

## **SECTION 4 - AMENDMENTS TO GENERAL CONDITIONS**

Insert the following sections to the General Conditions

### **GC 6.03 Contractor's Insurance**

#### **GC 6.03.01 General**

Replace .01 with the following:

Without restricting the generality of subsection GC 6.02, Indemnification, the Contractor shall provide, maintain, and pay for the insurance coverages listed under clauses GC 6.03.02, GC 6.03.03 and GC 6.03.05.01. Insurance coverage in clauses GC6.03.04, GC 6.03.05.02, and GC 6.03.06 shall only apply when so specified in the Contract Documents.

#### **GC 6.03.05.01 Property Insurance**

.01 To remain as is.

Add .02

The Contractor shall insure and shall maintain insurance for, in the joint names of the Contractor and of the Owner, and in an insurance company satisfactory to the Owner, the work and all the material, plant, fuel, machinery, tools and equipment acquired, possessed or provided by the Contractor for incorporation into the work, whether or not such material, plant, fuel, machinery, tools and equipment are brought to or upon the work or upon lands of the Agency or of the Corporation, in an amount not less than 90% of the total value of such work and material, plant, fuel, machinery, tools and equipment and such additional amount, not exceeding the contract price, as may be directed by the Owner, against all risk, so that any loss under such insurance shall be payable to the Owner and the Contractor as their respective interests may appear. The Contractor shall deposit with the Owner, a Certificate of Insurance as evidence of the insurance required to be maintained in accordance with these provisions. Delivery to, examination by or acceptance by the Owner of any Certificate of Insurance or other evidence of insurance shall in no way relieve the Contractor of any of its obligations pursuant to the provisions of the Contract and shall in no way operate as a wavier by the Owner of its rights or the Contractor's obligations. The Contractor shall pay all insurance premiums as they become due; provided that the Owner may pay the premiums and deduct the amount thereof from monies due the Contractor. Any loss or damage which may occur shall not affect the rights and obligations of the Contractor or of the Owner under this Contract except that in such event the Engineer may in writing extend the time for completion for such period as he thinks reasonable. If the Engineer does not extend the time for completion, then the work must be completed within the time fixed in the Contract. Monies paid to the Contractor under such insurance shall be used for the purpose of replacing, rebuilding, repairing and completing the work, and all such material, plant, fuel, machinery, tools and equipment which have been damaged or destroyed. Such replacing, rebuilding, repairing and completion shall be carried out in every way subject to the terms and conditions of the Contract.

### GC 8.02.03.13 Maintenance Security

.01 As referenced in 8.02.03.05.02 (d), the contract shall provide to the Owner for the duration of the Warranty Period, a Maintenance Security, the value of which shall be derived from the following table:

CONTRACT PRICE		VALUE OF MAINTENANCE SECURITY (\$)
FROM (\$)	TO (\$)	
Less than 0.1M		4% of Final Contract Price
0.1M	< 0.5M	4,000 on first 0.1M + 3.0% on next 0.4M
0.5M	< 1.0M	16,000 on first 0.5M + 2.4% on next 0.5M
1.0M	<2.0M	28,000 on first 1.0M + 2.2% on next 1.0M
2.0M	<4.0M	50,000 on first 2.0M + 2.0% on next 2.0M
4.0M	<6.0M	90,000 on first 4.0M + 1.8% on next 2.0M
6.0M	10.0M	126,000 on first 6.0M + 1.5% on next 4.M
Greater than 10.0M		186,000 on first 10.0M + 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 Contract Administrator of the Final Acceptance Certificate at the end of the Warranty Period.

The Contractor may apply in writing to the Contract Administrator at the time of substantial performance to substitute for the monies retained as the maintenance security an alternative maintenance security of equivalent or greater value comprising:

1. one or more irrevocable letters of credit or
2. Another readily negotiable security.

Acceptance of any such alternative shall be at the discretion of the Contract Administrator and the Solicitor for the Owner.

Following receipt and acceptance of any such alternative, the Contract Administrator shall release to the Contractor the monies previously retained for maintenance security purposes.

The Contract Administrator may, in their discretion, allow the total maintenance security to be made up in part of monies retained under the Contract and in part of an alternative maintenance security as indicated in (a) and (b) above provided that the total value of such parts, as determined by the Contract Administrator, shall be not less than the required value as derived from the table set out above.

Such alternative maintenance security or the monies derived therefrom, less any deductions made as provided for in the Contract, shall be released to the Contractor following the issuance by the Contract Administrator of the Final Acceptance Certificate at the end of the period of maintenance.

Where the Contract Administrator proposes to release the statutory holdback to a Subcontractor through the Contractor as provided for herein, the Contract Administrator shall arrange for "the required maintenance security in respect of the said Subcontract", 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 Subcontract work the same effective percentage retention, derived from the foregoing table, as applies to the Contract as a whole.

