



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 221-78


To authorize the execution of Contract
No. 78-46 with Whitney Construction Co.
(ADDITIONAL RENOVATIONS TO BRAMPTON
MEMORIAL ARENA)

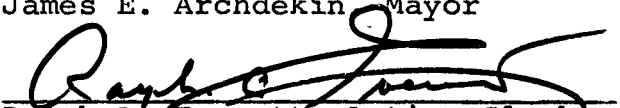
WHEREAS it is deemed expedient to enter into and execute
Contract No. 78-46 with Whitney Construction Co.;

NOW THEREFORE the Council of The Corporation of the City
of Brampton ENACTS as follows:

- (1) That the City of Brampton enter into and execute
Contract No. 78-46 with Whitney Construction Co.
attached hereto as Schedule "A".
- (2) That the Mayor and the Clerk are hereby authorized
to affix their signatures to the said Contract
No. 78-46 attached hereto as Schedule "A", with
Whitney Construction Co.

READ a FIRST, SECOND and THIRD TIME and Passed in Open
Council this 11th day of September, 1978.


James E. Archdekin, Mayor


Ralph A. Everett, Acting Clerk

TENDER FORM

This Tender is submitted by:

WHITNEY CONSTRUCTION LIMITED

(name)

105 Heart Lake Road South, Brampton,
Ontario. L6W 3K1

(address)

453-6600

(telephone)

To: The Mayor and Council,
Corporation of the City of Brampton,
24 Queen Street East,
Brampton, Ontario.
L6V 1A4

1. ☒/We, the undersigned declare that no person, firm or corporation other than the one whose signature or the signature of whose proper officers and the seal is or are attached below, has any interest in this Tender or in the Contract proposed to be taken.
2. ☒/We, further declare that this Tender is made without any connection, knowledge, comparison of figures or arrangement with any other company, firm or person making Tender for the same work and is in all respects fair and without collusion or fraud.
3. ☒/We, further declare that we have carefully examined the locality and site of the proposed Work, as well as all the Contract Documents prepared, submitted and rendered available by the Director, Parks & Recreation, and the Purchasing Agent, by and on behalf of the Corporation of the City of Brampton and hereby acknowledge the same to be part and parcel of any Contract to be let for the work therein described or defined and do hereby Tender and offer to enter into a Contract to do all of the work and to provide all of the labour and to provide, furnish, deliver, place, and erect all materials mentioned and described or implied therein including in every case freight, duty, exchange, and sales tax in effect on the date of acceptance of the Tender, and all other charges, on the terms conditions and under the provisions therein set forth.

4. ☒ We, agree that this offer is to continue open to acceptance until the formal Contract is executed by the successful Tenderer for the said work or until sixty (60) days after the Tender Closing Date whichever first occurs, and that the Owner may at any time within that period and without notice accept this Tender whether any other Tender had been previously accepted or not.
5. ☒ We, agree that if we withdraw this Tender after closing and before the Owner shall have considered the Tenders and awarded the Contract in respect thereof, during the time that this Tender is open to acceptance as set out above in this Tender Form the amount of the deposit accompanying this Tender shall be forfeited.
6. ☒ We, agree that the awarding of the Contract based on this Tender by the Owner shall be an acceptance of this Tender.
7. ☒ We, recognize in submitting the Tender the right of the Owner to accept any Tender at the price submitted, or to reject all Tenders. ☒ We, further recognize that the Owner reserves the right in accepting a Tender to delete any of the tendered items. Where alternate prices are requested in the tender, the Owner will select which alternate is to be included in the Contract.
8. ☒ We, undertake to notify the Owner before award of Contract if upon examination of the Tender Documents we find any material or method shown or specified to which we object and for which we would be unwilling or unable to accept responsibility. ☒ We agree that after signing the Contract, full responsibility for performance of all building components will rest with our firm and the Owner is in no way to be held liable.
9. If this Tender is accepted ☒ We agree to furnish the required Performance Bond in an amount equal to 100% of the Contract, Insurance Certificate, and Workmen's Compensation Board Letter and properly sign the Contract Documents in quadruplicate within ten (10) working days after being notified so to do. In the event of default or failure on our part so to do, ☒ We agree that the Corporation of the City of Brampton shall be at liberty to retain the money deposited by ~~ME~~/US to the use of the City and to accept the next lowest or any Tender or to advertise for new Tenders, or to carry out the Work in any other way they deem best. ~~and we agree to indemnify and hold the City of Brampton harmless from and against all claims, damages, losses and expenses, including reasonable attorneys' fees, which the City of Brampton may incur or be liable for as a result of our failure to perform the Work in accordance with the Contract Documents.~~

10. X/We, propose Canadian General Insurance Company

A company which is willing to become bound with ~~ME~~/US in the amount designated for due performance and fulfillment of the Contract for which this is the Tender.

11. X/We, agree that the dates of completion shall be no later than November 15, 1978.

12. X/We, agree to undertake the following items of Work for the following lump sum prices.

ADD: General Expenses, Supervision, General Contractor's Plant & Equipment,

(a) Exterior Upgrading. Insurances, Bonds and Permits.

- | | | |
|-------|--|--------------------|
| (i) | Replacement of downpiping, eavestroughs, flashing etc. | \$ <u>5,475.00</u> |
| | | \$ <u>3,053.00</u> |
| (ii) | Replacement of entrance canopies. | \$ <u>4,520.00</u> |
| (iii) | Waterproofing and weeping tile installation along north wall. | \$ <u>4,244.00</u> |
| (iv) | Installation of new door at northwest entrance. | \$ <u>1,789.00</u> |
| (v) | Removal of existing 14 windows and replacement with aluminum windows complete with vandal-proof screens. | \$ <u>8,306.00</u> |
| (vi) | Installation of sun screens over new windows. | \$ <u>767.00</u> |

(b) Dressing Room Renovations.

- | | | |
|-------|--|---------------------|
| (i) | Increase size of two (2) dressing rooms. | \$ <u>12,882.00</u> |
| (ii) | Wall and ceiling repairs in existing dressing rooms, including fire retardant painting of ceiling of entire lower level area to the north of the existing fire separation. | \$ <u>1,371.00</u> |
| (iii) | Installing of new doors, partitions, fixtures in existing dressing rooms. | \$ <u>2,299.00</u> |
| (iv) | Provision of finish floor throughout dressing rooms | |
| | Alternate A:- | |
| | Asphalt planking | \$ <u>5,383.00</u> |
| | Alternate B:- | |
| | Vinyl asbestos tile | \$ <u>1,069.00</u> |
| | (Carry lesser of two alternates) | \$ <u>1,069.00</u> |

(c) Mechanical, Electrical, Heating.

- (i) Installation of new sports timer and accessory electrical supply. \$ 9,745 .00
- (ii) Upgrade public address system. \$ 1,928 .00
- (iii) Air condition upper level snack bar. \$ 1,112 .00
- (iv) Remove existing furnace and install new gas-fired furnace. \$ 6,281 .00
- (v) Remove existing oil tank. \$ 55 .00
- (vi) Remove existing hot water tank and install new gas-fired heater. \$ 2,178 .00
- (vii) Remove one existing boiler and install conversion gas burner on one existing boiler. \$ 1,188 .00
- (viii) Install gas trunk line. \$ 502 .00

(d) Painting.

- (i) Exterior. \$ 1,100 .00
- (ii) Interior. \$ 10,010 .00

(e) Flooring.

- (i) Install new flooring throughout arena,
Alternate A:
Particleboard \$ 5,993.00
Alternate B:
Solid birch \$ 29,022.00
(Carry lesser of two alternates) \$ 5,993 .00

(f) Miscellaneous.

- (i) Install asphalt planking in lower level hallway and ramp. \$ 3,087.00
- (ii) Repairs to existing access ramp. \$ 681 .00
- (iii) Install supports for press box. \$ 666 .00
- (iv) Lower snack bar renovations \$ 1,360 .00

(g) Contingency. \$ 3,500.00

Total Tender Price: \$ 95,161.00 (figures)

(Ninety Five Thousand, One Hundred and Sixty One Dollars).


(words).

This tender is submitted on the basis that this contract will be awarded to one General Contractor only for the total value of the contract subject to additions and deletions as requested by the Owners.

A Certified Cheque or Bid Bond in an amount equal to 10% (Ten Percent) of the Tender Price, payable to the Corporation of the City of Brampton (\$ _____) 10% of Principal's Tender.
_____/100 is enclosed.

Dated at Brampton this 5th day of September, 1978.

