



CCDC 2- 2020

Stipulated Price Contract

Supplementary Conditions

June 1, 2023

The Standard Construction Document CCDC 2 2020 for a Stipulated Price Contract, English version, consisting of the Agreement Between *Owner* and *Contractor*, Definitions and General Conditions of the Stipulated Price Contract, Parts 1 to 14 inclusive, governing same, together with the changes regulated by the new Construction Act is hereby made part of these *Contract Documents*, with the following amendments, additions and modifications:

AGREEMENT BETWEEN OWNER AND CONTRACTOR

ARTICLE A-3 – CONTRACT DOCUMENTS

3.1 Add the following to the list of *Contract Documents* in paragraph 3.1:

- TLDSB’s Supplementary Conditions & Amendments to CCDC2-2020 Stipulated Price Contract dated June 1, 2023
- Special Supplementary Conditions listed in Appendix 2
- *Drawings*
- Division 01 of the *Specifications*
- Technical *Specifications* Divisions 02 through 50
- Performance Bond (Form 32-Performance Bond under section 85.1 of the Construction Act)
- Labour and Material Payment Bond (Form 31-Labour & Material Payment Bond under section 85.1 of the Construction Act)
- TLDSB RFT/RFQ document

ARTICLE A-5 – PAYMENT

5.1.1 In paragraph 5.1.1 of Article A-5 add the following words to the end:
“or, where there is no Payment Certifier, jointly by the *Owner* and *Contractor*”.

5.2.1 Delete paragraph 5.2.1 in its entirety and replace it with the following:

Interest

- .1 Should either party fail to make payments as they become due under the terms of the *Contract* or in an award by arbitration or court, interest shall also become due and payable on such unpaid amounts at the greater of 0% above the prime rate and the minimum interest rate required under the Construction Act. Such interest shall be compounded on a monthly basis. The prime rate shall be the rate of interest quoted by the Bank of Canada for prime business loans, as it may change from time to time.

ARTICLE A-6 – RECEIPT AND ADDRESSES FOR NOTICES IN WRITING

6.5 Delete paragraph 6.5 of Article A-6 in its entirety and replace it with the following:

“6.5 Contact information for a party may be changed by *Notice in Writing* to the other party setting out the new contact information in accordance with this Article.”

ARTICLE A-9 – CONFLICT OF INTEREST

Add new Article A-9 – Conflict of Interest:

- 9.1 The *Contractor*, all of the *Subcontractors* and *Suppliers* and any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall not engage in any activity or provide any services where such activity or the provision of such services creates a conflict of interest (actually or potentially, in the sole opinion of the *Owner*) with the provision of the *Work* pursuant to the *Contract*. The *Contractor* acknowledges and agrees that a conflict of interest, as described in this Article A-9, includes, but is not limited to, the use of *Confidential Information* where the *Owner* has not specifically authorized such use.
- 9.2 The *Contractor* shall disclose to the *Owner*, in writing, without delay, any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest, including the retention of any *Subcontractor* or *Supplier* that is directly or indirectly affiliated with or related to the *Contractor*.

- 9.3 The *Contractor* covenants and agrees that it will not hire or retain the services of any employee or previous employee of the *Owner* where to do so constitutes a breach by such employee or previous employee of the *Owner's* conflict of interest policy, as it may be amended from time to time, until after completion of the *Work* under the *Contract*.
- 9.4 It is of the essence of the *Contract* that the *Owner* shall not have direct or indirect liability to any *Subcontractor* or *Supplier*, and that the *Owner* relies on the maintenance of an arm's-length relationship between the *Contractor* and its *Subcontractors* and *Suppliers*. Consistent with this fundamental term of the *Contract*, the *Contractor* will not enter into any agreement or understanding with any *Subcontractor* or *Supplier*, whether as part of any contract or any written or oral collateral agreement, pursuant to which the parties thereto agree to cooperate in the presentation of a claim for payment against the *Owner*, directly or through the *Contractor*, where such claim is, in whole or in part, in respect of a disputed claim by the *Subcontractor* or *Supplier* against the *Contractor*, where the payment to the *Subcontractor* or *Supplier* by the *Contractor* is agreed to be conditional or contingent on the ability to recover those amounts or a portion thereof from the *Owner*, failing which the *Contractor* shall be saved harmless from all or a portion of those claims. The *Contractor* acknowledges that any such agreement would undermine the required arm's-length relationship and constitute a conflict of interest. For greater certainty, the *Contractor* shall only be entitled to advance claims against the *Owner* for amounts pertaining to *Subcontractor* or *Supplier* claims where the *Contractor* has actually paid or unconditionally acknowledged liability for those claims or where those claims are the subject of litigation or binding arbitration between the *Subcontractor* or *Supplier* and the *Contractor* has been found liable for those claims.
- 9.5 Notwithstanding paragraph 7.1.2 of GC 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT, a breach of this Article by the *Contractor*, any of the *Subcontractors*, or any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall entitle the *Owner* to terminate the *Contract*, in addition to any other rights and remedies that the *Owner* has in the *Contract*, in law, or in equity.

DEFINITIONS

Add the following additional definitions:

Act

Act means the Construction Act, R.S.O. 1990, c. 30, as amended, including all regulations passed under it that are enforceable as of the date of execution of this *Contract*. For certainty, the first procurement process for the *Project* (i.e. the "improvement" as that term is defined in the Act) was commenced on or after October 1, 2019.

Adjudication

Adjudication means construction dispute interim adjudication as defined under the Act.

Confidential Information

Confidential Information means all the information or material of the *Owner* 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:

- 1) 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 the *Owner* or to any third party, but only after that information becomes generally available to the public;
- 2) 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;
- 3) 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
- 4) is independently developed by the *Contractor* without use of any *Confidential Information*.

Construction Schedule

Construction Schedule means the *Construction Schedule* (and subsequent updates) by the *Contractor* using Microsoft Project (or other approved scheduling software) that accurately depicts the process of the *Work* relative to the critical path established in the *Construction Schedule* approved under GC 3.4.1. (or any approved successor *Construction Schedule*), aligns with the

currently approved date for *Ready-for-Takeover*, shows up-to-date projected major activity sequences and durations, and shows any changed or delays in anticipated completion dates of major activities in the *Work* relative to the last *Construction Schedule* update, and includes the following minimum deliverable:

- (a) a record version of the updated *Construction Schedule* in .pdf format;
- (b) an editable copy of the updated *Construction Schedule* in native format (e.g. .mpp format for Microsoft Project)..

Direct Costs

Direct Costs are the reasonable costs of performing the contract or subcontract including costs related to the additional supply of services or materials (including equipment rentals), insurance and surety bond premiums, and cost resulting from seasonal conditions, that would not have been incurred, but do not include indirect damages suffered as a result, such as loss of profit, productivity or opportunity, or any head office overhead costs.

Force Majeure

Force Majeure means any cause, beyond either parties control, other than bankruptcy or insolvency, which prevents the performance by a party, or both, of any of its respective obligations under the *Contract* and the event of *Force Majeure* did not arise from a party's default and could not be avoided or mitigated by the exercise of reasonable effort and foresight. *Force Majeure* includes: Labour disputes: fire: unusual delay by common carriers or unavoidable casualties; delays in obtaining permits or licenses, civil disturbance, emergency acts, orders, legislation, regulations or directives of any government or other public authority, acts of a public enemy, war, riot, sabotage, blockage, embargo, lightning, earthquake, adverse weather conditions but only if substantially beyond the weather norms of the *Place of the Work*; or acts of God; or declared epidemic or pandemic outbreak or other public health emergency (e.g. SARS, COVID-19).

Install

Install means install and connect. *Install* has this meaning whether or not the first letter is capitalized.

Labour Dispute

Labour Dispute means any lawful or unlawful labour problems, work stoppage, labour disruption, strike, job action, slow down, lock-outs, picketing, refusal to work or continue to work, refusal to supply materials, cessation or work or other labour controversy which does, or might, affect the *Work*.

Notice of Non-Payment

Notice of Non-Payment means a notice of non-payment of holdback (Form 6) or a notice of non-payment (form 1.1) under the act, as applicable to the circumstances.

OHSA

OHSA means the Occupational Health & Safety Act R.S.O. 1990, c. 0.1, as amended, including all regulations thereto.

Overhead

Overhead means all site and head office operations and facilities, all site and head office administration and supervision; all duties and taxes for permits and licenses required by the authorities having jurisdiction at the *Place of the Work*; all requirements of Division 1, including but not limited to submittals, warranty, quality control, calculations, testing and inspections; meals and accommodations; and, tools, expendables and clean-up costs.

Proper Invoice

Proper Invoice means an invoice or application for payment on the *Contract Price* that complies with the requirements, but not limited to, for a proper invoice under the Construction Act, and includes or attached the documents and information required under paragraph 5.2.2 of GC 5.2-APPLICATIONS FOR PROGRESS PAYMENT as modified by S.C. 5.2.2. or, in the case of final payment, the documents and information required under paragraph 5.5.1 of GC 5.5 FINAL PAYMENT as modified by the S.C.

Proper Invoice Submission Date

Proper Invoice Submission Date has the definition given to it under GC 5.2.2. as modified by the S.C.

Provide

Provide means to supply and install. *Provide* has the meaning whether or not the first letter is capitalized.

Request for Information/RFI

Request for Information or *RFI* means written documentation sent by the *Contractor* to the *Owner* or to the *Owner's* representative or the *Consultant* requesting written clarification(s) and/or interpretation(s) of the *Drawings* and/or *Specifications*, *Contract* requirements and/or other pertinent information required to complete the *Work* of the *Contract* without applying for a change or changes to the *Work*.

Restricted Period

Restricted Period means the (inclusive) period of time between December 1 to January 8 and August 15 to September 15.

Submittals

Submittals are documents or items required by the *Contract Documents* to be provided by the *Contractor* such as:

- *Shop Drawings*, samples, models, mock ups to indicate details or characteristics, before the portion of the *Work* that they represent can be incorporated into the *Work*, and
- As-built drawings and manuals to provide instructions to the operation and maintenance of the *Work*.

GENERAL CONDITIONS

Add new Paragraph 1.0 under Part 1 GENERAL PROVISIONS:

- 1.0 Where a General Condition or paragraph of the General Conditions of the *Contract* is deleted by these amendments, the numbering of the remaining General Conditions or paragraphs shall remain unchanged, unless stated otherwise herein, and the numbering of the deleted item will be retained, unused.

GC 1.1 CONTRACT DOCUMENTS

Delete paragraphs 1.1.3 and 1.1.4 in their entirety and replace them with the following:

- 1.1.3 The *Contractor* shall review the *Contract Documents* for the purpose of facilitating and co-ordination and execution of the *Work* by the *Contractor*. The *Contractor* shall report promptly to the *Consultant* any ambiguities, design issues or other matters requiring clarification made known to the *Contractor* or that the *Contractor* may discover from such a review. Such review by the *Contractor* shall comply with the standard of care described in paragraph 3.10.1 of the *Contract*.
- 1.1.4 Except for its obligation to review the *Contract Documents* and report the result pursuant to paragraph 1.1.3, the *Contractor* is not responsible for ambiguities, design issues or other matters requiring clarification in the *Contract Documents* and does not assume any responsibility to the *Owner* or to the *Consultant* for the accuracy of the *Contract Documents*. Without limiting the foregoing, the *Contractor* shall not be liable for any damages or costs resulting from any ambiguities, design issues or other matters requiring clarification in the *Contract Documents* which the *Contractor* could not reasonably have discovered from such a review in accordance with the standard of care. If the *Contractor* does discover any ambiguities, design issues or other matters requiring clarification in the *Contract Documents*, the *Contractor* shall not proceed with the work affected until the *Contractor* has received modified or additional information from the *Consultant*. The impacts of any ambiguities, design issues or other matters requiring clarification in the *Contract Documents*, including to the *Contract Price* and *Contract Time*, shall be addressed by the parties in accordance with Part 6 – CHANGES.”

Delete paragraph 1.1.5.1 and replace with the following:

1.1.5 .1 the order of priority of documents, from highest to lowest, shall be:

- The Supplementary Conditions to CCDC2 - 2020
- The Agreement between the *Owner* and the *Contractor*
- The Definitions
- The General Conditions
- Division 1 of the *Specifications*
- Technical *Specifications*
- Material and finishing schedules
- The *Drawings*
- TLDSB RFT/RFQ Bid Document

Delete paragraph 1.1.5.5 and add new paragraphs 1.1.5.5, 1.1.5.6, 1.1.5.7 and 1.1.1.8 as follows:

- .5 noted materials and annotations on the *Drawings* shall govern over the graphic representation of the *Drawings*.
- .6 finishes in the room finish schedules shall govern over those shown on the *Drawings*.
- .7 architectural drawings shall have precedence over structural, plumbing, mechanical, electrical and landscape drawings insofar as outlining, determining and interpreting conflicts over the required design intent of all architectural layouts and architectural elements of construction, it being understood that the integrity and installation of the systems designed by the *Consultant* or its sub-*Consultants* are to remain with each of the applicable drawing disciplines.
- .8 should reference standards contained in the *Specifications* conflict with the *Specifications*, the *Specifications* shall govern. Should reference standards and *Specifications* conflict with each other or if certain requirements of the *Specifications* conflict with other requirements of the *Specifications*, the more stringent requirements shall govern.

Add the following to the end of subparagraph 1.1.6.2:

Except to the extent the *Consultant* is indemnified as a third party beneficiary as provided in subparagraphs 9.2.7.4 and 9.5.3.4 and in paragraph 13.1.1.

1.1.9 Add the following to the end of paragraph 1.1.9:

The *Specifications* are divided into divisions and sections for convenience but shall be read as a whole and neither such division nor anything else contained in the *Contract Documents* will be construed to place responsibility on the *Owner* or the *Consultant* to settle disputes among the *Subcontractors* and *Suppliers* with respect to such divisions. The *Drawings* are, in part, diagrammatic and are intended to convey the scope of the *Work* and indicate general and appropriate locations, arrangements and sizes of fixtures, equipment and outlets. The *Contractor* shall obtain more accurate information about the locations, arrangements and sizes from study and coordination of the *Drawings*, including *Shop Drawings* and shall become familiar with conditions and spaces affecting those matters before proceeding with the *Work*. Where site conditions require reasonable minor changes where the change requires only the additional labour of one half hour or less, the *Contractor* shall make such changes at no additional cost to the *Owner*. The schedules are those portions of the *Contract Documents*, wherever located and whenever issued, which compile information of similar content and may consist of drawings, tables and/or lists.

