



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 286-78


To authorize the execution of an Agreement with C.A. Smith Contracting Limited - Contract No. 78-64
(CONSTRUCTION OF WILLIAMS PARKWAY RECREATION CENTRE)


WHEREAS it is deemed expedient to enter into and execute Contract No. 78-64 with C.A. Smith Contracting Limited;

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. 78-64 with C.A. Smith Contracting Limited, attached hereto as Schedule "A".
- (2) That the Mayor and the Clerk are hereby authorized to affix their signatures to the said Contract No. 78-64 with C.A. Smith Contracting Limited, attached hereto as Schedule "A".

READ â FIRST, SECOND and THIRD TIME and PASSED in Open Council this 6th day of November, 1978.


James E. Archdekin, Mayor


Ralph A. Everett, Acting Clerk

Stipulated price contract

project





The Canadian Construction Documents Committee is a joint committee composed of representatives appointed by:

The Association of Consulting Engineers of Canada
The Canadian Construction Association
The Engineering Institute of Canada
The Royal Architectural Institute of Canada
Construction Specifications Canada

Committee policy and assignments are directed by the Presidents' Consultive Committee of the parent associations.

This document has been endorsed by each of the above organizations.

Comment and enquiries should be directed to:

The Secretary,
Canadian Construction Documents Committee,
85 Albert Street, Ottawa, Canada K1P 6A4

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N.B.: A supplement will be required for work in the Province of Quebec.



Canadian construction documents committee.

**CANADIAN STANDARD CONSTRUCTION DOCUMENT
CCDC 2, Engineers, 1974 and CCDC 12, Architects, 1974
STIPULATED PRICE CONTRACT**

AN INTRODUCTION

The Canadian Construction Documents Committee (formerly The Canadian Joint Committee on Construction Documents and Procedures) introduces for your acceptance and use two new documents, CCDC 2, Engineers, 1974 and CCDC 12, Architects, 1974 for Stipulated Price Contract containing the Owner/Contractor Agreement and General Conditions of the Stipulated Price Contract.

With the introduction of these documents, the former ACEC/CCA/EIC 2 and RAIC/CCA 12, 1966 are now obsolete.

The new documents are more than a simple revision, up-dating and new format but rather represent many months of study and discussion of the fundamental purpose and use of the documents as they relate to current and future needs of the industry.

It is the strong recommendation of this Committee that the use of supplements to these documents be kept to a minimum.

The Committee is currently reviewing the existing Guide to Contract Administration and this will contain recommendations for suitable supplements where such are likely to be required.

We appreciate the contribution of all who have submitted comment and have given guidance in the preparation of these documents. We make no claim to having produced a perfect document and will continue to welcome your comment. The problems, if any, will only become apparent with use and we will give serious consideration to written explanations of difficulties which you may experience.

Comment and enquiries should be directed to:

The Secretary,
Canadian Construction Documents Committee,
151 O'Connor Street, Ottawa, Canada K2P 1T2.

A handwritten signature in the bottom right corner of the page, consisting of a few fluid, connected strokes.

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~~ this 31st day of October in the year Nineteen hundred and seventy-eight

by and between

THE CORPORATION OF THE CITY OF BRAMPTON

hereinafter called the "Owner"

and

C.A. SMITH CONTRACTING 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 Construction of Williams Parkway Recreation Centre (insert here the title of the Work and the Project) which have been signed in ~~duplicate~~ quadruplicate by both the parties, and which were prepared by Donald E. Skinner, Architect acting as and hereinafter called the "Architect" and
- (b) do and fulfill everything indicated by this Agreement, and
- (c) commence the Work by the 7th day of November 19 78, and substantially perform the Work of this Contract as certified by the Architect by the 1st day of October 19 79.

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 ONE MILLION, NINE HUNDRED AND FORTY-FOUR THOUSAND, NINE HUNDRED AND TWENTY-NINE Dollars

(\$ 1,944,929.00) 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 Architect; and
- (2) upon Substantial Performance of the Work as certified by the Architect pay to the Contractor any unpaid balance of holdback monies then due; and
- (3) upon Total Performance of the Work as certified by the Architect 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 Architect 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 12 Heritage Road,
street and number and postal box number if applicable
. Markham, Ontario. L3P 1M4
post office or district, province, postal code

The Architect at 20 Stavebank Road North,
street and number and postal box number if applicable
. Port Credit, Ontario. L5G 2T4
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
BRAMPTON

name

Robert J. Culbertson *at Mayor*
at Clerk
signed

name and title

signed

name and title

Contractor

C.A. SMITH CONTRACTING LIMITED

name

[Signature]
signed

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, Architect, Contractor

The Owner, Architect 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, Architect and Contractor means the Owner, Architect 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 Architect.

(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 Architect.

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 Architect.

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 Architect 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 Architect 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 Architect 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 Architect 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 Architect.

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

GC 7 ARCHITECT'S DECISIONS

- 7.1 The Architect, 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 Architect shall use his powers under the Contract to enforce its faithful performance by both parties hereto.
- 7.2 The Contractor shall notify the Architect in writing immediately should he hold that a decision by the Architect 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 Architect decides that the disputed work shall be carried out, the Contractor shall act according to the Architect'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 Architect's employment be terminated, the Owner shall appoint an Architect whose status under the Contract shall be that of the former Architect.
- 7.5 Nothing contained in the Contract Documents shall create any contractual relationship between the Architect 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, Architect 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 Architect 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 Architect 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 Architect 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 Architect shall decide as justifying a delay for such reasonable time as the Architect may decide.
- 8.5 No extension shall be made for delay unless written notice of claim is given to the Architect 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 Architect 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 Architect, 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 Architect 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 Architect 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 Architect, 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 Architect'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 Architect, including compensation to the Architect for his additional services and a reasonable allowance as determined by the Architect 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 Architect, that the Owner is in default of his contractual obligations if:
- (a) the Architect 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 Architect 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 Architect 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 Architect 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 Architect 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 Architect 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 Architect, 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 Architect, 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 Architect, 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 Architect, their agents and employees, or
 - (b) the giving of or the failure to give decisions or instructions by the Owner, the Architect, 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 Architect's monthly certificates for payment.
- 19.7 A schedule shall be prepared jointly by the Architect and Contractor to show when items called for under cash allowances must be authorized by the Architect 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 Architect, 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 Architect 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 Architect for approval his claim for any change in the Contract Price and/or change in Contract Time. The Architect 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 Architect 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 Architect 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 Architect 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 Architect 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 Architect 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 Architect 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 Architect may reasonably direct, and when approved by the Architect 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 Architect 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 Architect 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 Architect 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 Architect, 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 Architect 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 Architect 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 Architect 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 Architect 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 Architect shall within seven (7) days of his inspection notify the Contractor of his approval or disapproval of the application. When the Architect 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 Architect, 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 Architect 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 Architect 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 Architect shall within seven (7) days of his inspection notify the Contractor of his approval or disapproval of the application. When the Architect 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 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.
- 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 Architect in writing requesting direction immediately any such variance or change is observed by him.
- 25.5 If the Contractor fails to notify the Architect 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 Architect, 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 Architect, 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 Architect.
- (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 Architect 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 Architect 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 ~~Owner~~ ^{Contractor} shall provide and maintain property insurance, acceptable to the ~~Owner~~ ^{Contractor}, 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.

- 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 Architect, 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 Architect's final certificate nor payment thereunder shall relieve the Contractor from his responsibility hereunder.
- 33.4 The Owner and/or the Architect 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.

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 ~~Owner~~ ^{Contractor} shall provide the ~~Contractor~~ ^{Contractor} with evidence of all insurance prior to commencement of the Work and shall promptly provide the ~~Contractor~~ ^{Contractor} 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 Architect 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 ~~Owner~~ ^{Contractor} shall act on behalf of the ~~Contractor~~ ^{Contractor} 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 Architect'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 Architect 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.

