of the work that was lost, damaged or destroyed at his own expense as if that part of the work had not yet been performed.

GC30 Insurance Proceeds (Cont'd)

30.7 When the Contractor clears and cleans the work and its site and restores and replaces the work referred to in GC30.6, the Owner shall pay him out of the monies referred to in GC30.1 so far as they will thereunto extend.

30.8 Subject to GC30.7, payment by the Owner pursuant to GC30.7 shall be made in accordance with the contract but the amount of each payment shall be 100% of the amount claimed, notwithstanding TP4.4.1 and TP4.4.2 of the Terms of Payment.

GC31 Contract Security

31.1 The Contractor shall obtain and deliver contract security to the Engineer in accordance with the provisions of the Contract Security Conditions.

31.2 If the whole or a part of the contract security referred to in GC31.1 is in the form of a security deposit, it shall be held and disposed of in accordance with GC45 and GC47.

31.3 If a part of the contract security referred to in GC31.1 is in the form of a labour and material payment bond, the Contractor shall post a copy of that bond on the work site.

GC32 Changes in the Work

32.1 Subject to GC5, the Engineer may, at any time before he issues his Final Certificate of Completion,

32.1.1 order work or material in addition to that provided for in the Specifications and Drawings; and

32.1.2 delete or change the dimensions, character, quantity, quality, description, location or position of the whole or any part of the work or material provided for in the Specifications and Drawings or in any order made pursuant to GC32.1.1,

if that additional work or material, deletion, or change is, in his opinion, consistent with the general intent of the original contract.

32.2 The Contractor shall perform the work in accordance with such orders, deletions and changes that are made by the Engineer pursuant to GC32.1 from time to time as if they had appeared in and been part of the Specifications and Drawings.

32.3 The Engineer shall determine whether or not anything done or omitted by the Contractor pursuant to an order, deletion or change referred to in GC32.1 increased or decreased the cost of the work to the Contractor.

32.4 If the Engineer determines pursuant to GC32.3 that the cost of the work to the Contractor has been increased, the Owner shall pay the Contractor the increased cost that the Contractor necessarily incurred for the additional work calculated in accordance with GC51 or GC52.

32.5 If the Engineer determines pursuant to GC32.3 that the cost of the work to the Contractor has been decreased, the Owner shall reduce the amount payable to the Contractor under the contract by an amount equal to the decrease in the cost caused by the deletion or change referred to in GC32.1.2 and calculated in accordance with GC51.

32.6 GC32.3 to GC32.5 are applicable only to a contract or a portion of a contract for which a Fixed Price Arrangement is stipulated in the contract.

32.7 An order, deletion or change referred to in GC32.1 shall be in writing, signed by the Engineer and given to the Contractor in accordance with GC11.2.

GC33 Interpretation of Contract by Engineer

33.1 If, at any time before the Engineer has issued a Final Certificate of Completion referred to in GC46.1, any question arises between the parties about whether anything has been done as required by the contract or about what the Contractor is required by the contract to do, and, in particular but without limiting the generality of the foregoing, about

33.1.1 the meaning of anything in the Specifications and Drawings,

33.1.2 the meaning to be given to the Specifications and Drawings in case of any error therein, omission therefrom, or obscurity or discrepancy in their wording or intention,

33.1.3 whether or not the quality or quantity of any material or workmanship supplied or proposed to be supplied by the Contractor meets the requirements of the contract,

33.1.4 whether or not the labour, plant or material provided by the Contractor for performing the work and carrying out the contract are adequate to ensure that the work will be performed in accordance with the contract and that the contract will be carried out in accordance with its terms,

33.1.5 what quantity of any kind of work has been completed by the Contractor, or

33.1.6 the timing and scheduling of the various phases of the performance of the work,

the question shall be decided by the Engineer whose decision shall be final and conclusive in respect of the work.

33.2 The Contractor shall perform the work in accordance with any decisions of the Engineer that are made under GC33.1 and in accordance with any consequential directions given by the Engineer.

