**Contractor’s Agreement**

***FOR INFORMATIONAL PURPOSES ONLY: FOR CANADIAN USE***

THIS AGREEMENT (hereinafter referred to as “Agreement”) IS MADE and entered into on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, by and between Enterprise Rent-A-Car Canada Company – **Ottawa, Ontario** Division, (hereinafter referred to as “Enterprise”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[Insert Contractor’s proper legal name]**, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[Insert jurisdiction of incorporation]** corporation, (hereinafter referred to as “Contractor”).

1. DEFINITIONS
   1. “Actual Necessary Cost” shall include all expenditures for materials, supplies, and labour (including foremen’s wages) furnished by Contractor, additional cost to Contractor for insurance required as a result of any Change in Work (as hereinafter defined), and an allowance based on current market rental prices for the use of vehicles and equipment. The “Actual Necessary Cost” shall not include any allowance or amount for Contractor’s office expense, general superintendence or other overhead or general expense, or for small tools, concrete carts, wheelbarrows or other similar items of small equipment.
   2. The term “Architect” refers to Jason Flynn of Flynn Architect.
   3. The term “Change Directive” shall mean a written instruction prepared by the Architect and signed by Enterprise directing the Contractor to proceed with a change in the Work within the general scope of the Contract Documents prior to Enterprise and the Contractor agreeing upon adjustments in the Contract Price and Time.
   4. The term “Change in Work” shall have the meaning set out in Section 5(a) hereof.
   5. The term “Change Order” shall mean a written amendment (see **Exhibit C** for sample Change Order form) to the Contract Documents prepared by the Architect and signed by Enterprise and the Contractor stating their agreement upon:
      1. a change in the Work;
      2. the method of adjustment or the amount of the adjustment in the Contract Price, if any; and
      3. the extent of the adjustment in the Time, if any.
   6. The terms “Complete”, “Completion” and similar derivatives shall refer to when the Work is completed or finished in a good and workmanlike manner and in accordance with the Contract Documents, whatever may be their nature or extent, such that the Work may be occupied and used for its intended purposes.
   7. The “Contract Documents” shall mean this Agreement, any supplementary conditions, the Drawings and Specifications for the Project, any other document(s) incorporated by reference into this Agreement and any subsequently issued and fully signed Change Orders (if any). The Contract Documents are enumerated in **Exhibit A** attached to and made a part of this Agreement.
   8. The term “Contract Price” shall have the meaning set out in Section 4(a) hereof.
   9. The term “Contractor’s Bond” shall have the meaning set out in Article 11 hereof.
   10. The term “Cost Plus Basis” shall have the meaning set out in Section 5(c) hereof.
   11. The term “Drawings” shall mean the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details and diagrams.
   12. The term “Final Payment” shall have the meaning set out in Section 4(e)(3) hereof.
   13. The term “General Liability Insurance” shall have the meaning set out in Section 13(a)(1) hereof.
   14. The term “Insurance” shall have the meaning set out in Section 13(a) hereof.
   15. The term “Insured Party” shall have the meaning set out in Section 13(b) hereof.
   16. The term “Law” shall include federal, provincial and local laws, ordinances, rules, regulations, standards, guidelines, permits, statutes and codes.
   17. The terms “notify”, “notifying” and similar derivatives shall mean to submit a notice in writing by any one of the following means properly addressed to the other party’s authorized representative: personal delivery; overnight courier service which maintains a record of the recipient’s signature; facsimile transmission; or email.
   18. The term “Project” shall mean **all works necessary to effectively complete the project outlined in the scope of work and accompanying drawings**  of which the Work performed under this Agreement may be the whole or a part and which may include construction by Enterprise or by separate contractors.
   19. The term “Property” shall mean the designated site or location of the Work identified in the Contract Documents.
   20. The term “Specifications” shall mean that portion of the Contract Documents, wherever located and whenever issued, consisting of the written requirements and standards for material, machinery, equipment, fixtures, systems, workmanship, quality and the services necessary for the performance of the Work.
   21. The term “Subcontractor” shall mean a person or entity having a contract to perform a part or parts of the Work at the Property including those having a contract with the Contractor or with another Subcontractor.
   22. The term “Substantial Performance of the Work” shall have the meaning set out in the lien legislation applicable to the Property. If such legislation is not in force or does not contain such definition, or if the Work is governed by the Civil Code of Quebec, Substantial Performance of the Work shall have been reached when the Work is ready for use or is being used for the purpose intended and is so certified by the Architect.
   23. The term “Supplier” shall mean a person or entity having a contract to supply material, machinery, equipment or fixtures with respect to the Work including those having a contract with the Contractor or with another Supplier.
   24. The term “Time” shall have the meaning set out in Section 6(a) hereof.
   25. The term “Value Added Taxes” shall mean such sum as shall be levied upon the Contract Price by the Federal or any Provincial or Territorial Government and is computed as a percentage of the Contract Price and includes the Goods and Services Tax, the Quebec Sales Tax, the Harmonized Sales Tax, and any similar tax, the collection and payment of which have been imposed on the Contractor by the tax legislation.
   26. The term “Work” shall mean all labour, services, materials, equipment, shop engineering, detailing, tools, apparatus, scaffolding, hoisting, temporary utilities, transportation, storage, supervision, Project administration and such other services as required by the Contract Documents or as reasonably inferable therefrom in order to furnish operable and complete systems, elements, and improvements capable of use by Enterprise. The Work may constitute the whole or a part of the Project. A general description of Contractor’s scope of Work is attached as **Exhibit B** and made a part of this Agreement.
   27. The term “Working Day” shall mean a day other than a Saturday, Sunday, statutory holiday, or statutory vacation day that is observed by the construction industry in the area of the Property.
   28. The term “Confidential Information” shall mean all the information or material of Enterprise that is of a proprietary or confidential nature, whether it is identified as proprietary or confidential or not, including but not limited to information and material of every kind and description (such as drawings and move-lists) which is communicated to or comes into the possession or control of the Contractor at any time, but Confidential Information shall not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the Contractor, including without limitation breach of any duty of confidentiality owed by the Contractor to Enterprise or to any third party, but only after that information becomes generally available to the public; (ii) the Contractor can demonstrate to have been rightfully obtained by the Contractor from a third party who had the right to transfer or disclose it to the Contractor free of any obligation of confidence; (iii) the Contractor can demonstrate to have been rightfully known to or in the possession of the Contractor at the time of disclosure, free of any obligation of confidence; or (iv) is independently developed by the Contractor without use of any Confidential Information.
   29. The term “Personal Information” shall have the meaning set out in the privacy legislation applicable to the Property and includes an individual’s name, address, age, date of birth, sex, and religion, whether recorded in printed form, on film, by electronic means, or otherwise and disclosed to the Contractor.
2. CONTRACTOR’S RESPONSIBILITIES FORMING A PART OF THE WORK
   1. Contractor agrees: (i) that finishing and performance of all of the Work shall be in a good and workmanlike manner and to strictly conform to the requirements of the Contract Documents; (ii) that all materials and equipment forming a part of the Work shall be new and free from defects, deficiencies and non-conformities; and (iii) to do and fulfill everything indicated by the Contract Documents and Contractor warrants the above to Enterprise’s satisfaction and approval. The Contractor shall prepare and submit to Enterprise and the Architect, prior to the first application for payment, a critical path method construction schedule that indicates the timing and interrelationship of the activities of the Work and the Contractor shall update such schedule on at least a monthly basis.
   2. Notwithstanding anything seemingly to the contrary, Contractor shall perform the Work in conformity in all respects with each applicable Law.
   3. Before starting the Work, Contractor shall, in order to facilitate the construction of the Work, carefully study and compare the various Contract Documents, take field measurements of existing conditions, and investigate and observe any conditions at the site of the Project affecting how to furnish and install the Work.
   4. Contractor shall immediately notify Enterprise and Architect of: (i) any element or item in the Contract Documents that does not conform to the applicable Laws; and (ii) any error in, inconsistency among, or omission in the Contract Documents. In making such review the Contractor assumes responsibility to Enterprise for the accuracy of the review. Enterprise shall not be liable for damage or costs resulting from such errors, inconsistencies or omissions in the Contract Documents, which the Contractor did not discover. If the Contractor does discover any error, inconsistency, or omission in the Contract Documents, the Contractor shall not proceed with the Work affected until the error, inconsistency or omission has been addressed and in dealing with such error, inconsistency or omission the Contractor shall co-operate with Enterprise and the Architect in good faith to resolve such errors, inconsistency or omission so as to avoid any increase in the Contract Price or delay in the progress of the Work.
   5. The Contractor declares and represents that in entering into the Agreement with Enterprise for the performance of the Work, it has either investigated for itself the character of the Work to be done and all local conditions, including, without limitation, the position of all poles, lines, conduits, watermains, sewers and other underground and overground utilities and structures, or that, not having so investigated, the Contractor has assumed and does hereby assume all risk of conditions now existing or arising 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 fulfil, than was contemplated or known when the Contract Documents were signed.
   6. The Contractor declares and represents that in entering into the Agreement with Enterprise for the performance of the Work, the Contractor did not and does not rely upon the information, if any, furnished by Enterprise or the Architect, or any of their respective agents and employees, respecting, without limiting the generality of the foregoing, the nature of the ground at the site of the Work, or the location, character, quality or quantity of the materials to be removed or to be employed in the performance of the Work, or the character of the construction materials and equipment or facilities needed to perform the Work, or the local conditions or the character of the Work, and expressly waives and releases Enterprise and the Architect, and their respective agents and employees, from all claims with respect to the said information.