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 Architect 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 Architect and shall not be changed except for good reason and only then after consultation with and agreement by the Architect.
- 35.3 The superintendent shall represent the Contractor at the Work site and directions given to him by the Architect 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 Architect.
- 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 Architect 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 Architect before the time of tender submission.
- 37.2 After prompt investigation, should the Architect 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 Architect 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 Architect'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 Architect 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 Architect's instructions or the laws or ordinances of the place of building the Contractor shall give the Architect timely notice requesting inspection. Inspection by the Architect shall be made promptly. The Contractor shall arrange inspections by other authorities and shall notify the Architect 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 Architect, 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 Architect. 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 Architect 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 Architect 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 Architect 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 Architect.

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 Architect may reasonably request.
- 43.3 Prior to submission to the Architect 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 Architect 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 Architect 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 Architect may direct. At the time of submission the Contractor shall notify the Architect in writing of any deviations in the shop drawings from the requirements of the Contract Documents.
- 43.5 The Architect 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 Architect'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 Architect.
- 43.6 The Contractor shall make any changes in shop drawings which the Architect may require consistent with the Contract Documents and resubmit unless otherwise directed by the Architect. When resubmitting, the Contractor shall notify the Architect in writing of any revisions other than those requested by the Architect.

GC 44 SAMPLES

- 44.1 The Contractor shall submit for the Architect's approval such standard manufacturers' samples as the Architect 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 Architect 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.

The Corporation of
The City of Brampton
24 Queen Street East
Brampton, Ontario

Ladies and Gentlemen:

The undersigned hereby offers to provide all labour, materials and incidentals required to complete the work of all trades for the erection and completion of:

WILLIAMS PARKWAY RECREATION CENTRE

according to the plans, detail drawings and specifications prepared by Donald E Skinner, Architect, for the Stipulated Sum of:

One million, nine hundred, fifty six thousand,
and seven hundred and ninety nine dollars (\$1,956,679.)
100

The above sum includes the following Cash and Contingency Allowances.

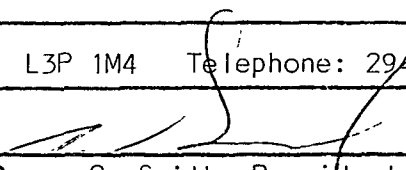
| | | |
|-----|--------------------------------|-------------|
| 1. | Testing Compacted fill | \$ 1,500.00 |
| 2. | Cast-in-Place Concrete Testing | 700.00 |
| 3. | Precast Concrete Testing | 300.00 |
| 4. | Structural Steel Testing | 300.00 |
| 5. | Steel Joists Testing | 300.00 |
| 6. | Roof Inspection and Testing | 500.00 |
| 7. | Asphalt Paving Testing | 350.00 |
| 8. | Honour Plaque or Tablet | 350.00 |
| 9. | Project Sign | 350.00 |
| 10. | Hardware Allowance | 37,500.00 |
| 11. | Contingency Allowance | 25,000.00 |
| 12. | City of Brampton "Crest" | 1,500.00 |

A Bid Bond or Certified Cheque in the value of \$180,000.00 is enclosed with this Tender.

This Tender includes Addenda No's #1

Firm Name & Address C.A. Smith Contracting Limited
12 Heritage Road
Markham, Ontario L3P 1M4 Telephone: 294-4700

Date October 12, 1978


Signature G. Smith, President

Signed by a person duly authorized to sign contracts.

THE CORPORATION OF THE CITY OF BRAMPTON

WILLIAMS PARKWAY RECREATION CENTRE
PART OF BLOCK "CC"
PLAN M-76
CITY OF BRAMPTON

CONTRACT #78-64

SUPPLEMENTARY FORM OF TENDER

THE SUPPLEMENTARY FORM OF TENDER IS TO CONSTITUTE AN INTEGRAL PART OF THE CONTRACT AND IS TO BE COMPLETED AND SUBMITTED TOGETHER WITH THE TENDER PROPOSAL.

TO THE MAYOR AND COUNCIL OF THE CORPORATION OF THE CITY OF BRAMPTON:

1. I/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. I/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. I/We, further declare that we have carefully examined the locality and site of the proposed works, as well as all the Plans, Drawings, Profiles, Specifications, Form of Tender, Information for Tenderers, General Conditions, Agreement and Bond relating thereto, prepared, submitted and rendered available by the Director, Parks and Recreation, and the Purchasing Agent, by and on behalf of the Corporation of the City of Brampton and hereby acknowledged, 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 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 and conditions and under the provisions therein set forth.
4. I/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 City may at any time within that period and without notice accept this Tender whether any other Tender had been previously accepted or not.
5. I/We, agree that if we withdraw this Tender after closing and before the Council of the said City 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 to the City.

WILLIAMS PARKWAY RECREATION CENTRE
CITY OF BRAMPTON

6. I/We, agree that the awarding of the Contract based on this Tender by the Council for the said City shall be an acceptance of this Tender.
7. If this Tender is accepted I/We agree to furnish the required Contract Bond, in an amount equal to 100% of the Contract, in the form attached hereto, 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, I/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 works in any other way they deem best and I/We also agree to pay to the said City the difference between this Tender and any greater sum which the City may expend or incur by reasons of such default or failure, or by reason of such acting, as aforesaid, on their part, including the cost of any advertisement for new Tenders; and to indemnify and save harmless the said City and their Officers from all loss, damage, cost, charges, and expense which they may suffer or be put to by reason of any such default or failure on MY/OUR part.

8. I/WE PROPOSE Simcoe & Erie General Insurance Co.

(Bonding 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.

9. I/WE agree to execute the complete works in accordance with the above-listed documents and agree to provide occupancy for the Owners by 10 months 1979 and complete the Contract by one month after 1979.
10. An discrepancy, anomaly, ambiguity, or arithmetical error occurring between the content inserted by the Tenderer in the TENDER PROPOSAL and this Supplementary Form of Tender will result in the Owners exercising their right to declare null and void, such Tender.
11. The Owner will not entertain requests for gratuitous payments arising from errors alleged to have been made in a Tender the Owner has accepted.
12. SEPARATE PRICES

The following prices are EXCLUDED from the Basic Tender Amount but may be added to the Contract at the discretion of the Owner and the Contract Sum INCREASED by the following amounts:

A) Scoreboard as per Section 10-A-12

add: \$ 7/00.

WILLIAMS PARKWAY RECREATION CENTRE
CITY OF BRAMPTON

12

SEPARATE PRICES (cont'd)

- i) ADDITION of Dehumidification System consisting to ONE (1) dehumidifier and attendant drain lines, heating cables, controls, wall platform, etc. (Section 15A-36) ADD \$ 6,910.00
- ii) ADDITION of Infra-Red Heating System complete, including heaters, controls, gas piping, exhaust fans #EF-6, EF-7 and EF-8 and etc. (Section 15A-36) ADD \$ 6,415.00
- iii) ADDITION of Winter Ventilation System consisting of Exhaust Fans #EF-4 and EF-5 each with attendant ductwork, fresh air motorized dampers and fixed louvres in exterior walls, blanking off louvres etc. (Section 15A-36) ADD \$ 2,181.00

13

ALTERNATE PRICE - SQUASH COURTS

If the Alternate System of Squash Court Construction is employed, the amount to be ADDED or DEDUCTED from the Basic Tender Amount will be:

(Instructions to Tenders, Clause 21) ADD \$ _____
DEDUCT \$ 7000.