1.1.12 Add new paragraph 1.1.12 as follows:

The *Consultant*, on behalf of the *Owner* shall provide the *Contractor* without charge, one (1) digital PDF copy of the *Contract Documents*, exclusive of those required by jurisdictional authorities and the executed *Contract Documents*.

Add new paragraph 1.2.2 as follows:

1.2.2 the *Owner* and the *Contractor* acknowledge and agree that:

- .1 this agreement was entered into, or resulted from a procurement process (within the meaning set out in Section 87.3 of the Construction Act) that was commenced, on or after October 1, 2019, and, accordingly, amendments to the Construction Act that were proclaimed and came into force on July 1, 2019 and on October 1, 2019 are allocable to this agreement; and
- .2 the *Contractor* will incorporate into its procurement documents and contracts with *Subcontractors* and *Suppliers* are made aware of, these acknowledgements and agreements.

GC 1.3 RIGHTS AND REMEDIES

1.3.2 Delete the word “No” from the beginning of paragraph 1.3.2 and substitute the words:

“Except with respect to the requirements set out in paragraphs 2.2.12, 6.4.1, 6.5.4, 6.6.1 and 8.3.2, no...”

GC 1.4 ASSIGNMENT

Delete paragraph 1.4.1 in its entirety and replace with the following:

1.4.1 The *Contractor* shall not assign the *Contract*, or any portion thereof, without the prior written consent of the *Owner*. The *Owner* shall be entitled to assign the *Contract* to a corporation, partnership or other entity (the “Assignee”). Upon the assumption by the Assignee of the *Owner’s* obligations under the *Contract*, the *Owner* shall be released from its obligations under the *Contract*.

GC 1.5 EXAMINATION OF DOCUMENTS AND SITE

Add new GC 1.5 – EXAMINATION OF DOCUMENTS AND SITE as follows:

1.5.1 The *Contractor* declares and represents that in tendering for the *Work*, and in entering into a *Contract* with the *Owner* for the performance of the *Work*, it has investigated for itself the character of the *Work* to be done, based on information generally available from a site visit.

1.5.2 The *Contractor* also declares that in tendering for the *Work* and in entering into this *Contract*, the *Contractor* did not and does not rely upon information furnished by the *Owner* or any of its agents or servants respecting the nature or confirmation 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 construction of *Work*, or the character of the construction machinery and equipment or facilities needed to perform the *Work*, or the general and local performance of the work under the *Contract*.

1.5.3 *Contractor* further represents, warrants and acknowledge that it considered and took into account in the *Contract Price* all reasonably known impacts and restrictions arising from the COVID-19 pandemic, including without limitation corresponding legislation changes that may impact performance of the *Project*, various weather conditions that may affect the work, the availability of supplies and labour and other conditions or risks that the *Contractor* knew about or reasonably ought to have known about prior to the date of the *Contract*.

GC 1.6 TIME IS OF THE ESSENCE OF THE CONTRACT

Add new GC 1.6 - TIME IS OF THE ESSENCE OF THE CONTRACT as follows:

1.6.1 All time limits stated in the *Contract Documents* are of the essence of the *Contract*.

GC 2.2 ROLE OF THE CONSULTANT

Add the following to the end of paragraph 2.2.3:

Without limiting the foregoing, the *Consultant* may appoint one or more authorized representatives in writing who may fulfill the obligations of the *Consultant* under this *Contract*.

2.2.4 Delete paragraph 2.2.4 and replace it with the following:

Upon request if an application that satisfies the requirement of a *Proper Invoice*, based on the *Consultant’s* observations and evaluation of the *Contractor’s* application for payment, the *Consultant* may determine the amounts owing to the *Contractor* under the *Contract* and will issue certificates for payment as provide in Article A-5 – PAYMENT, GC 5.3 PAYMENT, GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK, and GC 5.5 – FINAL PAYMENT. If the *Consultant* determines that the amount payable to the *Contractor* differs from the amount stated in a *Proper Invoice*, the consultant shall notify the owner as provide in GC 5.3.1.2 and prepare a draft of the applicable *Notice of Non-Payment* for the amount in dispute.

- 2.2.6 Delete the words “Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER”.
- 2.2.8 In paragraph 2.2.8 add the words “, written statements” after the word “interpretations” in both the first and second sentences; and,

add the following to the end of paragraph 2.2.8:

“The *Owner* and the *Contractor* shall waive any claims against the *Consultant* arising out of its making of any interpretations, written statements or findings in accordance with paragraphs 2.2.6, 2.2.7, 2.2.8, and 7.1.2, but only to the extent that any such interpretations, written statements, and findings are made by the *Consultant* in an unbiased manner, and in accordance with the *Consultant’s* professional standard of care at law.”
- 2.2.12 Add to the end of paragraph 2.2.12 the following:

If, in the opinion of the *Contractor*, the *Supplemental Instruction* involves an adjustment in the *Contract Price* or in the *Contract Time*, it shall, within ten (10) *Working Days* of receipt of a *Supplemental Instruction*, provide the *Consultant* with a notice in writing to that effect. Failure to provide written notification within the time stipulated in this paragraph 2.2.13 shall be deemed an acceptance of the *Supplemental Instruction* by the *Contractor*, without any adjustment in the *Contract Price* or *Contract Time*.
- 2.2.13 In paragraph 2.2.13 add the words “which are provided” before the words “by the *Contractor*”.
- 2.2.19 Add new paragraph 2.2.19 as follows:

The *Consultant* or the *Owner*, acting reasonably, may from time to time require the *Contractor* to remove from the *Project* any personnel of the *Contractor*, including project managers, superintendents or *Subcontractors*. Such persons shall be replaced by the *Contractor* in a timely fashion to the satisfaction of the *Consultant* or the *Owner*, as the case may be, at no cost to the *Owner*.

GC 2.3 REVIEW AND INSPECTION OF THE WORK

- 2.3.2 Amend paragraph 2.3.2 by adding the words “and *Owner*” after the words “*Consultant*” in the second and third lines.
- 2.3.3 Delete paragraph 2.3.3 in its entirety and replace it with the following:

The *Contractor* shall furnish promptly two copies to the *Consultant* and one copy to the *Owner* of all certificates and inspection reports relating to the *Work*.
- 2.3.4 Insert the word “review” after the word “inspections” in the first line of paragraph 2.3.4.
- 2.3.5 In the first line after “*Consultant*”, add “or the *Owner*”.
- 2.3.8 Add a new paragraph 2.3.8 as follows:

The *Consultant* will conduct periodic reviews of the *Work* in progress, to determine general conformance with the requirements of the *Contract Documents*. Such reviews, or lack thereof, shall not give rise to any claims by the *Contractor* in connection with construction means, methods, techniques, sequences and procedures, nor in connection with construction safety at the *Place of Work*, responsibility for which belongs exclusively to the *Contractor*.

GC 2.4 DEFECTIVE WORK

2.4.1 Amend GC 2.4.1 as follows:

Insert “, the *Owner* and/or its agent” in the first sentence following “rejected by the *Consultant*”.

Add after the words “*Contract Documents*” the phrase “or work that the *Contractor* discovers to be defective, whether or not the defective work had been identified by the *Consultant*, and”.

Add new paragraphs 2.4.1.1 and 2.4.1.2:

2.4.1.1 The *Contractor* shall promptly correct defective work, in a manner acceptable to the *Consultant* and to the *Owner through the Consultant* all defective work and deficiencies throughout the *Work*, whether or not they are specifically identified by the *Consultant*.

2.4.1.2 The *Contractor* shall prioritize the correction of any defective work, which, in the sole discretion of the *Owner through the Consultant*, adversely affects the day-to-day operations of the *Owner*.

2.4.2 Delete paragraph 2.4.2 in its entirety and replace it with the following:

The *Contractor* shall promptly pay the *Owner* for costs incurred by the *Owner*, the *Owner's* own forces or the *Owner's Other Contractors*, for work destroyed or damaged or any alterations necessitated by the *Contractor's* removal, replacement or re-execution of defective work.

Add new paragraph 2.4.4 as follows:

2.4.4 Neither acceptance of the *Work* by the *Consultant* or the *Owner*, nor any failure by the *Consultant* or the *Owner* to identify, observe or warn of defective *Work* or any deficiency in the *Work* shall relieve the *Contractor* from the sole responsibility for rectifying such defect or deficiency at the *Contractor's* sole cost, even where such failure to identify, observe or warn is negligent. The *Contractor* shall prioritize the correction of any defective work which in the sole discretion of the *Owner* adversely affects the day to day operations of the *Owner*.

GC 3.1 CONTROL OF THE WORK

3.1.2 Amend paragraph 3.1.2 by inserting the words “*Construction Schedule*” after the word “sequences”

3.1.3 Add a new paragraph 3.1.3 as follows:

Prior to commencing individual procurement, fabrication and construction activities, the *Contractor* shall verify at the *Place of the Work*, all relevant measurements and levels necessary for proper and complete fabrication, assembly and installation of the *Work* and shall further carefully compare such field measurements and conditions with the requirements of the *Contract Documents*. Where dimensions are not included or contradictions exist, or exact locations are not apparent, the *Contractor* shall immediately notify the *Consultant* in writing and obtain written instructions from the *Consultant* before proceeding with any part of the affected *Work*.

3.1.4 Add a new paragraph 3.1.4 as follows:

Notwithstanding the provisions of paragraphs 3.1.1 and 3.1.2, the *Owner* shall have access to the site at all times to monitor all aspects of construction. Such access shall in no circumstances affect the obligations of the *Contractor* to fulfill its contractual obligations.

GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

Delete paragraph 3.2.2.1 in its entirety and replace with the following:

3.2.2 .1 take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors or the *Owner's* own forces.

3.2.2.2 Delete paragraph 3.2.2.2 in its entirety.

3.2.2.3 Delete paragraph 3.2.2.3 in its entirety.

3.2.2.4 Delete paragraph 3.2.2.4 in its entirety.

Delete paragraph 3.2.3.2 and replace it with the following:

3.2.3.2 Co-ordinate and schedule the activities and work of *Other Contractors* and *Owner's* own forces with the *Work* of the *Contractor* and connect as specified or shown in the *Contract Documents*.

Add new paragraph 3.2.3.5 as follows”

3.2.3.5 Subject to GC 9.4 CONSTRUCTION SAFETY, for *Other Contractors*, the *Contractor* shall assume overall responsibility for compliance with all aspects of the applicable health and safety legislation in force at the *Place of the Work*, including all of the responsibilities of the “constructor”, pursuant to the *OHSA*

Add new paragraph 3.2.7 as follows:

3.2.7 At the commencement of the *Work*, the *Contractor* shall prepare for the review and acceptance of the *Owner* and the *Consultant*, a schedule indicating the times, within the construction schedule referred to in GC 3.4, that items that are specified to be *Owner* purchased and *Contractor* installed or hooked up are required at the site to avoid delaying the progress of the *Work*.

GC 3.3 TEMPORARY WORK

3.3.2 In paragraph 3.3.2, in the second line after the words “where required by law”, insert “or the *Consultant*”.

GC 3.4 CONSTRUCTION SCHEDULE

3.4.1 Delete paragraph 3.4.1 in its entirety and replace with the following:

The *Contractor* shall:

- .1 within five (5) calendar days of receiving written confirmation of the award of the *Contract*, prepare and submit to the *Owner* and the *Consultant* for their review and acceptance, a construction schedule in the format indicated below that indicates the timing of the activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate the *Work* will be performed in conformity with the *Contract Time* and in accordance with the *Contract Documents*. Such schedule is to include a delivery schedule for *Products* whose delivery is critical to the schedule for the *Work* or are required by the *Contract* to be included in a *Products* delivery schedule. The *Contractor* shall employ construction scheduling software, being the latest version of “Microsoft Project”, that permits the progress of the *Work* to be monitored in relation to the critical path established in the schedule. The *Contractor* shall provide the schedule and any successor or revised schedules in both electronic “Microsoft Project” format and hard copy. Once accepted by the *Owner* and the *Consultant*, the construction schedule submitted by the *Contractor* shall become the baseline construction schedule; and,
- .2 provide the expertise and resources, such resources including manpower and equipment, as are necessary on a best efforts basis to maintain progress under the accepted baseline construction schedule or revised schedule accepted by the *Owner* pursuant to GC 3.4 CONSTRUCTION SCHEDULE, which includes without limitation, the *Contractor's* use of all possible and, if necessary, extraordinary measures, to bring the progress of the *work* into compliance with the *Construction Schedule*, such as (i) increasing the presence of its own forces at the *Place of Work*; (ii) directing *Subcontractors* or *Suppliers* to increase their labour forces and equipment; (iii) working overtime and extra shifts; and (iv) providing any additional supervision and coordination of the *Project*, all at the *Contractor's* own cost and expense save and except where GC 6.5.1, 6.5.2, or 6.5.3 apply; and
- .3 monitor the progress of the *Work* on a weekly basis relative to the baseline *construction schedule*, or any revised schedule accepted by the *Owner* pursuant to GC 3.4 CONSTRUCTION SCHEDULE, update and submit to the *Consultant* and *Owner* the electronic and hard copy schedule on a monthly basis, at a minimum, or as required by the *Consultant* and advise the *Consultant* and the *Owner* weekly in writing of any variation from the baseline or slippage in the schedule; and,
- .4 if after applying the expertise and resources required under paragraph 3.4.1.2, the *Contractor* forms the opinion that the slippage schedule reported in paragraph 3.4.1.3 cannot be recovered by the *Contractor*, it shall in the same notice provided under paragraph 3.4.1.3, indicate to the *Consultant* if the contractor intends to apply for an extension of

Contract Time provide in Part 6 – CHANGES TO WORK; and,
.5 ensure that the *Contract Price* shall include all costs required to phase or stage the *Work*.

