

HEALTH – OWNER INSURED CONSTRUCTION PROJECTS

**Insurance and Indemnification Clauses
(to be included in Supplementary Conditions to the
Design - Build Stipulated Price Contract 14 - 2000 for
Health projects insured by the Owner with an Estimated Project Cost of
\$1,000,000.00 or greater)**

MODIFICATIONS TO GENERAL CONDITIONS

GC 11.1—INSURANCE, replace entirely with the following:

11.1.1 Without restricting the generality of GC 12.1—INDEMNIFICATION, insurance and coverage will be arranged and paid for as under-noted:

(a) Wrap-up Liability insurance

- i. The Owner shall provide, maintain and pay for Wrap-up Liability Insurance with a limit of Ten Million Dollars (\$10,000,000.00), inclusive per occurrence, Twenty Million Dollars (\$20,000,000.00) general aggregate for bodily injury, death, and damage to property including loss of use thereof, product/completed operations liability with a limit of Ten Million Dollars (\$10,000,000.00) aggregate.
- ii. This insurance shall cover the Owner, Design-Builder & Sub-contractors, Architects, Engineers, Consultants and anyone employed by them to perform a part or parts of the Work (includes both Construction and Design Services, but excludes all professional services, under the Project Agreement) but excluding suppliers whose only function is to supply and/or transport products to the project site or security protection persons or organizations providing site protection on or at the insured project. The insurance does not extend to any activities, works, jobs or undertakings of the insureds other than those directly related to the Work of this Contract.
- iii. The insurance shall preclude subrogation claims by the insurer against anyone insured hereunder.
- iv. The insurance shall include coverage for:
 01. Products or Completed Operations Liability (24 months);
 02. Cross Liability (or Severability of Interests);

03. Shoring, Blasting, Excavating, Underpinning, Demolition, Piledriving and Caisson Work, Work Below Ground Surface, Tunneling and Grading, as applicable;
 04. Limited Pollution Liability (\$2,000,000.00);
 05. Broad Form Tenants Legal Liability (\$1,000,000.00);
 06. Operation of Attached Machinery; and
 07. Forest Fire Fighting Expenses (\$1,000,000).
- v. Any applicable deductibles shall not exceed Ten Thousand Dollars (\$10,000.00) except with respect to loss or damage arising from hot roofing operations where the deductible shall not exceed Fifty Thousand Dollars (\$50,000.00).
 - vi. This insurance shall be maintained continuously from commencement of the Work until the date of final certificate for payment is issued or when the insured project is completed and accepted by or on behalf of the Owner, whichever occurs first, plus with respect to completed operations cover a further period of twenty-four (24) months.

(b) Professional Liability Insurance

The Design Builder or the Design-Builder's Consultant during the term of the Agreement shall provide and maintain continuously from the commencement of the Work, until 2 (two) years after Substantial Performance of the Work, the following insurance which shall be placed with such company or companies and in such form and amounts and with such deductibles as may be acceptable to the Owner:

- i. Professional Errors and Omissions Liability Insurance protecting the Design Builder or the Design-Builder's Consultant, Sub-Consultant(s) and their respective servant(s), agent(s) or employee(s) against any loss or damage arising out of the Design Services under this Agreement. Such insurance shall be for the adequate amount acceptable to the Owner and shall in any event be not less than:
 - a. For construction valued at \$0.00 to \$2.5 million: \$250,000 per occurrence;

- b. For construction valued over \$2.5 million to \$7.5 million: \$500,000 per occurrence;
- c. For construction valued over \$7.5 million to \$15.0 million: \$1,000,000 per occurrence;
- d. For construction valued over \$15.0 million to \$30.0 million: \$2,000,000 per occurrence; and
- e. For construction valued over \$30.0 million to \$75.0 million: \$5,000,000 per occurrence.

Structural, Mechanical, Electrical and Civil Sub-Consultants Insurance coverage to be based on the value of their scope of work. All other specialty Consultants to carry a minimum \$250,000 Errors and Omissions Insurance despite the value of their scope of work.

- ii. If coverage is provided by the Design-Builder's Consultant, then such Professional Errors and Omissions Liability Insurance shall not contain a "Design-Build" exclusion.

(c) Property Coverage Insurance

- i. The Owner shall provide, maintain and pay for Course of Construction coverage, against "All Risks" including Flood and Earthquake of direct physical loss or damage, and will cover all materials, property, structures and equipment purchased for, entering into, or forming part of the Work whilst located anywhere within Canada and continental United States of America during construction, erection, installation and testing, but such coverage shall not include coverage for Design-Builder's and subcontractor's equipment of any description. Such coverage shall be maintained until Substantial Performance of the Work. There will be a deductible of Ten Thousand Dollars (\$10,000.00) for each and every occurrence on projects valued at Ten Million Dollars (\$10,000,000.00) or less and a deductible of Twenty Five Thousand Dollars (\$25,000.00) on projects valued at more than Ten Million Dollars (\$10,000,000.00) except for the peril of earthquake which shall have a five percent (5%) (subject to minimum Two Hundred Fifty Thousand Dollars (\$250,000.00)) deductible based upon the total project value insured. A one day waiting period for each month of the project subject to a minimum waiting period of 30 days shall apply with respect to soft costs.