14

UNIT PRICES

The Undersigned agrees that the following Unit Prices as referred to in Clause 21-1 (b) of Article 21 of C.C.D.C.-12-ARCHITECT-1974 will apply to changes to the Contract.

| | <u>EXTRA</u> | <u>CREDIT</u> |
|--|--------------|---------------|
| Excavation of rock (per cu. yd.) | <u>60.00</u> | <u>20.00</u> |
| Excavation by hand (per cu. yd.) | <u>20.00</u> | <u>10.00</u> |
| Excavation by machine (per cu. yd.) | <u>6.00</u> | <u>1.50</u> |
| Backfill by hand, compacted (per cu. yd) | <u>7.50</u> | <u>2.50</u> |
| Backfill by machine, compacted (per cu. yd.) | <u>6.00</u> | <u>1.50</u> |

WILLIAMS PARKWAY RECREATION CENTRE
CITY OF BRAMPTON

15. FEES (cont'd)

a) Within the scope of the General Contractors Work:

| | <u>Overhead</u> | <u>Profit</u> |
|-------|-----------------|---------------|
| Extra | 10% | 5% |

b) General Contractors fee on work within the scope of Sub-trades (Mechanical, Electrical, Refrigeration)

| | <u>Profit</u> |
|-------|---------------|
| Extra | 5% |

16. SUB-CONTRACTORS

The following Sub-contractors will be employed if this Tender is accepted:

a) Mechanical Alduco Mechanical Contracting Ltd.

b) Electrical Arnold's Industrial Electric

c) Refrigeration - Rink System A.B. & B. Corporation Ltd.

d) The General Contractor whose Tender is accepted shall submit to the Architect, WITHIN 24 HOURS from the time of Tender opening, a COMPLETE list of the Sub-Contractors he intends to employ on this project. The term "Own Forces" is not acceptable.

17. BREAKDOWNS

The Basic Tender Amount includes the following sums:

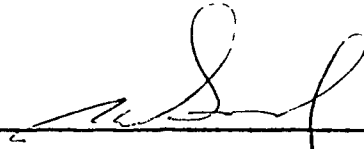
| | |
|---|----------------------|
| | 18,117.00 |
| a) Exterior Mechanical | |
| a) Plumbing and Drainage | \$ <u>91,330.00</u> |
| b) Heating, Piping and Temperature Controls | \$ <u>188,995.00</u> |
| c) Ductwork, Ventilation and Air Conditioning | \$ <u>76,014.00</u> |
| d) Refrigeration - Rink System | \$ <u>78,940.00</u> |
| e) Electrical Work | \$ <u>162,762.00</u> |

REMARKS Please note we have covered Whelby
-building - Robertson - is pre engineered building in
tenders

WILLIAMS PARKWAY RECREATION CENTRE
CITY OF BRAMPTON

18.

Cont'd

SIGNED BY  G. Smith (Tenderers Signature)
President

C.A. Smith Contracting Limited (Company Name)

12 Heritage Road, Markham, Ontario L3P 1M4 294-4700
(Address) (Telephone)

October 12, 1978 (Date)

Tenders submitted by limited companies must be submitted under Corporate Seal.

Tenders by Individuals or Partnerships must be witnessed.

G. SMITH
PRESIDENT

HEAD OFFICE
12 HERITAGE ROAD
MARKHAM, ONTARIO
L3P 1M4
PHONE 294-4700

C. A. SMITH CONTRACTING LIMITED

GENERAL CONTRACTORS

WILLIAMS PARKWAY RECREATION CENTRE - TENDER ADJUSTMENTS

October 12, 1978

1. If Pre-Engineered Steel Structure by Roxon Contracting
to Roxon plans and specifications deduct \$ 10500.

2. of General Steelwork per Engineer. deduct 6000
Belg used

CERTIFICATE OF LIABILITY INSURANCE

CANADIAN SURETY COMPANY
(INSURANCE COMPANY)

TO: THE CORPORATION OF THE CITY OF BRAMPTON

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

THIS IS TO CERTIFY THAT C.A. SMITH CONTRACTING LIMITED
(CONTRACTOR)

Whose Address is 12 Heritage Road, Markham, Ontario, L3P 1M4
has comprehensive liability insurance in this Company under Policy
No. 3022 996 covering legal liability for damages because
of:

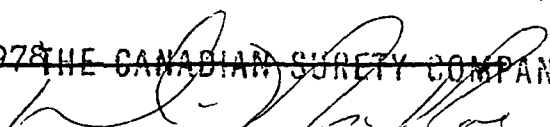
- A. Bodily injury, sickness or disease, including death at any time resulting therefrom.
- B. Damage to or destruction of property of others caused by accident.

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 exclusions 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 November 1, 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. 78-64 for the Construction of
Williams Parkway Recreation Centre

We certify that the Corporation will be coinsured with the Contractor.

DATE: October 31, 1978 ~~THE CANADIAN SURETY COMPANY~~
COUNTERSIGNED: 

ADMINISTRATIVE REPRESENTATIVE



Simcoe & Erie General Insurance Company

HEAD OFFICE - HAMILTON, ONTARIO

PERFORMANCE BOND

C.C.A. Document No. (S) 21

No. F-3924

\$ 1,944,929.00

KNOW ALL MEN BY THESE PRESENTS THAT

C. A. SMITH CONTRACTING LIMITED as Principal,

hereinafter called the Principal, and SIMCOE & ERIE GENERAL INSURANCE COMPANY

a corporation created and existing under the laws of THE PROVINCE OF ONTARIO

and duly authorized to transact the business of Suretyship in THE PROVINCE OF ONTARIO

as Surety, hereinafter called the Surety, are held and firmly bound unto

THE CORPORATION OF THE CITY OF BRAMPTON as Obligee,

hereinafter called the Obligee, in the amount of ONE MILLION NINE HUNDRED FORTY FOUR THOUSAND

NINE HUNDRED TWENTY NINE-----00/100----- Dollars (\$ 1,944,929.00)

lawful money of Canada, for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a written contract with the Obligee, dated the 25TH

day of OCTOBER 19 78, for CONSTRUCTION OF WILLIAMS PARKWAY RECREATION CENTRE

In accordance with the Specifications and Drawings submitted therefor which contract, Specifications and Drawings, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly and faithfully perform the Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever the Principal shall be, and declared by the Obligee to be, in default under the Contract, the Obligee having performed the Obligee's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

- (1) complete the Contract in accordance with its terms and conditions or
- (2) obtain a bid or bids for submission to the Obligee for completing the Contract in accordance with its terms and conditions, and upon determination by the Obligee and the Surety of the lowest responsible bidder, arrange for a contract between such bidder and the Obligee and make available as work progresses (even though there should be a default, or a succession of defaults, under the contract or contracts of completion, arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price," as used in this paragraph, shall mean the total amount payable by the Obligee to the Principal under the Contract, less the amount properly paid by the Obligee to the Principal.

Any suit under this Bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

No right of action shall accrue on this Bond, to or for the use of, any person or corporation other than the Obligee named herein, or the heirs, executors, administrators or successors of the Obligee.

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond this 26TH day of OCTOBER 19 78

SIGNED and SEALED
In the presence of:

(C. A. SMITH CONTRACTING LIMITED
 (BY: [Signature] (Seal)
 (Principal
 (SIMCOE & ERIE GENERAL INSURANCE COMPANY
 (BY: [Signature] (Seal)
 (Surety

R. G. FISCHER, Attorney-in-fact

Endorsed by: R.A.I.C., A.C.E.C., C.C.A., E.I.C., S.W.A.C.

DECLARATIONS

Policy No: 3022 996

1. NAMED INSURED

C. A. SMITH CONTRACTING LIMITED

2. ADDRESS

12 Heritage Loop, Leitham, Ontario.

3. ADDITIONAL INSURED

A: The Corporation of the City of Brampton

24 Queen Street, East, Brampton, Ontario.

B: Engineers, architects, consultants directly or indirectly engaged in work or services performed at the site of the project.

