

Section Cover Page

2006-02-28

Section 00760
General Conditions

This Section contains standard general conditions of contract. Do not edit this Section; use as is. If necessary, the General Conditions may be modified by Supplementary Conditions or elaborated on in Section 01000 - General Requirements.

Include the attached standard statutory declaration forms only if the specified Contact Time exceeds one month. (Refer to Payment article 20.2 in the General Conditions.) When a statutory declaration is required to be submitted, either one of the attached forms may be used at the Contractor's option.

This Master Specification Section contains:

- .1 This Cover Page
- .2 Specification Section Text:
 - .1 Minister's Representative
 - .2 Contract Documents
 - .3 Assignment
 - .4 Termination
 - .5 Subcontracts
 - .6 GST Excluded
 - .7 Protection of Work and Property
 - .8 Cleaning
 - .9 Hold Harmless Agreement
 - .10 Insurance
 - .11 Regulatory Requirements
 - .12 Defective Work
 - .13 Contract Time
 - .14 Materials and Equipment
 - .15 Product Options and Substitutions
 - .16 Warranty
 - .17 Changes in the Work
 - .18 Valuation of Changes on Stipulated Price Work
 - .19 Valuation of Changes on Unit Price Work
 - .20 Payment
 - .21 Claims
 - .22 Disputes
- .3 Attachments:
 - .1 CCDC 9A-2001 - Statutory Declaration of Progress Payment Distribution by Contractor.
 - .2 AI/MS Form 00630A – Statutory Declaration of Payment Distribution.

1. MINISTER'S REPRESENTATIVE

- .1 Minister shall appoint, in writing, a representative who shall, unless Contractor is expressly advised otherwise by a duly authorized officer of the Minister, have full authority to act on behalf of and bind the Minister under the Contract.

2. CONTRACT DOCUMENTS

- .1 The Contract Documents consist of Letter of Acceptance of Contractor's bid; executed Bid and Contract Form; these General Conditions, other documents, or parts thereof, contained in Division 0 of the Specifications which have application during performance of the Contract; Divisions 1-16 of the Specifications; Drawings; Schedules; and such other documents as may be identified as Contract Documents, and including amendments thereto made in accordance with provisions of the Contract.
- .2 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all.
- .3 Minister, in the first instance, shall decide on questions arising under the Contract Documents, interpret requirements therein, and judge performance in accordance therewith.

3. ASSIGNMENT

- .1 Contractor shall not assign the Contract, in whole or in part, nor shall it sublet the Contract as a whole, without previous written consent of Minister, which consent shall be at Minister's sole discretion.

4. TERMINATION

- .1 Minister may, by giving a written notice of termination to Contractor, terminate the Contract at any time.

5. SUBCONTRACTS

- .1 Minister will recognize Contractor only. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the Minister.
- .2 Contractor agrees to bind every Subcontractor by the terms of the Contract Documents, as far as applicable to work of the subcontract.

6. GST EXCLUDED

- .1 Contract Price shall exclude federal Goods and Services Tax.

7. PROTECTION OF WORK AND PROPERTY

- .1 Contractor shall take all reasonable precautions necessary to protect the Work and Minister's property from damage during performance of the Contract and shall make good any damage to the Work or to Minister's property caused by Contractor or any of its Subcontractors.

8. CLEANING

- .1 Contractor shall keep site free from unsightly or hazardous accumulations of waste material and shall leave site in a neat and tidy condition at completion of Work.

9. HOLD HARMLESS AGREEMENT

- .1 Contractor shall indemnify and hold harmless the Minister from any and all third party claims, demands, actions or costs (including legal costs on a solicitor-client basis) for which Contractor is legally responsible, including those arising out of negligence or willful acts by Contractor or Contractor's employees or agents. This hold harmless provision shall survive the Contract.

10. INSURANCE

- .1 Without limiting its liabilities under the Contract, Contractor shall provide, maintain and pay for following minimum insurance coverages, in forms acceptable to Minister:
 - .1 General Liability Insurance with limits of not less than \$2,000,000 inclusive per occurrence, against bodily injury, personal injury, and property damage, and including following endorsements: owner's and Contractor's protective; blanket written contractual; non-owned auto; and broad form property damage.
 - .2 Automobile Liability Insurance on all vehicles owned, operated or licensed in Contractor's name, with limits of not less than \$1,000,000.
 - .3 Where such risks exist, Property Insurance in the form of an All Risks Builder's Risk Policy or an All Risks Installation Floater insuring not less than the full insurable value of the Work plus an appropriate value for risk of loss to Minister's property, if any, in Contractor's care, custody and control.
- .2 Contractor shall submit, prior to commencement of Work, a properly completed Alberta Infrastructure and Transportation Certificate of Liability Insurance and, when so requested by Minister, a properly completed Alberta Infrastructure and Transportation Certificate of Property Insurance.

11. REGULATORY REQUIREMENTS

- .1 Contractor shall comply with all laws, ordinances, rules, regulations, orders, codes and other legally enforceable requirements applicable to the performance of the Contract.
- .2 Contractor shall apply and pay for necessary permits or licences required for execution of Work, except obtaining permanent easements or rights of servitude.
- .3 Contractor shall comply with the Occupational Health and Safety Act and regulations issued pursuant thereto.

