

**GENERAL CONDITIONS
PUBLIC AND INVITATIONAL TENDERS**

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Time is of the Essence

Part 1**General Requirements****1.0 Definitions, Precedence of Documents and Interpretation**

- (1) Whenever any of the following works or phrases are used in the Contract they have the meanings respectively attributed to them as follows:
- (a) “Tender” means any bid, tender or proposal submitted by a bidder pursuant to the instructions to Bidders;
 - (b) “Owner” means The City of Hamilton or CityHousing Hamilton Corporation who is a party to this Agreement, or both The City of Hamilton and CityHousing Hamilton Corporation as the context of the Contract requires;
 - (c) “Contractor” means the person or corporation whose Tender has been accepted by the Owner, and who is deemed to have entered into the Contract with the Owner;
 - (d) “Contract Price” means the total price the Owner has agreed to pay to the Contractor for the Work, and for everything supplied under the Contract and included in the Contract, and in any event shall not exceed the amount specified in the Purchase Order;
 - (e) “CityHousing Hamilton Corporation” (CHHC) means a housing corporation which is an agent of The City of Hamilton.
 - (f) “Work” means everything that the Contractor is required to supply in order to carry out the terms and conditions of the Contract;
 - (g) “Business Day” means any day except a Saturday, Sunday or statutory holiday.
 - (h) “Substantial Performance” (Extract from the Construction Lien Act, 1983): The contract is substantially performed,
 - (a) when the improvement to be made under that contract or a substantial part thereof is ready for use or being used for the purposes intended; and
 - (b) when the improvement to be made under the contract is capable of completion or, where there is a known defect, correction, at a cost not more than,
 - (i) 3 percent of the first \$500,000 of the contract price,
 - (ii) 2 percent of the next \$500,000 of the contract price, and
 - (iii) 1 percent of the balance of the contract price.

Where the owner and the contractor agree not to complete the improvement expeditiously, the price of the services or materials remaining to be supplied and required to complete the improvement shall be deducted from the contract price in determining substantial performance.

- (i) “Completion” (Extract from the Construction Lien Act, 1983):
The contract shall be deemed to be completed and services or materials shall be deemed to be last supplied to the improvement when the price of completion, correction of a known defect, or last supply is not more than the lesser of,
 - (a) 1 percent of the contract price; and
 - (b) \$1,000 1983, c. 6, s. 2.

- (j) “Base Bid Price” is the lump sum fixed price quoted on the Tender Submission Form, which is based on the specified products and execution, and which does not include any Alternatives or Separate Prices.

- (k) An “Alternative” is any product similar to that specified, that the Bidder wishes to substitute, before or after the award of Tender, for any product specified in the Specification or on the Drawings. The Owner determines the acceptance or rejection of the substitution/alternative.

- (2) “Consultant” is a person or firm retained by the Owner for administering various aspects of the Contract on the Owner’s behalf.

- (3) Whenever the terms, words or initials “The New City of Hamilton”, “City of Hamilton”, or “COH”, or like terms, are used in the Contract, they shall mean The New City of Hamilton.

- (4) Whenever the terms or initials “CityHousing Hamilton Corporation”, “Housing Corporation”, “CHHC” or a specifically named housing corporation are used in the Contract, they shall mean the local housing corporation that for the purposes stated in the Contract, is acting as agent for The City of Hamilton.

- (5) Whenever the words “shall” or “will” are used in the Contract, they have the meanings attributed to them in the Interpretation Act of Ontario.

- (6) Whenever words, which have well known technical or trade meanings, are used in the Contract, they are used in accordance with such recognized meanings.

- (7) The documents forming the Contract are complementary, and what is required by any one shall be as binding as if required by all.

- (8) The following documents all form part of the Contract:
 - Instructions to Bidders
 - Supplementary Conditions
 - General Conditions
 - Tender Submission Form
 - Specifications with Appendices and Addenda
 - Schedules
 - Drawings
 - Award letter
 - Purchase Order

In the event of conflict between documents, the following priorities shall apply:

- (a) Documents of later date shall govern;
 - (b) Supplementary Conditions shall govern over General Conditions;
 - (c) General Conditions shall govern over Specifications;
 - (d) Specifications shall govern over Drawings;
 - (e) Figured dimensions shown on the Drawings shall govern even though they may differ from scaled dimensions;
 - (f) Drawings of larger scale shall govern over those of smaller scale of the same date.
- (9) If at any time before the Work has been completed any question arises as to whether anything has been done as required by the Contract, or as to what the Contractor is required by the Contract to do, and, in particular, and without limiting the generality of the foregoing, as to:
- (a) the meaning of anything in the Drawings and Specifications;
 - (b) the meaning to be given to the Drawings and Specifications in case of any error therein, an omission therefrom, or an obscurity or discrepancy in their wording or intention;
 - (c) whether the quality or quantity of any material or work meets the requirements of the Contract;
 - (d) whether the plant, materials or workmen provided by the Contractor for executing the Work and carrying out the Contract are adequate to ensure that the Work will be executed in accordance with the Contract and that the Contract will be carried out in accordance with its terms;
 - (e) what work or quantity of any kind has been completed by the Contractor; or
 - (f) the timing and scheduling of the execution of the Work,

the question shall be decided by the Owner.

1.1 Performance Security

- (1) The Contractor shall provide, at the Contractor's cost, performance security in favour of the Owner in order to secure the due and faithful performance of the Contract, which shall be as follows:
- (i) a Performance Bond issued by a Surety Company acceptable to CityHousing Hamilton Corporation.
 - (ii) an irrevocable letter of credit, bank draft, cash, certified cheque; or money order.

and in each case, the security shall be equivalent to 100% of the Contract Price

- (b) if the Contract price is **less than \$75,000** the following forms of security are acceptable;
 - (i) Performance Bond
 - (ii) An irrevocable letter of credit, bank draft, cash or certified cheque; or money order

and in each case, the alternate forms of security shall be equivalent to 50% of the Contract Price for contracts having a Contract Price of \$75,000 or less.

- (2) if the Contractor fails to meet the requirements of this section within 7 Business Days of receipt by the Contractor of the award letter, then the Owner at its sole option may terminate the Contract and use the bid security toward damages.
- (3) If the security is in the form of a Performance Bond, the document shall be retained by the Owner for a period of two years from the date on which the last payment under the Contract falls due, after which it will be returned to the Contractor on the Contractor's request.
- (4) If alternate security is provided pursuant to this section it will be returned to the Contractor 90 days after completion of the Work and the correction of all deficiencies. If deficiencies involve seasonal work, which must be postponed, the security shall be reduced to an amount equal to the value of the work, which remains to be completed, and the balance of the security returned to the Contractor 90 days after all other work is completed.
- (5) If required by the Supplementary Conditions, the Contractor shall provide at the Contractor's cost a Labour and Material Payment Bond, in the Owner's approved form which is attached hereto and it shall be in an amount equal to 50% of the total Contract Price.
- (6) Provide at the Contractor's own cost, a Labour and Materials Payment Bond, in the Owner's approved form which is attached herewith, in the amount equal to 50% of the total Contract Price.

1.2 Insurance

- (1) The Contractor shall keep in force for the duration of the Contract, Public Liability and Property Damage Insurance in an amount not less than \$2,000,000. Without limiting the foregoing, such Insurance Coverage shall include Comprehensive General Liability, Contractual Liability, Personal Injury, and Contingent Liability with respect to Subcontractors.
 - (a) The Contractor shall submit proof of such insurance in the form of an Insurance Certificate, which shall contain a firm undertaking by the Insurer to give the Owner 30 days' notice prior to any cancellation or modification of such insurance.

- (b) If the Contractor fails to meet the requirements of this section within 7 Business Days of receipt by the Contractor of the award letter, the Owner, at its sole option, shall have the right to terminate the Contract and use the bid security toward damages.

1.3 Workplace Safety and Insurance Board (WSIB) Certificate of Clearance

- (1) The Contractor shall produce a current Workplace Safety and Insurance Board Certificate of Clearance Form as requested by the Owner and prior to final payment under the Contract.
- (2) If the Contractor:
 - (a) will be unable to produce clearance as required pursuant to subsection 1.3 (1) because it claims it is an independent operator, with no insurable workers and is otherwise unable to obtain a clearance, it shall submit to the Owner written confirmation from the Workplace Safety and Insurance Board of its status as an independent operator for the Contract within 7 Business Days of receipt by the Contractor of the award letter.
 - (b) does not produce confirmation pursuant to clause 1.3 (2) (a), the Owner may at its sole option, terminate the Contract and use the bid security toward damages.