SIGNATURE OF WITNESS


SIGNATURE AND SEAL OF TENDERER

AGREEMENT BETWEEN OWNER AND CONTRACTOR

for use when a stipulated price forms the basis of payment and to
be used only with the General Conditions of the Contract.

This Agreement made in quadruplicate the 12th day of September
in the year Nineteen hundred and seventy-eight

by and between

THE CORPORATION OF THE CITY OF BRAMPTON
hereinafter called the "Owner"

and

WHITNEY CONSTRUCTION LIMITED
hereinafter called the "Contractor"

witnesseth: that the Owner and Contractor undertake and agree as follows.

ARTICLE A-1 THE WORK

The Contractor shall:

- (a) perform all the Work required by the Contract Documents for Contract No. 78-46
additional renovations to Brampton (insert here the title of the Work and the Project)
Memorial Arena
which have been signed in duplicate by both the parties, and which were prepared by Morrison,
Hershfield, Burgess & Huggins, Limited acting as and hereinafter called the "Engineer" and
- (b) do and fulfill everything indicated by this Agreement, and
- (c) commence the Work by the 18th day of September 1978 and substantially
perform the Work of this Contract as certified by the Engineer by the 15th day of November,
1978.

ARTICLE A-2 CONTRACT DOCUMENTS

The following is an exact list of the Contract Documents referred to in Article A-1:

Insert here, attaching additional pages if required, a list identifying all Contract Documents including: Drawings, giving drawing number, title, date, revision date or mark, and Specifications, giving a list of contents with section numbers and titles, number of pages, and date or revision marks if any. Clearly identify any modifications to the Contract Documents.

ARTICLE A-3 CONTRACT PRICE

The Contract Price is Ninety-nine thousand, four hundred and seventy-five

----- Dollars

(\$ 99,475.00) in Canadian funds, which price shall be subject to adjustments as may be required in accordance with the General Conditions of the Contract.

ARTICLE A-4 PAYMENT

- (a) Subject to applicable legislation and, where such legislation does not exist or apply, in accordance with such prescribed regulations or industry practice respecting holdback percentages and in accordance with the provisions of the General Conditions of the Contract, the Owner shall:
- (1) make monthly payments to the Contractor on account of the Contract Price. The amounts of such payments shall be as certified by the Engineer; and
 - (2) upon Substantial Performance of the Work as certified by the Engineer pay to the Contractor any unpaid balance of holdback monies then due; and
 - (3) upon Total Performance of the Work as certified by the Engineer pay to the Contractor any unpaid balance of the Contract Price then due.
- (b) If the Owner fails to make payments to the Contractor as they become due under the terms of this Contract or in any award by arbitration or court, interest at the rate of 1 per cent per month of such unpaid amounts including earned interest, shall also become due and payable until payment. Such interest shall be calculated and added to any unpaid amounts monthly.

ARTICLE A-5 ADDRESSES FOR NOTICES

All communications in writing between the parties or between them and the Engineer shall be deemed to have been received by the addressee if delivered to the individual or to a member of the firm or to an officer of the Corporation for whom they are intended or if sent by post or by telegram addressed as follows:

The Owner at 24 Queen Street East,
street and number and postal box number if applicable

Brampton, Ontario. L6V 1A4
post office or district, province, postal code

The Contractor at 105 Heart Lake Road
street and number and postal box number if applicable

Brampton, Ontario. L6W 3K1
post office or district, province, postal code

The Engineer at 3089 Bathurst Street,
street and number and postal box number if applicable

Toronto, Ontario. M6A 2A4
post office or district, province, postal code

ARTICLE A-6 SUCCESSION

The General Conditions of the Contract hereto annexed, and all other aforesaid Contract Documents, are all to be read into and form part of this Agreement and the whole shall constitute the Contract between the parties and subject to law and the provisions of the Contract Documents shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors and assigns.

In witness whereof the parties hereto have executed this Agreement under their respective corporate seals and by the hands of their proper officers thereunto duly authorized.

SIGNED, SEALED AND DELIVERED
in the presence of:

Owner

THE CORPORATION OF THE CITY OF...
name BRAMPTON

James C. Archobley
signed Mayor

name and title

[Signature]
signed at C.O.

name and title

Contractor

WHITNEY CONSTRUCTION LIMITED
name

[Signature]
signed

General Manager
name and title

signed

name and title

N.B. Where any legal jurisdiction, local practice or client requirement calls for proof of authority to execute this document, proof of such authority in the form of a certified copy of a resolution naming the person or persons in question as authorized to sign the Agreement for and on behalf of the Corporation or Partnership, should be attached.

THE GENERAL CONDITIONS OF THE STIPULATED PRICE CONTRACT

GC 1 DEFINITIONS

1.1 Contract Documents

The Contract Documents consist of the executed Agreement and the General Conditions of the Contract, Supplementary General Conditions, Specifications, Drawings and such other documents as are listed in Article A-2 of the Agreement including all amendments thereto incorporated before their execution and subsequent amendments thereto made pursuant to the provisions of the Contract or agreed upon between the parties

1.2 Owner, Engineer, Contractor

The Owner, Engineer and Contractor are the persons, firms or corporations identified as such in the Agreement and referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Owner, Engineer and Contractor means the Owner, Engineer and Contractor or their authorized representatives as designated to each party in writing.

1.3 Subcontractor

A Subcontractor is a person, firm or corporation having a direct contract with the Contractor to perform a part or parts of the Work included in the Contract, or to supply products worked to a special design according to the Contract Documents, but does not include one who merely supplies products not so worked. Wherever the singular number and masculine gender occur, plural number and feminine gender apply where the facts or contents so require.

1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part.

1.5 The Work

The term the Work means the total construction required by the Contract Documents and includes all labour, products and services.

1.6 Products

The term products means all material, machinery, equipment and fixtures forming the completed work as required by the Contract Documents but does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work and normally referred to as construction machinery and equipment.

1.7 Other Contractor

The term Other Contractor means any person, firm or corporation employed by or having a separate contract directly or indirectly with the Owner for work other than that required by the Contract Documents

1.8 Place of Building

The place of building is the designated site or location of the Project.

1.9 Law of the Contract

The law of the place of building shall govern the Contract.

1.10 Time

(a) The Contract Time is the time stated in Article A-1(c) of the Agreement for Substantial Performance of the Work.

(b) The date of Substantial Performance of the Work is the date certified by the Engineer.

(c) The term day as used in the Contract Documents shall mean the calendar day.

(d) The term working day as used in the Contract Documents shall mean days other than Saturdays, Sundays and holidays which are observed by the construction industry in the area of the place of building.

1 11 Substantial Performance

Substantial Performance is as defined in the Mechanics' Lien legislation applicable to the place of building. If such legislation is not in force or does not contain such definition Substantial Performance shall have been reached when the Work is ready for use or is being used for the purpose intended and is so certified by the Engineer.

1.12 Total Performance

Total Performance shall mean when the entire Work has been performed to the requirements of the Contract Documents and is so certified by the Engineer.

GC 2 DOCUMENTS

2.1 The Contract Documents shall be signed in duplicate by the Owner and the Contractor.

2.2 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all.

2.3 The intention of the Contract Documents is to include all labour, products and services reasonably necessary to perform the Work in accordance with these documents. It is not intended, however, that the Contractor shall supply any products or work not covered by or properly inferable from any of the Contract Documents.

2.4 Words which have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

2.5 In the event of conflicts between Contract Documents the following shall apply:

(a) Documents of later date shall govern.

(b) Figured dimensions shown on the Drawings shall govern even though they may differ from scaled dimensions.

(c) Drawings of larger scale shall govern over those of smaller scale of the same date.

(d) Specifications shall govern over Drawings.

(e) The General Conditions of the Contract shall govern over Specifications.

(f) Supplementary General Conditions shall govern over the General Conditions of the Contract.

(g) The Agreement shall govern over all documents.

GC 3 ADDITIONAL INSTRUCTIONS

3.1 During the progress of the Work the Engineer shall furnish to the Contractor such additional instructions as may be necessary to supplement the Contract Documents. All such instructions shall be consistent with the intent of the Contract Documents.

3.2 Additional instructions may include minor changes to the Work which affect neither the Contract Price nor the Contract Time.

3.3 Additional instructions may be in the form of drawings, samples, models or written instructions.

3.4 Additional instructions will be issued by the Engineer with reasonable promptness and in accordance with any schedule agreed upon.

