

Nova Scotia Community College Construction Terms and Conditions

For the purposes of this document, the terms “Nova Scotia Community College”, “NSCC” and “the College” will be synonymous.

- A. AGREEMENT:** The Purchase Order, these terms and Conditions, any special conditions, the Nova Scotia Community College’s Policies, Design Standards, and Insurance Requirements (together with the “Agreement”) along with Drawings, Specifications, addenda issued before issuance of the Agreement and any subsequently executed Change Order (together with the Agreement, the “Agreement Documents”) shall govern the relationship between the parties for the construction project described in the Agreement.

The materials, supplies, or services covered by the Agreement Documents shall be furnished by the Contractor, subject to all the terms and conditions set forth in the Agreement Documents including the following, which the Contractor, in accepting this Agreement, agrees to be bound by and to comply with in all particulars and no other terms or conditions shall be binding upon the parties unless hereafter accepted by them in writing. Written acceptance, or shipment of all or any portion of the materials or supplies, or the performance of all or any portion of the services, covered by the Agreement Documents shall constitute unqualified acceptance of all its terms and conditions.

The terms of any proposal referred to in the Agreement Documents are included and made a part of the Agreement only to the extent it specifies the materials, supplies, or services ordered, the price therefore, and the delivery thereof, and then only to the extent that such terms are consistent with the terms and conditions of the Agreement Documents.

- B. EXECUTION OF THE WORK:** The Contractor shall furnish all labour, material, services, tools, equipment, and fixtures necessary to perform and complete, in a good and workmanlike manner the Work described in the Agreement. All Work shall be done in accordance with all laws, ordinances, building codes, rules and regulations applying to the Work, including but not limited to, the Law of the Province of Nova Scotia (including amendments), environmental regulations and the NSCC Occupational Health and Safety Policy (2016). Contractor shall have control over, and be solely responsible for, all means, methods and sequences for performing the Work.
- C. PERMITS:** The Contractor agrees to procure all necessary permits, or licenses, and abide by all applicable laws, regulations and ordinances of the Municipality in the Province of Nova Scotia in which the work under this order is performed, and the Province of Nova Scotia. The Contractor shall be liable for all damages and shall indemnify NSCC and hold harmless from, and against all damages and liability which may arise out of failure of Contractor to secure and pay for any such licenses or permits, or to comply fully with any and all applicable laws, ordinances and regulations.
- D. CCDC CONTRACT:** Contractor shall complete two (2) copies of the appropriate CCDC contract for the Work and return signed copies to NSCC for any Work awarded greater than \$25,000 in cost.
- E. HOLDBACKS:** Contractor agrees that NSCC shall hold back ten percent (10%) of all progress claims for phased projects or for any single non-phase project over \$25,000 in value until the Work is completed to the satisfaction of the College.

Sixty (60) days following Substantial Performance, a lien check will be conducted to determine whether any lien claims have been served upon the College. If no liens have been served or have expired or have been satisfied, discharged or vacated, the Contractor shall make application for release of the holdback in the form of an application for payment. The Owner may then release that portion of the holdback that is due at Substantial Performance in accordance with the Builders’ Lien

Act and shall retain a separate holdback equal to ten percent (10%) of the price of the remaining services or materials as they are actually supplied under the contract, until all liens that may be claimed against the holdback have expired or have been

Sixty (60) days after all the Work is performed completely, another lien check will be conducted to determine whether any lien claims have been served upon the College. If no liens have been served or have expired or have been satisfied, discharged or vacated, the Contractor shall make application for release of the remainder of the holdback in the form of an application for payment. The College may then release the remainder of the holdback in accordance with the Builders' Lien Act.