12. DEFECTIVE WORK

- .1 Defective work is work that has been rejected by Minister as failing to conform to the Contract Documents. Contractor shall promptly correct defective work, as required to conform to the Contract Documents, with no change in Contract Price.
- .2 If, in the Minister's opinion, it is not expedient to correct defective work, Minister may deduct from the Contract Price the difference in value between the work as performed and that required by the Contract Documents, the amount of which will be determined in the first instance by the Minister.

13. CONTRACT TIME

- .1 Time and all time limits stated in the Contract Documents are of the essence of the Contract. Contractor shall perform work expeditiously and with adequate forces to complete Work of the Contract within time specified in the Contract. If specified in number of days, weeks, or months, time for completion shall commence running on date of issuance of letter of bid acceptance.

14. MATERIALS AND EQUIPMENT

- .1 Unless otherwise specified, Contractor shall provide, maintain, and pay for all materials, tools, machinery, equipment, temporary facilities, controls, and conveniences, necessary for execution of the Work. Unless otherwise specified, all materials shall be new, of merchantable quality and suitable for the intended purpose.

15. PRODUCT OPTIONS AND SUBSTITUTIONS

- .1 For products specified by non-proprietary specification, select any product which meets requirements of Contract Documents, by any manufacturer.
- .2 For products specified by proprietary specification and accompanied by words indicating that substitutions will not be accepted, select any product or manufacturer named. Substitutions are not permitted.

- .3 Except where substitutions are not permitted, when a product is specified by proprietary specification, other unnamed products will be accepted, subject to such substitutions being the same generic type as, being capable of performing the same functions as, and meeting or exceeding the standards of quality and performance of the named product. Substitutions shall not require revisions to Contract Documents.

- .4 In making a substitution Contractor represents that:

- .1 Contractor has investigated substitute product and/or manufacturer and has determined that it meets the criteria specified in 15.3,
- .2 Contractor will make any changes to the Work necessitated by the substitution as required for the Work to be complete in all respects, and
- .3 Contractor waives claims for additional costs and time caused by substitution which may subsequently become apparent.

16. WARRANTY

- .1 Neither the final payment, nor any provision in the Contract Documents shall relieve Contractor from responsibility for faulty materials or workmanship which appear within a period of one year from the date of acceptance of the Work, or such other periods as may be specified for parts of the Work, and Contractor shall remedy any defects due thereto and pay for any damage to other work resulting therefrom which appear within such periods.

17. CHANGES IN THE WORK

- .1 Minister may order changes in the Work by means of a written change order. Contractor shall not proceed with any change in the Work without a written change order.

18. VALUATION OF CHANGES ON STIPULATED PRICE WORK

- .1 The value of a change, and the change in Contract Price and Contract Time, shall be as agreed upon in writing, before the Minister orders the Contractor to proceed with the change in the Work.
- .2 Alternatively, if the Minister orders the Contractor, in writing, to proceed with a change in the Work before there is an agreement on the value of the change, the value of the change shall be based on the Contractor's actual costs and savings attributable to the change. If a change results in a net increase in the Contractor's costs, the Contract Price shall be increased by the amount of the net increase in costs, plus an allowance for overhead and profit, as follows:
 - .1 For work performed by Contractor's own forces, Contractor shall be entitled to 10% for overhead on actual cost of material and labour and an additional 10% for profit on above total.

- .2 For work performed by Subcontractors:
 - .1 each Subcontractor shall be entitled to 10% for overhead on actual cost of material and labour and an additional 10% for profit on above total, and
 - .2 Contractor shall be entitled to 5% of Subcontractors' total.
- .3 For work performed by Sub-subcontractors:
 - .1 each Sub-subcontractor shall be entitled to 10% for overhead on actual cost of material and labour and an additional 10% for profit on above total,
 - .2 Subcontractor shall be entitled to 5% of Sub-subcontractors' total, and
 - .3 Contractor shall be entitled to 5% of above total.
- .4 If a change results in a decrease in cost, amount of credit to be given to Minister shall be amount of actual decrease, without overhead and profit.
- .5 If a change involves both extras and credits and results in an increase in cost, overhead and profit shall be allowed on increase only.
- .3 Contractor has submitted a letter of clearance from Workers' Compensation Board,
- .4 45 days from date of Minister's acceptance of Work has expired, and
- .5 any third party claims received by Minister have been resolved, or addressed and a course of action agreed to.
- .2 Alternatively, if Contract Time exceeds one month, invoices may, at Contractor's option, be submitted monthly, subject to the following conditions:
 - .1 Amount invoiced shall be for value of work performed and products delivered to site, at that date.
 - .2 Amount payable by Minister shall be amount invoiced, adjusted by Minister if necessary, less 10% holdback.
 - .3 Contractor shall submit with second and any subsequent invoices, and as a condition of holdback release, Statutory Declaration Form CCDC 9A-2001 or AI/MS Form 00630A - Statutory Declaration of Payment Distribution.
 - .4 Release of holdback shall be subject to all conditions specified under 20.1

19. VALUATION OF CHANGES ON UNIT PRICE WORK

- .1 On unit price work, a change shall mean work authorized by Minister in writing which is not required by the Contract Documents and which cannot be classified as coming under any of the contract units and for which no unit price, lump sum or other basis of payment has been agreed to.
- .2 Changes shall be performed on the basis of unit prices agreed to by both Minister and Contractor, or if such agreement cannot be reached, or if deemed more appropriate by both parties, on the basis of actual costs, plus a percentage for overhead and profit, such percentage not to exceed that specified in 18.2.