C: Sub-contractors and their sub-contractors directly or indirectly engaged in work or services for the Named Insured at site of the project.

D: Employees, Partners, Executive Officers or Directors of the Insured while acting within the scope of their duties.

4. INSURED

The Named Insured and the additional Named Insured being herein called jointly and severally "The Insured".

5. DESCRIPTION OF OPERATIONS

Construction of a Recreation Centre adjacent to the
Northeast Brampton Vocational School, 1/4 corner of
Granville Road & Milliken Parkway, Brampton, Ontario.

6. POLICY PERIOD

From November 1, 1978 to November 1, 1979 at 12:01 a.m. standard time or until the date of the final Certificate of Acceptance, whichever comes first. This Policy will continue in force, however, for a period of one year from the date so determined, for liability arising out of the completed operations hazard as defined herein.

7. LIMITS OF LIABILITY

Regardless of the number of interested Insured, the Insurer's liability under Coverages A and B, combined of the Insuring Agreements of the Policy shall be \$ 2,000,000 Inclusive, for all damages arising out of any one occurrence or series of occurrences arising out of one event. Subject to such limit so qualified \$ 2,000,000 for any number of occurrences in any one period of twelve months terminating on an anniversary of the inception date of the policy, arising out of the completed operations hazard as defined herein.

8. DEDUCTIBLE

\$ 200.00 amount deductible on each occurrence for Property Damage under Coverage B.

9. RATES

\$ 1.50 per \$1,000.00 of project price estimated at \$ 1,944,929.00

10. DEPOSIT PREMIUM

\$ 2,927.00

11. MINIMUM PREMIUM

\$ 2,200.00

12. AGENT

Corwin Smith Insurance Agency

CERTIFIED COPY

In consideration of the payment of the premium, in reliance upon the statements in the Declarations made a-part hereof and subject to all the terms of this Policy, The Canadian Surety Company, hereinafter called the 'Insurer', agrees with the Named Insured as follows:

INSURING AGREEMENTS

I COVERAGE A - BODILY INJURY LIABILITY

- To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages because of bodily injury.

COVERAGE B - PROPERTY DAMAGE LIABILITY

- To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages because of property damage.

Defense - Settlement - Supplementary Payments

As respects insurance afforded by this Policy, the Insurer shall:

- (1) defend in the name and on behalf of the Insured and at the cost of the Insurer any civil action which may at any time be brought against the Insured on account of such bodily injury or property damage, but the Insurer shall have the right to make such investigation, negotiation and settlement of any claim as may be deemed expedient by the Insurer;
- (2) pay all premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy, all premiums on appeal bonds required in any such defended suit, but without any obligation to apply for or furnish such bonds;
- (3) pay all costs taxed against the Insured in any civil action defended by the Insurer and any interest accruing after entry of judgement (or, in those jurisdictions where interest accrues from the date of the action, from the date of such action) upon that part of the judgement which is within the limits of the Insurer's liability;
- (4) pay expenses incurred by the Insured for such immediate medical and surgical relief to others as shall be imperative at the time of accident;
- (5) reasonable expenses incurred by the Insured at the Insurer's request in assisting the Insurer in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed \$25.00 per day.

The amounts so incurred except settlement of claims or suits are payable in addition to the applicable limits of liability.

Policy Territory

This insurance applies only to Bodily Injury and Property Damage which occurs within the policy territory.

II EXCLUSIONS

- This insurance does not apply to:

- (a) bodily injury or property damage arising out of the ownership, use or operation by or on behalf of the Insured of (1) any automobile; or (2) any watercraft, but this exclusion does not apply to watercraft while ashore on premises owned by, rented to or controlled by the Named Insured;
- (b) bodily injury or property damage arising out of the ownership, existence, use or operation by or on behalf of the Insured of (1) any aircraft; or (2) any premises for the purpose of an airport or aircraft landing strip and all operations necessary or incidental thereto; or (3) any air cushion vehicle;
- (c) bodily injury to any employee of the Insured arising out of and in the course of his employment by the Insured, but this exclusion does not apply to (1) liability assumed by the Insured under contract; or (2) employees or whose behalf contributions are made by or required to be made by the Insured under the provisions of any Workmens Compensation law;
- (d) any obligation for which the Insured or his Insurer may be held liable under any Workmens Compensation law;
- (e) bodily injury caused intentionally by or at the direction of the Insured;
- (f) property damage to (1) property owned or occupied by or rented to the Insured; or (2) property used by the Insured; or (3) property in the care, custody or control of the Insured or property as to which the Insured is for any purpose exercising physical control; or (4) any personal property or fixtures as the result of any work performed thereon by the Insured or anyone on his behalf; or (5) property of every kind and description either forming part or to form part of the project and any material or supplies used in the construction of the project described in the Description of Operations of the policy Declarations;
but parts (2) and (3) of this Exclusion do not apply with respect to liability under a written sidetrack agreement and part (3) of this exclusion does not apply with respect to property damage (other than to elevators) arising out of the use of an elevator at premises owned by, rented to or controlled by the Named Insured;
- (g) property damage to the Named Insured's products arising out of such products or any part of such products
- (h) property damage to work performed by or on behalf of the Named Insured arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith;

- (i) to loss of use of tangible property which has not been physically injured or destroyed resulting from (1) a delay in or lack of performance by or on behalf of the Named Insured of any contract or agreements; or (2) the failure of the Named Insured's products or work performed by or on behalf of the Named Insured to meet the level of performance, quality, fitness or durability warranted or represented by the Named Insured; but this exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical injury to or destruction of the Named Insured's products or work performed by or on behalf of the Named Insured after such products or work have been put to use by any person or organization other than an Insured;
- (j) damages claimed for the withdrawal, inspection, repair, replacement, or loss of use of the Named Insured's products or work completed by or for the Named Insured or of any property of which such products or work form a part, if such products, work or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein;
- (k) bodily injury or property damage due to war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- (l) bodily injury or property damage arising out of (1) the preparation, acquisition or use of surveys, soil tests, maps, plans, designs or specifications by any Insured; or (2) the performance of services for others in such Insured's capacity as professional architects, engineers or surveyors; or (3) the performance of consultant, advisory or supervisory services of an architectural or engineering nature;
- (m) bodily injury or property damage arising out of the discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water of any description no matter where located or how contained, or into any watercourse, drainage or sewage system, but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental;
- (n) bodily injury or property damage
 - (a) with respect to which an Insured under this policy is also insured under a contract or nuclear energy liability insurance (whether the Insured is unnamed in such contract and whether or not it is legally enforceable by the Insured) issued by the Nuclear Insurance Association of Canada or any other group or pool of insurers or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (b) resulting directly or indirectly from the nuclear energy hazard arising from (1) the ownership, maintenance, operation or use of a nuclear facility by or on behalf of an Insured; or (2) the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; or (3) the transportation, consumption, possession, handling, disposal or use of radioactive material sold, handled, used or distributed by an Insured.