1.4 Assignment of contract or Proceeds of Contract

The Contractor shall not assign the Contract or the proceeds thereof without the written consent of the Owner.

1.5 Taking the Work Out of the Contractor's Hands

- (1) The Owner may, without any further authorization or authority, take all or any part of the Work out of Contractor's hands and may employ such means as it may see fit to complete the Work, including the use of the performance security when applicable, in any of the following cases, namely:
 - (a) where the Contractor has made default or has delayed in commencing or in diligently, executing the work or portion thereof to the satisfaction of the Owner and the Owner has given notice thereof to the Contractor, and has by such notice required the Contractor to put an end to such default or delay, and such default or delay continues for 7 Business Days after such notice was communicated;
 - (b) where the Contractor has made default in the completion of the Work, or any portion thereof, within the time limited for such completion by the Contract;
 - (c) where the Contractor has become insolvent;
 - (d) where the Contractor has committed an act of bankruptcy or has been declared bankrupt or has made an assignment in bankruptcy;
 - (e) where the Contractor has abandoned the Work;

- (f) where the Contractor has made an assignment of the Contract without the required consent of the Owner;
 - (g) where the Contractor has otherwise failed to observe or perform any of the provisions of the Contract.
- (2) Where the Work or any part thereof has been taken out of the Contractor's hands under subsection 1.5 (1), the Contractor shall not, except as provided in subsection 1.5 (3), be entitled to any further payment, including payments then due and payable but not paid and the obligation of the Owner to make payments shall be at an end, and the Contractor shall be liable upon demand of the Owner to pay to the Owner an amount equal to all loss and damage suffered by the Owner by reason of the non-completion of the Work by the Contractor.
- (3) Where the Work or any portion thereof has been taken out of the Contractor's hands under subsection 1.5 (1), does not operate so as to relieve or discharge the Contractor from any obligations under the Contract or imposed upon the Contractor by law, except the obligation to complete the physical execution of that portion of the Work so taken out of the Contractor's hands.
- (4) The taking of the Work, or any portion thereof, out of the Contractor's hands pursuant to subsection 1.5 (1), does not operate so as to relieve or discharge the Contractor from any obligations under the Contract or imposed upon the Contractor by law, except the obligation to complete the physical execution of that portion of the Work so taken out of the Contractor's hands.

1.6 Indemnification Claims

The Contractor shall indemnify and save harmless the Owner and its respective officers and agent from all claims relating to labour and material furnished or supplied in executing the Contract and from and against all claims, demands, losses, costs, damages, actions, suits or proceedings by whomsoever made, brought or prosecuted in any manner based upon, arising out of, related to, occasioned by or attributable to the activities or omissions of the Contractor or those for whom the Contractor is at law responsible in performing the Contract or to an infringements or an alleged infringement of a patent of invention.

1.7 Subcontractors

- (1) On request of the Owner, the Contractor shall provide to the Owner a complete and firm list of the names and addresses of the subcontractors whom the Contractor will use for the Work.
- (2) The Contractor shall:
- (a) require the Contractor's subcontractors to perform their work in accordance with and subject to the terms and conditions of the Contract; and
 - (b) be as fully responsible to the Owner for acts and omissions of the Contractor's subcontractors and of persons directly or indirectly employed by them as the Contractor is for acts and omissions of persons directly employed by the Contractor.

- (3) The Contractor shall incorporate all the terms and conditions of the Contract necessary for the purpose of performing the Work pursuant to the Contract into all sub-contract agreements.
- (4) Nothing contained in the Contract shall create any contractual relationship between any subcontractor and the Owner.

Part 2

Governing Regulations

2.0 The Landlord and Tenant Act

- (1) The Contractor acknowledges that in accordance with the Landlord and Tenant Act, access to premises of residents may only be gained by permission of the resident, or as necessary, upon the landlord giving notice to the resident specifying the time of entry during daylight hours not less than 24 hours prior to the time of entry.
- (2) The Contractor shall schedule any work accordingly and shall advise the Owner or whom the Owner shall designate at the site of the Work not less than 72 hours in advance of requested access to any resident's premises.

