

SUPPLEMENTARY CONDITIONS TO THE CCDC 2 - 2020 STIPULATED PRICE CONTRACT

These Supplementary Conditions form part of the *Contract Documents*. The CCDC 2-2020 Stipulated Price Contract (including the “Agreement Between *Owner* and *Contractor*”, “Definitions” and “General Conditions of the Stipulated Price Contract”) are supplemented, modified and amended as set out in these Supplementary Conditions. The accompanying appendices and any attachments form part of these Supplementary Conditions.

AGREEMENT BETWEEN THE OWNER AND CONTRACTOR

SC-1 ARTICLE A-1 – THE WORK

SC1.1 Amend paragraph 1.3 by adding the following to the end of that paragraph: “and, subject to GC 12.1.2, attain total completion of the *Work* within thirty (30) *Business Days of Ready-for-Takeover* (the “*Total Completion Date*”).”

SC1.2 Add new paragraph 1.4 as follows:

“1.4 Within seven (7) days following the *Pre-Construction Meeting*, and in any event prior to the commencement of construction, the *Contractor* shall deliver to the *Owner* all the following:

- .1 proof of all necessary permits, licenses, certificates, and other authorizations required by all municipal, provincial, or federal authorities, for the *Work* and proof of payment of all applicable fees;
- .2 a construction schedule satisfactory to the *Owner* as required by the *Contract*, specifically GC 3.4.1.1, as amended by the Supplementary Conditions, below; and
- .3 a schedule of values of the various parts of the *Work* in a format to be agreed upon with the *Owner*.”

SC-2 ARTICLE A-3 CONTRACT DOCUMENTS

SC2.1 Amend paragraph 3.1 by adding the words “Supplementary Conditions” following the last bullet point.

SC-3 ARTICLE A-5 – PAYMENT

SC3.1 Delete paragraph 5.1.1 and replace it with the following:

“5.1.1 pay the *Contractor* the undisputed amounts payable under *Proper Invoices* given to the *Owner* in accordance with the *Contract*, on account of the *Contract Price* and in accordance with the *Construction Act*, together with *Value Added Taxes* as may be applicable to such payments, and.”

SC3.2 Delete subparagraph 5.1.2 in its entirety and replace with the following:

“5.1.2 pay the *Contractor* the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, in accordance with the *Construction Act*, and”

SC3.3 Amend paragraph 5.1.3 by deleting the words “upon the issuance of the final certificate for payment,”.

SC3.4 Delete paragraph 5.2 and replace it with the following:

“5.2 Interest will be paid by the *Owner* on any amount that is not paid when it is due to be paid under Part I.1 of the *Construction Act*, commencing the date that the payment was due, at the prejudgment interest rate determined under subsection 127 (2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended. In no other circumstances will interest accrue on any amount due by the *Owner* to the *Contractor*.”

SC-4 ARTICLE A-6 – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING

SC4.1 Add the following to the end of paragraph 6.1:

“The parties acknowledge and agree that any notices required to be given under the *Construction Act*, including notices of non-payment, may be given electronically.”

SC-5 ARTICLE A-9 – LIQUIDATED DAMAGES

SC5.1 Add a new ARTICLE A-9 as follows:

“ARTICLE A-9 LIQUIDATED DAMAGES

9.1 To allow for the timely use of the *Project* for its intended purpose (and so that the *Project* can be used for the purposes intended within the meaning of section 2(1)(a) of the *Construction Act*), it is of critical importance to the *Owner* that *Ready-for-Takeover* be achieved by the time stipulated in paragraph Article A-1. If the *Contractor* fails to achieve *Ready-for-Takeover* by the time prescribed in Article A-1 (as it may be adjusted pursuant to the terms of the *Contract*), the *Owner* will incur financial losses and substantial damages. The amount of liquidated damages set forth in paragraph 9.2 below represents a good faith and genuine pre-estimate of the actual potential damages that the *Owner* would suffer as a result of late completion of the *Project*. The amount of such liquidated damages does not include any penalty. Notwithstanding the foregoing, the *Owner* shall be entitled to the greater of (i) the liquidated damages as calculated pursuant to paragraph 9.2; and (ii) in the event that the *Contractor* claims that this liquidated damages provision is invalid or unenforceable and the *Contractor* prevails on such a defence, the damages arising from the delay suffered by the *Owner* including, without limitation, consequential, special, incidental, and indirect damages, costs and expenses incurred or suffered by the *Owner*.

9.2 The *Contractor* shall pay to the *Owner* (or have deducted from *Contract* payments) liquidated damages at the per diem rate set forth in **Appendix C** to the Supplementary Conditions for each calendar day of delay beyond the prescribed date for *Ready-for-Takeover* until *Ready-for-Takeover* is achieved and certified pursuant to the terms of the

Contract. Liquidated damages will be assessed as incurred and reflected as deductions from amounts that may be due under any applications for payment pending at the time that such liquidated damages are assessed.

- 9.3 All liquidated damages that have not been deducted from payments prior to final payment shall be deducted from the final payment to be made by the *Owner* to the *Contractor* pursuant to GC 5.5 FINAL PAYMENT, and any amount of liquidated damages in excess of the final payment amount shall be paid by the *Contractor* to the *Owner* within 30 days following a written demand by the *Owner* for such payment.
- 9.4 Subject to paragraph 9.5 below, the liquidated damages payable under this Article A-9 are the *Owner's* entitlement to damages on account of the *Contractor's* failure to achieve *Ready-for-Takeover* by the time stipulated in Article A-1 but are without prejudice to any other remedy, relief, action or claim that may be available to the *Owner* for any other default or breach of the *Contractor's* obligations.
- 9.5 If there are no liquidated damages stipulated in **Appendix C** to the Supplementary Conditions, paragraphs 9.1 to 9.4 above shall be considered void and not included in this *Contract*."

SC-6 ARTICLE A-10 – GENERAL

SC6.1 Add a new ARTICLE A-10 as follows:

"ARTICLE A-10 – GENERAL

- 10.1 The *Contractor* shall be an independent *Contractor* in performing its obligations under the *Contract*. The *Contract* does not create any agency, partnership, joint venture, fiduciary, or other relationship of the *Contractor* with the *Owner* other than the relationship of the independent contractor. Nothing contained in the *Contract* shall create any employment or contractual relationship between the *Owner* (or anyone acting on its behalf) and any *Contractor Personnel*.
- 10.2 This *Contract*, including the *Contract Documents* described herein and the attachments, documents, and other agreements to be furnished or executed in connection herewith, supersedes all prior negotiations, representations or agreements, either written or oral, with respect to the subject matter hereof. No modification to the *Contract* shall be effective unless made in writing and signed by both the *Owner* and the *Contractor* unless otherwise provided for herein."

DEFINITIONS

SC-7 DEFINITIONS

- SC7.1 Amend the definition for "*Contract Documents*" by adding the words "in writing" to the end of the paragraph.
- SC7.2 Delete the definition for "*Value Added Taxes*" and replace with the following:

“Value Added Taxes

Value Added Taxes mean the taxes eligible under Part IX of the *Excise Tax Act*, R.S.C., 1985, c. E-15, and the regulations made thereunder, as amended from time to time, that are ordinarily known as the harmonized sales tax, and may also be referred to in this *Contract* as “HST”.

SC7.3 Add the following new definitions:

“Applicable Laws

Applicable Law or *Applicable Laws* means all applicable laws, including: (a) any constitution, treaty, statute, regulation, code (including building codes), mandate, ordinance, directive, principle of common law, rule, by-law (including municipal by-law), order, ruling, judgment, injunction, award, decree or other requirement (including a requirement arising at common law) having the force of law; and (b) any policy, practice, protocol, directive, notice, standard, guideline or other requirement which, although not necessarily having the force of law, is regarded as requiring compliance as if it had the force of law, in each case of or imposed by any domestic or foreign governmental, regulatory, judicial, quasi-judicial or administrative authority having jurisdiction.

Business Days

Business Days means the days in which the *Owner* is open for business.

Change Notice Quotation

Change Notice Quotation means a written quotation issued by the *Contractor* to the *Consultant* containing the *Contractor's* proposed method of adjustment or amount of adjustment to the *Contract Price*, if any, and the *Contractor's* proposed adjustment to the *Contract Time*, if any, and such other information as may be required under the applicable provisions of the *Contract*.

Commissioning

Commissioning means the process of putting the *Work* or any part thereof into operation and includes start-up, verification and performance testing as described in the *Contract Documents*.

Commissioning Agent

Commissioning Agent means the person designated by the *Owner* to witness the start-up, *Commissioning*, testing and demonstration of the performance of building systems and technologies forming part of the *Work* and to verify that such systems and technologies perform in accordance with the requirements of the *Contract Documents*. If the *Owner* chooses not to designate a person for the foregoing purposes, *Commissioning Agent* shall mean the *Owner*.

Construction Act

Construction Act means Ontario's *Construction Act*, R.S.O. 1990, c. C.30, and its regulations, as amended from time to time, or any successor thereof.

Contemplated Change Notice

Contemplated Change Notice means a written notice from the *Consultant* to the *Contractor* describing a proposed change to the *Work* and instructing the *Contractor* to provide a *Change Notice Quotation*.

Contractor Personnel

Contractor Personnel means any *Subcontractor*, supervisor, supervisory personnel or *Supplier* or other person performing or supplying any part of the *Work*, and any employees or agents thereof, and any employees or agents of the *Contractor*.

OHSA

OHSA means Ontario's *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, and its regulations as amended from time to time.

Pre-Construction Meeting

Pre-Construction Meeting means the meeting to be held between the *Owner*, the *Consultant* and the *Contractor* prior to commencement of the *Work* to review the *Contract* requirements and the *Contractor's* proposed approach to performance of the *Work*, and such other matters as the *Owner* or *Consultant* considers appropriate.

Project Records

Project Records means all tangible records, documents, computer printouts, electronic information, books, plans, *Contract Documents*, accounts, record drawings or other information relating to the *Work*.

Proper Invoice

Proper Invoice has the meaning given to it in the *Construction Act*. For greater clarity, a *Proper Invoice* must meet the requirements of section 6.1 of the *Construction Act* and any other requirements this *Contract* specifies, including the minimum requirements set out in **Appendix A** to the Supplementary Conditions. Any references to "application for payment" in the *Contract* shall be deemed to refer to "*Proper Invoice*".

Provide

Provide, when used in conjunction with *Product*, means to supply, install and put into service.

R.F.I. (Request for Information)

R.F.I. means a written notice from the *Contractor* to the *Consultant* requesting a *Supplemental Instruction*.

Submittals

Submittals are documents or other forms of information that the *Contractor* is required to submit to the *Owner* or the *Consultant* and include, without limitation, *Shop Drawings*, samples, models, record drawings, test reports, certificates, diagrams and manuals.

Tariff

Tariff means any duty, tariff, or similar charge, fee, or tax imposed by a foreign government or the Government of Canada on the import or export of *Products*, including retaliatory duties, countervailing duties, or trade-related border adjustments, but excluding sales taxes, *Value Added Taxes*, and income taxes.

Total Completion Date

Total Completion Date means the date listed in paragraph 1.3 of Article A-1 by which time the *Contractor* is to have attained total completion of the *Work* in accordance with *Contract Documents*, as certified by the *Consultant*. The *Total Completion Date* may only be amended by means of an approved *Change Order* or by the *Owner*, in writing.

Work Site

Work Site means, within the *Place of the Work*, the area shown on the drawings, or designated by the *Consultant* or *Owner*, where the *Work* is to be carried out."

GENERAL CONDITIONS OF THE STIPULATED PRICE CONTRACT

SC-8 GC 1.1 CONTRACT DOCUMENTS

SC8.1 Delete paragraph 1.1.1 and replace with the following:

"1.1.1 It is the intent of the *Contract Documents* that, unless otherwise expressly provided in the *Contract Documents*, the *Contract Price* covers all of the *Contractor's* obligations under the *Contract* and all things necessary for the proper execution and completion of the *Work* in accordance with the *Contract* (together with anything reasonably inferable therefrom), including the remedying of any defects in the *Work* in accordance with the *Contractor's* warranty obligations and, in this regard, but without limiting the foregoing, the *Contractor* shall be considered to have thoroughly reviewed the *Contract Documents*, to have carried out such inspections and investigations described in GC 6.4.5, and to have obtained all other necessary information as to the risks, contingencies and other circumstances affecting the *Work* (including ground water, utility locations, climate, availability of labour, *Products*, status of existing conditions and equipment and other conditions which may affect the *Work*) and the *Contractor* accepts full responsibility for having reasonably foreseen all difficulties and costs of successfully executing the *Work*, as well as meeting all other obligations of the *Contractor*, in accordance with the *Contract*."

SC8.2 Delete paragraphs 1.1.3 and 1.1.4.

SC8.3 Delete paragraph 1.1.5.1 and replace it with the following:

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

- Supplementary Conditions,
- the Agreement between the *Owner* and the *Contractor*,
- the Definitions,
- the General Conditions,
- addendum/addenda that were issued during the procurement stage of this *Contract*,
- Division 01 of the *Specifications*,
- technical *Specifications*,
- material and finishing schedules,
- the *Drawings*,
- the *Owner's Project* procurement Request for Quotation (RFQ) or Invitation to Tender (ITT) documents, whichever applies, including all annexes and attachments."

SC8.4 Amend paragraph 1.1.9 by adding the following to the end of that paragraph:

"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 *Consultant* to settle disputes among the *Subcontractors* and *Suppliers* in respect to such divisions.”