F. SECURITY & PERFORMANCE ASSURANCE: Any bid or bids in the amount of, or totals, \$ 200,000.00, or more, the Contractor shall provide one of the following forms of tender security with their bid:

1. Bid Bond:

1. Submit with Bid, a Bid Bond acceptable to NSCC in the amount **not less than ten percent (10%)** of the bid amount. The Bid Bond is to be endorsed in the name of the Nova Scotia Community College as obligee, signed and sealed by the Principal (Contractor) and Surety. Submit with the Bid Form, a Bid Bond and Consent of Surety stating that the Surety providing the Bid Bond will provide the Performance Bond and Labour & Materials Payment Bond required.
2. Within ten (10) days after notification of award of the Contract, the Contractor shall provide NSCC with a Performance Bond and Labour & Materials Payment Bond each in the form prescribed by and acceptable to NSCC in an amount equal to fifty percent (50%) of the amount of the Contract.
3. The Contractor shall maintain the Performance Bond in force for a period of not less than twelve (12) months after the issuance of the Substantial Performance certificate certified by the Consultant and issued by NSCC and until Completion of the Contract.
4. Bid Bonds, Performance Bonds and Labour & Material Payment Bonds shall be provided at the expense of the Contractor and shall be with an established Surety Company satisfactory to and approved by NSCC.
5. Where Bid Bond is used as bid security, include the cost of providing the Bid Bond in the Bid.

2. Certified Cheque:

1. In lieu of the Bid Bond, Performance Bond and Labour and Material Payment Bond, each bidder may submit with their bid a Certified Cheque payable to the Nova Scotia Community College, for a sum **not less than ten percent (10%)** of the bid amount. The Certified Cheque shall serve as Bid deposit and as security for the faithful performance of the Contract including the payment of all obligations arising under the Contract.
2. The amount remaining of the Certified Cheque of the successful bidder will be returned without interest thirty (30) days after the date of the Certificate of Total Completion of the Work by the Consultant.
3. Certified Cheques of unsuccessful Bidders will be returned no later than 15 days after an award letter has been issued to the successful bidders.
4. Where Certified Cheque is used as bid security, include all costs associated with obtaining the Certified Cheque in the Bid.

3. Irrevocable Standby Letter of Credit:

1. In lieu of the Bid Bond, Performance Bond and Labour & Material Payment Bond, each bidder may submit with their bid an Irrevocable Standby Letter of Credit for a sum **not less than ten percent (10%)** of the bid amount.
2. The Irrevocable Standby Letter of Credit shall be issued by a certified financial institution subject to the Uniform Customs and Practices for Documentary Credit, 2007 Revision, International Chamber of Commerce (ICC) Publication no. 600 ("UCP").