3.4.2 Add new paragraph 3.4.2 as follows:

If, at any time, it should appear to the *Owner* or the *Consultant* that the actual progress of the *Work* is behind schedule or is likely to become behind schedule, or if the *Contractor* has given notice of such to the *Owner* or the *Consultant* pursuant to subparagraph 3.4.1.3, the *Contractor* shall, either at the request of the *Owner* or the *Consultant*, or following giving notice pursuant to subparagraph 3.4.1.3, take appropriate steps to cause the actual progress of the *Work* to conform to the schedule or minimize the resulting delay. Within five (5) calendar days of the request by the *Owner* or the *Consultant* or the notice being given pursuant to subparagraph 3.4.1.3, the *Contractor* shall produce and present to the *Owner* and the *Consultant* a plan demonstrating how the *Contractor* will achieve the recovery of the last accepted schedule.

3.4.3 The *Contractor* is responsible for performing the *Work* within the *Contract Time*. Any schedule submissions revised from the accepted baseline *Construction Schedule* or revised schedule accepted by the *Owner* pursuant to GC 3.4 CONSTRUCTION SCHEDULE, during construction are not deemed to be approved extensions to the *Contract Time*. All extensions to the *Contract Time* must be made in accordance with the *Contract Documents*.

GC 3.5 SUPERVISION

Delete paragraph 3.5.1 in its entirety and replace with the following:

3.5.1 The *Contractor* shall employ a competent full-time superintendent, acceptable to the *Owner* and *Consultant*, who shall be in full time attendance at the *Place of the Work* while the *Work* is being performed. The superintendent shall not be changed by the *Contractor* without valid reason which shall be provided in writing and shall not be changed without prior consultation with and agreement by the *Owner* and the *Consultant*. The *Contractor* shall replace the superintendent within 7 *Working Days* of the *Owner's* written notification, if the superintendent's performance is not acceptable to the *Owner*. The *Contractor* shall provide the *Owner* and the *Consultant* with the names, addresses and telephone numbers of the superintendent referred to in this paragraph 3.5.1 and other responsible persons who may be contacted for emergency and other reasons during non-working hours.

Delete paragraph 3.5.2 in its entirety and replace with the following:

3.5.2 The superintendent, and any project manager appointed by the *Contractor*, shall represent the *Contractor* at the *Place of Work* and shall have full authority to act on written instructions given by the *Consultant* and/or the *Owner*. Instructions given to the superintendent or the project manager shall be deemed to have been given to the *Contractor* and both the superintendent and any project manager shall have full authority to act on behalf of the *Contractor* and bind the *Contractor* in matters related to the *Contract*.

3.5.3 Add new paragraph 3.5.3, 3.5.4, 3.5.5, 3.5.6 and 3.5.7 as follows:

The *Owner* may, at any time during the course of the *Work*, request the replacement of the appointed representative(s). Immediately upon receipt of the request, the *Contractor* shall make arrangements to appoint an acceptable replacement, which is approved by the *Owner*.

3.5.4 The supervisory staff assigned to the *Project* shall also be fully competent to implement efficiently all requirements for scheduling, coordination, field engineering, reviews, inspections and submittals defined in the *Specifications*, and have minimum 5 years documented "Superintendent/Project Management" experience.

3.5.5 The *Consultant and Owner* shall reserve the right to review the record of experience and credentials of supervisory staff assigned to the *Project* prior to commencement of the *Work*.

3.5.6 A superintendent assigned to the *Work* shall be "Gold Seal Certified" as per the Canadian Construction Association; or a superintendent that can demonstrate the requisite experience and success related to the *Project* to the sole satisfaction of the *Owner*.

3.5.7 The *Contractor* shall employ and maintain at the *Place of the Work*, staff who are knowledgeable, trained and experienced in the identification of toxic and hazardous substances, materials, artifacts and fossils, mould and related provisions of GC 6.4-CONCEALED OR UNKNOWN CONDITIONS, GC 9.2-TOXIC AND HAZARDOUS SUBSTANCES, GC 9.3 - ARTIFACTS and GC 9.5-MOULD.

GC 3.6 SUBCONTRACTORS AND SUPPLIERS

3.6.1.1 In subparagraph 3.6.1.1 add to the end of the second line after the word *Contract*: “including any warranties and service agreements which extend beyond the term of the *Contract*.”

3.6.1.2 In subparagraph 3.6.1.2 after the words “the *Contract Documents*” insert the words “including any required surety bonding”.

Delete paragraph 3.6.2. in its entirety and replace with the following:

3.6.2 Substitution of any *Subcontractor* and/or *Suppliers* after submission of the *Contractor*’s bid will not be accepted unless a valid reason is given in writing to and approved by the *Owner*, whose approval may be arbitrarily withheld. The reason for substitution must be provided to the *Owner* and to the original *Subcontractor* and/or *Supplier* and the *Subcontractor* and/or *Supplier* shall be given the opportunity to reply to the *Contractor* and *Owner*. The *Contractor* shall be fully aware of the capability of each *Subcontractor* and/or *Supplier* included in its bid, including but not limited to technical ability, financial stability and ability to maintain the proposed construction schedule

Add new paragraphs 3.6.7 and 3.6.8 & 3.6.9 as follows:

3.6.7 The *Consultant* or the *Owner*, acting reasonably, may from time to time, require the *Contractor* to remove from the *Project* and personnel of the *Contractor*, including project managers superintendents or *Subcontractors*. Such persons shall be replaced by the *Contractor* in a timely fashion to the satisfaction of the *Consultant* or the *Owner*, as the case may be, at no cost to the *Owner*.

3.6.8 Where provided in the *Contract*, the *Owner* may assign to the *Contractor*, and the *Contractor* agrees to accept, any contract procured by the *Owner* for *Work* or services required on the *Project* that has been pre-tendered or pre-negotiated by the *Owner*, and upon such assignment, the *Owner* shall have no further liability to any party for such contract.

3.6.9 The *Contractor* covenants that each subcontract or supply contract which the *Contractor* enters into for the purpose of performing the *Work* shall expressly provide for the assignment thereof to the *Owner* (at the option of the *Owner*) and the assumption by the *Owner* of the obligations of the *Contractor* thereunder, upon the termination of the *Contract* and upon written notice by the *Owner* to the other parties to such subcontracts or supply contracts, without the imposition of further terms or conditions; provided, however, that until the *Owner* has given such notice, nothing herein contained shall be deemed to create any contractual or other liability upon the *Owner* for the performance of obligations under such subcontracts or supply contracts and the *Contractor* shall be fully responsible for all of its obligations and liabilities (if any) under such subcontracts and supply contracts.

GC 3.7 LABOUR AND PRODUCTS

3.7.1 Amend paragraph 3.7.1 by adding the words, “..., agents, *Subcontractors* and *Suppliers*...” after the word “employees” in the first line.

Add the following to the end of paragraph 3.7.1:

The *Contractor* represents that it has sufficient skilled employees to replace, subject to the *Owner*’s approval, acting reasonably, its designated supervisor and project manager in the event of death, incapacity, removal or resignation.”

3.7.3 Delete paragraph 3.7.3 and substitute with the following:

Products which are not specified shall be of a quality consistent with those specified and their use acceptable to the *Consultant*. *Products* brought on to the *Place of the Work* by the *Contractor* shall be deemed to be the property of the *Owner*, but the *Owner* shall be under no liability for loss thereof or damage thereto arising from any cause whatsoever. The said *Products* shall be at the sole risk of the *Contractor*. Workmanship shall be, in every respect, first class and the *Work* shall be performed in accordance with the best modern industry practice.

Add new paragraphs 3.7.4, 3.7.5, 3.7.6, 3.7.7, 3.7.8, 3.7.9, 3.7.10 and 3.7.11 as follows:

3.7.4 The *Owner* shall provide the *Contractor* in a timely manner with all relevant information (including storage, protection, and installation requirements) regarding *Products* to be supplied by the *Owner* or other contractors and, prior to delivery of any such *Products* to the *Place of the Work*, the *Owner* shall obtain the *Contractor*’s written approval of the delivery date and

proposed storage, protection and installation requirements.

- 3.7.5 Once the Contractor has accepted delivery of Products, the Contractor shall be responsible for the safe storage and protection of Products as required to avoid dangerous conditions or contamination to the Products or other persons or property. Products shall be stored in locations and at the Place of the Work to the satisfaction of the Owner and the Consultant as agreed and approved by the Contractor pursuant to paragraph 3.7.4. Notwithstanding the foregoing, the Contractor shall not be responsible for any Products supplied by the Owner or other contractors unless:
- (i) the Contract Documents expressly stipulate that such Product is to be the Contractor's responsibility and to be installed by the Contractor as part of the Work;
 - (ii) the Contractor has or has received from the Owner proof of insurance coverage sufficient, at a minimum, to cover the replacement cost of such Product; and
 - (iii) the Owner obtained the Contractor's approval as required by paragraph 3.7.4.”]
- 3.7.6 Upon receipt of a *Notice in Writing* from the *Owner*, the *Contractor* shall immediately remove from the *Place of the Work*, tradespersons and labourers whose conduct jeopardizes the safety of the *Owner's* operations. Immediately upon receipt of the request, the *Contractor* shall make arrangements to appoint an acceptable replacement.
- 3.7.7 The *Contractor* shall cooperate with the *Owner* and its representatives and shall take all reasonable and necessary actions to maintain stable and harmonious labour relations with respect to the *Work* at the *Place of the Work*, including cooperation to attempt to avoid *Work* stoppages, trade union jurisdictional disputes and other *Labour Disputes*. Any costs arising from labour disputes shall be at the sole expense of the *Contractor*.
- 3.7.8 The cost for overtime required beyond the normal *Working Day* to complete individual construction operations of a continuous nature, such as pouring or finishing of concrete or similar work, or *Work* that the *Contractor* elects to perform at overtime rates without the *Owner* requesting it, shall not be chargeable to the *Owner*.
- 3.7.9 All manufactured *Products* which are identified by their proprietary names or by part or catalogue number in the *Specifications* shall be used by the *Contractor*. No substitutes for such specified *Products* shall be used without the written approval of the *Owner* and the *Consultant*. Substitutes will only be considered by the *Consultant* when submitted in sufficient time to permit proper review and investigation. When requesting approval for the use of substitutes, the *Contractor* shall include in its submission any proposed change in the *Contract Price*. The *Contractor* shall use all proprietary *Products* in strict accordance with the manufacturer's directions. Where there is a choice of proprietary *Products* specified for one use, the *Contractor* may select any one of the *Products* so specified for this use.
- 3.7.10 Materials, appliances, equipment and other *Products* are sometimes specified by reference to brand names, proprietary names, trademarks or symbols. In such cases, the name of a manufacturer, distributor, *Supplier* or dealer is sometimes given to assist the *Contractor* to find a source *Supplier*. This shall not relieve the *Contractor* from its responsibility from finding its own source of supply even if the source names no longer supplies the *Product* specified. If the *Contractor* is unable to obtain the specified *Product*, the *Contractor* shall supply a substitute product equal to or better than the specified *Product*, as approved by the *Consultant* with no extra compensation. Should the *Contractor* be unable to obtain a substitute *Product* equal to or superior to the specified *Product* and the *Owner* accepts a different *Product*, the *Contract Price* shall be adjusted accordingly, as approved by the *Consultant*.
- 3.7.11 Once the *Contractor* has accepted delivery of *Products*, the *Contractor* shall be responsible for the safe storage and protection of *Products* as required to avoid dangerous conditions or contamination to the *Products* or other persons or property. *Products* shall be stored in locations and at the *Place of the Work* to the satisfaction of the *Owner* and the *Consultant* as agreed and approved by the *Contractor* pursuant to paragraph 3.7.4. Notwithstanding the foregoing, the *Contractor* shall not be responsible for any *Products* supplied by the *Owner* or other contractors unless:
- (i) the *Contract Documents* expressly stipulate that such *Product* is to be the *Contractor's* responsibility and to be installed by the *Contractor* as part of the *Work*; and
 - (ii) the *Contractor* has or has received from the *Owner* proof of insurance coverage sufficient, at a minimum, to cover the replacement cost of such *Product*.

GC 3.8 SHOP DRAWINGS

Add the words “AND OTHER SUBMITTALS” to the title of GC 3.8 after the words “SHOP DRAWINGS”.

Add the words “and *Submittals*” after the words “Shop Drawings” in paragraphs 3.8.3, 3.8.3.2, 3.8.6, and 3.8.7.

Delete paragraph 3.8.1 in its entirety and replace with the following:

- 3.8.1 The *Contractor* shall provide *Shop Drawings* and *Submittals* as described in the *Contract Documents* and as the *Consultant* may reasonably request.

Delete paragraph 3.8.2 in its entirety and replace with the following:

- 3.8.2 The *Contractor* shall prepare a *Shop Drawings* and *Submittals* schedule acceptable to the *Owner* and the *Consultant* in an orderly sequence and sufficiently in advance so as to cause no delay in the *Work* or in the work of *Other Contractors* or the *Owner's* own forces. The *Shop Drawings and Submittals* schedule shall include for the *Consultant* review timeframes provisions in paragraph 3.8.7. A draft of the proposed *Shop Drawings and Submittals* schedule shall be submitted by the *Contractor* to the *Consultant* and the *Owner* for approval. The draft *Shop Drawings and Submittals* schedule shall clearly indicate the phasing of *Shop Drawings and Submittals* submissions. The *Contractor* shall periodically re-submit the *Shop Drawings and Submittals* schedule to correspond to changes in the *Construction Schedule*.

- 3.8.5 Delete paragraph 3.8.5 in its entirety and substitute the following:

At the time of providing *Shop Drawings and Submittals*, the *Contractor* shall advise the *Consultant* in writing of any deviations in *Shop Drawings and Submittals* from the requirements of the *Contract Documents*. The *Consultant* shall indicate the acceptance of such deviation expressly in writing. Where manufacturers’ literature is submitted in lieu of scaled drawings, it shall be clearly marked in ink, to indicate the specific items for which review is requested.

- 3.8.7 Delete paragraph 3.8.7 in its entirety and substitute the following:

The *Consultant* will review and return *Shop Drawings* and *Submittals* in accordance with the schedule agreed upon in paragraph 3.8.2. The *Contractor* shall allow the *Consultant* a minimum of 10 *Working Days* to review *Shop Drawings and Submittals* from the date of receipt. If resubmission of *Shop Drawings and Submittals* is required, a further 10 *Working Day* period is required for the *Consultant's* review.

