



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 71-80

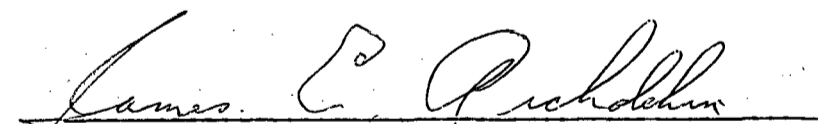
To authorize the execution of an Agreement
with JOHN WHEELWRIGHT - Contract No. 79-58
for enclosure of swimming pool - Balmoral

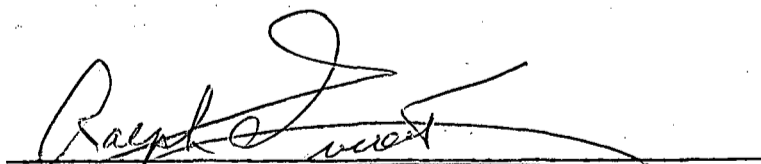
WHEREAS it is deemed expedient to enter into and execute Contract No. 79-58
with John Wheelwright;

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

- (1) THAT the City of Brampton enter into and execute Contract No. 79-58
with John Wheelwright, attached hereto as Schedule "A".
- (2) THAT the Mayor and the Clerk are hereby authorized to affix their
signatures to the said Contract No. 79-58 with John Wheelwright,
attached hereto as Schedule "A".

READ a FIRST, SECOND and THIRD TIME and PASSED in Open Council this 10th
day of March, 1980.


James E. ARCHDEKIN, Mayor


Ralph A. EVERETT, City Clerk

CERTIFICATE OF LIABILITY INSURANCE

THE CANADIAN INDEMNITY COMPANY
(INSURANCE COMPANY)

TO: THE CORPORATION OF THE CITY OF BRAMPTON

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

THIS IS TO CERTIFY THAT John Wheelwright Limited
(CONTRACTOR)

WHOSE Address is 110 Fenmar Drive, Weston, Ontario M9L 1M5.

has comprehensive liability insurance in this Company under Policy No. 3L 5849 covering legal liability for damages because of:-

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

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

THE POLICY EXPIRES ON April 1st, 1980

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

With respect to Contract No. 79-58 for the Construction of Enclosure for Swimming Pool, Balmoral Pool, Brampton, Ontario

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

DATE: February 19th, 1980

COUNTERSIGNED: _____

NAME OF AGENCY OR COMPANY JARVIS INSURANCE AGENCY LTD.

PERFORMANCE AND MAINTENANCE BOND

Bond No. 83-0120-151-80

Contract 79-58

Account _____

KNOW ALL MEN BY THESE PRESENTS, that we John Wheelwright Limited
(The Contractor)

hereinafter called "The Principal", and

UNITED STATES FIDELITY AND GUARANTY COMPANY

(The Bonding Company)

hereinafter called "The Surety" are jointly and severally held and firmly bound unto the Corporation of the City of Brampton hereinafter called "The Obligee", its successors and assigns, in the sum of \$332,147.00 of lawful money of Canada to be paid unto the Obligee, for which payment well and truly to be made we the Principal and Surety jointly and severally bind ourselves, our and each of our respective heirs, executors, administrators, successors, and assigns by these presents.

SIGNED AND SEALED WITH OUR RESPECTIVE SEALS and dated this

18th of February, 19 80

Whereas by an Agreement in writing dated the 1st day of February, 19 80, the Principal has entered into a contract with the Obligee, hereinafter called the "Contract", for the construction, ~~alteration, repair and maintenance~~ of Enclosure for Swimming Pool - Balmoral Pool, Brampton, Ontario.
(Description of Works)

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

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

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

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

to be constructed, altered, repaired or maintained under the contract or by any dealing, transaction, forbearance or forgiveness which may take place between the Principal and the Oblige. Provided further and it is hereby agreed and declared that the Surety shall not be liable for a greater sum than that specified in this bond.

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

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

Catherine M. Guppick
Witness signs here

John Wheelwright
John Wheelwright Limited (Seal)
Principal signs here and seal where applicable

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

Daniel R. Fletcher
Witness signs here
DANIEL R. FLETCHER

UNITED STATES FIDELITY AND GUARANTY COMPANY

Stephen T. Green
STEPHEN T. GREEN (Seal)
Surety Company Officer signs here with seal

(This Agreement made in Quadruplicate this 1st day of February 1980.

BETWEEN:

The Corporation of the City of
Brampton
(Hereinafter called "The Corporation")
of the First Part

- AND -

JOHN WHEELWRIGHT LIMITED
(Hereinafter called "The Contractor")
of the Second Part

WITNESSETH

That the Corporation and the Contractor in consideration of the fulfillment of their respective promises and obligations herein set forth covenant and agree with each other as follows :-

ARTICLE 1.

(A) A general description of the work is :

Enclosure for Swimming Pool, Balmoral Pool, Brampton, Ontario

(B) The Contractor shall, except as otherwise specifically provided, at his own expense provide all and every kind of labour, machinery, plant, structures, roads, materials, appliances, articles and things necessary for the due execution and completion of all the work set out in this contract and shall forthwith according to the instructions of the Commissioner of Parks and Recreation, commence the works and diligently execute the respective portions thereof, and deliver the works complete in every particular way to the Corporation within the time specified in the General Conditions, Information to Bidders and in the Tender.

ARTICLE 2.

In the event that the tender provides for and contains a contingency allowance, it is understood and agreed that such contingency allowance is merely for the convenience of accounting by the Corporation, and the Contractor is not entitled to payment thereof except for extra work or additional work carried out by him in accordance with the Contract and only to the extent of such extra or additional work.

ARTICLE 3.

In case of any inconsistency or conflict between the provisions of this Agreement and the Plans or Specifications or General Conditions or Tender or any other documents or writing, the Provisions of such documents shall take precedence and govern in the following order namely:-

- (1) This Agreement
- (2) Special and/or Supplemental Provisions
- (3) Information for Tenderers
- (4) General Conditions
- (5) Standard Specifications
- (6) Plans
- (7) Tender

The foregoing documents enumerated 1 to 7 inclusive are all the Contract documents and constitute the full agreement between the parties.

ARTICLE 4.

The Corporation covenants with the Contractor that the Contractor having in all respects complied with the Provisions of this Contract, will be paid for and in respect of the works the sum of

Three hundred & Thirty Two Thousand, One Hundred & Forty Seven Dollars

DOLLARS (\$ 332,147.00)

in accordance with the unit prices as set out in the Form of Tender, as may be applicable, forming part of this Contract, and in accordance with the Provisions as set out in the Conditions and Specifications forming part of this Contract.

Subject to Article 2 hereof and subject to such additions and deductions as may properly be made under the terms hereof, subject to the Provision that the Corporation may make payments on account monthly or otherwise as may be provided in the General Conditions attached hereto.

ARTICLE 5.

Where any notice, direction or other communication is required to be or may be given or made by one of the parties hereto to the other or to the Commissioner of Parks and Recreation, it shall be deemed sufficiently given or made if mailed by prepaid first class mail or delivered in writing to such party or to the Commissioner of Parks and Recreation at the following addresses :-

THE CONTRACTOR:

John Wheelwright Limited
Fenmar Drive
WESTON, Ontario
M9L 1M5

THE COMMISSIONER:

D. M. Gordon,
Commissioner, Parks & Recreation,
City of Brampton,
150 Central Park Drive,
Bramalea, Ontario

ARTICLE 5. (Cont'd.)

However, in the matter of "Call Back Work", as defined in the information to Tenderers, verbal communication with the Contractor shall be deemed as sufficient notice.

ARTICLE 6.

A copy of each of the Contract documents is hereto annexed and together with the Specifications and/or the Ministry of Transportation and Communications Specifications referred to in the Contract documents and the plans listed in the Specifications, are made part of this contract as fully to all intents and purposes as though recited in full herein.

ARTICLE 7.

No implied contract of any kind whatsoever by or on behalf of the Corporation shall arise or be implied from anything in this Contract contained, nor from any position or situation of the parties at anytime, it being clearly understood that the express covenants and agreements herein contained made by the Corporation shall be the only covenants and agreements upon which any rights against the Corporation may be founded.

ARTICLE 8.