GC 4 DOCUMENTS PROVIDED

4.1 The Contractor will be provided without charge, with as many copies of the Contract Documents or parts thereof as are reasonably necessary for the performance of the Work

GC 5 DOCUMENTS ON THE SITE

5.1 The Contractor shall keep one copy of all current Contract Documents and shop drawings on the site, in good order and available to the Engineer and/or his representatives. This requirement shall not be deemed to include the executed Contract Documents

GC 6 OWNERSHIP OF DOCUMENTS AND MODELS

6.1 All Contract Documents and copies thereof, and all models furnished by the Engineer are and shall remain his property and are not to be used on other work.

6.2 Such documents are not to be copied or revised in any manner without the written authorization of the Engineer.

6.3 Models furnished by the Contractor or the Owner are the property of the Owner.

GC 7 ENGINEER'S DECISIONS

- 7.1 The Engineer, in the first instance, shall decide on questions arising under the Contract Documents and interpret the requirements therein. Such decisions shall be given in writing. The Engineer shall use his powers under the Contract to enforce its faithful performance by both parties hereto.
- 7.2 The Contractor shall notify the Engineer in writing immediately should he hold that a decision by the Engineer is in error and/or at variance with the Contract Documents.
- 7.3 If the question of error and/or variance is not resolved immediately, and the Engineer decides that the disputed work shall be carried out, the Contractor shall act according to the Engineer's written decision. Any question of change in Contract Price and/or extension of Contract Time due to such error and/or variance shall be decided as provided in GC 16 – Settlement of Disputes.
- 7.4 Should the Engineer's employment be terminated, the Owner shall appoint an Engineer whose status under the Contract shall be that of the former Engineer.
- 7.5 Nothing contained in the Contract Documents shall create any contractual relationship between the Engineer and the Contractor.

GC 8 DELAYS

- 8.1 If the Contractor is delayed in the performance of the Work by any act or neglect of the Owner, Engineer or any Other Contractor or any employee of any one of them, then the Contract Time shall be extended for such reasonable time as the Engineer may decide in consultation with the Contractor, and the Contractor shall be reimbursed for any costs incurred by him as the result of such delay.
- 8.2 If the Contractor is delayed in the performance of the Work by a Stop Work Order issued by any court or other public authority, and providing that such order was not issued as the result of any act or fault of the Contractor or of any one employed by him directly or indirectly, then the Contract Time shall be extended for such reasonable time as the Engineer and the Contractor may agree that the work was delayed, and the Contractor shall be reimbursed for any costs incurred by him as the result of such delay.
- 8.3 If the Contractor is delayed in the performance of the Work by labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized Contractors' Association, of which the Contractor is a member), fire, unusual delay by common carriers or unavoidable casualties or, without limit to any of the foregoing, by any cause of any kind whatsoever beyond the Contractor's control, then the Contract Time shall be extended for such reasonable time as may be mutually decided by the Engineer and Contractor, but in no case shall the extension of time be less than the time lost as the result of the event causing the delay, unless such shorter extension of time be agreed to by the Contractor.
- 8.4 In addition and without limit to the foregoing the Contract Time may be extended for any cause within the Contractor's control which the Engineer shall decide as justifying a delay for such reasonable time as the Engineer may decide.
- 8.5 No extension shall be made for delay unless written notice of claim is given to the Engineer within fourteen (14) days of its commencement, providing that in the case of a continuing cause of delay only one claim shall be necessary.
- 8.6 If no schedule is made under GC 3 – Additional Instructions, no claim for delay shall be allowed on account of failure to furnish instructions until two (2) weeks after a demand for such instructions and not then unless such claim is reasonable.
- 8.7 The Engineer shall not, except by written notice to the Contractor, or as provided in GC 15 – Emergencies, stop or delay any part of the work pending instructions or proposed changes in the work.

GC 9 OWNER'S RIGHT TO DO WORK

- 9.1 If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of the Contract, the Owner, subject to the approval of the Engineer, may notify the Contractor in writing that he is in default of his contractual obligations and instruct him to correct the default within five (5) working days of receiving the notice.
- 9.2 If the correction of the default cannot be completed within the five (5) working days specified, the Contractor shall be considered to be in compliance with the Owner's instruction if he:
 - (a) commences the correction of the default within the specified time, and
 - (b) provides the Owner with an acceptable schedule for such correction, and
 - (c) completes the correction in accordance with such schedule.

- 9.3 If the Contractor fails to comply with the provisions 9.1 and 9.2 the Owner may, without prejudice to any other right or remedy he may have, correct such default and may deduct the cost thereof from the payment then or thereafter due the Contractor provided, however, that the Engineer shall approve both the action and the amount subsequently charged to the Contractor.

GC 10 OWNER'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

- 10.1 If the Contractor should be adjudged bankrupt, or makes a general assignment for the benefit of creditors or if a receiver is appointed on account of his insolvency, the Owner may, without prejudice to any other right or remedy he may have, by giving the Contractor written notice, terminate the Contract
- 10.2 Subject to the receipt of a certificate from the Engineer verifying that sufficient cause exists, the Owner may notify the Contractor in writing that he is in default of his contractual obligations, if the Contractor:
- (a) refuses or fails to supply sufficient properly skilled workmen or proper workmanship, products or construction machinery and equipment for the scheduled performance of the Work within five (5) working days of receiving written notice from the Engineer, except in those cases provided in GC 8 – Delays; or,
 - (b) fails to make payments due to his Subcontractors, his suppliers or his workmen, or,
 - (c) persistently disregards laws or ordinances, or the Engineer's instructions; or
 - (d) otherwise violates the provisions of the Contract to a substantial degree.
- Such written notice by the Owner shall instruct the Contractor to correct the default within five (5) working days from the receipt of the written notice
- 10.3 If the correction of the default cannot be completed within the five (5) working days specified, the Contractor shall be considered to be in compliance with the Owner's instructions if he:
- (a) commences the correction of the default within the specified time, and
 - (b) provides the Owner with an acceptable schedule for such correction, and
 - (c) completes the correction in accordance with such schedule.
- 10.4 If the Contractor fails to correct the default within the time specified or subsequently agreed upon, the Owner may, without prejudice to any other right or remedy he may have, stop the Work or terminate the Contract
- 10.5 If the Owner terminates the Contract under the conditions set out above, he is entitled to:
- (a) take possession of the premises and products and utilize the construction machinery and equipment, the whole subject to the rights of third parties, and to finish the Work by whatever method he may deem expedient but without undue delay or expense;
 - (b) withhold any further payments to the Contractor until the Work is finished,
 - (c) upon Total Performance of the Work, charge the Contractor the amount by which the full cost of finishing the Work as certified by the Engineer, including compensation to the Engineer for his additional services and a reasonable allowance as determined by the Engineer to cover the cost of any corrections required by GC 33 – Warranty, exceeds the unpaid balance of the Contract Price; or if such cost of finishing the Work is less than the unpaid balance of the Contract Price, pay the Contractor the difference
 - (d) on expiry of the warranty period, charge the Contractor the amount by which the cost of corrections under GC 33 – Warranty exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the Contractor the difference

GC 11 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

- 11.1 If the Owner should be adjudged bankrupt, or makes a general assignment for the benefit of creditors or if a receiver is appointed on account of his insolvency, the Contractor may, without prejudice to any other right or remedy he may have, by giving the Owner written notice, terminate the Contract
- 11.2 If the Work should be stopped or otherwise delayed for a period of thirty days or more under an order of any court, or other public authority, and providing that such order was not issued as the result of any act or fault of the Contractor or of any one directly or indirectly employed by him, the Contractor may, without prejudice to any other right or remedy he may have, by giving the Owner written notice, terminate the Contract.
- 11.3 The Contractor may notify the Owner in writing, with a copy to the Engineer, that the Owner is in default of his contractual obligations if:
- (a) the Engineer fails to issue a certificate in accordance with GC 23 – Certificates and Payments,
 - (b) the Owner fails to pay to the Contractor when due any amount certified by the Engineer or awarded by arbitrators.

Such written notice shall advise the Owner that if such default is not corrected within five (5) working days from the receipt of the written notice the Contractor may, without prejudice to any other right or remedy he may have, stop the work and/or terminate the Contract.

- 11.4 If the Contractor terminates the Contract under the conditions set out above, he shall be entitled to be paid for all work performed and for any loss sustained upon products and construction machinery and equipment with reasonable profit and damages.