Add new paragraphs 3.8.8, 3.8.9, 3.8.10 and 3.8.11 as follows:

- 3.8.8 Reviewed *Shop Drawings and Submittals* shall not authorize a change in the *Contract Price* and/or the *Contract Time*.
- 3.8.9 Except where the parties have agreed to a different *Shop Drawings and Submittals* schedule pursuant to paragraph 3.8.2, the *Contractor* shall comply with the requirements for *Shop Drawings and Submittals* submissions stated in the *Specifications*.
- 3.8.10 The *Contractor* shall not use the term “by others” on *Shop Drawings* or other *Submittals*. The related trade, *Subcontractor* or *Supplier* shall be stated.
- 3.8.11 Certain *Specifications* sections require the *Shop Drawings and Submittals* to bear the seal and signature of a professional engineer. Such professional engineer must be registered in the jurisdiction of the *Place of the Work* and shall have expertise in the area of practice reflected in the *Shop Drawings and Submittals*.

Add new General Condition GC 3.9 DOCUMENT REVIEW as follows:

GC 3.9 DOCUMENT REVIEW

- 3.9.1 The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* any error, inconsistency, or omission the *Contractor* may discover. Such review by the *Contractor* shall be undertaken with the standard of care described in paragraph 3.10.1 of the *Contract*. Except for its obligation to make such review and report the result, the *Contractor* does not assume any responsibility to the *Owner* or to the *Consultant* for the accuracy of the *Contract Documents*. Provided it has exercised the degree of care and skill described in this paragraph 3.9.1, the *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* could not reasonably have discovered through the exercise of the required standard of care.

- 3.9.2 If, at any time, the *Contractor* finds errors, inconsistencies, or omissions in the *Contract Documents* or has any doubt as to the meaning or intent of any part thereof, including laying out of the *Work*, the *Contractor* shall immediately notify the *Consultant*, and request instructions, a *Supplemental Instruction*, *Change Order*, or *Change Directive*, as the case may require, and the *Contractor* shall not proceed with the *Work* affected until the *Contractor* has received such instructions, a *Supplemental Instruction*, *Change Order* or *Change Directive*. Neither the *Owner* nor the *Consultant* will be responsible for the consequences of any action of the *Contractor* based on oral instructions.
- 3.9.3 Errors, inconsistencies and/or omissions in the *Drawings* and/or *Specifications* which do not allow completion of the *Work* of the *Contract* shall be brought to the *Consultant's* attention prior to the execution of the *Contract* by means of an *RFI*.

Add new General Condition GC 3.10 PERFORMANCE BY CONTRACTOR as follows:

GC 3.10 PERFORMANCE BY CONTRACTOR

- 3.10.1 In performing its services and obligations under the *Contract*, the *Contractor* shall exercise a standard of care, skill and diligence that would normally be provided by an experienced and prudent contractor supplying similar services for similar projects. The *Contractor* acknowledges and agrees that throughout the *Contract*, the *Contractor's* obligations, duties and responsibilities shall be interpreted in accordance with this standard. The *Contractor* shall exercise the same standard of due care and diligence in respect of any *Products*, personnel, or procedures which it may recommend to the *Owner*.
- 3.10.2 The *Contractor* further represents, covenants and warrants to the *Owner* that:
- .1 the personnel it assigns to the *Project* are appropriately experienced;
 - .2 it has a sufficient staff of qualified and competent personnel to replace any of its appointed representatives, subject to the *Owner's* approval, in the event of death, incapacity, removal or resignation; and
 - .3 there are no pending, threatened or anticipated claims, liabilities or contingent liabilities that would have a material effect on the financial ability of the *Contractor* to perform its work under the *Contract*.

GC 4.1 CASH ALLOWANCES

- 4.1.1 Delete the second sentence in paragraph 4.1.1

Delete paragraph 4.1.7 in its entirety and replace it with the following:

- 4.1.7 At the commencement of the *Work*, the *Contractor* shall prepare for the review and acceptance of the *Owner* and the *Consultant* a schedule indicating the times within the construction schedule referred to in GC 3.4 that items called for under cash allowances are required to be delivered to the *Place of the Work* to avoid delaying the progress of the *Work*.

Add new paragraphs 4.1.8 and 4.1.9 as follows:

- 4.1.8 The *Owner* reserves the right to call, or to have the *Contractor* call, for competitive bids for portions of the *Work* to be paid for from cash allowances.
- 4.1.9 Cash allowances cover the net cost to the *Contractor* of services, *Products*, *Construction Equipment*, freight, unloading, handling, storage, installation, provincial sales tax, and other authorized expenses incurred in performing any *Work* stipulated under the cash allowances but does not include any *Value Added Taxes* payable by the *Owner* and the *Contractor*.

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

Delete GC5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER and all paragraphs thereunder, including any reference to GC 5.1 throughout the *Contract*.

GC 5.2 APPLICATIONS FOR PAYMENT

Delete paragraph 5.2.2 in its entirety and substitute the following:

- 5.2.2 Applications for payment shall be dated the first day of each payment period, which is the first business day of the month or an alternative day of the month agreed in writing by the parties. The amount claimed shall be for the value, proportionate to the amount of the *Contract*, for work performed and *Products* delivered and incorporated into the *Work* at that date. Materials

may also be deemed to be supplied to an improvement, for payment purposes, when, in the owner’s opinion, they are placed and properly secured on the land on which the improvement is made, or placed upon land designated by the owner or agent of the *Owner*, but placing materials on the land so designated does not, of itself, make that land subject to a lien. No amount claimed shall include products delivered and incorporated into the *Work*, unless the products are free and clear of all security interests, liens and other claims of third parties.

Each application for payment, except the first, shall include a statutory declaration, in the current CCDC 9A form, up to the date of the application for payment. Each application for payment (including deficiency holdback, and final payments), shall be a *Proper Invoice* and include:

- .1 must be electronically submitted to and received by the *Consultant*.
- .2 subject line of electronic payment submission must state “PROMPT PAYMENT INVOICE”
- .3 vendor name with complete address and phone number
- .4 HST #
- .5 Contract/Tender #
- .6 Invoice #, date and period during which services and/or materials were supplied.
- .7 *Proper Invoice Submission Date* means the date the *Proper Invoice* was submitted to and received by the *Owner* and *Consultant*.
- .8 Email address for EFT payment.
- .9 Subtotal before HST
- .10 HST amount
- .11 Invoice total including HST
- .12 Payment terms
- .13 A certificate, issued by an agency or firm providing workers’ compensation insurance to the *Contractor*, verifying that coverage is in force at the time of making the application for payment, and that coverage will remain in force for at least sixty (60) days thereafter.
- .14 A declaration by the *Contractor* verifying that the performance of the *Work* is in compliance with all applicable regulatory requirements respecting environmental protection, first safety, public safety and occupational health and safety.
- .15 A pre-approved schedule of values, supplied by the *Contractor*, with breakdown by *Specification* divisions, as defined in the *Specifications* or as acceptable to the *Consultant*, aggregating the total amount of the *Contract Price*.
- .16 A separate pre-approved schedule of values, supplied by each *Subcontractor*, with breakdown by *Specification* divisions, as defined in the *Specifications* or as acceptable to the *Consultant*, for each of the mechanical and electrical *Specification* divisions 21, 22, 23, 25, 26, 27 and 28 of the *Work*, aggregating the total amount of the *Contract Price* related to those divisions.
- .17 Invoices to support all claims against the cash allowance.
- .18 An acceptable *Construction Schedule* pursuant to GC3.5.

5.2.3 Delete paragraph 5.2.3 and replace it with the following:

The amount claimed shall be for the value, proportionate to the amount of the *Contract*, of *Work* performance and *Products* delivered and incorporated into the *Work* as of the last date if the applicable Payment Period. Materials may also be deemed to be supplied to an improvement, for payment purposes, when, in the *Owner’s* opinion that are place and property secured on the land on which the improvement is made, or placed upon land designated by the *Owner* or agent of the *Owner*, but placing the materials on the land so designated does not, of itself, make that land subject to a lien. No amount claimed shall include *Products* delivered and incorporated into the work, unless the products are free and clear of all security interests, liens, and other claims of third parties. No amount claimed shall include *Products* delivered to the *Place of Work* unless the *Products* are free and clear of all security interests, liens and other claims of third parties

5.2.4 After the word *Consultant* in paragraph 5.2.4 add the words “and the *Owner*”

5.2.5 After the word *Consultant* in paragraph 5.2.5 add the words “and the *Owner*”

Add new paragraphs 5.2.9 as follows:

5.2.9 Prior to each application for payment, the *Contractor* and the *Consultant* shall jointly review the progress of the *Work*.

GC 5.3 PAYMENT

5.3.1.1 In the first sentence amend as follows: After the words “issue to the *Owner*” delete “and copy to the *Contractor*”. After the words “no later than” add “7 calendar days after the receipt of the applicable *Proper Invoice* and confirm whether all of the criteria for a *Proper Invoice* are satisfied. If not, the application will be returned to the *Contractor* with reasons from the *Owner* or the *Consultant* setting out why the application for payment is not a *Proper Invoice*.

5.3.1.2 Delete subparagraph 5.3.1.2 in its entirety and substitute as follows:

The *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement – PAYMENT no later than 28 calendar days after the receipt by the *Owner* of the complete applicable *Proper Invoice*, subject to the delivery by the *Owner* of a *Notice of Non-Payment* under the Construction Act, and subject to the receipt by the *Owner* of a complete certificate of payment issued by the *Consultant*.

Add new paragraphs 5.3.2, 5.3.3, 5.3.4, 5.3.5, 5.3.6 and 5.3.7 as follows:

5.3.2 All payments to the *Contractor* shall be processed using electronics funds transfer (EFT) and deposited directly to the *Contractors* bank account unless agreed to otherwise by the *Contractor* and the *Owner* in writing. Prior to the *Contractor* submitting a *Proper Invoice*, the *Owner* shall provide the *Contractor* with the necessary documents to facilitate EFT payments.

5.3.3 Payment shall be deemed to have been made to the *Contractor* on the date in which funds are transferred via EFT to the *Contractor’s* bank account.

5.3.4 In the event that the *Owner* disputes the amount claimed as payable in the *Proper Invoice*, within 14 calendar days of receipt of the *Proper Invoice*, the *Owner* shall provide to the *Contractor*, a *Notice of Non-Payment* (Form 1.1)

5.3.5 Where the *Owner* or *Consultant* has delivered a *Notice of Non-Payment*, as specified under paragraph 5.3.1.2 or 5.3.4, the owner and the *Contractor* shall first engage in good faith negotiations to resolve the dispute. If within 10 calendar days following the issuance of the *Notice of Non-Payment*, the *Owner* and the *Contractor* cannot resolve the dispute, either party may issue a notice of adjudication in a form prescribed under the Act. The *Owner* and *Contractor* will then submit the dispute to Adjudication as set out under Part 8 – DISPUTE RESOLUTION.

5.3.6 The amounts disputed and described under the *Notice of Non-Payment* shall be held by the *Owner* until all disputed amounts of the *Proper Invoice* have been resolved pursuant the PART 8-DISPUTE RESOLUTION. Any portion of the *Proper Invoice* which is not the subject of the *Notice of Non-Payment* shall be payable within the time period set out in paragraph 5.3.1.2.

5.3.7 The *Contractor* represents, warrants, and covenants to the *Owner* that it is familiar with its *Prompt Payment* and trust obligations under the *Act* and will take all required steps and measures to ensure that it complies with the applicable *Prompt Payment* and trust provisions under the Act including, without limitation, section 8.1 of the *Act*. Evidence of the *Contractor’s* compliance under this GC 5.3.7, including evidence demonstrating that all EFTs by the *Owner* to the *Contractor* are kept in a bank account in the *Contractor’s* name, will be made available to the *Owner* in writing 5 working days following receipt by the *Contractor* of the *Notice in Writing* making such request.

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK

Delete all paragraphs of GC 5.4 in their entirety and replace them with the following paragraphs:

5.4.1 When the *Contractor* considers that the *Work* is substantially performed, or if permitted by the lien legislation applicable to the *Place of the Work* a designated portion thereof which the *Owner* agrees to accept separately is substantially performed, the *Contractor* shall, within five (5) *Working Days*, deliver to the *Consultant* and to the *Owner*:

- .1 a comprehensive list of items, including values assigned to each item, to be completed or corrected,
- .2 a written application for a review by the *Consultant* to establish *Substantial Performance* of the *Work* or *Substantial Performance* of the designated portion of the *Work*.

Failure to include an item on the list does not alter the responsibility of the *Contractor* to complete the *Contract*.

5.4.2 Included with its written application for a review by the *Consultant* to establish *Substantial Performance* of the *Work* or *Substantial Performance* of the designated portion of the *Work*, the *Contractor* shall submit to the *Consultant* and to the *Owner*:

- .1 An application for payment, in accordance with GC 5.2 including a *Proper Invoice* complying with GC 5.2.2 including all subparagraph requirements of GC 5.2.2 except subparagraph 5.2.2.18, clearly indicating the *Contractor* has achieved *Substantial Performance of the Work*.
- .2 updated insurance certificate(s);

The *Consultant* shall refuse to certify *Substantial Performance* of the *Work* if the submittals referred to in this paragraph 5.4.2 are not provided by the *Contractor*.

5.4.3 The *Owner* shall withhold, from amounts otherwise payable to the *Contractor*, an amount not to exceed one (1) percent of the Contract Price as security for the obligation of the *Contractor* to deliver two copies of the closeout submittals as required by the *Specifications*.

5.4.4 The *Consultant* will review the *Work* to certify or verify the validity of the application and shall promptly, and in any event, no later than 10 calendar days after receipt of the *Contractor's* application:

- .1 advise the *Contractor* in writing that the *Work* or the designated portion of the *Work* is not substantially performed and give reasons why, or
- .2 state the date of *Substantial Performance* of the *Work* or a designated portion of the *Work* in a certificate and issue a copy of that certificate to each of the *Owner* and the *Contractor*.

