

stipulated price subcontract

Project: Contract 60941 / The Honoré-Mercier Bridge, Design-Build Project for the Deck Replacement of Ramps along Section 2, 3 and 4 (2006-2009)

Subcontract Work: Prefabrication and delivery of the precast panel for ramps 2, 3 and 4

Canadian Construction Association

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AGREEMENT BETWEEN CONTRACTOR AND SUBCONTRACTOR

This Subcontract Agreement made on the 28th day of May in the year 2008
by and between

Mohawk Bridge Consortium (MBC)

name of Contractor

hereinafter called the "Contractor"

and

Schokbeton Quebec Inc. (SQI)

name of Subcontractor

hereinafter called the "Subcontractor"

Whereas the *Contractor* has entered into an agreement hereinafter called the "*Prime Contract*" on the 18 day of April in the year 2008 with The Jacques Cartier and Champlain Bridges Incorporated (PJCCBI)

hereinafter called the "*Owner*" for the construction of Contract 60941 / The Honoré-Mercier Bridge, Design-Build Project for the Deck Replacement of Ramps along Section 2, 3 and 4 (2006-2009).

Name of Owner

hereinafter called the "*Project*"

Name of Project

And whereas the *Prime Contract* includes the *Subcontract Work* to be performed under this Subcontract Agreement in accordance with the *Contract Documents* for which

is acting as and is hereinafter called the "*Consultant*"

Name of Consultant

And whereas the *Subcontractor* has agreed with the *Contractor* to perform the *Subcontract Work* and supply all of the labour, *Products*, tools, construction machinery and equipment necessary therefore as hereinafter set forth;

And whereas the *Subcontractor* and *Contractor* for themselves, their heirs, executors, administrators, successors and assigns do hereby agree to the full performance of the covenants herein contained;

NOW THEREFORE THE SUBCONTRACT AGREEMENT WITNESSETH as follows:

(NOTE: THE PARTIES SHALL COMPLETE ARTICLES 1B, 2B AND 3B AND DISCARD ARTICLES 1A, 2A AND 3A IF
- THERE IS NO WRITTEN PRIME CONTRACT BETWEEN THE OWNER AND THE CONTRACTOR, OR
- IT IS THE INTENTION OF THE CONTRACTOR AND THE SUBCONTRACTOR THAT THIS SUBCONTRACT REPRESENTS THE FULL SCOPE OF THE SUBCONTRACT WORK AND SHALL GOVERN IN THE EVENT OF A CONFLICT.)

ARTICLE 1B – WORK TO BE PERFORMED

- 1.1 The *Subcontractor* shall furnish the *Products* and perform the *Subcontract Work* in a proper and workmanlike manner pertaining to: *(Insert full description of all work to be done with reference to specification section as described by number and heading if applicable)*

The Fabrication and delivery of 520 precast panels for ramp 2, 3 and 4 for the Honoré-Mercier Bridge as per the design made by SNC-LAVALIN.

- 1.2 The *Subcontractor* shall perform the *Subcontract Work* as required by the *Subcontract Documents*. Any amendments to the *Contract Documents* that relate to the *Subcontract Work* after time of the submission of subcontract bids to the *Contractor* and prior to execution of the *Subcontract*, shall be agreed in writing by the *Contractor* and *Subcontractor*.

ARTICLE 2B – CONFLICT BETWEEN THE PRIME CONTRACT AND SUBCONTRACT

- 2.1 In the event of any conflict between the terms of this *Subcontract* and the *Prime Contract*, this *Subcontract* shall govern.

ARTICLE 3B – SUBCONTRACT DOCUMENTS

The following are the *Subcontract Documents* referred to in Article 1B of this Subcontract Agreement – WORK TO BE PERFORMED

- *Subcontract Agreement between Contractor and Subcontractor*
- *Definitions of the Subcontract*
- *The General Conditions of the Subcontract*
- *Prime Contract Agreement between Owner and Contractor, if any*
- *Definitions of the Prime Contract, if any*
- *The General Conditions of the Prime Contract, if any*

(Addenda A) SQL's revised quotation dated May 28th, 2008.

(Addenda B) SQL's cash flow analysis for payment purposes.

(Addenda C) Additional Notes

* (Insert here, attaching additional pages if required, a list identifying all other Subcontract Documents, e.g. Supplementary Conditions; Specifications, giving a list of contents with section numbers and titles, number of pages and date; drawings, giving drawing number, title, date, revision date or mark; Addenda, giving title, number and date)

1/2

ARTICLE 4 - SCHEDULE

- 4.1 The Subcontractor shall perform the Subcontract Work:
- 1 in accordance with a Schedule provided by the Contractor at the time of signing this Subcontract; or *
 - ~~2 in accordance with a Schedule mutually agreed if provided by the Contractor after the signing of this Subcontract,~~
 - ~~3 starting on or about (xxxxxx) and substantially perform the Subcontract Work by~~
 - ~~4 on or about (xxxxxx)~~
- The Contractor may reasonably adjust any schedule or specified timing during the course of the Work after consulting with the Subcontractor.
- 4.2 The Subcontract Work shall be deemed to be substantially performed or completed when approved by the Contractor and certified as such by the Consultant.

ARTICLE 5 - SUBCONTRACT PRICE

- 5.1 The Subcontract Price, which excludes Value Added Taxes, is:
- Twelve million seven hundred and fifty thousand-----
- /100 dollars \$ 12,750,000.00
- 5.2 Value Added Taxes of (xxxxxx %) payable by the Contractor to the Subcontractor are:
- (In addition if applicable) -----
- /100 dollars \$ xxxxxxxxxxxxxxxxxxxxxx
- 5.3 Total amount payable by the Contractor to the Subcontractor for the construction of the Subcontract Work is:
- Twelve million seven hundred and fifty thousand-- (Excluding all applicable taxes) ----
- /100 dollars \$ 12,750,000.00
- 5.4 These amounts shall be subject to adjustments as provided in the Subcontract Documents.
- 5.5 The Subcontractor's fee applicable to Change ~~Directives~~ ^{orders} shall be * (see Addenda C note 1) percent (15 %).
- 5.6 All amounts are in Canadian funds.

ARTICLE 6 - PAYMENT

- 6.1 Subject to the provisions of the Subcontract Documents, and in accordance with legislation and statutory regulations respecting holdback percentages the Contractor shall:
- 1 make progress payments to the Subcontractor on account of the Subcontract Price in accordance with paragraph 6.2 of this Article. The amounts of such payments shall be as certified by the Consultant together with such Value Added Taxes as may be applicable to such payment;
 - 2 upon Substantial Performance of the Work, pay to the Subcontractor the percentage of the Subcontract Price which has been held back from the preceding progress payments when due together with such Value Added Taxes as may be applicable to such payment; and * (See note 2 Addenda C)
 - 3 upon the issuance of the Consultant's certificate of payment that incorporates final payment of the Subcontract Work, pay to the Subcontractor the unpaid balance of the Subcontract Price when due together with such Value Added Taxes as may be applicable to such payment. * (See note 2 Addenda C)
- 6.2 The Subcontractor shall make applications for payment together with supporting sworn statements and/or other documents when required by the Subcontract Documents on or before the 25 th day of each month (herein called the Submission Date) to the Contractor for approval and due processing. The amount claimed shall be for the value, proportionate to the amount of the Subcontract, of Subcontract Work performed and Products delivered on the Date of the Work up to the 30 th day of the month. The Contractor shall pay the Subcontractor, no later than thirty (30) days after the Submission Date or ten (10) days after the date of a Consultant's certificate for payment whichever is the later, 100% * (See note 4 Addenda C) percent of the amount applied for or such other amount as the Contractor or the Consultant determines to be properly due. Where the Contractor or the Consultant makes any changes to the amount of the applications for payment as submitted by the Subcontractor, the Subcontractor shall be notified promptly in writing by the Contractor of changes and given the opportunity to defend the Subcontractor's submission without delay.

- 6.3 In the event that the *Consultant* fails to issue any certificate upon which payment shall become payable to the *Contractor* or the *Owner* fails to make a payment within the times prescribed in the *Prime Contract*:
- 1 The *Contractor* shall immediately notify the *Owner* of the *Owner's* default as provided for by the terms of the *Prime Contract*, contemporaneously advise the *Subcontractor* in writing of such default and provide to the *Subcontractor* a copy of any and all notices of default delivered by the *Contractor* to the *Owner*.
 - 2 Should the *Owner* not remedy the default within the time prescribed by the *Prime Contract*, the *Contractor* shall stop the *Work* and shall, within the time stipulated in the applicable lien legislation, take such steps as are required to enforce all of the *Contractor's* lien rights to recover all amounts unpaid on the *Subcontract*. The *Contractor* shall provide the *Subcontractor* prompt notice in writing of all steps taken to enforce payment.
 - 3 In the event that the *Contractor* has complied with all the provisions of this paragraph 6.3, the time for payment provided for in paragraph 6.2 of this Article shall be extended for 0 *days from that otherwise provided for in paragraph 6.2 of this Article and the amount of the payment so suspended shall be deemed to be a holdback authorised pursuant to the terms of this *Subcontract* and shall be payable at the time provided for in this subparagraph. ~~(*) NOTE: the suspension time shall be 90 days as otherwise agreed by the Contractor and the Subcontractor.~~
 - 4 Notwithstanding any suspension as herein provided of the obligation to make payment which would otherwise be payable pursuant to paragraph 6.2 of this Article, the *Contractor* shall be obliged to pay interest on the amount of the payment which is suspended at the date payment of that sum finally becomes due at the rate provided in paragraph 6.5 of this Article calculated from the date when, but for paragraph 6.3 of this Article, payment would otherwise have been due.
- 6.4 If no claims exist against the *Subcontract Work* and the *Subcontractor* has submitted to the *Contractor* a sworn statement that all accounts for labour, sub-subcontracts, *Products*, *Construction Equipment* and other indebtedness which may have been incurred by the *Subcontractor* in the performance of the *Subcontract Work* and for which the *Contractor* might in any way be held responsible have been paid in full, except for holdback amounts to be payable out of the funds to be paid to the *Subcontractor* pursuant to this paragraph 6.4 or as an identified amount in dispute, the amount withheld from progress payments made pursuant to paragraph 6.1.1 of this Article and which is payable pursuant to paragraph 6.1.2 of this Article is due and payable:
- 1 In the Common Law provinces, on the day following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice, or provisions which may be agreed to between the parties. The *Contractor* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Subcontract Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Subcontractor* which are enforceable against the *Contractor*.
 - 2 In the Province of Quebec, no later than 30 days after the date of *Substantial Performance of the Work*. The *Contractor* may retain out of the holdback amount any sums required by law to satisfy any legal hypothecs that have been taken or could be taken against the *Work* or other third party monetary claims against the *Owner* which are enforceable against the *Contractor*.
- 6.5 Interest
- 1 Should either party fail to make payments as they become due under the terms of this *Subcontract* or in an award by arbitration or court, interest at two percent per annum above the prime rate on such unpaid amounts shall also become due and payable until payment. Such interest shall be compounded on a monthly basis. The prime rate shall be the rate of interest quoted by # The Bank of Canada for prime business loans. (# NOTE: Insert name of chartered lending institution whose prime rate is to be used.)
 - 2 Interest shall apply at the rate and in the manner prescribed by paragraph 6.5.1 of this Article on the settlement amount of any claim in dispute that is resolved either pursuant to Part 8 of the *Subcontract Conditions - DISPUTE RESOLUTION* or otherwise, from the date the amount would have been due and payable under the *Subcontract*, had it not been in dispute, until the date it is paid.