2.1 Laws, Notice, Permits and Fees

- (1) The by-laws, ordinances and legal requirements, rules, regulations, codes and orders of the municipality where the building is situated shall apply to the Work.
- (2) The Contractor shall obtain all permits, licences, and certificates and shall pay all fees required for the performance of the Work.
- (3) The Contractor shall give all required notices and comply with all laws, ordinances, rules, regulations, codes and orders of all authorities having jurisdiction relating to the Work, to the preservation of the public health and construction safety which are or become in force during the performance of the Work.
- (4) The Contractor shall not be responsible for verifying that the documents forming part of the Contract are in compliance with the applicable laws, ordinances, rules, regulations and codes relating to the Work and if any part of the Contract is at variance therewith, or changes which require modification to the Contract are made to any of the laws, ordinances, rules, regulations and codes by the authorities having jurisdiction subsequent to the date of tender submission, any resulting change in the cost shall constitute a corresponding change in the Contract Price. The Contractor shall notify the Owner in writing requesting direction immediately any such variance or change is observed by the Contractor.
- (5) If the Contractor fails to notify the Owner in writing and obtain its direction as required in subsection 2.1 (4) and performs any work knowing it to be contrary to any laws, by-laws, ordinances, rules, regulations, codes and orders of any authority having jurisdiction, the Contractor shall be responsible for and shall correct any violations thereof and shall bear all costs, expense and damages attributable to the Contractor's failure to comply with the provisions of such laws, by-laws, ordinances, rules, regulations, codes and orders.

2.2 Labour and Construction Lien Claims

The Contractor shall employ on the Work only persons who are fully qualified to perform the work required and shall comply with the provisions of the Construction Lien Act, 1983.

2.3 Minimum Truck Haul Rates

- (1) Where the Contractor engages the services of independent truckers to haul materials in the performance of the Contract the Contractor will pay at least the Minimum Truck Haul Rates as set by the Ministry of Transportation.
- (2) If the Contractor fails to pay the said rates, the Owner may pay any balance necessary to make up the minimum rate and charge it to the Contractor.
- (3) The Contractor shall post the rates prominently on the site where the Contract is being performed.

2.4 Designated Jurisdiction

- (1) Under the Designated jurisdiction policy the Owner is not permitted to award a contract to a person who is resident in a designated Jurisdiction. Such a person is not eligible and will be disqualified from the Tender.
- (2) “Designated Jurisdiction” means a Canadian Province or Territory, other than Ontario, that is designated by the Management Board of Cabinet, on the recommendation of the Ministry of Labour. As of the date of this tender, the Designated Jurisdiction is the Province of Quebec.
- (3) “Person who is resident in a Designated Jurisdiction” means:
 - (a) in the case of an individual or sole proprietor, a person who is ordinarily resident in that jurisdiction.
 - (b) In the case of a corporation,
 - (i) a person whose head office or registered office is located in that jurisdiction; or
 - (ii) a person controlled by a person described in sub-clause (i);
 - (c) in the case of a partnership, a partnership that includes at least one partner who is resident in that jurisdiction under clause (a) or (b).
- (4) “Controlled” has the same meaning as in subsection 1 (5) of the Business Corporation Act.
- (5) If any Contract is awarded under this Tender, the Contractor:
 - (a) represents and warrants that neither the Contractor nor any Subcontractors are persons who are resident in a Designated Jurisdiction;

- (b) acknowledges that any subcontractors not identified in the Bid following the award of the Contract will be subject to the approval of the Owner; and,
- (c) acknowledges that any material misrepresentation or breach of clause (a) will be grounds for termination of the contract.

Part 3

Procedural Requirements

3.0 Award Letter and Purchase Order

The Owner shall issue an award letter, which shall be acceptance of the Tender and award of the Contract to the Contractor and a Purchase Order, which shall specify the date of commencement of the Work and the Contract Price for the Work.

3.1 Commencement of Work

Upon receipt of the Purchase Order, the Contractor shall immediately contact the Owner to arrange prompt commencement of the Work and thereafter the Contractor shall continue the Work until completion.

3.2 Completion Date

The Contractor shall complete the Work within the time specified in the Tender Submission Form.

3.3 Co-operation

The Contractor shall co-operate with the Owner or whomever the Owner shall designate and arrange for all work to be expedited with the minimum of inconvenience to all parties, and shall report in writing any difficulties encountered in expediting the Work.

3.4 Supervision

- (1) The Contractor shall perform the Work in the most efficient manner and in accordance with the directions and to the satisfaction of the Owner.
- (2) The Contractor shall cause the Work to be performed either under personal supervision or under the supervision of a competent foreman who shall remain in charge until the Work is completed.