GC34 Warranty and Rectification of Defects in Work

34.1 Without restricting any warranty or guarantee implied or imposed by law or contained in the contract documents, the Contractor shall, at his own expense,

34.1.1 rectify and make good any defect or fault that appears in the work or comes to the attention of the President with respect to those parts of the work accepted in connection with the Interim Certificate of Completion referred to GC46.2 within 12 months from the date of the Interim Certificate of Completion;

34.1.2 rectify and make good any defect or fault that appears in or comes to the attention of the President in connection with those parts of the work described in the Interim Certificate of Completion referred to in GC46.2 within 12 months from the date of the Final Certificate of Completion referred to in GC46.1.

34.2 The Engineer may direct the Contractor to rectify and make good any defect or fault referred to in GC34.1 or covered by any other expressed or implied warranty or guarantee.

34.3 A direction referred to in GC34.2 shall be in writing, may include a stipulation in respect of the time within which a defect or fault is required to be rectified and made good by the Contractor.

34.4 The Contractor shall rectify and make good any defect or fault described in a direction given pursuant to GC34.2 within the time stipulated therein.

GC35 Non Compliance by Contractor

35.1 If the Contractor fails to comply with any decision or direction given by the Engineer pursuant to GC18, GC25, GC28, GC33 or GC34, the Engineer may employ such methods as he deems advisable to do that which the Contractor failed to do.

35.2 The Contractor shall, on demand, pay the Owner an amount that is equal to the aggregate of all costs, expenses and damage incurred or sustained by the Owner by reason of the Contractor's failure to comply with any decision or direction referred to in GC35.1, including the cost of any methods employed by the Engineer pursuant to GC35.1.

GC36 Protesting Engineer's Decisions

36.1 The Contractor may, within ten days after the communication to him of any decision or direction referred to in GC32.3 or GC35.1, protest that decision or direction.

36.2 A protest referred to in GC36.1 shall be in writing, contain full reasons for the protest, be signed by the Contractor and be given to the Owner by delivery to the Engineer.

36.3 If the Contractor gives a protest pursuant to GC36.2, any compliance by the Contractor with the decision or direction that was protested shall not be construed as an admission by the Contractor of the correctness of that decision or direction or prevent the Contractor from taking whatever action he considers appropriate in the circumstances.

36.4 The giving of a protest by the Contractor pursuant to GC36.2 shall not relieve him from complying with the decision or direction that is the subject of the protest.

36.5 Subject to GC36.6, the Contractor shall take any action referred to in GC36.3 within three months after the date that a Final Certificate of Completion is issued under GC46.1 and not afterwards.

36.6 The Contractor shall take any action referred to in GC36.3 resulting from a direction under GC34 within three months after the expiry of a warranty or guarantee period and not afterwards.

36.7 Subject to GC36.8, if the Owner determines that the Contractor's protest is justified, the Owner shall pay the Contractor the cost of the additional labour, plant and material necessarily incurred by the Contractor in carrying out the protested decision or direction.

36.8 Costs referred to in GC36.7 shall be calculated in accordance with GC50 to GC52.

GC37 Changes in Soil Conditions and Neglect or Delay by the Owner

37.1 Subject to GC37.2, no payment, other than a payment that is expressly stipulated in the contract, shall be made by the Owner to the Contractor for any extra expense or any loss or damage incurred or sustained by the Contractor.

37.2 If the Contractor incurs or sustains any extra expense or any loss or damage that is directly attributable to

37.2.1 a substantial difference between the information relating to soil conditions at the work site that is contained in the Specifications and Drawings or other documents supplied to the Contractor for his use in preparing his tender or a reasonable assumption of fact based thereon made by the Contractor, and the actual soil conditions encountered by the Contractor at the work site during the performance of the contract, or

37.2.2 any neglect or delay that occurs after the date of the contract on the part of the Owner in providing any information or in doing any act that the contract either expressly requires the Owner to do or that would ordinarily be done by an owner in accordance with the usage of the trade,

he shall, within ten days of the date that an event described in GC37.2.1 or GC37.2.2 occurred, give the Engineer written notice of the event and of his intention to claim for that extra expense or that loss or damage.