AS USED IN THIS POLICY, THE TERM

1. "NUCLEAR ENERGY HAZARD" means the radioactive, toxic, explosive, or other hazardous properties of radioactive material;
2. "RADIOACTIVE MATERIAL" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances that the Atomic Energy Control Board may, by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;
3. "NUCLEAR FACILITY" means (a) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium or uranium or any one or more of them; or (b) any equipment or device designed or used for (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (ii) processing or utilizing spent fuel, or (iii) handling, processing or packaging waste; or (c) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium and uranium or any one or more of them if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material; and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

III DEFINITIONS

-When used in this policy (including endorsements forming a part hereof):

"auto-mobile" means any self-propelled land motor vehicle, trailers or semi-trailers while attached thereto or unattached (including accessories and equipment while attached thereto or mounted thereon) other than any of the following or their trailers, accessories and equipment:

- (i) vehicles of the crawler type (other than motorized snow vehicles); or (ii) tractors (other than road transport tractors designed to haul trailers or semi-trailers), road rollers, graders, scrapers, bulldozers, paving machines and concrete mixers (other than concrete mixers of the mix-in-transit type); or (iii) other construction machinery or equipment mounted on wheels but not self-propelled while not attached to any self-propelled land motor vehicle; or (iv) self-propelled land motor vehicles used solely on the premises of the Insured;

"bodily injury" means

- (i) bodily injury, sickness or disease sustained by any person which occurs during the policy period, including death at any time resulting therefrom; or
- (ii) personal injury arising out of (a) false arrest, malicious prosecution, wrongful detention or imprisonment; (b) invasion of privacy, wrongful eviction or wrongful entry; (c) libel and slander or defamation of character; provided always that the insurer shall not be liable for claims arising out of personal injury (i) caused by the wilful violation of a penal statute or ordinance; or (ii) caused by acts committed in connection with advertising, broadcasting or telecasting by or in the interest of the Insured;

"completed operations hazard" includes bodily injury or property damage arising out of operations, but only if the bodily injury or property damage occurs after such operations have been completed or abandoned and occurs away from premises owned by or rented to the Named Insured. Operations include materials, parts or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times: (i) when all operations to be performed by or on behalf of the Named Insured under the contract have been completed; (ii) when all operations to be performed by or on behalf of the Named Insured at the site of the operations have been completed; (iii) when the portion of the work out of which the bodily injury or property damage arises has been put to its intended use by any person or organization other than another contractor or sub-contractor engaged in performing operations for a principal as a part of the same project.

Operations which may require further service or maintenance work, or correction, repair or replacement because of any defect or deficiency, but which are otherwise completed shall be deemed completed.

The completed operations hazard shall not include: (i) operations in connection with the pick up and delivery of property; or (ii) the existence of tools, uninstalled equipment or abandoned or used materials.

"contract" means any written contract or agreement.

"Named Insured" means the person or organization named in the Declarations of this Policy.

"Named Insured's products" means goods or products manufactured, sold, handled or distributed by the Named Insured or by others trading under his name, including any container thereof (other than a vehicle), but shall not include a vending machine or any property other than such container, rented to or located for use of others but not sold.

"occurrence" means a single, continuous or repeated exposure to a condition or to conditions unexpectedly causing damage to or destruction of tangible property. When any one exposure exists prior to or after as well as during the policy period causing continuous or repeated damage or destruction, the insurance provided hereunder shall only apply to that portion of resultant damage or destruction which shall have been caused during the policy period. All such exposure to substantially the same general conditions existing at or emanating from each premises, location or operation away from the premises shall be deemed one occurrence.

"policy territory" means Canada or the United States of America, its territories or possessions.

"products hazard" includes bodily injury and property damage arising out of the Named Insured's products, but only if such bodily injury or property damage occurs away from premises owned by or rented to the Named Insured and after physical possession of such products has been relinquished to others.

"project price" means the total of all monies paid and due to the Named Insured for the completion of the project described in the Description of Operations of the policy Declarations.

"property damage" means (i) physical injury to or destruction of tangible property which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (ii) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an occurrence.

"site of the project" means all lands and premises used for the purposes of the construction of the project described in the Description of Operations of the policy Declarations.

IV SPECIAL PROVISIONS

1. Property Damage Deductible

- Applying to Insuring Agreement - Coverage B only.

It is agreed that in the event of the Insured's liability for damage to, destruction of, or loss of use of property arising out of the operations described in this policy from any one occurrence, regardless of the number of claims resulting from one event the amount stated in the Declarations shall be deducted from the total amount of all such claims and the Insurer shall be liable for loss or damage in excess of that amount.

In the event of an occurrence irrespective of the amount of damage, notice thereof shall be given in accordance with the terms of this policy. The Insurer may, at its own option, investigate such occurrence or negotiate or settle any resulting claim and the Insured agrees, if the Insurer undertakes to negotiate or settle, any such claim, to join the Insurer in such negotiations or settlement to the extent of the amount to be deducted as herein provided, or to reimburse the Insurer for such deductible amount, if and when such claim is paid by the Insurer.

2. Non-Owned Automobile Liability Extension

Coverage provided by the Standard Non-Owned Automobile Liability Policy form attached hereto shall apply to each Insured hereunder subject to the terms and conditions expressed therein and amended by Section V - Conditions of this policy.

V CONDITIONS

1. Premium and Adjustment of Premiums

(a) The premium stated in the Declarations is an estimated premium only. Within sixty (60) days of the final acceptance of all contracts for the project, the earned premium shall be calculated at the rates shown in the Declarations on the project price as defined.

(b) Subject to the retention by the Insurer of the minimum premium provided for in the Declarations, if the earned premium for this policy thus computed exceeds the estimated premium paid, the Named Insured shall pay such excess to the Insurer. If the estimated premium exceeds the earned premium, the Insurer shall return to the Named Insured such excess.

(c) The Named Insured shall maintain a record of the information necessary for premium computation on the basis stated, and shall submit such record to the Insurer within sixty (60) days after final acceptance of all contracts for the project and at such other times during the policy period as the Insurer may direct.

2. Inspection and Audit

The Named Insured shall permit the Insurer to inspect the Insured premises, operations and elevators and to examine and audit the Insured's books and records at any time during the policy period and within one year after termination of this Policy, as far as they relate to the premium basis or the subject matter of the insurance. The Insurer assumes no responsibility and waives no rights by reason of such inspection or examination, or the omission thereof.

3. Notice of Occurrence

The Insured shall promptly give the Insurer written notice with all available particulars of any event likely to give rise to a claim hereunder and of any claim made on account thereof shall verify the facts by affidavit or Declaration if required by the Insurer and shall forward immediately to the Insurer every letter, document or advice by him from or on behalf of the claimant.

4. Co-operation of the Insured and the Insurer in claim settlement

The Insured, except at his own cost, shall not voluntarily assume any liability or settle any claim other than for such immediate medical and surgical relief to others as shall be imperative at the time of the accident. The Insured shall not interfere in any negotiations for settlement or any legal proceedings but whenever requested by the Insurer shall aid in securing information and evidence and the attendance of any witnesses and shall co-operate with the Insurer except in a pecuniary manner in the defense of any action or proceedings or in the prosecution of any appeal.

5. When Action may be brought

The Insured may not bring an action to recover the amount of any claim under the policy unless the requirements of the conditions of this policy are complied with, nor until the amount of the loss has been ascertained by judgment against the Insured after trial of the issue, or by agreement between the parties with the written consent of the Insurer.

6. Limitation of Actions

Every action or proceeding by the Insured against the Insurer shall be commenced within one year next after the cause of the action arose and not afterwards.

7. Subrogation

The Insurer, upon making any payment or assuming liability therefor, shall be and is hereby subrogated to all rights or recovery of the Insured against any person and may bring action in the name of the Insured to enforce such rights, but subrogation shall not be taken against any other Insured covered by this policy.

8. Other Insurance

If any Insured has other insurance against a loss covered by this policy, it is agreed that this policy shall cover as primary insurance and such other insurance shall be excess of the limits of liability stated herein. However, where insurance granted under this policy applies to an automobile the insurance granted under this policy shall apply as excess over any other valid and collectible insurance.

9. Waiver

No term or condition of this policy shall be deemed to be waived by the Insurer in whole or in part unless the waiver is stated in writing and signed by an authorized representative of the Insurer.

10. Assignment

No assignment of interest under this policy shall bind the Insurer until their consent is endorsed thereon. However, should any Insured die or be adjudged bankrupt or insolvent, the Insurer will consent to the assignment of this policy to that Insured's legal representative provided that written notice is given to the Insurer within thirty (30) days after the date of such death, bankruptcy or insolvency.