ARTICLE 7 -- ADDRESSES FOR NOTICE

- 7.1 Notices in writing between the parties shall be considered to have been received by the addressee on the date of delivery if delivered to the individual, or to a member of the firm, or to an officer of the corporation for whom they are intended by hand or by registered post; or if sent by regular post, to have been delivered within 5 *Working Days* of the date of mailing when addressed as follows:

The *Contractor* at MOHAWK BRIDGE CONMSORTIUM (MBC) having a place of business in the commercial building

"Tewatohnhi'saktha" At the attention of Mr. Wayne Rice P.O. Box 1269 Kahnawake, Qc J0L 1B0

street and number and postal box number if applicable

post office or district, province or territory, postal code

The *Subcontractor* at Schokbeton Quebec Inc. 430 Arthur Sauve blvd., suite #6030, St-Eustache Qc, J7R 6V7

street and number and postal box number if applicable

post office or district, province or territory, postal code



IN WITNESS WHEREOF,


Paragraphs (1) and (2), which only apply to the Province of Quebec, shall read as follows:

- (1) having read and fully understood this *Subcontract* and all the documents it includes or to which it refers, as well as the rights and obligations resulting therefrom; and
- (2) having had the opportunity of negotiating the essential stipulations of this *Subcontract*,

the parties hereto have executed this *Subcontract* by the hands of their duly authorized representatives.

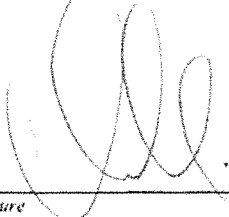
SIGNED AND DELIVERED

WITNESS


signature

Robyn Montour
name and title of person signing

WITNESS



signature

Fernand Lafontaine, Edg.
name and title of person signing

CONTRACTOR

Mohawk Bridge Consortium (MBC)

name of Contractor


signature

Wayne Rice

name and title of person signing

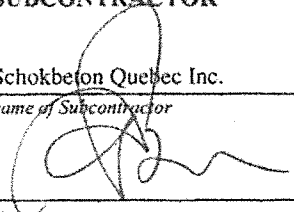
signature

name and title of person signing

SUBCONTRACTOR

Schokbeton Quebec Inc.

name of Subcontractor


signature

Robert Bibeau, President

name and title of person signing

signature

name and title of person signing

N.B. Where legal jurisdiction, local practice, or Contract or Subcontract requirement calls for:

- (a) proof of authority to execute this document, attach such proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Subcontract for and on behalf of the corporation or partnership; ~~or~~
- ~~(b) xxx the affixing of a corporate seal; this Subcontract shall be properly sealed.~~

This Subcontract is drawn in English at the request of all parties hereto. La présente convention est rédigée en anglais à la demande des parties.

DEFINITIONS

The following definitions shall apply to all *Subcontract Documents*.

1. Change Directive

A *Change Directive* is a written instruction signed by the *Contractor* directing the *Subcontractor* to proceed with a change in the *Subcontract Work* within the general scope of the *Subcontract Documents* prior to the *Contractor* and the *Subcontractor* agreeing upon an adjustment in *Subcontract Price* and *Subcontract Time*.

2. Change Order

A *Change Order* is a written amendment to this *Subcontract* signed by the *Contractor* and the *Subcontractor* stating their agreement upon:

- a change in the *Subcontract Work*;
- the method of adjustment or the amount of the adjustment in the *Subcontract Price*, if any; and
- the extent of the adjustment in the *Subcontract Time*, if any.

3. Construction Equipment

Construction Equipment means all machinery and equipment, either operated or not operated, that is required for preparing, fabricating, conveying, erecting, or otherwise performing the *Subcontract Work* but is not incorporated into the *Subcontract Work*.

4. Contract Documents

The *Contract Documents* are those documents comprising the *Prime Contract* between the *Owner* and the *Contractor* and defined therein.

5. Drawings

The *Drawings* are the graphic and pictorial portions of the *Subcontract Documents*, wherever located and whenever issued, showing the design, location, and dimensions of the *Subcontract Work*, generally including plans, elevations, sections, details, schedules, and diagrams.

6. Owner, Consultant, Contractor, Subcontractor

The *Owner*, *Consultant*, *Contractor*, and *Subcontractor* are the persons or entities identified as such in the *Subcontract Agreement* and includes their authorized representatives.

7. Place of the Work

The *Place of the Work* is the designated site or location of the *Work* identified in the *Contract Documents*.

8. Prime Contract

The *Prime Contract* is the undertaking by the *Owner* and the *Contractor* to perform their respective duties, responsibilities, and obligations as prescribed in the *Contract Documents* and represents the entire agreement between the *Owner* and the *Contractor*.

9. Product

Product or *Products* means material, machinery, equipment, and fixtures forming the *Subcontract Work*, but does not include *Construction Equipment*.

10. Project

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

11. Provide

Provide means to supply and install.

12. Shop Drawings

Shop Drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures, *Product* data, and other data which the *Subcontractor* provides to illustrate details of portions of the *Subcontract Work*.

13. Specifications

The *Specifications* are that portion of the *Subcontract Documents*, wherever located and whenever issued, consisting of the written requirements and standards for *Products*, systems, workmanship, and the services necessary for the performance of the *Subcontract Work*.

14. Subcontract

The *Subcontract* is the undertaking by the *Contractor* and the *Subcontractor* to perform their respective duties, responsibilities, and obligations as prescribed in the *Subcontract Documents* and represents the entire agreement between the *Contractor* and the *Subcontractor*.

15. Subcontract Documents

The *Subcontract Documents* consist of those documents as listed in Article 3A or Article 3B of the Subcontract Agreement, and any other provisions as agreed upon between the *Contractor* and *Subcontractor*.

16. Subcontract Price

The *Subcontract Price* is the amount stipulated in Article 5 of the Subcontract Agreement – SUBCONTRACT PRICE.

17. Subcontract Time

The *Subcontract Time* is the time stipulated in Article 4 of the Subcontract Agreement – SCHEDULE within which the *Subcontract Work* is to be performed.

18. Subcontract Work

The *Subcontract Work* means the construction and related services required by the *Subcontract Documents*.

19. Substantial Performance of the Subcontract Work

Substantial Performance of the Subcontract Work is as defined in the lien legislation applicable to the *Place of the Work*. If such legislation is not in force or does not contain such definition, or if the *Subcontract Work* is governed by the Civil Code of Quebec, *Substantial Performance of the Subcontract Work* shall have been reached when the *Subcontract Work* is ready for use or is being used for the purpose intended and is so certified by the *Consultant* if the conditions of the *Prime Contract* require the *Consultant* to issue such a certificate.

20. Substantial Performance of the Work

Substantial Performance of the Work is as defined in the lien legislation applicable to the *Place of the Work*. If such legislation is not in force or does not contain such definition, or if the *Work* is governed by the Civil Code of Quebec, *Substantial Performance of the Work* 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 *Consultant* if the *Consultant* is required by the terms of the *Prime Contract* to issue such a certificate.

21. Sub-Subcontractor

A *Sub-Subcontractor* is the person or entity having a direct contract with the *Subcontractor* to perform a part or parts of the *Subcontract Work* included in this *Subcontract* or to supply *Products* worked to a special design according to the *Subcontract Documents* but does not include one who merely supplies *Products* not so worked.

22. Supplemental Instruction

A *Supplemental Instruction* is an instruction, not involving adjustment in the *Subcontract Price* or *Subcontract Time*, in the form of *Specifications*, *Drawings*, schedules, samples, models or written instructions, consistent with the intent of the *Subcontract Documents*. It is to be issued by the *Contractor* to supplement the *Subcontract Documents* as required for the performance of the *Subcontract Work*.

23. Temporary Work

Temporary Work means temporary supports, structures, facilities, services, and other temporary things, excluding *Construction Equipment*, required for the execution of the *Subcontract Work* but not incorporated into the *Subcontract Work*.

24. Value Added Taxes

Value Added Taxes means such sum as shall be levied upon the *Subcontract Price* by the Federal or any Provincial or Territorial Government and is computed as a percentage of the *Subcontract Price* and includes the Goods and Services Tax, the Quebec Sales Tax, the Harmonized Sales Tax, and any similar tax, the collection and payment of which is by the *Subcontractor* as imposed by the tax legislation.

25. Work

The *Work* means the total construction and related services required by the *Contract Documents*.

26. Working Day

Working Day means a day other than a Saturday, Sunday, or a holiday which is observed by the construction industry in the area of the *Place of the Work*.

SUBCONTRACT CONDITIONS**PART 1 GENERAL PROVISIONS****SCC 1.1 DOCUMENTS**

- 1.1.1 The intent of the *Subcontract Documents* is to include the labour, *Products*, and services necessary for the performance of the *Subcontract Work* in accordance with these documents. It is not intended, however, that the *Subcontractor* shall supply products or perform work not consistent with, not covered by, or not properly inferable from the *Subcontract Documents*.
- 1.1.2 Nothing contained in the *Subcontract Documents* creates any contractual relationship between the *Contractor* and a *Sub-Subcontractor* or the *Sub-Subcontractor's* agent, employee, or other person performing any of the *Subcontract Work*.
- 1.1.3 The *Subcontract Documents* are complementary, and what is required by any one shall be as binding as if required by all.
- 1.1.4 Words or abbreviations which have well known technical or trade meanings are used in the *Subcontract Documents* in accordance with such recognized meanings.
- 1.1.5 References in the *Subcontract Documents* to the singular shall be considered to include the plural as the context requires.
- 1.1.6 Neither the organization of the *Specifications* into divisions, sections, and parts nor the arrangement of *Drawings* shall control the *Subcontractor* in dividing the work among *Sub-Subcontractors* or in establishing the extent of the work to be performed by a trade.
- 1.1.7 If there is a conflict within *Subcontract Documents*:
- .1 the order of priority of documents listed in Article 3A, from highest to lowest, shall be
 - the Agreement of the *Prime Contract*,
 - the Definitions of the *Prime Contract*,
 - Supplementary Conditions of the *Prime Contract*,
 - the General Conditions of the *Prime Contract*,
 - the Agreement of the *Subcontract*,
 - the Definitions of the *Subcontract*,
 - Supplementary Conditions of the *Subcontract*,
 - the General Conditions of the *Subcontract*,
 - Division 1 of the *Specifications*,
 - Divisions 2 through 16 of the *Specifications*,
 - material and finishing schedules,
 - *Drawings*.
 - .2 the order of priority of documents listed in Article 3B, from highest to lowest, shall be
 - the Agreement of the *Subcontract*,
 - the Definitions of the *Subcontract*,
 - Supplementary Conditions of the *Subcontract*,
 - the General Conditions of the *Subcontract*,
 - the Agreement of the *Prime Contract*, if any
 - the Definitions of the *Prime Contract*, if any
 - Supplementary Conditions of the *Prime Contract*, if any
 - the General Conditions of the *Prime Contract*, if any
 - Division 1 of the *Specifications*,
 - Divisions 2 through 16 of the *Specifications*,
 - material and finishing schedules,
 - *Drawings*.
 - .3 drawings of larger scale shall govern over those of smaller scale of the same date.
 - .4 dimensions shown on *Drawings* shall govern over dimensions scaled from *Drawings*.
 - .5 later dated documents shall govern over earlier documents of the same type.
- 1.1.8 The *Contractor* shall provide the *Subcontractor*, without charge, sufficient copies of the *Subcontract Documents* to perform the *Subcontract Work*.