3. An Irrevocable Standby Letter of Credit is to remain in effect until thirty (30) days after the date of the Certificate of Total Completion of the Work by the Consultant.
 4. Upon expiry of the Irrevocable Standby Letter of Credit, a separate Irrevocable Standby Letter of Credit shall be provided for work requiring extended warranties.
 5. The certified financial institution is to endorse the Irrevocable Standby Letter of Credit in the name of the Nova Scotia Community College as obligee.
 6. Where Irrevocable Standby Letter of Credit is used as bid security, include the cost in the Bid.
- 4. Performance Assurance for Multiple Tender Packages:** Should a Contractor be awarded multiple trade packages in an amount totalling, \$ 200,000.00 or more, the College may, at its sole discretion require the Contractor to provide the Nova Scotia Community College with performance assurance in the form of a Performance Bond and Labour & Material Payment Bond. Each Bond is to be in the form prescribed by, and acceptable to NSCC in an amount equal to fifty percent (50%) of the amount of the Contract. The cost of this performance assurance will be treated as a reimbursable expense that will be paid as an extra by NSCC. The Contractor will be required to provide all backup information to the College for the costs associated with obtaining the performance assurance.
- G. SCHEDULE:** The Work shall be commenced and completed within the time frames set forth in the Agreement. Time is of the essence.
- H. TAXES:** The Contractor shall pay all contributions, taxes and premiums payable under federal, provincial and municipal laws measured upon the payroll of employees engaged in the performance of the Work, and all applicable sales, use, excise, transportation, privilege, occupational and other taxes applicable to materials and supplies furnished or work performed hereunder and shall save NSCC harmless from liability for any such contributions, premiums, and taxes.
- I. WARRANTIES:** The Contractor warrants to NSCC that all labour, materials and equipment furnished under the Agreement are the type and quality required by the Agreement Documents, new (unless otherwise required or permitted by the Agreement Documents), and installed in a good and workmanlike manner and otherwise in accordance with the Agreement Documents. Contractor further warrants that (i) it shall use sound construction principles and practices in the performance of the Work; (ii) it shall apply to the Work a high degree of skill, care, judgment and supervision to assure that the Work is performed properly and in accordance with the agreement Documents; and (iii) the Work will be free from defects not inherent in the quality required or permitted.
- J. SUPERVISION:** The Contractor shall provide a competent manager and a competent superintendent for the Work, approved by the College, who shall be at the Site and working on the Work for layout, direction, coordination, sequencing and all other required activities, for the entire duration of and until final acceptance of the Work. The approved manager of superintendent shall not be discontinued (except upon final completion of the project or in the event of his or her termination of employment or disability or if NSCC requests a replacement to resolve incompatible working relationships) and no new individual shall be designated without prior approval of the College.
- K. SAFETY, HEALTH, AND FIRE PROTECTION:** The Contractor shall take all reasonable precautions in the performance of the Work to protect the health and safety of employees and members of the public, and to minimize danger from all hazards to life and property, and shall comply with all health, safety, and fire protection regulations and requirements (including reporting requirements) of Owner. In the event that Contractor fails to comply with said regulations or requirements of the College, the College may, without prejudice to any other legal or contractual rights of the College, issue an order stopping all, or any part of the Work; thereafter a start order for resumption of Work may be issued at the discretion of the College. Contractor shall make no claim for extension of time or for compensation or damages by reason of or in connection with such work stoppage.

The safety of all persons employed by Contractor and its Subcontractors on NSCC premises, or any other person who enters upon NSCC premises, for reasons relating to the Work, shall be the sole responsibility of the Contractor. The Contractor shall at all times maintain good order among its employees and shall not employ on the Work any unfit person, or person not skilled in the work assigned.

The Contractor shall confine its employees and all other persons who come onto the College's premises at Contractor's request, or for reasons relating to the Work to that portion of College's premises where the Work is to be performed, or to roads leading to and from such Work sites, and to any other area which the College may permit the Contractor to use. The Contractor shall take all reasonable measures, and precautions at all times to prevent injuries to, or the death of any of its employees, or any other person who enters upon the College premises. Such measures and precautions shall include, but shall not be limited to, all safeguards and warnings necessary to protect workers and others against any conditions on the College's premises which could be dangerous, and to prevent accidents of any kind whenever work is being performed in proximity to any moving or operating machinery, equipment or facilities, whether such machinery, equipment or facilities are the property of, or are being operated by, the Contractor, its subcontractors, the College or other persons. To the extent compliance is required, Contractor shall comply with all NSCC safety rules and regulations when on the College premises. See Appendix A - "NSCC Construction Safety Manual".