11. Notices

Every notice or communication to the Insurer shall be in writing and given at the Canadian Head Office of the Insurer, or to the Insurer's authorized agent at the place where this policy was countersigned. Written notice may be given to the Insured by letter personally delivered or by registered post at the last address of the Insured notified to the Insurer.

12. Cancellation

(a) This policy may be cancelled by the Named Insured by surrender thereof to the Insurer or by serving written notice upon the Insurer stating when thereafter the cancellation shall be effective. This policy may be cancelled by the Insurer by serving notice upon the Named Insured stating when, not less than thirty days thereafter, the cancellation shall be effective. The time of such surrender or the effective date of cancellation stated in the notice shall become the end of the policy period.

(b) In the event of cancellation the earned premium shall be computed in accordance with Condition 1 hereof. If the Insurer cancels, the provision in Condition 1(b) relating to the retention of the minimum premium shall be deemed to be deleted.

(c) Premium adjustment may be made upon cancellation or as soon as practicable after cancellation becomes effective.

(d) If the earned premium exceeds the paid premium, the Named Insured shall, upon demand, pay the difference to the Insurer. If the paid premium exceeds the earned premium, the Insurer shall refund the excess to the Named Insured but payment or tender of such excess is not a condition of cancellation.

(e) The expression "paid premium" means the premium actually paid by the Named Insured to the Insurer or its agent and does not mean any premium or part thereof paid to the Insurer by an agent unless actually paid to the agent by the Named Insured.

13. Cross Liability

The insurance afforded by this policy shall apply with respect to any action brought against any one Insured by any other Insured, or by an employee of such other Insured, in the same manner and to the same extent as if a separate policy had been issued to each.

This policy, subject to the limits of liability stated herein, shall apply to each Insured in the same manner and to the same extent as if a separate policy had been issued to each.

The inclusion of more than one Insured in this policy shall not increase the Insurer's total liability on behalf of any one or all of the Insured beyond the limits set out in this policy.

14. Variance Clause

It is expressly understood and agreed that where the printed conditions of this policy conflict or are held to be at variance with this wording or any typewritten parts of this policy, this wording and such typewritten parts shall in all cases be held to prevail and be binding on the Insurer.

IN WITNESS WHEREOF, the Insurer has duly executed this policy; PROVIDED, however, that this policy shall not be valid or binding unless countersigned on its behalf.

.....
VICE PRESIDENT *J. J. Gansel*

.....
VICE PRESIDENT *R. A. Gilbert*

.....
AUTHORIZED REPRESENTATIVE *[Signature]*

DATED AT TORONTO, ONTARIO THIS 30 DAY OF October 19 78.

The Canadian Surety Company

HEAD OFFICE - TORONTO, ONTARIO
(HEREINAFTER CALLED THE INSURER)

AGENT **Cordon Smith Insurance Agency**

REPLACING POLICY NO. **New**

WHEREAS AN APPLICATION HAS BEEN MADE BY THE APPLICANT (HEREINAFTER CALLED THE INSURED) TO THE INSURER FOR A CONTRACT OF AUTOMOBILE INSURANCE AND THE SAID APPLICATION FORMS PART OF THIS CONTRACT OF INSURANCE AND IS AS FOLLOWS —

ITEMS APPLICATION

1. FULL NAME OF THE APPLICANT **C. A. SMITH CONTRACTING LIMITED**
 POSTAL ADDRESS **12 Heritage Road, Markham, Ontario.**
 (INCLUDING COUNTY OR DISTRICT) **Corporation**
 APPLICANT IS _____
(STATE WHETHER INDIVIDUAL PARTNERSHIP, CORPORATION, MUNICIPALITY OR ESTATE)

2. POLICY PERIOD FROM **November 1, 1978** TO **November 1, 1979** 12 01 A.M. STANDARD TIME AT THE APPLICANT'S ADDRESS STATED HEREIN AS TO EACH OF SAID DATES

3. THE AUTOMOBILES IN RESPECT OF WHICH INSURANCE IS TO BE PROVIDED ARE THOSE NOT OWNED IN WHOLE OR IN PART BY, NOR LICENSED IN THE NAME OF THE APPLICANT USED IN THE APPLICANT'S BUSINESS OF

4. THE APPLICANT'S PARTNERS, OFFICERS, EMPLOYEES AND AGENTS AS OF THE DATE OF THIS APPLICATION ARE AS FOLLOWS

| LOCATION | PARTNERS, OFFICERS AND EMPLOYEES WHO REGULARLY USE AUTOMOBILES NOT OWNED BY THE APPLICANT IN HIS BUSINESS | | | | | | ALL OTHER PARTNERS, OFFICERS AND EMPLOYEES | | | ALL APPLICANT'S AGENTS | | |
|----------|---|------|---------|-----------------------|------|---------|--|------|----------|------------------------|------|---------|
| | CLASS "A1" PRIVATE PASSENGER | | | CLASS "A2" COMMERCIAL | | | CLASS "B" | | | CLASS "C" | | |
| | NUMBER | RATE | PREMIUM | NUMBER | RATE | PREMIUM | NUMBER | RATE | PREMIUM | NUMBER | RATE | PREMIUM |
| Covered, | If Any | \$ | | Covered, | \$ | If Any | | \$ | Covered, | If Any | \$ | |

5. "HIRED AUTOMOBILES" — THE AUTOMOBILES HIRED BY THE APPLICANT ARE AS FOLLOWS

| TYPE OF AUTOMOBILE | ESTIMATED COST OF HIRE | RATES PER \$100 OF COST OF HIRE | ADVANCE PREMIUM |
|--------------------|------------------------|---------------------------------|-----------------|
| Covered, If Any | Subject to Adjustment | | \$ |

THE ADVANCE PREMIUM IS SUBJECT TO ADJUSTMENT AT THE END OF THE POLICY PERIOD AS PROVIDED IN THE POLICY.

6. AUTOMOBILES OPERATED UNDER CONTRACT ON BEHALF OF THE APPLICANT ARE AS FOLLOWS

| TYPE OF AUTOMOBILE AND DESCRIPTION OF USE | ESTIMATED CONTRACT COST | RATES PER \$100 OF CONTRACT COST | ADVANCE PREMIUM |
|---|-------------------------|----------------------------------|-----------------|
| Covered, If Any | Subject to Adjustment | | \$ |

THE ADVANCE PREMIUM IS SUBJECT TO ADJUSTMENT AT THE END OF THE POLICY PERIOD AS PROVIDED IN THE POLICY.

7. THIS APPLICATION IS MADE FOR INSURANCE AGAINST THE PERILS MENTIONED IN THIS ITEM AND UPON THE TERMS AND CONDITIONS OF THE INSURER'S CORRESPONDING STANDARD POLICY FORM AND FOR THE FOLLOWING SPECIFIED LIMIT

| INSURING AGREEMENT | PERILS | LIMIT | COMBINED PREMIUMS |
|---------------------------------------|--|--|--------------------|
| SECTION A THIRD PARTY LIABILITY | LEGAL LIABILITY FOR BODILY INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO PROPERTY OF OTHERS NOT IN THE CARE, CUSTODY OR CONTROL OF THE APPLICANT | 1,000,000. <small>(EXCLUSIVE OF INTEREST AND COSTS) FOR LOSS OR DAMAGE RESULTING FROM BODILY INJURY TO OR THE DEATH OF ONE OR MORE PERSONS AND FOR LOSS OR DAMAGE TO PROPERTY, REGARDLESS OF THE NUMBER OF CLAIMS ARISING FROM ANY ONE ACCIDENT.</small> | \$ Included |
| ENDORSEMENTS | | | \$ Included |
| MINIMUM RETAINED PREMIUM \$ | | TOTAL PREMIUM | \$ Included |