GC 12 OTHER CONTRACTORS

- 12.1 The Owner reserves the right to let separate contracts in connection with the project of which the Work is part.
- 12.2 The Owner shall coordinate the work and insurance coverages of Other Contractors as it affects the Work of this Contract.
- 12.3 The Contractor shall coordinate his work with that of Other Contractors and connect as specified or shown in the Contract Documents. Any change in the costs incurred by the Contractor in the planning and performance of such work which was not shown or included in the Contract Documents as of the date of signing the Contract, shall be evaluated as provided under GC 21 – Valuation and Certification of Changes in the Work.
- 12.4 The Contractor shall report to the Engineer any apparent deficiencies in Other Contractors' work which would affect the Work of this Contract immediately they come to his attention and shall confirm such report in writing. Failure by the Contractor to so report shall invalidate any claims against the Owner by reason of the deficiencies of Other Contractors' work except as to those of which he was not reasonably aware.
- 12.5 The Owner shall take all reasonable precautions to avoid labour disputes or other disputes on the Project arising from the Work of Other Contractors.

GC 13 ASSIGNMENT

- 13.1 Neither party to the Contract shall assign the Contract or any portion thereof without the written consent of the other, which consent shall not be unreasonably withheld.

GC 14 SUBCONTRACTORS

- 14.1 The Contractor agrees to preserve and protect the rights of the Parties under the Contract with respect to any work to be performed under subcontract. He therefore agrees to:
- (a) require his Subcontractors to perform their work in accordance with and subject to the terms and conditions of the Contract Documents, and
 - (b) be as fully responsible to the Owner for acts and omissions of his Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by him.
- The Contractor therefore agrees that he will incorporate all the terms and conditions of the Contract Documents into all Subcontract Agreements he enters into with his Subcontractors.
- 14.2 The Contractor agrees to employ those Subcontractors proposed by him in writing and accepted by the Owner prior to the signing of the Contract for such portions of the Work as may be designated in the bidding requirements.
- 14.3 The Owner may, for reasonable cause, object to the use of a proposed Subcontractor and require the Contractor to employ one of the other subcontractor bidders.
- 14.4 In the event that the Owner requires a change from any proposed Subcontractor the Contract Price shall be adjusted by the difference in cost occasioned by such required change.
- 14.5 The Contractor shall not be required to employ as a Subcontractor any person or firm to whom he may reasonably object.
- 14.6 The Engineer may, upon reasonable request and at his discretion, provide to a Subcontractor information as to the percentage of the Subcontractor's work which has been certified for payment.
- 14.7 Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the Owner.

GC 15 EMERGENCIES

- 15.1 The Engineer has authority in an emergency to stop the progress of the Work whenever in his opinion such stoppage may be necessary to ensure the safety of life, or the Work, or neighbouring property. This includes authority to make changes in the Work, and to order, assess and award the cost of such work, extra to the Contract or otherwise, as may in his opinion be necessary. The Engineer shall within two (2) working days confirm in writing any such instructions. In such a case if work has been performed under direct order of the Engineer, the Contractor shall keep his right to claim the value of such work, notwithstanding Article 1690 of the Quebec Civil Code.

GC 16 SETTLEMENT OF DISPUTES

- 16.1 In the event of any dispute arising between the parties as to their respective rights and obligations under the Contract either party hereto shall give to the other notice of such dispute within thirty days of the occurrence. The requirement of immediate notification of the circumstances provided for in GC 7.2 shall not be considered to have been modified by the foregoing time limitation.
- 16.2 In the event that the parties have agreed to submit such disputes to arbitration pursuant to a Supplementary General Condition to the Contract, or by subsequent agreement, either party may, to the extent that such an agreement permits, thereupon request arbitration pursuant to such provisions.
- 16.3 In the event that no provision or agreement is made for arbitration then either party shall have the right to seek recourse in such judicial tribunal as the circumstances may require.
- 16.4 In recognition of the obligation by the Contractor to perform the disputed work as provided in GC 7.3, it is agreed that settlement of dispute proceedings may be commenced by either party at that time.

GC 17 INDEMNIFICATION

- 17.1 Except as provided in 17.2 and 17.3, the Contractor shall indemnify and hold harmless the Owner and the Engineer, their agents and employees from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of or attributable to the Contractor's performance of the Contract, providing that any such claims, damage loss or expense is:
- (a) attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property; and
 - (b) is caused by a negligent act or omission of the Contractor or anyone for whose acts he may be liable.
- 17.2 The obligations of the Contractor under this General Condition shall not extend to the liability of the Owner and the Engineer, their agents and employees where the primary cause of the injury or damage arises out of:
- (a) the use of maps, drawings, reports, surveys, change orders, designs or specifications provided by the Owner, the Engineer, their agents and employees, or
 - (b) the giving of or the failure to give decisions or instructions by the Owner, the Engineer, their agents and employees.
- 17.3 The Owner shall indemnify and hold harmless the Contractor from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor's performance of the Contract which are attributable to lack of or a defect in title or an alleged lack of or defect in title to the site of the Work.

GC 18 CONTINGENCY ALLOWANCE

- 18.1 The Contract Price includes the contingency allowance, if any, stated in the Contract Documents.
- 18.2 The contingency allowance is specified to provide for changes in the Work authorized under GC 20 — Changes in the Work, and evaluated under GC 21 — Valuation and Certification of Changes in the Work.

GC 19 CASH ALLOWANCES

- 19.1 The Contract Price includes all cash allowances stated in the Contract Documents.
- 19.2 Cash allowances, unless otherwise specified, cover the net cost to the Contractor of all services, products, construction machinery and equipment, freight, unloading, handling, storage, installation and other authorized expenses incurred in performing the work stipulated under the cash allowance.
- 19.3 The Contract Price, and not the cash allowance, includes the Contractor's overhead and profit in connection with such cash allowances.
- 19.4 Where costs under a cash allowance exceed the amount of the allowance, the Contractor will be compensated for any excess incurred and substantiated plus an allowance for overhead and profit as set out in the Contract Documents.
- 19.5 The Contract Price shall be adjusted by written order to provide for any excess or deficit to each cash allowance.
- 19.6 Progress payments on account of authorized purchases under cash allowances shall be certified on the Engineer's monthly certificates for payment.
- 19.7 A schedule shall be prepared jointly by the Engineer and Contractor to show when items called for under cash allowances must be authorized by the Engineer for ordering purposes so that the progress of the Work will not be delayed.

GC 20 CHANGES IN THE WORK

- 20.1 The Owner through the Engineer, without invalidating the Contract, may make changes by altering, adding to, or deducting from the Work, with the Contract Price and the Contract Time being adjusted accordingly.
- 20.2 Except as provided in GC 15 — Emergencies, no change shall be made without a written order from the Engineer and no claim for an addition or deduction to the Contract Price or change in the Contract Time shall be valid unless so ordered and at the same time valued or agreed to be valued as provided in GC 21 — Valuation and Certification of Changes in the Work.

GC 21 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK

- 21.1 The value of any change shall be determined in one or more of the following methods:
- (a) by estimate and acceptance in a lump sum
 - (b) by unit prices set out in the Contract or subsequently agreed upon
 - (c) by cost and a fixed or percentage fee.
- 21.2 When a change in the Work is proposed or required the Contractor shall present to the Engineer for approval his claim for any change in the Contract Price and/or change in Contract Time. The Engineer shall satisfy himself as to the correctness of such claim and, when approved by him, shall issue a written order to the Contractor to proceed with the change. The value of work performed in the change shall be included for payment with the regular certificates for payment.
- 21.3 In the case of changes in the Work to be paid for under methods (b) and (c) of 21.1, the form of presentation of costs and methods of measurement shall be agreed to by the Engineer and Contractor before proceeding with the change. The Contractor shall keep accurate records, as agreed upon, of quantities or costs and present an account of the cost of the change in the Work, together with vouchers where applicable.
- 21.4 If the method of valuation, measurement and the change in Contract Price and/or change in Contract Time cannot be promptly agreed upon, and the change is required to be proceeded with then the Engineer shall determine the method of valuation, measurement and the change in Contract Price and/or Contract Time subject to final determination in the manner set out in GC 16 — Settlement of Disputes. In this case the Engineer shall issue a written authorization for the change setting out the method of valuation and if by lump sum his valuation of the change in Contract Price and/or Contract Time.
- 21.5 In the case of a dispute in the valuation of a change authorized in the Work and pending final determination of such value, the Engineer shall certify the value of work performed and include the amount with the regular certificates for payment.
- 21.6 It is intended in all matters referred to above that both the Engineer and Contractor shall act promptly.