   7. Enterprise reserves the right to award separate contracts in connection with other parts of the Project to other contractors and to perform work with its own forces. Contractor shall expeditiously prosecute the Work and coordinate the performance of the Work with other Project participants without unduly disrupting the performance by Enterprise or its other contractor(s) and in a manner so as to Complete the Work within the Time required by the Contract Documents. Contractor shall keep Enterprise apprised of scheduled construction activities that could potentially impair or otherwise adversely affect Enterprise’s business operations at the Project site, and Contractor shall take all steps necessary to avoid disruptions and interferences with Enterprise’s business operations. A temporary shut off of any utilities shall only occur at such time and for such period as Enterprise approves in writing.
   8. Contractor shall perform portions of the Work that the Contractor customarily performs with its own personnel and shall obtain bids from Subcontractors and Suppliers for the portions of Work that the Contractor does not customarily perform. Enterprise may, at its discretion, object to the use of a proposed Subcontractor or Supplier and require the Contractor to employ a different Subcontractor or Supplier. Contractor shall obtain bids from specific persons or entities that Enterprise may designate.
   9. The Contractor shall supervise on a full time basis and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work except and to the extent, if at all, the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall be fully and solely responsible for safely accomplishing such means, methods, techniques, sequences or procedures. If the Contractor determines that any such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall timely notify Enterprise and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. In all events, Contractor shall ensure that in connection with the performance of the Work, including training for that performance, job safety is not compromised, and that the applicable Laws, including occupational health and safety rules and regulations, are fully satisfied. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Work, whether by Contractor or by any of its Subcontractors or Suppliers at any tier.
   10. Contractor shall pay for all labour, supervision, project management, equipment, materials, tools, construction equipment, machinery, transportation and other facilities and services necessary for proper execution and Completion of the Work.
   11. Contractor shall be responsible to Enterprise for acts and omissions of the Contractor, each Subcontractor or Supplier at any tier, and their respective agents and employees and other persons or entities performing portions of the Work. Contractor shall not permit any unskilled or otherwise unfit person to perform any of the Work.
   12. Contractor shall be responsible for inspection of: (i) pre-existing conditions to ensure that insofar as the Work is dependent upon those conditions being compatible with the contemplated Work, the conditions are indeed compatible; and (ii) portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work. Contractor shall promptly notify Architect and Enterprise of any pre-existing conditions that are not compatible. Contractor assumes full risk of loss or damage or additional expenses due to undertaking the performance of any Work in a manner contrary to this section.
   13. Contractor shall inspect all Work for Enterprise and ensure that the Work performed for the Project is performed in strict conformance with the requirements of the Contract Documents.
   14. Contractor shall be responsible for ensuring that all proper building permits, including specialty trade permits, are obtained prior to performing the Work.
   15. Contractor shall collect all paid receipts and warranties from Subcontractors and Suppliers, and provide a copy to Enterprise. All paid receipts and warranties shall be issued in favor of, or otherwise made out to, Enterprise.
   16. Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Agreement, and the accounting and control systems shall be satisfactory to Enterprise. Enterprise and its accountants shall be afforded access to, and shall be permitted to audit and copy upon request, the Contractor’s records, books, correspondence, instructions, Drawings, receipts, contracts with Subcontractors and Suppliers, purchase orders, vouchers, memoranda, and other data relating to this Agreement or the Work, and the Contractor shall preserve these for a period of five (5) years after Final Payment, or for such longer period as may be required by Law.
   17. Contractor shall be available to consult with Enterprise concerning all matters relating to the Project.
   18. The Contractor shall keep one copy of current Contract Documents, submittals, reports and records of meetings at the Property, in good order and available to Enterprise and the Architect.
   19. Contractor will continuously keep the job site and surrounding area clean, and keep it safe, orderly and neat. At the Completion of the Work, the Contractor shall ensure that the entire job site and surrounding area is swept clean in a condition suitable for use or occupancy by Enterprise and the Contractor shall remove its tools, equipment, machinery and surplus materials.
   20. Environmental Matters:
       1. Contractor shall, and shall cause each of its employees and the Subcontractors and Suppliers at every tier to, fully comply with all environmental Laws in connection with the construction of the Work.
       2. Except where the Contract Documents specifically indicate otherwise, Contractor shall not, and shall cause each of its employees and Subcontractors and Suppliers not to, use, store, handle or dispose of toxic and hazardous materials in the construction of the Work, other than in commercially reasonable quantities as a consumer and generator thereof and in compliance with all environmental Laws. Where the Contract Documents specifically include using, handling, remediating, and/or disposing of toxic or hazardous materials, Contractor shall do so in strict compliance with all environmental Laws.
       3. Contractor shall immediately cease Work in the affected area (except for such measures as may be reasonably warranted in order to prevent a release) and notify Enterprise if, in the construction of the Work, Contractor discovers any toxic or hazardous materials the management, removal or remediation of which was not specifically addressed in the Contract Documents.
3. DRAWINGS AND SPECIFICATIONS
4. The Drawings and Specifications are complimentary; any Work, material or equipment required by the Drawings but not by the Specifications, or vice versa, shall be furnished by the Contractor as part of the Work. In case of a conflict or inconsistency within or among the Contract Documents, Contractor shall furnish, as the case may be, the higher quantity or the greater quality. In case of doubt, Contractor shall notify Architect and Enterprise to seek clarification or instruction regarding what the Contract Documents require which clarification or instruction rendered in good faith shall control.
5. As the Work progresses, the Contractor shall keep and maintain a complete and accurate record of all changes and deviations from the Contract Documents and shop drawings, indicating, in a neat, accurate and legible manner the Work as actually installed. All such as-built Drawings and Specifications shall be neatly, accurately, legibly and correctly shown on the drawing affected, or in the Drawings and Specifications with appropriate supplementary notes. This record set of prints of Drawings and Specifications shall be kept at the job site for review by the Architect or Enterprise.
6. The above records shall be arranged in order, in accordance with the various divisions of the work and properly indexed. At the Completion of the Work the Contractor shall certify by endorsement thereof, that each of the revised prints of the Drawings and Specifications are complete and accurate.
7. PAYMENT
   1. Enterprise agrees, in consideration of Contractor’s timely and proper performance of this Agreement, including the Contract Documents, to pay or cause to be paid to Contractor the sum of **[Insert total amount to be paid to Contractor in words ($\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)]** CAD (hereinafter “Contract Price”), which includes all taxes and custom duties except for Value Added Taxes.
   2. Value Added Taxes (of **[Insert percentage in words (\_\_\_\_%)]**) payable by Enterprise to Contractor are $\_\_\_\_\_\_\_\_\_\_.
   3. The total amount payable by Enterprise to Contractor for the construction of the Work is **[Insert total amount to be paid to Contractor in words ($\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)** CAD.
   4. The amounts in Sections 4(a), 4(b) and 4(c) are in Canadian funds and shall be subject to additions and deductions as per any Change Orders or as otherwise authorized by the Contract Documents.
   5. Subject to the provisions of the Contract Documents, and in accordance with legislation and statutory regulations respecting holdback percentages, and where such legislation or regulations do not exist or apply, subject to a holdback of **ten percent (10%)**, Enterprise shall pay Contractor at the following times and in the following manner:
      1. Applications for payment on account, based upon the value of the Work performed during any previous month or portion thereof, may be made monthly as the Work progresses. Contractor shall provide a declaration stating that all accounts for labour, subcontracts, material, machinery, equipment, fixtures and other indebtedness which may have been incurred by the Contractor during the previous month and for which Enterprise might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute. Enterprise shall make progress payments to the Contractor, on account of the Contract Price in an amount certified by the Architect together with such Value Added Taxes as may be applicable to such payments, on or before twenty (20) days after the later of:
         1. receipt of the application for payment from the Architect; or
         2. the last day of the month for which the application for payment is made.
      2. When the Contractor considers that the Work has achieved Substantial Performance of the Work or, if permitted by the applicable lien legislation, a designated portion thereof which Enterprise agrees to accept separately is substantially performed, the Contractor shall, within one Working Day, deliver to the Architect and to Enterprise a written application for review by the Architect to establish Substantial Performance of the Work or substantial performance of the designated portion of the Work. The Architect will review the Work to verify the validity of the application and shall no later than twenty (20) days after receipt of the application: advise the Contractor that the Work or designated portion of the Work is not substantially performed and give reasons why; or issue a certificate of Substantial Performance of the Work. Upon issuance of such certificate, Contractor shall: (i) comply with the provisions of applicable lien legislation with respect to posting or publishing of the certificate of Substantial Performance of the Work; (ii) submit an application for payment of the holdback amount; and (iii) submit a declaration stating that all accounts for labour, subcontracts, material, machinery, equipment, fixtures and other indebtedness which may have been incurred by the Contractor in the Substantial Performance of the Work and for which Enterprise might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute. Upon submission of the application for payment of the holdback amount and declaration, the Architect will issue a certificate of payment of the holdback amount. Enterprise shall pay to the Contractor the unpaid balance of the holdback amount together with such Value Added Taxes as may be applicable to such payment as follows:
         1. In common law jurisdictions, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable on the first day following the expiration of the holdback period stipulated in the applicable lien legislation. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice or provisions which may be agreed to between the parties. Enterprise may retain out of the holdback amount any sums required by law to satisfy any liens against the Work, or if permitted by the lien legislation applicable to the Property, other third party monetary claims against the Contractor which are enforceable against Enterprise.