8. HAS ANY INSURER CANCELLED, DECLINED OR REFUSED TO RENEW OR ISSUE AUTOMOBILE INSURANCE TO THE APPLICANT WITHIN THREE YEARS PRECEDING THIS APPLICATION? IF SO STATE NAME OF INSURER **No exceptions**

9. STATE PARTICULARS OF ALL ACCIDENTS OR CLAIMS ARISING OUT OF THE USE OR OPERATION IN HIS BUSINESS OF NON-OWNED AUTOMOBILES BY THE APPLICANT WITHIN THE THREE YEARS PRECEDING THIS APPLICATION

| INJURY TO PERSONS | DAMAGE TO PROPERTY OF OTHERS |
|-------------------|------------------------------|
| None | None |

10. ALL THE STATEMENTS IN THIS APPLICATION ARE TRUE AND THE APPLICANT HEREBY APPLIES FOR A CONTRACT OF AUTOMOBILE INSURANCE TO BE BASED ON THE TRUTH OF THE SAID STATEMENTS

11. Where, (a) an applicant for a contract gives false particulars of the described automobile to be insured to the prejudice of the insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein; or (b) the insured contravenes a term of the contract or commits a fraud; or (c) the insured wilfully makes a false statement in respect of a claim under the contract, a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited.

COUNTERSIGNED 

 AGENT OR BROKER AT BY AUTHORIZED REPRESENTATIVE

INSURING AGREEMENT

Now, therefore, in Consideration of the payment of the premium specified and of the statements contained in the application and subject to the limits, terms, conditions, provisions, definitions and exclusions herein stated

SECTION A — THIRD PARTY LIABILITY

The Insurer agrees to indemnify the Insured against the liability imposed by law upon the Insured for loss or damage arising from the use or operation of any automobile not owned in whole or in part by or licensed in the name of the Insured, and resulting from

BODILY INJURY TO OR THE DEATH OF ANY PERSON OR DAMAGE TO PROPERTY OF OTHERS NOT IN THE CARE, CUSTODY OR CONTROL OF THE INSURED:

Provided always the Insurer shall not be liable under this policy.

- (a) for any liability which arises from the use or operation of any automobile while personally driven by the Insured if the Insured is an individual, or
- (b) for any liability imposed upon any person insured by this policy:
 - (1) by any workmen's compensation law, or
 - (2) by any law for bodily injury to or the death of the Insured or any partner, officer or employee of the Insured while engaged in the business of the Insured, or
- (c) for any liability assumed by any person insured by this policy voluntarily under any contract or agreement, or
- (d) for loss or damage to property carried in or upon an automobile, personally driven by any person insured by this policy or to any property owned or rented by, or in the care, custody or control of any such person, or
- (e) for any amount in excess of the limit stated in Item 7 of the application; and expenditures provided for in the Additional Agreements of this policy; subject always to the provisions of the section of the Insurance Act (Automobile Insurance Part) relating to the nuclear energy hazard

ADDITIONAL AGREEMENTS OF INSURER

Where indemnity is provided by this policy, the Insurer further agrees:

- (1) upon receipt of notice of loss or damage caused to persons or property to serve any person insured by this policy by such investigation thereof, or by such negotiations with the claimant, or by such settlement of any resulting claims, as may be deemed expedient by the Insurer; and
- (2) to defend in the name and on behalf of any person insured by this policy and at the cost of the Insurer any civil action which may at any time be brought against such person on account of such loss or damage to persons or property; and
- (3) to pay all costs taxed against any person insured by this policy in any civil action defended by the Insurer and any interest accruing after entry of judgment upon that part of the judgment which is within the limits of the Insurer's liability, and
- (4) in case the injury be to a person, reimburse any person insured by this policy for outlay for such medical aid as may be immediately necessary at the time of such injury; and
- (5) be liable up to the minimum limit(s) prescribed for that province or territory of Canada in which the accident occurred, if that limit(s) is higher than the limit stated in section A of Item 7 of the application, and
- (6) not set up any defense to a claim that might not be set up if the policy were a motor vehicle liability policy issued in the province or territory of Canada in which the accident occurred

AGREEMENTS OF INSURED

Where indemnity is provided by this section, every person insured by this policy

- (a) by the acceptance of this policy, constitutes and appoints the Insurer his irrevocable attorney to appear and defend in any province or territory of Canada in which action is brought against the Insured arising out of the use or operation of an automobile with respect to which insurance is provided hereunder;
- (b) shall reimburse the Insurer, upon demand, in the amount which the Insurer has paid by reason of the provisions of any statute relating to automobile insurance and which the Insurer would not otherwise be liable to pay under this policy.

GENERAL PROVISIONS AND DEFINITIONS

1. ADDITIONAL INSURED

The Insurer agrees to indemnify in the same manner and to the same extent as if named herein as the Insured, every partner, officer or employee of the Insured who, with the consent of the owner thereof, personally drives (a) in the business of the Insured stated in Item 3 of the application, any automobile not owned in whole or in part by or licensed in the name of (i) the Insured, or (ii) such additional Insured person, or (iii) any person or persons residing in the same dwelling premises as the Insured or such additional Insured person, or (b) any automobile hired or leased in the name of the Insured except an automobile owned in whole or in part or licensed in the name of such additional Insured person.

2. TERRITORY

This policy applies only to the use or operation of automobiles within Canada or the United States of America or upon a vessel plying between ports of those countries.

3. HIRED AUTOMOBILES DEFINED

The term "Hired Automobiles" as used in this policy means automobiles hired or leased from others with or without drivers, used under the control of the Insured in the business stated in Item 3 of the application but shall not include any automobile owned in whole or in part by or licensed in the name of the Insured or any partner, officer or employee of the Insured.

4. AUTOMOBILES OPERATED UNDER CONTRACT DEFINED

The term "Automobiles Operated under Contract" as used in this policy shall mean automobiles operated in the business of the Insured stated in Item 3 of the application where the complete supervision, direction and control of such automobiles remain with the owner thereof, but shall not include any automobile owned in whole or in part by or licensed in the name of the Insured or any partner, officer or employee of the Insured

5. TWO OR MORE AUTOMOBILES

When two or more automobiles are insured hereunder the terms of this policy shall apply separately to each, but a motor vehicle and a trailer or trailers attached thereto shall be held to be one automobile as respects limits of liability under Section A

6. PREMIUM ADJUSTMENT

The Advance Premium stated in Item 5 of the application is computed on the estimated total "cost of hire" for the Policy Period. The words "cost of hire" as used herein mean the entire amount incurred for "Hired Automobiles" and drivers when such automobiles are hired with drivers or the amount incurred for hired automobiles and the wages paid to drivers when such drivers are employees of the Insured

The Advance Premium stated in Item 6 of the application is computed on the estimated total "contract cost" for the Policy Period. The words "contract cost" as used herein mean the entire amount paid by the Insured for "Automobiles Operated under Contract" to the owners thereof.

The Advance Premiums are subject to adjustment at the end of the Policy Period when the Insured shall deliver to the Insurer a written statement of the total amounts expended for cost of hire during the Policy Period. If such amounts exceed the estimates stated in the application, the Insured shall immediately pay additional premium at the rates stated therein; if less, the Insurer shall return to the Insured the unearned premium when determined but the Insurer shall, in any event, receive or retain not less than the Minimum Retained Premium stated therein.

The Insurer shall have the right and opportunity, whenever the Insurer so desires, to examine the books and records of the Insured to the extent they relate to the premium bases or the subject matter of this policy.