Time shall be deemed the essence of this contract.

ARTICLE 9.

The Contractor declares that in tendering for the works and in entering into this contract he has either investigated for himself the character of the work and all local conditions above and below ground surface where applicable that might effect his tender or his acceptance of the work, or that not having so investigated he is willing to assume and does hereby assume all risk of conditions arising or developing in the course of the work which might or could make the work, or any items thereof, more expensive in character, or more onerous to fulfill, than was contemplated or known when the Tender was made or the Contract signed. The Contractor also declares that he did not and does not rely upon information furnished by any methods whatsoever, by the Corporation or its employees, being aware that any information from such sources was and is approximate and speculative only, and was not in any manner warranted or guaranteed by the Corporation.

ARTICLE 10.

This Contract shall apply to and be binding on the Parties hereto and their heirs, executors, administrators, successors and assigns and each of them.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written or caused their corporate seals to be affixed, attested by the signature of their proper officers as the case may be.

Catherine M. Griffiths
WITNESS AS TO SIGNATURE OF CONTRACTOR

ADDRESS 90 110 Seneca Drive
Weston, Ontario

OCCUPATION Bankkeeper

JOHN WHEELWRIGHT LIMITED

[Signature]

CORPORATION OF THE CITY OF
BRAMPTON

James E. Archibald
MAYOR

[Signature]
CLERK

BID SHEET

THIS FORM SHALL REMAIN ATTACHED TO THIS TENDER

The Contractor shall prepare this bid legibly in ink or by typewriter.

The Contractors bid shall be shown in words and also in figures. Any changes, erasures or overwriting of the prices in words shall be initialled.

In the event of any discrepancy between the words and the figures, the words shall be deemed the Contractor's lump sum price and figures shall be ignored.

<u>DESCRIPTION</u>	<u>CONTRACTORS LUMP SUM BID (IN WORDS)</u>	<u>CONTRACTORS LUMP SUM BID (IN FIGURES)</u>
Swimming Pool Enclosure per Drawings and Specifications but not including ceramic tile.	Four Hundred and Thirty nine thousand Five Hundred and Seventy-four	
TOTAL LUMP SUM PRICE	\$ <u>Dollars</u>	\$ <u>439,574.00</u>
A. Deletion of wading pool and substitute with concrete slab.	minus Seventeen thousand Five hundred and thirty-four DEDUCT \$ <u>four dollars</u>	\$ <u>- 17,534.00</u>
B. Deletion of screen wall and substitute by relocating existing fence.	minus Five thousand Four Hundred and eighty-seven DEDUCT \$ <u>dollars</u>	\$ <u>- 5,487.00</u>
C. Add ceramic tile on full pool deck area as specified.	Forty three thousand Five Hundred and thirty-four ADD \$ <u>four dollars</u>	\$ <u>43,534.00</u>

ALTERNATE

Contractor may submit an alternate solution for the pool enclosure. This must be accompanied by drawings, details and specifications sufficient that the alternate may be adequately assessed.

Two Hundred Ninety-six thousand Three Hundred and nine dollars

TOTAL LUMP SUM PRICE \$ _____ \$ 296,309.00

All cash allowances shown in the tender documents as well as a contingency allowance of \$15,000.00 must be included in the Total Lump Sum Price.

Bidders must bid on all of the above work, no partial bids will be accepted. The Corporation of the City of Brampton reserves the right to award all of the Contract or any portion thereof.

If this Tender is accepted I/We John Wheelwright Ltd hereby identify this as the Bid Sheet for Contract No. 79-58 by me/us bearing the date this 31st day of October

WITNESS JOSIE DEFILIPPIS SIGNATURE

Donald A. [Signature]

SIGNATURES Josie De Filippis POSITION IN FIRM Vice-President

JOHN WHEELWRIGHT LIMITED

modular building systems • engineering services

110 FENMAR DRIVE
WESTON, ONT. M9L 1M5
Telephone 741-2630

31 October 1979

The Corporation of the City
of Brampton,
24 Queen St. E.,
BRAMPTON, Ontario.
L6V 1A4

Attention: Mr. M.S. Lingard
Purchasing Agent

Dear Sir:

Re: Contract No. 79-58
Enclosure of Balmoral Pool

We wish to submit a brief outline on our alternative bid on this project.

1. Delete the CF roof system which we feel is required under Item 15 (b) in the Pre-engineered Steel Building, provide detail to ensure full insulation value over girts with no thermal bridges.

Credit \$2,800.00

2. Delete the cladding of the existing building, including insulation and strapping.

Credit \$12,080.00

3. Delete the K-13 spray-on insulation on the interior of the pool to within 8' of the floor.

Credit \$13,050.00

4. A change in the electrical system, by giving standard industrial mercury vapour lighting for pool lighting, necessary emergency lighting, security and exit lights, but not including conduit for P.A. system, telephones, electrical alterations to the existing building, both interior and exterior.

Credit \$23,650.00

...2



Mr. M.S. Lingard

31 October 1979

5. A change in the heating and ventilating system - to substitute a standard heating unit, floor mounted, horizontal rather than vertical, stainless steel heat exchangers, modify the control system and delete the aluminum duct work (please note that this item is painted on the exterior as specified) and eliminate one exhaust fan.

Credit \$29,000.00

6. Delete the contingency allowance.

Credit \$46,500.00

7. Waive the permit fee.

Credit \$2,800.00

8. Delete the bond.

Credit \$3,000.00

9. Delete the demolition and renovations.

Credit \$5,385.00

10. Delete winter condition allowance.

Credit \$5,000.00

Total Amount of Credits \$143,265.00

If these credits seem interesting to you, we would be only too pleased to discuss them in more detail at your convenience.

Yours very truly,

JOHN WHEELWRIGHT LIMITED



Donald H. Fullerton
Vice-President
Sales and Promotion

DHF:mj

Encl.

DEFINITIONS

The following Definitions shall apply to all Contract Documents.

1. The Contract

The Contract Documents form the Contract. The Contract is the undertaking by the parties to perform their respective duties, responsibilities and obligations as prescribed in the Contract Documents and represents the entire agreement between the parties. The Contract supersedes all prior negotiations, representations or agreements, either written or oral, including the bidding documents. The Contract may be amended only as provided in the General Conditions of the Contract.

2. Contract Documents

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

3. Owner

The Owner is the person, firm or corporation identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Owner means the Owner or his authorized agent or representative as designated to the Contractor in writing but does not include the Engineer.

4. Engineer

The Engineer is the person, firm or corporation identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender.

5. Contractor

The Contractor is the person, firm or corporation identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative as designated to the Owner in writing.

6. Subcontractor

A Subcontractor is a person, firm or corporation having a direct contract with the Contractor to perform a part or parts of the Work, or to supply products worked to a special design according to the Contract Documents, but does not include one who merely supplies products not so worked. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender.

7. The Project

The Project means the total construction contemplated of which the Work may be the whole or a part.

8. The Work

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

9. Products

Products means material, machinery, equipment and fixtures forming the Work but does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work and normally referred to as construction machinery and equipment.

10. Other Contractor

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

11. Place of the Work

The Place of the Work is the designated site or location of the Project of which the Work may be the whole or a part.

12. Law of the Contract

The law of the Place of the Work governs the interpretation of the Contract.

13. Time

- (a) The Contract Time is the time stipulated in the Contract Documents for Substantial Performance of the Work.
- (b) The date of Substantial Performance of the Work is the date certified as such by the Engineer.
- (c) Day means the calendar day.
- (d) Working Day means days other than Saturdays, Sundays and holidays which are observed by the construction industry in the area of the Place of the Work.

14. 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, Substantial Performance shall have been reached when the Work is ready for use or is being used for the purpose intended and is so certified by the Engineer.

15. Total Performance of the Work

Total Performance of the Work means when the entire Work, except those items arising from the provisions of GC 24 — WARRANTY, has been performed to the requirements of the Contract Documents and is so certified by the Engineer.

16. Changes in the Work

Changes in the Work means additions, deletions, or other revisions to the Work within the general scope of the Contract.

THE GENERAL CONDITIONS OF THE STIPULATED PRICE CONTRACT
(Hereinafter referred to as the General Conditions.)