      3. When the Contractor considers that the Work is Complete, the Contractor shall submit an application for Final Payment. The Architect will, no later than ten (10) days after the receipt of an application from the Contractor for Final Payment, review the Work to verify the validity of the application and notify the Contractor that the application is valid or give reasons why it is not valid. Upon issuance of the final certificate for payment, subject to Section 4(f), Section 4(l) and applicable lien legislation, Enterprise shall, no later than thirty (30) days after the issuance of the final certificate of payment, pay the balance of the Contract Price (hereinafter “Final Payment”) together with such Value Added Taxes as may be applicable to such payment.
   6. As additional conditions precedent to Contractor’s right to receive Final Payment, Contractor shall:
      1. discharge and vacate the building, site and premises from any and all claims or liens that may have accrued against them in and from the performance of this Agreement;
      2. furnish to Enterprise statutory declarations from its Subcontractors at every tier and from its Suppliers that all accounts for labour, subcontracts, material, machinery, equipment, fixtures and other indebtedness which may have been incurred by the Subcontractor or Supplier, as applicable, during the previous month and for which Enterprise might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute;
      3. furnish Enterprise the original copies of all permits for the Work;
      4. furnish to Enterprise the original job card(s) for all Work with final signatures;
      5. furnish to Enterprise the original stamped set of Drawings for the Work;
      6. furnish to Enterprise a set of record Drawings and Specifications reflecting the Work as built;
      7. furnish to Enterprise a record of approved Submittals and Samples;
      8. conduct a walk through with Enterprise and complete and correct all items not completed or corrected to Enterprise’s satisfaction (the “Punch List”);
      9. furnish to Enterprise such documents as the landlord of the Property or Enterprise’s lender may reasonably require which will include, without limitation the following:
         1. certification of No Asbestos Products incorporated in the Project;
         2. consent(s) of Surety;
         3. completed SWPPP documents and Notice of Termination; and
         4. final Historically Underutilized Business Plan.
      10. furnish to Enterprise, in electronic format complete Operating and Maintenance information (the “Operating and Maintenance Manual”) which will include, without limitation, the following:
          1. completed Commissioning and Closeout Manual;
          2. approved submittals, manufacturer’s operating and maintenance instructions, brochures, shop drawings, performance curves and data sheets annotated to indicate equipment actually furnished (e.g. identifying impeller size, model, horsepower, etc), procedures, wiring and control diagrams, records of factory and field tests and device/controller settings and calibration, program lists or data compact discs, maintenance and warranty terms and contact information, spare parts listings, inspection procedures, emergency instructions, and other Operating and Maintenance documentation that may be useful to Enterprise; and
          3. the material and equipment data required by this Section must include all data necessary for the proper installation, removal, normal operation, emergency operation, start-up, shutdown, maintenance, cleaning, adjustment, calibration, lubrication, assembly, disassembly, repair, inspection, trouble-shooting, and warranty service of the equipment or materials.
   7. If at any time during the progress of the Work or before Final Payment is made, any lien or claim of lien is registered, or notification to withhold money for labour or material furnished by Contractor under this Agreement is served on Enterprise, Enterprise shall have the right, subject to any applicable lien legislation, to withhold from any payment due Contractor, an amount sufficient to discharge any or all such liens or claims and Enterprise’s court costs and legal fees on a substantial indemnity basis if Enterprise elects to obtain a discharge or release of the liens or claims. Releases of these liens or claims satisfactory to Enterprise must be furnished to Enterprise by Contractor before the withheld money will be paid to Contractor, or if Contractor has not settled the liens or claims within a reasonable time, not to exceed thirty (30) days, from and after such lien or claim is made, Enterprise shall have the right, but shall not be obliged to discharge any or all such liens or claims out of the withheld money.
   8. Enterprise reserves the right to make payments to Contractor in the form of cheques payable jointly to Contractor and to any of its Subcontractors or Suppliers that may have the right to assert a claim of lien against Enterprise’s property or any of the other Project property, or that may have the right to assert a claim against a labour and material payment bond posted by Contractor, if any, for the Project.
   9. Enterprise may offset against payments required under this Agreement any monetary obligation from Contractor to Enterprise, whether the obligation arises out of this Agreement or otherwise.
   10. Enterprise shall not be responsible for paying Contractor for overtime, Sunday, or holiday Work unless Enterprise authorizes such Work in writing in order to Complete the entire Work within a shorter Time than that specified in Section 6(a) hereof. Any additional compensation to Contractor for such Work shall be limited to the premium portions of actual labour payments, plus any applicable payroll taxes. Such compensation shall not include any allowance for profit, office expense, general superintendence, or other overhead or general expense.
   11. In addition to any statutory holdback, Enterprise is authorized to withhold from Contractor a sum or sums deemed sufficient by Enterprise to protect Enterprise from any of the following: (i) defective or non-conforming Work; (ii) third party claims or information indicating threatened or probable filing of such claims jeopardizing Enterprise’s interests and attributable to Contractor or any of its Subcontractors, Suppliers, agents or employees; (iii) failure of Contractor or any of its Subcontractors to pay a Subcontractor or Supplier for the Project; (iv) information indicating that the cost to Complete the Work may exceed the unpaid balance of the Contract Price; (v) damage to Enterprise or one of Enterprise’s contractors which Enterprise has reason to believe was caused by Contractor or any of its Subcontractors or Suppliers at any tier; (vi) information indicating to Enterprise that Contractor cannot Complete the Work within the Time; and (vii) any breach by Contractor of the Contract Documents.
   12. Prior to commencing the Work, again with each application for progress payment, again with the Contractor’s application for payment of holdback following Substantial Performance of the Work and again with the Contractor’s application for Final Payment, the Contractor shall provide evidence of compliance with workers’ compensation legislation at the Property, including payments due thereunder. The Contractor shall ensure that each Subcontractor and Supplier complies with the workers’ compensation legislation at the Property. At any time, when requested by Enterprise, the Contractor shall provide such evidence of compliance by the Contractor, Subcontractors and Suppliers.
8. CHANGE IN WORK
   1. If at any time or times during the progress of the Work, Enterprise desires to make any additions to, alterations of, deviations from or deductions from, the Work to be performed under the Contract Documents (hereinafter “Change in Work”), Enterprise shall be at liberty to do so and such Change in Work shall in no way affect or make void this Agreement, but no such additions, alterations, deviations, or deductions shall be made, except on Enterprise’s written request by a Change Order (see **Exhibit C** for sample Change Order form) or by a written Change Directive signed by Enterprise.
   2. Any such alterations, deviations, or deductions that decrease the cost of the work shall be evaluated on a lump-sum basis and this amount shall be deducted from the Contract Price.
   3. Any Change in Work that increases the cost of the Work shall, at Enterprise’s option, be performed (1) on a lump-sum basis, the amount thereof to be agreed upon in writing before execution of the Work, or (2) on the basis of Actual Necessary Cost, plus **ten percent (10%)** (hereinafter “Cost Plus Basis”). Upon Enterprise’s selection, the amount thereof shall be added to the Contract Price. No payment at premium rates for overtime, Sunday, or holiday work shall be included in Contractor’s bills to Enterprise, unless specifically authorized in advance in writing by Enterprise. When Contractor performs the Change in Work on a Cost Plus Basis, Contractor shall promptly pay all bills for materials, supplies, and equipment in connection therewith, in order to secure all discount privileges allowed on them. All such bills, duly receipted and reflecting all possible discounts for prompt payment of Suppliers’ bills, and a certified copy of Contractor’s payroll shall accompany the statement rendered to Enterprise by Contractor for such Change in Work.
   4. Notwithstanding anything seemingly to the contrary, Contractor shall be deemed to have waived any claim for additional compensation and for an adjustment in Time if Contractor proceeds with performing a change in the Work without first receiving a fully signed Change Order or a written Change Directive signed by Enterprise.
9. TIME
   1. Contractor agrees to commence the Work within one (1) business day after Enterprise notifies Contractor to commence the Work; and to carry out the Work at all times with the greatest possible dispatch and to Complete the entire Work under this Agreement within (TBD)days (hereinafter “Time”).
   2. Contractor acknowledges that time is of the essence of this Agreement and that Contractor shall be assessed a **[insert reasonable dollar amount in words]** ($ ) CAD as liquidated damages, and not as a penalty, for each and every day beyond this Time that the Work pursuant to this Agreement has not achieved Substantial Performance of the Work to the satisfaction of Enterprise.
   3. Time during which the critical path for Completion of the Work is delayed solely by (i) acts or neglect of Enterprise or its employees; (ii) acts of God that Contractor could not have reasonably foreseen and provided for; (iii) severe inclement weather; (iv) failure to obtain the necessary materials, tools, implements, and appliances due to governmental acts, restrictions, or regulations; or (v) any civil disorders, labour disturbances, strikes, boycotts, lockouts, or similar obstructive action by any person or persons, shall be added to the Time. Contractor shall notify Enterprise on a weekly basis if any of the above conditions have occurred; otherwise the claim for an extension of the Time shall be deemed waived.
10. RIGHT OF ENTRY
11. Enterprise shall have the right to enter or occupy the Work in whole or in part for the purpose of placing fittings and equipment or for other uses before Substantial Performance of the Work, provided such entry or occupation does not unreasonably prevent or substantially interfere with the Contractor's Completion of this Agreement within the Time. Such entry or occupation shall not be considered as acceptance of the Work or in any way relieves the Contractor from responsibility to Complete the Work.
12. Without limiting the generality of the foregoing, the Contractor acknowledges and agrees that it shall carry out its duties, responsibilities, and obligations under this Agreement in the least intrusive manner possible so as not to disrupt or interfere with any of Enterprise’s or any third party’s existing facilities and ongoing operations or activities or other operations located within the area or adjacent to, in the vicinity of or proximate to the Property.
13. DISPUTES

