
**SUPPLEMENTARY CONDITIONS TO
THE STIPULATED PRICE CONTRACT (CCDC 2-2020)**

These Supplementary Conditions are made as of the ___ day of _____, 20__ between [OWNER] (the “Owner”) and [CONTRACTOR] (the “Contractor”). Other than the Supplementary Conditions contained herein, the Stipulated Price Contract (CCDC 2-2020) between the Owner and the Contractor remains in full force and effect (the “Contract”). The Owner and the Contractor hereby agree to supplement and amend the Definitions and General Conditions of the Contract as set out herein. Notwithstanding General Condition 1.1.7, where there is anything in the Contract which is inconsistent with these Supplementary Conditions, the provisions of these Supplementary Conditions shall govern. Throughout the Contract Documents, reference to the General Conditions or a paragraph of the General Conditions shall include these Supplementary Conditions unless the context requires otherwise.

SC# GC# Supplementary Conditions

AGREEMENT BETWEEN OWNER AND CONTRACTOR

SC#1 Article A-3 Add the following to the list of *Contract Documents* in paragraph 3.1:

- Supplementary Conditions to the Stipulated Price Contract (CCDC 2 – 2020)
- Drawings
- Specifications
- Performance Bond
- Labour and Material Payment Bond

SC#2 Article A-5 Amend paragraph 5.1.3, in the first line, by deleting the words “...the issuance of the...” and replacing them with “...receipt of the *Consultant’s*...”

SC#3 Article A-5 Add the following new paragraph 5.3 after paragraph 5.2:

The *Owner* is entitled to set off against any amounts otherwise due to *Contractor* pursuant to the terms of this *Contract*, any amounts which are due or owed to *Owner* from or by *Contractor* pursuant to the terms of the *Contract*, or being disputed in accordance with the terms of the *Contract*.

SC#4 Article A-9 Add new Article A-9 – Conflict of Interest:

- .1 The *Contractor*, all of the *Subcontractors* and *Suppliers* and any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall not engage in any activity or provide any services where such activity or the provision of such services creates a conflict of interest (actually or potentially, in the sole opinion of the *Owner*) with the provision of the *Work* pursuant to the *Contract*. The *Contractor* acknowledges and agrees that a conflict of interest, as described in this Article A-9, includes, but is not limited to, the use of *Confidential Information* where the *Owner* has not specifically authorized such use.

- .2 The *Contractor* shall disclose to the *Owner*, in writing, without delay, any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest, including the retention of any *Subcontractor* or *Supplier* that is directly or indirectly affiliated with or related to the *Contractor*.
- .3 The *Contractor* covenants and agrees that it will not hire or retain the services of any employee or previous employee of the *Owner* where to do so constitutes a breach by such employee or previous employee of the *Owner's* conflict of interest policy, as it may be amended from time to time, until after completion of the *Work* under the *Contract*.
- .4 It is of the essence of the *Contract* that the *Owner* shall not have direct or indirect liability to any *Subcontractor* or *Supplier*, and that the *Owner* relies on the maintenance of an arm's-length relationship between the *Contractor* and its *Subcontractors* and *Suppliers*. Consistent with this fundamental term of the *Contract*, the *Contractor* will not enter into any agreement or understanding with any *Subcontractor* or *Supplier*, whether as part of any contract or any written or oral collateral agreement, pursuant to which the parties thereto agree to cooperate in the presentation of a claim for payment against the *Owner*, directly or through the *Contractor*, where such claim is, in whole or in part, in respect of a disputed claim by the *Subcontractor* or *Supplier* against the *Contractor*, where the payment to the *Subcontractor* or *Supplier* by the *Contractor* is agreed to be conditional or contingent on the ability to recover those amounts or a portion thereof from the *Owner*, failing which the *Contractor* shall be saved harmless from all or a portion of those claims. The *Contractor* acknowledges that any such agreement would undermine the required arm's-length relationship and constitute a conflict of interest. For greater certainty, the *Contractor* shall only be entitled to advance claims against the *Owner* for amounts pertaining to *Subcontractor* or *Supplier* claims where the *Contractor* has actually paid or unconditionally acknowledged liability for those claims or where those claims are the subject of litigation or binding arbitration between the *Subcontractor* or *Supplier* and the *Contractor* has been found liable for those claims.
- .5 Notwithstanding paragraph 7.1.2 of GC 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT, a breach of this Article by the *Contractor*, any of the *Subcontractors*, or any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall entitle the *Owner* to terminate the *Contract*, in addition to any other rights and remedies that the *Owner* has in the *Contract*, in law, or in equity.