- L. **CERTIFICATE OF RECOGNITION:** The Contractor must provide to the College a copy of its Certificate of Recognition issued jointly by the Nova Scotia Department of Environment & Labour and an occupational health and safety organization approved by Nova Scotia Department of Environment & Labour, or a valid Letter of Good Standing from an occupational health and safety organization approved by NSCC, before beginning the Work. Updated Safety documents must be provided to the College during the term of the Agreement where Safety documents expire before completion date stated in the Agreement.
- M. **WORKERS COMPENSATION:** The Contractor must provide to the College a copy of its Workers' Compensation Clearance Certificate as required by the Province of Nova Scotia law, indicating the Contractor is in good standing with the Workers' Compensation Board (WCB), or other NSCC approved WCB certificate before starting Work. Updated WCB documents must be provided to the College during the term of the Agreement where WCB documents expire before completion date stated in the Agreement.
- N. **MEETINGS:** If requested by the College, prior to commencing construction, the Contractor shall participate in a kick-off meeting with the College's project manager or other representative. Additionally, the Contractor shall, if required by the College, hold progress and/or administrative meetings with the College and all persons or entities performing the Work. Such meetings shall be held at times as agreed upon by the Contractor and the College. The Contractor shall prepare minutes of both the progress meetings and the administrative meetings with College and shall distribute minutes of such meetings to the College and all attendees.
- O. **INSPECTION:** The College and its agent(s) shall at all times, have access to the Work or the Contractor shall provide facilities for access to all Work, whenever, and wherever it is in preparation, or progress.
- P. **COORDINATION AND ACCESS:** At no time shall the Contractor hamper the College's use of any existing facility or interrupt the operation of existing utility systems. All Work shall be carried out in such a manner as to cause the least interference with the College's continuous operation, and/or the work of other contractors. Corridors, doorways and exits shall be kept free of all materials at all times. If it becomes necessary to interrupt utility service to make a connection, alteration or relocation to such system, the Contractor shall prearrange such work with the College.

The Contractor and its subcontractors shall cooperate with the College and other vendors and contractors on the premises and shall so carry on their work that other cooperating vendors and contractors shall not be hindered, delayed or interfered with in the progress of their work, and so that all of such Work shall be a finished and complete job ~~of its kind~~.

- Q. SUBMITTALS:** If Submittals are required by the Agreement, Submittal shall comply with the Agreement Documents and shall contain such information as required by the College, or Consultant. At the time of submission of the Submittal, the Contractor, Consultant and the College shall confer and agree upon a reasonable time for the College's acceptance or response of the Submittal.

No portion of the Work for which a Submittal is required shall be purchased, fabricated, manufactured or constructed until the Owner, or its agent(s) has approved the respective Submittal, unless otherwise directed to proceed by the College. Review and approval of Submittals shall not relieve submitting entities of their responsibility to verify all dimensions, field conditions, quantities and measurements, to coordinate with contiguous parts of the Work, and otherwise comply with the Agreement Documents.

Approval of Submittals does not authorize changes to Specification requirements. The Contractor shall be responsible for any errors in the Submittals.

- R. Liens:** The Contractor shall keep the College, and the ~~of~~ Nova Scotia Government owned or leased sites or facilities free from liens arising out of the Work. The Contractor shall indemnify and hold harmless the College from all claims, demands, causes of action or suits, of whatever nature, arising out of the services, labour and materials furnished by the Contractor or its subcontractors under this order, and from all labourers', material Men's and Mechanics' liens upon the real property upon which the work is located or any other property of NSCC; or the Nova Scotia ~~NS~~ Government owned sites or facilities.

If a mechanic's lien is filed, the Contractor at its sole cost and expense shall cause the same to be removed of record and/or bonded within ten (10) days following request by the College or notice to Contractor from any source disclosing the existence of such lien.

The Contractor shall indemnify, defend, and hold harmless the College and its officers, trustees and employees from and against any liens claims and suits on liens, claims for unjust enrichment and/or quantum meruit, or any other similar claims, damages, losses or expenses, including reasonable attorneys' fees, arising out of the Work or resulting from nonpayment by Contractor or by any Subcontractor at any tier.

The Contractor's obligation shall include any claim, damages, losses or expenses arising out of any one or more employee(s) of Contractor or any Subcontractor, any material suppliers, any other person or entity in privity of contract with Contractor or subcontractor at any tier who performs work or services or provides materials on the Project, or any other person or entity who claims a right to payment by reason of the Work and/or the Project. Such obligation shall not be construed to negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist as to a party or person described in this clause.