3.5 Use of Site Facilities

- (1) The Contractor shall furnish all labour, materials, equipment, transportation, storage of tools, trucks and any other incidentals required to perform the Work.
- (2) The Owner may provide storage for the Contractor's tools in appropriate storage rooms only, providing space is available at the site.

- (3) The Contractor and the Contractor's personnel may use the existing sanitary services, where provided, but if not available at the site, the Contractor shall provide such service at the Contractor's expense.
- (4) The Owner will permit the Contractor to make use of the water and hydro facilities on the site. The Contractor shall:
 - (a) make all necessary temporary connections:
 - (i) at the Contractors' expense;
 - (ii) in accordance with all applicable laws, by-laws, ordinances, rules, regulations, codes and order; and
 - (iv) under the directions of the Owner; and
 - (b) remove all such temporary connections on the completion of the Work and make good all finishes and services to the satisfaction of the Owner.
- (5) The Contractor shall assume all liability for and be responsible for loss off or damage to the Contractor's materials or equipment and for any materials delivered to the Contractor from whatever source to the site of the Work.

3.6 Interference

- (1) The Contractor shall maintain normal building operation and traffic flow, with a minimum of inconvenience to the residents of the project.
- (2) The Contractor shall ensure that no essential services such as electric power and domestic hot water supply are interrupted for more than one continuous hour and no more than three consecutive hours for the heating system during the heating season except with the prior written permission of the Owner.
- (3) The Contractor shall in every case where an interruption of service is to occur, make prior arrangements with the Owner.

3.7 Protection

- (1) Until the owner accepts the Work, the Contractor shall:
 - (a) provide adequate protection to public and property;
 - (b) protect existing buildings, walls, floors ceilings, furnishings, equipment, plant materials, lawns and other areas affected by the Work from any damages resulting from performing work on this Contract;
 - (c) protect the Work from damages from any cause;
 - (d) protect and be responsible for all new finished and unfinished work, which is exposed and susceptible to vandalism or theft.

3.8 Clean-Up

- (1) At the end of each day's work, the Contractor shall remove:
 - (a) all debris and hazardous impediments from work areas and the site,
 - (b) all equipment and material, which is not to be re-used for the Work from the site unless, stated otherwise in the Contract.

3.9 Underground and Concealed Services

- (1) The Contractor shall be responsible for the protection of all pipes, ducts, cables, conduits, wires and other services against damage arising from the performance of the Work.
- (2) The Contractor shall take all the necessary precautions to locate the underground and concealed services and to protect them from damage.
- (3) The Contractor is responsible for making good to the satisfaction of the authorities concerned, any damages to services resulting from the Contractor's performance of the Work, without any additional cost to the Owner.

3.10 Powder Actuated Fastening Tools

- (1) The Contractor shall not use high velocity powder actuated fastening tools.
- (2) The Contractor may use low velocity powder actuated fastening tools only if operated by an operator holding a valid operator's certificate for the device being used.

3.11 Fire Protection

- (1) The Contractor shall take all necessary precautions during the performance of the Work to prevent the possibility of fire, including the use of fire resistant sheets to protect adjoining areas, when welding, brazing and performing any operations with an open flame, combustible adhesives or inflammable solvents.
- (2) The Contractor shall at all times, when welding, brazing and performing any operations with an open flame, combustible adhesives or inflammable solvents keep a portable fire extinguisher within 3 meters of the operation.
- (3) The Contractor shall ensure that all rags and waste containing oil, grease or other inflammable materials are stored in an approved metal container and are removed from the site at the end of each working day.

3.12 Cutting and Patching

The Contractor shall not undertake any cutting, coring, drilling, grinding or the like of any portion of the building envelope or structural elements, other than those indicated in the Contract without prior written approval of the Owner and in cases where such permission is granted, the Contractor, before commencing to cut any structural member must provide adequate supports and install a structurally acceptable alternate system.