GC 22 APPLICATION FOR PAYMENT

- 22.1 Applications for payment on account as provided for in Article A-4 may be made monthly as the Work progresses.
- 22.2 Applications for payment shall be dated the last day of the agreed monthly payment period and the amount claimed shall be for the value, proportionate to the amount of the Contract, of work performed and products delivered to the site at that date.
- 22.3 The Contractor shall submit to the Engineer before the first application for payment, a schedule of values of the various parts of the Work, aggregating the total amount of the Contract Price and divided so as to facilitate evaluation of applications for payment.
- 22.4 This schedule shall be made out in such form, and supported by such evidence as to its correctness, as the Engineer may reasonably direct, and when approved by the Engineer shall be used as the basis for application for payment, unless it be found to be in error.
- 22.5 When making application for payment, the Contractor shall submit a statement based upon this schedule. Claims for products delivered to the site but not yet incorporated into the Work shall be supported by such evidence as the Engineer may reasonably require to establish the value and delivery of the products.
- 22.6 Applications for release of holdback monies following the Substantial Performance of the Work and the application for final payment shall be made at the time and in the manner set forth in GC 23 — Certificates and Payments.

GC 23 CERTIFICATES AND PAYMENTS

- 23.1 The Engineer shall, within ten (10) days of receipt of an application for payment from the Contractor submitted in accordance with GC 22 — Application for Payment, issue a certificate for payment in the amount applied for or such other amount as he shall determine to be properly due. If the Engineer amends the application, he shall promptly notify the Contractor in writing giving his reasons for the amendment.

- 23.2 The Owner shall within five (5) days of the issuance of a certificate for payment by the Engineer, make payment to the Contractor on account in accordance with the provisions of Article A-4 of the Agreement.
- 23.3 Notwithstanding any other provisions of this Contract:
- (a) If on account of climatic or other conditions reasonably beyond the control of the Contractor there are items of work that cannot be performed, the payment in full for work which has been performed as certified by the Engineer shall not be withheld or delayed by the Owner on account thereof, but the Owner may withhold from the Contract Price until the remaining work is finished only such monies as the Engineer shall determine are sufficient and reasonable to cover the cost of performing such remaining work and to adequately protect the Owner from claims;
- (b) Where legislation permits and where, upon application by the Contractor, the Engineer has certified that a Subcontract has been totally performed to his satisfaction prior to the Substantial Performance of this Contract, the Owner shall pay the Contractor the holdback retained for such Subcontractor on the day following the expiration of the Statutory Limitation Period stipulated in the Mechanics' Lien Act applicable to the place of building.
- 23.4 Notwithstanding the provisions of 23.3 (b) and notwithstanding the wording of such certificates the Contractor shall ensure that such work is protected pending the Total Performance of the Contract and be responsible for the correction of any defects in it regardless of whether or not they were apparent when such certificates were issued.
- 23.5 The Engineer shall, within ten (10) days of receipt of an application from the Contractor for a certificate of Substantial Performance, make an inspection and assessment of the Work to verify the validity of the application. The Engineer shall within seven (7) days of his inspection notify the Contractor of his approval or disapproval of the application. When the Engineer finds the Work to be substantially performed he shall issue such a certificate. The date of this certificate shall be the date of Substantial Performance of the Contract. Immediately following the issuance of the Certificate of Substantial Performance, the Engineer, in consultation with the Contractor shall establish a reasonable date for the Total Performance of the Contract.
- 23.6 Following the issuance of the Certificate of Substantial Performance and upon receipt from the Contractor of all documentation called for in the Contract Documents the Engineer shall issue a certificate for payment of holdback monies. The release of holdback monies authorized by this certificate shall become due and payable on the day following the expiration of the Statutory Limitation Period stipulated in the Mechanics' Lien Act applicable to the place of building, or where such legislation does not exist or apply in accordance with such other legislation, regulations governing privileges, industry practice or such other provisions which may be agreed to between the parties, providing that no lien or privilege claims against the Work exist and the Contractor has submitted to the Owner a sworn statement that all accounts for labour, subcontracts, products, construction machinery and equipment and any other indebtedness which may have been incurred by the Contractor in the Substantial Performance of the Work and for which the Owner might in any way be held responsible have been paid in full except holdback monies properly retained.
- 23.7 The Engineer shall within ten (10) days of receipt of an application from the Contractor for payment upon Total Performance of the Contract, make an inspection and assessment of the work to verify the validity of the application. The Engineer shall within seven (7) days of his inspection notify the Contractor of his approval or disapproval of the application. When the Engineer finds the Work to be totally performed to his satisfaction, he shall issue a Certificate of Total Performance and certify for payment the remaining monies due to the Contractor under the Contract less any holdback monies which are required to be retained. The date of this certificate shall be the date of Total Performance of the Contract. The Owner shall, within five (5) days of issuance of such certificate, make payment to the Contractor in accordance with the provisions of Article A-4 of the Agreement.
- 23.8 The release of any remaining holdback monies shall become due and payable on the day following the expiration of the Statutory Limitation Period stipulated in the Mechanics' Lien Act applicable to the place of building, or where such legislation does not exist or apply in accordance with such other legislation, regulations governing privileges, industry practice or such other provisions which may be agreed to between the parties, provided that no claims against the Work exist and the Contractor has submitted to the Owner a sworn statement that all accounts for labour, subcontracts, products, construction machinery and equipment and any other indebtedness which may have been incurred by the Contractor in the Total Performance of the Work and for which the Owner might in any way be held responsible have been paid in full except holdback monies properly retained.
- 23.9 No certificate for payment, or any payment made thereunder, nor any partial or entire use of occupancy of the Work by the Owner shall constitute an acceptance of any work or products not in accordance with the Contract Documents.

- 23.10 The issuance of the Certificate of Total Performance shall constitute a waiver of all claims by the Owner against the Contractor except those previously made in writing and still unsettled, if any, and those arising from the provisions of GC 33 – Warranty.

The acceptance of the Certificate of Total Performance or of the payment due thereunder shall constitute a waiver of all claims by the Contractor against the Owner except those made in writing prior to his application for payment upon Total Performance of the Contract and still unsettled, if any.

GC 24 TAXES AND DUTIES

- 24.1 Unless otherwise stated in Supplementary General Conditions the Contractor shall pay all government sales taxes, customs duties and excise taxes with respect to the Contract.
- 24.2 Any increase or decrease in costs to the Contractor due to changes in such taxes and duties after the date of the Agreement, shall increase or decrease the Contract Price accordingly.
- 24.3 Where an exemption of government sales taxes, customs duties or excise taxes is applicable to the Contract by way of the Contractor filing claims for, or cooperating fully with the Owner and the proper authorities in seeking to obtain such refunds, the procedure shall be established in a Supplementary General Condition

GC 25 LAWS, NOTICES, PERMITS AND FEES

- 25.1 The laws of the place of building shall govern the Work.
- 25.2 The Contractor shall obtain all permits, licences and certificates and pay all fees required for the performance of the Work which are in force at the date of tender submission (but this shall not include the obtaining of permanent easements or rights of servitude).
- 25.3 The Contractor shall give all required notices and comply with all laws, ordinances, rules, regulations, codes and order 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
- 25.4 The Contractor shall not be responsible for verifying that the Contract Documents are in compliance with the applicable laws, ordinances, rules, regulations and codes relating to the Work. If the Contract Documents are at variance therewith, or changes which require modification to the Contract Documents 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 Engineer in writing requesting direction immediately any such variance or change is observed by him.
- 25.5 If the Contractor fails to notify the Engineer in writing and obtain his direction as required in GC 25.4 and performs any work knowing it to be contrary to any laws, ordinances, rules, regulations, codes and orders of any authority having jurisdiction, he shall be responsible for and shall correct any violations thereof and shall bear all costs, expense and damages attributable to his failure to comply with the provisions of such laws, ordinances, rules, regulations, codes and orders.

GC 26 PATENT FEES

- 26.1 The Contractor shall pay all royalties and patent licence fees required for the performance of the Contract. He shall hold the Owner harmless from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor's performance of the Contract which are attributable to an infringement or an alleged infringement of any patent of invention by the Contractor or anyone for whose acts he may be liable.
- 26.2 The Owner shall hold the Contractor harmless against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor's performance of the Contract which are attributable to an infringement or an alleged infringement of any patent or invention in executing anything for the purpose of the Contract, the model, plan or design of which was supplied to the Contractor by the Owner.

GC 27 WORKMEN'S COMPENSATION

- 27.1 Prior to commencing the Work and prior to receiving payment on Substantial and Total Performance of the Work, the Contractor shall provide evidence of compliance with all requirements of the province or territory of the place of building with respect to workmen's compensation including payments due thereunder
- 27.2 At any time during the term of Contract, when requested by the Engineer, the Contractor shall provide such evidence of compliance by himself and any or all of his Subcontractors.