The Contractor shall promptly notify the College in writing, of any such claims, demands, causes of action, or suits brought to its attention. The Contractor shall forward with such notification copies of all pertinent papers received by the Contractor with respect to any such claims, demands, causes of action or suits and, at the request of the College shall do all things and execute and deliver all appropriate documents and assignments in favour of the Owner of all Contractor's rights and claims growing out of such asserted claims as will enable the Owner to protect its interest by litigation or otherwise.

The final payment shall not be made until the Contractor, (if required) shall deliver to the College a complete release of all liens arising out of this order, or receipts in full in lieu thereof, as the Owner may require, and if required in either case, an affidavit that as far as it has knowledge or information, the receipts include all the labour and materials for which a lien could be filed; but the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the College to indemnify it against any claim by lien or otherwise. If any lien or claim remains unsatisfied after all payments are made, the Contractor shall refund to the College all monies that the latter may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorneys' fees.

- S. SUBCONTRACTS:** The Contractor shall submit an updated list of all Subcontractors to the Owner prior to commencement of the Work. The Contractor acknowledges that the College reserves the right to reject the Contractor's proposed subcontractors on any reasonable basis, with no adjustment in the Contract sum. The Contractor shall not employ any subcontractor(s) rejected by the College in writing.

The Contractor agrees that it is as fully responsible to the College for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor. Nothing contained in the Agreement Documents is intended to or shall create any contractual relationship between any subcontractors of the Contractor and the College.

- T. CHANGES (CHANGE ORDERS):** The Agreement may only be modified by written change order signed by both the College and contractor. The Contractor shall have no claim for any extra or additional work unless such work is clearly authorized in writing by the College before such extra or additional work is performed. Contractor acknowledges that it waives all claims for extra charges for extra or additional work that the Contractor performs without written authorization from the College.

NSCC may make changes in the Work by giving notice to Contractor and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of the Work, an equitable adjustment in the price or delivery of the Work, or both, shall be made in writing by agreement between the College and the Contractor. No change by the Contractor shall be allowed without written approval of NSCC.

If the College determines that Contractor has been delayed in the Work due to causes beyond the control and without the fault or negligence of the Contractor, NSCC may extend the time for completion of the Work, when promptly applied for in writing by Contractor; any extension granted shall be effective only if given in writing. If such delay is due to failure of the College not caused or contributed to by Contractor, to perform the Work in accordance with the terms of the Agreement Documents, the time and price of the Work shall be subject to change under this Changes (Change Orders) section. Sole remedy of the Contractor in event of delay by failure of the College to perform shall however, be limited to any money actually and necessarily expended in the Work during the period of delay, solely by reason of the delay. No allowance will be made for anticipated profits.

- U. COMPLETION:** The work shall be deemed complete after it complies in all respects with the Agreement Documents, the Contractor has completed all punch-list items, properly cleaned up its worksite, provided the College with all required warranties, manuals, and record documents, and otherwise has completed all acts necessary to allow the College to obtain occupancy or use permits as a result of the Work. Approval of Contractor's Final Application for Payment shall be conditioned upon performance of all of the foregoing obligations and receipt of documents for payment.

- V. CLEANING UP:** The Contractor shall at all times keep the College premises where the Work is performed and adjoining premises free from accumulations of waste material or rubbish caused by its employees or work of any of its subcontractors, and, at the completion of the Work; shall remove all rubbish from and about the building and all its, and its subcontractors' tools scaffolding, and

surplus materials, and shall leave the Work "broom clean" or its equivalent, unless more exactly specified. In case of dispute between Contractor and the subcontractors employed on or about the structure or structures upon which the Work is to be done, as herein provided, as to responsibility for the removal of the rubbish, or in case the same be not promptly removed as herein required, the College may remove the rubbish and charge the cost to Contractor.