The Contractor may apply in writing to the Contract Administrator to substitute for the maintenance security referred to in the preceding paragraph an irrevocable letter of credit in the name of the Contractor.

Following the substantial performance of the Contract, the Contract Administrator may require the Contractor to consolidate all letters of credit provided pursuant to the foregoing into one or two letters of credit covering the Contract as a whole.

The Contractor shall allow his Subcontractors to provide letters of credit to the Contractor in conformity with the foregoing procedures. The Contractor shall provide the Contract Administrator with copies of any or all such letters of credit on request.

#### **GC 8.02.04 Payment on a Time and Material Basis**

Replace Sections GC 8.02.04.04, GC 8.02.04.05, GC 8.02.04.06, GC 8.02.04.07, GC 8.02.04.08 with the following:

If the methods of evaluating extras described in GC 3.10 .01.03 are clearly inapplicable, and an agreeable value cannot be determined by GC 8.02.04.10, as modified herein, then the Engineer may direct that extra work shall be done by the Contractor on a Time and Material basis providing for payment as follows:

1. The actual cost of all labour plus a documented mark-up (not exceeding 60% of actual wage rates) to cover allowance for holiday pay, unemployment insurance, levy by Workers' compensation Board, and other contributions made by the employer to an employee as required by law, required directly for the performance of extra work and the actual cost of all materials including transportation charges required directly in the extra work.
2. A rental rate based on 70% of the published OPSS 127 rates 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.
3. The value established in items 1. and 2. Above may be increased by the following overhead and profit mark-up:
  - a. 15% of the same when the total value of the work described in items 1. and 2. prior to markup is less than \$10,000.

- b. 7.5% of the same when the total value of the work described in items 1. and 2. prior to markup is in excess of \$10,000.

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

4. 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.
5. In respect of work carried out by a Subcontractor's forces, an amount equal to the sum of the amounts provided for under 1. and 2. above plus 10% of such sum.

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 on a Time and Material basis as described 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.

#### **GC 8.02.04.10      Payment Other Than on a Time and Material Basis**

##### **Add the follow section GC 8.02.04.10.02**

.02      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 or the Schedule of Additional Unit Prices if, in the opinion of the Engineer, the same shall be applicable.

1. If the Contract does not contain any prices applicable to the extra, additional, or omitted work, then the Engineer may issue a Contemplated Change Order (CCO) detailing the additional work done or work to be omitted. Within a reasonable amount of time, not exceeding 14 days, the Contractor shall provide, in an acceptable form to the Engineer, an estimate to complete the work defined in the CCO. The quotation shall be firm for a period of not less than sixty (60) calendar days from the date of receipt of the quotation by the Engineer. The determination of the estimate, by the Contractor, shall be based on a Lump Sum basis.

2. If the estimate submitted by the Contractor is in the form of a lump sum amount, the estimate must provide sufficient detail for the Engineer to determine the fairness of the valuation. The Contractor's submission shall include an itemized list of costs and values including but not limited to:
  1. Labour (staff, hourly wage, time required)
  2. Materials (itemized list of all materials required and their cost)
  3. Equipment costs (rental equipment, transportation, etc.)
  4. A maximum charge of 15% covering overhead and profit for work done by the Contractor's own forces.
  5. A maximum charge of 10% covering overhead and profit for work done by Subcontractors. Subcontractors shall be permitted a maximum of 15% covering over-head and profit for work done by the Subcontractor's own forces.

The rates enumerated in paragraphs 2.4 and 2.5 above shall apply to charges resulting in addition to or deductions from the Contract not exceeding \$10,000. The portion of charges which involve additions to or deletions from the Contract Price in excess of \$10,000 shall carry an overhead and profit percentage of half those called for above.

The percentage of overhead and profit shall also cover financing, project management, estimating, and all site and off-site overheads such as superintendence, site facilities, safety, clean-up and items of small plant, equipment and tools and the like.

If a change in the Work results in a decrease in the Contract Price, the amount of the credit shall be the net cost, without deduction for overhead or profit. When both additions and deletions covering related work or substitutions are involved in a change in the Work, the allowance for overhead and profit shall be calculated on the basis of the net increase, if any, with respect to that change in the Work.

## **GC 7.19      Novation Agreement**

### **Add the follow section GC 7.19**

- .01 Following the execution of the General Contract and the issuance of the Engineer's written order to commence work, the Contractor or an authorized Subcontractor will novate the contract purchase order with the Town of Napanee ("Assignor") and multiple vendors ("Vendor") and assume the management of the Vendor's responsibility for the supply and installation of the pre-selected package they were selected to supply (refer to Section 10 of tender document for scope of work). Refer to the Novation Agreement (Section 5).