GC 1 DOCUMENTS

- 1.1 The Contract Documents shall be signed in duplicate by the Owner and the Contractor.
- 1.2 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all.
- 1.3 The intent of the Contract Documents is to include the labour, products and services necessary for the performance of the Work in accordance with these documents. It is not intended, however, that the Contractor shall supply products or perform work not consistent with, covered by or properly inferable from the Contract Documents.
- 1.4 Words and abbreviations which have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.
- 1.5 References to the masculine or the singular shall be considered to include the feminine and the plural as the context requires.
- 1.6 In the event of conflicts between Contract Documents the following shall apply:
 - (a) Documents of later date shall govern.
 - (b) Figured dimensions shown on a Drawing shall govern even though they may differ from dimensions scaled on the same Drawing.
 - (c) Drawings of larger scale shall govern over those of smaller scale of the same date.
 - (d) Specifications shall govern over Drawings.
 - (e) The General Conditions shall govern over Specifications.
 - (f) Supplementary Conditions shall govern over the General Conditions.
 - (g) The executed Agreement between the Owner and Contractor shall govern over all documents.
- 1.7 The Contractor will be provided without charge with as many copies of the Contract Documents or parts thereof as are reasonably necessary for the performance of the Work.
- 1.8 The Contractor shall keep one copy of current Contract Documents and shop drawings at the Place of the Work, in good order and available to the Engineer and his representatives. This requirement shall not be considered to include the executed set of Contract Documents.
- 1.9 Drawings, Specifications, Models and copies thereof furnished by the Engineer are and shall remain his property with the exception of the signed contract sets belonging to each party to this Contract. Such documents and models are to be used only with respect to the Work and are not to be used on other work. Such documents and models are not to be copied or revised in any manner without the written authorization of the Engineer.
- 1.10 Models furnished by the Contractor at the Owner's expense are the property of the Owner.

GC 2 ADDITIONAL INSTRUCTIONS

- 2.1 During the progress of the Work the Engineer will furnish to the Contractor such additional instructions to supplement the Contract Documents as may be necessary for the performance of the Work. Such instructions shall be consistent with the intent of the Contract Documents.
- 2.2 Additional instructions may be in the form of specifications, drawings, samples, models or other written instructions.
- 2.3 Additional instructions will be issued by the Engineer with reasonable promptness and in accordance with a schedule agreed upon for such instructions.

GC 3 ENGINEER

- 3.1 The Engineer will provide administration of this Contract as described in the Contract Documents.
- 3.2 The Engineer will be the Owner's representative during construction and until completion of any correction of defects under the provisions of GC 24 — WARRANTY, paragraph 24.2, or until the issuance of the Certificate of Total Performance of the Work, whichever is later. The Owner's instructions to the Contractor shall be forwarded through the Engineer. The Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written agreement in accordance with paragraph 3.13.
- 3.3 The Engineer will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs required for the Work in accordance with the applicable Construction Safety Legislation, other regulations or general construction practice. The Engineer will not be responsible for or have control or charge over the acts or omissions of the Contractor, his Subcontractors, or their agents, employees or other persons performing any of the Work.
- 3.4 The Engineer will visit the site at intervals appropriate to the progress of construction to familiarize himself with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Engineer will not make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.
- 3.5 Based on the Engineer's observations and his evaluation of the Contractor's Applications for Payment, the Engineer will determine the amounts owing to the Contractor under the Contract and will issue Certificates for Payment in such amounts, as provided in Article A-4 — PAYMENT and GC 14 — CERTIFICATES AND PAYMENTS.
- 3.6 The Engineer will be, in the first instance, the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by both parties to the Contract. Interpretations and decisions of the Engineer shall be consistent with the intent of the Contract Documents and in making his decisions he will not show partiality to either party.
- 3.7 Claims, disputes and other matters in question relating to the performance of the Work or the interpretation of the Contract Documents shall be referred initially to the Engineer in writing for decision which he will give in writing within a reasonable time.
- 3.8 The Engineer will have authority to reject work which in his opinion does not conform to the requirements of the Contract Documents. Whenever he considers it necessary or advisable he will have authority to require special inspection or testing of work whether or not such work be then fabricated, installed or completed. However, neither the Engineer's authority to act nor any decision made by him either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Engineer to the Contractor, his Subcontractors, or their agents, employees or other persons performing any of the Work.
- 3.9 The Engineer will review and take appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, in accordance with the requirements of the Contract Documents.
- 3.10 The Engineer will prepare Change Orders in accordance with the requirements of GC 11 — CHANGES IN THE WORK.
- 3.11 The Engineer will conduct inspections to determine the dates of Substantial Performance of the Work and Total Performance of the Work in accordance with the requirements of GC 14 — CERTIFICATES AND PAYMENTS. He will receive and review written warranties and related documents required by the Contract and provided by the Contractor and will forward such warranties and documents to the Owner for his acceptance.
- 3.12 If the Owner and the Engineer agree the Engineer will provide at the site one or more Project Representatives to assist the Engineer in carrying out his responsibilities. The duties, responsibilities and limitations of authority of such Project Representatives shall be as set forth in writing to the Contractor.
- 3.13 The duties, responsibilities and limitations of authority of the Engineer as set forth in the Contract Documents will not be modified or extended without the written consent of the Owner, the Contractor and the Engineer.
- 3.14 In the event of the termination of the employment of the Engineer, the Owner shall immediately appoint an Engineer to whom the Contractor makes no reasonable objection and whose status under the Contract shall be that of the former Engineer.
- 3.15 Nothing contained in the Contract Documents shall create any contractual relationship between the Engineer and the Contractor, his Subcontractors, his suppliers, or their agents, employees or other persons performing any of the Work.

GC 4 DELAYS

- 4.1 If the Contractor is delayed in the performance of the Work by an act or omission of the Owner, Engineer, Other Contractor, or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the Contract Documents, then the Contract Time shall be extended for such reasonable time as the Engineer may decide in consultation with the Contractor, and the Contractor shall be reimbursed by the Owner for reasonable costs incurred by the Contractor as the result of such delay.
- 4.2 If the Contractor is delayed in the performance of the 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 Contractor or anyone employed or engaged by him directly or indirectly, then the Contract Time shall be extended for such reasonable time as the Engineer may decide in consultation with the Contractor and the Contractor shall be reimbursed by the Owner for reasonable costs incurred by the Contractor as the result of such delay.
- 4.3 If the Contractor is delayed in the performance of the Work by labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized Contractors' Association, of which the Contractor is a member or to which the Contractor is otherwise bound), fire, unusual delay by common carriers or unavoidable casualties or, without limit to any of the foregoing, by a cause beyond the Contractor's control, then the Contract Time shall be extended for such reasonable time as the Engineer may decide in consultation with the Contractor, but in no case shall the extension of time be less than the time lost as the result of the event causing the delay, unless such shorter extension be agreed to by the Contractor. The Contractor shall not be entitled to payment for costs incurred as the result of such delays unless such delays are as the result of actions by the Owner.
- 4.4 No extension shall be made for delay unless written notice of claim is given to the Engineer not later than fourteen (14) days after the commencement of delay, providing however, that in the case of a continuing cause of delay only one notice of claim shall be necessary.
- 4.5 If no schedule is made under GC 2 — ADDITIONAL INSTRUCTIONS, no claim for delay shall be allowed because of failure to furnish instructions until fourteen (14) days after a demand for such instructions has been made and not then unless such claim is reasonable.
- 4.6 The Engineer will not, except by written notice to the Contractor, stop or delay the Work pending instructions or proposed changes in the Work.