SCC 1.2 ASSIGNMENT

- 1.2.1 Neither party to the *Subcontract* shall assign the *Subcontract* or a portion thereof without the written consent of the other, which consent shall not be unreasonably withheld.

PART 2 ADMINISTRATION OF THE SUBCONTRACT

SCC 2.1 SUPPLEMENTAL INSTRUCTIONS

- 2.1.1 During the progress of the *Subcontract Work* the *Contractor* will furnish *Supplemental Instructions* to the *Subcontractor* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Contractor* and the *Subcontractor*.

SCC 2.2 REVIEW AND INSPECTION OF THE WORK

- 2.2.1 The *Owner*, the *Consultant* and the *Contractor* shall have access to the *Work* for inspection whenever it is in preparation or progress. The *Subcontractor* shall cooperate to provide reasonable facilities for such access.
- 2.2.2 If special tests, inspections, or approvals are required by the *Subcontract Documents*, the *Consultant's* instructions or the laws or ordinances of the *Place of the Work*, the *Subcontractor* shall give the *Contractor* timely notice requesting inspection. Inspection by the *Consultant* and/or the *Contractor* shall be made promptly.
- 2.2.3 The *Subcontractor* shall furnish promptly to the *Contractor* two copies of certificates and inspection reports relating to the *Subcontract Work*.
- 2.2.4 If the *Subcontractor* covers, or permits to be covered, work that has been designated for special tests, inspections, or approvals before such special tests, inspections, or approvals are made, given or completed, the *Subcontractor* shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good covering work at the *Subcontractor's* expense.
- 2.2.5 The *Contractor* may order any portion or portions of the *Subcontract Work* to be examined to confirm that such work is in accordance with the requirements of the *Subcontract Documents*. If the work is not in accordance with the requirements of the *Subcontract Documents*, the *Subcontractor* shall correct the work and pay the cost of examination and correction. If the work is in accordance with the requirements of the *Subcontract Documents*, the *Contractor* shall pay the cost of examination and restoration.
- 2.2.6 The *Subcontractor* shall pay the cost of making any test or inspection, including the cost of samples required for such test or inspection, if such test or inspection is designated in the *Subcontract Documents* to be performed by the *Subcontractor* or is designated by the laws or ordinances of the *Place of the Work*.
- 2.2.7 The *Subcontractor* shall pay the cost of samples required for any test or inspection to be performed by the *Consultant*, the *Owner* or the *Contractor* if such test or inspection is designated in the *Subcontract Documents*.

SCC 2.3 DEFECTIVE WORK

- 2.3.1 The *Subcontractor* shall promptly remove from the *Place of the Work* and correct defective work that has been rejected by the *Contractor* as failing to conform to the *Subcontract Documents* whether or not the defective work has been incorporated in the *Subcontract Work* and whether or not the defect is the result of poor workmanship, use of defective products, or damage through carelessness or other act or omission of the *Subcontractor*.
- 2.3.2 The *Subcontractor* shall make good promptly other work destroyed or damaged by such removals or replacements at the *Subcontractor's* expense.
- 2.3.3 If in the opinion of the *Contractor* it is not expedient to correct defective work or work not performed as provided in the *Subcontract Documents*, the *Contractor*, having obtained concurrence of such opinion from the *Consultant*, may deduct from the amount otherwise due to the *Subcontractor* the difference in value between the work as performed and that called for by the *Subcontract Documents*.

PART 3 EXECUTION OF THE WORK

SCC 3.1 CONSTRUCTION BY CONTRACTOR OR OTHER SUBCONTRACTORS

- 3.1.1 The *Contractor* reserves the right to award separate subcontracts in connection with other parts of the *Work* to other subcontractors and to perform work with own forces.

- 3.1.2 When separate subcontracts are awarded for other parts of the *Work*, or when work is performed by the *Contractor's* own forces, the *Contractor* shall:
- .1 provide for the co-ordination of the activities and work of other subcontractors and *Contractor's* own forces with the *Subcontract Work*;
 - .2 assume overall responsibility for compliance with the applicable health and construction safety legislation at the *Place of the Work*;
 - .3 enter into separate subcontracts with other subcontractors under conditions of contract which are compatible with the conditions of the *Subcontract*;
 - .4 ensure that insurance coverage is provided to the same requirements as are called for in SCC 11.1 – LIABILITY INSURANCE and SCC 11.2 – PROPERTY INSURANCE and co-ordinate such insurance with the insurance coverage of the *Subcontractor* as it affects the *Subcontract Work*; and
 - .5 take all reasonable precautions to avoid labour disputes or other disputes on the *Work* arising from the work of other subcontractors or the *Contractor's* own forces.
- 3.1.3 When separate subcontracts are awarded for other parts of the *Work*, or when work is performed by the *Contractor's* own forces, the *Subcontractor* shall:
- .1 afford the *Contractor* and other subcontractors reasonable opportunity to introduce and store their products and use their construction machinery and equipment to execute their work;
 - .2 cooperate with other subcontractors and the *Contractor* in reviewing their construction schedules; and
 - .3 where part of the *Subcontract Work* is affected by or depends upon for its proper execution the work of other subcontractors or *Contractor's* own forces, promptly report to the *Contractor* in writing and prior to proceeding with that part of the *Subcontract Work*, any apparent deficiencies in such work.
- 3.1.4 Where the *Subcontract Documents* identify the work to be performed by other subcontractors or the *Contractor's* own forces, the *Subcontractor* shall co-ordinate and schedule the *Subcontract Work* with the work of other subcontractors and the *Contractor's* own forces and interface as specified in the *Subcontract Documents*.
- 3.1.5 When a change in the *Subcontract Work* is required as a result of the co-ordination and interface of the work of other subcontractors or *Contractor's* own forces with the *Subcontract Work*, the changes shall be authorized and valued as provided in SCC 6.1 – CHANGES, SCC 6.2 – CHANGE ORDER, and SCC 6.3 – CHANGE DIRECTIVE.
- 3.1.6 If any other subcontractor with whom the *Subcontractor* has a dispute related to the *Work* requests that the dispute be arbitrated in accordance with the provisions of Part 8 of the Subcontract Conditions – DISPUTE RESOLUTION, the *Subcontractor* shall be deemed to have consented to arbitration of any such dispute with any other subcontractor whose subcontract with the *Contractor* contains a similar agreement to arbitrate.

SCC 3.2 TEMPORARY SERVICES

- 3.2.1 Unless otherwise stipulated in the *Subcontract Documents*, the *Contractor* will provide and pay for all temporary water, power and heat, general purpose lighting and toilet facilities but excluding those temporary services required for the *Subcontractor's* site office.

SCC 3.3 SUPERVISION

- 3.3.1 The *Subcontractor* shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the *Place of the Work* while work is being performed. The appointed representative shall not be changed except for valid reason.
- 3.3.2 The appointed representative shall represent the *Subcontractor* at the *Place of the Work* and notices and instructions given to the appointed representative by the *Contractor* shall be held to have been received by the *Subcontractor*.

SCC 3.4 SUB-SUBCONTRACTORS

- 3.4.1 The *Subcontractor* shall preserve and protect the rights of the parties to the *Subcontract* with respect to *Subcontract Work* to be performed under sub-subcontract, and shall:
- .1 enter into contracts or written agreements with *Sub-Subcontractors* to require them to perform their work as provided in the *Subcontract Documents*;
 - .2 incorporate the terms and conditions of the *Subcontract Documents* into all contracts or written agreements with *Sub-Subcontractors*; and
 - .3 be as fully responsible to the *Contractor* for acts and omissions of *Sub-Subcontractors* and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Subcontractor*.

- 3.4.2 The *Subcontractor* shall indicate in writing, at the request of the *Contractor*, those *Sub-Subcontractors* whose bids have been received by the *Subcontractor* which the *Subcontractor* would be prepared to accept for the performance of a portion of the *Subcontract Work*. Should the *Contractor* not object before signing the *Subcontract*, the *Subcontractor* shall employ those *Sub-Subcontractors* that comply with the requirements of the *Subcontract Documents* and so identified by the *Subcontractor* in writing for the performance of that portion of the *Subcontract Work* to which their bid applies.
- 3.4.3 The *Contractor* may, for reasonable cause, at any time before the *Contractor* has signed the *Subcontract*, object to the use of a proposed *Sub-Subcontractor* and require the *Subcontractor* to employ one of the other sub-subcontract bidders.
- 3.4.4 If the *Contractor* requires the *Subcontractor* to change a proposed *Sub-Subcontractor*, the *Subcontract Price* and *Subcontract Time* shall be adjusted by the differences occasioned by such required change.
- 3.4.5 The *Subcontractor* shall not be required to employ as a *Sub-Subcontractor*, a person or firm to whom the *Subcontractor* may reasonably object.
- 3.4.6 The *Contractor* may provide to a *Sub-Subcontractor* information as to the percentage of the *Sub-Subcontractor's* work which has been certified for payment.

SCC 3.5 SHOP DRAWINGS

- 3.5.1 The *Subcontractor* shall provide *Shop Drawings* as described in the *Subcontract Documents*.
- 3.5.2 The *Contractor* shall determine the number of copies of *Shop Drawings* as may reasonably be required together with the procedure and schedule for transmittal of same, and the *Subcontractor* shall so supply *Shop Drawings*. At the time of submission, the *Subcontractor* shall notify the *Contractor* in writing of any deviations in the *Shop Drawings* from the requirements of the *Subcontract Documents*. Review of *Shop Drawings* shall not relieve the *Subcontractor* of responsibility for errors or omissions in the *Shop Drawings* or of responsibility for meeting all requirements of the *Subcontract Documents*.
- 3.5.3 Upon the *Contractor's* request, the *Subcontractor* shall revise and resubmit *Shop Drawings* which the *Contractor* rejects as inconsistent with the *Subcontract Documents* unless otherwise directed by the *Contractor*. The *Subcontractor* shall notify the *Contractor* in writing of any revisions to the resubmission other than those requested by the *Contractor*.