If any dispute arises respecting the meaning of the technical requirements for construction as set forth in the Drawings, Specifications or other Contract Documents or relating to quality or quantity of materials or workmanship or anything pertaining to the Work, the dispute shall be decided by Architect whose decision shall be final and binding on both parties. All other disputes shall be resolved by dispute resolution procedures under Article 23.

1. UNSATISFACTORY WORK
   1. Enterprise and the Architect shall have access to the Work at all times. Enterprise and/or Architect may order any portion or portions of the Work to be examined to confirm that such Work is in accordance with the requirements of the Contract Documents. If the Work is not so in accordance with the requirements of the Contract Documents, the Contractor shall correct the Work and pay the cost of examination and correction. If the Work is in accordance with the requirements of the Contract Documents, Enterprise shall pay the cost of examination.
   2. All Work that is unsatisfactory to Architect or Enterprise shall be immediately dismantled, demolished, removed, and replaced with Work of a quality approved by Enterprise, without additional compensation to Contractor. The Contractor shall make good promptly on all other contractors’ work destroyed or damaged by such corrections at the Contractor’s expense. Architect and Enterprise shall have the right, on 48 hours’ written notice, to remove or cause to be removed all unsatisfactory Work or materials, and to have the Work or material corrected or replaced as Enterprise may elect, and Contractor shall be obliged to pay to Enterprise all expenses so incurred. Enterprise shall have the right but shall not be obliged to satisfy this obligation, as far as is practicable, by deduction from future payments under this Agreement. If the obligation is not so satisfied and Contractor fails to pay all unpaid amounts on Enterprise’s demand, Enterprise will use all of its rights provided in law or equity.
   3. Architect and Enterprise shall exercise all reasonable care and diligence to discover any labour or materials that are not satisfactory to them, or either of them, or not in accordance with the Contract Documents, and shall notify Contractor as the Work progresses of the rejection of any such labour or materials in order to avoid unnecessary trouble and cost to Contractor in making good such defective labour or materials. Failure, however, on the part of Architect or Enterprise to report promptly any labour or materials that do not meet their approval or are not in accordance with the Contract Documents shall not relieve Contractor of responsibility for any consequence of any unsatisfactory Work or for any negligence of Contractor or Contractor’s subordinates or Subcontractors or Suppliers or the subordinates of such Subcontractors or Suppliers in the prosecution of the Work.
2. CONTRACTOR’S GUARANTEES