SC8.5 Add new paragraphs 1.1.12 to 1.1.14 as follows:

“1.1.12 The division of the *Contract Documents* into separate sections, subsections and paragraphs, and the insertion of headings, is for convenience of reference only and shall not affect the construction or interpretation of the *Contract Documents*.

1.1.13 The word “including” in the *Contract Documents* shall mean “including, without limitation”.

1.1.14 Any reference in the *Contract Documents* to a statute, regulation or by-law shall be deemed to refer to the statute, regulation or by-law as it is amended from time to time unless the context expressly or by necessary implication requires otherwise.”

SC-9 GC 2.2 ROLE OF THE CONSULTANT

SC9.1 Add new paragraph 2.2.19 as follows:

“2.2.19 The *Consultant* or the *Owner*, acting reasonably, may from time to time require the *Contractor* to remove from any involvement in the *Work*, any *Contractor Personnel* including without limitation, project managers, superintendents, *Subcontractors* or *Suppliers*. Such persons shall be replaced by the *Contractor* in a timely fashion to the complete satisfaction of the *Consultant* or the *Owner*, as the case may be, and without in any way limiting or deleting the *Contractor’s* obligation and responsibility to properly manage all *Contractor Personnel*.”

SC-10 GC 2.3 REVIEW AND INSPECTION OF THE WORK

SC10.1 Add a new paragraph 2.3.8 as follows:

“2.3.8 The *Owner’s* representative 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 safety at the *Place of the Work*, responsibility for which belongs exclusively to the *Contractor*.”

SC-11 GC 2.4 DEFECTIVE WORK

SC11.1 Add new paragraphs 2.4.4 to 2.4.8 as follows:

“2.4.4 The *Contractor* shall rectify, in a manner acceptable to the *Owner*, all defective *Work* and deficiencies throughout the *Work* so that the *Work* meets the requirements of the *Contract Documents*, whether or not they are specifically identified by the *Owner* or *Consultant*.

2.4.5 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*.

- 2.4.6 Acceptance of the *Work* by the *Owner* or *Consultant* shall not release the *Contractor* from responsibility for correcting deficiencies which were apparent but had not been identified at the time of drawing up the deficiency list or which become apparent during any warranty period provided for in this *Contract*.
- 2.4.7 Upon notification of a defect in the *Work*, the *Contractor* shall, within five (5) *Working Days*, promptly provide a written statement outlining the proposed remedial measures and a schedule for implementation. Once approved by the *Consultant*, the *Contractor* shall proceed with the remedial measures without adversely affecting the construction schedule.
- 2.4.8 Notwithstanding any rejection of the *Work* by the *Consultant* or deduction of an amount otherwise due to the *Contractor* by the *Owner* as a result of a defect in the *Work* that is not rectified in accordance with this GC 2.4, the *Contractor* is required to continue the *Work* in accordance with the *Contract Documents*."

SC-12 GC 2.5 PUBLICITY RELEASES

SC12.1 Add new GC 2.5 as follows:

"GC 2.5 PUBLICITY RELEASES

- 2.5.1 Neither the *Contractor* nor any *Contractor Personnel* shall release to the public, except as required by governmental authorities, any information relating to the *Contract* without the prior written consent of the *Owner*."

SC-13 GC 2.6 CONFIDENTIALITY

SC13.1 Add new GC 2.6 as follows:

"GC 2.6 CONFIDENTIALITY

- 2.6.1 The *Contractor* shall not, except as is required to carry out its obligations, duties, responsibilities, or liabilities under the *Contract*, divulge any confidential information communicated to or acquired by it in the course of carrying out its obligations, duties, responsibilities or liabilities under the *Contract*. No confidential information shall be used by the *Contractor* on any other *Project* without the prior written approval of the *Owner* (which approval may be arbitrarily withheld). The *Contractor* shall not have any proprietary rights to or interest in the confidential information, nor shall the *Contractor* have any right to license such information to any *Subcontractor*, *Supplier* or other third party. The term, "confidential information" as used herein shall mean all information that the *Contractor* receives, either directly or indirectly, from the *Owner* or from the *Consultant*, except:
- .1 information which the *Contractor* can demonstrate is, at the time of disclosure, already known to the *Contractor*;
 - .2 information which, at the time of disclosure, is or thereafter becomes a part of the public domain through no act or omission on the part of the *Contractor*; and

.3 information which is disclosed to the *Contractor* by a third party without a covenant of confidentiality.

2.6.2 The *Contractor* may disclose the confidential information to those *Contractor Personnel* to whom disclosure is required for the performance of their respective responsibilities, duties, obligations and liabilities under the *Contract*. The *Contractor* shall require such *Contractor Personnel* to treat such information as confidential and not to disclose such information to any person other than in accordance with the terms of the *Contract*."

SC-14 GC 3.1 CONTROL OF THE WORK

SC14.1 Amend paragraph 3.1.1 by deleting the words "and shall effectively direct" and replacing them with the words "and shall effectively schedule, coordinate, direct".

SC14.2 Add new paragraphs 3.1.3 and 3.1.4 as follows:

"3.1.3 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 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 The *Contractor* shall perform the *Work* in a good and workmanlike manner, using new materials, in accordance with all *Applicable Laws* and current best practices and standards in the construction industry at the *Place of the Work*. The *Contractor* acknowledges that both time and quality are of the essence and the *Contractor* will perform the *Work* or cause the *Subcontractors* and *Suppliers* to perform the *Work* in accordance with the construction schedule."

SC-15 GC 3.2 CONSTRUCTION BY THE OWNER OR OTHER CONTRACTORS

SC15.1 Delete paragraphs 3.2.2.1 and 3.2.2.3 in their entirety.

SC15.2 Add new subparagraph 3.2.3.5 as follows:

"3.2.3.5 subject to GC 9.4 – CONSTRUCTION SAFETY, for the *Owner's* own forces and for *Other Contractors*, assume overall responsibility for compliance with all aspects of the applicable health and safety legislation at the *Place of the Work*, including all of the responsibilities of the "constructor" under *OHSA*."

SC-16 GC 3.3 TEMPORARY WORK

SC16.1 Delete paragraph 3.3.1 in its entirety and replace with the following:

"3.3.1 The *Contractor* shall provide temporary supports, structures, services (namely water, electrical power and heat) and facilities as are required to execute the *Work* and shall

have sole responsibility for the design, erection, operation, maintenance and removal of *Temporary Work*.”

SC-17 GC 3.4 CONSTRUCTION SCHEDULE

SC17.1 Delete paragraph 3.4.1 and replace it with the following:

“3.4.1 The *Contractor* shall:

- .1 prior to the earlier of (i) seven (7) days following the Pre-Construction Meeting and (ii) the commencement of construction, submit to the *Owner* and the *Consultant* for their review and acceptance a construction schedule indicating the critical path for the *Project* demonstrating that the *Work* will be performed in conformity with the *Contract Time* and in accordance with the *Contract Documents*. The *Contractor* shall include the requisite time in the construction schedule to allow the *Commissioning Agent* and associated witnessing persons access and resources to perform the *Commissioning*. The *Contractor* shall provide the schedule information required by this paragraph in both electronic (native) format and hard copy which shall correspond to the breakdown of work shown on the schedule of values, so as to facilitate the evaluation of *Proper Invoices*. Once accepted by the *Owner* and the *Consultant*, the construction schedule submitted by the *Contractor* shall become the baseline construction schedule;
- .2 provide the expertise and resources, such resources including manpower and equipment, as are necessary to maintain progress under the accepted baseline construction schedule or any successor or revised schedule accepted by the *Owner* pursuant to GC 3.4 – CONSTRUCTION SCHEDULE;
- .3 monitor the progress of the *Work* on a weekly basis relative to the baseline construction schedule, or any successor or revised schedule accepted by the *Owner* pursuant to GC 3.4.1.1 of GC 3.4 – CONSTRUCTION SCHEDULE, provide an updated schedule on a monthly basis that tracks actual progress of the *Work* relative to the baseline construction schedule and advise the *Owner* and *Consultant* in writing of any variations from the baseline construction schedule; and
- .4 if, after applying the expertise and resources required under GC 3.4.1.2 of GC 3.4 – CONSTRUCTION SCHEDULE, the *Contractor* forms the opinion that the variations from the baseline *Construction Schedule* reported pursuant to GC 3.4.1.3 of GC 3.4 – CONSTRUCTION SCHEDULE cannot be recovered by the *Contractor*, it shall, in the same notice provided under GC 3.4.1.3 of GC 3.4 – CONSTRUCTION SCHEDULE, indicate to the *Owner* and *Consultant* if the *Contractor* intends to apply for an extension to the *Contract Time* as provided in PART 6 of the General Conditions – CHANGES IN THE WORK.”

SC17.2 Add new paragraphs 3.4.2 and 3.4.3 as follows:

“3.4.2 If:

- .1 at any time, it should appear to the *Owner* or *Consultant* that the actual progress of the *Work* is behind schedule or is likely to become behind schedule, based on critical path methodology; or
- .2 the *Contractor* is delayed in the performance of the *Work* for any reason other than a reason for which an extension is granted as provided in the *Contract*; or
- .3 if the *Contractor* fails to file written notice of a claim for extension of time as provided in the *Contract*; or
- .4 the *Contractor* has given notice to the *Owner* or the *Consultant* of any variations from the baseline schedule or slippage in the schedule; or
- .5 the *Contractor* does not perform the *Work* substantially in accordance with the agreed schedule as provided in GC 3.4 – CONSTRUCTION SCHEDULE;

the *Contractor* shall take whatever measures that are necessary at its own cost, including taking all appropriate preventative and corrective action and steps to cause the actual progress of the *Work* to conform to the schedule, including but not limited to such extra measures as shift work, double or “stacked” shifts or an expanded workforce, to maintain the schedule, and shall produce and present to the *Owner* and the *Consultant* a recovery plan demonstrating how the *Contractor* will achieve the recovery of the schedule. Unless the circumstances giving rise to the delay are matters covered by Part 6 – CHANGES IN THE WORK, all costs of taking such preventative and corrective action and steps, as well as any costs reasonably incurred or damages suffered by the *Owner* arising out of or as a result of any such delay, shall be for the account of the *Contractor*.

- 3.4.3 The delivery by the *Contractor* of an updated schedule (including when delivered with a *Proper Invoice* or as contemplated by GC 3.4.1.2) shall not amend the *Contract Time* or be deemed to amend the baseline accepted construction schedule. The *Contract Time* shall only be amended in accordance with the terms of the *Contract*.”

SC-18 GC 3.5 SUPERVISORY PERSONNEL

SC18.1 Delete GC 3.5 in its entirety and replace with the following:

“GC 3.5 SUPERVISORY PERSONNEL

- 3.5.1 The *Contractor* shall employ a supervisor in connection with the *Project* (and other assistant personnel as may be required) and such supervisor and personnel shall be in attendance at the *Place of the Work* at all times while the *Work* is being performed. The supervisor shall be the person who has charge of and is responsible for the *Work* and its performance. The said supervisor shall be a competent person as such term is defined in *OHSA*.
- 3.5.2 The supervisor shall represent the *Contractor* at the *Place of the Work* and notices and communications given to the supervisor by the *Consultant* or *Owner* shall be deemed received by the *Contractor*.

- 3.5.3 The supervisory personnel assigned to the *Work* shall be fully qualified to effectively deal with all scheduling, coordination, field engineering, reviews, inspections, testing, commissioning and like matters contemplated in the *Contract Documents*.
- 3.5.4 Supervisory personnel assigned to the *Work* shall not be changed without the prior written consent of the *Owner*."

SC-19 GC 3.6 SUBCONTRACTORS AND SUPPLIERS

SC19.1 Delete paragraph 3.6.2 in its entirety and replace with the following:

- "3.6.2 When required by the *Contract Documents*, the *Contractor* agrees that only pre-qualified *Subcontractors* on the list of pre-qualified *Subcontractors* approved by the *Owner* shall be used by the *Contractor* in connection with the *Work*. The *Contractor* agrees not to change *Subcontractors* without the prior written approval of the *Owner*, which approval will not be unreasonably withheld. No *Subcontractor* identified in writing by the *Contractor* to the *Owner* with the bid documents shall be changed without the prior written approval of the *Owner*."

SC-20 GC 3.7 LABOUR AND PRODUCTS

SC20.1 Delete paragraph 3.7.1 and replace with the following:

- "3.7.1 The *Contractor* shall maintain good order and discipline among the *Contractor's* employees, *Subcontractors*, and *Suppliers* engaged on the *Work* and the *Contractor*, *Subcontractors*, and *Suppliers* shall not employ anyone not skilled in the tasks assigned or who is unsatisfactory to the *Owner*. All *Contractor Personnel* shall be competent and qualified to carry out any part of the *Work* to which they are assigned. The representative or foreperson of each *Subcontractor* and *Supplier* engaged on the *Work* must be able to speak and understand the English language well enough to comprehend and carry out all instructions issued and to work in complete coordination with other *Subcontractors* and *Suppliers*. In the event that any person employed by the *Contractor* in connection with the *Work* gives, in the opinion of the *Owner*, just cause for complaint, the *Contractor*, upon notification by the *Owner* in writing, shall not permit such person to continue in any future work arising out of this *Contract*."

SC20.2 Delete paragraph 3.7.2 and replace with the following:

- "3.7.2 The *Contractor* shall provide and pay for *Products* and provide and pay for labour, tools, construction machinery and equipment, water, heat, light, power, transportation, and other facilities and services necessary for the performance of the *Work* in accordance with the *Contract* (unless otherwise specified in the *Contract Documents*)."