SCC 3.6 USE OF THE WORK

- 3.6.1 The *Subcontractor* shall confine *Construction Equipment*, *Temporary Work*, *Products*, waste products and debris, and operations of employees to limits indicated by laws, ordinances, permits, the *Subcontract Documents* or by direction of the *Contractor* and shall not unreasonably encumber the *Work* with *Products*.
- 3.6.2 The *Subcontractor* shall not load or permit to be loaded any part of the *Work* with a weight or force that will endanger the safety of the *Work*.
- 3.6.3 The *Subcontractor* shall comply with the *Contractor's* instructions regarding safety signs, advertisements, fires, and smoking.

SCC 3.7 CUTTING AND REMEDIAL WORK

- 3.7.1 The *Subcontractor* shall do the cutting and remedial work as required by the *Subcontract Documents* to make the several parts of the *Subcontract Work* come together properly and to ensure that the *Subcontract Work* fits with and is properly finished to the work of others whose work precedes that of the *Subcontractor*.
- 3.7.2 The *Subcontractor* shall coordinate the *Subcontract Work* to ensure that this requirement is kept to a minimum.
- 3.7.3 The *Subcontractor* shall not cut, dig, box or sleeve any structural member so as to endanger existing work nor alter the work of any others without the *Contractor's* written consent.
- 3.7.4 Should the *Owner* or the *Contractor* or anyone employed by them be responsible for ill-timed work necessitating cutting or remedial work to be performed, the cost of such cutting or remedial work shall be valued as provided in SCC 6.1 – CHANGES, SCC 6.2 – CHANGE ORDER, and SCC 6.3 – CHANGE DIRECTIVE.
- 3.7.5 Cutting and remedial work shall be performed by specialists familiar with the *Products* affected and shall be performed in a manner to neither damage nor endanger the *Work*.

SCC 3.8 CLEANUP

- 3.8.1 The *Subcontractor* shall, at the *Subcontractor's* own expense, keep the *Subcontractor's* work area in a tidy condition and free from accumulation of waste products and debris created in the performance of the *Subcontract Work*. The *Subcontractor* shall remove from the work site all such waste products and debris caused by the *Subcontract Work* to the satisfaction of the *Contractor*. Should the *Subcontractor* fail to perform these housekeeping requirements, the *Contractor* shall have the right, after notice in writing, to have the work performed by whatever means may be expedient and the *Subcontractor* agrees to pay all reasonable costs of such clean-up and removal of waste products and debris.
- 3.8.2 Prior to application for *Substantial Performance of the Subcontract Work*, the *Subcontractor* shall remove all surplus products, tools, construction machinery and equipment, and any waste products and debris and leave the *Place of the Work* in a clean and tidy condition to the satisfaction of the *Contractor*.

SCC 3.9 QUALITY ASSURANCE

- 3.9.1 The *Contractor* or *Owner* may implement a Quality Assurance program for the *Work*. The *Subcontractor* shall respect and comply with such program.

SCC 3.10 PAYMENT OF ACCOUNTS

- 3.10.1 The *Subcontractor* shall promptly and satisfactorily settle and pay for all accounts, claims or liens with respect to the *Work*. If, after having received 2 *Working Days* written notice from the *Contractor* to settle and pay such accounts, claims or liens, the *Subcontractor* fails or refuses to settle or pay same, the *Contractor* shall have the right to settle or pay such accounts, claims and/or liens for the account of the *Subcontractor* and the receipt issued to the *Contractor* with respect to such accounts, claims or liens shall be conclusive evidence as to such payments and the amount thereof. Notwithstanding the foregoing provision, the *Subcontractor* shall not be required to pay any such accounts, claims or liens if it has reasonable grounds for disputing same and the *Contractor* in these circumstances will only have the right to pay or settle such accounts, claims or liens in such manner as in its opinion, will not prejudice the *Subcontractor's* right to dispute same.

PART 4 ALLOWANCES

SCC 4.1 CASH ALLOWANCES

- 4.1.1 The *Subcontract Price* includes the cash allowances, if any, stated in the *Subcontract Documents*. The scope of work or costs included in such cash allowance shall be as described in the *Subcontract Documents*.
- 4.1.2 The *Subcontract Price*, and not the cash allowances, includes the *Subcontractor's* overhead and profit in connection with such cash allowances.
- 4.1.3 Expenditures under cash allowances shall be authorized by the *Contractor*.
- 4.1.4 Where costs under a cash allowance exceed the amount of the allowance, the *Subcontractor* shall, in each case, be compensated for the excess costs incurred and substantiated plus an amount for overhead and profit on the excess as set out in the *Subcontract Documents*. Where costs under any cash allowance are less than the amount of the allowance, the *Subcontract Price* shall be adjusted for the unexpended portion of the cash allowance, but not for the *Subcontractor's* overhead and profit on such amount. Multiple cash allowances shall not be combined for the purpose of calculating the foregoing.
- 4.1.5 The *Subcontract Price* shall be adjusted by *Change Order* to provide for any difference between the actual cost as determined in accordance with paragraph 4.1.4 and each cash allowance.

PART 5 PAYMENT

SCC 5.1 APPLICATION FOR PAYMENT

- 5.1.1 Applications for payment on account as provided in Article 6 of the *Subcontract Agreement* – PAYMENT may be made monthly as the *Subcontract Work* progresses.
- 5.1.2 The *Subcontractor* shall submit to the *Contractor*, before the first application for payment, a schedule of values for the parts of the *Subcontract Work*, aggregating the total amount of the *Subcontract Price*, so as to facilitate evaluation of applications for payment.

- 5.1.3 The schedule of values shall be made out in such form and supported by such evidence as the *Contractor* may reasonably direct and when accepted by the *Contractor*, shall be used as the basis for applications for payment, unless it is found to be in error.
- 5.1.4 The *Subcontractor* shall include a statement based on the schedule of values with each application for payment.
- 5.1.5 Claims for *Products* delivered to the *Place of the work* but not yet incorporated into the *Subcontract Work* shall be supported by such evidence as the *Contractor* may reasonably require to establish the value and delivery of the *Products*.

SCC 5.2 WITHHOLDING OF PAYMENT

- 5.2.1 Notwithstanding any other provisions of this *Subcontract*, if because of climatic or other conditions reasonably beyond the control of the *Subcontractor*, there are items of *Subcontract Work* that cannot be performed, payment in full for that portion of the *Subcontract Work* which has been performed as certified by the *Consultant* shall not be withheld or delayed by the *Contractor* on account thereof, but the *Contractor* may withhold, until the remaining portion of the *Subcontract Work* is finished, only such an amount that the *Contractor* determines is sufficient and reasonable to cover the cost of performing such remaining *Subcontract Work*.
- 5.2.2 The provisions of SCC 5.2 – WITHHOLDING OF PAYMENT shall be effective only when the applicable lien legislation permits the release of any portion of the *Subcontract Price* which has been withheld by way of holdback under the conditions contemplated herein.

SCC 5.3 NON-CONFORMING WORK

- 5.3.1 No certificate for payment, payment by the *Contractor* under this *Subcontract* nor partial or entire use or occupancy of the *Work* by the *Owner* shall constitute an acceptance of any portion of the *Subcontract Work* or *Products* which are not in accordance with the requirements of the *Subcontract Documents*.

PART 6 CHANGES IN THE WORK

SCC 6.1 CHANGES

- 6.1.1 The *Contractor*, without invalidating the *Subcontract*, may make:
- 1 changes in the *Subcontract Work* consisting of additions, deletions, or other revisions to the *Subcontract Work* by *Change Order* or *Change Directive*, and
 - 2 changes to the *Subcontract Time* for the *Subcontract Work*, at any part thereof, by *Change Order*.
- 6.1.2 The *Subcontractor* shall not perform a change in the *Subcontract Work* without a *Change Order* or a *Change Directive*.

SCC 6.2 CHANGE ORDER

- 6.2.1 When a change in the *Subcontract Work* is proposed or required, the *Contractor* shall provide notice in writing to the *Subcontractor* describing the proposed change in the *Subcontract Work*. The *Subcontractor* shall present, in a form acceptable to the *Contractor*, a method of adjustment or an amount of adjustment for the *Subcontract Price*, if any, and the adjustment in the *Subcontract Time*, if any, for the proposed change in the *Subcontract Work*.
- 6.2.2 When the *Contractor* and the *Subcontractor* agree to the adjustments in the *Subcontract Price* and *Subcontract Time* or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a *Change Order*, signed by *Contractor* and *Subcontractor*. The value of the work performed as the result of a *Change Order* shall be included in applications for progress payment.

SCC 6.3 CHANGE DIRECTIVE

- 6.3.1 If the *Contractor* requires the *Subcontractor* to proceed with a change in the *Subcontract Work* prior to the *Contractor* and the *Subcontractor* agreeing upon the adjustment in *Subcontract Price* and *Subcontract Time*, the *Contractor* shall issue a *Change Directive*.
- 6.3.2 A *Change Directive* shall only be used by the *Contractor* to direct a change in the *Subcontract Work* which is within the general scope of the *Subcontract Documents*.
- 6.3.3 Upon receipt of a *Change Directive*, the *Subcontractor* shall proceed promptly with the change in the *Subcontract Work*.