SC#5 Article A-10 Add new Article A-10 – Confidentiality

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

DEFINITIONS

SC#6 Definitions Add the following new definitions:

Applicable Law

Applicable Law means all public laws, statutes, ordinances, codes, acts, orders, by-laws, rules, regulations, *Governmental Consents*, binding policies and guidelines, and requirements of all Governmental Authorities, which now or hereafter, may be applicable to and enforceable against the *Owner*, the *Contractor* or the *Work*, or any part thereof, including those relating to employment, zoning, building, life/safety, environment and health.

As-Built Drawings

As-Built Drawings means drawings prepared by the *Contractor* by marking on a copy of the *Drawings* the changes from the *Drawings* which occur during construction including, but are not limited to the exact location of major building components that were shown generally on the *Drawings*.

Confidential Information

Confidential Information means all the information or material of the *Owner* that is of a proprietary or confidential nature, whether it is identified as proprietary or confidential or not, including but not limited to information and material of every kind and description (such as drawings and move-lists) which is communicated to or comes into the possession or control of the *Contractor* at any time, but *Confidential Information* shall not include information that:

- .1 is or becomes generally available to the public without fault or breach on the part of the *Contractor*, including without limitation breach of any duty of confidentiality owed by the *Contractor* to the *Owner* or to any third party, but only after that information becomes generally available to the public;
- .2 the *Contractor* can demonstrate to have been rightfully obtained by the *Contractor* from a third party who had the right to transfer or disclose it to the *Contractor* free of any obligation of confidence;

- .3 the *Contractor* can demonstrate to have been rightfully known to or in the possession of the *Contractor* at the time of disclosure, free of any obligation of confidence; or
- .4 is independently developed by the *Contractor* without use of any *Confidential Information*.

Construction Act

Construction Act means the *Construction Act*, RSO 1990, c C.30.

Construction Act Document

Construction Act Document means a *Notice of Non-Payment*, a notice of adjudication given pursuant to Section 13.7 of Part II.1 of the *Construction Act* or any documents or responses to adjudication to be given or provided pursuant to Part II.1 of the *Construction Act*.

Construction Schedule

Construction Schedule means the schedule for the performance of the *Work* provided by the *Contractor* pursuant to GC 3.4, including any amendments to the *Construction Schedule* made pursuant to the *Contract Documents*.

FIPPA

FIPPA means the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31.

**Note to
Draft:**

To discuss COVID related provisions.

Force Majeure

Force Majeure means any cause, beyond the *Contractor's* control, other than bankruptcy or insolvency, which prevents the performance by the *Contractor* of any of its obligations under the *Contract* and the event of *Force Majeure* was not caused by the *Contractor's* default or active commission or omission and could not be avoided or mitigated by the exercise of reasonable effort or foresight by the *Contractor*. *Force Majeure* includes *Labour Disputes*, fire, unusual delay by common carriers or unavoidable casualties, civil disturbance, acts, orders, legislation, regulations or directives of any government or other public authority, acts of a public enemy, war, riot, sabotage, blockage, embargo, lightning, earthquake, or acts of God.

Governmental Consent

Governmental Consent means any license, right, permit, franchise, privilege, registration, direction, decree, consent, order, permission, approval, or authority to be issued or provided by a Governmental Authority and for clarity includes an agreement between the *Owner* and any Governmental Authority.

Install

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

Labour Dispute

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

Notice of Non-Payment

A *Notice of Non-Payment* is a notice delivered pursuant to Section 6.4(2) of the *Construction Act* in the manner and form prescribed in the *Construction Act*.

Owner's Representative

Owner's Representative means any firm or individual engaged by the *Owner* to monitor the Project on its behalf or to represent it in any other capacity during the construction of the Project. Unless the *Owner* notifies the *Contractor* of a change in the *Owner's Representative*, the *Owner's Representative* for the Project is: [●].

Overhead

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

Personal Information

Personal Information has the same definition as in subsection 2(1) of *FIPPA* and includes an individual's name, address, age, date of birth, sex, and religion, whether recorded in printed form, on film, by electronic means, or otherwise and disclosed to the *Contractor*.