5.4.5 Following the issuance of the certificate of *Substantial Performance of the Work*, referenced in subparagraph 5.4.4.2:

- .1 The *Contractor* shall complete the *Work* within sixty (60) calendar days.
- .2 No payments will be processed, nor will any *Proper Invoices* be received by the owner between *Substantial Performance of the Work* and the completion of the *Work*.
- .3 The *Owner* reserves the right to contract out any or all unfinished *Work* if it has not been completed within sixty (60) days of *Substantial Performance of the Work* without prejudice to any other right or remedy and without affecting the warranty period. The cost of completing the *Work*, including owner and *Consultant wages and materials* shall be deducted from the *Contract Price*.
- .4 The *Contractor* shall publish, in a construction trade newspaper in the area of the location of the work, a copy of the certificate of *Substantial Performance of the Work* referred to in GC 5.4.4.2 within seven (7) days of receiving a copy of certificate signed by the *Consultant*, and the *Contractor* shall provide suitable evidence of the publication to the *Consultant* and the *Owner*. If the *Contractor* fails to publish such notice, the *Owner* shall be at liberty to publish said certificate and back-charge the *Contractor* its reasonable costs for doing so.

5.4.6 The *Contractor* shall submit an application for release of the lien holdback amount in accordance with the lien legislation applicable to the *Place of the Work*. Except to the extent required by any *Payment Legislation*, such application for release of the holdback shall not constitute an application for payment that is subject to *Proper Invoice* requirements.

5.4.7 Where legislation permits progressive release of the holdback for a portion of the *Work* and the *Consultant* has certified or verified that the part of the *Work* has been performed prior to *Substantial Performance of the Work*, the *Owner* hereby agrees to release, and shall release the holdback for such portion of the *Work* to the *Contractor* in accordance with such legislation.

5.4.8 Notwithstanding any progressive release of the holdback, the *Contractor* shall ensure that such parts of the *Work* are protected pending the issuance of a final certificate for payment or until the *Owner* takes early occupancy in accordance with GC 12.2, whichever comes first, and shall be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when the holdback was released.

5.4.9 There being no claims for lien registered against title to the *Place of the Work*, as confirmed by a title search of the *Place of the Work* and there being no claims for lien or written notices of lien delivered to the *Owner*, the holdback amount authorized by the certificate for payment of the holdback amount issued by the *Consultant*, is due and payable no later than 10 *Working Days* following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*.

- 5.4.10 Notwithstanding the *Owner's* obligation to make payment of the holdback amount in accordance with GC 5.4.9, the processing of such payment remains subject to the *Owner's* internal EFT timing limitations. The *Owner* covenants, and the *Contractor* agrees, that payment of the holdback shall be made by EFT at the first opportunity during the *Owner's* normal processing of EFTs upon the holdback becoming due in accordance with GC 5.4.9.

GC 5.5 FINAL PAYMENT

- 5.5.1 Delete paragraph 5.5.1 in its entirety and substitute as follows:

When the *Contractor* considers that the *Work* is complete, as defined in the Construction Act, the *Contractor* shall submit an application for final payment that complies with the requirements for a *Proper Invoice*, accompanied by any documents or materials not yet delivered to the *Consultant* and the *Owner* pursuant to paragraph 12.1.1. The *Consultant* shall confirm whether all of the criteria for a *Proper Invoice* are satisfied. If not, the application for payment will be returned to the *Contractor* with reasons from the *Owner* or the *Consultant* setting out why it is not a valid *Proper Invoice*. The *Contractor's* application for final payment shall include:

- .1 the *Contractor's* written request for release of the deficiency holdback, including a statement that no written notices of lien have been received by it;
- .2 a *Statutory Declaration* CCDC 9A-2018; and
- .3 the *Contractor's* written certificate that there are no outstanding claims, pending claims or future claims from the *Contractor* or their *Subcontractors*.
- .4 The *Work* shall not be deemed complete, nor a *Proper Invoice* submitted until all the aforementioned documents have been delivered, and the *Owner* may withhold payment in respect of the delivery of any documents in an amount determined by the *Consultant*.

- 5.5.2 Add the words “that complies with the requirements for a *Proper Invoice*,” after the words “an application from the *Contractor* for the final payment” in the first line of paragraph 5.5.2.

- 5.5.3 Amend paragraph 5.5.3 as follows:

Replace the words “written notice” with “*Notice of Non-Payment* (Form 1.1)” in the first line.

Add the following sentence to the end of paragraph 5.5.3:

Subject to any *Payment Legislation*, when the *Consultant* finds the *Contractor's* application for final payment to be not valid, the *Contractor* shall revise and resubmit the application when the *Contractor* has addressed the reasons given by the *Consultant*.

- 5.5.4 Delete paragraph 5.5.4 in its entirety and replace with the following:

Subject to the provision of paragraph 10.4.1. of GC 10.4 – WORKERS’ COMPENSATION, and any legislation applicable to the *Place of the Work*, the *Owner* shall no later than 5 days, subject to the *Owner's* EFT timing limitations pursuant to paragraph 5.4.10 and after the issuance of a final certificate for payment, pay the *Contractor* as provided in Article A-5 of the Agreement – PAYMENT and in any event, in compliance with *Payment Legislation*.

Part 6 - CHANGES IN THE WORK

GC 6.1 OWNER’S RIGHT TO MAKE CHANGES

- 6.1.2 Add to the end of paragraph 6.1.2 the following:

“This requirement is of the essence, and it is the express intention of the parties that any claims by the *Contractor* for a change in the *Contract Price* and/or *Contract Time* shall be barred unless there has been strict compliance with this clause. No verbal dealings between the parties and no implied acceptance of alterations or additions to the *Work*, and no claims that the *Owner* has been unjustly enriched by any alteration or addition to the *Work*, whether in fact there is any such unjust enrichment or not,

shall be the basis of a claim for additional payment under this *Contract* or a claim for any extension of *Contract Time*.

Add new paragraphs 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7 and 6.1.8 as follows:

- 6.1.3 The *Contractor* agrees that changes resulting from construction coordination, including but not limited to, site surface conditions, site coordination, and *Subcontractor and Supplier* coordination are included in the *Contract Price* and the *Contractor* shall be precluded from making any claim for a change in the *Contract Price* as a result of such changes.
- 6.1.4 Labour costs shall be actual, prevailing rates at the *Place of the Work* paid to workers, plus statutory charges on labour including WSIB, unemployment insurance, Canada pension, vacation pay, hospitalization and medical insurance. The *Contractor* shall provide these rates, when requested by the *Consultant*, for review and/or agreement.
- 6.1.5 Quotations for changes to the *Work* shall only include *Direct Costs* and be accompanied by itemized breakdowns together with detailed, substantiating quotations or cost vouchers from *Subcontractors* and *Suppliers*, submitted in a format acceptable to the *Consultant* and shall include any *Direct Costs* associated with extensions in *Contract Time*.
- 6.1.6 When both additions and deletions covering related *Work* or substitutions are involved in a change to the *Work*, payment, including *Overhead* and profit, shall be calculated on the basis of the net difference, if any, with respect to that change in the *Work*.
- 6.1.7 No extension to the *Contract Time* shall be granted for changes in the *Work* unless the *Contractor* can clearly demonstrate that such changes significantly alter the overall construction schedule submitted at the commencement of the *Work*. Extensions of *Contract Time* and all associated costs, if approved pursuant to GC 3.4.2, shall be included in the relevant *Change Order*.
- 6.1.8 When a change in the *Work* is proposed or required, the *Contractor* shall within 10 calendar days submit to the *Consultant* for review a claim for a change in *Contract Price* and/or *Contract Time*. Should 10 calendar days be insufficient to prepare the submission, the *Contractor* shall within 5 calendar days, advise the *Consultant* in writing of the proposed date of submission of the claim. Claims submitted after the dates prescribed herein will not be considered.

GC 6.2 CHANGE ORDER

- 6.2.1 In paragraph 6.2.1 after the last sentence in the paragraph add the following:

The adjustment in the *Contract Time* and the *Contract Price* shall include an adjustment, if any, for delay or for the impact that the change in the *Work* has on the *Work* of the *Contractor*, and once such adjustment is made, the *Contractor* shall be precluded from making any further claims for delay or impact with respect to the change in the *Work*.

Add new paragraph 6.2.3 as follows:

- 6.2.3 The value of a change shall be determined in one or more of the following methods as directed by the *Consultant*.

- .1 by estimate and acceptance of a lump sum;
- .2 by negotiated unit prices which include the *Contractor's Overhead* and profit, or;
- .3 by the actual *Direct Costs* to the *Owner*, such costs to be the actual cost after all credits included in the change have been deducted, plus the following ranges of mark-up on such costs:
 - .1 for *Change Orders* with a value of \$0 to \$50,000 the total *Subcontractor/Supplier* mark-up including *Overhead* and profit shall be 10% and the total *Contractor* mark-up including overhead and profit shall be 5%.
 - .2 For *Change Orders* in excess of \$50,000, the total *Subcontractor/Supplier* mark-up including *Overhead* and profit shall be 5% and the total *Contractor* mark-up including *Overhead* and profit shall be 3% for that portion in excess of \$50,000.

Add new paragraph 6.2.4 as follows:

- 6.2.4 All quotations shall include Direct Costs and be submitted in a complete manner listing:

- .1 quantity of each material,
- .2 unit cost of each material,

- .3 man hours involved,
- .4 cost per hour,
- .5 *Subcontractor* quotations submitted listing items 1 to 4 above and item 6 below.
- .6 mark-up

Add new paragraph 6.2.5 as follows:

- 6.2.5 The *Owner* and the *Consultant* will not be responsible for delays to the *Work* resulting from late, incomplete or inadequately broken down valuations submitted by the *Contractor*.

GC 6.3 CHANGE DIRECTIVE

- 6.3.6.1 Amend paragraph 6.3.6.1 by deleting the final period and adding: “as follows:

- .1 Ten percent (10%) for profit plus five percent (5%) for overhead on work by the *Contractor’s* own forces up to the value of \$50,000 and five percent (5%) for profit plus three percent (3%) for *Overhead* on work by the *Contractor’s* own forces in excess of \$50,000 and,
- .2 Ten percent (10%) fee on amounts paid to *Subcontractors* or *Suppliers* under subparagraph 6.3.7.9 for changes up to the value of \$50,000 and five percent (5%) on changes over \$50,000.

Unless a *Subcontractor’s* or *Supplier’s* price has been approved by the *Owner*, the *Subcontractor* or *Supplier* shall be entitled to its actual net cost as determined in accordance with paragraph 6.3.7, plus ten percent (10%) for profit and five percent (5%) for *Overhead* on such actual net cost for changes in the *Work*, up to the value of \$50,000 and five percent (5%) for profit and three percent (3%) for overhead on such actual net cost changes in the *Work* in excess of \$50,000.”

- 6.3.6.2 Delete paragraph 6.3.6.2 and replace it with the following:

If a change in the *Work* results in a net decrease in the *Contract Price* in excess of \$50,000 the amount of the credit shall be the net cost, with deduction for *Overhead* and profit. If a change in the *Work* results in a net decrease in the *Contract Price* of \$50,000 or less, the amount of the credit shall be the net cost, without deduction for *Overhead* or profit.

- 6.3.7.1 In subparagraph 6.3.7.1(1) insert “while directly engaged in the work attributable to the change” after the words “in the direct employ of the *Contractor*”.

- 6.2.7.18 Delete the word “and” from the end of subparagraph 6.3.7.18.

- 6.2.7.19 Delete the period from the end of subparagraph 6.3.7.19 and replace it with “; and”.

Add new subparagraph 6.3.7.20 as follows:

- 6.3.7.20 .20 safety measures and requirements.

- 6.3.7 At the end of paragraph 6.3.7 add the following:

All other costs attributable to the change in the *Work* including the costs of all administrative or supervisory personnel are included in *Overhead* and profit calculated in accordance with the provisions of paragraph 6.1.5 of GC6.1 – OWNER’S RIGHT TO MAKE CHANGES.

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

Add new paragraph 6.4.5 as follows:

- 6.4.5 The *Contractor* confirms that, prior to bidding the *Project*, it carefully reviewed the *Place of the Work* and applied to that review the degree of care and skill described in paragraph 3.10.1, given the amount of time provided between the issue of the bid documents and the actual closing of bids, the degree of access provided to the *Contractor* prior to submission of bid, and the sufficiency and completeness of the information provided by the *Owner*. The *Contractor* is not entitled to compensation or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such review undertaken in accordance with this paragraph 6.4.5.

GC 6.5 DELAYS

- 6.5.1 Replace the words “reasonable costs” in the fourth line of paragraph 6.5.1, and add the words “...reasonable *Direct Costs* directly flowing from the delay, but excluding any consequential, indirect or special damages (including, without limitation, loss of profits, loss of opportunity or loss of productivity).”
- 6.5.2 Replace the words “reasonable costs” in the sixth line of paragraph 6.5.2, and add the words “...reasonable *Direct Costs* directly flowing from the delay, but excluding any consequential, indirect or special damages (including, without limitation, loss of profits, loss of opportunity or loss of productivity).”
- 6.5.3 Delete paragraph 6.5.3 in its entirety and replace with the following:

If either party is delayed in the performance of their obligations under the *Contract* by *Force Majeure*, then the *Contract Time* shall be extended for such reasonable time as the *Owner* and the *Contractor* shall agree. The extension of time shall not be less than the time lost as a result of the event causing the delay, unless the parties agree to a shorter extension. Neither party shall be entitled to payment for costs incurred by such delays. Upon reaching agreement on the extension of the *Contract Time* attributable to the *Force Majeure* event, the *Owner* and the *Contractor* shall execute a *Change Order* indicating the length of the extension to the *Contract Time* and confirming that there are no costs payable by either party for the extension of *Contract Time*. However, if at the time an event of *Force Majeure* arises, a party is in default of its obligations under the *Contract* and has received a notice of default pursuant to PART 7 - DEFAULT NOTICE, this paragraph 6.5.3 shall not excuse a party from its obligations to cure the default(s). For greater certainty, the defaulting party, to the extent possible, must continue to address and cure the default notwithstanding an event of *Force Majeure*.

Delete paragraph 6.5.4 in its entirety and replace with the following:

- 6.5.4 No extension or compensation shall be made for delay or impact on the *Work* unless notice in writing of a claim is given to the *Consultant* not later than ten (10) *Working Days* after the commencement of the delays or impact on the *Work*, provided however, that, in the case of a continuing cause of delay or impact on the *Work*, only one notice of claim shall be necessary.