- 6.3.4 For the purpose of valuing *Change Directives*, changes in the *Subcontract Work* that are not substitutions or otherwise related to each other shall not be grouped together in the same *Change Directive*.
- 6.3.5 The adjustment in the *Subcontract Price* for a change carried out by way of a *Change Directive* shall be determined on the basis of the cost of the *Subcontractor's* actual expenditures and savings attributable to the change, valued in accordance with the cost plus method described in paragraph 6.3.6 and as follows:
- .1 If the change results in a net increase in *Subcontractor's* cost, the *Subcontract Price* shall be increased by the amount of the net increase in the *Subcontractor's* cost, plus the *Contractor's* fee on such net increase, as specified in paragraph 5.5 of Article A-5 of the Agreement – SUBCONTRACT PRICE.
 - .2 If the change results in a net decrease in the *Subcontractor's* cost, the *Subcontract Price* shall be decreased by the amount of the net decrease in the *Subcontractor's* cost, without deduction for the *Subcontractor's* fee.
- 6.3.6 The cost of performing the work attributable to the *Change Directive* shall be limited to the actual cost of all the following as applicable to such work:
- .1 salaries, wages and benefits paid to personnel in the direct employ of the *Subcontractor* under a salary or wage schedule agreed upon by the *Contractor* and the *Subcontractor*, or in the absence of such a schedule, actual salaries, wages and benefits paid under applicable bargaining agreement, and in the absence of a salary or wage schedule and bargaining agreement, actual salaries, wages and benefits paid by the *Subcontractor*, for personnel
 - (1) stationed at the *Subcontractor's* field office, in whatever capacity employed;
 - (2) engaged in expediting the production or transportation of material or equipment, at shops or on the road;
 - (3) engaged in the preparation or review of *Shop Drawings*, fabrication drawings, coordination drawings, and project record drawings; or
 - (4) engaged in the processing of changes in the *Subcontract Work*.
 - .2 contributions, assessments, or taxes incurred for such items as employment insurance, provincial health insurance, workers' compensation, and Canada or Quebec Pension Plan, insofar as such cost is based on wages, salaries, or other remuneration paid to employees of the *Subcontractor* and included in the cost of the work as provided in paragraph 6.3.6.1;
 - .3 travel and subsistence expenses of the *Subcontractor's* personnel described in paragraph 6.3.6.1;
 - .4 the cost of all *Products* including cost of transportation thereof;
 - .5 the cost of materials, supplies, *Construction Equipment*, *Temporary Work*, and hand tools not owned by the workers, including transportation and maintenance thereof, which are consumed; and cost less salvage value on such items used but not consumed in the performance of the *Subcontract Work*, which remain the property of the *Subcontractor*;
 - .6 the cost of all tools, *Construction Equipment*, exclusive of hand tools used in the performance of the *Subcontract Work*, whether rented from or provided by the *Subcontractor* or others, including installation, minor repairs and replacements, dismantling, removal, transportation and delivery cost thereof;
 - .7 the cost of all equipment and services required for the *Subcontractor's* field office;
 - .8 deposits lost;
 - .9 the amounts of all sub-subcontracts;
 - .10 the cost of quality assurance such as independent inspection and testing services;
 - .11 charges levied by authorities having jurisdiction at the *Place of the Work*;
 - .12 royalties, patent license fees, and damages for infringement of patents and cost of defending suits therefor subject always to the *Subcontractor's* obligations to indemnify the *Contractor* as provided in paragraph 10.3.1 of SCC 10.3 – PATENT FEES;
 - .13 any adjustment in premiums for all bonds and insurance which the *Subcontractor* is required, by the *Subcontract Documents*, to purchase and maintain;
 - .14 any adjustment in taxes and duties, other than *Value Added Taxes*, for which the *Subcontractor* is liable;
 - .15 charges for long distance telephone and facsimile communications, courier services, expressage, and petty cash items incurred in relation to the performance of the *Subcontract Work*;
 - .16 the cost of removal and disposal of waste products and debris; and
 - .17 the cost incurred due to emergencies affecting the safety of persons or property.
- 6.3.7 The *Subcontractor* shall keep full and detailed accounts and records necessary for the documentation of the cost of work and shall provide the *Contractor* with copies thereof when requested.
- 6.3.8 The *Contractor* shall be afforded reasonable access to all of the *Subcontractor's* books, records, correspondence, instructions, drawings, receipts, vouchers, and memoranda related to the cost of work, and for this purpose the *Subcontractor* shall preserve such records for a period of one year from the date of *Substantial Performance of the Work*.
- 6.3.9 Pending determination of the final amount of a *Change Directive*, the undisputed value of the work performed as the result of a *Change Directive* is eligible to be included in progress payments.

- 6.3.10 If the *Contractor* and *Subcontractor* do not agree on the proposed adjustment in the *Subcontract Time* or the method of determining it, the adjustment shall be referred to Part 8 of the *Subcontract Conditions – DISPUTE RESOLUTION*.
- 6.3.11 If at any time after the start of the work directed by a *Change Directive*, the *Contractor* and the *Subcontractor* reach agreement on the adjustment to the *Subcontract Price* and to the *Subcontract Time*, this agreement shall be recorded in a *Change Order* signed by *Contractor* and *Subcontractor*.

SCC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- 6.4.1 If the *Contractor* or the *Subcontractor* discover conditions at the *Place of the Work* which are:
- .1 subsurface or otherwise concealed physical conditions which existed before the commencement of the *Subcontract Work* which differ materially from those indicated in the *Subcontract Documents*; or
 - .2 physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the *Subcontract Documents*;
- then the observing party shall notify the other party in writing before conditions are disturbed and in no event later than 3 *Working Days* after first observance of the conditions.
- 6.4.2 The *Contractor* will promptly investigate such conditions and make a finding. If the finding is that the conditions differ materially and this would cause an increase or decrease in the *Subcontractor's* cost or time to perform the *Subcontract Work*, the *Contractor* shall issue appropriate instructions for a change in the *Subcontract Work* as provided in SCC 6.2 – *CHANGE ORDER* or SCC 6.3 – *CHANGE DIRECTIVE*.
- 6.4.3 If the *Contractor* finds that the conditions at the *Place of the Work* are not materially different or that no change in the *Subcontract Price* or the *Subcontract Time* is justified, the *Contractor* shall report the reasons for this finding to the *Subcontractor* in writing.

SCC 6.5 DELAYS

- 6.5.1 If the *Subcontractor* is delayed in the performance of the *Subcontract Work* by an action or omission of the *Owner*, *Consultant*, or *Contractor*, or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the *Subcontract Documents*, then the *Subcontract Time* shall be extended for such reasonable time as the *Contractor* and *Subcontractor* shall agree that the *Subcontract Work* was delayed. The *Subcontractor* shall be reimbursed by the *Contractor* for reasonable costs incurred by the *Subcontractor* as a result of such delay.
- 6.5.2 If the *Subcontractor* is delayed in the performance of the *Subcontract Work* by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Subcontractor* or any person employed or engaged by the *Subcontractor* directly or indirectly, then the *Subcontract Time* shall be extended for such reasonable time as the *Contractor* and *Subcontractor* shall agree that the *Subcontract Work* was delayed. The *Subcontractor* shall be reimbursed by the *Contractor* for reasonable costs incurred by the *Subcontractor* as a result of such delay.
- 6.5.3 If the *Subcontractor* is delayed in the performance of the *Subcontract Work* by
- .1 labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the *Subcontractor* is a member or to which the *Subcontractor* is otherwise bound),
 - .2 fire, unusual delay by common carriers or unavoidable casualties, or without limit to any of the foregoing, by a cause beyond the *Subcontractor's* control,
 - .3 abnormally adverse weather conditions, or
 - .4 cause beyond the *Subcontractor's* control other than one resulting from a default or breach of *Subcontract* by the *Subcontractor*,
- then the *Subcontract Time* shall be extended for such reasonable time as the *Contractor* and *Subcontractor* shall agree that the *Subcontract Work* was delayed. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Subcontractor* agrees to a shorter extension. The *Subcontractor* shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the *Owner* or *Contractor*.
- 6.5.4 No extension shall be made for delay unless notice in writing of the cause of delay is given to the *Contractor* not later than 7 *Working Days* after commencement of delay, providing however, that in the case of continuing cause of delay only one notice of claim shall be necessary.

- 6.5.5 If no schedule is made under SCC 2.1 – SUPPLEMENTAL INSTRUCTIONS, then no request for extension shall be made because of failure of the *Contractor* to furnish instructions until 14 *Working Days* after demand for such instructions has been made.

SCC 6.6 CLAIMS

- 6.6.1 If the *Subcontractor* intends to make a claim for an increase to the *Subcontract Price*, or if the *Contractor* intends to make a claim against the *Subcontractor* for a credit to the *Subcontract Price*, the party that intends to make the claim shall promptly give notice in writing to the other party of intent to claim.
- 6.6.2 Upon commencement of the event or series of events giving rise to the claim, the party intending to make a claim shall:
- .1 take all reasonable measures to mitigate any loss or damage which may be incurred as a result of such event or series of events, and
 - .2 keep such records as may be necessary to support the claim and afford reasonable access to all books, records, receipts and vouchers to the other party until one year from the date of *Substantial Performance of the Work*.
- 6.6.3 The party making the claim shall submit to the other party a detailed account of the amount claimed and the grounds upon which the claim is based. Such details shall be submitted within a reasonable time.
- 6.6.4 Where the event or series of events giving rise to the claim has a continuing effect, the detailed account submitted under paragraph 6.6.3 shall be considered to be an interim account and the party making the claim shall, at such intervals as the other party may reasonably require, submit further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 6.6.5 The responding party shall reply by notice in writing within 10 *Working Days* after receipt of the claim, or such other time period as may be agreed by the parties. If such reply is not acceptable to the party making the claim, the claim shall be settled in accordance with Part 8 of the Subcontract Conditions - DISPUTE RESOLUTION.

PART 7 DEFAULT NOTICE

SCC 7.1 CONTRACTOR'S RIGHT TO PERFORM THE SUBCONTRACT WORK, STOP THE SUBCONTRACT WORK, OR TERMINATE THE SUBCONTRACT

- 7.1.1 If the *Subcontractor* should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Subcontractor's* insolvency, or if a receiver is appointed which in any way interferes with the *Subcontractor's* ability to discharge its obligations under the *Subcontract*, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, by giving the *Subcontractor* or receiver or trustee in bankruptcy notice in writing, terminate the *Subcontractor's* right to continue with the *Subcontract Work* in whole or in part or terminate the *Subcontractor's* right to continue with the *Subcontract Work*.
- 7.1.2 If the *Subcontractor* neglects to prosecute the *Subcontract Work* properly or otherwise fails to comply with the requirements of the *Subcontract* to a substantial degree, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, notify the *Subcontractor* in writing that the *Subcontractor* is in default of the *Subcontractor's* contractual obligations and instruct the *Subcontractor* to correct the default in 3 *Working Days* immediately following the receipt of such notice.
- 7.1.3 If the default cannot be corrected in the 3 *Working Days* specified, the *Subcontractor* shall be in compliance with the *Contractor's* instructions if the *Subcontractor*:
- .1 commences the correction of the default within the specified time, and
 - .2 provides the *Contractor* within the 3 *Working Days* with an acceptable schedule for such correction, and
 - .3 corrects the default in accordance with such schedule.
- 7.1.4 If the *Subcontractor* fails to correct the default in the time specified or subsequently agreed upon, without prejudice to any other right or remedy the *Contractor* may have, the *Contractor* may:
- .1 correct such default and deduct the cost thereof from any payment then or thereafter due the *Subcontractor*, or
 - .2 terminate the *Subcontractor's* right to continue with the *Subcontract Work* in whole or in part or terminate the *Subcontract*.

- 7.1.5 If the *Contractor* terminates the *Subcontractor's* right to continue with the *Subcontract Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Contractor* shall be entitled to:
- .1 take possession of the *Subcontract Work* and *Products*; utilize the *Construction Equipment*, subject to the rights of third parties; finish the *Subcontract Work* by whatever method the *Contractor* may consider expedient, but without undue delay or expense; and
 - .2 withhold further payment to the *Subcontractor* until a *Consultant's* certificate of payment that incorporates the final payment of the *Subcontract Work* is issued; and
 - .3 charge the *Subcontractor* the amount by which the full cost of finishing the *Subcontract Work* and a reasonable allowance to cover the cost of corrections to work performed by the *Subcontractor* that may be required under SCC 12.3 – WARRANTY, exceeds the unpaid balance of the *Subcontract Price*; however, if such cost of finishing the *Subcontract Work* is less than the unpaid balance of the *Subcontract Price*, the *Contractor* shall pay the *Subcontractor* the difference; and
 - .4 on expiry of the warranty period, charge the *Subcontractor* the amount by which the cost of corrections to the *Subcontractor's* work under SCC 12.3 – WARRANTY exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the *Subcontractor* the difference.