Contractor guarantees that the Work done under this Agreement will be free from faulty materials or workmanship. On receiving notification from Enterprise, Contractor agrees to remedy, repair, or replace, immediately without cost to Enterprise and to its entire satisfaction, all defects, damages, or imperfections appearing in the Work within a period of one (1) year after date of final Completion and acceptance of Work done under this Agreement. However, if the Drawings or Specifications provide for a guarantee or warranty of any materials or workmanship in excess of the one (1) year period, that guarantee or warranty shall be controlling as to the covered materials or workmanship. Payments to Contractor shall not relieve Contractor of these obligations. The remedy afforded by this Article shall be in addition to any other remedy available to Enterprise in the event the Work, or any portion thereof, does not strictly conform to the requirements of the Contract Documents.

1. BONDING

Enterprise shall require the Contractor to produce a letter from a reputable and licensed bonding company stating that Contractor is a bondable company. Enterprise shall also have the right to require Contractor to furnish such bond or bonds covering the faithful performance of all the terms, conditions, and provisions of this Agreement and the payment of all obligations arising under this Agreement in the form and amount as Enterprise may prescribe and with such sureties as it may approve. In the event Enterprise requires Contractor to post paymentand performance bonds, Contractor shall arrange for such bonds and the premium shall be paid by Enterprise. These bonds are referred to in this Agreement as “Contractor’s Bonds”.