W. CORRECTION OF WORK: At the College's request, Contractor shall, at Contractor's expense, promptly remove from the Site all Work identified by the College as not in accordance with the Agreement Documents, whether incorporated or not; the Contractor shall, at Contractor's expense, promptly replace and re-execute all labour, supplies, materials, equipment and/or other facilities in accordance therewith and restore all Work of other subcontractors destroyed or damaged as a result of such removal, replacement and re-execution.

If within one year of the date of final completion by contractor or within any time prescribed by law or the terms of any applicable special warranty or guarantee required by the agreement Documents, any of the Work is found by the College to be erroneous, defective or not in conformance with the Agreement documents, then, at the Owner's request, the Contractor shall, at the Contractor's expense, promptly remove from the premises all Work determined by the College to be erroneous, defective or not in accordance with the Agreement Documents.

The Contractor shall, at the Contractor's expense, promptly replace and re-execute all Work in accordance with the Agreement Documents and shall restore all Work and work of other contractors and subcontractors damaged as a result of such removal, replacement and re-execution. Notwithstanding the foregoing, neither the College's payment to Contractor, nor any repair attempts under any warranty or guarantee, nor any provision in the Agreement documents, shall relieve the Contractor of its responsibility to complete all Work in accordance with the Agreement documents and to complete the Work free of any defects in material or workmanship. The College's rights under any guarantee or warranty are not exclusive and the Owner shall have all rights available to it at law or equity for Contractor's failure to complete the Work in accordance with the Agreement Documents or Contractor's breach of the agreement.

X. TERMINATION: NSCC may terminate the Agreement with, or without cause at any time providing not less than seven (7) days written notice to Contractor. NSCC shall pay the Contractor for Work completed up to the date of termination, subject to the completed Work complying with the Agreement Documents. NSCC shall pay Contractor as full compensation for performance until such termination:

- (1) the unit or pro rated order price for the performed and accepted portion; and
- (2) a reasonable amount, not otherwise recoverable from other sources by Contractor as approved by the College, with respect to the unperformed or unaccepted portion of the Work, provided compensation hereunder shall in no event exceed the total Work Price.

The College may by written notice terminate the Work for Contractor's default, in whole or in part, at any time. If the Contractor refuses or fails to comply with the provisions of the Work, or so fails to comply with the provisions of this request to perform the Work, or so fails to make progress as to endanger performance and does not rectify such failure-within ten (10) calendar days, or fails to perform the Work within the time specified or any written extension thereof. In such event, the College may purchase or otherwise secure the Work and, except as otherwise provided herein, the Contractor shall be liable to the College for any excess costs incurred by the College thereby.

If, after notice of termination for default, the College determines that the Contractor was not in default or that the failure to perform the Work was due to causes beyond the control and without the fault or negligence of the Contractor (including, but not restricted to, acts of God or of the public enemy, acts of NSCC, acts of Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a subcontractor or supplier due to such

cases and without the fault or negligence of the subcontractor or supplier), termination shall be deemed for the convenience of the College, unless the College shall determine that the Work covered was obtainable by the Contractor from other sources in sufficient time to meet the required Work schedule.

If the College determines that the Contractor has been delayed in the work due to causes beyond the control and without the fault or negligence of the Contractor, NSCC may extend the time for completion of the work called for by the Work, when promptly applied for in writing by the Contractor; any extension granted shall be effective only if given in writing. If such delay is due to failure of NSCC, not caused or contributed to by the Contractor, to perform services or deliver property in accordance with the terms of the order, the time and price of the order shall be subject to change under the Changes Article. Sole remedy of the Contractor in event of delay by failure of NSCC to perform shall however, be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of the delay. No allowance will be made for anticipated profits.

The rights and remedies of NSCC provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Work.

As used in this article, the word "Contractor" includes Contractor and its subcontractors used for the Work.