SCC 7.2 SUBCONTRACTOR'S RIGHT TO SUSPEND THE SUBCONTRACT WORK OR TERMINATE THE SUBCONTRACT

- 7.2.1 If the *Contractor* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Contractor's* insolvency or, if a receiver is appointed which in any way interferes with the *Contractor's* ability to discharge its obligations under the *Subcontract*, the *Subcontractor* may, without prejudice to any other right or remedy the *Subcontractor* may have, by giving the *Contractor* or receiver or trustee in bankruptcy notice in writing, terminate the *Subcontract*.
- 7.2.2 If the *Work* should be suspended or otherwise delayed for a period of 20 *Working Days* or more under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Subcontractor* or of anyone directly or indirectly employed or engaged by the *Subcontractor*, the *Subcontractor* may, without prejudice to any other right or remedy the *Subcontractor* may have, by giving the *Contractor* notice in writing, terminate the *Subcontract*.
- 7.2.3 The *Subcontractor* may notify the *Contractor* in writing that the *Contractor* is in default of the *Contractor's* contractual obligations if the *Contractor* fails to pay the *Subcontractor* in accordance with the time for payment stated in Article 6 of the Subcontract Agreement – PAYMENT.
- 7.2.4 The *Subcontractor's* notice in writing to the *Contractor* provided under paragraph 7.2.3 shall advise that if the default is not corrected within 5 *Working Days* following the receipt of the notice in writing, the *Subcontractor* may, without prejudice to any other right or remedy the *Subcontractor* may have, stop the *Subcontract Work* or terminate the *Subcontract*.
- 7.2.5 If the *Subcontractor* terminates the *Subcontract* under the conditions set out above, the *Subcontractor* shall be entitled to be paid for all work performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Subcontractor* may have sustained as a result of the termination of the *Subcontract*.
- 7.2.6 If the *Prime Contract* is terminated for any reason, either the *Contractor* or the *Subcontractor* may terminate this *Subcontract* upon notice in writing to the other. Thereafter the respective rights of the parties shall be as if the *Subcontractor* had terminated under any of the above conditions.

PART 8 DISPUTE RESOLUTION

SCC 8.1 INTERPRETATION AND INSTRUCTION OF THE CONTRACTOR

- 8.1.1 The *Contractor*, in the first instance, shall decide on questions arising under the *Subcontract* and interpret the requirements therein. Such decisions shall be given in writing. The *Contractor* shall use the *Contractor's* powers under the *Subcontract* to enforce its faithful performance by both parties hereto.
- 8.1.2 Differences between the parties to the *Subcontract* as to the interpretation, application or administration of the *Subcontract* or any failure to agree where agreement between the parties is called for, herein collectively called disputes, which are not resolved in the first instance by decisions of the *Contractor* as provided in paragraph 8.1.1, shall be settled in accordance with the requirements of Part 8 of the Subcontract Conditions – DISPUTE RESOLUTION.

- 8.1.3 If a dispute is not resolved promptly, the *Contractor* shall give instructions for the proper performance of the *Subcontract Work* and to prevent delays pending settlement of the dispute. The *Subcontractor* shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim the party may have. If it is subsequently determined that such instructions were in error or at variance with the *Subcontract Documents*, the *Contractor* shall pay the *Subcontractor* costs incurred by the *Subcontractor* in carrying out such instructions which the *Subcontractor* was required to do beyond what the *Subcontract Documents* correctly understood and interpreted would have required, including costs resulting from interruption of the *Subcontract Work*.

SCC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

- 8.2.1 The *Subcontractor* shall be conclusively deemed to have accepted a decision of the *Contractor* under paragraph 8.1.1 of SCC 8.1 – INTERPRETATION AND INSTRUCTION OF THE CONTRACTOR and to have expressly waived and released the *Contractor* from any claims in respect of the particular matter dealt with in that decision unless, within 7 *Working Days* after receipt of that decision, the *Subcontractor* sends a notice in writing of dispute to the *Contractor*, which contains the particulars of the matter in dispute and the relevant provisions of the *Subcontract Documents*. The *Contractor* shall send a notice in writing of reply to the dispute within 10 *Working Days* after receipt of the notice of dispute setting out particulars of this response and any relevant provisions of the *Subcontract Documents*.
- 8.2.2 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information, and documents to facilitate these negotiations.
- 8.2.3 After a period of 10 *Working Days* following receipt of a *Contractor's* notice in writing of reply under paragraph 8.2.1, the parties shall request the Project Mediator of the *Work* to assist the parties to reach agreement on any unresolved dispute. The mediated negotiations shall be conducted in accordance with the latest edition of the Rules for Mediation of Construction Disputes as provided in CCDC 40 with the following amendment:
- .1 the word "Contract" appearing in the rules shall read "Subcontract";
 - .2 delete clauses 5.1 to 5.4 and replace them with the following:

"5.1 The Project Mediator shall be the Project Mediator of the *Work* appointed by the parties to the *Prime Contract*"; and
 - .3 in clause 11.1, delete "GC 8.2.5" and substitute "SCC 8.2.4".
- 8.2.4 If the dispute has not been resolved within 10 *Working Days* after the Project Mediator was requested under paragraph 8.2.3 or within such further period agreed by the parties, the Project Mediator shall terminate the mediated negotiations by giving notice in writing to both parties.
- 8.2.5 By giving a notice in writing to the other party, not later than 10 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.2.4, either party may refer the dispute to be finally resolved by arbitration under the latest edition of the Rules of Arbitration of Construction Disputes as provided in CCDC 40 with the following amendment:
- .1 the word "Contract" appearing in the rules shall read "Subcontract"; and
 - .2 delete clause 7.1 (b) and replace it with the following:

"7.1 (b) the date the *Work* has been completed or the *Subcontract* has been terminated."
- The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- 8.2.6 On expiration of the 10 *Working Days*, the arbitration agreement under paragraph 8.2.5 is not binding on the parties and, if a notice is not given under paragraph 8.2.5 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.
- 8.2.7 Should the dispute be as between the *Contractor* and *Subcontractor* only, arbitration proceedings shall not take place, unless otherwise agreed by the parties, until after the performance or alleged performance of the *Subcontract Work* except:
- .1 when the dispute concerns a payment alleged by the *Subcontractor* to be due; or
 - .2 when either party can show that the matter in dispute requires immediate consideration while evidence which would otherwise be lost is available.
- 8.2.8 In all other instances, the resolution of the dispute by arbitration shall be held in abeyance until the *Work* has been completed or the *Subcontract* has been terminated, whichever is earlier.
- 8.2.9 Except to the extent that any dispute between the *Contractor* and *Subcontractor* is a part of or relates to a dispute between the *Owner* and the *Contractor*, all disputes between the *Contractor* and *Subcontractor* shall be consolidated into a single arbitration.

- 8.2.10 Should any dispute or portion of any dispute between the *Contractor* and *Subcontractor* relate to a dispute between the *Owner* and the *Contractor*, such dispute or portion thereof as between the *Contractor* and *Subcontractor* shall be disposed of at the same time in the same proceedings and by the same Arbitration Board as is appointed to resolve the dispute between the *Owner* and the *Contractor*.
- 8.2.11 Should no Project Mediator have been appointed by the parties to the *Prime Contract*, and if no mediator is agreed to between the parties within 5 days of a mediator being required under 8.2.3, the provisions of paragraphs 8.2.3 and 8.2.4 shall be inapplicable and the notice required under 8.2.5 shall be given within 10 *Working Days* after the receipt of the *Contractor's* notice in writing of reply under paragraph 8.2.1.

SCC 8.3 RETENTION OF RIGHTS

- 8.3.1 It is agreed that no act by either party shall be construed as a renunciation or waiver of any rights or recourses, provided the party has given the notices required under Part 8 of the Subcontract Conditions – DISPUTE RESOLUTION and has carried out the instructions as provided in paragraph 8.1.3.
- 8.3.2 Nothing in Part 8 of the Subcontract Conditions – DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the *Place of the Work* and the assertion of such right or obligation by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.2.5 to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

PART 9 PROTECTION OF PERSONS AND PROPERTY

SCC 9.1 PROTECTION OF WORK AND PROPERTY

- 9.1.1 The *Subcontractor* shall be responsible for the protection of the *Subcontract Work* and shall take all reasonable precautions to protect the *Work* and property of others during the performance of the *Subcontract Work*.
- 9.1.2 Before commencing any work, the *Subcontractor* shall determine the location of all underground utilities and structures indicated in the *Subcontract Documents* or that are reasonably apparent from an inspection of the *Place of the Work*.
- 9.1.3 The *Contractor* shall be responsible for the overall protection of the *Work*. If the *Subcontract Work* or others' work is damaged, the *Contractor* shall assess the responsibility for, extent of and value of such damage and the affected parties shall accept such assessment or process it as a dispute in accordance with Part 8 of the Subcontract Conditions – DISPUTE RESOLUTION.

SCC 9.2 DAMAGES AND MUTUAL RESPONSIBILITY

- 9.2.1 If either party to the *Subcontract* should suffer damage in any manner because of any wrongful act or neglect of the other party or of anyone for whom the other party is responsible in law, then that party shall be reimbursed by the other party for such damage. The reimbursing 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.
- 9.2.2 Claims for reimbursement under paragraph 9.2.1 shall be made in writing to the party liable within reasonable time after the first observance of such damage or if undisputed, shall be confirmed by *Change Order*. Disputed claims shall be resolved as set out in Part 8 of the Subcontract Conditions – DISPUTE RESOLUTION.

SCC 9.3 TOXIC AND HAZARDOUS SUBSTANCES

- 9.3.1 If the *Subcontractor*
- .1 encounters toxic or hazardous substances at the *Place of the Work*, or
 - .2 has reasonable grounds to believe that toxic or hazardous substances are present at the *Place of the Work*,
- which were not disclosed prior to the commencement of the *Subcontract Work* or which were disclosed but have not been dealt with by the *Contractor* or *Owner* in accordance with legal requirements, the *Subcontractor* shall
- .3 take all reasonable steps, including stopping the *Subcontract Work*, to ensure that no person's exposure to any toxic or hazardous substance exceeds the time weighted levels prescribed by labour regulations at the *Place of the Work*, and
 - .4 immediately report the circumstances to the *Contractor* in writing.

- 9.3.2 If the *Subcontractor* is delayed in performing the *Subcontract Work* or incurs additional costs as a result of taking steps required under paragraph 9.3.1.3, the *Subcontract Time* shall be extended for such reasonable time as the *Contractor* and *Subcontractor* shall agree that the *Subcontract Work* was delayed and the *Subcontractor* shall be reimbursed for reasonable costs incurred as a result of the delay and as a result of taking those steps.
- 9.3.3 Notwithstanding paragraphs 8.1.1 and 8.1.2 of SCC 8.1 – INTERPRETATION AND INSTRUCTION OF THE CONTRACTOR, the parties may select and rely upon the advice of an independent expert in a dispute under paragraph 9.3.2 and, in that case, the expert shall be deemed to have been jointly retained by the *Contractor* and the *Subcontractor* and shall be jointly paid by them.
- 9.3.4 The *Contractor* shall indemnify and hold harmless the *Subcontractor*, the *Subcontractor's* agents and employees, from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of or resulting from the presence of, or exposure to, toxic or hazardous substances in excess of the time weighted levels prescribed by labour regulations at the *Place of the Work* which were at the *Place of the Work* prior to the *Subcontractor* commencing the *Subcontract Work*. This obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity set out in SCC 12.1 – INDEMNIFICATION or which otherwise exist respecting a person or party described in this paragraph.
- 9.3.5 SCC 9.3 – TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS shall govern over the provisions of SCC 9.2 – DAMAGES AND MUTUAL RESPONSIBILITY.