GC 5 OWNER'S RIGHT TO PERFORM WORK OR STOP THE WORK OR TERMINATE CONTRACT

- 5.1 If the Contractor should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of his insolvency or if a receiver is appointed because of his insolvency, the Owner may, without prejudice to any other right or remedy he may have, by giving the Contractor or receiver or trustee in bankruptcy written notice, terminate the Contract.
- 5.2 If the Contractor should neglect to prosecute the Work properly or otherwise fails to comply with the requirements of the Contract to a substantial degree and if the Engineer has given a written statement to the Owner and Contractor that sufficient cause exists, the Owner may notify the Contractor in writing that he is in default of his contractual obligations and instruct him to correct the default in the five (5) working days immediately following the receipt of such notice.
- 5.3 If the correction of the default cannot be completed in the five (5) working days specified, the Contractor shall be in compliance with the Owner's instructions if he:
 - (a) commences the correction of the default within the specified time, and
 - (b) provides the Owner with an acceptable schedule for such correction, and
 - (c) completes the correction in accordance with such schedule.
- 5.4 If the Contractor fails to correct the default in the time specified or subsequently agreed upon, the Owner, without prejudice to any other right or remedy he may have, may:
 - (a) correct such default and deduct the cost thereof from any payment then or thereafter due the Contractor provided the Engineer has certified such cost to the Owner and the Contractor, or
 - (b) terminate the Contractor's right to continue with the Work in whole or in part or terminate the Contract.
- 5.5 If the Owner terminates the Contractor's right to continue with the Work under the conditions set out in this General Condition, he shall:
 - (a) be entitled to take possession of the premises and products and utilize the construction machinery and equipment the whole subject to the rights of third parties, and finish the Work by whatever method he may consider expedient but without undue delay or expense, and

- (b) withhold further payments to the Contractor until the Work is finished, and
- (c) upon Total Performance of the Work, charge the Contractor the amount by which the full cost of finishing the Work as certified by the Engineer, including compensation to the Engineer for his additional services and a reasonable allowance as determined by the Engineer to cover the cost of corrections to work performed by the Contractor that may be required under GC 24 — WARRANTY, exceeds the unpaid balance of the Contract Price; however, if such cost of finishing the Work is less than the unpaid balance of the Contract Price, he shall pay the Contractor the difference, and
- (d) on expiry of the warranty period, charge the Contractor the amount by which the cost of corrections to his work under GC 24 — WARRANTY exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the Contractor the difference.

5.6 If a performance bond has been provided by the Contractor the provisions of this General Condition shall be exercised in accordance with the conditions of such performance bond.

5.7 The Contractor's obligation under the Contract as to quality, correction and warranty of the work performed by him up to the time of termination shall continue in force after such termination.

GC 6 CONTRACTOR'S RIGHT TO STOP THE WORK OR TERMINATE CONTRACT

6.1 If the Owner should be adjudged bankrupt or makes a general assignment for the benefit of creditors because of his insolvency or if a receiver is appointed because of his insolvency, the Contractor may, without prejudice to any other right or remedy he may have, by giving the Owner or receiver or trustee in bankruptcy written notice, terminate the Contract.

6.2 If the Work should be stopped or otherwise delayed for a period of thirty (30) 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 Contractor or of anyone directly or indirectly employed or engaged by him, the Contractor may, without prejudice to any other right or remedy he may have, by giving the Owner written notice, terminate the Contract.

6.3 The Contractor may notify the Owner in writing, with a copy to the Engineer, that the Owner is in default of his contractual obligations if:

- (a) the Engineer fails to issue a certificate in accordance with the provisions of GC 14 — CERTIFICATES AND PAYMENTS, or
- (b) the Owner fails to pay the Contractor when due the amounts certified by the Engineer or awarded by arbitration or court, or
- (c) the Owner violates the requirements of the Contract to a substantial degree and the Engineer confirms by written statement to the Contractor that sufficient cause exists.

The Contractor's written notice to the Owner shall advise that if the default is not corrected in the five (5) working days immediately following the receipt of the written notice the Contractor may, without prejudice to any other right or remedy he may have, stop the Work or terminate the Contract.

6.4 If the Contractor terminates the Contract under the conditions set out above, he shall be entitled to be paid for all work performed including reasonable profit and for loss sustained upon products and construction machinery and equipment and such other damages as the Contractor may have sustained as a result of the termination of the Contract.

GC 7 DISPUTES

7.1 Differences between the parties to the Contract as to the interpretation, application or administration of this Contract 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 decision of the Engineer pursuant to the provisions of GC 3 — ENGINEER, paragraphs 3.6 and 3.7, shall be settled in accordance with the requirements of this General Condition.

7.2 The claimant shall give written notice of such dispute to the other party no later than thirty (30) days after the receipt of the Engineer's decision given under GC 3 — ENGINEER, paragraph 3.7. Such notice shall set forth particulars of the matters in dispute, the probable extent and value of the damage and the relevant provisions of the Contract Documents. The other party shall reply to such notice no later than fourteen (14) days after he receives or is considered to have received it, setting out in such reply his grounds and other relevant provisions of the Contract Documents.

- 7.3 If the matter in dispute is not resolved promptly the Engineer will give such instructions as in his opinion are necessary for the proper performance of the Work and to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim they may have. If it is subsequently determined that such instructions were in error or at variance with the Contract Documents, the Owner shall pay the Contractor costs incurred by the Contractor in carrying out such instructions which he was required to do beyond what the Contract Documents correctly understood and interpreted would have required him to do, including costs resulting from interruption of the Work.
- 7.4 It is agreed that no act by either party shall be construed as a renunciation or waiver of any of his rights or recourses, provided he has given the notices in accordance with paragraph 7.2 and has carried out the instructions as provided in paragraph 7.3.
- 7.5 If the parties have agreed to submit disputes to arbitration pursuant to a Supplementary Condition to the Contract, or by subsequent agreement, then the dispute shall be submitted to arbitration in accordance with the provisions of the Arbitration Act of the Place of the Work.
- 7.6 If no provision or agreement is made for arbitration then either party may submit the dispute to such judicial tribunal as the circumstances may require.
- 7.7 In recognition of the obligation by the Contractor to perform the disputed work as provided in paragraph 7.3, it is agreed that settlement of dispute proceedings may be commenced immediately following the dispute in accordance with the foregoing settlement of dispute procedures.

GC 8 ASSIGNMENT

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

GC 9 OTHER CONTRACTORS

- 9.1 The Owner reserves the right to let separate contracts in connection with the Project of which the Work is a part, or do certain work by his own forces.
- 9.2 When separate contracts are awarded for different parts of the Project, or work is performed by the Owner's own forces, the Owner shall:
- (a) provide for the co-ordination of the work of his own forces and of each separate contract with the Work of this Contract, and
 - (b) ensure that insurance coverage is provided to the same requirements as are called for in GC 20 — INSURANCE. Such insurance shall be co-ordinated with the insurance coverage of this Contractor as it affects the Work of this Contract.
- 9.3 The Contractor shall co-ordinate the Work of this Contract with the work of Other Contractors and connect as specified or shown in the Contract Documents. If there is a change in the scope of the work required for the planning and performance of this co-ordination and connection any difference in costs shall be evaluated as provided in GC 12 — VALUATION AND CERTIFICATION OF CHANGES IN THE WORK, and authorized as provided in GC 11 — CHANGES IN THE WORK.
- 9.4 The Contractor shall report to the Engineer any apparent deficiencies in Other Contractors' work which would affect the Work of this Contract immediately they come to his attention and shall confirm such report in writing. Failure by the Contractor to so report shall invalidate any claims against the Owner by reason of the deficiencies of Other Contractors' work except as to those of which he was not reasonably aware.
- 9.5 The Owner shall take all reasonable precautions to avoid labour disputes or other disputes on the Project arising from the work of Other Contractors.

GC 10 SUBCONTRACTORS

- 10.1 The Contractor agrees to preserve and protect the rights of the parties under the Contract with respect to work to be performed under subcontract and to:
- (a) enter into contracts or written agreements with his Subcontractors to require them to perform their work in accordance with and subject to the terms and conditions of the Contract Documents, and
 - (b) be as fully responsible to the Owner for acts and omissions of his Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by him.

The Contractor therefore agrees that he will incorporate the terms and conditions of the Contract Documents into all Subcontract Agreements he enters into with his Subcontractors.

- 10.2 The Contractor agrees to employ those Subcontractors proposed by him in writing and accepted by the Owner at the signing of the Contract.
- 10.3 The Owner may, for reasonable cause, object to the use of a proposed Subcontractor and require the Contractor to employ one of the other subcontract bidders.
- 10.4 In the event that the Owner requires a change from a proposed Subcontractor the Contract Price shall be adjusted by the difference in cost and mark-up occasioned by such required change.
- 10.5 The Contractor shall not be required to employ as a Subcontractor a person or firm to whom he may reasonably object.
- 10.6 The Engineer may, upon reasonable request and at his discretion, provide to a Subcontractor information as to the percentage or quantity of the Subcontractor's work which has been certified for payment.
- 10.7 Nothing contained in the Contract Documents shall create a contractual relationship between a Subcontractor and the Owner.