1. INDEMNIFICATION
   1. Notwithstanding anything herein to the contrary (with the exception that the following provisions of this Article 12 shall in no event be construed to require indemnification by Contractor in excess of that permitted under the applicable Laws), Contractor shall, to the maximum extent permitted by Law, defend, indemnify and hold harmless Enterprise, its affiliates, agents, employees, and servants, and each of them, of and from any and all such claims, demands, causes of action, damages, costs, expenses (including court costs, legal fees on a substantial indemnity basis and expert fees), losses or liabilities, in Law or in equity, of every kind and nature whatsoever (for, but not limited to, injury to or death of a Contractor, any Subcontractor, any Supplier, or any employees or agents of Enterprise, Contractor, or any Subcontractor, or any Supplier, any damage to or destruction or property), arising out of or in any manner directly or indirectly connected with the Work to be performed under this Agreement, however caused, regardless of any negligence of Enterprise or its agents or servants, be it active or passive, except for sole negligence or willful misconduct of Enterprise or its agents or servants.
   2. Compliance with all Laws in directly or indirectly performing the Work under this Agreement is the responsibility of Contractor. If Contractor is in violation of any Law and any penalty, fee or fine is imposed for such violation, Contractor shall:
      1. at Contractor’s own cost, expense and risk, defend all suits, actions, or other legal proceedings that may be brought or instituted by a governmental entity or by third persons against Enterprise, its agents or servants, or any one or more of them, on any such claim, demand, or cause of action of such third persons, or to enforce any such penalty;
      2. pay and satisfy any judgment or decree that may be rendered against Enterprise or its agents or servants, or any one or more of them, in any such suit, action, or other legal proceedings; and
      3. reimburse Enterprise and its agents and servants for any and all legal fees and expenses incurred by each of them in connection therewith or in enforcing the indemnity granted in this Article 12.
   3. Notwithstanding Section 12(a) above, where the Law governing this Agreement only enforces an indemnity to the extent of the fault of the Contractor or any person or entity for whom the Contractor is responsible, the terms in Section 12(a) that read “be it active or passive” are deleted, and the terms “however caused” are also deleted and replaced with “to the extent caused by the negligence or other fault or breach of duty by Contractor, any of its Subcontractors or Suppliers at any tier, or any agent or employee of Contractor or any such Subcontractor or Suppliers”.
   4. Contractor shall indemnify, defend and hold Enterprise harmless from all demands and claims for a construction lien or for unjust enrichment or otherwise against Enterprise, Enterprise’s landlord, or the lender filed by or prosecuted by a Subcontractor at any tier or by a Supplier at any tier arising from the claimant having furnished labour, material or equipment forming a part of the Work.
2. INSURANCE
   1. Insurance Policies. Contractor shall purchase and maintain:
      1. Commercial General Liability Insurance written on an occurrence basis including non-owned and hired automobiles, for bodily injury (including death) and property damage in the amounts of not less than $2,000,000 Combined Single Limit per occurrence and $2,000,000 annual aggregate ("General Liability Insurance");
      2. Automobile Liability Insurance which shall apply to all owned, or leased automobiles used by Contractor with minimum limits of liability for bodily injury and property damage liability of $2,000,000 Combined Single Limit per occurrence;
      3. Builder’s Risk Insurance (including boiler and machinery insurance for the boilers, pressure vessels, and other insurable objects forming a part of the Work) in an amount equal to the non-reporting completed value of the Property and containing a special cause of loss form showing coverage equal to the full value of the Property upon Completion of the Work. Coverage shall be maintained continuously until 10 days after the date of the final certificate for payment;
      4. Contractors’ Equipment Insurance which shall apply to all construction machinery and equipment used by the Contractor for the performance of the Work, including boiler insurance on temporary boilers and pressure vessels;
      5. If the Contract Documents include working with toxic or hazardous materials, such as environmental remediation activities or the installation or removal of underground storage tanks, Contractor shall also purchase and maintain Contractor’s Pollution Liability Insurance with a policy limits of no less than $2,000,000 per occurrence; and
      6. If the Contract Documents include asbestos remediation work, Contractor shall also purchase and maintain Asbestos Abatement Insurance with policy limits of no less than $2,000,000 per occurrence (collectively, the “Insurance”).

The latter two (2) insurance policies described above shall include all operations associated with toxic or hazardous materials removal. All insurance shall be procured from insurance companies rated A-VIII or better by the then current edition of Best’s Insurance reports published by A.M. Best Co. The General Liability Insurance must include (i) products and completed operations liability coverage; (ii) contractual liability coverage for the liabilities assumed by Contractor under this Agreement; and (iii) coverage for property in the care, custody and control of Contractor. All of the liability policies described above shall be written on an occurrence basis form; claims-made forms are not acceptable.

The policies shall allow for partial or total use of occupancy of the Work. Any policy that covers completed operations must be maintained for a minimum of two (2) years following the Completion of the Work.

* 1. Endorsements. The Insurance through endorsement shall (i) with respect to Section 13(a)(1), Section 13(a)(6) and Section 13(a)(7) above, name Enterprise, its parent, subsidiaries and affiliates, agents, members, and employees (collectively “Insured Party”) as additional insureds, including as insureds with respect to third party claims or actions brought directly against an Insured Party and Contractor as co-defendants and arising out of this Agreement; with respect to Section 13(a)(3) and Section 13(a)(4) above shall provide that, in the case of a loss or damage, payment shall be made to Enterprise and the Contractor as their respective interests may appear (the Contractor shall act on behalf of Enterprise for the purpose of adjusting the amount of such loss or damage payment with the insurers); (ii) contain a provision that any Insured Party, although named as an insured, shall nonetheless be entitled to recovery for any loss suffered by such Insured Party as a result of Contractor’s negligence; and (iii) be written as a primary policy not contributing with any other coverage which any Insured Party may carry. Contractor shall provide Enterprise with properly endorsed insurance certificates evidencing the required coverage (and, with respect to the Builder’s Risk Insurance, showing the location of the Property) concurrently with the execution of this Agreement and upon each renewal of such policies thereafter, including a provision requiring the insurer to provide Enterprise with not less than thirty (30) days’ prior written notice of any material change, cancellation or non-renewal of coverage.
  2. Waiver. To the maximum extent permitted by applicable Law and without affecting the coverage provided by insurance required to be maintained hereunder, Contractor waives any right to recover against Enterprise, its parent, any affiliates or subsidiaries, or its or their agents, members or employees on account of any and all claims Contractor may have against such persons with respect to any matter required under this Agreement to be insured through Contractor’s insurance. As applicable, the insurance policies noted in Section 13(a) must contain a Waiver of Subrogation in favour of Enterprise.
  3. Commencement. Contractor shall not commence construction of the Work unless and until it has purchased all insurance required by this Article, such insurance is in force and Enterprise has notified Contractor that Enterprise has received evidence of the purchase of such insurance in form and substance acceptable to Enterprise.
  4. Indemnification Obligation. Contractor’s indemnification obligations in this Agreement are not limited to the amount of insurance coverage required by this Agreement. Contractor shall, in its sole and absolute discretion, determine how much insurance coverage it purchases in excess of the minimum coverage amounts required by this Agreement.
  5. Subcontractor and Supplier Obligation. If any of Contractor’s obligations under this Agreement are performed by Subcontractors or Suppliers (if and as permitted by this Agreement), Contractor shall ensure that each such Subcontractor or Supplier complies with this Article as though such Subcontractor or Supplier was the Contractor under this Agreement.
  6. Deductible. The policies cannot have more than $100,000 deductible or self insured retention.