SCC 9.4 CONSTRUCTION SAFETY

- 9.4.1 The *Subcontractor* shall respect and comply with:
- .1 the rules, regulations and practices required by the applicable construction health and safety legislation, and
 - .2 the health and safety policies and programs of the *Contractor*.

PART 10 GOVERNING REGULATIONS

SCC 10.1 TAXES AND DUTIES

- 10.1.1 The *Subcontract Price* shall include all taxes and customs duties in effect at the time of the bid closing except for *Value Added Taxes* payable by the *Contractor* to the *Subcontractor* as stipulated in Article 5 of the Subcontract Agreement – SUBCONTRACT PRICE.
- 10.1.2 Any increase or decrease in costs to the *Subcontractor* due to changes in such included taxes and duties after the time of the bid closing shall increase or decrease the *Subcontract Price* accordingly.

SCC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 10.2.1 The laws of the *Place of the Work* shall govern the *Subcontract Work*.
- 10.2.2 Except for the permits and fees, including those required under paragraph 10.2.3, which the *Subcontract Documents* specify as the responsibility of the *Subcontractor*, the *Contractor* shall obtain and pay for all necessary approvals, permits, charges, permanent easements, and rights of servitude.
- 10.2.3 The *Subcontractor* shall obtain and pay for permits, licenses, inspections and certificates necessary for performance of the *Subcontract Work* in accordance with the *Subcontract Documents*.
- 10.2.4 The *Subcontractor* shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the *Subcontract Work* and which relate to the *Subcontract Work*, to the preservation of the public health, and to construction safety.
- 10.2.5 The *Subcontractor* shall not be responsible for verifying that the *Subcontract Documents* are in compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the *Subcontract Work*. If the *Subcontract Documents* are at variance therewith, or if, subsequent to the date of bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the *Subcontract Documents*, the *Subcontractor* shall notify the *Contractor* in writing requesting direction immediately upon such variance or change becoming known. The *Contractor* will make the changes required to the *Subcontract Documents* as provided in SCC 6.1 – CHANGES, SCC 6.2 – CHANGE ORDER, and SCC 6.3 – CHANGE DIRECTIVE.
- 10.2.6 If the *Subcontractor* fails to notify the *Contractor* in writing; and fails to obtain direction as required in paragraph 10.2.5; and performs work knowing it to be contrary to any laws, ordinances, rules, regulations, or codes; the *Subcontractor* shall be responsible for and shall correct the violations thereof; and shall bear the costs, expenses, and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations, or codes.

- 10.2.7 If, subsequent to the time of bid closing, changes are made to applicable laws, ordinances, rules, regulations, or codes of authorities having jurisdiction which affect the cost of the *Subcontract Work*, either party may submit a claim in accordance with the requirements of SCC 6.6 – CLAIMS.

SCC 10.3 PATENT FEES

- 10.3.1 The *Subcontractor* shall pay the royalties and patent licence fees required for the performance of the *Subcontract*. The *Subcontractor* shall hold the *Contractor* harmless from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Subcontractor's* performance of the *Subcontract* which are attributable to an infringement or an alleged infringement of a patent of invention by the *Subcontractor* or anyone for whose acts the *Subcontractor* may be liable.
- 10.3.2 The *Contractor* shall hold the *Subcontractor* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Subcontractor's* performance of the *Subcontract* which are attributable to an infringement or an alleged infringement of a patent of invention in executing anything for the purpose of the *Subcontract*, the model, plan or design of which was supplied to the *Subcontractor* as part of the *Subcontract Documents*.

SCC 10.4 WORKERS' COMPENSATION

- 10.4.1 At any time during the term of the *Subcontract*, when requested by the *Contractor*, the *Subcontractor* shall provide such evidence of compliance by the *Subcontractor* and *Sub-Subcontractors* with workers' compensation legislation, including payments due thereunder.

PART 11 INSURANCE AND CONTRACT SECURITY

SCC 11.1 LIABILITY INSURANCE (The Jacques Cartier and Champlain Bridges Incorporated (JCCBI) is supplying a Builder's Risks Insurance "All risks")

- 11.1.1 ~~Without restricting the generality of SCC 12.1 – INDEMNIFICATION, the *Subcontractor* shall provide, maintain and pay for general liability insurance, automobile liability insurance, aircraft and watercraft liability insurance in the amounts of not less than \$2,000,000 or as acceptable to the *Contractor* but not more than as described in the *Contract Documents* unless specified otherwise. The *Contractor* shall be identified as an additional insured under general liability insurance, with respect to liability arising out of the operations of the *Subcontractor* with regard to the *Subcontract Work*. Prior to commencement of the *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Subcontractor* shall promptly provide the *Contractor* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements.~~
- 11.1.2 ~~Unless specified otherwise, the duration of each insurance policy shall be from the date of commencement of the *Subcontract Work* until the date of the final certificate for payment of the *Work*. The policy shall be endorsed with an undertaking by the Insurer to provide the *Contractor* with not less than 30 days written notice in advance of cancellation (except 15 days in the event of cancellation for non-payment of premium), and of change or amendment restricting coverage.~~

SCC 11.2 PROPERTY INSURANCE

- 11.2.1 The *Contractor* or the *Owner* will arrange for and maintain property insurance in the joint names of the *Contractor*, the *Owner*, and the *Consultant*, insuring not less than the price of the *Prime Contract* and the full value, as stated in the Supplementary Conditions, of *Products* that are specified to be provided by the *Owner* for incorporation into the *Work*. Given the fact that the *Subcontractor* is not a named insured, it is the responsibility of the *Subcontractor* to be satisfied that the property policy provides adequate protection. If the coverage provided by the *Contractor* or the *Owner* is inadequate for the *Subcontractor's* needs, the *Subcontractor* shall provide, maintain, and pay for such additional insurance to protect the *Subcontractor* from losses.
- 11.2.2 If the *Subcontractor* is afforded protection under the property policy arranged by the *Contractor* or the *Owner*, the *Subcontractor* shall be responsible for any deductible amounts under the policies as may be applicable to their operations.

SCC 11.3 CONTRACT SECURITY

- 11.3.1 The *Subcontractor* shall provide and maintain in good standing until the fulfilment of the *Subcontract* the contract security required at the time of bidding or mutually agreed upon prior to signing this *Subcontract*.

- 11.3.2 The *Contractor* shall, at the request of the *Subcontractor*, furnish evidence that contract security has been provided to fulfill the *Contractor's* obligations under the *Contract*.

PART 12 INDEMNIFICATION, WAIVER AND WARRANTY

SCC 12.1 INDEMNIFICATION

- 12.1.1 The *Subcontractor* shall indemnify and hold harmless the *Contractor*, the *Owner*, and the *Consultant*, their agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings (hereafter called "claims"), by third parties that arise out of, or are attributable to, the *Subcontractor's* performance of the *Subcontract* provided such claims are:
- .1 attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, and
 - .2 caused by negligent acts or omissions of the *Subcontractor* or anyone for whose acts the *Subcontractor* may be liable, and
 - .3 made in writing within a period of 6 years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work*, or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*.
- The *Contractor* expressly waives the right to indemnity for claims other than those stated above.
- 12.1.2 The obligation of the *Subcontractor* to indemnify hereunder shall be limited to \$2,000,000 per occurrence from the commencement of the *Subcontract Work* until *Substantial Performance of the Work* and thereafter to an aggregate limit of \$2,000,000.
- 12.1.3 The *Contractor* shall indemnify and hold harmless the *Subcontractor*, the *Subcontractor's* agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Subcontractor's* performance of the *Subcontract* which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the *Place of the Work*.
- 12.1.4 SCC 12.1 – INDEMNIFICATION shall govern over SCC 9.2 – DAMAGES AND MUTUAL RESPONSIBILITY.

SCC 12.2 WAIVER OF CLAIMS

- 12.2.1 As of the date of the final certificate for payment of the *Work*, the *Contractor* expressly waives and releases the *Subcontractor* from all claims against the *Subcontractor* including without limitation those that might arise from the negligence or breach of this *Subcontract* by the *Subcontractor* except one or more of the following:
- .1 those made in writing prior to the date of the final certificate for payment of the *Work* and still unsettled;
 - .2 those arising from the provisions of SCC 12.1 – INDEMNIFICATION or SCC 12.3 – WARRANTY;
 - .3 those arising from the provisions of paragraph 9.3.1 of SCC 9.3 – TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS and arising from the *Subcontractor* bringing or introducing any toxic or hazardous substances and materials to the *Place of the Work* after the *Subcontractor* commences the *Subcontract Work*.
 - .4 In the Common Law jurisdictions, those made in writing within a period of 6 years from the date of *Substantial Performance of the Work*, as set out in the certificate of *Substantial Performance of the Work*, or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work* and arising from any liability of the *Subcontractor* for damages resulting from the *Subcontractor's* performance of the *Subcontract* with respect to substantial defects or deficiencies in the *Subcontract Work* for which the *Subcontractor* is proven responsible.
As used herein "substantial defects or deficiencies" means those defects or deficiencies in the *Subcontract Work* which affect the *Subcontract Work* to such an extent or in such a manner that a significant part or the whole of the *Subcontract Work* is unfit for the purpose intended by the *Subcontract Documents*.
 - .5 In the Province of Quebec, those arising under Articles 2118 and 2120 of the Civil Code of Quebec.
- 12.2.2 As of the date of the final certificate for payment of the *Work*, the *Subcontractor* expressly waives and releases the *Contractor* from all claims against the *Contractor* including without limitation those that might arise from the negligence or breach of this *Subcontract* by the *Contractor* except:
- .1 those made in writing prior to the *Subcontractor's* application for final payment and still unsettled; and
 - .2 those arising from the provisions of SCC 9.3 – TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS or SCC 10.3 – PATENT FEES.
- 12.2.3 SCC 12.2 – WAIVER OF CLAIMS shall govern over the provisions of SCC 9.2 – DAMAGES AND MUTUAL RESPONSIBILITY.