37.3 When the Contractor has given a notice referred to in GC37.2, he shall give the Engineer a written claim for extra expense or loss or damage within 30 days of the date that a Final Certificate of Completion referred to in GC46.1 is issued and not afterwards.

37.4 A written claim referred to in GC37.3 shall contain a sufficient description of the facts and circumstances of the occurrence that is the subject of the claim to enable the Engineer to determine whether or not the claim is justified and the Contractor shall supply such further and other information for that purpose as the Engineer requires from time to time.

37.5 If the Engineer determines that a claim referred to in GC37.3 is justified, the Owner shall make an extra payment to the Contractor in an amount that is calculated in accordance with GC49 to GC52.

37.6 If, in the opinion of the Engineer, an occurrence described in GC37.2.1 results in a saving of expenditure by the Contractor in performing the contract, the amount set out in the Articles of Agreement shall, subject to GC37.7, be reduced by an amount that is equal to the saving.

37.7 The amount of the saving referred to in GC37.6 shall be determined in accordance with GC49 to GC52.

37.8 If the Contractor fails to give a notice referred to in GC37.2 and a claim referred to in GC37.3 within the times stipulated, an extra payment shall not be made to him in respect of the occurrence.

GC38 Extension of Time

38.1 Subject to GC38.2, the Engineer may, on the application of the Contractor made before the day fixed by the Articles of Agreement for completion of the work or before any other date previously fixed under these General Conditions, extend the time for its completion by fixing a new date if, in the opinion of the Engineer, causes beyond the control of the Contractor have delayed its completion.

38.2 An application referred to in GC38.1 shall be accompanied by the written consent of the bonding company whose bond forms part of the contract security.

GC39 Assessments and Damages for Late Completion

39.1 For the purposes of these General Conditions

39.1.1 the work shall be deemed to be completed on the date that an Interim Certificate of Completion referred to in GC46.2 is issued, and

39.1.2 "period of delay" means the number of days commencing on the day fixed by the Articles of Agreement for completion of the work and ending on the day immediately preceding the day on which the work is completed but does not include any day within a period of extension granted pursuant to GC38.1, and any other day on which, in the opinion of the Engineer, completion of the work was delayed for reasons beyond the control of the Contractor.

39.2 If the Contractor does not complete the work by the day fixed for its completion by the Articles of Agreement but completes it thereafter, the Contractor shall pay the Owner an amount equal to the aggregate of

39.2.1 all salaries, wages and travelling expenses incurred by the Owner in respect of persons overseeing the performance of the work during the period of delay;

39.2.2 the cost incurred by the Owner as a result of the inability to use the completed work for the period of delay; and

39.2.3 all other expenses and damages incurred or sustained by the Owner during the period of delay as a result of the work not being completed by the day fixed for its completion.

39.3 The President may waive the right of the Owner to the whole or any part of the amount payable by the Contractor pursuant to GC39.2 if, in the opinion of the President, it is in the public interest to do so.

GC40 Taking the Work Out of the Contractor's Hands

40.1 The President may, at his sole discretion, by giving a notice in writing to the Contractor take all or any part of the work out of the Contractor's hands, and may employ such means as he sees fit to have the work completed if the Contractor

40.1.1 has not, within six days after receiving notice given by the President or the Engineer remedied any delay in the commencement or any default in the diligent performance of the work to the satisfaction of the Engineer;

40.1.2 has defaulted in the completion of any part of the work within the time fixed for its completion by the contract;

40.1.3 has become insolvent;

40.1.4 has committed an act of bankruptcy;

40.1.5 has abandoned the work;

40.1.6 has made an assignment of the contract without the consent required by GC3.1; or

40.1.7 has otherwise failed to observe or perform any of the provisions of the contract.

GC40 Taking the Work Out of the Contractor's Hands (Cont'd)

40.2 If the whole or any part of the work is taken out of the Contractor's hands pursuant to GC40.1,

40.2.1 the Contractor's right to any further payment that is due or accruing due under the contract is, subject only to GC40.4, extinguished, and

40.2.2 the Contractor is liable to pay the Owner, upon demand, an amount that is equal to the amount of all loss and damage incurred or sustained by the Owner in respect of the Contractor's failure to complete the work.