Y. INDEMNITY (PROPRIETARY RIGHTS and PRODUCTS):

PROPRIETARY RIGHTS: The Contractor shall indemnify, defend, and hold harmless the College, its officers, agents, and employees against all losses, damages, liabilities, costs, and expenses (including but not limited to lawyers' fees) resulting from any judgement or proceeding in which it is determined, or any settlement agreement arising out of the allegation that Contractor's furnishing or supplying the College with parts, good, components, programs, practices, or methods under the Agreement of the College's use of such parts, goods, components, programs, practices, or methods supplied by Contract under the Agreement constitutes an infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party. The foregoing shall not apply unless the College has informed the Contractor as soon as practicable of the suit or action alleging such infringement. The Contractor shall not settle such suit or action without the consent of the College. The College retains the right to participate in the defence against any such suit or action.

PRODUCTS: The Contractor shall fully indemnify, defend and hold harmless the College from and against any and all claims, action, and liability, for injury, death, and property damage, arising out of the dispensing or use of any Contractor's product provided under authorized Owner orders. In addition to the liability imposed by law on the Contractor for damage or injury (including death) to persons or property by reason of the negligence, which liability is not impaired or otherwise affected hereby, the Contractor hereby assumes liability for and agrees to save the College harmless and indemnify it from every expense, liability or payment by reason of any damage or injury (including death) to persons or property suffered or claimed to have been suffered through any act or omission of the Contractor.

The College agrees to provide the Contractor with prompt notice of any such claims and to permit the Contractor to defend any claim or suit, and that it will cooperate fully in such defence.

Z. INSURANCE (Contractor's Liability and Comprehensive Builders Risk):

Contractor's Liability: The Contractor shall maintain such insurance and pay such assessments as will protect the Contractor and the College from claims under the Worker's Compensation Act and from any other claims for damages for bodily injury, sickness or disease, including death and from claims for property damage which may arise from operations under the Work. The minimum

limits of such insurance shall not be less than \$5,000,000 with respect to each occurrence or accident, on an occurrence (not claims made) basis.

The liability insurance to be maintained by the Contractor shall include Commercial General Liability Insurance covering Premises and Operations Liability, elevators, broad form property damage, broad form automobile, owners and contractors protective, blanket contractual, personal injury, contingent employer's liability, cross liability clause, non-owned automobile liability and a 30 day notice of cancellation clause. Liability coverage of not less than \$5,000,000 is required with regard to operations of owned automobiles.

All liability insurance policies shall be written in such terms as will fully protect the Contractor and include the College as an additional named insured.

Prior to commencement of any Work hereunder, the Contractor shall file with the College a certified copy of each insurance policy and certificate required. All such insurance shall be maintained until final completion and acceptance of the Work including the making good of faulty Work or materials, except that coverage of completed operations liability shall in any event be maintained for twelve (12) months date of final acceptance as certified by the College. **Comprehensive Builders Risk Coverage:** Prior to the commencement of any Work hereunder, the Contractor shall maintain and pay for Broad Form (All Risks) Builders Risk Coverage in the joint names of the College and the Contractor totaling not less than 100% of the total value of the Work done and materials delivered on the site (contract value) so that any loss under such policies of insurance will be payable to the College and the Contractor as their respective interests appear.

Should a loss be sustained under the Builders Risk Coverage, the Contractor shall act on behalf of the College and the Contractor for the purpose of adjusting the amount of such loss with the insurance companies. As soon as such adjustment has been satisfactorily complete, the Contractor shall proceed to repair the damage and complete the Work and shall be entitled to receive from the College in addition to any sum due under the Contract, the amount at which the College's interest has been appraised in the adjustment made with the insurance companies as referred to above, said amount to be paid to the Contractor as the Work of restoration proceeds. Any loss or damage which may occur shall not affect the rights and obligations of either party under the Contract except as aforesaid and except that the Contractor shall be entitled to a reasonable extension of time for the performance of the Work, as the College may decide.