SC20.3 Add new paragraph 3.7.4 as follows:

- "3.7.4 Any *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall remain at the risk of the *Contractor* notwithstanding that title has passed to the *Owner* pursuant to GC 14.1. The *Contractor* is responsible for the safe on-site storage of *Products* and their protection (including *Products* supplied by the *Owner* and other

contractors to be installed under the *Contract*) in such ways as to avoid dangerous conditions or contamination to the *Products* or other persons or property and in locations at the *Place of the Work* to the satisfaction of the *Owner*. The *Contractor* shall only store *Products* or equipment at locations at the *Place of the Work* which have been designated in writing by the *Owner* or the *Consultant* for such purposes (if any). The *Contractor* acknowledges and accepts that the *Owner* may not have space for storage of *Products* or equipment at the *Place of the Work* and, as such, the *Contractor* agrees that the *Owner* shall not have any responsibility or liability to permit the storage of *Products* or equipment at the *Place of the Work*. The *Owner* shall provide all relevant information on the *Products* to be supplied by the *Owner*.”

SC-21 GC 3.8 SHOP DRAWINGS

SC21.1 Amend the title of GC 3.8 by adding the words “AND OTHER SUBMITTALS” at the end of the title.

SC21.2 Amend paragraphs 3.8.1, 3.8.2, 3.8.3, 3.8.5, 3.8.6, and 3.8.7 by adding the words “and *Submittals*” after the words “*Shop Drawings*”.

SC21.3 Delete paragraph 3.8.3.1 in its entirety and replace with the following:

“.1 the *Contractor* has determined and correlated the field measurements with the *Shop Drawings* and any *Submittals* and field construction conditions, *Product* requirements, catalogue numbers and similar data, or will do so, if not possible at that time, and”

SC-22 GC 3.9 DOCUMENT REVIEW

SC22.1 Add a new GC 3.9 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 meet the standard of care described in GC 3.10.1 of GC 3.10. Except for the obligation to make such review and report the result, the *Contractor* does not assume any responsibility to the *Owner* or the *Consultant* for the accuracy of the *Contract Documents*. Provided it has exercised the degree of care and skill described in GC 3.10.1 of GC 3.10, the *Contractor* shall not be liable for damages or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* did not discover. If the *Contractor* does discover any error, inconsistency or omission in the *Contract Documents*, the *Contractor* shall not proceed with the work affected until the *Contractor* has received corrected or missing information from the *Consultant* in writing. The *Owner* and *Consultant* shall not be responsible for oral instructions.

3.9.2 Errors, inconsistencies and/or omissions in the *Contract Documents* discovered by the *Contractor* or which could reasonably have been discovered by the *Contractor* exercising the standard of care described in GC 3.10.1 of GC 3.10 which do not allow completion of the *Work* shall be brought to the *Consultant’s* attention immediately upon being discovered.

- 3.9.3 Notwithstanding the foregoing, errors, inconsistencies, discrepancies and/or omissions shall not include lack of reference on the *Drawings* or in the *Specifications* to labour and/or *Products* that are normally required or normally recognized within respective trade practices as being necessary for the complete execution of the *Work*."

SC-23 GC 3.10 PERFORMANCE BY CONTRACTOR

SC23.1 Add a new GC 3.10 as follows:

"3.10 PERFORMANCE BY CONTRACTOR

3.10.1 The *Contractor* represents, covenants and warrants to the *Owner* that it has the necessary high degree of experience and expertise required to perform the *Work* in accordance with the requirements of the *Contract Documents*. The *Contractor* covenants and agrees that, in performing its 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* 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 its designated supervisor and *Project* manager, 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 that would have a material effect on the financial ability of the *Contractor* to perform the *Work* under the *Contract*."

SC-24 GC 4.1 CASH ALLOWANCES

SC24.1 Delete paragraph 4.1.4 in its entirety and replace with the following:

"4.1.4 Any surpluses in one or more cash allowances may at the election of the *Owner* be expended pursuant to GC 4.1.1 in respect of other cash allowances or to fund changes in the *Work* by way of *Change Order* or *Change Directive*, as the case may be, but without the imposition of overhead or profit in respect of *Work* pertaining to such other cash allowances or changes."

SC24.2 Delete paragraph 4.1.5 in its entirety and replace with the following:

"4.1.5 Where the value of the *Work* under cash allowances exceeds the aggregate amount of all the cash allowances stated in the *Contract Documents*, the *Contractor* shall be compensated for the approved amount of such excess, and for overhead and profit on

such excess, pursuant to PART 6 CHANGES IN THE WORK, with the *Contract Price* being adjusted to reflect such excess.”

SC24.3 Delete paragraph 4.1.7 in its entirety and replace with the following:

“4.1.7 The *Contractor* shall, within thirty (30) *Working Days* after receiving authorization to proceed with the *Work*, prepare a schedule of the dates for submission and authorization of items called for under cash allowance for the *Consultant’s* review and *Owner’s* review and approval, so as to facilitate the timely progress of the *Work*.”

SC24.4 Add a new paragraph 4.1.8 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. If the *Owner* determines to proceed with competitive bids, the *Contractor* shall comply with the directions of the *Owner*.”

SC-25 GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

SC25.1 Delete paragraph 5.1.1 in its entirety.

SC-26 GC 5.2 APPLICATIONS FOR PAYMENT

SC26.1 Delete GC 5.2 in its entirety and replace with the following:

“GC 5.2 APPLICATIONS FOR PAYMENT

5.2.1 The *Contractor* shall deliver *Proper Invoices* to the *Owner* and the *Consultant* by the first day of every month for the previous month’s work. Subject the terms of the *Contract Documents*, including the holdback provisions of the *Contract Documents* and the *Construction Act*, and subject to any notice of non-payment delivered by the *Owner* under the *Construction Act*, the *Owner* shall pay the undisputed amount approved and certified by the *Consultant* as payable under a *Proper Invoice* no later than twenty-eight (28) days after receiving the *Proper Invoice* from the *Contractor*.

5.2.2 The copy of the *Proper Invoice* shall be delivered to the *Owner* and *Consultant* as indicated within the *Contract Documents*.

5.2.3 No less than seven (7) days prior to the delivery of a *Proper Invoice*, the *Contractor* shall submit to the *Owner* and the *Consultant* a payment certificate (in a form prescribed by the *Consultant*) and all necessary supporting documentation, including a WSIB clearance certificate and a Statutory Declaration of Progress Payment Distribution. For clarity, no *Proper Invoice* shall be submitted earlier than seven (7) days following submission of a duly completed payment certificate.

5.2.4 Notice of non-payment may be made by email to the *Contractor*. For greater clarity, this provision constitutes the consent of the *Contractor* to service of the notice of non-payment in this manner.

- 5.2.5 The *Contractor* shall, within ten (10) days of signing the *Contract*, and prior to the first application for payment, submit to the *Consultant* and the *Owner* a detailed breakdown of the lump sum *Contract Price* submitted by the *Contractor* in response to the procurement process preceding this *Contract*, for the purpose of establishing monthly expenses in the form of a schedule of values. The *Owner*, acting reasonably, reserves the right to modify costs allocated to the various breakdown items to prevent unbalancing. Without limiting the foregoing, and as described in the *Specifications*, the schedule of values shall ascribe specific amounts of the *Contract Price* to specified closeout documents.
- 5.2.6 Prior to the first progress payment, the *Contractor* shall submit a monthly projected payment schedule based on the detailed construction schedule for the duration of the *Contract*.
- 5.2.7 Claims for *Products* fabricated but not delivered to the *Place of the Work* will not be considered. Claims for *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work*, provided such *Products* are *Project* specific and cannot readily be used elsewhere, may be considered for payment on an individual basis and shall be supported by such evidence as the *Owner* or *Consultant* may reasonably require to establish the value and delivery of the *Products*.
- 5.2.8 The *Owner* reserves the right, in its sole discretion, to permit the *Contractor* to correct an error in an invoice that the *Contractor* purported to be a *Proper Invoice*, but is under no obligation to do so."

SC-27 GC 5.3 PAYMENT

SC27.1 Delete paragraph 5.3.1 and replace with the following:

"5.3.1 Payment shall be made in accordance with GC 5.2.1."

SC-28 GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK

SC28.1 Delete paragraph 5.4.2 and replace with the following:

"5.4.2 Prior to or concurrent with the submission of its application for *Substantial Performance of the Work*, the *Contractor* shall submit to the *Consultant* all:

- .1 as-built and as-installed drawings completed to date in the form specified in the *Contract Documents*; and
- .2 maintenance manuals, operating instructions, maintenance and operating tools, replacement parts or materials as specified in the *Contract Documents*."

SC28.2 Delete paragraph 5.4.3 and replace with the following:

"5.4.3 The *Owner* will release the accrued and unpaid basic statutory holdback in accordance with the *Construction Act*. For greater clarity, the *Owner* shall release the basic statutory

holdback in accordance with, and only once it is permissible to do so under, Part IV of the *Construction Act*.”

SC28.3 Amend paragraph 5.4.4 by adding the following to the end of the paragraph:

“The application for payment of the lien holdback amount must include the following documents:

- .1 a sworn CCDC 9A Statutory Declaration (using the most current edition of that form);
- .2 a written declaration that no written notices of lien have been received by the *Contractor*; and
- .3 a Workplace Safety & Insurance Board Clearance Certificate.”

SC28.4 Delete paragraphs 5.4.5 and 5.4.6 in their entirety and replace with the following:

“5.4.5 Other than the mandatory annual release of accrued statutory holdback required by the *Construction Act* (which shall be administered in accordance with paragraph 5.4.7 below), there shall be no progressive release of holdback unless: (a) specifically stated within both the *Owner’s* governing procurement documents and this *Contract*; or (b) a separate agreement is reached in writing between the *Owner* and *Contractor*.

5.4.6 The *Contractor* shall publish, in the Daily Commercial News construction trade newspaper, a copy of the certificate of *Substantial Performance of the Work* within seven (7) days of receiving a copy of the certificate signed by the *Consultant*, and the *Contractor* shall provide suitable evidence of the publication to the *Consultant* and *Owner*. If the *Contractor* fails to publish such notice, the *Owner* shall be at liberty to publish and back charge the *Contractor* its reasonable costs for doing so.

5.4.7 If, during the course of this *Contract*, the *Construction Act* requires the mandatory annual release of the statutory holdback retained under this *Contract* pursuant to Section 26 of the *Construction Act*, then, no later than forty (40) calendar days after the date on which the applicable notice of annual release of holdback was published (the “**Annual Holdback Payment Date**”), the *Contractor* shall submit to the *Owner* and the *Consultant*:

- a) an application for annual holdback release, covering the accrued holdback for the applicable year and complying with the requirements of this *Contract* and the *Construction Act*;
- b) a sworn CCDC 9A statutory declaration (using the most current edition of that form), confirming that all accounts for labour, subcontracts, *Products*, construction machinery and equipment, and other indebtedness for which the *Owner* might in any way be held responsible have been paid in full up to the date of the application;
- c) a written declaration that no written notices of lien have been received by the *Contractor*;
- d) a current Workplace Safety & Insurance Board clearance certificate; and

- e) any other documents reasonably required by the *Owner* or the *Consultant* in order to confirm compliance with the *Construction Act*.

Provided that (a) the *Owner* has not received a claim for lien or written notice of a lien under the *Construction Act*, (b) all liens that may be claimed against the holdback have expired or been satisfied, discharged or otherwise provided for under the *Construction Act*, and (c) all statutory conditions for payment of the holdback are satisfied, and unless the *Owner* is otherwise permitted under the *Construction Act* to withhold payment of the holdback, the *Owner* will pay the undisputed amount of the accrued in accordance with Section 26 of the *Construction Act*. For clarity, the parties acknowledge and agree that the amount of the statutory holdback to be released on the *Annual Holdback Payment Date* shall be based on the actual amount of holdback retained by the *Owner* from payments made to the *Contractor* during the applicable year. The parties acknowledge and agree that, for the purposes of the *Construction Act* (including section 26 thereof), the date this *Contract* was entered into is the date set out at the top of the CCDC agreement form forming part of this *Contract*. Release of the statutory holdback funds shall not relieve the *Contractor*, or its surety, from any obligations under this *Contract*. Following receipt of any annual holdback payment from the *Owner*, the *Contractor* shall promptly pay each *Subcontractor* and *Supplier* their respective portion of such holdback, and shall require its *Subcontractors* and *Suppliers* to pay their own subcontractors and suppliers, all in accordance with the *Construction Act*."

SC-29 GC 5.5 FINAL PAYMENT

SC29.1 Delete paragraph 5.5.3 in its entirety and replace with the following:

"5.5.3 After receipt of a report from the *Commissioning Agent* verifying that all building systems and other technologies forming part of the *Work* are operational in accordance with the *Contract Documents* (subject to any qualifications noted in the report reflecting matters which are not of a material nature), and subject to the *Consultant* certifying that the *Contractor* has attained total completion by the *Total Completion Date* and determining the *Contractor's* application for final payment is valid, the *Consultant* will promptly issue a certificate for final payment. The issuance of such final certificate in no way relieves the *Contractor* from correcting any incomplete work or any defects or deficiencies in the *Work* not readily apparent at the time of issuance of such certificate."

SC29.2 Delete paragraph 5.5.4 in its entirety and replace with the following:

"5.5.4 Subject to the provision of GC 10.4.1 of GC 10.4 – WORKERS' COMPENSATION, the *Construction Act*, and any other legislation applicable to the *Place of the Work*, and provided the *Contractor* has complied with the other requirements in this GC 5.5, the *Owner* shall make final payment to the *Contractor* in accordance with the *Owner's* obligations under the *Construction Act* following the *Contractor's* submission of the final *Proper Invoice* (that complies with the requirements set out in paragraph 5.2.1 and **Appendix A** to the Supplementary Conditions)."