GC 11 CHANGES IN THE WORK

- 11.1 Except as provided in GC 12 — VALUATION AND CERTIFICATION OF CHANGES IN THE WORK, paragraph 12.4:
 - (a) the Owner, through the Engineer, without invalidating the Contract, may make Changes in the Work with the Contract Price and Contract Time being adjusted accordingly by written order, and
 - (b) no Changes in the Work shall be proceeded with without a written order signed by the Owner and no claim for a change in the Contract Price or change in the Contract Time shall be valid unless so ordered and at the same time valued or agreed to be valued as provided in GC 12 — VALUATION AND CERTIFICATION OF CHANGES IN THE WORK.

GC 12 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK

- 12.1 The value of a change shall be determined in one or more of the following methods:
 - (a) by estimate and acceptance in a lump sum;
 - (b) by unit prices set out in the Contract or subsequently agreed upon;
 - (c) by cost and a fixed or percentage fee.
- 12.2 When a change in the Work is proposed or required the Contractor shall present to the Engineer for approval his claim for a change in the Contract Price and change in Contract Time with appropriate documentation in a form acceptable to the Engineer. The Engineer will satisfy himself as to the correctness of such claim and, when approved by the Owner, a Change Order shall be issued to the Contractor amending the Contract Price and Contract Time as appropriate. The value of work performed in the change shall be included for payment with the regular certificates for payment.
- 12.3 In the case of changes in the Work to be paid for under methods (b) and (c) of paragraph 12.1, the form of presentation of costs and methods of measurement shall be agreed to by the Engineer and Contractor before proceeding with the change. The Contractor shall keep accurate records, as agreed upon, of quantities or costs and present an account of the cost of the change in the Work, together with vouchers where applicable.
- 12.4 If the method of valuation, measurement, change in Contract Price and change in Contract Time cannot be promptly agreed upon and the change is required to be proceeded with then the Engineer in the first instance will determine the method of valuation, measurement, the change in Contract Price and Contract Time subject to final determination in the manner set out in GC 7 — DISPUTES. In this case the Engineer will, with the consent of the Owner, issue a written authorization for the change setting out the method of valuation and if by lump sum his valuation of the change in Contract Price and Contract Time.
- 12.5 In the case of a dispute in the valuation of a change authorized in the Work and pending final determination of such value, the Engineer will certify the value of work performed in accordance with his own evaluation of the change and include the amount with the regular certificates for payment. The Contractor shall keep accurate records of quantities and cost of such work.
- 12.6 It is intended in all matters referred to above that both the Engineer and Contractor shall act promptly.

GC 13 APPLICATIONS FOR PAYMENT

- 13.1 Applications for payment on account may be made monthly as the Work progresses.
- 13.2 Applications for payment shall be dated the last day of the agreed monthly payment period and the amount claimed shall be for the value, proportionate to the amount of the Contract, of work performed and products delivered to the Place of the Work at that date.
- 13.3 The Contractor shall submit to the Engineer, at least fourteen (14) days before the first application for payment, a schedule of values of the various parts of the Work, aggregating the total amount of the Contract Price and divided so as to facilitate evaluation of applications for payment.
- 13.4 This schedule shall be made out in such form and supported by such evidence as to its correctness as the Engineer may reasonably direct and when approved by the Engineer shall be used as the basis for applications for payment, unless it be found to be in error.
- 13.5 When making applications for payment, the Contractor shall submit a statement based upon this schedule. Claims for products delivered to the Place of the Work but not yet incorporated into the Work shall be supported by such evidence as the Engineer may reasonably require to establish the value and delivery of the products.
- 13.6 Applications for release of holdback monies following Substantial Performance of the Work and the application for final payment shall be made at the time and in the manner set forth in GC 14 — CERTIFICATES AND PAYMENTS.

GC 14 CERTIFICATES AND PAYMENTS

- 14.1 The Engineer will, no later than ten (10) days after the receipt of an application for payment from the Contractor submitted in accordance with GC 13 — APPLICATIONS FOR PAYMENT, issue a certificate for payment in the amount applied for or in such other amount as he determines to be properly due. If the Engineer amends the application, he will promptly notify the Contractor in writing giving his reasons for the amendment.
- 14.2 The Owner shall make payment to the Contractor on account in accordance with the provisions of Article A-4 — PAYMENT no later than five (5) days after the issuance of a certificate for payment by the Engineer.
- 14.3 The Engineer will, no later than ten (10) days after the receipt of an application from the Contractor for a Certificate of Substantial Performance of the Work, make an inspection and assessment of the Work to verify the validity of the application. The Engineer will, no later than seven (7) days after his inspection, notify the Contractor of his approval or the reasons for his disapproval of the application. When the Engineer finds that Substantial Performance of the Work has been reached he will issue such a certificate. The date of Substantial Performance of the Work shall be as stated in this certificate. Immediately following the issuance of the Certificate of Substantial Performance of the Work, the Engineer, in consultation with the Contractor, will establish a reasonable date for the Total Performance of the Work.
- 14.4 Immediately following the issuance of the Certificate of Substantial Performance of the Work the Engineer will issue a certificate for payment of holdback monies. The holdback monies authorized by this certificate shall become due and payable on the day following the expiration of the Statutory Limitation Period stipulated in the Lien legislation applicable to the Place of the Work or where such legislation does not exist or apply in accordance with such other legislation, industry practice or such other provisions which may be agreed to between the parties, providing that the Owner may retain out of such holdback monies any sums required by law to satisfy any liens against the Work or other monetary claims against the Contractor and enforceable against the Owner and that the Contractor has submitted to the Owner a sworn statement that all accounts for labour, subcontracts, products, construction machinery and equipment and other indebtedness which may have been incurred by the Contractor in the Substantial Performance of the Work and for which the Owner might in any way be held responsible have been paid in full except holdback monies properly retained.
- 14.5 Where legislation permits and where, upon application by the Contractor, the Engineer has certified that the work of a Subcontractor has been totally performed to his satisfaction prior to the Substantial Performance of the Work, the Owner shall pay the Contractor the holdback retained for such Subcontractor on the day following the expiration of the Statutory Limitation Period for such Subcontractor stipulated in the Lien legislation applicable to the Place of the Work.

- 14.6 Notwithstanding the provisions of paragraph 14.5 and notwithstanding the wording of such certificates the Contractor shall ensure that such work is protected pending the Total Performance of the Work and be responsible for the correction of defects in it regardless of whether or not they were apparent when such certificates were issued.
- 14.7 The Engineer will, no later than ten (10) days after the receipt of an application from the Contractor for payment upon Total Performance of the Work, make an inspection and assessment of the Work to verify the validity of the application. The Engineer will, no later than seven (7) days after his inspection, notify the Contractor of his approval or the reasons for his disapproval of the application. When the Engineer finds that Total Performance of the Work has been reached he will issue a Certificate of Total Performance of the Work and certify for payment the remaining monies due to the Contractor under the Contract less holdback monies which are required to be retained. The date of Total Performance of the Work shall be as stated in this certificate. Subject to the provisions of GC 18 — WORKERS' COMPENSATION INSURANCE, paragraph 18.1 the Owner shall, no later than five (5) days after the issuance of such certificate, make payment to the Contractor in accordance with the provisions of Article A-4 — PAYMENT.
- 14.8 The release of the remaining holdback monies shall become due and payable on the day following the expiration of the Statutory Limitation Period stipulated in the Lien legislation applicable to the Place of the Work, or where such legislation does not exist or apply in accordance with such other legislation, industry practice or such other provisions which may be agreed to between the parties, providing that the Owner may retain out of such holdback monies any sums required by law to satisfy any liens against the Work or other monetary claims against the Contractor and enforceable against the Owner and that the Contractor has submitted to the Owner a sworn statement that all accounts for labour, subcontracts, products, construction machinery and equipment and any other indebtedness which may have been incurred by the Contractor in the Total Performance of the Work and for which the Owner might in any way be held responsible have been paid in full except holdback monies properly retained.
- 14.9 If because of climatic or other conditions reasonably beyond the control of the Contractor there are items of work that cannot be performed, payment in full for work which has been performed as certified by the Engineer shall not be withheld or delayed by the Owner on account thereof, but the Owner may withhold until the remaining work is finished only such monies as the Engineer determines are sufficient and reasonable to cover the cost of performing such remaining work and to adequately protect the Owner from claims.
- 14.10 No payment made by the Owner under this Contract or partial or entire use or occupancy of the Work by the Owner shall constitute an acceptance of work or products which are not in accordance with the requirements of the Contract Documents.
- 14.11 All certificates issued by the Engineer shall be to the best of his knowledge, information and belief. By issuing any certificate the Engineer does not guarantee the correctness or completeness of the Work.
- 14.12 The issuance of the Certificate of Total Performance of the Work shall constitute a waiver by the Owner of all claims against the Contractor except one or more of the following:
- (a) those made in writing prior to the issuance of the Certificate of Total Performance of the Work and still unsettled;
 - (b) those arising from the provisions of GC 24 — WARRANTY *J.H. Mar 10/80*
 - (c) those made in writing within a period of ~~six (6)~~ ^{ONE} years from the date of Substantial Performance of the Work or within such shorter period as may be proscribed by any limitation statute of the province or territory of the Place of the Work and arising from any liability of the Contractor for damages resulting from his performance of this Contract with respect to material defects or deficiencies in the Work for which the Contractor is proven responsible.
- As used herein "material defects or deficiencies" means those defects or deficiencies in the Work which affect the Work to such an extent or in such manner that it is unfit in part or in whole for the purpose intended by the Contract Documents.
- 14.13 The acceptance by the Contractor of the Certificate of Total Performance of the Work or of the payment due thereunder shall constitute a waiver of all claims against the Owner under this Contract except those made in writing prior to the Contractor's application for payment upon Total Performance of the Work and still unsettled.