1. PATENTS

Contractor shall pay all royalties and license fees that become payable by reason of Contractor’s use of patented apparatus or appliances furnished by Contractor or Contractor’s agents, servants, workers, employees, or Subcontractors, or Suppliers or persons employed by Subcontractors or Suppliers of Contractor under this Agreement in the performance of the Work, and Contractor shall indemnify, defend and hold harmless Enterprise from any and all claims, actions and demands that may be made against Enterprise, its parent, any affiliates or subsidiaries, or its or their agents, members and employees by reason of any infringement or alleged infringement of any patent rights or claims caused or alleged to have been caused by use of any apparatus or appliance, or portions thereof, or materials furnished or installed by Contractor (excepting materials, if any, furnished by Enterprise). Contractor shall, at Contractor’s own cost, expense, and risk, defend any and all actions, claims, suits, demands, or other legal proceedings that may be brought or instituted against Enterprise, its parent, any affiliates or subsidiaries, or its or their agents, members and employees on any such claim or demand, and pay and satisfy any judgment or decree that may be rendered against Enterprise, its parent, any affiliates or subsidiaries, or its or their agents, members and employees in any such action, suit, or other legal proceeding.

1. DELAY OR FAILURE IN SUPPLYING MATERIALS OR WORKERS

If Contractor, at any time during the progress of the Work for a period of five (5) days, refuses or neglects, without the fault of Enterprise or Architect, to supply sufficient materials, equipment or workers to Complete the Work after having been notified in writing by Architect or Enterprise to furnish them, Enterprise shall have the right to furnish and provide such materials and workers as are necessary to Complete the Work, and the reasonable expense thereof shall be charged to Contractor.

1. DISCONTINUANCE
   1. Enterprise shall have the right at any time, when in its good faith opinion, Contractor is not carrying out the terms of this Agreement, to notify Contractor in writing to discontinue all Work under this Agreement, and Contractor shall then discontinue the Work and Enterprise will have the right to contract for Completion of the Work on a cost-reimbursable plus fee basis or to Complete the Work itself, and to charge the cost and expense to Contractor, and the expense so incurred by Enterprise shall be charged to Contractor and paid out of money that either may be due or may at any time thereafter become due to Contractor payable under this Agreement had Contractor Completely performed the Work. If the Completion of Work costs and expenses charged to the Contractor are in excess of the amounts that are due to Contractor, Contractor shall immediately pay the amount of the excess to Enterprise.
   2. Enterprise shall have the right at any time, for its own convenience when in its opinion it becomes necessary or expedient, to terminate this Agreement by sending a written notice to Contractor to do so, and Contractor shall then discontinue the Work. However, in this event, Enterprise shall pay to Contractor the unpaid portion of the proportionate value of the Work furnished and installed based on the percentage Completed applied to the Contract Price, such amount to be determined by Enterprise. In addition, Enterprise will pay Contractor reasonable termination costs in the amount of 3% of the sum due the Contractor under this Section herein if Enterprise requests the discontinuance of such Work prior to and including 50% Completion of the Work. If Enterprise requests the discontinuance of such Work after 50% of the Work is Completed, Enterprise will pay Contractor termination costs based on the percentage left remaining in the Contract Documents rather than the percentage Complete. This 3% payment is agreed to compensate the Contractor for the actual level of Completion reached on the date of termination and is consideration for entry into this termination for convenience clause.
   3. If the Contractor is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the Contractor’s insolvency, or if a receiver is appointed because of the Contractor’s insolvency, Enterprise may, without prejudice to any other right or remedy Enterprise may have, terminate the Contractor’s right to continue with the Work, by notifying Contractor or receiver or trustee in bankruptcy to that effect.
   4. The Contractor hereby agrees that in the event that the Contractor’s right to continue the Work is terminated, and at the sole and absolute option of Enterprise, any or all subcontracts for Work, materials, machinery, equipment or fixtures as may be selected by Enterprise shall, upon notifying Contractor and the affected Subcontractors and Suppliers, be assigned to Enterprise, without any further action being necessary from the Contractor or the affected Subcontractors and Suppliers and in order to ensure Enterprise’s rights, the Contractor shall contractually obligate each of its Subcontractors and Suppliers to agree that each such subcontract shall be assignable, at Enterprise’s option, to Enterprise, upon delivery of written notice.
2. INDEPENDENT CONTRACTOR
   1. Contractor hereby declares that it is engaged in an independent business, and agrees to perform the Work as an independent contractor and not as the agent, joint venturer, employee, or servant of Enterprise. Contractor has and hereby retains the right to exercise full control and supervision of the Work and full control over the employment, direction, compensation, and discharge of all persons assisting in the Work. Contractor agrees to be solely responsible for any and all matters relating to payment of its employees. Contractor agrees to be responsible for its own acts and those of its subordinates, employees, Subcontractors and Suppliers in connection with the performance of the Work.
   2. Nothing contained in the Contract Documents shall create any contractual relationship between: Enterprise and a Subcontractor, a Supplier, or their agents, employees or other persons performing any portion of the Work; or the Architect and the Contractor, a Subcontractor, a Supplier, or their agents, employees or other persons performing any portion of the Work.
3. WAIVER OF CLAIMS

As of the date of Final Payment, the Contractor expressly waives and releases Enterprise from all claims against Enterprise including, without limitation, those that might arise from the negligence or breach of contract by any third party except those made in writing in compliance with the Contract Documents prior to the Final Payment and still unsettled.

1. LIENS
   1. Notwithstanding any other term or condition in the Contract Documents, the Architect shall not be obligated to issue a certificate for payment, and Enterprise shall not be obligated to make payment to the Contractor, if at the time such certificate or payment was otherwise due: (i) a claim for lien has been registered against the Project lands; (ii) Enterprise has received a written notice of lien; or (iii) Enterprise reasonably believes that any party has purported to retain title to materials, machinery, equipment or fixtures in respect of which an application for payment has been made.
   2. In the event that a construction lien arising from the performance of the Work is registered against the Project lands, the Contractor shall, within ten (10) days, at its sole expense, vacate or discharge the lien from title to the premises. If the lien is merely vacated, the Contractor shall, if requested, undertake Enterprise’s defence of any subsequent lawsuit commenced in respect of the lien at the Contractor’s sole expense.
   3. In the event that the Contractor fails or refuses to vacate or discharge a construction lien within the time prescribed above, Enterprise shall, at its option, be entitled to take all steps necessary to vacate and/or discharge the lien, and all costs and expenses incurred by Enterprise in so doing (including, without limitation, legal fees on a solicitor and client basis and any payment which may ultimately be made out of or pursuant to security posted to vacate the lien) shall be for the account of the Contractor, and Enterprise may deduct such amounts from amounts otherwise due or owing to the Contractor. If Enterprise vacates the lien, it shall be entitled to retain all amounts it would be required to retain pursuant to applicable lien legislation if the lien had not been vacated.
   4. Without limiting any of the foregoing, the Contractor shall indemnify Enterprise for all costs (including, without limitation, legal fees on a solicitor and client basis) it may incur in connection with the claim for lien or subsequent lawsuit brought in connection with the lien, or in connection with any other claim or lawsuit brought against Enterprise by any person that provided services or materials to the Project lands which constituted a part of the Work.
   5. This Article does not apply to construction liens claimed by the Contractor.
2. ASSIGNMENT