GC 28 LIABILITY INSURANCE

28.1 Comprehensive General Liability Insurance

- (a) Without restricting the generality of GC 17 – Indemnification, the Contractor shall provide and maintain, either by way of a separate policy or by an endorsement to his existing policy, Comprehensive General Liability Insurance acceptable to the Owner and subject to limits of not less than one million dollars inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof.
- (b) The insurance shall be in the joint names of the Contractor, the Owner and the Engineer, and shall also cover as Unnamed Insureds all Subcontractors and anyone employed directly or indirectly by the Contractor or his Subcontractors to perform a part or parts of the Work but excluding suppliers whose only function is to supply and/or transport products to the project site.
- (c) The insurance shall also include as Unnamed Insureds the architectural and engineering consultants of the Owner and the Engineer.
- (d) The insurance shall preclude subrogation claims by the Insurer against anyone insured thereunder.
- (e) The Comprehensive General Liability insurance shall include coverage for:
 - 1) premises and operations liability
 - 2) products or completed operations liability
 - 3) blanket contractual liability
 - 4) cross liability
 - 5) elevator and hoist liability
 - 6) contingent employer's liability
 - 7) personal injury liability arising out of false arrest, detention or imprisonment or malicious prosecution; libel, slander or defamation of character; invasion of privacy, wrongful eviction or wrongful entry.
 - 8) shoring, blasting, excavating, underpinning, demolition, pile driving and caisson work, work below ground surface, tunnelling and grading, as applicable.
 - 9) liability with respect to non-owned licenced vehicles.

28.2 Automobile Liability Insurance

The Contractor shall provide and maintain liability insurance in respect of owned licenced vehicles subject to limits of not less than one million dollars inclusive.

28.3 Aircraft and/or Watercraft Liability Insurance

The Contractor shall provide and maintain liability insurance with respect to owned or non-owned aircraft and watercraft, as may be applicable, subject to limits of not less than one million dollars inclusive. Such insurance shall be in the joint names of the Contractor, the Owner, the Engineer and those parties defined in 28.1 (b) (c) where they have an interest in the use and operation of such aircraft or watercraft. The insurance shall preclude subrogation claims by the Insurer against anyone insured thereunder.

28.4 All liability insurance shall be maintained continuously until twelve (12) months after the date the Engineer issues a certificate of Total Performance.

28.5 The Contractor shall provide the Owner with evidence of all liability insurance prior to the commencement of the Work and shall promptly provide the Owner with a certified true copy of each insurance policy.

28.6 All liability insurance policies shall contain an endorsement to provide all Named Insureds with prior notice of changes and cancellations. Such endorsement shall be in the following form:

"It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way nor cancelled until 30 days after written notice of such change or cancellation shall have been given to all Named Insureds."

GC 29 PROPERTY INSURANCE

29.1 The Contractor* shall provide and maintain property insurance, acceptable to the Owner, insuring the full value of the Work in the amount of the Contract Price and the full value as stated of products that are specified to be provided by the Owner for incorporation into the Work**. The insurance shall be in the joint names of the Contractor and the Owner and shall include the interests of the Contractor, the Owner, the Subcontractors and all others having an insurable interest in the Work. The policies shall include all Subcontractors as Unnamed Insureds or, if they specifically request, as Named Insureds. The policies shall preclude subrogation claims by the Insurer against anyone insured thereunder.

- 29.2 Such coverage shall be provided for by EITHER an All Risks Builders' Risk Policy OR by a combination of a standard Builders' Risk Fire Policy including Extended Coverage and Malicious Damage Endorsements and a Builders' Risk Differences in Conditions Policy providing equivalent coverage.
- 29.3 The policies shall insure against all risks of direct loss or damage subject to the exclusion specified in the Supplementary General Conditions (SGC)***. Such coverage shall apply to:
- (a) all products, labour and supplies of any nature whatsoever, the property of the Insureds or of others for which the Insureds may have assumed responsibility, to be used in or pertaining to the site preparations, demolition of existing structures, erection and/or fabrication and/or reconstruction and/or repair of the insured project, while on the site or in transit, subject to the exclusion of the property specified***.
 - (b) the installation, testing and any subsequent use of machinery and equipment including boilers, pressure vessels or vessels under vacuum.
 - (c) damage to the Work caused by an accident to and/or the explosion of any boiler(s) or pressure vessel(s) forming part of the Work.
- Such coverage shall exclude construction machinery, equipment, temporary structural and other temporary facilities, tools and supplies used in the construction of the Work and which are not expendable under the Contract.
- 29.4 The Contractor shall provide the Owner with evidence of all insurance prior to commencement of the Work and shall promptly provide the Owner with a certified true copy of each insurance policy.
- Policies provided shall contain an endorsement to provide all Named Insureds with prior notice of changes and cancellations. Such endorsement shall be in the following form:
- "It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way nor cancelled until 30 days after written notice of such change or cancellation shall have been given to all Named Insureds."
- 29.5 All such insurance shall be maintained continuously until ten (10) days after the date the Engineer issues a certificate of Total Performance. All such insurance shall provide for the Owner to take occupancy of the Work or any part thereof during the term of this insurance. Any increase in the cost of this insurance arising out of such occupancy shall be at the Owner's expense.
- 29.6 The policies shall provide that, in the event of a loss, payment for damage to the Work shall be made to the Owner and the Contractor as their respective interests may appear. The Contractor shall act on behalf of the Owner and himself for the purpose of adjusting the amount of such loss with the Insurers. On the determination of the extent of the loss, the Contractor shall immediately proceed to restore the Work and shall be entitled to receive from the Owner (in addition to any sum due under the Contract) the amount at which the Owner's interest in the restoration work has been appraised, such amount to be paid as the work of the restoration proceeds and in accordance with the Engineer's certificates for payment. Damage shall not affect the rights and obligations of either party under the Contract except that the Contractor shall be entitled to such reasonable extension of time for Substantial and Total Performance of the Work as the Engineer may decide.
- 29.7 The Contractor and/or his Subcontractors as may be applicable shall be responsible for any deductible amounts under the policies and for providing such additional insurance as may be required to protect the Insureds against loss on items excluded from the policies.

** If the Owner decides to insure, interchange the words "Owner" and "Contractor" where appropriate and state any deductible amounts in the SGC's.*

*** State value of products supplied by Owner for incorporation in the Work in the SGC's.*

**** Define specific exclusions in the SGC's.*

GC 30 PROTECTION OF WORK AND PROPERTY

- 30.1 The Contractor shall protect the property adjacent to the Project site from damage as the result of his operations under the Contract.
- 30.2 The Contractor shall protect the Work and the Owner's property from damage and shall be responsible for any damage which may arise as the result of his operations under the Contract except damage which occurs as the result of:
- (a) errors in the Contract Documents, and/or
 - (b) acts or omissions by the Owner, his agents, employees or Other Contractors.

- 30.3 Should any damage occur to the Work and/or Owner's property for which the Contractor is responsible he shall make good such damage at his own expense or pay all costs incurred by others in making good such damage
- 30.4 Should any damage occur to the Work and/or Owner's property for which the Contractor is not responsible as provided in GC 30.2 he shall make good such damage to the Work and, if the Owner so directs to the Owner's property, and the Contract Price and Contract Time shall be adjusted in accordance with GC 20 – Changes in the Work.

GC 31 DAMAGES AND MUTUAL RESPONSIBILITY

- 31.1 If either party to this Contract should suffer damage in any manner because of any wrongful act or neglect of the other party or anyone employed by him, then he shall be reimbursed by the other party for such damage. The party reimbursing the other party shall be subrogated to the rights of the other party in respect of such wrongful act or neglect if it be that of a third party.
- 31.2 Claims under this GC shall be made in writing to the party liable within reasonable time after the first observance of such damage and not later than the time limits stipulated in GC 23.10 – Certificates and Payments, and may be adjusted by agreement or in the manner set out in GC 16 – Settlement of Disputes.
- 31.3 If the Contractor has caused damage to any Other Contractor on the Work, the Contractor agrees upon due notice to settle with such Other Contractor by agreement or arbitration, if he will so settle. If such Other Contractor sues the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor and may require the Contractor to defend the action at the Contractor's expense. If any final order or judgment against the Owner arises therefrom the Contractor shall pay or satisfy it and pay all costs incurred by the Owner.
- 31.4 If the Contractor becomes liable to pay or satisfy any final order, judgment or award against the Owner then the Contractor, upon undertaking to indemnify the Owner against any and all liability for costs, shall have the right to appeal in the name of the Owner such final order or judgment to any and all courts of competent jurisdiction.