GC 15 TAXES AND DUTIES

- 15.1 Unless otherwise stated in Supplementary Conditions the Contractor shall pay the government sales taxes, customs duties and excise taxes with respect to the Contract.
- 15.2 Any increase or decrease in costs to the Contractor due to changes in such taxes and duties after the date of the tender shall increase or decrease the Contract Price accordingly.
- 15.3 Where an exemption or recovery of government sales taxes, customs duties or excise taxes is applicable to the Contract, the procedure shall be as established in the Supplementary Conditions.

GC 16 LAWS, NOTICES, PERMITS AND FEES

- 16.1 The laws of the Place of the Work shall govern the Work.
- 16.2 The Contractor shall obtain the permits, licences and certificates and pay the fees required for the performance of the Work which are in force at the date of tender closing, but this shall not include the obtaining of permanent easements or rights of servitude.
- 16.3 The Contractor shall give the required notices and comply with the laws, ordinances, rules, regulations, codes and orders relating to the Work, to the preservation of the public health and construction safety, of the authorities having jurisdiction, which are or become in force during the performance of the Work.
- 16.4 The Contractor shall not be responsible for verifying that the Contract Documents are in compliance with the applicable laws, ordinances, rules, regulations and codes relating to the Work. If the Contract Documents are at variance therewith, or changes which require modification to the Contract Documents are made to the laws, ordinances, rules, regulations and codes by the authorities having jurisdiction subsequent to the date of tender closing, the Contractor shall notify the Engineer in writing requesting direction immediately such variance or change becomes known to him. The Engineer will make the changes required to the Contract Documents and the Contract Price and Contract Time shall be adjusted in accordance with GC 11 — CHANGES IN THE WORK and evaluated in accordance with GC 12 — VALUATION AND CERTIFICATION OF CHANGES IN THE WORK.
- 16.5 If the Contractor fails to notify the Engineer in writing and obtain his direction as required in paragraph 16.4 and performs work knowing it to be contrary to any laws, ordinances, rules, regulations, codes and orders of the authorities having jurisdiction, the Contractor shall be responsible for and shall correct the violations thereof and shall bear the costs, expense and damages attributable to his failure to comply with the provisions of such laws, ordinances, rules, regulations, codes and orders.

GC 17 PATENT FEES

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

GC 18 WORKERS' COMPENSATION INSURANCE

- 18.1 Prior to commencing the Work and prior to receiving payment on Substantial and Total Performance of the Work, the Contractor shall provide evidence of compliance with the requirements of the province or territory of the Place of the Work with respect to Workers' Compensation Insurance including payments due thereunder.
- 18.2 At any time during the term of the Contract, when requested by the Owner, the Contractor shall provide such evidence of compliance by himself and his Subcontractors.

GC 19 INDEMNIFICATION

- 19.1 Except as provided in paragraphs 19.2 and 19.3, the Contractor shall indemnify and hold harmless the Owner and the Engineer, their agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of or attributable to the Contractor's performance of the Contract, providing that such claims, damages, losses or expenses are:

- (a) attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, and
 - (b) caused by a negligent act or omission of the Contractor or anyone for whose acts he may be liable.
- 19.2 The obligation of the Contractor under this General Condition shall apply only to the extent that such claims, demands, losses, expenses, costs, damages, actions, suits, or proceedings do not arise out of a negligent act or omission of the Owner, the Engineer, Other Contractors, their agents and employees.
- 19.3 The Owner shall indemnify and hold harmless the Contractor from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the Contractor's performance of the Contract 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.

GC 20 INSURANCE

20.1 Without restricting the generality of GC 19 — INDEMNIFICATION, the Contractor shall provide, maintain and pay for the insurance coverages listed in this General Condition unless otherwise stipulated:

(a) **General Liability Insurance:**

General Liability Insurance shall be in the joint names of the Contractor, the Owner and the Engineer with limits of not less than one million dollars inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof, with a Property Damage deductible of five hundred dollars. The form of this insurance shall be the latest edition of CCDC Form 101 and shall be maintained continuously from commencement of the Work until twelve (12) months following the date of the Certificate of Substantial Performance of the Work, or until the Certificate of Total Performance of the Work is issued, whichever is the later, and with respect to Completed Operations Coverage for a period of not less than twelve (12) months from the date of the Certificate of Total Performance of the Work. Should the Contractor decide not to employ Subcontractors for operations requiring the use of explosives for blasting, or pile driving or caisson work, or removal or weakening of support of property, building or land; CCDC Form 101 as required shall include Endorsement CCDC Form 101-2.

(b) **Automobile Liability Insurance:**

Automobile Liability Insurance in respect of licensed vehicles shall have limits of not less than one million dollars inclusive per occurrence for bodily injury, death, and damage to property, in the following forms endorsed to provide the Owner with not less than fifteen (15) days written notice in advance of any cancellation, change or amendment restricting coverage:

- (1) Standard Non-Owned Automobile Policy including Standard Contractual Liability Endorsement.
- (2) Standard Owner's Form Automobile Policy providing Third Party Liability and Accident Benefits Insurance and covering licensed vehicles owned or operated by or on behalf of the Contractor.

(c) **Aircraft and Watercraft Liability Insurance:**

Aircraft and Watercraft Liability Insurance with respect to owned or non-owned aircraft and watercraft if used directly or indirectly in the performance of the Work, including use of additional premises, shall be subject to limits of not less than one million dollars inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof and limits of not less than one million dollars for Aircraft Passenger Hazard. Such insurance shall be in a form acceptable to the Owner. The policies shall be endorsed to provide the Owner with not less than fifteen (15) days written notice in advance of cancellation, change or amendment restricting coverage.

(d) **Property and Boiler Insurance:**

- (1) All Risks Property Insurance shall be in the joint names of the Contractor, the Owner and the Engineer, insuring not less than the sum of the amount of the Contract Price 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, with a deductible not exceeding one percent of the amount insured at the site of the Work. The form of this insurance shall be the latest edition of CCDC Form 201 and shall be maintained continuously until ten (10) days after the date of the Certificate of Total Performance of the Work.
- (2) Boiler Insurance insuring the interests of the Contractor, the Owner and the Engineer for not less than the replacement value of Boilers and Pressure Vessels forming part of the Work. The form of this insurance shall be the latest edition of CCDC Form 301 and shall be maintained continuously from commencement of use or operation of the property insured and until ten (10) days after the date of the Certificate of Total Performance of the Work.