20. PAYMENT

- .1 Minister shall make one lump sum payment, with no holdback, provided that:
 - .1 Work has been completed, deficiencies have been corrected, and Work has been accepted by Minister,
 - .2 Contractor has submitted one or more invoices, the total amount of which equals the Contract Price,

- .3 All invoices shall exclude GST.

21. CLAIMS

- .1 If Contractor intends to claim any additional payment, Contractor shall give notice of its intention to Minister as soon as possible and not later than 7 days after the event giving rise to the claim first arises or Contractor first becomes aware of such event.
- .2 The parties shall make bona fide efforts to resolve a claim as soon as possible after receipt thereof. When the Minister issues a final written position on the claim, or fails to do so within a reasonable period of time, and the claim is not resolved to the satisfaction of both parties, the claim shall be considered a dispute and shall be settled in accordance with article 22.

22. DISPUTES

- .1 If a dispute of any kind arises between Minister and Contractor in connection with the Contract, the matter in dispute shall be settled in accordance with the processes identified in the document entitled "Dispute Resolution Process for Government of Alberta Construction Contracts", Appendices A, B, C, D, and E.

END

Statutory Declaration of Progress Payment Distribution by Contractor

Standard Construction Document

CCDC 9A - 2001

To be made by the Contractor **prior to payment** when required as a condition for either:

- second and subsequent progress payments; or
- release of holdback.

The last application for progress payment for which the Declarant has received payment is No. _____
dated the _____ day of _____,
in the year _____.

Identification of Contract

Name of Contract (Location and description of the Work as it appears in the Contract Documents)

Date of Contract: _____
Day Month Year

Name of Owner

Name of Contractor

Identification of Declarant

Name of Declarant

Position or Title (of office held with Contractor)

Declaration

I solemnly declare that, as of the date of this declaration, I am an authorized signing officer, partner or sole proprietor of the Contractor named in the Contract identified above, and as such have authority to bind the Contractor, and have personal knowledge of the fact that all accounts for labour, subcontracts, products, services, and construction machinery and equipment which have been incurred directly by the Contractor in the performance of the work as required by the Contract, and for which the Owner might in any way be held responsible, have been paid in full as required by the Contract up to and including the latest progress payment received, as identified above, except for:

- 1) holdback monies properly retained,
- 2) payments deferred by agreement, or
- 3) amounts withheld by reason of legitimate dispute which have been identified to the party or parties, from whom payment has been withheld.

I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

Declared before me in _____ this _____ day of _____,
City/Town and Province
in the year _____.

Signature of Declarant

(A Commissioner for Oaths, Notary Public, Justice of the Peace, etc.)

The making of a false or fraudulent declaration is a contravention of the Criminal Code of Canada, and could carry, upon conviction, penalties including fines or imprisonment.

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Identification of Contract

Contract Name (location and description of the Work as it appears in the Contract Documents)	Contract ID:		
	Date of This Application for Payment		
	Month	Day	Year
	Date of Last (Immediate Preceding) Application for Payment		
	Month	Day	Year

Identification of Declarant (person making the declaration)

Full Name of Declarant	Position or Title (of office held with Contractor)		
Business Name (Name of Contractor)			
Business Address			
City or Town	Province	Postal Code	

Declaration

I, the undersigned, solemnly declare that as of the date of this application for payment:

- .1 all the Contractor's lawful obligations to subcontractors and suppliers, in respect of work contracted for and performed before the date of the last (immediate preceding) application for payment, are fully discharged, except for (i) hold back monies properly retained, and (ii) payments deferred by agreement;
- .2 all the Contractor's lawful obligations to workers, in respect to work contracted for, are fully discharged;
- .3 all assessments and payments required to be made by the Contractor under law have been made in full; and that
- .4 I am an authorized signing officer of the Contractor and have personal knowledge of the contract identified and the facts stated in this statutory declaration.

I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

Making a false or fraudulent declaration is a contravention of the Criminal Code of Canada, and could carry, upon conviction, penalties including fines, imprisonment, or both.

Signature of declarant

Attestation (to be completed by a person empowered to receive declarations, e.g. Commissioner of Oaths, Notary Public, etc.)

DECLARED before me at _____ this _____ day of _____ 20 _____		
City/Town and Province		
_____	_____	_____
Signature of person before whom declaration is made	Authority to receive solemn declarations	Expiry date
_____	Any changes or corrections on this Statutory Declaration must be initialled by the person before whom the declaration is made.	
Name (please print)		