- ii. The coverage shall include as insureds the Design-Builder, Subcontractor, Architect, Engineer, or other consultants who are engaged in the Project.
- iii. The coverage will contain a waiver of the Owner's rights of subrogation against all insureds except where a loss is deemed to have been caused by or resulting from any error in design or any other professional error or omission or manufacturers (not employees of the Owner).
- iv. The Design-Builder shall, at his own expense, take special precaution to prevent fires occurring in or about the Work and shall observe, and comply with, all insurance policy warranties and all laws and regulations in force respecting fires.

(d) Automobile Liability Insurance

The Design-Builder shall provide, maintain and pay for, and require all Subcontractors to provide, maintain and pay for Automobile Liability Insurance in respect of all owned or leased vehicles, subject to limits of not less than Two Million Dollars (\$2,000,000.00) inclusive per occurrence. The insurance shall be placed with such company or companies and in such form and deductibles as may be acceptable to Owner.

(e) Aircraft and/or Watercraft Liability Insurance

The Design-Builder shall provide, maintain and pay for liability insurance with respect to owned or non-owned aircraft and watercraft if used directly or indirectly in the performance of the Work, subject to limits of not less than Two Million Dollars (\$2,000,000.00) inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof and including Aircraft Passenger Hazard where applicable. The insurance must name the Owner as an additional insured, be endorsed to provide the Owner with 30 days advance written notice of cancellation and be placed with such company or companies and in such form and deductibles as may be acceptable to Owner.

(f) Contractors Pollution Liability Insurance

When applicable, the Design-Builder (or Design-Builder's Subcontractors) will be required to provide, maintain and pay for:

- i. Contractors Pollution Liability insurance with limits no less than \$2,000,000.00 per occurrence for bodily injury, death, and

damage to property including loss of use thereof. Such insurance shall include all operations associated with hazardous materials clean-up, removal and/or containment, transit and disposal; or

- ii. Asbestos Abatement Liability coverage as provided under the Design-Builder's or Subcontractor's Commercial General Liability insurance coverage with limits no less than \$2,000,000.00 per occurrence for bodily injury, death, and damage to property including loss of use thereof. Such insurance shall include all operations associated with hazardous materials clean-up, removal and/or containment, transit and disposal.

Any insurance required under this section (f) must name the Owner as an additional insured, include a cross liability clause and be endorsed to provide the Owner with 30 days advance written notice of cancellation. If any such insurance is provided on a claims-made basis and that insurance is cancelled or not renewed, such policy must provide a 24 month extended reporting period. The Design-Builder must cause all Subcontractors to provide to the Owner a Certificate of Insurance confirming all policies and endorsements necessary to comply with the insurance requirements outlined herein, or upon request, provide a certified copy of the required insurance policy.

- 11.1.2 The description of the Owner arranged insurance described herein is provided on a summary basis only and is not a statement of the actual policy terms and conditions. The Owner does not represent or warrant that the Owner arranged insurance contains insurance for any and all losses. It is the Design-Builder's responsibility to ascertain the exact nature and extent of coverage provided by the Owner arranged insurance, to review all policies pertaining thereto and to obtain any other insurance that it may be prudent for the Design-Builder to obtain.

The Design-Builder shall also provide, maintain and pay for any other insurance that the Design-Builder is required by law to carry, or which the Design Builder considers necessary.

- 11.1.3 Unless specified otherwise, the duration of each coverage and insurance policy shall be from the date of commencement of the Work until the date of final certificate for payment.
- 11.1.4 The Owner shall, upon request, provide the Design-Builder with proof of insurance of those coverages and insurances required to be provided by the Owner prior to commencement of the Work and subsequent certified copy of policies within a reasonable time period thereafter.

- 11.1.5 The Design-Builder and/or his Subcontractors, Consultants, and Sub-Consultants as may be applicable, shall be responsible for any deductible amounts under the policies of coverage and insurance except for perils of flood and earthquake.
- 11.1.6 The Design-Builder shall provide the Owner with proof of insurance for those insurances required to be provided by the Design-Builder (or Design Builder's Consultant) prior to the commencement of the Work in the form of a completed Certificate of Insurance and shall also provide a certified copy of any required policies upon request.
- 11.1.7 The Owner shall not be responsible for injury to the Design-Builder's employees or for loss or damage to the Design-Builder's or to the Design-Builder's employees' machinery, equipment, tools or supplies which may be temporarily used or stored in, on or about the premises during construction and which may, from time to time, or at the termination of the contract, be removed from the premises. The Design-Builder hereby waives all rights of recourse against the Owner or any other contractor with regard to damage to the Design-Builder's property.

GC 12.1 – INDEMNIFICATION, delete GC 12.1.1 and 12.1.2 and replace with the following:

GC 12.1 – INDEMNIFICATION

- 12.1.1 The Design-Builder will indemnify and save harmless the Owner, its employees and agents, from and against any and all losses, claims, damages, actions, causes of action, costs and expenses (including actual legal and other professional fees and disbursements) that the Owner may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Contract, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act, error, omission or negligence of the Design-Builder or of any Subcontractors, Consultants, Sub-Consultants, agents, employee, officer, director of the Design-Builder pursuant to this Contract, excepting always liability arising out of the independent negligent acts of the Owner.