Add new paragraphs 6.5.6, 6.5.7 and 6.5.8 as follows:

- 6.5.6 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor* or anyone directly or indirectly employed or engaged by the *Contractor*, or by any cause within the *Contractor's* control, then the *Contract Time* may be extended for such reasonable time as the *Owner* may decide in consultation with the *Consultant* and the *Contractor*. The *Owner* shall be reimbursed by the *Contractor* for all reasonable costs incurred by the *Owner* as the result of such delay, including, but not limited to, *Owner's* staff cost, the cost of all additional services required by the *Owner* from the *Consultant* or any sub-consultants, project managers, or others employed or engaged by the *Owner*, and in particular, the costs of the *Consultant's* services during the period between the date of *Ready-for-Takeover* stated in Article A-1 herein, as the same may be extended through the provision of these General Conditions, and any later or actual date of *Ready-for-Takeover* achieved by the *Contractor*.
- 6.5.7 Without limiting the obligations of the *Contractor* described in GC 3.2 – CONSTRUCTION BY OWNER OR OTHER CONTRACTORS or GC 9.4 – CONSTRUCTION SAFETY, the *Owner* or *Consultant* may, by notice in writing, direct the *Contractor* to stop the *Work* where the *Owner* or *Consultant* determines that there is an imminent risk to the safety of persons or property at the *Place of the Work*. In the event that the *Contractor* receives such notice, it shall immediately stop the *Work* and secure the site. The *Contractor* shall not be entitled to an extension of the *Contract Time* or to an increase in the *Contract Price* unless the resulting delay, if any, would entitle the *Contractor* to an extension of the *Contract Time* or the reimbursement of the *Contractor's* costs as provided in paragraphs 6.5.1, 6.5.2 or 6.5.3.
- 6.5.8 No claim for delay shall be made and the *Contract Time* shall not be extended due to climatic conditions or arising from the *Contractor's* efforts to maintain the *Contract* schedule.

GC 6.6. CLAIMS FOR A CHANGE IN CONTRACT PRICE

- 6.6.5 Add the words “as noted in paragraph 6.6.3” after the words “of the claim” in paragraph 6.6.5 and add the words “and the *Consultant*”, at the end of paragraph 6.6.5.

GC 7.1 OWNER’S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR’S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT

Revise the heading to read **“OWNER’S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR’S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT”**

Add a new subparagraph 7.1.3.4 as follows:

7.1.3.4 An “acceptable schedule” as referred to in subparagraph 7.1.3.2. means a schedule approved by the *Consultant* and the *Owner* wherein the default can be corrected within the balance of the *Contract Time* and shall not cause delay to any other aspect of the *Work* or the work of *Other Contractors*, and in no event shall it be deemed to give a right to extend the *Contract Time*.

7.1.4.1 Delete subparagraph 7.1.4.1 and replace with the following:

.1 Correct such default and deduct the cost, including *Owner’s* expenses, thereof from any payment then or thereafter due the *Contractor*.

7.1.4.2 Delete subparagraph 7.1.4.2 and replace it with the following:

.2 by providing *Notice in Writing* to the *Contractor*, terminate the *Contractor’s* right to continue with the *Work* in whole or in part or terminate the *Contract*, and publish a Notice of Termination (Form 8) in accordance with the act.

7.1.5.3 In subparagraph 7.1.5.3 delete the words: “however, if such cost of finishing the *Work* is less than the unpaid balance of the *Contract Price*, the *Owner* shall pay the *Contractor* the difference;”

Delete paragraph 7.1.6 in its entirety and add new paragraphs 7.1.6, 7.1.7, 7.1.8, 7.1.9 and 7.1.10 as follows:

7.1.6 In addition to its right to terminate the *Contract* set out herein, the *Owner* may terminate this *Contract* at any time for any other reason and without cause upon giving the *Contractor* fifteen (15) *Working Days Notice in Writing* to that effect. In such event, the *Contractor* shall be entitled to be paid for all *Work* performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Contractor* may have sustained as a result of the termination of the *Contract*, but in no event shall the *Contractor* be entitled to be compensated for any loss of profit on unperformed portions of the *Work*, or indirect, special, or consequential damages incurred.

7.1.7 The *Owner* may suspend *Work* under this *Contract* at any time for any reason and without cause upon giving the *Contractor* *Notice in Writing* to that effect. In such event, the *Contractor* shall be entitled to be paid for all *Work* performed to the date of suspension and be compensated for all actual costs incurred arising from the suspension, including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Contractor* may have sustained as a result of the suspension of the *Work*, but in no event shall the *Contractor* be entitled to be compensated for any indirect, special, or consequential damages incurred. In the event that the suspension continues for more than thirty (30) calendar days, the *Contract* shall be deemed to be terminated and the provisions of paragraph 7.1.6 shall apply.

7.1.8 In the case of either a termination of the *Contract* or a suspension of the *Work* under GC 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK, OR TERMINATE THE CONTRACT or GC 7.2 - CONTRACTOR’S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* shall use its best commercial efforts to mitigate the financial consequences to the *Owner* arising out of the termination or suspension, as the case may be.

7.1.9 Upon the resumption of the *Work* following a suspension under GC 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT or GC 7.2 - CONTRACTOR’S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* will endeavour to minimize the delay and financial consequences arising out of the suspension.

7.1.10 The *Contractor's* obligations under the *Contract* as to quality, correction, and warranty of the *Work* performed by the *Contractor* up to the time of termination or suspension shall continue in force after such termination of the *Contract* or suspension of the *Work*.

GC 7.2 CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

7.2.2 Delete paragraph 7.2.2 and replace it with the following:

If the *Work* is suspended or otherwise delayed for a period of 40 consecutive *Working Days* or more under a stop work order issued by a court or other public authority on account of a breach, violation, contravention, or failure to abide by any laws, ordinances, rules, regulations, or codes directly by the *Owner*, the *Owner's Other Contractor(s)*, or the *Consultant*, and relating to the *Work*, or the *Place of the Work*, the *Contractor* may with prejudice to any other right or remedy the *Contractor* may have, terminate the *Contract* by giving the *Owner* Notice in *Writing* to that effect.

7.2.3.1 Delete subparagraph 7.2.3.1 in its entirety.

7.2.3.4 In subparagraph 7.2.3.4, delete the words "except for GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER".

Renumber paragraph 7.2.5 as paragraph 7.2.6. Add a new paragraph 7.2.5 as follows:

7.2.5 If the default cannot be corrected within the 5 *Working Days* specified in paragraph 7.2.4, the *Owner* shall be deemed to have cured the default if it:

- .1 commences correction of the default within the specified time;
- .2 provides the *Contractor* with an acceptable schedule for such correction; and,
- .3 completes the correction in accordance with such schedule.

Add new paragraph 7.2.6 as follows:

7.2.6 If the *Contractor* terminates the *Contract* under the conditions described in GC 7.2 – CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* shall be entitled to be paid for all *Work* performed to the date of termination, as determined by the *Consultant*. The *Contractor* shall also be entitled to recover the *Direct Costs* associated with termination, including the costs of demobilization and losses sustained on *Products* and *Construction Equipment*. The *Contractor* shall not be entitled to any recovery for any special, indirect or consequential losses, including loss of profit.

Add new paragraphs 7.2.7, 7.2.8 and 7.2.9 as follows

7.2.7 The *Contractor* shall not be entitled to give notice of the *Owner's* default or terminate the *Contract* in the event the *Owner* withholds certificates or payment or both in accordance with the *Contract* because of:

- (a) the *Contractor's* failure to pay all legitimate claims promptly, or
- (b) the failure of the *Contractor* to discharge construction liens which are registered against the title to the *Place of the Work*.

7.2.8 The *Contractor's* obligations under the *Contract* as to quality, correction and warranty of the *Work* performed by the *Contractor* up to the effective date of termination shall continue in force and shall survive termination of this *Contract* by the *Contractor*

7.2.9 If the *Contractor* suspends the *Work* or terminates the *Contract* as provided for in GC 7.2 – CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* shall ensure the site and the *Work* are left in a safe, secure condition as required by authorities having jurisdiction at the *Place of the Work* and the *Contract Documents*.

GC 8.1 AUTHORITY OF THE CONSULTANT

Delete 8.1.3 in its entirety and replace with the following:

8.1.3 If a dispute is not resolved promptly, the *Consultant* will give such instructions as in the *Consultant's* opinion are necessary for the proper performance of the *Work* and to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions; it being understood that by so doing neither party will jeopardize any claim the party may have.

Add new paragraph 8.1.4 as follows:

- 8.1.4 In addition to disputes that may be resolved by way of interim binding adjudication under the Construction Act, the parties may agree to resolve any other matter by interim binding adjudication under the same adjudication procedures as set out in the Construction Act. Subject to any further agreement or a decision by a court or arbitrator, a determination by an adjudicator will be binding on the parties in accordance with the Construction Act, and any instructions by the *Consultant* under this GC 8.1 will be amended accordingly as necessary. Nothing in this *Contract* or the Construction Act is intended to limit the rights and remedies of the parties under this Part 8.

GC 8.2 ADJUDICATION

- 8.2.1 Delete the word “prescribed” from paragraph 8.2.1 and substitute the words “provided for”.

GC 8.3 NEGOTIATION, MEDIATION AND ARBITRATION

- 8.3.1 Amend paragraph 8.3.1 by changing part of the second line from “shall appoint a *Project Mediator*” to “may appoint a *Project Mediator*, except that such an appointment shall only be made if both the *Owner* and the *Contractor* agree.”
- 8.3.4 Amend paragraph 8.3.4 by changing part of the second line from “the parties shall request the *Project Mediator*” to “and subject to paragraph 8.3.1 the parties may request the *Project Mediator*”.

Delete paragraphs 8.3.6, 8.3.7 and 8.3.8 in their entirety.

Add new paragraph 8.3.6 as follows:

- 8.3.6 The dispute may be finally resolved by arbitration under the Rules for Arbitration of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing, provided that both the *Contractor* and the *Owner* agree. If the *Contractor* and the *Owner* agree to resolve the dispute by arbitration, the arbitration shall be conducted in the jurisdiction of the *Place of the Work*.

Add a new paragraph 8.3.9, 8.3.10 and 8.3.11 as follows:

- 8.3.9 Prior to delivering a notice of *Adjudication* in a form prescribed by the Act, the parties agree to first address all disputes by attending at least one meeting with *Owner’s* representative, the *Consultant’s* representative and the *Contractor’s* representative, prior to commencing an *Adjudication*, the parties agree that such steps will be taken to resolve any disputes in a timely and cost-effective manner. If a resolution to the dispute(s) is not made at such a meeting, any part who plans to commence *Adjudication* shall provide the other party with 5 *Working Days Notice in Writing*”
- 8.3.10 Other than where the *Contractor* is obliged to commence an *Adjudication* pursuant to an undertaking under the Act, neither the *Owner* nor the *Contractor* shall commence an *Adjudication* during the *Restricted Period*.
- 8.3.11 Where either party has delivered a notice of *Adjudication* in a form prescribed by the Act, the procedure and rules set out under the Act and the regulations thereto shall govern the *Adjudication*.

- 8.3.12 Add new paragraphs 8.3.12 to 8.3.16 as follows:

- 8.3.12 Within five days of receipt of the notice of arbitration by the responding party under paragraph 8.3.6, the *Owner* and the *Contractor* shall give the *Consultant* a written notice containing:

- .1 a copy of the notice of arbitration;
- .2 a copy of supplementary conditions 8.3.9 to 8.3.14 of this *Contract*, and;
- .3 any claims or issues which the *Contractor* or the *Owner*, as the case may be, wishes to raise in relation to the *Consultant* arising out of the issues in dispute in the arbitration.

- 8.3.13 The *Owner* and the *Contractor* agree that the *Consultant* may elect, within ten days of receipt of the notice under paragraph 8.3.9, to become a full party to the arbitration under paragraph 8.3.6 if the *Consultant*:

- .1 has a vested or contingent financial interest in the outcome of the arbitration;
- .2 gives the notice of election to the *Owner* and the *Contractor* before the arbitrator is appointed;
- .3 agrees to be a party to the arbitration within the meaning of the rules referred to in paragraph 8.3.6, and,
- .4 agrees to be bound by the arbitral award made in the arbitration.

- 8.3.14 Without limiting and subject to the *Owner* and *Contractor's* rights under paragraph 8.3.12 to challenge whether the *Consultant* has satisfied the requirements of paragraph 8.3.10, if an election is made under paragraph 8.3.10:
- .1 the *Owner* or *Contractor* may request particulars and evidence of the *Consultant's* vested or contingent financial interest in the outcome of the arbitration;
 - .2 the *Consultant* shall participate in the appointment of the arbitrator; and,
 - .3 notwithstanding the rules referred to in paragraph 8.3.6, the time period for reaching agreement on the appointment of the arbitrator shall begin to run from the date the respondent receives a copy of the notice of arbitration.
- 8.3.15 The arbitrator in the arbitration in which the *Consultant* has elected under paragraph 8.3.10 to become a full party may:
- .1 on application of the *Owner* or the *Contractor*, determine whether the *Consultant* has satisfied the requirements of paragraph 8.3.10, and;
 - .2 make any procedural order considered necessary to facilitate the addition of the *Consultant* as a party to the arbitration.
- 8.3.16 The provisions of paragraph 8.3.9 shall apply (with all appropriate changes being made) to written notice to be given by the *Consultant* to any sub-consultant.”

GC 9.1 PROTECTION OF WORK AND PROPERTY

Delete subparagraph 9.1.1.1 in its entirety and substitute the following:

- 9.1.1.1 errors or omissions in the *Contract Documents* which the *Contractor* could not have discovered applying the standard of care described in paragraph 3.10.1;

Delete paragraph 9.1.2 in its entirety and substitute as follows:

- 9.1.2 Before commencing any *Work*, the *Contractor* shall determine the locations of all underground or hidden utilities and structures indicated in or inferable from the *Contract Documents*, or that are inferable from an inspection of the *Place of the Work* exercising the degree of care and skill described in paragraph 3.10.1.