SCC 12.3 WARRANTY

- 12.3.1 Except for extended warranties as described in paragraph 12.3.6, the warranty period under this *Subcontract* is ~~one~~^{three} year from the date of *Substantial Performance of the Work*. (Which Dates are to be determined ramp by ramp.)
- 12.3.2 The *Subcontractor* shall be responsible for the proper performance of the *Subcontract Work* only to the extent that the design and *Subcontract Documents* permit such performance.
- 12.3.3 The *Contractor* shall promptly give the *Subcontractor* notice in writing of observed defects and deficiencies which occur during the ~~one~~^{three} year warranty period.
- 12.3.4 Subject to paragraph 12.3.2, the *Subcontractor* shall correct promptly, at the *Subcontractor's* expense, defects or deficiencies in the *Subcontract Work* which appear prior to and during the one year warranty period.
- 12.3.5 The *Subcontractor* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.4.
- 12.3.6 Any extended warranties required beyond the ~~one~~^{three} year warranty period as described in paragraph 12.3.1, shall be as specified in the *Subcontract Documents*. Extended warranties shall be issued by the warrantor to the benefit of the *Owner*. The *Subcontractor's* responsibility with respect to extended warranties shall be limited to obtaining any such extended warranties from the warrantor. The obligations under such extended warranties are solely the responsibilities of the warrantor.

SCHOKBETON

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Télécopie

ADDENDA
"A"

A: MOHAWK BRIDGE COUNCIL

Date: 28 mai 2007

Att:

Fax n° :

De : ROBERT BIBEAU

Page(s): 1

c.c.:

☒ **Urgent** ☐ **Pour Approbation** ☐ **Pour Information** ☐ **Réponse** ☐ **Confidentiel**

☐ **L'original suivra par le courrier** **Provenance :** ☐ **fax Bureau** ☐ **fax Usine**

Objet: MERCIER BRIDGE

Gentlemen,

Following my last discussion with Peter on Friday afternoon may 25th and 28th, my meeting with Glen Carlin on Thursday may 24th and discussion with Yves on Monday may 28th, Schokbeton is prepared to accept an additional reduction in price from our last 13.5M\$ proposal.

In order to do so Schokbeton proposes to:

- 1- Remove all galvanisation in the sidewalk panels along ramp 3 and replace with black rebar.
- 2- Remove all galvanisation in all stems for every panel on all ramps and replace with black rebar (Same as what we are currently doing for the MTQ on Laviolette Bridge).
- 3- Remove the shunter on site.
- 4- Remove the bank of trailer on site and supply on a just in time basis.
- 5- Undertake to redesign in order to reduce the reinforcing and or replace the pre-stressing strands with conventional rebar in the panels.
- 6- Produce the panels without any delays and in order to meet our production schedule.
- 7- Removal of the 35 day test outline in the specifications for testing (This was for cast in place).
- 8- Remove all testing and QC required by PJCCI they shall be performed by MBC representatives. Schokbeton will perform in house QC only.
- 9- That SAPL will supply his management team in order to assure a prompt execution of the work as we have already discussed with MBC.
- 10- Finalize acceptable terms of payments.
- 11- Bonding if needed will be treated separately.

Hoping that this proposal will contribute in proving, to MBC as well as PJCCI, one more time that Schokbeton / SAPL are dedicated since day one, not only to be your best alternative but to make this undertaking a success.

Robert Bibeau

SCHOKBETON QUEBEC INC.

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SCHOCKETON QUÉBEC INC.

430, boulevard Arthur-Sauvé, St-Eustache
Tél : (450) 473-6031 / Fax : (450) 473-2265

**PROGRESSIVE BILLINGS FROM
SCHOCKETON QUÉBEC INC.**

ADDENDA "B"

Date: May, 28th 2007

Ramp	Pay Item	Task	\$ Total	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Total
						Nbre \$ Total	Nbre \$ Total	Nbre \$ Total	Nbre \$ Total	Nbre \$ Total	Nbre \$ Total	Nbre \$ Total	Nbre \$ Total
N°2	2.1.17	Drawings: Molds: Fabrication: Transport:	451 680 \$ 1 161 290 \$ 10 505 230 \$ 631 800 \$	150 561 \$	387 097 \$	19 416 670 \$	20 438 600 \$	25 548 250 \$	20 438 600 \$	44 964 920 \$	60 1 315 800 \$	188 228 420 \$	188 228 420 \$
N°3	3.2.17	Drawings: Molds: Fabrication: - Bikeway: Transport:	451 680 \$ 1 161 290 \$ 10 505 230 \$ 631 800 \$	150 561 \$ 193 548 \$	193 549 \$	20 438 600 \$	20 438 600 \$	25 548 250 \$	20 438 600 \$	44 964 920 \$	60 1 315 800 \$	188 228 420 \$	188 228 420 \$
N°4	3.4.17	Drawings: Molds: Fabrication: Transport:	451 680 \$ 1 161 290 \$ 10 505 230 \$ 631 800 \$	0 \$	344 109 \$	18 317 569 \$	20 137 800 \$	20 1 200 050 \$	70 1 439 300 \$	15 342 600 \$	121 147 015 \$	72 87 480 \$	386 4 015 924 \$
				0 \$	0 \$	49 1 064 077 \$	60 1 354 800 \$	30 677 400 \$	0	0 \$	0 \$	0 \$	0 \$
Monthly production of panels:						86	100	125	90	59	60	0	520
Cumulative expenses for panels:				150 561 \$	731 206 \$	2 378 316 \$	1 931 200 \$	2 425 700 \$	1 877 908 \$	1 307 620 \$	1 631 700 \$	315 900 \$	12 750 003 \$
Cumulative expenses for panels:				150 561 \$	881 767 \$	3 260 083 \$	5 191 283 \$	7 616 983 \$	9 494 883 \$	10 802 403 \$	12 434 103 \$	12 750 003 \$	

Note: - Unit price for fabrication:
Ramp n°2: 21 930 \$ /piece (roadway)
Ramp n°3: 22 840 \$ /piece (roadway)
6 890 \$ /piece (bikeway)
Ramp n°4: 22 580 \$ /piece (roadway)
- Unit price for transport: Any piece: 1 215 \$ /piece

3

(Addenda C) Additional Notes

Terms of Payment

Note 1:

In the event of any modification and for which as a result it would increase the price of our supplier agreement, an allocation for to cover Schokbeton's total yearly average manufacturing, erection, shipping, engineering, general, plant and offices overheads costs will be added, plus 15% for administration and profit.

In the event of any modification and for which as a result it will decrease the price of our supplier agreement, a credit amount will be the net cost, without any deduction for the total manufacturing, erection, shipping, engineering, general and offices overheads, nor for the administration and profit.

Note 2:

The release of the remaining 5% used as retainage will become due and payable 30 days after completion of the work covered by this subcontract.

Note 3:

(Work performed means, engineering, moulds, all elements fully cured prefabricated deck panels stored in a designated area on Schokbeton's premises reserved exclusively for the stockpiling of panels to be supplied under this Contract, until delivery for installation on the work site. and transport)

A lease, in the amount of \$1, will be granted by Schokbeton to JCCBI, for the reserved deck panels stockpiling area, for a period until all prefabricated panels have been delivered for installation on the work site but not exceeding the scheduled date for completion of erection as shown on the original contractor's master schedule. If Schokbeton requires the space for its own use, in the event of a delay exceeding the above mentioned period, MBC will have to pay Schokbeton all costs and without retainage to relocate the stockpiling at the job site.

Note 4:

100% of all invoices for up to 95% of the contract value or any revised contract value thereon.




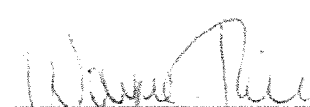


Kahnawake, January 21, 2009


Resolution


We, the undersigned hereby give Mr. Wayne Rice the authority to sign all Contracts with suppliers and subcontractors, including but not limited to any required releases, change orders and statutory declarations, on behalf of the Mohawk Bridge Consortium.


Peter Rice, Partner
Mohawk Bridge Consortium


Wayne Rice, Partner
Mohawk Bridge Consortium


Sterling Deer, Partner
Mohawk Bridge Consortium


Brian Goodleaf, Partner
Mohawk Bridge Consortium


Peter Morris, Partner
Mohawk Bridge Consortium

Subject: Infos additionnelles
Date: Thursday, September 29, 2011 at 14:22:16 GMT-04:00
From: Violette Trépanier
To: Olivier Parent
Attachments: Portion MTQ Chapter_5_-_Final_Financial_Proposal_R01 15.pdf, ATT51107916.htm

Voici des infos intéressantes qui peuvent peut-être servir

Merci

Bonjour

Je te transmets un extrait de la proposition financière montrant la portion payable par le MTQ dans le dossier du pont Mercier Phase I. De là provient probablement le montant de 9 M\$ Portion du MTQ dont il a été question par l'opposition. Ce montant a probablement fait l'objet de changements ou modifications pour aboutir à 20\$ mais si tel est le cas je ne peux y répondre j'en ai aucune idée. Quoi qu'il en soit à la lecture de ce document on peut clairement établir que ce montant n'est en aucun cas lié ou en rapport avec les travaux fait par Schokbéton. Ces travaux ne faisaient aucunement partie de notre mandat et avec lesquels nous n'avons rien eu à faire. Ce n'est donc ni 9M\$ encore moins 20 m\$ qui a été payé à Schokbeton. Je pensais que cette information pourrait vous être utile pour une meilleur compréhension.

Salutations,

Robert.

**CONTRACT N° 60941 - HONORÉ MERCIER BRIDGE
DESIGN-BUILD PROJECT FOR THE DECK REPLACEMENT
OF RAMPS ALONG SECTIONS 2, 3 AND 4 (2006-2009)**

FORM 7F

ADDENDUM N° N1 / 2007-08-28
ADDENDUM N° 3 / 2006-11-03

**FINAL FINANCIAL PROPOSAL
PRICE TABLE
FOR WORKS PAYABLE BY THE MTQ**

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Item	Description	Unit of Measurement	Unit Price	Estimated total quantity	Total Price
11	Temporary Public Roads, Temporary Traffic Signs and Traffic Control for Works Payable by the MTQ	lump sum	---	---	420 823,03 \$
12	Steel Repairs and Strengthening North of Pier 14	lump sum	---	---	5 525 228,37 \$
13	Asphalt Removal, Asphalt Paving and Pavement Markings				
13.1	Section 2, from Pier 32 to East Abutment	lump sum	---	---	266 926,44 \$
13.2	Section 3, from Pier W4 to Pier W5	lump sum	---	---	14 265,12 \$
13.3	Section 3, from Pier W1 to Pier W4 and from Pier W5 to West Abutment	lump sum	---	---	160 607,82 \$
13.4	Section 4, from Pier E1 to West Abutment	lump sum	---	---	194 924,38 \$
		Sub-total (Items 13.1 to 13.4) :			636 723,76 \$
14	Permanent Traffic Signs	lump sum	---	---	0,00 \$
15	Electrical, Lighting, Communications and Traffic Control Systems	Lump sum	---	---	2 449 382,99 \$
16	Independent Engineer Services				
16.1	Services during Design Period	lump sum	---	---	40 578,45 \$
16.2	Services during Construction and Warranty Period	lump sum	---	---	59 254,55 \$
16.3	Traffic Control and Special Access Devices during Warranty Period	lump sum	---	---	7 008,85 \$
		Sub-total (Items 16.1 to 16.3) :			106 841,85 \$
TOTAL AMOUNT TENDERED FOR WORKS PAYABLE BY THE MTQ					9 139 000,00 \$

NOTE : All prices in this Price Table for Works Payable by the MTQ shall be in Canadian dollars and shall exclude GST and QST.

Initials