Proper Invoice

Proper Invoice means an invoice submitted by the *Contractor* that includes all information required by GC 5.2.1, which includes the information required for a "*Proper Invoice*" in Section 6.1 of the *Construction Act*, and which is submitted in accordance with GC 5.2.1.

Proper Invoice Checklist

Proper Invoice Checklist means the checklist of additional items required in a *Proper Invoice* set out in Exhibit "1".

Provide

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

Request for Information/RFI

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

- SC#7 Definitions Amend the definition for "*Consultant*" by adding the following to the end of the definition:
- For the purposes of the *Contract*, the terms "*Consultant*", "Architect" and "Engineer" shall be considered synonymous.

GENERAL CONDITIONS

- SC#8 ***[NTD: Below is an optional provision which should only be included when the CCDC2 is being used independently of a bidding process. As the CCDC 2 makes several references to the "time of bid closing" as a point in time (such as GC 8.3 and GC-10.1), this reference point will be inaccurate when the CCDC 2 is being used independently of a bidding process.]***

[Replace all references to “time of bid closing” in the Contract Documents with “effective date of the Agreement.”]

GC 1.1 CONTRACT DOCUMENTS

SC#9 GC 1.1.5 Amend paragraph 1.1.5.1 by adding “Amendments to CCDC 2 – 2020” before “the Agreement between the *Owner* and the *Contractor*” and deleting the reference to “Supplementary Conditions”.

SC#10 GC 1.1.5 Add new paragraphs 1.1.5.6, 1.1.5.7, 1.1.5.8, 1.1.5.9, and 1.1.5.10 as follows:

- .6 finishes in the room finish schedules shall govern over those shown on the *Drawings*.
- .7 Schedules of Division 1 – General Requirements of the *Specifications* shall form part of and be read in conjunction with the technical specification section as listed in the table of contents of the *Specifications*.
- .8 architectural drawings shall have precedence over structural, plumbing, mechanical, electrical and landscape drawings insofar as outlining, determining and interpreting conflicts over the required design intent of all architectural layouts and architectural elements of construction, it being understood that the integrity and installation of the systems designed by the *Consultant* or its sub-consultants are to remain with each of the applicable drawing disciplines.
- .9 fixturing drawings provided by the *Owner* shall have precedence over architectural drawings insofar as outlining, determining and interpreting conflicts over the required design intent of all architectural layouts.
- .10 should reference standards contained in the *Specifications* conflict with the *Specifications*, the *Specifications* shall govern. Should reference standards and *Specifications* conflict with each other or if certain requirements of the *Specifications* conflict with other requirements of the *Specifications*, the more stringent requirements shall govern.

SC#11 GC 1.1.9 Add the following to the end of paragraph 1.1.9:

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

SC#12 GC 1.1.12 Add new paragraph 1.1.12 as follows:

The *Contract Documents* shall be signed in triplicate (3) by the *Owner* and the *Contractor*, and each of the *Contractor*, the *Owner* and the *Consultant* shall retain one set of signed and sealed (if required by the governing law of the *Contract*) *Contract Documents*.

SC#13 GC 1.1.13 Add new paragraph 1.1.13 as follows:

The *Consultant*, on behalf of the *Owner* shall provide the *Contractor* without charge, twelve copies of the *Contract Documents*, exclusive of those required by jurisdictional authorities and the executed *Contract Documents*. Additional copies can be purchased by the *Contractor* at the *Consultant's* cost of reproduction, handling and sales tax.

GC 1.3 RIGHTS AND REMEDIES

SC#14 GC 1.3.2 Delete the word “No” from the beginning of paragraph 1.3.2 and substitute the words:

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

GC 1.4 ASSIGNMENT

SC#15 GC 1.4.1 Delete paragraph 1.4.1 in its entirety and replace with the following:

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

GC 1.5 EXAMINATION OF DOCUMENTS AND SITE

SC#16 Add new General Condition 1.5 – EXAMINATION OF DOCUMENTS AND SITE as follows:

GC 1.5.1 The *Contractor* declares and represents that in tendering for the *Work*, and in entering into a *Contract* with the *Owner* for the performance of the *Work*, it has either investigated for itself the character of the *Work* to be done and all local conditions, including the location of any utility which can be determined from the records or other information available at the offices of any person, partnership, corporation, including a municipal corporation and any board or commission thereof having jurisdiction or control over the utility that might affect its tender or its acceptance of the *Work*, or that, not having so investigated, the *Contractor* has assumed and does hereby assume all risk of conditions now existing or arising in the course of the *Work* which might or could make the *Work*, or any items thereof more expensive in character, or more onerous to fulfil, than was contemplated or known when the tender was made or the *Contract* signed.