SC29.3 Add a new paragraph 5.5.5 as follows:

“5.5.5 The *Owner* shall retain a finishing construction lien holdback in accordance with the *Construction Act*, which shall be released to the *Contractor* in accordance with the requirements of the *Construction Act*. As additional requirements for release of any finishing construction lien holdback, the *Contractor* shall submit the following documentation:

- .1 a written request for release of holdback;
- .2 a sworn Statutory Declaration CCDC 9A (using the most current edition of that form).
- .3 a written declaration that no written notices of lien have been received by the *Contractor*; and
- .4 a Workplace Safety & Insurance Board Clearance Certificate.”

SC-30 GC 5.6 DEFERRED WORK

SC30.1 Amend paragraph 5.6.1 by deleting the word “If” at the beginning of the paragraph and replacing with the following, “Subject to the *Construction Act* and any applicable lien legislation, if”.

SC30.2 Add a new paragraph 5.6.2 as follows:

“5.6.2 Upon notice to the *Contractor*, the *Owner* may withhold or retain all or any portion of any payment due to the *Contractor* under this *Contract* to ensure the performance of the *Work* or to protect the *Owner's* rights in respect of the events set out in this GC 5.6.2, but only such portion of any payment as is reasonably necessary for such purpose and no more. The *Owner* may make such withholding or retention upon the occurrence and continuance of any of the following events:

- .1 the *Contractor* is in default of any of its obligations under this *Contract*;
- .2 all or any part of such payment is attributable to *Work* which is defective or not performed in accordance with the *Contract Documents*;
- .3 the *Contractor* has improperly failed to make prompt payments to its *Subcontractors* and *Suppliers* respecting *Work* for which the *Owner* has made payment to the *Contractor*; or
- .4 the *Contractor* has failed to comply with its obligations under GC 5.8 – CONSTRUCTION LIENS.”

SC-31 GC 5.8 CONSTRUCTION LIENS

SC31.1 Add new GC 5.8 CONSTRUCTION LIENS as follows:

“GC 5.8 CONSTRUCTION LIENS

- 5.8.1 Notwithstanding anything else in PART 5 - PAYMENT, if a claim for lien arising from the performance of the *Work* is registered against the premises on which the *Project* is located or is otherwise preserved, or the *Owner* receives a written notice of lien that relates to the *Work*, the *Owner* shall be entitled to withhold any payment otherwise due to the *Contractor* until such time as such claims have been dealt with as provided below.
- 5.8.2 If a construction lien arising from the performance of the *Work* is registered against the *Project* premises or otherwise preserved, the *Contractor* shall, within 10 calendar days, at its expense, vacate or discharge the lien in accordance with the *Construction Act*. If the *Owner* receives a written notice of lien arising from the performance of the *Work*, the *Contractor* shall, within 10 calendar days, at its expense, cause the notice to be withdrawn or vacated. If the lien or notice is merely vacated, the *Contractor* shall, if requested, undertake the *Owner's* defence of any subsequent action commenced in respect of the lien or notice at the *Contractor's* expense.
- 5.8.3 If the *Contractor* fails or refuses to vacate or discharge a lien or cause a written notice of lien to be withdrawn or vacated within the times prescribed above, the *Owner* shall, at its option, be entitled to take all steps necessary to vacate and/or discharge the lien or notice, and all reasonable costs incurred by the *Owner* in doing so (including all legal fees and any payment which may ultimately be made out of or pursuant to security posted to vacate the lien or notice) shall be for the account of the *Contractor*, and the *Owner* may deduct such amounts from amounts otherwise due to the *Contractor*.
- 5.8.4 Without limiting the foregoing, the *Contractor* shall satisfy any judgment and pay all costs resulting from any construction liens, written notices of lien, or any actions brought in connection with any liens or written notices of lien, or in connection with any other claim or lawsuit brought against the *Owner* by any person that provided services or materials to the *Project* lands which constituted part of the *Work*, and the *Contractor* shall indemnify the *Owner* for any and all costs (including legal fees) the *Owner* may incur in connection with such claims or actions.
- 5.8.5 This GC 5.8 - CONSTRUCTION LIENS does not apply to construction liens claimed by the *Contractor*, nor does it apply to construction liens that arise as a result of the *Owner's* failure to make payments to the *Contractor* in accordance with its payment obligations under this *Contract*."

SC-32 GC 5.9 WARRANTY HOLDBACK

SC32.1 Add a new GC 5.9 as follows:

"GC 5.9 WARRANTY HOLDBACK

- 5.9.1 In addition to the statutory holdback required to be retained by the *Owner* under the *Construction Act*, the *Owner* shall retain a warranty holdback in the percentage of the *Contract Price* for all the *Work* set forth in **Appendix F** to the *Supplementary Conditions*. Deductions for the warranty holdback will commence on the first payment. The *Owner* shall deduct the warranty holdback from each progress payment at the percentage rate set forth in **Appendix F**, commencing with the first payment. The *Owner* may apply, draw upon, retain or set off the warranty holdback, in whole or in part and from time to time,

against any amount owing by the *Contractor* to the *Owner* or any loss, damage, liability, cost or expense incurred or anticipated by the *Owner* arising out of or in connection with any breach, default, negligent act or omission, or other wrongful act or omission of the *Contractor* or anyone for whom the *Contractor* is responsible in respect of the *Work* or any of its obligations under the *Contract*, including, without limitation, any failure to correct deficiencies, any failure to correct or address warranty defects or deficiencies, and any failure to deliver required closeout documents. The rights of the *Owner* under this GC 5.9.1 are in addition to, and not in substitution for, any other rights or remedies available to the *Owner* at law, in equity or under the *Contract*, and the exercise (or non-exercise) by the *Owner* of any such right shall not limit, waive or prejudice any other right or remedy of the *Owner*.

5.9.2 The *Owner* shall not pay interest on the amount of the holdback retained during the *Contract*.

5.9.3 The warranty holdback will be released upon application after the following conditions have been satisfied:

- .1 all applicable Final Acceptances have been received from the appropriate municipal authorities and agencies;
- .2 the warranty period under GC 12.3.1 of GC 12.3 has expired; and
- .3 all applicable forms of release have been signed by property owners, received by the *Owner*, and checked."

SC-33 GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

SC33.1 Add a new paragraph 6.1.3 as follows:

"6.1.3 Where the *Contractor* is required to perform changed or additional *Work* resulting in an adjustment to the *Contract Price*, the adjustment to the *Contract Price* shall be determined in accordance with GC 6.2 or GC 6.3, and the *Contractor's* percentage mark-up shall be as follows:

- .1 *Contractor's* mark-up on its own self-performed *Work*: 10%
- .2 *Contractor's* mark-up on *Subcontractor's Work*: 5%
- .3 *Subcontractor's* mark-up on *Subcontractor's Work*: 10%
- .4 *Contractor's* or *Subcontractor's* mark-up on *Supplier's Work*: 5%
- .5 *Supplier's* mark-up on *Supplier's Work*: 0%

In addition, the *Contractor* agrees to the following:

- .6 Mark-up percentages identified above include, without limitation, profit, all site and head office overheads including insurance and bonding, health and safety,

warranty, associated vehicle and travel costs, financing costs including holdback, the salaries of project manager, superintendents, estimator, engineer, timekeepers, accountants, clerks, watch persons and all other site supervision staff above foreperson employed directly on the *Work*, coordination with other trades affected, use of temporary offices, sheds and other general temporary site support facilities and all utilities used therein and licenses and permits, except when these are special for particular items or *Work*.

- .7 Labour costs shall be the actual, prevailing rates at the *Place of the Work* paid to the workers, plus statutory charges on labour including workers' compensation/workplace safety and insurance board premiums, employment insurance, Canada Pension, vacation pay, hospitalization and medical insurance.
- .8 Quotations for changes to the *Work* shall be accompanied by itemized breakdowns together with detailed, substantiating quotations or cost vouchers from *Subcontractors* and *Suppliers*.
- .9 Unit and alternative prices included in the *Contract* include supply, installation, *Products*, equipment, services, materials, labour, overhead, profit and taxes, but exclude *Value Added Taxes*.
- .10 The *Owner*, through the *Consultant*, reserves the right to authorize payment for changes in the *Work* by means of Cash Allowance disbursement authorizations.
- .11 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*.
- .12 If any change or deviation in, or omission from the *Work* is made by which the amount of *Work* to be performed is decreased, or if the whole or a portion of the *Work* is dispensed with, no compensation is claimable by the *Contractor* for any loss of anticipated profits in respect thereof.
- .13 For certainty, no additional fee or mark-up will be chargeable to the *Owner* other than as specified in this GC 6.1.3."

SC-34 GC 6.2 CHANGE ORDER

SC34.1 Delete paragraph 6.2.1 in its entirety and replace with the following:

"6.2.1 When a change in the *Work* is proposed or required, the *Consultant* shall issue a *Contemplated Change Notice* to the *Contractor*. Upon receipt of the *Contemplated Change Notice*, the *Contractor* shall, as soon as reasonably practicable, submit to the *Consultant* a *Change Notice Quotation* in a form acceptable to the *Consultant* and containing such information as the *Consultant* may reasonably require, including, as applicable, a breakdown of net direct costs estimated to be incurred to effect such change, the related mark-up as determined in accordance to GC 6.1.3.1 through 6.1.3.13,

and the anticipated impact on the construction schedule based on critical path methodology.”

SC34.2 Add a new paragraph 6.2.3 as follows:

“6.2.3 Upon the *Contractor* and the *Owner* signing a *Change Order*, the *Change Order* shall constitute full and final settlement of all matters addressed in the *Change Order*.”

SC-35 GC 6.3 CHANGE DIRECTIVE

SC35.1 Amend paragraph 6.3.6 by adding the words “net direct” following the word “actual” in the second line of the paragraph.

SC35.2 Amend paragraphs 6.3.6.1. and 6.3.6.2 by deleting the words “percentage fee” and replacing with “mark-up”.

SC35.3 Amend paragraph 6.3.6.3 by deleting the word “fee” and replacing with “mark-up”.

SC35.4 Delete paragraphs 6.3.7.1, 6.3.7.2, 6.3.7.5, 6.3.7.7, 6.3.7.12, 6.3.7.13, 6.3.7.15, and 6.3.7.17.

SC-36 GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

SC36.1 Add new paragraph 6.4.5 as follows:

“6.4.5 The *Contractor* confirms that, prior to bidding the *Project*, it carefully investigated the *Place of the Work* and applied to that investigation the degree of care and skill described in GC 3.10.1. Such investigation shall include, if appropriate and having regard to the nature of the *Work*, an inspection of any existing structures or conditions at the *Place of the Work* that might reasonably be expected to impact the *Work*. The *Contractor* shall not be entitled to compensation or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such careful investigation undertaken prior to submission of the bid.”

SC-37 GC 6.5 – DELAYS

SC37.1 Delete paragraph 6.5.1 in its entirety and replace with the following:

“6.5.1 If the *Contractor* is delayed in the performance of the *Work* by any breach by the *Owner* of its obligations under the *Contract*, or by any fault of *Other Contractors* engaged by the *Owner* for the execution of the *Project*, or by any act or omission of the *Consultant* contrary to the provisions of the *Contract Documents*, or such is attributable to any person employed or engaged directly or indirectly by the *Owner*, any such *Other Contractor*, or the *Consultant*, as the case may be, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and as accepted in writing by the *Owner*, and the *Contractor* shall be reimbursed by the *Owner* for reasonable, actual direct costs necessarily incurred by the *Contractor* as a direct result of the delay, and excluding any consequential, indirect or special damages, loss of profit, loss of revenue, loss of opportunity or loss of productivity, all subject to, and in accordance with, the provisions of GC 6.5.5.”

SC37.2 Amend paragraph 6.5.2 by adding the words “and as accepted in writing by the *Owner*” after the words “with the *Contractor*” in the fifth line of the paragraph.

SC37.3 Further amend paragraph 6.5.2 by deleting the words “reasonable costs incurred by the *Contractor* as a result of such delay” and the period at the end of the paragraph and replacing with the following: “reasonable direct costs directly flowing from the delay, but excluding any consequential, indirect or special damages, loss of profit, loss of revenue, loss of opportunity or loss of productivity, all subject to, and in accordance with, the provisions of GC 6.5.5. This paragraph does not apply to any order, direction, regulation, law or ordinance issued by a governmental or quasi-governmental authority in relation to the COVID-19 pandemic (including any variant or mutation thereof) or any other epidemic or pandemic.”

SC37.4 Delete paragraphs 6.5.3.3 and 6.5.3.4 in their entirety and replace with the following:

“.3 abnormally adverse weather conditions; or

.4 any cause beyond the *Contractor's* control other than one resulting from a default or breach of *Contract* by the *Contractor*,

then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and as accepted in writing by the *Owner*. The extension of time shall not be less than the time lost as a result of the event causing the delay unless the *Contractor* agrees to a shorter extension. The *Contractor* shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the *Owner*, the *Consultant* or anyone employed or engaged by them directly or indirectly as contemplated by GC 6.5.1.”