Add new paragraph 9.1.5 as follows:

- 9.1.5 With respect to any damage to which paragraphs 9.1.3 or 9.1.4 apply, the *Contractor* shall neither undertake to repair or replace any damage whatsoever to the work of other contractors, or to adjoining property, nor acknowledge that the same was caused by the *Contractor*, without first consulting the *Owner* and receiving written instructions as to the course of action to be followed from either the *Owner* or the *Consultant*. Where, however, there is danger to life, the environment, or public safety, the *Contractor* shall take such emergency action as it deems necessary to remove the danger.

GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

Add a new subparagraph 9.2.5.5 as follows:

- 9.2.5.5 In addition to the steps described in subparagraph 9.2.5.3, take any further steps it deems necessary to mitigate or stabilize any conditions resulting from encountering toxic or hazardous substances or materials.

- 9.2.6 Add the following to paragraph 9.2.6, after the word “responsible” in the second line:

...or whether any toxic or hazardous substances or materials already at the *Place of the Work* (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the *Contractor* or anyone for whom the *Contractor* is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damages to the property of the *Owner* or others,...

- 9.2.7 Add the words “and the *Consultant*” after the word “*Contractor*” in subparagraph 9.2.7.4.

- 9.2.8 Add the following to paragraph 9.2.8, after the word “responsible” in the second line:

...or whether any toxic or hazardous substances or materials already at the *Place of the Work* (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the *Contractor* or anyone for whom the *Contractor* is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damages to the property of the *Owner* or others,...

Add new paragraph 9.2.10 as follows:

- 9.2.10 The *Contractor*, *Subcontractors* and *Suppliers* shall not bring on to the *Place of the Work* any toxic or hazardous substances and materials except as required in order to perform the *Work*. If such toxic or hazardous substances or materials are required, storage in quantities sufficient to allow work to proceed to the end of any current work week only shall be permitted. All such toxic and hazardous materials and substances shall be handled and disposed of only in accordance with all laws and regulations that are applicable at the *Place of the Work*.

GC 9.4 CONSTRUCTION SAFETY

Delete paragraph 9.4.1 in its entirety and substitute as follows:

- 9.4.1 The *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations, and practices required by the OHSA including, but not limited to those of the “constructor”, and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the *Work*. Without limiting the foregoing, the *Contractor* shall be solely responsible for construction safety in respect of its *Consultants*, other *Consultants*, *Subcontractors*, and *Suppliers*, the *Owner’s own forces*, and other *contractors*, *subcontractors*, and *suppliers during the course of the Project*

Add new paragraphs 9.4.2 to 9.4.10 as follows:

- 9.4.2 Prior to the commencement of the *Work*, the *Contractor* shall submit to the *Owner*:
- .1 the evidence of workers’ compensation compliance required by GC 10.4.1;
 - .2 copies of the *Contractor’s* insurance policies having application to the *Project* or certificates of insurance, at the option of the *Owner*;
 - .3 documentation setting out the *Contractor’s* in-house safety programs;
 - .4 a copy of the “Notice of Project” filed with Ministry of Labour
 - .5 copies of any documentation or notices to be filed or delivered to the authorities having jurisdiction for the regulation of occupational health and safety at the *Place of the Work*.
- 9.4.3 The *Contractor* shall indemnify and save harmless the *Owner*, its agents, trustees, officers, directors, employees, consultants, successors, appointees, and assigns from and against the consequences of any and all safety infractions committed by the *Contractor* under the occupational health and safety legislation in force at the *Place of the Work* including the payment of legal fees and disbursements on a substantial indemnity basis.
- 9.4.4 The *Owner* undertakes to include in its contracts with other contractors and in its instructions to its own forces the requirement that the other contractor or its own forces, as the case may be, comply with the policies and procedures of and the directions and instructions from the *Contractor* with respect to occupational health and safety and related matters.
- 9.4.5 If the *Owner* is of the reasonable opinion that the *Contractor* has not taken such precautions as are necessary to ensure compliance with the requirements of paragraph 9.4.1, the *Owner* may take any remedial measures which it deems necessary, including stopping the performance of all or any portion of the *Work*, and the *Owner* may use its employees, the *Contractor*, any *Subcontractor* or any other contractors to perform such remedial measures.
- 9.4.6 The *Contractor* shall file any notices or any similar document required pursuant to the *Contract* or the safety regulations in force at the *Place of the Work*. This duty of the *Contractor* will be considered to be included in the *Work* and no separate payment therefore will be made to the *Contractor*.
- 9.4.7 Unless otherwise provided in the *Contract Documents*, the *Contractor* shall develop, maintain and supervise for the duration of the *Work* a comprehensive safety program that will effectively incorporate and implement all required safety precautions. The program shall, at a minimum, respond fully to the applicable safety regulations and general construction practices for the safety of persons or property, including, without limitation, any general safety rules and regulations of the *Owner* and any workers’ compensation or occupational health and safety statutes or regulations in force at the *Place of the Work*.

- 9.4.8 The *Contractor* shall provide a copy of the safety program described in paragraph 9.4.7 hereof to the *Consultant* for delivery to the *Owner* prior to the commencement of the *Work*, and shall, ensure, as far as it is reasonably practical to do so, that every employer and worker performing work in respect of the *Project* complies with such program.
- 9.4.9 The *Contractor* shall arrange regular safety meetings, and shall supply and maintain, at its own expense, at its office or other well-known place at the job site, safety equipment necessary to protect the workers and general public against accident or injury as prescribed by the authorities having jurisdiction at the *Place of the Work*, including, without limitation, articles necessary for administering first-aid to any person and an emergency procedure for the immediate removal of any injured person to a hospital or a doctor's care.
- 9.4.10 The *Contractor* shall promptly report in writing to the *Owner* and the *Consultant* all accidents of any sort arising out of or in connection with the performance of the *Work*, whether on or adjacent to the job site, giving full details and statement of witnesses. If death or serious injuries or damages are caused, the accident shall be promptly reported by the *Contractor* to the *Owner* and the *Consultant* by telephone or messenger in addition to any reporting required under the applicable safety regulations.

GC 9.5 MOULD

- 9.5.3.4 Add the words "and the Consultant" after the word "Contractor" in subparagraph 9.5.3.4.

GC 10.1 TAXES AND DUTIES

- 10.1.2 Amend paragraph 10.1.2 by adding the following sentence to the end of the paragraph:

For greater certainty, the *Contractor* shall not be entitled to any mark-up for overhead or profit on any increase in such taxes and duties and the *Owner* shall not be entitled to any credit relating to mark-up for overhead or profit on any decrease in such taxes. The *Contractor* shall provide a detailed breakdown of additional taxes if requested by the *Owner* in a form satisfactory to the *Owner*.

Add new paragraph 10.1.3 as follows:

- 10.1.3 Where the *Owner* is entitled to an exemption or a recovery of sales taxes, customs duties, excise taxes or *Value Added Taxes* applicable to the *Contract*, the *Contractor* shall, at the request of the *Owner*, assist with the application for any exemption, recovery or refund of all such taxes and duties and all amounts recovered or exemptions obtained shall be for the sole benefit of the *Owner*. The *Contractor* agrees to endorse over to the *Owner* any cheques received from the federal or provincial governments, or any other taxing authority, as may be required to give effect to this paragraph.

GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 10.2.5 Amend paragraph 10.2.5 by addition the words "Subject to paragraph 3.9.1" at the beginning of the paragraph. Add the following to the end of the second sentence:

...and no further *Work* on the affected components of the *Contract* shall proceed until these directives have been obtained by the *Contractor* from the *Consultant*.

- 10.2.6 Amend paragraph 10.2.6 by adding the following sentence to the end of the paragraph:

In the event the *Owner* suffers loss or damage as a result of the *Contractor's* failure to comply with paragraph 10.2.5 and notwithstanding any limitations described in paragraph 13.1.1, the *Contractor* agrees to indemnify and to hold harmless the *Owner* and the *Consultant* from and against any claims, demands, losses, costs, damages, actions suits or proceedings resulting from such failure by the *Contractor*.

Amend paragraph 10.2.7 by inserting the words

- 10.2.7 "which changes were not, or could not have reasonably been known to the *Owner* or to the *Contractor*, as applicable, at the time of bid closing and which changes did not arise as a result of a public emergency or other *Force Majeure* event" to the second line, after the words "authorities having jurisdictions"

Add new paragraph 10.2.8 as follows:

10.2.8 The *Contractor* shall furnish all certificates that are required or given by the appropriate governmental authorities as evidence that the *Work* as installed conforms with the laws and regulations of authorities having jurisdiction, including certificates of compliance for the *Owner's* occupancy or partial occupancy. The certificates are to be final certificates giving complete clearance of the *Work*, in the event that such governmental authorities furnish such certificates.

GC 10.4 WORKERS' COMPENSATION

10.4.1 Delete paragraph 10.4.1 and replace with the following:

Prior to commencing the *Work*, and with each and every application for payment thereafter, including the *Contractor's* application for payment of the holdback amount 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 in force at the *Place of the Work*, including payments due thereunder.

GC 11.1 INSURANCE

Delete entirety of general condition and CCDC 41 and replace with the following:

11.1 Without restricting the generality of GC 12 – INDEMNIFICATION, the *Contractor* shall provide, maintain, and pay for the insurance coverage's specified in GC 11.1 – INSURANCE. Unless otherwise stipulated, the duration of each insurance policy shall be from the date of commencement of the *Work* until the expiration of the warranty periods set out in the *Contract Documents*. Prior to commencement of the *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements.

.1 General Liability Insurance

General liability insurance shall be in the name of the *Contractor*, with the *Owner* and the *Consultant* named as additional insured, with limits of not less than \$5,000,000.00 inclusive per occurrence for bodily injury, death, and damage to property, including loss of use thereof, for itself and each of its employees, *Subcontractors* and/or agents. The insurance coverage shall not be less than the insurance required by IBC Form 2100, or its equivalent replacement, provided that IBC Form 2100 shall contain the latest edition of the relevant CCDC endorsement form. To achieve the desired limit, umbrella, or excess liability insurance may be used. All liability coverage shall be maintained for completed operations hazards from the date of *Substantial Performance of the Work*, as set out in the certificate of *Substantial Performance of the Work*, on an ongoing basis for a period of 6 years following *Substantial Performance of the Work*. Where the *Contractor* maintains a single, blanket policy, the addition of the *Owner* and the *Consultant* is limited to liability arising out of the *Project* and all operations necessary or incidental thereto. The policy shall be endorsed to provide the *Owner* with not less than 30 days' notice, in writing, in advance of any cancellation and of change or amendment restricting coverage.

.2 Automobile Liability Insurance

Automobile liability insurance in respect of licensed vehicles shall limits of not less than \$2,000,000.00 inclusive per occurrence for bodily injury, death and damage to property, covering all licensed vehicles *owned* or leased by the *Contractor*, and endorsed to provide the *Owner* with not less than 30 days' notice, in writing, in advance of any cancellation, change or amendment restricting coverage. Where the policy has been issued pursuant to a government- operated automobile insurance system, the *Contractor* shall provide the *Owner* with confirmation of automobile insurance coverage for all automobiles registered in the name of the *Contractor*.

.3 Aircraft and Watercraft Liability Insurance

Where determined necessary by the *Contractor*, acting reasonably, aircraft and watercraft liability insurance will be obtained in accordance with the provisions of paragraph 11.1.3. Aircraft and watercraft liability insurance with respect to owned or non-owned aircraft and watercraft if used directly or indirectly in the performance of the *Work*, including use of additional premises, shall be subject to limits of not less than \$2,000,000.00 inclusive per occurrence for bodily injury, death and damage to property, including loss of use thereof and limits of not less than \$2,000,000.00 for aircraft passenger hazard. Such insurance shall be in a form acceptable to the *Owner*. The policies shall be endorsed to provide the *Owner* with not less than 30 days' notice, in writing, in advance of cancellation, change or amendment restricting coverage.

.4 Property and Boiler and Machinery Insurance

- (1) Builder’s Risk property insurance shall be in the name of the *Contractor* with the *Owner* and the *Consultant* named as additional insured. The policy shall insure against all risks of direct physical loss or damage to the property insured which shall include all property included in the *Work*, whether owned by the *Contractor* or the owner or owned by others, so long as the property forms part of the *Work*. The property insured also includes all materials and supplies necessary to complete the work, whether installed in the work temporarily or permanently, in storage on the project site, or in transit to the project site, as well as temporary buildings, scaffolding, falsework forms, hoardings, excavation, site preparation and similar work. The insurance shall be for not less than the sum of the amount of the contract price and the full value of products that are specified to be provided by the owner for incorporation into the work, if applicable, with the deductible of \$10,000.00 payable by the contractor. The insurance shall include the foregoing and, otherwise, shall not be less than the insurance required by IBC Form 4042 or its equivalent replacement provided that the IBC Form 4042 shall include the latest addition of the relevant CCDC endorsement form. The coverage shall be based on a completed value form and shall be maintained continuously until ten (10) days after the date of the final certificate of payment.
- (2) Boiler and machinery insurance shall be in the name of the *Contractor*, with the *Owner* and the *Consultant* named as additional insured, for not less than the replacement value of the boilers, pressure vessels and other insurable objects forming part of the *Work*. The insurance provided shall not be less than the insurance provided by the “Comprehensive Boiler and Machinery Form” and shall be maintained continuously from commencement of use or operation of the property insured and until 10 days after the date of the final certificate for payment.
- (3) The policies shall allow for partial or total use or occupancy of the *Work*.
- (4) The policies shall provide that, in the case of a loss or damage, payment shall be made to the *Owner* and the *Contractor* as their respective interests may appear. The *Contractor* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Contractor* shall proceed to restore the *Work*. Loss or damage shall not affect the rights and obligations of either party under the *Contract* except that the *Contractor* shall be entitled to such reasonable extension of the *Contract Time*, relative to the extent of the loss or damage, as determined by the *Owner*, in its sole discretion.
- (5) The *Contractor* shall be entitled to receive from the *Owner*, in addition to the amount due under the *Contract*, the amount at which the *Owner’s* interest in restoration of the *Work* has been appraised, such amount to be paid as the restoration of the *Work* proceeds and as provided in GC 5.2 – APPLICATIONS FOR PROGRESS PAYMENT and GC 5.3– PROGRESS PAYMENT. In addition, the *Contractor* shall be entitled to receive from the payments made by the insurer the amount of the *Contractor’s* interest in the restoration of the *Work*.
- (6) In the case of loss or damage to the *Work* arising from the work of other contractors, or the *Owner’s* own forces, the *Owner*, in accordance with the *Owner’s* obligations under paragraph 3.2.2.4 of GC 3.2 – CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, shall pay the *Contractor* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as provided in GC 5.2 – APPLICATIONS FOR PROGRESS PAYMENT and GC 5.3 – PROGRESS PAYMENT.