- GC 1.5.2 The *Contractor* also declares that in tendering for the *Work* and in entering into this *Contract*, the *Contractor* did not and does not rely upon information furnished by the *Owner* or any of its agents or servants respecting the nature or confirmation of the ground at the site of the *Work*, or the location, character, quality or quantity of the materials to be removed or to be employed in the construction of *Work*, or the character of the construction machinery and equipment or facilities needed to perform the *Work*, or the general and local performance of the work under the *Contract* and expressly waives and releases the *Owner* from all claims with respect to the said information with respect to the *Work*.
- GC 1.6 TIME IS OF THE ESSENCE OF THE CONTRACT**
- SC#17 Add new General Condition 1.6 – TIME IS OF THE ESSENCE OF THE CONTRACT as follows:
- GC 1.6.1 All time limits stated in the *Contract Documents* are of the essence of the *Contract*.
- GC 1.6 TIME IS OF THE ESSENCE OF THE CONTRACT**
- SC#18 Add new General Condition 1.6 – TIME IS OF THE ESSENCE OF THE CONTRACT as follows:
- GC 1.6.1 All time limits stated in the *Contract Documents* are of the essence of the *Contract*.
- GC 1.7 POLICY COMPLIANCE**
- SC#19 Add new General Condition 1.7 – POLICY COMPLIANCE as follows:
- GC 1.7.1 The *Contractor* shall observe and require all employees, contractors, subcontractors, and agents to observe and comply with any and all relevant *Owner* Policies, including but not limited to Policy Against Violence, Harassment and Discrimination in the Workplace; Accessible Customer Service Policy; and Health, Safety, Emergency Response plan and Security policy. All policies are available on the *Owner*'s website.
- GC 1.7.2 The *Contractor* shall observe and require all employees, contractors, *Subcontractors*, *Suppliers*, and agents to observe and comply with the requirement that all individuals accessing the University of Ontario Institute of Technology's campus are fully vaccinated (as defined by the Office of the Chief Medical Officer of Health of Ontario) against COVID-19, and abide by any and all COVID-19 protocols identified by the *Owner*.
- GC 2.2 ROLE OF THE CONSULTANT**
- SC#20 GC 2.2.4 Add the following at the end of paragraph 2.2.4:
- In the event that the certificate for payment is for an amount less than the full amount stated on the application for payment, the *Consultant* will issue a *Notice of Non-Payment* in respect of the disputed amount.
- SC#21 GC 2.2.6 Delete the words "Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER" .
- SC#22 GC 2.2.12 Amend paragraph 2.2.12 by the addition of the following to the end of that paragraph:
- If, in the opinion of the *Contractor*, the *Supplemental Instruction* involves an adjustment in the *Contract Price* or in the *Contract Time*, it shall, within ten (10) *Working Days* of receipt

of a *Supplemental Instruction*, provide the *Consultant* with a *Notice in Writing* to that effect. Failure to provide written notification within the time stipulated in this paragraph 2.2.12 shall be deemed an acceptance of the *Supplemental Instruction* by the *Contractor*, without any adjustment in the *Contract Price* or *Contract Time*.

SC#23 GC 2.2.19 Add new paragraph 2.2.19 as follows:

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

GC 2.3 REVIEW AND INSPECTION OF THE WORK

SC#24 GC 2.3.2 Amend paragraph 2.3.2 by adding the words “and *Owner*” after the words “*Consultant*” in the second and third lines.

SC#25 GC 2.3.3 Delete paragraph 2.3.3 in its entirety and replace it with the following:

The *Contractor* shall furnish promptly two copies to the *Consultant* and one copy to the *Owner* of all certificates and inspection reports relating to the *Work*.

SC#26 GC 2.3.4 Insert the word “review” after the word “inspections” in the first line of paragraph 2.3.4.

SC#27 GC 2.3.5 In the first line after “*Consultant*”, add “or the *Owner*”.