GC 32 BONDS

- 32.1 The Owner shall have the right during the period stated in the tender documents for acceptance of the tender to require the Contractor to provide and maintain in good standing until the fulfilment of the Contract, bonds covering the faithful performance of the Contract including the requirements of the Warranty provided for in GC 33 – Warranty, and the payment of all obligations arising under the Contract.
- 32.2 All such bonds shall be issued by a duly incorporated surety company approved by the Owner and authorized to transact a business or suretyship in the Province or Territory of the place of building. The form of such bonds shall be the latest edition of the CCA approved forms.
- 32.3 If bonds are called for in the tender documents the costs attributable to providing such bonds shall be included in the tender price.
- 32.4 Should the Owner require the provision of a bond or bonds by the Contractor after the receipt of tenders for the Work, the Contract Price shall be increased by all costs attributable to providing such bonds.
- 32.5 The Contractor shall promptly provide the Owner, through the Engineer, with any bonds that are required.

GC 33 WARRANTY

- 33.1 The Contractor shall correct at his own expense any defects in the Work due to faulty products and/or workmanship appearing within a period of one year from the date of Substantial Performance of the Work.
- 33.2 The Contractor shall correct and/or pay for any damage to other work resulting from any corrections required under the conditions of 33.1.
- 33.3 Neither the Engineer's final certificate nor payment thereunder shall relieve the Contractor from his responsibility hereunder.
- 33.4 The Owner and/or the Engineer shall give the Contractor written notice of observed defects promptly.
- 33.5 The Contractor shall be liable for the proper performance of the Work only to extent that careful workmanship and proper implementation of the Contract Documents will permit and any warranty given respecting the Work and performance shall only be valid so far as the design will permit such performance.
- 33.6 Nothing in this GC shall be deemed to restrict any liability of the Contractor arising out of any law in force in the Province or Territory.

GC 34 CONTRACTOR'S RESPONSIBILITIES AND CONTROL OF THE WORK

- 34.1 The Contractor shall have complete control of the Work except as provided in GC 15 – Emergencies. He shall effectively direct and supervise the Work using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all parts of the Work under the Contract.
- 34.2 The Contractor shall have the sole responsibility for the design, erection, operation, maintenance and removal of temporary structural and other temporary facilities and the design and execution of construction methods required in their use. The Contractor shall engage and pay for registered professional engineering personnel skilled in the appropriate discipline to perform these functions where required by law or by the Contract Documents and in all cases where such temporary facilities and their method of construction are of such a nature that professional engineering skill is required to produce safe and satisfactory results.
- 34.3 Notwithstanding the provisions of paragraphs 34.1 and 34.2 above, or any provisions to the contrary elsewhere in the Contract Documents where such Contract Documents include designs for temporary structural and other temporary facilities or specify a method of construction in whole or in part, such facilities and methods shall be deemed to comprise part of the overall design of the Work and the Contractor shall not be held responsible for that part of the design or the specified method of construction. The Contractor shall, however, be responsible for the execution of such design or specified method of construction in the same manner that he is responsible for the execution of the Work.
- 34.4 The Contractor shall carefully examine the Contract Documents and shall promptly report to the Engineer any error, inconsistency or omission he may discover. The Contractor shall not be held liable for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents

GC 35 SUPERINTENDENCE

- 35.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Work site at all times while work is being performed.
- 35.2 The superintendent shall be satisfactory to the Engineer and shall not be changed except for good reason and only then after consultation with and agreement by the Engineer.
- 35.3 The superintendent shall represent the Contractor at the Work site and directions given to him by the Engineer shall be held to have been given to the Contractor. Important directions shall be confirmed to the Contractor in writing, other directions will be so confirmed if requested.

GC 36 LABOUR AND PRODUCTS

- 36.1 Unless otherwise stipulated elsewhere in the Contract Documents, the Contractor shall provide and pay for all labour, products, tools, construction equipment and machinery, water, heat, light, power, transportation and other facilities and services necessary for the proper performance of the Work.
- 36.2 All products provided shall be new unless otherwise specified in the Contract Documents. Any products which are not specified shall be of a quality best suited to the purpose required and their use subject to the approval of the Engineer.
- 36.3 The Contractor shall at all times maintain good order and discipline among his employees engaged on the Work and shall not employ on the Work any unfit person nor anyone not skilled in the task assigned to him

GC 37 SUBSURFACE CONDITIONS

- 37.1 The Contractor shall promptly notify the Engineer in writing if in his opinion the subsurface conditions at the Project site differ materially from those indicated in the Contract Documents or as may have been represented to him by the Owner or Engineer before the time of tender submission.
- 37.2 After prompt investigation, should the Engineer determine that conditions do differ materially, he shall issue appropriate instructions for changes in the Work as provided for in GC 20 – Changes in the Work.

GC 38 USE OF PREMISES

- 38.1 The Contractor shall confine his apparatus, the storage of products, and the operations of his workmen to limits indicated by laws, ordinances, permits or by directions of the Engineer and shall not unreasonably encumber the premises with his products.
- 38.2 The Contractor shall not load or permit to be loaded any part of the Work with a weight that will endanger its safety.
- 38.3 The Contractor shall enforce the Engineer's instructions regarding signs, advertisements, fires and smoking.

GC 39 CLEANUP AND FINAL CLEANING OF WORK

- 39.1 The Contractor shall maintain the Work in a tidy condition and free from the accumulation of waste products and debris, other than that caused by the Owner, Other Contractors or their employees.
- 39.2 When the Work is Substantially Performed, the Contractor shall remove all of his surplus products, tools, construction machinery and equipment not required for the performance of the remaining work. He shall also remove any waste products and debris and leave the Work clean and suitable for occupancy by the Owner unless otherwise specified.
- 39.3 When the Work is Totally Performed, the Contractor shall remove all of his surplus products, tools, construction machinery and equipment. He shall also remove any waste products and debris, other than that caused by the Owner, Other Contractors or their employees.

GC 40 CUTTING AND REMEDIAL WORK

- 40.1 The Contractor shall do all cutting and remedial work that may be required to make the several parts of the Work come together properly.
- 40.2 The Contractor shall coordinate the schedule for the Work to ensure that this requirement is kept to a minimum.
- 40.3 Should the Owner or anyone employed by him be responsible for ill-timed work necessitating cutting and/or remedial work to be performed, the cost of such cutting and/or remedial work shall be valued as provided in GC 21 – Valuation and Certification of Changes in the Work and added to the Contract Price.
- 40.4 Cutting and remedial work shall be performed by specialists familiar with the materials affected and shall be performed in a manner to neither damage nor endanger any Work.

GC 41 INSPECTION OF WORK

- 41.1 The Owner and the Engineer and their authorized representatives shall have access to the Work for inspection wherever it is in preparation or progress. The Contractor shall cooperate to provide reasonable facilities for such access.
- 41.2 If special tests, inspections or approvals are required by the Contract Documents, the Engineer's instructions or the laws or ordinances of the place of building the Contractor shall give the Engineer timely notice requesting inspection. Inspection by the Engineer shall be made promptly. The Contractor shall arrange inspections by other authorities and shall notify the Engineer of the date and time.
- 41.3 If the Contractor covers or permits to be covered any of the Work that is subject to inspection or before any special tests and approvals are completed without the approval of the Engineer, the Contractor shall uncover the Work, have the inspections satisfactorily completed and make good the Work at his own expense.
- 41.4 Examination of any questioned Work may be ordered by the Engineer. If such Work be found in accordance with the Contract, the Owner shall pay the cost of examination and replacement. If such Work be found not in accordance with the Contract, through the fault of the Contractor, the Contractor shall pay such cost.
- 41.5 The Contractor shall furnish promptly to the Engineer two (2) copies of all certificates and inspection reports relating to the Work.

GC 42 REJECTED WORK

- 42.1 Defective work whether the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the Contractor, and whether incorporated in the Work or not, which has been rejected by the Engineer as failing to conform to the Contract Documents shall be removed promptly from the premises by the Contractor and replaced and/or re-executed promptly in accordance with the Contract Documents at the Contractor's expense.
- 42.2 Other Contractor's work destroyed or damaged by such removals or replacements shall be made good promptly at the Contractor's expense.
- 42.3 If in the opinion of the Engineer it is not expedient to correct defective work or work not done in accordance with the Contract Documents, 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 in the first instance by the Engineer.

GC 43 SHOP DRAWINGS

- 43.1 The term "shop drawings" means drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are to be provided by the Contractor to illustrate details of a portion of the Work.