All insurance policies shall be endorsed to provide a minimum advance written notice of not less than thirty (30) days in the event of cancellation, termination, or reduction in coverage or limits, such notice to be made by the Insurer to the College.

All insurance policies or certification documents shall specify coverage being applicable to the Work. Prior to commencement of Work, file with the Owner a certified copy each complete insurance policy or certification documents required. All such insurance shall be maintained until final completion of the Work.

The Contractor shall not do or omit to do or suffer anything to be done or omitted to be done which will in any way impair or invalidate such policy or policies of insurance. If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of the Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

It is understood that the coverage and limits referred to above shall not in any way limit the liability of Contractor. The Contractor shall furnish the College with certificates of insurance evidencing

compliance with all requirements prior to commencing the Work under this Agreement. Such certificates shall:

- (1) Provide for thirty (30) days advance written notice to the College of any modification, change, or cancellation of any of the above insurance coverage.
- (2) Indicate that the College has been endorsed as an additional insured for the coverage referred to under Article Z further on in this document. This provision shall only apply in proportion to and to the extent of the negligent acts or omissions of Contractor, its officers, agents, or employees.
- (3) Include a provision that the coverage will be primary and will not participate with nor be excess over any valid and collectible insurance or program of self-insurance carried or maintained by the College.

Professional Liability, Consultants shall maintain such insurance in an amount not less than \$2,000,000.00, insuring his/her liability for errors and omissions in the performance of his/her professional services including all consultants. Such insurance to be maintained in force until thirty-six (36) months after the date of the acceptance of the Certificate of Substantial Performance of the work.

AA. NOTICES: All notices shall be made to the parties at their respective addresses as set forth in the Agreement.

BB. AUDIT RECORDS: The College shall have the right to audit all charges made pursuant to the Agreement at any time and in its sole discretion. Contractor and its Subcontractors shall keep and maintain, in a commercially reasonable format to the College, full and detailed records ("Audit Records") and shall exercise such controls as may be necessary for proper financial management under the Agreement. The Contractor shall produce and shall afford the College and its representative(s) access to inspect or reproduce all Audit Records which Owner may deem necessary to substantiate charges made pursuant to the Agreement. The Contractor shall provide information and documents responsive to any request by the College or its representative under this Section BB within ten (10) business days of such request. The Contractor agrees that at any time upon request of the College he will submit a sworn statement setting forth the Work performed or material furnished by subcontractors, suppliers and material men, and the amount due and to become due to each, and that before the final payment called for hereunder, will if requested, submit to the College a complete set of vouchers showing what payments have been made for materials and labour used in connection with the Work called for hereunder. The Contractor shall preserve these records for a period of seven (7) years after completion of the Work of the Agreement. Or for such longer period as may be required by law.

CC. ASSIGNMENT: The Agreement shall be binding upon the College and Contractor, and their respective heirs, successors, executors and administrators. The Contractor shall not have the power to assign the Agreement without the written prior consent of the College. Any assignment without the prior written consent of the College shall be void. No assignment shall relieve the Contractor from any obligations herein unless explicitly stated in the assignment and approved in writing by the College.

DD. WAIVER OF DEFAULT: Any failure of the College at any time, or from time to time, to enforce or require the strict keeping and performance by Contractor of any of the terms or conditions of the Work shall not constitute a waiver by the College of a breach of any such terms or conditions of the Work and shall not affect or impair such terms or conditions of the Work in any way, or the right of the College at any time to avail itself of such remedies as it may have for any such breach or breaches of such terms or conditions of the Work.

EE. OTHER APPLICABLE LAWS: Any provision required to be included in a contract of this type by any applicable and valid federal, provincial or municipal law, ordinance, rule or regulations shall be deemed to be incorporated herein.

FF. GOVERNING LAW: The law of the Province of Nova Scotia shall control this document and any document to which it is appended.

EXHIBITS: The following Exhibits are attached hereto and incorporated herein by this reference:

Exhibit A – NSCC Construction Safety Manual