SC37.5 Delete paragraph 6.5.5 in its entirety and replace with the following:

“6.5.5 The *Contractor* shall not be entitled to any extension of *Contract Time* or to any compensation in respect of any delay referred to in GC 6.5.1 or GC 6.5.2, or to any extension of *Contract Time* in respect of any delay referred to in GC 6.5.3, unless the *Contractor* is able to demonstrate that:

.1 the *Contractor* has taken all reasonable steps required to mitigate the effect of the delay;

.2 the delay has an adverse impact on the ability of the *Contractor* to complete any critical path activity in accordance with the construction schedule; and

.3 in respect of a delay referred to in GC 6.5.1, the delay is predominantly attributable to a breach, fault or act or omission referred to in such paragraph.

In such case, the *Contract Time* will be extended for such reasonable period which reflects the time lost as a result of such impact and, where the provisions of GC 6.5.1 apply, the *Contractor* shall only be compensated for reasonable actual direct costs necessarily incurred by the *Contractor* as a direct result of such impact including those incurred to reasonably mitigate the effect of the delay, and excluding any consequential, indirect or special damages, loss of profit, loss of revenue, loss of opportunity or loss of productivity.”

SC37.6 Add new paragraphs 6.5.6 to 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 employed or engaged by the *Contractor* directly or indirectly, or by any cause within the *Contractor’s* control, then, subject to GC 3.4.2, the *Contract Time* may be extended for such reasonable time as the *Consultant* may decide in consultation with the *Contractor* and as accepted in writing by the *Owner*. The *Owner* shall be reimbursed by the *Contractor* for all reasonable costs, losses, or damages incurred or suffered by the *Owner* as the result of such delay, including all services required by the *Owner* from the *Consultant* as a result of such delay by the *Contractor* and, in particular, the cost of the *Consultant’s* services during the period between the date of *Ready-for-Takeover* stated in Article A-1, as the same may be extended pursuant to the terms of the *Contract*, and any later, actual date of *Ready-for-Takeover* achieved by the *Contractor*. If liquidated damages for delay are applicable to this *Contract* pursuant to Article A-9, then this GC 6.5.6 shall be considered void and not included in this *Contract*.
- 6.5.7 During any suspension of the *Work* or any construction or building operations, for whatever reason, the *Contractor* shall maintain adequate surveillance of the *Work* and undertake such maintenance and protection of the *Work* as may be necessary to maintain health and safety and, when possible, to protect *Products*, materials, plant and equipment already installed in the *Work* or delivered to the *Place of the Work*. The *Contractor* shall be responsible for the security, care, maintenance and protection of the *Work* in the event of any such shutdown or interruption in the performance of the *Work*.
- 6.5.8 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor* or anyone for whom the *Contractor* is responsible, then the *Contractor* shall be responsible to put in place any preventative or corrective measures to recover and prevent lost time in accordance with GC 3.4.2.”

SC-38 GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE

SC38.1 Delete paragraph 6.6.3 in full and replace with the following:

- “6.6.3 (A) Contractor Claim. Without limiting the *Owner’s* rights and remedies, if the *Contractor* makes a claim for an increase to the *Contract Price*, the *Contractor* shall submit to the *Consultant* a detailed account of the amount claimed and the grounds upon which the claim is based (together with all available supporting documentation) no later than thirty (30) days after giving the *Notice in Writing* of claim required under GC 6.6.1. Where the impacts of the event, circumstance or occurrence giving rise to the claim are continuing and cannot reasonably be fully quantified within such thirty (30) day period, the *Contractor* shall (a) submit, within such thirty (30) day period, an interim detailed account of the amount claimed to date and the grounds upon which the claim is based, together with available supporting documentation, (b) provide monthly updates thereafter, and (c) submit its final detailed account no later than the earlier of (i) thirty (30) days after the end of the event, circumstance or occurrence (or after the *Contractor* can reasonably quantify the claim, whichever is earlier), and (ii) the date *Ready-for-Takeover* is attained. Any *Contractor* claim shall be irrevocably barred to the extent the *Contractor* fails to comply with this GC 6.6.3, unless the *Owner* agrees in writing to an extension.

(B) Owner Claim. If the *Owner* makes a claim for a credit to the *Contract Price*, the *Owner* shall submit within a reasonable time to the *Consultant* a detailed account of the amount claimed and the grounds upon which the claim is based and the *Consultant* will make a finding upon such claim.”

SC-39 GC 7.1 - OWNER’S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR’S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT

SC39.1 Amend paragraph 7.1.1 by adding “or terminate the *Contract*” after the words “terminate the *Contractor’s* right to continue with the *Work*”.

SC39.2 Amend paragraph 7.1.2 by deleting the words “and if the *Consultant* has given a written statement to the *Owner* and *Contractor* which provides the detail of such neglect to perform the *Work* properly or such failure to comply with the requirements of the *Contract* to a substantial degree”.

SC39.3 Amend paragraph 7.1.3.2 by deleting the words “an acceptable schedule” and replacing with the words “a schedule acceptable to the *Owner*.”

SC39.4 Delete paragraph 7.1.5.2 in its entirety and replace with the following:

“.2 withhold further payment to the *Contractor* until the *Owner* has completed all *Work* required by the *Contract Documents* and satisfied any of its costs or damages resulting from the *Contractor’s* default,”

SC39.5 Amend paragraph 7.1.5.3 by deleting the words “the difference, and” at the end of the paragraph and replacing with the words “on the expiry of the warranty period specified in GC 12.3.1 for that portion of the *Work* performed by the *Contractor*, provided that such payment shall be made only in accordance with the requirements set out in GC 5.5 – FINAL PAYMENT, and”.

SC39.6 Amend paragraph 7.1.5.4 by deleting the words “the difference” and replacing with the words “for that portion of the *Work* performed by the *Contractor*, provided such payment shall be made only in accordance with the requirements set out in GC 5.5 – FINAL PAYMENT”.

SC39.7 Add new paragraphs 7.1.7 to 7.1.11 as follows:

“7.1.7 The *Owner* has the authority, in its sole discretion, to stop or suspend the progress of the *Work* whenever, in the *Owner’s* opinion, there is a danger to safety, life or property or to the neighbouring property or to the *Work*. If the progress of the *Work* is stopped or suspended by the *Owner*, the *Consultant* shall, within two (2) *Working Days* of such stoppage or suspension, provide written confirmation to the *Contractor* and the *Owner* of such stoppage or suspension.

7.1.8 Where, pursuant to the provisions of GC 7.1.1 and GC 7.1.4, the *Owner* has exercised its right to terminate this *Contract*, the *Owner* shall have the right, upon written notice to the *Contractor*, to require the *Contractor* forthwith upon notification of the exercise of such right, to make available to the *Owner*, its authorized agents, servants and representatives, all accounts, records and documents of the *Contractor* relating to the *Work*. Upon the *Owner* exercising such right, the *Contractor* shall be deemed, without

further formality, to have sold, assigned and set over unto the *Owner*, without further consideration, those agreements, arrangements and contracts with *Subcontractors*, *Suppliers*, engineers and others (as well as its interest in any performance bonds, labour and material payment bonds or other security held by the *Contractor* in respect of any such contracts) to which the *Contractor* is a party with respect to the performance of the *Work* which the *Owner* designates in writing to the *Contractor* after the giving of notice to stop the *Work* or terminate the *Contract*. The remainder of such *Contracts* shall continue to be the property and responsibility of the *Contractor*. The *Contractor* shall, upon written request by the *Owner* and in a form reasonably satisfactory to the *Owner*, execute such further assignments to give effect to the foregoing as the *Owner* shall reasonably require. The *Contractor* shall ensure its contracts with its *Subcontractors*, *Suppliers*, engineers and others contain provisions permitting the foregoing.

- 7.1.9 The *Contractor's* obligation under the *Contract* as to quality, corrections and warranty of the work performed by it up to the time of termination shall continue in force after such termination.
- 7.1.10 Notwithstanding any other provision in the *Contract*, and without limiting any other rights or remedies the *Owner* has hereunder, at law, or in equity, upon providing seven (7) *Working Days'* written notice to the *Contractor*, the *Owner* may, at its sole option and discretion and without penalty, terminate the *Contract* for convenience. Upon receiving the notice of termination in accordance with this paragraph, the *Contractor* shall cease or cause the cessation of all operations except for the following: the *Contractor* shall take all steps necessary to ensure and preserve the safety of personnel (including, without limitation, construction personnel, building residents, building guests and building staff) and take all steps necessary to ensure the *Work* is appropriately preserved and cared for in accordance with good industry practice and any occupational, use or safety requirements or standards of the applicable authorities or those stipulated in the *Contract Documents*. Subject to any directions in the notice of termination, the *Contractor* shall take all necessary steps to ensure the *Place of the Work* and all *Work* in place is left in a safe and clean state and is protected from the elements. Subject to any directions in the notice of termination, the *Contractor* shall discontinue or cause to be discontinued the ordering of products, material, equipment and supplies and shall make reasonable efforts, in the event of termination of this *Contract*, to cancel existing orders on the best terms available. If the *Contract* is terminated for convenience pursuant to this paragraph, the *Contractor* shall not be entitled to any costs, expenses, damages, losses or reimbursement of any kind whatsoever (and the *Contractor* waives any claim against the *Owner* related to or arising from the termination), save and except for: (i) the portion of the *Contract Price* earned by but not yet paid to the *Contractor* on account of *Work* properly performed to the effective termination date; and (ii) reasonable and auditable demobilization costs incurred by the *Contractor*, costs the *Contractor* incurs with respect to materials already in fabrication, and restocking fees incurred by the *Contractor* (provided such costs could not have been reasonably avoided or mitigated by the *Contractor*), all substantiated by proper supporting documentation and invoices.
- 7.1.11 If, because of circumstances beyond either party's control, including, without limitation, the quarantining of all or a part of the *Place of the Work* or the restricting of access or egress to or from all or a part of the *Place of the Work* by the applicable authorities, the

Owner considers it necessary or appropriate, the *Owner* may re-sequence the *Work* to the extent the *Owner* considers it necessary or appropriate in the circumstances and the construction schedule shall be revised accordingly. If the *Work* is re-sequenced pursuant to this paragraph:

- .1 the *Contractor* shall cooperate with the *Owner* in this respect and comply with the *Owner's* instructions and directions with respect to such resequencing;
- .2 the *Contractor* shall not be entitled to any adjustment to the *Contract Price*; and
- .3 the parties shall reasonably cooperate, in good faith, to ensure such re-sequencing is performed and managed with as minimal impact to the *Work* as possible."

SC-40 GC 7.2 – CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

SC40.1 Amend paragraph 7.2.2 by adding a sentence to the end of the paragraph as follows: "This paragraph does not apply to any order, direction, regulation, law or ordinance issued by a governmental or quasi-governmental authority in relation to any epidemic or pandemic."

SC40.2 Delete paragraph 7.2.3.1 in its entirety.

SC40.3 Delete paragraph 7.2.3.2 in its entirety.

SC40.4 Delete paragraph 7.2.3.3 in its entirety and replace with the following:

- "3 the *Owner* fails to pay the *Contractor* when due the undisputed amount certified by the *Consultant* or awarded by arbitration or a Court, except where the *Owner* has a bona fide claim for set off or withholding of payment, or"

SC40.5 Amend paragraph 7.2.3.4 by deleting all the words in the paragraph after the words "to a substantial degree".

SC40.6 Amend paragraph 7.2.4 by deleting the number "5" and replacing it with the number "10".

SC40.7 Delete paragraph 7.2.5 and replace with the following:

- "7.2.5 If the *Contractor* terminates the *Contract* by giving a *Notice in Writing* to the *Owner* under the conditions set out above, the *Contractor* shall be entitled to be paid for all *Work* performed to the date of termination of the *Contract* by the *Contractor*. Subject to the *Contractor's* obligation to mitigate costs, the *Contractor* shall also be entitled to recover the costs directly flowing from and which are a reasonable direct consequence of the termination, including the costs of demobilization and reasonable direct losses sustained on *Products* and *Construction Equipment*, but excluding any consequential, indirect or special damages, and any claims for loss of profit, revenue, opportunity, or productivity. The foregoing defaults in contractual obligations contemplated in GC 7.2 do not apply to the withholding of payments by the *Owner* because of the *Contractor's* failure to pay all legitimate claims promptly, or because of the registration of liens against the title to the *Project*, until such claims for lien are discharged by the *Contractor* as required by GC 5.8,

or because payments or certificates of payment are withheld by reason of those matters described in GC 5.6.2 of GC 5.6.”

SC40.8 Add new paragraph 7.2.6 as follows:

“7.2.6 If the *Contractor* terminates the *Contract* under the conditions described in this GC 7.2, the *Contractor* shall leave the *Work* and the *Work Site* in a safe and secure condition.”

SC-41 GC 8.1 AUTHORITY OF THE CONSULTANT

SC41.1 Amend paragraph 8.1.2 by deleting “8.3.8” in the second line and replacing it with “8.3.5”.

SC-42 GC 8.2 ADJUDICATION

SC42.1 Add new paragraphs 8.2.2, 8.2.3 and 8.2.4 as follows:

“8.2.2 Any documents or information disclosed by the parties during an adjudication are confidential and the parties shall not use such documents or information for any purpose other than the adjudication in which they are disclosed and shall not disclose such documents and information to any third party, unless otherwise required by law, save and except for the adjudicator.

8.2.3 The parties agree that any dispute with respect to the actual or purported termination or abandonment of the *Contract* or any dispute that arises or is advanced after the termination or abandonment of the *Contract* cannot be referred to adjudication.