Part 4 Adherence to Drawings and Specifications**4.0 Materials and Workmanship – Acceptability**

- (1) The Contractor shall ensure that all materials, products, equipment and systems are new and they must be listed in the Canadian Construction Materials Centre’s “Evaluation Listing or Evaluation Reports”.
- (2) The Contractor shall give preference to materials, products and equipment of Canadian origin and manufacture.
- (3) The Contractor shall ensure that all work is performed by competent mechanics, skilled in the particular trade. Only first class workmanship will be accepted, not only with regard to safety, efficiency and durability, but also with regard to neatness and accuracy of detail.
- (4) The Contractor shall remove all unsatisfactory work and replace it at the Contractor’s expense to the satisfaction of the Owner.
- (5) If in the opinion of the Owner it is not expedient to correct defective work or work not done in accordance with the Contract, the Owner may deduct from the Contract price the difference in value between the Work as done and that called for by the Contract, the amount of which shall be determined by the Owner.

4.1 Deviations

The Contractor shall not make any deviations from the Drawings and Specifications without prior written permission from the Owner and the Contractor shall correct unauthorized deviations at the Contractor’s expense.

4.2 Changes in Work

- (1) The Owner, without invalidating the Contract, may make changes by altering, adding to, or deducting from the Work, with the Contract Price and the completion date being adjusted accordingly.
- (2) No additional work shall be done nor shall other changes be made to the Contract without receiving prior written authority from the Owner.

4.3 Valuation of Changes in Work

- (1) The Owner shall determine the method of valuation of any change in the Work by any one of more of the following methods:
 - (a) by estimate and acceptance in a lump sum;
 - (b) by unit prices;
 - (c) by cost and percentage or by cost and a fixed fee.

- (2) In cases of an addition to the Work to be paid for pursuant to clause 4.3 (1) (c), the Contractor shall keep and present to the Owner in such form as the Owner may direct a correct account setting out overhead and profit and the net cost of labour and materials, together with vouchers. The owner shall certify the amount including a total sum for overhead and profit not to exceed 15% of the net cost of labour and materials.

4.4 Samples of Materials, Testing of Materials

- (1) The Contractor shall furnish for the approval of the Owner or whomever the Owner designates such samples of materials, test and designs as required from time to time. The Work must be in accordance with the approved samples, test and designs.
- (2) The Contractor shall pay all costs for such samples and test required by the specifications. If not specified, the cost of such samples and tests will be authorized as an addition to the Contract Price.
- (3) Any inspections or testing required by the Owner as a result of the defects, which were revealed by inspections, or testing carried out in the course of the Contract shall be carried out at the Contractor's expense.

4.5 Performance Tests

The Contractor shall perform and pay for all tests as required by the authorities having jurisdiction and as may be required by the Owner to prove that all systems and equipment are performing as designed.

4.6 Record Drawings

- (1) The Contractor shall:
 - (a) when specified, obtain and pay for one set of erasable mylar sepias;
 - (b) as the job progresses, mark the prints, accurately to indicate all deviations from the contract drawings;
 - (c) at all times have all white prints available for inspection at the site.
- (2) The Contractor shall after the work is completed, transfer, all information to the set of sepias required pursuant to clause 4.6 (1)(a) taking special care to indicate buried drains, inverts and dimensioned distances from visible reference points such as walls or columns, and shall deliver the set of sepias to the Owner.

4.7 Toxic and Hazardous Substances

- (1) Prior to the Contractor commencing the Work, the Owner shall:
 - (a) take all reasonable steps to establish whether or not any toxic or hazardous substances are present at the Place of the Work, and
 - (b) provide the Contractor with written report indicating all toxic or hazardous substance of such findings.

- (2) If the Contractor:
- (a) encounters toxic or hazardous substances at the Place of the Work, or
 - (b) has reasonable grounds to believe that toxic or hazardous substances are present at the place of the Work, the Contractor shall:
 - (c) take all reasonable steps, including stopping the Work to ensure that no person suffers injury, sickness or death and that no property is injured or destroyed as a result of exposure to the presence of the substances; and,
 - (d) immediately report the circumstance to the Owner in writing.

4.8 Alternatives

- (1) Complete Bid submission in accordance with the drawings and specifications issued. Proposed Alternatives are to be quoted separately, clearly indicating the manufacturer, model number, and the difference in characteristics from the product specified. Indicate space requirements and other products that will be affected, for the proposed Alternative product.
- (2) Indicate along with each proposed Alternative product, a price marked as a “credit” or “extra” to the Total Lump Sum Fixed Price, and adjustments to any requested “unit prices”. Indicate adjustments to G.S.T. and P.S.T.
- (3) If an Alternative is substituted in the Bid submission for a specified product, the Tender may be disqualified.
- (4) Whenever a product is specified by specific manufacturer, model or serial number, as an acceptable manufacturer, or acceptable product, the Bid must be based on the specified manufacturer or product.
- (5) The Bids will be evaluated on the entire bid submission, including schedules, base bid, alternative, contractors past performance, letters of reference, sub-contractors etc.
- (6) The Contractor is responsible for ensuring that the Alternative fits the space available, and is responsible for any additional costs incurred to other parts of the Work resulting from the use of an Alternative. The duration of the Contract will not be extended as a result of using an Alternative.