SC#28 GC 2.3.8 Add new paragraph 2.3.8 as follows:

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

GC 2.4 DEFECTIVE WORK

SC#29 GC 2.4.1 Amend GC 2.4.1 by inserting “, the *Owner* and/or its agent” in the first sentence following “rejected by the *Consultant*”.

SC#30 Add new paragraphs 2.4.1.1 and 2.4.1.2:

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

GC 2.4.1.2 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* or which, in the sole discretion of the *Consultant*, adversely affects the progress of the *Work*.

SC#31 GC 2.4.2 Delete paragraph 2.4.2 in its entirety and replace it with the following:

The *Contractor* shall promptly pay the *Owner* for costs incurred by the *Owner*, the *Owner*'s

own forces or the *Other Contractor's*, for work destroyed or damaged or any alterations necessitated by the *Contractor's* removal, replacement or re-execution of defective work. The *Owner* may request that the *Contractor* rectify any such deficiencies to *Other Contractor's* work, at the *Contractor's* expense.

SC#32 GC 2.4.4 Add new paragraph 2.4.4 as follows:

Neither acceptance of the *Work* by the *Consultant* or the *Owner*, nor any failure by the *Consultant* or the *Owner* to identify, observe or warn of defective *Work* or any deficiency in the *Work* shall relieve the *Contractor* from the sole responsibility for rectifying such defect or deficiency at the *Contractor's* sole cost, even where such failure to identify, observe or warn is negligent.

GC 3.1 CONTROL OF THE WORK

SC#33 GC 3.1.3 Add new paragraph 3.1.3 as follows:

Prior to commencing individual procurement, fabrication and construction activities, the *Contractor* shall verify at the *Place of the Work*, all relevant measurements and levels necessary for proper and complete fabrication, assembly and installation of the *Work* and shall further carefully compare such field measurements and conditions with the requirements of the *Contract Documents*. Where dimensions are not included or 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*.

SC#34 GC 3.1.4 Add new paragraph 3.1.4 as follows:

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

GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

SC#35 3.2.2.1 Delete paragraph 3.2.2.1 in its entirety.

SC#36 3.2.2.2 Delete paragraph 3.2.2.2 in its entirety.

SC#37 3.2.2.3 Delete paragraph 3.2.2.3 in its entirety.

SC#38 3.2.3.2 Delete paragraph 3.2.3.2 and replace it with the following:

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

SC#39 3.2.3.5 Add new paragraph 3.2.3.5 as follows:

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 in force at the *Place of the Work*, including all of the responsibilities of the “constructor”, pursuant to the *Occupational Health and Safety Act* (Ontario).

GC 3.3 TEMPORARY WORK

SC#40 GC 3.3.2 In paragraph 3.3.2, in the second line after the words “where required by law”, insert “or the *Consultant*”. Additionally, replace the word “law” with the words “*Applicable Law*”.

GC 3.4 CONSTRUCTION SCHEDULE

SC#41 GC 3.4.1 Delete paragraph 3.4.1 in its entirety and replace with the following:

The *Contractor* shall:

- .1 within five (5) calendar days of receiving written confirmation of the award of the *Contract*, prepare and submit to the *Owner* and the *Consultant* for their review and acceptance, a construction schedule in the format indicated below that indicates the timing of the activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate the *Work* will be performed in conformity with the *Contract Time* and in accordance with the *Contract Documents*. Such schedule is to include a delivery schedule for *Products* whose delivery is critical to the schedule for the *Work* or are required by the *Contract* to be included in a *Products* delivery schedule. The *Contractor* shall employ construction scheduling software, being the latest version of “Microsoft *Project*”, that permits the progress of the *Work* to be monitored in relation to the critical path established in the schedule. The *Contractor* shall provide the schedule and any successor or revised schedules in both electronic format and hard copy. Once accepted by the *Owner* and the *Consultant*, the construction schedule submitted by the *Contractor* shall become the baseline construction schedule; and,
- .2 provide the expertise and resources, such resources including manpower and equipment, as are necessary to maintain progress under the accepted baseline construction schedule or revised schedule accepted by the *Owner* pursuant to GC 3.4 – CONSTRUCTION SCHEDULE; and,
- .3 monitor the progress of the *Work* on a weekly basis relative to the baseline construction schedule, or any revised schedule accepted by the *Owner* pursuant to GC 3.4 – CONSTRUCTION SCHEDULE, update and submit to the *Consultant* and *Owner* the electronic and hard copy schedule on a monthly basis, at a minimum, or as required by the *Consultant* and advise the *Consultant* and the *Owner* weekly in writing of any variation from the baseline or slippage in the schedule; and,
- .4 provide overtime work without change to the *Contract Price* if such work is deemed necessary to meet the schedule; and,
- .5 ensure that the *Contract Price* shall include all costs required to phase or stage the *Work*.