8.2.4 Any claim or request for relief (including a claim for an adjustment to the *Contract Price* or *Contract Time*) by the *Contractor* (a “Claim”) shall not constitute a dispute under section 13.5 of the *Construction Act* and may not be referred to adjudication by the *Contractor* unless and until: (i) the *Contractor* has complied with all contractual notice and claim submission requirements in the *Contract* that apply to such *Claim*; and (ii) the *Consultant* has issued a finding or determination in respect of the *Claim* or the *Claim* has otherwise been rejected in accordance with the terms of the *Contract*.”

SC-43 GC 8.3 NEGOTIATION

SC43.1 Delete “, MEDIATION AND ARBITRATION” from the heading for GC 8.3.

SC43.2 Delete paragraph 8.3.1 in its entirety.

SC43.3 Delete paragraph 8.3.4 in its entirety and replace with the following:

“8.3.4 If the negotiations are not successful in resolving the dispute, either party may pursue any available rights and remedies by commencing a proceeding at the Superior Court of Justice in the Province of Ontario.”

SC43.4 Delete paragraph 8.3.5 in its entirety and replace with the following:

“8.3.5 The *Contractor* agrees that the *Owner* may, by delivering written Notice in Writing to the *Contractor*, require the *Contractor* to join into an arbitration involving a dispute between the *Owner* and a third party in which the *Owner* wishes the *Contractor* to be joined and bound by the results of the arbitration, and the *Contractor* hereby consents to such joinder.”

SC43.5 Delete paragraphs 8.3.6, 8.3.7 and 8.3.8 in their entirety.

SC-44 GC 8.4 RETENTION OF RIGHTS

SC44.1 Delete paragraph 8.4.2 in its entirety and replace with the following:

“8.4.2 Nothing in Part 8 of the General Conditions – DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory rights to a lien under applicable lien legislation of the jurisdiction of the *Place of the Work*.”

SC-45 GC 9.1 PROTECTION OF WORK AND PROPERTY

SC45.1 Delete paragraph 9.1.1.1 in its entirety and replace with the following:

“.1 errors or omissions in the *Contract Documents* which the *Contractor* could not have discovered applying the standard of care described in GC 3.10.1; or”

SC45.2 Add a new paragraph 9.1.5 as follows:

“9.1.5 The *Contractor* shall neither undertake to repair and/or replace any damage whatsoever to the *Work* of other *Contractors*, or to adjoining property, 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*. However, where there is danger to life or public safety, the *Contractor* shall take such emergency action as it deems necessary to remove the danger, and to protect the *Owner's* property.”

SC-46 GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

SC46.1 Add a new paragraph 9.2.10 as follows:

“9.2.10 For the purposes of this GC 9.2, the term “toxic and/or hazardous substances” shall refer to and be limited to only “designated substances” as defined by applicable statutory and regulatory requirements.”

SC-47 GC 9.4 CONSTRUCTION SAFETY

SC47.1 Delete paragraph 9.4.1 in its entirety and replace with the following:

“9.4.1 Notwithstanding anything else in the *Contract*, the *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations and practices required by the applicable construction health and safety legislation 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 act as and fulfill all the obligations and responsibilities of “constructor” under the *OHSA* in respect of the *Project*.”

SC47.2 Amend paragraph 9.4.2 by adding the following to the end of the paragraph:

“The *Contractor* shall be responsible for developing a health and safety plan specific to the *Place of the Work* and which conforms to the *Owner’s* occupational health and safety, and emergency requirements at the *Place of the Work* (the “**HS Plan**”). Further, the *Contractor* shall be responsible for maintaining and supervising the HS Plan throughout the performance of the *Work*.”

SC47.3 Add to the end of paragraph 9.4.4 the following words:

“The *Owner* undertakes to include in its contracts with *Other Contractors* and/or in its instructions to its own forces the requirement that the *Other Contractor* or own forces, as the case may be, will comply with directions and instructions from the *Contractor* with respect to coordination of work and with respect to occupational health and safety and related matters, including, but not limited to, a requirement that they comply with the *Contractor’s* HS Plan. The text of such *Owner* instruction is attached as **Appendix B** to the Supplementary Conditions. For clarity, the *Contractor* shall be responsible as “Constructor” for such *Owner* forces and *Other Contractors* and shall have the authority to remove such other forces or *Other Contractors* from the *Place of the Work* should they fail to comply with the *Contractor’s* directions or instructions with respect to occupational health and safety and related matters.”

SC47.4 Delete paragraph 9.4.5 and replace with the following:

“9.4.5 Notwithstanding anything else in the *Contract*, the *Contractor* shall act as and fulfill all the obligations and responsibilities of “constructor” under *OHSA* for and in respect of this *Project*.”

SC47.5 Add new paragraphs 9.4.6 and 9.4.7 as follows:

“9.4.6 Prior to commencement of the *Work*, the *Contractor* shall submit to the *Owner*:

- .1 documentation setting out the *Contractor’s* safety programs; and
- .2 a copy of the Notice of Project, where applicable, filed with the Ministry of Labour naming itself as “constructor” under the *OHSA*.

9.4.7 The *Contractor* shall indemnify and save harmless the *Owner*, its agents, officers, directors, employees, consultants, successors, appointees, and assigns from and against the consequences of any and all safety infractions committed by the *Contractor* (or those for whom it is responsible) under the *OHSA*, including the payment of legal fees and disbursements on a full indemnity basis. Such indemnity shall apply to the extent to which the *Owner* is not covered by insurance, provided that the indemnity contained in this paragraph shall be limited to costs and damages resulting directly from such infractions and shall not extend to any consequential, indirect or special damages.”

SC-48 GC 9.5 MOULD

- SC48.1 Amend paragraph 9.5.3.3 by deleting the words “reasonable costs incurred as a result of the delay, and” and replace with the following: “reasonable actual direct costs necessarily incurred by the *Contractor* as a result of such impact including those incurred to reasonably mitigate the effect of the delay, and excluding any consequential, indirect or special damages, loss of profit, loss of revenue, loss of opportunity or loss of productivity, and”

SC-49 GC 10.1 TAXES AND DUTIES

- SC49.1 Amend GC 10.1.1 by adding the following sentence to the end of it: “With respect to any taxes and customs duties that constitute *Tariffs*, the provisions of GC 10.1.6 and GC 10.1.7 shall also apply.”

- SC49.2 Amend paragraph 10.1.2 by adding the following to the end of the paragraph:

“The *Contractor* shall provide the *Consultant* with a detailed statement, acceptable to the *Consultant*, verifying the increase or decrease to the *Contract Price* on account of tax or duty changes. For added certainty, there shall be no increase or decrease in the *Contract Price* as a result of any inability by the *Contractor* or any *Subcontractor* to recover its own HST expenses by means of credits, rebates or refunds.”

- SC49.3 Add new paragraphs 10.1.3 to 10.1.7 as follows:

“10.1.3 The *Value Added Taxes* are in addition to the *Contract Price* and shall be computed and disclosed separately on each application for payment in accordance with the requirements of the *Excise Tax Act* (Canada) and the regulations made thereunder, as amended. This amount will be paid to the *Contractor* in addition to the amount certified for payment under this *Contract* and will therefore not affect the *Contract Price*. The *Contractor* shall further disclose on each application for payment the *Value Added Taxes* registration number of the *Contractor* together with all of the other details required by the *Excise Tax Act* (Canada) and the regulations made thereunder, as amended, to enable the *Owner* to recover such *Value Added Taxes* by way of credit, rebate or refund.

10.1.4 The parties shall co-operate to minimize the impact of any tax increases or new taxes and take advantage of all tax reductions and avoid any double taxation.

10.1.5 The *Contractor* shall, at the request of the *Owner*, assist, join in, or at *Owner's* expense, make application on behalf of the *Owner* for any exemption, recovery or refund. The *Contractor* shall provide the *Owner* with copies, or, where required, originals of records, invoices, purchase orders or other documentation as may be necessary to support such application.

10.1.6 Where the *Contractor* submits a claim pursuant to GC 10.1.2 for an adjustment to the *Contract Price* on account of a change in a tax or customs duty that constitutes a *Tariff* (a “**New Tariff**”), the following additional requirements shall apply in addition to those set out in GC 10.1.2:

- (a) The *Contractor* shall provide the *Owner* with advance *Notice in Writing* of the *Tariff* increase as soon as reasonably practicable and, in any event, prior to incurring any additional cost, together with complete supporting documentation substantiating the actual direct cost impact of such increase, including itemized invoices, customs documentation and supplier quotations.
- (b) Where the *Contractor* becomes aware of a potential *Tariff* increase, the *Contractor* shall promptly notify the *Owner* and identify any reasonably available alternative *Products* or sources of supply that may avoid or reduce the impact of the *Tariff* increase. The *Owner* shall have the right to direct the *Contractor* to proceed with such alternatives by way of *Change Order*.
- (c) No adjustment to the *Contract Price* shall be made under this GC 10.1.6 unless the *Contractor* has provided full backup documentation to the *Owner's* reasonable satisfaction demonstrating that the claimed costs are solely and directly attributable to the *Tariff* increase and could not have been reasonably avoided. Any adjustment to the *Contract Price* under this GC 10.1.6 shall be limited to the actual direct costs incurred by the *Contractor* as a result of the *Tariff* increase, and shall not include any markup for overhead, profit or other indirect costs.
- (d) The *Owner* may, at any time and on reasonable notice, audit and inspect all records of the *Contractor* relevant to any claim or adjustment under this GC 10.1.6, and the *Contractor* shall cooperate fully and provide prompt access to such records. The *Owner* shall treat all information obtained in the course of any such audit as confidential, subject to disclosure required by law or for the proper administration of the *Contract*.
- (e) This GC 10.1.6 is the *Contractor's* sole and exclusive remedy for *Tariff*-related cost impacts, and no extension of *Contract Time* shall be granted on account of any *New Tariff*.
- (f) For certainty, the *Contractor* shall not be entitled to any adjustment under this GC 10.1.6 for *Tariffs* in effect as of the bid closing. The *Contract Price* includes all such costs.

10.1.7 If any *Tariff* (whether a *New Tariff* or not) applicable to any *Products* imported by the *Contractor* is reduced or eliminated after the bid closing, the *Contract Price* shall be decreased in accordance with GC 10.1.2. The *Contractor* shall promptly notify the *Owner* in writing of any such reduction or elimination, together with supporting documentation. If the *Contractor* receives any refund, rebate, remission or other recovery of amounts previously paid by the *Owner* in respect of a *Tariff* increase, the *Contractor* shall promptly remit such amount to the *Owner*. The *Owner's* audit rights under GC 10.1.6 apply equally to any reduction or recovery under this paragraph."

SC-50 GC 10.2 LAWS, NOTICES, PERMITS AND FEES

SC50.1 Delete paragraph 10.2.1 and replace it with the following:

“10.2.1 This *Contract* shall in all respects be governed by, and construed and enforced in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein (without regard to conflict of laws principles).”

SC50.2 Amend paragraph 10.2.2 by adding the following to the end of the paragraph:

“The *Contractor* shall pay construction damage deposits levied by the municipality in connection with the issuance of a building permit.”

SC50.3 Amend paragraph 10.2.3 by adding the following to the end of the paragraph:

“In the performance of the *Work*, the *Contractor* will fulfill all requirements of the Municipality or any utility or other authority with jurisdiction over the *Work*, and will co-ordinate the work of any utility or other authority (whether on or off the *Work Site*) with the *Work* of this *Contract* and avoid any extra cost to the *Owner*, including, but not limited to, utility locates.”

SC50.4 Delete paragraph 10.2.4 in its entirety and replace with the following:

“10.2.4 The *Contractor* shall give the required notices and comply with and enforce the laws, ordinances, rules, regulations, codes and orders of the applicable authorities which are or become in force during the performance of the *Work*, including, but not limited to, those which relate to the *Work*, to the preservation of the public health, to the environment and to construction safety. If the *Contractor* fails to give notices pursuant to this GC 10.2.4, then the *Contractor* shall bear all costs arising out of the *Contractor's* actions. The *Contractor* shall notify the applicable Chief Building Official of the readiness, substantial performance, and completion of the stages of construction set out in the Building Code legislation at the *Place of the Work*. The *Contractor* shall be present at each site inspection by an inspector as applicable under the Building Code legislation at the *Place of the Work*.”

SC50.5 Amend paragraph 10.2.5 by deleting the first word “The” and replacing with “Subject to GC 3.9.1, the”.

SC50.6 Amend paragraph 10.2.6 by deleting the words “knowing it to be” in the second line of the paragraph.

SC50.7 Add a new paragraphs 10.2.8, 10.2.9 and 10.2.10 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 *Owners' occupancy* or partial occupancy.

10.2.9 The *Contractor* shall, and shall cause all *Subcontractors* and *Suppliers* to, comply with all *Applicable Laws* in the performance of the *Work*, the *Contractor's* obligations under the *Contract*, and any other activities undertaken in connection with the *Work* or this *Contract*.

10.2.10 The *Contractor* shall, at its own cost, print and maintain at the *Place of the Work* a complete hard copy set of all drawings, schedules and other documents issued with, or forming part of, any building permit (including any revisions thereto) applicable to the Work (the “**Permit Drawings**”), and shall make the *Permit Drawings* available on-site at all times for review by the *Owner*, the *Consultant*, and any authority having jurisdiction, including inspectors.”

SC-51 GC 11.1 INSURANCE

SC51.1 GC 11.1 – INSURANCE shall be amended in accordance with the supplementary conditions included at **Appendix D** to these Supplementary Conditions.

SC-52 GC 11.2 CONTRACT SECURITY

SC52.1 Add a new GC 11.2 as follows:

“GC 11.2 CONTRACT SECURITY

11.2.1 If the *Contract Documents* require surety bonds to be provided, such bonds shall be issued by a duly licensed surety company authorized to transact the business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfillment of the *Contract*.