40.3 If the whole or any part of the work that is taken out of the Contractor's hands pursuant to GC40.1 is completed by the Owner, the Engineer shall determine the amount, if any, of the holdback or a progress claim that had accrued and was due prior to the date on which the work was taken out of the Contractor's hands and that is not required for the purposes of having the work performed or of compensating the Owner for any other loss or damage incurred or sustained by reason of the Contractor's default.

40.4 The Owner may pay the Contractor the amount determined not to be required pursuant to GC40.3.

GC41 Effect of Taking the Work Out of the Contractor's Hands

41.1 The taking of the work or any part thereof out of the Contractor's hands pursuant to GC40 does not operate so as to relieve or discharge him from any obligation under the contract or imposed upon him by law except the obligation to complete the performance of that part of the work that was taken out of his hands.

41.2 If the work or any part thereof is taken out of the Contractor's hands pursuant to GC40, all plant and material and the interest of the Contractor in all real property, licenses, powers and privileges acquired, used or provided by the Contractor under the contract shall continue to be the property of the Owner without compensation to the Contractor.

41.3 When the Engineer certifies that any plant, material, or any interest of the Contractor referred to in GC41.2 is no longer required for the purposes of the work, or that it is not in the interests of the Owner to retain that plant, material, or interest, it shall revert to the Contractor.

GC42 Suspension of Work by President

42.1 The President may, when in his opinion it is in the public interest to do so, require the Contractor to suspend performance of the work either for a specified or an unspecified period by giving a notice of suspension in writing to the Contractor.

42.2 When a notice referred to in GC42.1 is received by the Contractor, he shall suspend all operations in respect of the work except those that, in the opinion of the Engineer, are necessary for the care and preservation of the work, plant and material.

42.3 The Contractor shall not, during a period of suspension, remove any part of the work, plant or material from its site without the consent of the Engineer.

42.4 If a period of suspension is 30 days or less, the Contractor shall, upon the expiration of that period, resume the performance of the work and he is entitled to be paid the extra cost, calculated in accordance with with GC50 to GC52, of any labour, plant and material necessarily incurred by him as a result of the suspension.

GC42 Suspension of Work by President (Cont'd)

42.5 If, upon the expiration of a period of suspension of more than 30 days, the President and the Contractor agree that the performance of the work will be continued by the Contractor, the Contractor shall resume performance of the work subject to any terms and conditions agreed upon by the President and the Contractor.

42.6 If, upon the expiration of a period of suspension of more than 30 days, the President and the Contractor do not agree that performance of the work will be continued by the Contractor or upon the terms and conditions under which the Contractor will continue the work, the notice of suspension shall be deemed to be a notice of termination pursuant to GC43.

GC43 Termination of Contract

43.1 The President may terminate the contract at any time by giving a notice of termination in writing to the Contractor.

43.2 When a notice referred to in GC43.1 is received by the Contractor, he shall, subject to any conditions stipulated in the notice, forthwith cease all operations in performance of the contract.

43.3 If the contract is terminated pursuant to GC43.1 the Owner shall pay the Contractor, subject to GC43.4, an amount equal to

43.3.1 the cost to the Contractor of all labour, plant and material supplied by him under the contract up to the date of termination in respect of a contract or part thereof for which a Unit Price Arrangement is stipulated in the contract, or

43.3.2 the lesser of

43.3.2.1 an amount, calculated in accordance with the Terms of Payment, that would have been payable to the Contractor had he completed the work, and

43.3.2.2 an amount that is determined to be due to the Contractor pursuant to GC51 in respect of a contract or part thereof for which a Fixed Price Arrangement is stipulated in the contract,

less the aggregate of all amounts that were paid to the Contractor by the Owner and all amounts that are due to the Owner from the Contractor pursuant to the contract.

43.4 If the Owner and the Contractor are unable to agree about an amount referred to in GC43.3 that amount shall be determined by the method referred to in GC52.