SC#42 GC 3.4.2 Add new paragraph 3.4.2 as follows:

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

given pursuant to subparagraph 3.4.1.3, the *Contractor* shall produce and present to the *Owner* and the *Consultant* a plan demonstrating how the *Contractor* will achieve the recovery of the last accepted schedule.

SC#43 GC 3.4.3 Add new paragraph 3.4.3 as follows:

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

GC 3.5 SUPERVISION

SC#44 GC 3.5.1 Delete paragraph 3.5.1 in its entirety and replace with the following:

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

SC#45 GC 3.5.2 Delete paragraph 3.5.2 in its entirety and replace with the following:

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

SC#46 Add new paragraphs 3.5.3, 3.5.4, 3.5.5 and 3.5.6 as follows:

GC 3.5.3 The *Owner* may, at any time during the course of the *Work*, request the replacement of the appointed representative(s). Immediately upon receipt of the request, the *Contractor* shall make arrangements to appoint an acceptable replacement, which is approved by the *Owner*.

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

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

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

GC 3.6 SUBCONTRACTORS AND SUPPLIERS

SC#47 GC 3.6.1.1 In paragraph 3.6.1.1 add to the end of the second line “including any warranties and service agreements which extend beyond the term of the *Contract*.”

SC#48 GC 3.6.1.2 In subparagraph 3.6.1.2 after the words “the *Contract Documents*” insert the words “including any required surety bonding”.

SC#49 GC 3.6.2 Delete paragraph 3.6.2. in its entirety and replace with the following:

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

SC#50 GC 3.6.4 In paragraph 3.6.4, change the word “shall” to “may” in the second line.

SC#51 Add new paragraphs 3.6.7 and 3.6.8 as follows:

GC 3.6.7 Where provided in the *Contract*, the *Owner* may assign to the *Contractor*, and the *Contractor* agrees to accept, any contract procured by the *Owner* for *Work* or services required on the *Project* that has been pre-tendered or pre-negotiated by the *Owner*, and upon such assignment, the *Owner* shall have no further liability to any party for such contract.

GC 3.6.8 The *Contractor* covenants that each subcontract or supply contract which the *Contractor* enters into for the purpose of performing the *Work* shall expressly provide for the assignment thereof to the *Owner* (at the option of the *Owner*) and the assumption by the *Owner* of the obligations of the *Contractor* thereunder, upon the termination of the *Contract* and upon written notice by the *Owner* to the other parties to such subcontracts or supply contracts, without the imposition of further terms or conditions; provided, however, that until the *Owner* has given such notice, nothing herein contained shall be deemed to create any contractual or other liability upon the *Owner* for the performance of obligations under such subcontracts or supply contracts and the *Contractor* shall be fully responsible for all of its obligations and liabilities (if any) under such subcontracts and supply contracts.

GC 3.7 LABOUR AND PRODUCTS

SC#52 GC 3.7.1 Amend paragraph 3.7.1 by adding the words, “..., agents, *Subcontractors* and Suppliers...” after the word “employees” in the first line.

SC#53 GC 3.7.3 Delete paragraph 3.7.3 and substitute with the following:

Products provided shall be new and shall conform to all current applicable specifications of the Canadian Standards Association, Canadian Standards Board or General Standards Board, ASTM, National Building Code, provincial and municipal building codes, fire safety standards, and all governmental authorities and regulatory agencies having jurisdiction at the *Place of the Work*, unless otherwise specified. *Products* which are not specified shall be of a quality consistent with those specified and their use acceptable to the

Consultant. Products brought on to the Place of the Work by the Contractor shall be deemed to be the property of the Owner, but the Owner shall be under no liability for loss thereof or damage thereto arising from any cause whatsoever. The said Products shall be at the sole risk of the Contractor. Workmanship shall be, in every respect, first class and the Work shall be performed in accordance with the best modern industry practice.