11.2.2 The *Contractor* shall provide a performance bond guaranteeing the faithful performance of the *Contract* in accordance with the *Contract Documents* including the requirements for warranties provided for the GC 12.3 WARRANTY, and the payment of all obligations incurred in the event of the *Contractor’s* default, including, but not limited to the following:

- .1 The payment of all legal, accounting, architectural, engineering and other expenses incurred by the *Owner* in determining the extent of *Work* executed and any additional work required as a result of the interruption of the *Work*, and its completion.
- .2 The payment of additional expenses to the *Owner* in the form of security guard services, light, heat, power, and other related costs, payable over the period between the default of the *Contract* and commencement of the *Work* under the terms of this GC 11.2.

11.2.3 Without limiting the foregoing in any way, the bonds shall indemnify and hold harmless the *Owner* for and against any and all costs and expenses (including legal and *Consultant* services and court costs) arising out of or as a consequence of any default of the *Contractor* under this *Contract*.

11.2.4 The *Contractor* shall be responsible for notifying the surety company of any changes made to the *Contract* during the course of construction.

SC-53 GC 12.1 READY-FOR-TAKEOVER

SC53.1 Add to the end of 12.1.1.4 the following: “if not already provided pursuant to GC 5.4.2 of GC 5.4;”

SC53.2 Delete paragraph 12.1.1.5 in its entirety and replace with the following:

“.5 Make available a copy of all as-built and as-installed drawings completed to date in the form specified in the *Contract Documents*.”

SC53.3 Amend paragraph 12.1.1 by adding the following to the end of the paragraph:

“.9 Evidence of certification by all permit-issuing authorities, indicating approval of all permitted installations and certification by all testing, cleaning or inspection authorities or associations as specified in the *Contract Documents*.

.10 Evidence that the *Contractor* is in good standing with workers’ compensation or Workplace Safety and Insurance Board legislation at the *Place of the Work*.

.11 A statement indicating reconciliation of all *Change Orders* or claims under the *Contract*.

.12 A sworn Statutory Declaration on latest edition of the CCDC Form 9A and a Statutory Declaration (in a form acceptable to the *Owner*) that no valid written notices of lien have been received that have not been discharged, released or vacated.

.13 Any other materials or documentation required to be submitted under the *Contract*, together with written proof acceptable to the *Owner* and the *Consultant* that the *Work* has been substantially performed in accordance with the requirements of all municipal, government and utilities authorities having jurisdiction.

The amounts of the *Contract Price* that have been assigned in the schedule of values to the prerequisites described above (as described in GC 5.2.5 of GC 5.2) shall not be eligible for release to the *Contractor* until such prerequisites have been delivered or completed.”

SC-54 GC 12.2 EARLY OCCUPANCY BY THE OWNER

SC54.1 Delete GC 12.2 in its entirety and replace with the following:

“GC 12.2 EARLY OCCUPANCY BY THE OWNER

12.2.1 The *Owner* shall have the right to enter and take possession of the *Work* in whole or in part for the purposes of installing and testing fittings and equipment, maintenance, operations, or for such other temporary or permanent use. If such entry and possession by the *Owner* occur before *Substantial Performance of the Work*, then such entry, occupation and use by the *Owner* must not unreasonably interfere with the *Contractor* in the performance of the *Work* in accordance with the *Contract Documents*. If such entry and possession by the *Owner* occurs after *Substantial Performance of the Work* then the *Contractor’s* access to, or continuing presence at, the *Work Site* shall be for the sole purpose of achieving *Ready-for-Takeover* and final completion of the *Work* and performing its obligations under the *Contract* which arise subsequent to *Substantial*

Performance of the Work (including the *Contractor's* obligations under GC 12.3 - WARRANTY); provided that such access or continuing presence by the *Contractor* shall not unreasonably interfere with the use or operation of the *Project* by the *Owner*, and the *Contractor*, in completing its obligations under the *Contract*, shall, at its own cost, take all reasonable measures to minimize the effect thereof on such use or operation. In any situation, such entry, possession or use shall not be considered as acceptance of the *Work*, in whole or in part, or in any way relieve the *Contractor* from any of its obligations under the *Contract*. For certainty, care, custody and control of the *Work* shall remain with the *Contractor* until after *Ready-for-Takeover* is achieved."

SC-55 GC 12.3 WARRANTY

SC55.1 Delete paragraph 12.3.1 in its entirety and replace with the following:

"12.3.1 Except for extended warranties as described in paragraph 12.3.6, the warranty period under this *Contract* is the duration set forth in **Appendix E** to the Supplementary Conditions (the "Warranty Period").

SC55.2 Amend paragraphs 12.3.3, 12.3.4 and 12.3.6 by deleting the words "one year warranty period" and replacing them with "*Warranty Period*".

SC55.3 Amend paragraph 12.3.2 by deleting the word "The" at the beginning of the paragraph and replacing it with the words "Subject to GC 3.9.1, the".

SC55.4 Amend paragraph 12.3.6 by deleting the third sentence and replacing it with the following:

"The *Contractor* shall remain jointly liable with the manufacturer to the *Owner* with respect to such *Products* warranties to the extent required in the *Contract Documents*, notwithstanding any limitation in the manufacturer's warranty."

SC55.5 Add new paragraphs to GC 12.3 – WARRANTY as follows:

"12.3.7 The *Contractor* agrees that it is able to perform the *Work* and the *Contractor* warrants the *Work* in accordance with the *Contract Documents*.

12.3.8 The *Contractor* shall, upon receiving notice of any defect or deficiency in the *Work* pursuant to GC 12.3 – WARRANTY:

- .1 commence the correction of the defect or deficiency within five (5) *Working Days* of receipt of the notice; or
- .2 if the correction of the defect or deficiency cannot be completed within five (5) *Working Days*, the *Contractor* shall: (a) commence correction of the defect or deficiency within five (5) *Working Days*; (b) provide the *Owner* with an acceptable schedule for such correction; and (c) correct the defect or deficiency in accordance with such schedule and in accordance with the *Contract* terms including the *Contractor's* warranty obligations.

The *Contractor* shall perform corrective work at such times that are convenient to the *Owner* except that, if any such defect or deficiency is of a nature which prevents or hinders, or is likely to prevent or hinder, comfort or safety, or any life safety, security or other material building system, such correction shall be carried out immediately. The correction of all defects and deficiencies shall be carried out in a manner to minimize any interference or disruption to comfort and safety. If the correction of any defect or deficiency is likely to disrupt or interfere with comfort or safety or any life safety, security or other material building system, the *Owner* shall be entitled to effect any temporary corrective action as the *Owner* shall deem appropriate and charge the cost thereof to the *Contractor*. If the carrying out of the correction of any defects or deficiencies entails overtime work on the part of the *Contractor*, additional charges for overtime work shall be borne by the *Contractor*.

12.3.9 Prior to the expiry of the *Warranty Period*, the *Owner* reserves the right to carry out a detailed and exhaustive inspection of the *Work* for the purpose of establishing a final warranty list (the "Final Warranty List"). The *Contractor* shall promptly correct, at the *Contractor's* expense, any defects or deficiencies in the *Work* noted in the *Final Warranty List*.

12.3.10 The *Warranty Period* shall recommence for any corrected work for a period of one (1) year after the date of rectification.

12.3.11 Prior to the application for final payment under GC 5.5.1, the *Contractor* shall assign to the *Owner* the benefit of all guarantees and warranties for all *Products* and services used or incorporated in the *Work* and shall ensure that such an assignment is also effected by all *Subcontractors*, *Suppliers* or consultants from whom the same have been obtained."

SC-56 GC 13.1 INDEMNIFICATION

SC56.1 Amend paragraph 13.1.1 by deleting the first five lines and replacing with the following:

"Without restricting the parties' obligation to indemnify respecting toxic and hazardous substances, patent fees and defect in title claims all as described in GC 13.1.4 and GC 13.1.5, the *Contractor* shall indemnify and hold harmless the *Owner* from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by the *Owner* or in respect to claims by third parties that arise out of or are attributable in any respect to the *Contractor's* involvement as a party to this *Contract*, provided such claims are:"

SC56.2 Amend paragraph 13.1.2.1 by deleting the words "CCDC 41 in effect at the time of bid closing" and replace with "the Supplementary Conditions of the Contract".

SC56.3 Delete paragraph 13.1.2.3 in its entirety.

SC56.4 Delete paragraph 13.1.6.2 in its entirety.

SC-57 GC 13.2 WAIVER OF CLAIMS

SC57.1 Amend paragraph 13.2.3.4 by deleting the word "significant" in the third line of the paragraph.

SC57.2 Delete paragraphs 13.2.4 and 13.2.5 in their entirety.

SC57.3 Add a new paragraph 13.2.11 as follows:

“13.2.11 Notwithstanding any other term in the *Contract Documents*, nothing in this *Contract* shall be interpreted to limit, shorten or negate any limitation period or discoverability rights under the *Limitations Act, 2002* (Ontario) that would otherwise apply to a claim or proceeding the *Owner* has or commences against the *Contractor* in connection with substantial defects or deficiencies.”

SC-58 PART 14 OTHER PROVISIONS

SC58.1 Add a new PART 14 OTHER PROVISIONS as follows:

“PART 14 OTHER PROVISIONS

GC 14.1 OWNERSHIP OF MATERIALS

14.1.1 Unless otherwise specified in the *Contract Documents*, 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 *Owner*.

GC 14.2 CONTRACTOR DISCHARGE OF LIABILITIES

14.2.1 In addition to the obligations assumed by the *Contractor* pursuant to GC 3.6 – SUBCONTRACTORS AND SUPPLIERS, the *Contractor* agrees to discharge all liabilities incurred by it for labour, material, services, *Subcontractors*, *Suppliers* and *Products*, used or reasonably required for use in the performance of the *Work*, except for amounts withheld by reason of legitimate dispute which have been identified to the party or parties from whom payment has been withheld.

GC 14.3 DAILY REPORTS/DAILY LOGS

14.3.1 The *Contractor* shall cause its supervisor, or such competent person as it may delegate, to prepare a daily log or diary reporting on weather conditions, work force of the *Contractor*, *Subcontractors*, *Suppliers* and any other forces on site and also record the general nature of *Project* activities. Such log or diary shall also include any extraordinary or emergency events which may occur and also the identities of any persons who visit the site who are not part of the day-to-day work force.

14.3.2 The *Contractor* shall also maintain records, either at its head office or at the job site, recording manpower and material resourcing on the *Project*, including records which document the activities of the *Contractor* in connection with GC 3.9, and comparing that resourcing to the resourcing anticipated when the most recent version of the schedule was prepared pursuant to GC 3.9.”

GC 14.4 TIME IS OF THE ESSENCE

14.4.1 Time shall be of the essence with respect to the *Contractor's* obligations under the *Contract*.

GC 14.5 COMPLIANCE WITH THE OWNER'S POLICIES

14.5.1 The *Contractor* shall comply with, and shall cause its *Subcontractors* and *Suppliers* (of every tier) to comply with, the policies of the *Owner* that are provided to the *Contractor*, as amended from time to time.

GC 14.6 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

14.6.1 The *Contractor* acknowledges and agrees that any and all records and documentation relating to this *Contract*, obtained as a direct result of the performance of the work under this *Contract* which is in the *Contractor's* possession, shall be deemed to be the property of the *Owner*, and shall then remain under the care and control of the *Owner* and subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, as may be amended from time to time (the "Act"). The *Contractor* agrees to abide by the provisions of the Act with respect to any such information. Forthwith, upon termination of this *Contract*, for any reason whatsoever, the *Contractor* shall forward any and all records and information (including originals and all copies) it may have in its possession with respect to this *Contract* to the *Owner*. The *Contractor* agrees that, during and after the term of this *Contract*, it shall not disclose any information or records it obtains pursuant to any work carried out under this agreement and shall take all reasonable precautions to prevent disclosure of any such information or records.

GC 14.7 ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES (AODA)

14.7.1 The *Contractor* shall ensure that all of its employees, agents, *Subcontractors*, and others engaged by the *Contractor* in the performance of the *Work* receive training in accordance with Sections 7 and 80.49 of Ontario Regulation 191/11 made under the *Accessibility for Ontarians with Disabilities Act, 2005*, SO 2005, c.11 (the "AODA"). Accordingly, the *Contractor* shall comply with the requirements of the AODA.

GC 14.8 SEVERABILITY

14.8.1 Each provision of the *Contract* shall be valid and enforceable to the fullest extent permitted by law. If any provision of the *Contract* or the application thereof to any person or circumstance is determined to be invalid or unenforceable to any extent: (i) the remainder of the *Contract* or the application of such provision to any other person or circumstance shall not be affected thereby; and (ii) the parties shall negotiate in good faith to amend the *Contract* to implement the provisions set forth.

GC 14.9 NO WAIVER

14.9.1 No action or failure to act by the *Owner* shall constitute a waiver of any right or duty afforded under the *Contract* or law, nor shall any such action or failure to act constitute an approval of, or acquiescence in, any breach, except as may be specifically agreed to in writing.

GC 14.10 COUNTERPARTS

14.10.1 This *Contract* may be executed in counterparts, each of which shall be deemed to be an original, and all of which such counterparts, together, shall constitute one and the same *Contract*. Counterparts may be executed in original or electronic form, and the parties shall accept any signatures received in electronic form (including by way of DocuSign) as if they were original signatures of the parties.”