GC44 Claims against and Obligations of the Contractor or Subcontractor

44.1 The Owner may, in order to discharge lawful obligations of and satisfy lawful claims against the Contractor or a subcontractor arising out of the performance of the contract, pay any amount that is due and payable to the Contractor pursuant to the contract directly to the obligees of and the claimants against the Contractor or the subcontractor.

44.2 A payment made pursuant to GC44.1 is, to the extent of the payment, a discharge of the Owner's liability to the Contractor under the contract and may be deducted from an amount payable to the Contractor under the contract.

GC44 Claims against and Obligations of the Contractor or Subcontractor (Cont'd)

44.3 To the extent that the circumstances of the work being performed for the Owner permit, the Contractor shall comply with all laws in force in the province where the work is being performed relating to payment periods, mandatory holdbacks, and creation and enforcement of mechanics' liens or, in respect of the Province of Quebec, the law relating to privileges.

44.4 The Contractor shall discharge all his lawful obligations and shall satisfy all lawful claims against him arising out of the performance of the work at least as often as the contract requires the Owner to pay the Contractor.

44.5 The Contractor shall, whenever requested to do so by the Engineer, make a statutory declaration deposing to the existence and condition of any obligations and claims referred to in GC44.4.

44.6 Paragraph GC44.1 shall only apply to claims and obligations that have been received by the Engineer in writing before payment to the Contractor pursuant to TP4.10 of the Terms of Payment and within 120 days after a claimant

44.6.1 should have been paid in full under his contract with the Contractor or subcontractor where the claim is for money that was lawfully required to be held back from the claimant; or

44.6.2 performed the last of the service, work or labour, or furnished the last of the material pursuant to his contract with the Contractor or subcontractor, where the claim is not for money referred to in GC44.6.1.

GC45 Security Deposit - Forfeiture or Return

45.1 If

45.1.1 the work is taken out of the Contractor's hands pursuant to GC40,

45.1.2 the contract is terminated pursuant to GC43, or

45.1.3 the Contractor is in breach of or in default under the contract, the Owner may convert the security deposit, if any, to its own use.

45.2 If the Owner converts the contract security pursuant to GC45.1, the amount realised shall be deemed to be an amount due from the Owner to the Contractor under the contract.

45.3 Any balance of an amount referred to in GC45.2 that remains after payment of all losses, damage and claims of the Owner and others shall be paid by the Owner to the Contractor if, in the opinion of the Engineer, it is not required for the purposes of the contract.

GC46 Engineer's Certificates

46.1 On the date that

46.1.1 the work has been completed, and

46.1.2 the Contractor has complied with the contract and all orders and directions made pursuant thereto,

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

46.2 If the Engineer is satisfied that the work is sufficiently complete to be acceptable for use by the Owner, he may, at any time before he issues a certificate referred to in GC46.1, issue an Interim Certificate of Completion to the Contractor.

GC46 Engineer's Certificates (Cont'd)

46.3 An Interim Certificate of Completion referred to in GC46.2 shall describe the parts of the work not completed to the satisfaction of the Engineer and all things that must be done by the Contractor

46.3.1 before a Final Certificate of Completion referred to in GC46.1 will be issued, and

46.3.2 before the 12-month period referred to in GC34.1.1 shall commence for the said parts and all the said things.

46.4 The Engineer may, in addition to the parts of the work described in an Interim Certificate of Completion referred to in GC46.2, require the Contractor to rectify any other parts of the work not completed to his satisfaction and to do any other things that are necessary for the satisfactory completion of the work.

46.5 If the contract or a part thereof is subject to a Unit Price Arrangement, the Engineer shall measure and record the quantities of labour, plant and material, performed, used and supplied by the Contractor in performing the work and shall, at the request of the Contractor, inform him of those measurements.

46.6 The Contractor shall assist and co-operate with the Engineer in the performance of his duties referred to in GC46.5 and shall be entitled to inspect any record made by the Engineer pursuant to GC46.5.

46.7 After the Engineer has issued a Final Certificate of Completion referred to in GC46.1, he shall, if GC46.5 applies, issue a Final Certificate of Measurement.