Contractor shall not assign this Agreement or any interest in it or any money due or to become due under it voluntarily, involuntarily, or by operation of Law without Enterprise’s prior written consent. In the event of any such purported assignment without Enterprise’s prior written consent, Enterprise shall have the right, in addition to all other rights provided by Law, to terminate this Agreement for default in accordance with Section 16(a) by giving written notice to Contractor. Enterprise shall have the right to assign, by assignment, merger, acquisition, or otherwise, its interests in this Agreement without the consent of Contractor. Upon assumption by any assignee of Enterprise’s obligations under the Contract Documents, Enterprise shall be released from any and all obligations under the Contract Documents.

1. CLAIMS FOR ADDITIONAL COMPENSATION

Contractor shall notify Enterprise and Architect within two (2) days of any condition or event which Contractor believes warrants a claim for additional compensation. The claim shall be subject to consideration only if it is timely submitted and involves a condition or event beyond Contractor’s reasonable control and within Enterprise’s reasonable control. The notification shall describe in detail how the condition or event has adversely impacted Contractor’s performance of the Work, and shall include identification of the actual and probable net increase in labour, material and equipment costs resulting therefrom. Enterprise shall promptly review and make a determination of the claim. Enterprise has the right to defer the determination until all the costs resulting from the event or condition are known. Any claim that is not timely submitted by Contractor as required by this Article shall be deemed waived.

1. CONFIDENTIALITY

The Contractor agrees to ensure that it shall, both during or following the term of this Agreement, maintain the confidentiality and security of all Confidential Information and Personal Information, and that it shall not directly or indirectly disclose, destroy, exploit or use any Confidential Information or Personal Information, except where required by Law, without first obtaining the written consent of Enterprise. The Contractor may disclose any portion of the Contract Documents or any other information provided to the Contractor by Enterprise to any Subcontractor or Supplier if the Contractor discloses only such information as is necessary to fulfill the purposes of the Contract Documents and the Contractor has included a commensurate confidentiality provision in its contract with the Subcontractor or Supplier. The Contractor acknowledges that it will comply with all requirements of any applicable legislation, including legislation dealing with disclosure of Personal Information. The Contractor acknowledges that Enterprise may be bound by certain privacy legislation and the Contractor further acknowledges that Enterprise may be required to disclose any or all of the Confidential Information and Personal Information in the event that it is compelled to do so by law, through a request under applicable legislation or by the rules of any applicable regulatory authority.

1. MEDIATION & ARBITRATION
   1. Enterprise and Contractor shall endeavor to resolve all claims between them by mediation in accordance with the Rules for Mediation of Construction Disputes (attached hereto as **Exhibit D**) as provided in CCDC (Canadian Construction Documents Committee) 40. Enterprise and Contractor shall share the mediator’s fee and any other costs equally. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the parties are unable to resolve their claims by mediation, the claims shall be decided by arbitration under this Article 23.
   2. Each claim, dispute or controversy arising out of or relating to this Agreement or other Contract Documents, whether in contract, in tort, or otherwise, which is not otherwise resolved by the parties through settlement or in mediation is subject to arbitration. The parties acknowledge and agree that the arbitration provisions are enforceable under any applicable arbitration legislation in the jurisdiction where the Property is located. The locale of the arbitration shall be in or near the locality of the Project, or in or near the locality of Enterprise’s headquarters, whichever Enterprise may elect.
   3. An arbitration between the parties shall be conducted in accordance with the Rules for Arbitration of Construction Disputes (attached hereto as **Exhibit D**) and judgment may be entered on the award in any court of competent jurisdiction.
   4. In the event of binding dispute resolution proceedings between the parties, the prevailing party shall recover, in addition to all other relief, its court costs and legal fees on a substantial indemnity basis.
2. MISCELLANEOUS
   1. The Contract Documents constitute the entire agreement between Enterprise and Contractor. No prior statement, negotiation, agreement or representation, either written or oral, relating in any manner to the Work, is binding or enforceable. A modification to this Agreement, to be enforceable, shall be in writing and signed by the parties.
   2. This Agreement, save Article 23, will be governed by the applicable Laws of the jurisdiction where the Property is located.
   3. Contractor acknowledges that it will, prior to commencing the Work, in addition to applicable Law, obtain, become thoroughly familiar with, and strictly abide by all rules, regulations, and other requirements (including without limitation, as applicable, those pertaining to disadvantaged business enterprises or minority/women-owned businesses; applicable minimum wage, prevailing wage, or living wage requirements; insurance and bonding requirements; and non-discrimination requirements) relating to the performance of the Work as set forth by Enterprise’s landlord or relevant airport governing body, if any. All such requirements that are contained in any separate written agreement between Enterprise and such landlord or airport governing body are expressly incorporated herein by reference as though separately reproduced below. Upon Enterprise’s written request, Contractor shall promptly provide it with written reports in a form acceptable to Enterprise detailing its compliance with the requirements described within this Article.
   4. References in the Contract Documents to the singular shall be considered to include the plural as the context requires.
   5. Except as expressly provided in the Contract Documents, the duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by Law.
   6. No action or failure to act by Enterprise, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract Documents, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as is specifically stated herein or as may be specifically agreed in writing.
   7. When the Contract Documents are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English language shall prevail.

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(Enterprise) (Contractor)

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title \_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title \_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contractor’s License No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

THIS AGREEMENT is between **Enterprise Rent-A-Car Canada Company** and Contractor Name

whose address for notices is: whose address for notices is:

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With a copy to: Enterprise Holdings

Airport Facilities/Construction

600 Corporate Park Drive

St. Louis, Missouri 63105

Attn:

**EXHIBIT A**

**LIST OF CONTRACT DOCUMENTS**

**EXHIBIT B**

**GENERAL DESCRIPTION OF THE SCOPE OF WORK**

**EXHIBIT C**

**SAMPLE CHANGE ORDER FORM**