- (3) Should the Owner wish to use or occupy part or all of the Work he shall give thirty (30) days written notice to the Contractor of the intended purpose and extent of such use or occupancy. Prior to such use or occupancy the Contractor shall notify the Owner in writing of the additional premium cost, if any, to maintain Property and Boiler Insurance, which shall be at the Owner's expense. If because of such use or occupancy the Contractor is unable to provide coverage, the Owner upon written notice from the Contractor and prior to such use or occupancy shall provide, maintain and pay for Property and Boiler Insurance insuring the full value of the Work, as in subparagraphs (1) and (2), in CCDC Forms 201 and 301, including coverage for such use or occupancy and shall provide the Contractor with proof of such insurance. The Contractor shall refund to the Owner the unearned premiums applicable to the Contractor's policies upon termination of coverage.
- (4) The policies shall provide that, in the event of a loss or damage, payment shall be made to the Owner and the Contractor as their respective interests may appear. The Contractor shall act on behalf of the Owner and himself for the purpose of adjusting the amount of such loss or damage payment with the Insurers. When the extent of the loss or damage is determined the Contractor shall proceed to restore the Work. Loss or damage shall not affect the rights and obligations of either party under the Contract except that the Contractor shall be entitled to such reasonable extension of Contract Time relative to the extent of the loss or damage as the Engineer may decide in consultation with the Contractor.
- (5) Payment for loss or damage:
The Contractor shall be entitled to receive from the Owner, in addition to the amount due under the Contract, the amount at which the Owner's interest in restoration of the Work has been appraised, such amount to be paid as the restoration of the Work proceeds and in accordance with the requirements of GC 13 — APPLICATIONS FOR PAYMENT and GC 14 — CERTIFICATES AND PAYMENTS. In addition the Contractor shall be entitled to receive from the payments made by the Insurer the amount of the Contractor's interest in the restoration of the Work.
- (6) The Contractor shall be responsible for deductible amounts under the policies except where such amounts may be excluded from the Contractor's responsibility by the terms of GC 21 — PROTECTION OF WORK AND PROPERTY and GC 22 — DAMAGES AND MUTUAL RESPONSIBILITY.
- (7) In the event of loss or damage to the Work arising from the work or act of an Other Contractor, the Owner, in accordance with his obligations under GC 9 — OTHER CONTRACTORS, paragraph 9.2, shall pay the Contractor the cost of restoring the Work as the restoration of the Work proceeds and in accordance with the requirements of GC 13 — APPLICATIONS FOR PAYMENT and GC 14 — CERTIFICATES AND PAYMENTS.

(e) **Contractors' Equipment Insurance:**

All Risks Contractors' Equipment Insurance covering construction machinery and equipment used by the Contractor for the performance of the Work, including Boiler Insurance on temporary Boilers and Pressure Vessels, shall be in a form acceptable to the Owner and shall not allow subrogation claims by the Insurer against the Owner. The policies shall be endorsed to provide the Owner with not less than fifteen (15) days written notice in advance of cancellation, change or amendment restricting coverage. Subject to satisfactory proof of financial capability by the Contractor for self-insurance of his equipment, the Owner agrees to waive the equipment insurance requirement.

- 20.2 Unless specified otherwise the duration of each insurance policy shall be from the date of commencement of the Work until the date of the Certificate of Total Performance of the Work.
- 20.3 The Contractor shall provide the Owner with proof of insurance prior to commencement of the Work and shall promptly provide the Owner with a certified true copy of each insurance policy exclusive of information pertaining to premium or premium bases used by the Insurer to determine the cost of the insurance.
- 20.4 If the Contractor fails to provide or maintain insurance as required in this General Condition or elsewhere in the Contract Documents, then the Owner shall have the right to provide and maintain such insurance and give evidence thereof to the Contractor and the Engineer. The cost thereof shall be payable by the Contractor to the Owner on demand or the Owner may deduct the costs thereof from monies which are due or may become due to the Contractor.

GC 21 PROTECTION OF WORK AND PROPERTY

- 21.1 The Contractor shall protect the Work and the Owner's property and property adjacent to the Place of the Work from damage and shall be responsible for damage which may arise as the result of his operations under the Contract except damage which occurs as the result of:

- (a) errors in the Contract Documents;
- (b) acts or omissions by the Owner, the Engineer, Other Contractors, their agents and employees.

- 21.2 Should the Contractor in the performance of this Contract damage the Work, the Owner's property or property adjacent to the Place of the Work, the Contractor shall be responsible for the making good of such damage at his expense.
- 21.3 Should damage occur to the Work or Owner's property for which the Contractor is not responsible as provided in paragraph 21.1 he shall make good such damage to the Work and if the Owner so directs to the Owner's property and the Contract Price and Contract Time shall be adjusted in accordance with GC 11 — CHANGES IN THE WORK and evaluated in accordance with GC 12 — VALUATION AND CERTIFICATION OF CHANGES IN THE WORK.

GC 22 DAMAGES AND MUTUAL RESPONSIBILITY

- 22.1 If either party to this Contract should suffer damage in any manner because of any wrongful act or neglect of the other party or of anyone for whom he is responsible in law, then he shall be reimbursed by the other party for such damage. The party reimbursing the other party shall be subrogated to the rights of the other party in respect of such wrongful act or neglect if it be that of a third party.
- 22.2 Claims under this General Condition shall be made in writing to the party liable within reasonable time after the first observance of such damage and may be adjusted by agreement or in the manner set out in GC 7 — DISPUTES.
- 22.3 If the Contractor has caused damage to an Other Contractor on the Work, the Contractor agrees upon due notice to settle with such Other Contractor by agreement or arbitration, if he will so settle. If such Other Contractor sues the Owner on account of damage alleged to have been so sustained, the Owner shall notify the Contractor and may require the Contractor to defend the action at the Contractor's expense. If a final order or judgment against the Owner arises therefrom the Contractor shall pay or satisfy it and pay the costs incurred by the Owner.
- 22.4 If the Contractor becomes liable to pay or satisfy a final order, judgment or award against the Owner then the Contractor, upon undertaking to indemnify the Owner against any and all liability for costs, shall have the right to appeal in the name of the Owner such final order or judgment to any and all courts of competent jurisdiction.

GC 23 BONDS

- 23.1 The Contractor shall promptly provide to the Owner the surety bonds called for in the tender documents.
- 23.2 Such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the province or territory of the Place of the Work and shall be maintained in good standing until the fulfillment of the Contract. The form of such bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

GC 24 WARRANTY

- 24.1 The Contractor shall be responsible for the proper performance of the Work only to the extent that the design and specifications permit such performance.
- 24.2 Subject to paragraph 24.1 the Contractor agrees to correct promptly at his own expense defects or deficiencies in the Work which appear prior to and during the period of one year from the date of Substantial Performance of the Work or such longer periods as may be specified for certain products or work.
- 24.3 During the period provided in GC 3 — ENGINEER, paragraph 3.2, the Engineer shall promptly give the Contractor written notice of observed defects and deficiencies.
- 24.4 The Contractor agrees to correct or pay for damage resulting from corrections made under the requirements of paragraph 24.2.

GC 25 CONTRACTOR'S RESPONSIBILITIES AND CONTROL OF THE WORK

- 25.1 The Contractor shall have complete control of the Work and shall effectively direct and supervise the Work so as to ensure conformance with the Contract Documents. He shall be solely responsible for construction means, methods, techniques, sequences and procedures and for co-ordinating the various parts of the Work under the Contract.