46.8 A Final Certificate of Measurement referred to in GC46.7 shall

46.8.1 contain the aggregate of all measurements of quantities referred to in GC46.5, and

46.8.2 be binding upon and conclusive between the Owner and the Contractor as to the quantities referred to therein.

GC47 Return of Security Deposit

47.1 Within one year after a Final Certificate of Completion referred to in GC46.1 has been issued, the Owner shall return to the Contractor the remainder of any security deposit unless the contract stipulates otherwise.

GC48 Clarification of Terms in GC49 to GC52

48.1 For the purposes of GC49 to GC52,

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

48.1.2 "plant" does not include tools customarily provided by a tradesman in practising his trade.

GC49 Additions or Amendments to Price Table

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

49.1.1 add classes of labour, plant or material, and units of measurement, prices per unit and estimated quantities to the Price Table if any labour, plant or material that is to be included in a Final Certificate of Measurement referred to in GC46.7 is not included in any class of labour, plant or material set out in the Price Table, or

GC49 Additions or Amendments to Price Table (Cont'd)

49.1.2 subject to GC49.2, amend a price per unit set out in the Price Table for any class of labour, plant or material included therein if an estimated quantity is set out therein for that class of labour, plant or material, and a Final Certificate of Measurement referred to in GC46.7 shows or is expected to show that the total quantity of that class of labour, plant or material actually performed, used or supplied by the Contractor in performing the work is

49.1.2.1 less than 85% of that estimated total quantity; or

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

49.2 If the Engineer and the Contractor do not agree as contemplated in GC49.1, the Engineer shall determine the class and the unit of measurement of the labour, plant or material and the price per unit therefore shall be determined in accordance with GC52.

49.3 The compensation for an amendment that is made necessary by GC49.1.2.1 shall in no case exceed the amount which would be payable if 85% of the estimated quantity was performed.

GC50 Determination of Cost - Price Table

50.1 Whenever, for the purposes of the contract it is necessary to determine the cost of labour, plant or material, it shall be determined by multiplying the quantity of that labour, plant or material expressed in the unit set out in column 3 of the Price Table by the price of that unit set out in column 4 of the Price Table.

GC51 Determination of Cost - Negotiation

51.1 If the method described in GC50 cannot be used because the labour, plant or material is of a kind or class that is not set out in the Price Table, the cost of that labour, plant or material for the purposes of the contract shall be the amount agreed upon from time to time by the Contractor and the Engineer.

51.2 For the purpose of GC51.1, the Contractor, when requested by the Engineer, shall submit a detailed statement of the cost to him of the labour, plant and material referred to in GC51.1 to the Engineer.

GC52 Determination of Cost - Failing Negotiation

52.1 If the parties or the methods described in GC49, GC50, or GC51 fail for any reason to achieve a determination of the cost of labour, plant and material for the purposes referred to therein, that cost shall be equal to the aggregate of

52.1.1 "all reasonable and proper amounts, net of all Federal and Provincial tax credits, actually expended or legally payable by the Contractor in respect of the labour, plant or material that falls within one of the classes of expenditure described in GC52.2 that are directly attributable to the performance of the contract, and"

52.1.2 an allowance for profit and all other expenditures or costs, including overhead, general administration costs, financing and interest charges, and every other cost, charge and expense, but not including those referred to in GC52.1.1 or of a class referred to in GC52.2, in an amount that is equal to 10% of the sum of the expenses referred to in GC52.1.1.

GC52 Determination of Cost - Failing Negotiation (Cont'd)

52.2 For purposes of GC52.1.1 the classes of expenditure that may be taken into account in determining the cost of labour, plant and material are,

52.2.1 payments to subcontractors;

52.2.2 wages, salaries and travelling expenses of employees of the Contractor while they are actually and properly engaged on the work, other than wages, salaries, bonuses, living and travelling expenses of personnel of the Contractor generally employed at the head office or at a general office of the Contractor unless they are engaged at the work site with the approval of the Engineer;

52.2.3 assessments payable under any statutory authority relating to workers' compensation, employment insurance, pension plan or holidays with pay;

52.2.4 rent that is paid for plant or an amount equivalent to the said rent if the plant is owned by the Contractor that is necessary for and used in the performance of the work, if the rent or the equivalent amount is reasonable and use of that plant has been approved by the Engineer;