- 43.2 The Contractor shall arrange for the Preparation of clearly identified shop drawings as called for by the Contract Documents or as the Engineer may reasonably request.
- 43.3 Prior to submission to the Engineer the Contractor shall review all shop drawings. By this review the Contractor represents that he has determined and verified all field measurements, field construction criteria, materials, catalogue numbers and similar data or will do so and that he has checked and coordinated each shop drawing with the requirements of the Work and of the Contract Documents. The Contractor's review of each shop drawing shall be indicated by stamp, date and signature of a responsible person.
- 43.4 The Contractor shall submit shop drawings to the Engineer for his review with reasonable promptness and in orderly sequence so as to cause no delay in the Work or in the Work of Other Contractors. If either the Contractor or the Engineer so requests they shall jointly prepare a schedule fixing the dates for submission and return of shop drawings. Shop drawings shall be submitted in the form of a reproducible transparency or prints as the Engineer may direct. At the time of submission the Contractor shall notify the Engineer in writing of any deviations in the shop drawings from the requirements of the Contract Documents.
- 43.5 The Engineer will review and return shop drawings in accordance with any schedule agreed upon, or otherwise with reasonable promptness so as to cause no delay. The Engineer's review shall be for conformity to the design concept and for general arrangement only and such review shall not relieve the Contractor of responsibility for errors or omissions in the shop drawings or of responsibility for meeting all requirements of the Contract Documents unless a deviation on the shop drawings has been approved in writing by the Engineer.
- 43.6 The Contractor shall make any changes in shop drawings which the Engineer may require consistent with the Contract Documents and resubmit unless otherwise directed by the Engineer. When resubmitting, the Contractor shall notify the Engineer in writing of any revisions other than those requested by the Engineer.

GC 44 SAMPLES

- 44.1 The Contractor shall submit for the Engineer's approval such standard manufacturers' samples as the Engineer may reasonably require. Samples shall be labelled as to origin and intended use in the Work and shall conform to the requirements of the Contract Documents.
- 44.2 The Contractor shall provide samples of special products, assemblies, or components when so specified. The cost of such samples not specified shall be authorized as an addition to the Contract Price as provided in GC 20 – Changes in Work.

GC 45 TESTS AND MIX DESIGNS

- 45.1 The Contractor shall furnish to the Engineer test results and mix designs as may be requested.
- 45.2 The cost of tests and mix designs beyond those called for in the Contract Documents or beyond those required by laws, ordinances, rules and regulations relating to the Work and the preservation of public health, shall be authorized as an addition to the Contract Price as provided in GC 20 – Changes in the Work.

87-3 1070

PERFORMANCE AND MAINTENANCE BOND

Bond No. 19C6054

Contract 78-46

Account _____

KNOW ALL MEN BY THESE PRESENTS, that we _____

(The Contractor)

WHITNEY CONSTRUCTION LIMITED

hereinafter called "The Principal", and

CANADIAN GENERAL INSURANCE COMPANY

(The Bonding Company)

hereinafter called "The Surety" are jointly and severally held and firmly bound unto the Corporation of the City of Brampton hereinafter called "The Oblige", its successors and assigns, in the sum of \$99,475.00 of lawful money of Canada to be paid unto the Oblige, for which payment well and truly to be made we the Principal and Surety jointly and severally bid ourselves, our and each of our respective heirs, executors, administrators, successors, and assigns by these presents.

SIGNED AND SEALED WITH OUR RESPECTIVE SEALS and dated this

29th of September, 1978.

Whereas by an Agreement in writing dated the 12th day of September 1978, the Principal has entered into a contract with the Oblige, hereinafter called the "Contract", for the construction, alteration, repair, or maintenance of _____

additional renovations to Brampton Memorial Arena
(Description of Works)

as in the contract provided, which contract is by reference herein made a part hereof as fully to all intents and purposes as though recited in full herein.

Now therefore the condition of this obligation is such that if the Principal shall at all times duly perform and observe the contract or as the same be changed, altered or varied as herein-after provided, to the satisfaction of the Obligee and shall at all times fully indemnify and keep indemnified the Obligee from and against all and any manner of loss, damage, expense, suits, actions, claims, liens, proceedings, demands, awards, payments and liabilities arising out of or in any manner based upon or attributable to the contract and shall fully reimburse and repay the Obligee for all outlay, expense liabilities, or payments incurred or undertaken to be made by the Obligee pursuant to the contract, then this obligation shall be void, but otherwise it shall be and remain in full force and effect.

Provided always and it is hereby agreed and declared that the Obligee and Principal have the right to change, alter, and vary the terms of the contract and that the Obligee may in its discretion at any time or times take and receive from the Principal, any security whatsoever and grant any extension of time thereon or on any liability of the Principal to the Obligee.

Provided further and it is hereby agreed and declared that the Principal and the Surety shall not be discharged or released from liability hereunder and that such liability shall not be in any way affected by any such changes, alterations, or variations, taking or receiving of security, or extension of time, as aforesaid, or by the exercise by the Obligee of any of the rights or powers reserved to it under the contract or by its forbearance to exercise any such rights or powers, including (but without restricting the generality of the foregoing) any changes in the extent or nature of the works

to be constructed, altered, repaired or maintained under the contract or by any dealing, transaction, forbearance or forgiveness which may take place between the Principal and the Oblige.

Provided further and it is hereby agreed and declared that the Surety shall not be liable for a greater sum than that specified in this bond.

IN WITNESS WHEREOF THE PRINCIPAL AND SURETY HAVE EXECUTED THESE PRESENTS.

SIGNED, SEALED AND DELIVERED
BY THE PRINCIPAL
IN THE PRESENCE OF

WHITNEY CONSTRUCTION LIMITED

Witness signs here

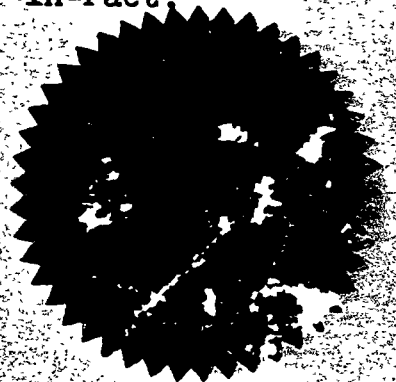
By *W. Lawford* (Seal)
Principal signs here and
seal where applicable

SIGNED, SEALED AND DELIVERED
BY THE SURETY
IN THE PRESENCE OF

CANADIAN GENERAL INSURANCE
COMPANY

Witness signs here

By *K. R. Jewitt* (Seal)
Surety Company Officer
signs here with seal
K. R. JEWITT,
Attorney-in-Fact.



CERTIFICATE OF LIABILITY INSURANCE

Commercial Union Assurance Company of Canada
(INSURANCE COMPANY)

TO: THE CORPORATION OF THE CITY OF BRAMPTON

ADDRESS: 24 QUEEN STREET, EAST, BRAMPTON, ONTARIO, L6V 1A4

THIS IS TO CERTIFY THAT WHITNEY CONSTRUCTION LIMITED
(CONTRACTOR)

Whose Address is 105 Heart Lake Road, Brampton, Ontario, L6W 3K1
has comprehensive liability insurance in this Company under Policy
No. 108C155 covering legal liability for damages because
of:

- A. Bodily injury, sickness or disease, including death
at any time resulting therefrom.
- B. Damage to or destruction of property of others caused
by accident.

Subject to a limit of liability of not less than \$1,000,000.00
inclusive for any one occurrence or accident which insurance applies
in respect of all operations, including liability assumed under
contract with the Corporation. The policy does not contain any ex-
clusions or limitations in respect of the use of explosives or in
respect of shoring, underpinning, raising or demolition of any
building or structure, pile driving, caisson work, collapse of any
structure, or subsidence of any property, structure, or land from
any cause.

THE POLICY EXPIRES ON July 1st, 1979

AND WILL NOT BE ALTERED, CANCELLED OR ALLOWED TO LAPSE WITHOUT
THIRTY (30) DAYS PRIOR NOTICE TO THE CORPORATION.

With respect to Contract No. 78-46 for the Construction of
additional renovations to Brampton Memorial Arena

We certify that the Corporation will be coinsured with the Contrac-
tor.

DATE: September 12, 1978

COUNTERSIGNED: "COMMERCIAL UNION ASSURANCE COMPANY OF CANADA"

ED September 11 19 78



BY-LAW

No. 221-78

To authorize the execution of Contract
No. 78-46 with Whitney Construction Co.
(ADDITIONAL RENOVATIONS TO BRAMPTON
MEMORIAL ARENA)