STATUTORY CONDITIONS

In these Statutory Conditions, unless the context otherwise requires, the word "insured" means a person insured by this contract whether named or not
With respect to Section B only Statutory Conditions 1, 8 and 9 shall apply

Material Change in Risk

1. (1) The insured named in this contract shall promptly notify the Insurer or its local agent in writing of any change in the risk material to the contract and within his knowledge
- (2) Without restricting the generality of the foregoing, the words "change in the risk material to the contract" include
 - (a) any change in the insurable interest of the insured named in this contract in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the Bankruptcy Act (Canada), and in respect of insurance against loss of or damage to the automobile,
 - (b) any mortgage, lien or encumbrance affecting the automobile after the application for this contract,
 - (c) any other insurance of the same interest, whether valid or not covering loss or damage insured by this contract or any portion thereof

Prohibited Use by Insured

2. (1) The insured shall not drive or operate the automobile,
 - (a) unless he is for the time being either authorized by law or qualified to drive or operate the automobile or
 - (b) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile, or
 - (c) while he is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him or
 - (d) for any illicit or prohibited trade or transportation, or
 - (e) in any race or speed test

Prohibited Use by Others

- (2) The insured shall not permit, suffer, allow or connive at the use of the automobile
 - (a) by any person,
 - (i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile or
 - (ii) while that person is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him or
 - (b) by any person who is a member of the household of the insured while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile, or
 - (c) for any illicit or prohibited trade or transportation, or
 - (d) in any race or speed test

Requirements Where Loss or Damage to Persons or Property

3. (1) The insured shall,
 - (a) promptly give to the Insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property and of any claim made on account of the accident,
 - (b) verify by statutory declaration, if required by the Insurer that the claim arose out of the use or operation of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured under this contract, and
 - (c) forward immediately to the Insurer every letter, document, advice or writ received by him from or on behalf of the claimant
- (2) The insured shall not,
 - (a) voluntarily assume any liability or settle any claim except at his own cost or
 - (b) interfere in any negotiations for settlement or in any legal proceeding
- (3) The insured shall, whenever requested by the Insurer aid in securing information and evidence and the attendance of any witness and shall co-operate with the Insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal

Requirements Where Loss or Damage to Automobile

4. (1) Where a loss of or damage to the automobile occurs the insured shall, if the loss or damage is covered by this contract,
 - (a) promptly give notice thereof in writing to the Insurer with the fullest information obtainable at the time,
 - (b) at the expense of the Insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and
 - (c) deliver to the Insurer within ninety days after the date of the loss or damage a statutory declaration stating, to the best of his knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not covering the automobile and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured
- (2) Any further loss or damage accruing to the automobile directly or indirectly from a failure to protect it as required under subcondition 1 of this condition is not recoverable under this contract
- (3) No repairs, other than those that are immediately necessary for the protection of the automobile from further loss or damage, shall be undertaken and no physical evidence of the loss or damage shall be removed
 - (a) without the written consent of the Insurer, or
 - (b) until the Insurer has had a reasonable time to make the examination for which provision is made in statutory condition 5

Examination of Insured

- (4) The insured shall submit to examination under oath, and shall produce for examination at such reasonable place and time as is designated by the Insurer or its representative all documents in his possession or control that relate to the matters in question, and he shall permit extracts and copies thereof to be made

Insurer Liable for Cash Value of Automobile

- (5) The Insurer shall not be liable for more than the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to that actual cash value with proper deduction for depreciation, however caused, and shall not exceed the amount that it would cost to repair or replace the automobile or any part thereof, with material of like kind and quality, but, if any part of the automobile is obsolete and out of stock, the liability of the Insurer in respect thereof shall be limited to the value of that part at the time of loss or damage, not exceeding the maker's latest list price

Repair or Replacement

- (6) Except where an appraisal has been made, the Insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of like kind and quality if, within seven days after the receipt of the proof of loss, it gives written notice of its intention to do so

No Abandonment; Salvage

- (7) There shall be no abandonment of the automobile to the Insurer without the Insurer's consent. If the Insurer exercises the option to replace the automobile or pays the actual cash value of the automobile, the salvage, if any, shall vest in the Insurer

In Case of Disagreement

- (8) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, those questions shall be determined by appraisal as provided under The Insurance Act before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered

Inspection of Automobile

5. The insured shall permit the Insurer at all reasonable times to inspect the automobile and its equipment

Time and Manner of Payment of Insurance Money

6. (1) The Insurer shall pay the insurance money for which it is liable under this contract within sixty days after the proof of loss has been received by it or, where an appraisal is made under subcondition 8 of statutory condition 4, within fifteen days after the award is rendered by the appraisers

When Action May be Brought

- (2) The insured shall not bring an action to recover the amount of a claim under this contract unless the requirements of statutory conditions 3 and 4 are complied with or until the amount of the loss has been ascertained as therein provided or by a judgment against the insured after trial or the issue or by agreement between the parties with the written consent of the Insurer

Limitation of Actions

- (3) Every action or proceeding against the Insurer under this contract in respect of loss or damage to the automobile shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose and not afterwards.

Who May Give Notice and Proofs of Claim

7. Notice of claim may be given and proofs of claim may be made by the agent of the insured named in this contract in case of absence or inability of the insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for or, in the like case or if the insured refuses to do so, by a person to whom any part of the insurance money is payable

Termination

8. (1) This contract may be terminated,
 - (a) by the Insurer giving to the insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered,
 - (b) by the insured at any time on request
- (2) Where this contract is terminated by the Insurer,
 - (a) the Insurer shall refund the excess of premium actually paid by the insured over the *pro rata* premium for the expired time but in no event shall the *pro rata* premium for the expired time be deemed to be less than any minimum retained premium specified, and
 - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund shall be made as soon as practicable
- (3) Where this contract is terminated by the insured the Insurer shall refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified
- (4) The refund may be made by money, postal or express company money order or cheque payable at par
- (5) The fifteen days mentioned in clause a of subcondition 1 of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed

Notice

9. Any written notice to the Insurer may be delivered in, or sent by registered mail to, the chief agency or head office of the Insurer in the Province. Written notice may be given to the insured named in this contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the Insurer. In this condition, the expression "registered" means registered in or outside Canada

IN WITNESS WHEREOF, the Insurer has duly executed this Policy; PROVIDED, however, that this Policy shall not be valid or binding unless countersigned on its behalf.

CANCELLATION AGREEMENT

.....19.....

THE UNDERSIGNED INSURED NAMED IN THIS POLICY AND RENEWAL

CERTIFICATES (IF ANY), HEREBY ACKNOWLEDGES THE CANCELLATION THEREOF EFFECTIVE

AT 12 O'CLOCK NOON, STANDARD TIME ON19.....
AND AGREES THAT ALL LIABILITY OF THE INSURER THEREUNDER WITH RESPECT TO
LOSS OR DAMAGE OCCURRING ON AND AFTER THAT DATE IS HEREBY TERMINATED.

.....
SIGNATURE OF INSURED

MORTGAGEE (IF ANY) MUST
DISCHARGE INTEREST

.....
MORTGAGEE

CANCELLATION MUST BE SIGNED BEFORE CREDIT CAN BE GIVEN

| DAY | MONTH | YEAR |
|-----|-------|------|
| | | |
| | | |

DATE OF CANCELLATION

DATE OF POLICY

TIME IN FORCE

WHOLE PREMIUM \$

PREMIUM EARNED \$

REBATE \$

GIVE NEW NUMBER IF REPLACED ..

PLEASE STATE WHETHER PRO RATA OR SHORT
RATE AND WHY:

The Canadian Surety Company

HEAD OFFICE - TORONTO, CANADA

AGENT



A Transamerica
Company

PASSED November 6th 1978



BY-LAW

No. 286-78

Being a By-law to authorize the execution
of an Agreement with C.A. Smith Contracting
Limited - Contract No. 78-64 (CONSTRUCTION
OF WILLIAMS PARKWAY RECREATION CENTRE)