52.2.5 payments for maintaining and operating plant necessary for and used in the performance of the work, and payments for effecting such repairs thereto as, in the opinion of the Engineer, are necessary to the proper performance of the contract other than payments for any repairs to the plant arising out of defects existing before its allocation to the work;

52.2.6 payments for material that is necessary for and incorporated in the work, or that is necessary for and consumed in the performance of the contract;

52.2.7 payments for preparation, delivery, handling, erection, installation, inspection, protection and removal of the plant and material necessary for and used in the performance of the contract;

52.2.8 any other payments made by the Contractor with the approval of the Engineer that are necessary for the performance of the contract.

GC53 Records to be Kept by Contractor

53.1 The Contractor shall

53.1.1 maintain full records of his estimated and actual cost of the work together with all tender calls, quotations, contracts, correspondence, invoices, receipts and vouchers relating thereto;

53.1.2 make all records and material referred to in GC53.1.1 available to audit and inspection by the President and the Chief of Audit of the Owner or by persons acting on behalf of either or both of them, when requested;

53.1.3 allow any of the persons referred to in GC53.1.2 to make copies of and to take extracts from any of the records and material referred to in GC53.1.1; and

53.1.4 furnish any person referred to in GC53.1.2 with any information he may require from time to time in connection with such records and material.

53.2 The records maintained by the Contractor pursuant to GC53.1.1 shall be kept intact by the Contractor until the expiration of two years after the date that a Final Certificate of Completion referred to in GC46.1 was issued or until the expiration of such other period of time as the President may direct.

GC53 Records to be Kept by Contractor (Cont'd)

53.3 The Contractor shall cause all subcontractors and all other persons directly or indirectly controlled by or affiliated with the Contractor and all persons directly or indirectly having control of the Contractor to comply with GC53.1 and GC53.2 as if they were the Contractor.

GC54 Arbitration

54.1 In the event of any dispute or lack of agreement between the Owner and the Contractor with regard to any matter arising under this contract, such dispute or lack of agreement shall be dealt with in the manner prescribed by the contract. This section 1.1 does not alter or amend any other section of the contract. If the manner prescribed by the contract fails to resolve a dispute or lack of agreement or if the contract does not prescribe the manner in which a particular dispute or lack of agreement is to be resolved, the Owner or the Contractor may refer the dispute or lack of agreement to the award and determination of an arbitration tribunal.

54.2 The award of the arbitration tribunal shall be final and binding on the Owner and the Contractor.

54.3 The arbitration tribunal shall be governed by the Commercial Arbitration Code referred to in the *Commercial Arbitration Act* (R.S.C. 1985, Chap. 17, 2nd Supp. and amendments).

54.4 The arbitration shall take place in the Province in which the majority of the work is carried out.

54.5 The language to be used in the proceedings shall be the language in which the contract is written.

54.6 All written communication shall be delivered to the Owner at the Owner's head office and to the Contractor at his address shown on the contract unless one party otherwise notifies the other party.

54.7 The Owner and the Contractor shall appoint a sole arbitrator who shall sit as the arbitration tribunal. If the Owner and the Contractor are unable to agree on the appointment of a sole arbitrator and one party requests the appointment of an arbitration tribunal consisting of three arbitrators, such a tripartite tribunal shall be appointed in accordance with the provisions of the Commercial Arbitration Code referred to in the *Commercial Arbitration Act* (R.S.C. 1985, Chap. 17, 2nd Supp. and amendments).

54.8 The arbitration tribunal shall decide the dispute in accordance with the laws in force in the Province in which the majority of the work is carried out. The arbitration tribunal shall not be authorised to decide ex aequo et bono or as amiable compositor.

54.9 During the progress of arbitration, the Contractor shall continue to perform the work. The arbitration shall not relieve the Contractor from complying with the decision or direction that is the subject of the dispute or lack of agreement. Any compliance by the Contractor with the decision or direction that is the subject of the dispute or lack of agreement shall not be construed as an admission by the Contractor of the correctness of that decision or direction.