- 25.2 The Contractor shall be solely responsible for construction safety at the Place of the Work and for compliance with the rules, regulations and practices required by the applicable Construction Safety Legislation.
- 25.3 The Contractor shall have the sole responsibility for the design, erection, operation, maintenance and removal of temporary structural and other temporary facilities and the design and execution of construction methods required in their use. The Contractor shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform these functions where required by law or by the Contract Documents and in all cases where such temporary facilities and their method of construction are of such a nature that professional engineering skill is required to produce safe and satisfactory results.
- 25.4 Notwithstanding the provisions of paragraphs 25.1 and 25.3, or provisions to the contrary elsewhere in the Contract Documents where such Contract Documents include designs for temporary structural and other temporary facilities or specify a method of construction in whole or in part, such facilities and methods shall be considered to be part of the design of the Work and the Contractor shall not be held responsible for that part of the design or the specified method of construction. The Contractor shall, however, be responsible for the execution of such design or specified method of construction, in the same manner that he is responsible for the execution of the Work.
- 25.5 The Contractor shall review the Contract Documents and shall promptly report to the Engineer any error, inconsistency or omission he may discover. Such review by the Contractor shall be to the best of his knowledge, information and belief and in making such review the Contractor does not assume any responsibility to the Owner or the Engineer for the accuracy of the review. The Contractor shall not be liable for damage or costs resulting from such errors, inconsistencies or omissions in the Contract Documents which he did not discover. If the Contractor does discover any error, inconsistency or omission in the Contract Documents he shall not proceed with the work affected until he has received corrected or missing information from the Engineer.
- 25.6 The Contractor shall prepare and update as required a construction schedule indicating the timing of the major activities of the Work. The schedule shall be designed to ensure conformance with the required Contract Time. The schedule shall be submitted to the Owner and the Engineer for their information within a reasonable time from the date of Contract award. The Contractor shall monitor the progress of the Work relative to the schedule and advise the Engineer of any revisions required as the result of delays as provided in GC 4 — DELAYS, indicating the results expected from the resultant change in schedule.

GC 26 SUPERINTENDENCE

- 26.1 The Contractor shall employ a competent supervisor and necessary assistants who shall be in attendance at the Place of the Work while work is being performed.
- 26.2 The supervisor shall be satisfactory to the Engineer and shall not be changed except for good reason and only then after consultation with the Engineer.
- 26.3 The supervisor shall represent the Contractor at the Place of the Work and instructions given to him by the Engineer shall be held to have been given to the Contractor. Important instructions shall be confirmed to the Contractor in writing; other instructions shall be so confirmed if requested.

GC 27 LABOUR AND PRODUCTS

- 27.1 Unless otherwise stipulated elsewhere in the Contract Documents, the Contractor shall provide and pay for labour, products, tools, construction equipment and machinery, water, heat, light, power, transportation and other facilities and services necessary for the performance of the Work in accordance with the Contract.
- 27.2 Products provided shall be new unless otherwise specified in the Contract Documents. Products which are not specified shall be of a quality best suited to the purpose required and their use subject to the approval of the Engineer.
- 27.3 The Contractor shall maintain good order and discipline among his employees engaged on the Work and shall not employ on the Work anyone not skilled in the task assigned to him.

GC 28 SUBSURFACE CONDITIONS

- 28.1 The Contractor shall promptly notify the Engineer in writing if in his opinion the subsurface conditions at the Place of the Work differ materially from those indicated in the Contract Documents, or a reasonable assumption of probable conditions based thereon.

28.2 After prompt investigation, should the Engineer determine that conditions do differ materially, he will issue appropriate instructions for changes in the Work as provided for in GC 11 — CHANGES IN THE WORK.

GC 29 USE OF THE WORK

29.1 The Contractor shall confine his apparatus, the storage of products, and the operations of his employees to limits indicated by laws, ordinances, permits or the Contract Documents and shall not unreasonably encumber the premises with his products.

29.2 The Contractor 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.

GC 30 CLEANUP AND FINAL CLEANING OF THE WORK

30.1 The Contractor shall maintain the Work in a tidy condition and free from the accumulation of waste products and debris, other than that caused by the Owner, Other Contractors or their employees.

30.2 When the Work is Substantially Performed, the Contractor shall remove his surplus products, tools, construction machinery and equipment not required for the performance of the remaining work. He shall also remove waste products and debris other than that caused by the Owner, Other Contractors or their employees, and leave the Work clean and suitable for occupancy by the Owner unless otherwise specified.

30.3 When the Work is Totally Performed, the Contractor shall remove his surplus products, tools, construction machinery and equipment. He shall also remove waste products and debris, other than that caused by the Owner, Other Contractors or their employees.

GC 31 CUTTING AND REMEDIAL WORK

31.1 The Contractor shall do the cutting and remedial work required to make the several parts of the Work come together properly.

31.2 The Contractor shall co-ordinate the Work to ensure that this requirement is kept to a minimum.

31.3 Should the Owner, the Engineer, Other Contractors 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 GC 12 — VALUATION AND CERTIFICATION OF CHANGES IN THE WORK.

31.4 Cutting and remedial work shall be performed by specialists familiar with the materials affected and shall be performed in a manner to neither damage nor endanger the Work.

GC 32 INSPECTION OF THE WORK

32.1 The Owner and the Engineer or their authorized agents or representatives shall at all times have access to the Work. If parts of the Work are in preparation at locations other than the Place of the Work, the Owner and the Engineer or their authorized agents or representatives shall be given access to such work whenever it is in progress.

32.2 If work is designated for special tests, inspections or approvals in the Contract Documents, or by the Engineer's instructions, or the laws or ordinances of the Place of the Work, the Contractor shall give the Engineer timely notice requesting inspection. Inspection by the Engineer shall be made promptly. The Contractor shall arrange for inspections by other authorities and shall give the Engineer timely notice of the date and time.

32.3 If the Contractor 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, he shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed and make good such work at his own expense.

32.4 The Engineer may order any part or parts of the Work to be specially examined should he believe that such work is not in accordance with the requirements of the Contract Documents. If, upon examination such work be found not in accordance with the requirements of the Contract Documents, the Contractor shall correct such work and pay the cost of examination and correction. If such work be found in accordance with the requirements of the Contract Documents, the Owner shall pay the cost of examination and replacement.

32.5 The Contractor shall furnish promptly to the Engineer two (2) copies of certificates and inspection reports relating to the Work.

GC 33 REJECTED WORK

- 33.1 Defective work, whether the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the Contractor and whether incorporated in the Work or not, which has been rejected by the Engineer as failing to conform to the Contract Documents shall be removed promptly from the Place of the Work by the Contractor and replaced or re-executed promptly in accordance with the Contract Documents at the Contractor's expense.
- 33.2 Other Contractors' work destroyed or damaged by such removals or replacements shall be made good promptly at the Contractor's expense.
- 33.3 If in the opinion of the Engineer it is not expedient to correct defective work or work not performed in accordance with the Contract Documents, the Owner may deduct from the Contract Price the difference in value between the work as performed and that called for by the Contract Documents, the amount of which will be determined in the first instance by the Engineer.

GC 34 SHOP DRAWINGS

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

GC 35 CASH ALLOWANCES

- 35.1 The Contract Price includes cash allowances stated in the Contract Documents.
- 35.2 Cash allowances, unless otherwise specified, cover the net cost to the Contractor of services, products, construction machinery and equipment, freight, unloading, handling, storage, installation and other authorized expenses incurred in performing the work stipulated under the cash allowances.
- 35.3 The Contract Price, and not the cash allowance, includes the Contractor's overhead and profit in connection with such cash allowance.
- 35.4 Where costs under a cash allowance exceed the amount of the allowance, the Contractor shall be compensated for any excess incurred and substantiated plus an allowance for overhead and profit as set out in the Contract Documents.
- 35.5 The Contract Price shall be adjusted by written order to provide for any excess or deficit to each cash allowance.
- 35.6 *Progress payments on account of work authorized under cash allowances shall be included in the Engineer's monthly certificates for payment.*

- 35.7 A schedule shall be prepared jointly by the Engineer and Contractor to show when items called for under cash allowances must be authorized by the Engineer for ordering purposes so that the progress of the Work will not be delayed.

GC 36 CONTINGENCY ALLOWANCE

- 36.1 The Contract Price includes the contingency allowance, if any, stated in the Contract Documents.
- 36.2 Expenditures under the contingency allowance shall be authorized in accordance with the procedures provided in GC 11 — CHANGES IN THE WORK, and evaluated under GC 12 — VALUATION AND CERTIFICATION OF CHANGES IN THE WORK.
- 36.3 The Contract Price shall be adjusted by written order to provide for any excess or deficit in the contingency allowance.

PASSED March 10th 19 80



BY-LAW

No. 71-80

To authorize the execution of an
Agreement with JOHN WHEELWRIGHT -
Contract No. 79-58
for enclosure of swimming pool -
Balmoral.

BY-LAW 70 - 80 AMENDING BY-LAW 33 - 79