Part 5

Payment and Warranty

5.0 Payments and Holdbacks

- (1) For the purpose of the Construction Lien Act, 1983, the Payment Certifier shall be the Owner, or any person the Owner may designate from time to time and as required by the Construction Lien Act, 1983, the Payment Certifier shall:
 - (a) determine and certify substantial performance; and

- (b) determine completion.
- (2) The Owner will make payments to the Contractor as follows:
 - (a) 90% of the invoiced amounts submitted by the Contractor to the Owner prior to substantial performance and not more frequently than monthly for labour, material and services incorporated in the Work to the satisfaction of the Payment Certifier or delivered to the site and supported by such evidence of correctness as the Payment Certifier may require:
 - (b) 10% of the amounts invoiced prior to substantial performance and held back pursuant to the Construction Lien Act, 1983, within a reasonable time after the expiration of the applicable lien period following the date of publication of the Certificate of Substantial Performance if there are no claims outstanding pursuant to the Construction Lien Act, 1983 and if the Work performed is to the satisfaction of the Payment Certifier;
 - (c) any further amount due under the Contract upon completion of the Contract to the satisfaction of the Payment Certifier, subject to any holdback for deficiencies and as required by the Construction Lien Act, 1983.
- (3) The Contractor shall obtain an inspection certificate for any installation, which is part of the Work from the Federal, Provincial or Municipal Authority responsible for the issuance thereof and shall deliver such certification to the Owner before receiving final payment.
- (4) Application for Progress Payments
 - (a) Commencing from the second payment and subsequent payments, except the final and release of holdback application, the Contractor shall submit a Statutory Declaration. Statutory Declaration shall be the standard CCA Form 9B.
 - (b) For release of holdback on work under a subcontract, which is 100% complete, the Sub-contractor shall submit a Statutory Declaration (CCA Form 9C), which shall accompany the Contractor's Statutory Declaration for Progress Payments.
 - (c) With application for statutory holdback the Contractor shall submit a statutory declaration (CCA Form 9A).
 - (d) The contractor shall submit to the Owner proposed percentages of work complete, for valuation, prior to formal invoice submission.
- (5) It is the "Owners" policy that all payments will be made within (30) days of receipt of valid, approved and fully documented invoice on condition that goods or services provided and claimed are satisfactory.
 - (a) by offering discounts the contractor/vendor shall be entitled to receive payment earlier.

5.1 Evidence of Publication

If the Contractor requests and receives a Certificate of Substantial Performance, the Contractor shall provide the Owner with evidence of publication (including name of paper, date of publication, etc.) of the Certificate of Substantial Performance acceptable to it.

5.2 Tax Changes

In the event of any change in any applicable tax made public after the date of tender closing, the Contract Price shall be adjusted by an amount equal to the increase or decrease in the cost of the Work to Contractor brought about by the change in such tax.

5.3 No Additional Payment for Increased Costs

The amount payable to the Contractor under the Contract will not be increased or decreased by reason of any increase or decrease in the cost of the Work brought about by any increase or decrease in the cost of plant equipment, labour, materials or the wage rates set out and prescribed herein.

5.4 Warranty

- (1) The Contractor shall warrant the Work covering both labour and material for a period of one year (except where noted otherwise) from the date of completion to the satisfaction of the Owner and extend the warranty on replaced parts and workmanship for a period of one year from the date of acceptance of the replacement parts and workmanship.
- (2) The warranty given pursuant to this section shall not limit extended warranties on any items of equipment or material called for elsewhere in the Specifications.
- (3) The Contractor shall, to the extent permitted by manufacturers and suppliers, assign to the Owner the benefit of any warranty by any manufacturer or supplier in addition to the warranty as provided in subsection 5.4 (1).

Part 6**Time**

Time is of the essence of the Contract