.5 Contractors’ Equipment Insurance

“All risks” contractors’ equipment insurance covering construction machinery and equipment used by the *Contractor* for the performance of the *Work*, excluding boiler insurance, shall be in a form acceptable to the *Owner* and shall not allow subrogation claims by the insurer against the *Owner*. The policies shall be endorsed to provide the *Owner* with not less than 30 days’ notice, in writing, in advance of cancellation, change or amendment restricting coverage. Subject to satisfactory proof of financial capability by the *Contractor* for self-insurance of his equipment, the *Owner* agrees to waive the equipment insurance requirement.

- 11.1.2 The *Contractor* shall be responsible for deductible amounts under the policies except where such amounts may be excluded from the *Contractor’s* responsibility by the terms of GC 9.1 - PROTECTION OF WORK AND PROPERTY and GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.
- 11.1.3 Where the full insurable value of the *Work* is substantially less than the *Contract Price*, the *Owner* may reduce the amount of insurance required to waive the course of construction insurance requirement.

- 11.1.4 If the *Contractor* fails to provide or maintain insurance as required by the *Contract Documents*, then the *Owner* shall have the right to provide and maintain such insurance and provide evidence of same to the *Contractor*. The *Contractor* shall pay the costs thereof to the *Owner* on demand, or the *Owner* may deduct the amount that is due or may become due to the *Contractor*.
- 11.1.5 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.

Add new GC 11.2 CONTRACT SECURITY as follows:

GC 11.2 CONTRACT SECURITY

- 11.2.1 If required by the *Contract Documents*, the *Contractor* shall, prior to the execution of the *Contract* and within 7 calendar days of receiving *Notice in Writing* to do so, furnish a performance bond and labour and material payment bond which meets the requirement under paragraph 11.2.2.
- 11.2.2 If the *Contract Documents* require surety bonds to be provided, the performance bond and labour and material payment bond, if required shall:
- .1 be issued by a duly licenced surety company, which has been approved by the *Owner* and is permitted under the Construction Act,
 - .2 be issued by an insure licenced under the Insurance Act (Ontario) and authorized to transact a business of suretyship in the Province of Ontario;
 - .3 shall be in the form prescribed by the *Act*;
 - .4 have a coverage limit of at least 50 per cent of the *Contract Price*, or such other percentage of the *Contract Price* as stated in the *Contract Documents*;
 - .5 extends protection to *Subcontractors*, *Suppliers*, and any other persons supplying labour or materials to the *Project*; and
 - .6 shall be maintained in good standing until the fulfillment of the *Contract*, including all warranty and maintenance periods set out in the *Contract Documents*.
- 11.2.3 It is the intention of the parties that the performance bond shall be applicable to all of the *Contractor's* obligations in the *Contract Document* and, wherever a performance bond is provided with language which conflicts with this intention, it shall be deemed to be amended to comply. The *Contractor* represents and warrants to the *Owner* that it has provided its surety with a copy of the *Contract Documents* prior to the issuance of such bonds.

GC 12.1 READY-FOR-TAKEOVER

12.1.1 Add the following sub-paragraphs to paragraph 12.1.1:

- .9 Closeout *Submittals* as required by the *Specifications* including but not limited to:
- .1 guarantees;
 - .2 warranties;
 - .3 certificates;
 - .4 final testing and balancing reports;
 - .5 distribution system diagrams;
 - .6 maintenance manuals;
 - .7 reports and correspondence from authorities having jurisdiction in the *Place of the Work*;
 - .8 shop drawings
 - .9 inspection certificates
 - .10 red-lined as-built drawings from the construction trailer in two copies.
- .10 spare parts, maintenance material and tools as required by the *Specifications*;
- .11 samples; and
- .12 other materials or documentation required to be submitted under the *Contract* and in the *Specifications*, together with written proof acceptable to the *Owner* and the *Consultant* that the *Work* has been substantially performed in conformance with the requirements of municipal, governmental, and utility authorities having jurisdiction in the *Place of the Work*.

- 12.1.1.5 Delete the period and add the words: “as required by the *Contract Documents*.” to the end of sub-paragraph 12.1.1.5.
- 12.1.3 After the second occurrence of the term “*Ready-for-Takeover*” insert before the term “*Ready-for-Takeover*” in paragraph 12.1.3 the words “determination of”.

GC 12.2 EARLY OCCUPANCY BY THE OWNER

- 12.2.4 Delete the word “achieve” in paragraph 12.2.4 and replace it with the words “have achieved”.

GC 12.3 WARRANTY

- 12.3.2 Delete from the first line of paragraph 12.3.2 the word, “The” and substitute the words “Subject to paragraph 3.9.1, the...”
- Add new paragraphs 12.3.7 to 12.3.12 as follows:
- 12.3.7 Where required by the *Contract Documents*, the *Contractor* shall provide a maintenance bond as security for the performance of the *Contractor’s* obligations as set out in GC 12.3 WARRANTY.
- 12.3.8 The *Contractor* shall provide fully and properly completed and signed copies of all warranties and guarantees required by the *Contract Documents*, containing:
- .1 the proper name of the *Owner*;
 - .2 the proper name and address of the *Project*;
 - .3 the date the warranty commences, which shall be at the “date of *Substantial Performance of the Work*” unless otherwise agreed upon by the *Consultant* in writing.
 - .4 a clear definition of what is being warranted and/or guaranteed as required by the *Contract Documents*; and
 - .5 the signature and seal (if required by the governing law of the *Contract*) of the company issuing the warranty, countersigned by the *Contractor*.
- 12.3.9 Should any *Work* be repaired or replaced during the time period for which it is covered by the specified warranty, a new warranty shall be provided under the same conditions and for the same period as specified herein before. The new warranty shall commence at the completion of the repair or replacement.
- 12.3.10 The *Contractor* shall ensure that its *Subcontractors* are bound to the requirements of GC 12.3 – WARRANTY for the *Subcontractor’s* portion of the *Work*.
- 12.3.11 The *Contractor* shall ensure that all warranties, guarantees or other obligations for *Work*, services or *Products* performed or supplied by any *Subcontractor*, *Supplier* or other person in connection with the *Work* are obtained and available for the direct benefit of the *Owner*. In the alternative, the *Contractor* shall assign to the *Owner* all warranties, guarantees or other obligations for *Work*, services or *Products* performed or supplied by any *Subcontractor*, *Supplier* or other person in connection with the *Work* and such assignment shall be with the consent of the assigning party, where required by law, or by the terms of that party’s contract. Such assignment shall be in addition to, and shall in no way limit, the warranty rights of the *Owner* under the *Contract Documents*.
- 12.3.12 The *Contractor* shall commence or correct any deficiency within 2 *Working Days* after receiving a notice from the *Owner* or the *Consultant*, and shall complete the *Work* as expeditiously as possible, except in the case where the deficiency prevents maintaining security or where basic systems essential to the ongoing business of the *Owner* and/or its tenants cannot be maintained operational as designed. In those circumstances all necessary corrections and/or installations of temporary replacements shall be carried out immediately as an emergency service. Should the *Contractor* fail to provide this emergency service within 8 hours of a request being made during the normal business hours of the *Contractor*, the *Owner* is authorized, notwithstanding GC 3.1, to carry out all necessary repairs or replacements at the *Contractor’s* expense.

PART 13 INDEMNIFICATION AND WAIVER

GC 13.1 INDEMNIFICATION

Delete General Condition 13.1 – INDEMNIFICATION in its entirety and substitute as follows:

GC 13.1 INDEMNIFICATION

- 13.1.1 The *Contractor* shall indemnify and hold harmless the *Owner*, its parent, subsidiaries and affiliates, their respective partners, trustees, officers, directors, agents and employees and the *Consultant* from and against any and all claims, liabilities, expenses, demands, losses, damages, actions, costs, suits, or proceedings (hereinafter called “claims”), whether in respect of claims suffered by the *Owner* or in respect of claims by third parties, that directly or indirectly arise out of, or are attributable to, the acts or omissions of the *Contractor*, its employees, agents, *Subcontractors*, *Suppliers* or any other persons for whom it is in law responsible (including, without limitation, claims that directly or indirectly arise out of, or are attributable to, loss of use or damage to the *Work*, the *Owner’s* property or equipment, the *Contractor’s* property or equipment or equipment or property adjacent to the *Place of the Work* or death or injury to the *Contractor’s* personnel).
- 13.1.2 The provisions of GC 13.1 - INDEMNIFICATION shall survive the termination of the *Contract*, howsoever caused and no payment or partial payment, no issuance of a final certificate of payment and no occupancy in whole or in part of the *Work* shall constitute a waiver or release of any of the provisions of GC 13.1.

GC 13.2 WAIVER OF CLAIMS

- 13.2.1 In paragraph 13.2.1 in the third line after the word “limitation,” add the words “claims for delay pursuant to GC 6.5 DELAYS,
- and-
- Add the words “(collectively “Claims”)” after “*Ready-for-Takeover* date,” in the fourth line.
- 13.2.1.1 Change the word “claims” to “Claims” and change the word “claim” to “Claim”.
- 13.2.1.2 Change the word “claims” to “Claims”.
- 13.2.1.3 Delete paragraph in its entirety.
- 13.2.1.4 Change the word “claims” to “Claims”.
- 13.2.2 In paragraph 13.2.2.1 delete the words “in paragraph 13.2.1.2 and 13.2.1.3” and replace them with “in paragraph 13.2.1.2”
- and-
- Change the word “claims” to “Claims” in all instances in paragraph 13.2.2 and subparagraphs 13.2.2.1 and 13.2.2.2
- 13.2.3 Delete paragraph in its entirety.
- 13.2.4 Delete paragraph in its entirety.
- 13.2.5 Delete paragraph in its entirety.
- 13.2.6 Change the word “claim” to “Claim” in all instances in the paragraph.
- 13.2.7 Change “The party” to “The *Contractor*.” Change the word “claim” to “Claim” in all instances in the paragraph.
- 13.2.8 Change “under paragraphs 13.2.1 or 13.2.3” to “under paragraph 13.2.1”. Change both instances of the words “the party” to “the *Contractor*”. Change the word “claim” to “Claim” in all instances in the paragraph.

Add new Part 14 OTHER PROVISIONS as follows:

PART 14 OTHER PROVISIONS

GC 14.1 OWNERSHIP OF MATERIALS

14.1.1 Unless otherwise specified, all materials existing at the *Place of the Work* at the time of execution of the *Contract* shall remain the property of the *Owner*. All *Work* and *Products* delivered to the *Place of the Work* by the *Contractor* shall be the property of the *Owner*. The *Contractor* shall remove all surplus or rejected materials as its property when notified in writing to do so by the *Consultant*.

GC 14.2 CONSTRUCTION LIENS

14.2.1 Notwithstanding any other provision in the *Contract*, the *Consultant* shall not be obligated to issue a certificate, and the *Owner* shall not be obligated to make payment, subject to the *Owner's* requirement to issue a *Notice of Non-Payment* (Form 1.1) to the *Contractor*, if at the time such certificate or payment was otherwise due:

- .1 a claim for lien has been registered against the *Project* lands by a *Subcontractor* or a *Supplier* that has not been vacated or discharged by the *Contractor* in accordance with the requirements of this *Contract*, or
- .2 If the *Owner* or a mortgagee of the *Project* lands has received a written notice of a lien that has not been resolved by the *Contractor* through the posting of security or otherwise.

14.2.2 In the event a construction lien arising from the performance of the *Work* is registered or preserved against the *Project* lands by a *Subcontractor* or a *Supplier*, or a written notice of a lien is given or a construction lien action is commenced against the *Owner* by a *Subcontractor* or a *Supplier*, then the *Contractor* shall, at its own expense:

- .1 within 10 calendar days of registration of the construction lien, vacate or discharge the lien from title to the premises (i.e. the *Place of the Work*). If the lien is merely vacated, the *Contractor* shall, if requested, undertake the *Owner's* defence of any subsequent action commenced in respect of the lien, at the *Contractor's* sole expense;
- .2 within 10 calendar days of receiving notice of a written notice of a lien, post security with the Ontario Superior Court of Justice so that the written notice of a lien no longer binds the parties upon whom it was served;
- .3 satisfy all judgments and pay all costs arising from such construction liens and actions and fully indemnify the *Owner* against all costs and expenses arising from same, including legal costs on a full indemnity basis.

14.2.3 In the event that the *Contractor* fails or refuses to comply with its obligations pursuant to paragraph 13.2.2, the *Owner* shall, at its option, be entitled to take all steps necessary to address any such construction liens including, without limitation and in addition to the *Owner's* rights under paragraph 13.2.4, the posting of security with the Ontario Superior Court of Justice to vacate the claim for lien from title to the *Project* lands, and in so doing will be entitled to a full indemnity from the *Contractor* for all legal fees, security, disbursements and other costs incurred and will be entitled to deduct same from amounts otherwise owing to the *Contractor*.

14.2.4 In the event that any *Subcontractor* or *Supplier* registers any claim for lien with respect to all or part of the *Place of Work*, the *Owner* shall have the right to withhold, in addition to the statutory holdback, the full amount of said claim for lien plus either: (a) \$250,000 if the claim for lien is in excess of \$1,000,000 or (b) 25% of the value of the claim for lien and to bring a motion to vacate the registration of said claim for lien and any associated certificate of action in respect of that lien, in accordance with Section 44 of the Act, by paying into court as security the amount withheld.

14.2.5 Nothing in this GC 14.2 serves to preclude the *Contractor* from preserving and perfecting its lien in the event of non-payment by the *Owner*."

END OF AMENDMENTS TO CCDC 2 – 2020