**END OF SUPPLEMENTARY CONDITIONS
APPENDICES TO SUPPLEMENTARY CONDITIONS FOLLOW**

APPENDIX A

PROJECT SPECIFIC REQUIREMENTS FOR A “PROPER INVOICE”

To satisfy the requirements for a *Proper Invoice*, the following criteria must be included with the *Contractor's* application for payment:

- a) invoice number;
- b) *Project* name and *Project* location;
- c) the *Contractor's* name and current address;
- d) the *Contractor's* HST registration number;
- e) the date the *Proper Invoice* is being issued by the *Contractor*;
- f) the name, title, mailing address and telephone number of the person to whom payment is to be sent or, if payment is to be sent to an office or department, the name, mailing address and telephone number of that office or department;
- g) information identifying the contract or other authorization under which the *Work* was supplied, including the *Owner's* purchase order number, contract number and contract line item number (where applicable), and, where applicable, the *Contractor's* purchase order number;
- h) the period, milestone or other contractual payment entitlement to which the invoice relates;
- i) original contract value;
- j) the value of any Change Orders approved by the Owner;
- k) revised contract value, if applicable;
- l) completed to date value;
- m) total value of previous billings under the *Contract*;
- n) current billings;
- o) the value of the applicable taxes;
- p) an updated schedule of values;
- q) a detailed description of expenditures under cash allowances (if any);
- r) a statutory declaration in the form of CCDC 9A (on the latest published form);
- s) a current Workplace Safety and Insurance Board clearance certificate;
- t) the value of any statutory holdback to be held and of any statutory holdback to be released;
- u) subtotal and total payment due;
- v) any other information or documents required prescribed by the *Contract Documents*;

- w) the value of the warranty holdback to be held; and
- x) any other information that is necessary for the proper functioning of the *Owner's* accounts payable system that the *Owner* reasonably requests.

APPENDIX B

LANGUAGE FOR OWNER PERSONNEL OR FOR THIRD-PARTY CONTRACTORS ENTERING A PROJECT SITE WHERE THE CONTRACTOR HAS ASSUMED OVERALL RESPONSIBILITY – IN CONTRACT – FOR HEALTH AND CONSTRUCTION SAFETY

The **[name of third-party contractor or Owner personnel]** acknowledges that the work it will perform on behalf of The Corporation of the City of Barrie (the “**Owner**”) requires it to enter a job site which is under the total control of **[name of Contractor]** (the “**Contractor**”) which has a contract with the Owner. The **[third party contractor or Owner personnel]** acknowledges that the Contractor has assumed overall responsibility for compliance with all aspects of the health and construction safety legislation on the job site including, where the job site is in Ontario, all the responsibilities of the “constructor” under the Occupational Health and Safety Act (Ontario). Further, **[third party contractor or Owner personnel]** acknowledges that the Contractor is also responsible to the Owner to co-ordinate and schedule the activities of our/my work with the work of the Contractor.

I/We agree to comply with the Contractor’s directions and instructions with respect to health and construction safety and coordination, including, but not limited to, complying with the Contractor’s health and construction safety plan. I/We acknowledge that it will be cause for termination under our contract with the Owner should I/we fail or refuse to accept the direction and instruction of the Contractor with respect to matters of health and construction safety or matters related to coordination of work.

[name of third-party contractor or Owner personnel]

APPENDIX C
LIQUIDATED DAMAGES

The liquidated damages pursuant to Article A-9 shall be \$ **0.00** per calendar day. If no amount is inserted here, no liquidated damages shall be payable by the *Contractor* and Article A-9 shall not apply to this *Contract*.

APPENDIX D
INSURANCE REQUIREMENTS: GC 11.1 – INSURANCE SUPPLEMENTARY CONDITIONS

GC 11.1 of the General Conditions of the CCDC 2-2020 are amended as follows:

Replace 11.1.1 with the following:

“Without restricting the generality of GC 13.1 – INDEMNIFICATION, the *Contractor* shall provide, maintain and pay for the following insurance coverages as indicated below. Such insurance shall be provided by an insurer licensed to transact business in the Province of Ontario. The policies shall be endorsed to provide the City with not less than 30 days written notice, unless otherwise stated, in advance of any cancellation, change or amendment which restricts coverage such that the Contract requirements are no longer met.”

☒ **Commercial General Liability Insurance**

Commercial General Liability (CGL) insurance shall be with limits of not less than **\$5,000,000.00** per occurrence for bodily and personal injury, death, and damage to property including loss of use thereof. Should the policy contain a General Aggregate, the minimum acceptable General Aggregate shall be **\$10,000,000.00**

The CGL shall contain Cross Liability, Severability of Interest, Products & Completed operations, Standard Non-Owned Automobile endorsement including standard contractual liability coverage.

The *Owner* and *Consultant* shall be included as Additional Insureds but only with respect to liability, other than legal liability arising out of their sole negligence, arising out of the operations of the *Contractor* with regard to the *Work*.

CGL shall be maintained from the date of commencement of the *Work* until the end of the *Warranty Period*. Liability coverage shall be provided for completed operations hazards from the date of *Ready-For-Takeover* on an ongoing basis for a period of 6 years following *Ready-For-Takeover*.

☒ **Builders' Risk**

Broad Form Builders' Risk Insurance written in the joint names of the Contractor, Owner, Sub-contractors, and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy shall have limits of not less than 1.1 times the Contract Price and the full value as stated in the Agreement. Should the Owner provide any property to be incorporated into the structure, the policy must be endorsed to include the Owner's property. Coverage shall be maintained during the term of the contract and until 10 calendar days after the date of Substantial Performance of the Work. The Builders' Risk shall:

- a) Be endorsed to grant permission to occupy prior to the completion or acceptance of the entire work.
- b) Not be less than the insurance coverage provided by IBC Forms 4042 and 4047 or their equivalent replacement.
- c) Include the installation, testing, commissioning and subsequent use of any machinery and equipment including boilers, pressure vessels or vessels under vacuum.
- d) Apply to all products, labour, equipment and supplies of every nature, the property of the Owner or Contractor or for which the Owner or Contractor may have assumed responsibility (whether on site or in transit), that is to be used in or pertaining to site preparation, erection, fabrication, construction or reconstruction of the structure.
- e) Be subject to a waiver of coinsurance.
- f) Include coverage for materials while in transit, awaiting installation or stored at off-site locations. Coverage shall be in an amount equal to the value of the material.
- g) 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 insurer. When the extent of the loss or damage is determined, the Design Builder 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 a reasonable extension of Contract Time.

☒ **Automobile Liability Insurance**

Automobile Liability Insurance shall be with limits of not less than **\$5,000,000.00** per occurrence for bodily injury, death, and damages to property. Coverage shall be in the form of a standard owner's form automobile policy providing third party liability and accident benefits insurance and cover licensed vehicles owned and/or leased or operated by or on behalf of the *Contractor*.

Automobile Liability Insurance shall be maintained from the date of commencement of the *Work* until end of the *Warranty Period*.

☐ **Aircraft /Watercraft Liability Insurance**

Unmanned aerial vehicle aircraft, manned aircraft or watercraft Liability Insurance when owned or non-owned manned or unmanned aircraft or watercraft are used directly or indirectly in the performance of the *Work*.

☐ **Property Insurance**

"Broad form" property insurance in the joint names of the *Contractor*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The "broad form" property insurance shall be provided from the date of commencement of the Work until the earliest of:

- (i) 10 calendar days after the date of Ready-for-Takeover;
- (ii) on the commencement of use or occupancy of any part or section of the Work unless such use or occupancy is for construction purposes, habitational, office, banking, convenience store under 465 square metres in area, or parking purposes, or for the installation, testing and commissioning of equipment forming part of the Work; and (3) when left unattended for more than 30 consecutive calendar days or when construction activity has ceased for more than 30 consecutive calendar days.

☒ **Contractors' Equipment Insurance**

All Risks Contractors' Equipment coverage, insuring the full amount of the *Contractor's* equipment used by the *Contractor* for the performance of the Work, including all owned, non-owned and mobile equipment. The policy shall not allow subrogation claims by the insurer against the *Owner*. Insurance shall be maintained from the date of commencement of the *Work* until the end of the Warranty Period.

☒ **Contractors' Pollution Liability Insurance**

Contractors' Pollution Liability Insurance from the date of commencement of the *Work* until the end of the Warranty Period. Contractor's Pollution liability insurance shall have limits of not less than **\$2,000,000.00** per occurrence for bodily injury, death and damage to property. Should the policy be on a claims made basis, the *Contractor* must provide a two-year extended reporting period.

☐ **Installation Floater**

Installation Floater insurance insuring not less than the sum of the amount of the proposal price and the full value of *Products* that are specified to be provided by the *Owner* for the incorporation into the *Work*. Coverage provided to goods (such as building materials or components, tools, or equipment) while in transit, waiting to be installed and as they are being installed. This coverage shall be maintained from the commencement of the *Work* until *Ready-For-Takeover*.

☒ **Hook Liability Insurance**

If a crane is to be utilized during the *Work* pursuant to the *Contract*, the *Contractor* shall maintain and keep in force at its own expense, Hook Liability insurance insuring any and all materials, supplies, property of the *Contractor*, property of others, property of the *Owner* intended for the construction and/or installation in connection with repair, completion, election or improvement of

property. The limit of any one loss is not less than an amount equal to the maximum value of the property on "the Hook" at any one time in the performance of the *Work* being completed. The coverage shall be maintained from the commencement of the *Work* until *Ready-For-Takeover* has been attained.

☒ **Boiler & Machinery Insurance**

Standard Comprehensive Boiler & Machinery insurance shall be in the joint names of the *Contractor*, the *Owner* and the *Consultant* for not less than the amount of the full replacement value of permanent and temporary boilers and pressure vessels forming part of the *Work*. The policy shall include as insureds all *SubContractors*.

- (i) The coverage shall be maintained continuously from commencement of use or operation of the boiler and machinery objects insured by the policy and until ten (10) calendar days after the date of *Ready-For-Takeover*.
- (ii) Should testing be required as part of the Contract, the policy shall be extended to cover such testing. If production machinery is involved in the performance of the *Work*, the policy shall be extended to cover such production machinery.

☐ **Environmental Impairment Liability Insurance - Sudden & Accidental Pollution**

Environmental Liability Insurance, in the form of a Sudden and Accidental Pollution Liability extension under the CGL policy shall have limits of not less than _____ per claim covering services or products that have the potential to impair the environment should an accident occur.

☐ **Pollution / Environmental Impairment Liability Insurance**

Pollution / Environmental Impairment Liability Insurance of not less than _____ inclusive per claim and shall include coverage for but not limited to, bodily injury including death, property damage and remediation costs which are reasonable and necessary to investigate, neutralize, remove, remediate (including associated monitoring) or dispose of soil, surface water, groundwater or other contamination. The policy shall remain in force until the end of the Warranty Period.

☒ **Asbestos Abatement/Environmental Impairment Liability Insurance**

- (a) *Contractor*, or *Subcontractor* where applicable, shall provide Asbestos Abatement/Environmental Impairment Liability insurance with limits of no less than **\$2,000,000.00** per occurrence. Such insurance shall include all operations associated with hazardous materials removal. If the policy is written on claims made basis, the *Contractor* shall provide the *Owner* with proof of renewal for the next five (5) years. Should the *Contractor* cancel the policy, within that time period, the *Contractor* must provide the *Owner* with 60 days'

notice of cancellation. The *Owner* may require the *Contractor* to purchase an Extended Reporting Endorsement at the *Contractor's* sole expense.

- (b) Asbestos abatement coverage may alternatively be provided under the General Liability insurance as specified provided the policy is specifically endorsed to provide this coverage and the limit of liability is in an amount not less than _____ inclusive per occurrence. A copy of the endorsement or a letter from the insurer verifying coverage is to accompany the Certificate of Insurance.

The policy shall name the *Owner* and *Consultant* as additional insureds.

☐ **Wrap Up Liability**

Wrap-up Liability, underwritten by an insurer licensed to conduct business in the Province of Ontario, for a limit of not less than _____ per occurrence, an aggregate limit of not less than _____, within any policy year with respect to completed operations and a deductible of not less than _____. The Wrap-up shall be in the joint names of the Owner, Contractor, all Sub-contractors, Architects, Engineers, Consultants and Project Managers. The policy will be carried from the date of commencement of the work until 24 months from the date of Substantial Performance of the Work. The insurance coverage shall not be less than the insurance provided by IBC Form 2100 and IBC Form 2320. The policy shall include an extension for a standard provincial and territorial form of non-owned automobile liability policy. This policy shall include but not be limited to:

- a) Cross-liability and severability of interest
- b) Blanket Contractual
- c) Products and Completed Operations
- d) Premises and Operations Liability
- e) Personal Injury Liability
- f) Contingent Employers Liability
- g) Owners and Contractors Protective
- h) Broad Form Property Damage
- i) Firefighting Expenses
- j) Elevator and Hoist Liability
- k) Attached Machinery – while loading or unloading

APPENDIX E
WARRANTY PERIOD PER GC 12.3.1

The *Warranty Period* referred to in GC 12.3.1 is:

Warranty Period:

Select which
applies:

one (1) year from the date when *Ready-for-Takeover* has been attained

☒

two (2) years from the date when *Ready-for-Takeover* has been attained

☐

APPENDIX F
WARRANTY HOLDBACK PER GC 5.9

The warranty holdback referred to in GC 5.9.1 shall be three percent (3%) of the *Contract Price*. If no percentage is inserted, no warranty holdback shall be retained by the *Owner* and GC 5.9 shall not apply to this *Contract*.