SC#54

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

GC 3.7.4 Upon receipt of a written notice from the *Consultant*, the *Contractor* shall immediately dismiss, from the *Place of the Work*, tradesmen and labourers whose *Work* is unsatisfactory to the *Consultant* or who are considered by the *Consultant* to be unskilled or otherwise objectionable.

GC 3.7.5 The *Contractor* shall cooperate with the *Owner* and its representatives and shall take all reasonable and necessary actions to maintain stable and harmonious labour relations with respect to the *Work* at the *Place of the Work*, including cooperation to attempt to avoid *Work* stoppages, trade union jurisdictional disputes and other *Labour Disputes*. Any costs arising from labour disputes shall be at the sole expense of the *Contractor*.

GC 3.7.6 The cost for overtime required beyond the normal *Working Day* to complete individual construction operations of a continuous nature, such as pouring or finishing of concrete or similar work, or *Work* that the *Contractor* elects to perform at overtime rates without the *Owner* requesting it, shall not be chargeable to the *Owner*.

GC 3.7.7 All manufactured *Products* which are identified by their proprietary names or by part or catalogue number in the *Specifications* shall be used by the *Contractor*. No substitutes for such specified *Products* shall be used without the written approval of the *Owner* and the *Consultant*. Substitutes will only be considered by the *Consultant* when submitted in sufficient time to permit proper review and investigation. When requesting approval for the use of substitutes, the *Contractor* shall include in its submission any proposed change in the *Contract Price*. The *Contractor* shall use all proprietary *Products* in strict accordance with the manufacturer's directions. Where there is a choice of proprietary *Products* specified for one use, the *Contractor* may select any one of the *Products* so specified for this use.

GC 3.7.8 No consideration will be given to claims by the *Contractor* of unsuitability or unavailability of any *Products*, nor to the *Contractor's* unwillingness to use, or to produce first class work with, any *Products*, or to provide the specified warranties or guarantees.

GC 3.7.9 Materials, appliances, equipment and other *Products* are sometimes specified by reference to brand names, proprietary names, trademarks or symbols. In such cases, the name of a manufacturer, distributor, Supplier or dealer is sometimes given to assist the *Contractor* to find a source Supplier. This shall not relieve the *Contractor* from its responsibility from finding its own source of supply even if the source names no longer supplies the *Product* specified. If the *Contractor* is unable to obtain the specified *Product*, the *Contractor* shall supply a substitute product equal to or better than the specified *Product*, as approved by the *Consultant* with no extra compensation. Should the *Contractor* be unable to obtain a substitute *Product* equal to or superior to the specified *Product* and the *Owner* accepts a different *Product*, the *Contract Price* shall be adjusted accordingly, as approved by the *Consultant*.

GC 3.8 SHOP DRAWINGS

SC#55 GC 3.8.1 Delete paragraph 3.8.1 in its entirety and replace with the following:

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

SC#56 GC 3.8.5 Delete paragraph 3.8.5 in its entirety and substitute the following:

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

SC#57 Add new paragraphs 3.8.3, 3.8.4, 3.8.5, and 3.8.6 and renumber the current paragraphs 3.8.3 to 3.8.6 accordingly:

GC 3.8.3 Upon request of the *Contractor* or the *Consultant*, they shall jointly prepare a schedule of the dates for provision, review and return of the *Shop Drawings*.

GC 3.8.4 The *Contractor* shall provide the *Shop Drawings* in the form specified, or if not specified, as directed by the *Consultant*.

GC 3.8.5 *Shop Drawings* provided by the *Contractor* to the *Consultant* shall indicate by stamp, date and signature of the person responsible for the review that the *Contractor* has reviewed each one of them.

GC 3.8.6 *Shop Drawings* which require approval of any lengthy constituted authority having jurisdiction shall be provided to such authority by the *Contractor* for approval.

SC#58 Add new paragraphs 3.8.12, 3.8.13, 3.8.14, 3.8.15, 3.8.16, 3.8.17, and 3.8.18 as follows:

GC 3.8.12 The *Contractor* shall provide revised *Shop Drawings* to correct those which the *Consultant* rejects as inconsistent with the *Contract Documents*, unless otherwise directed by the *Consultant*. The *Contractor* shall notify the *Consultant* in writing of any revisions to the *Shop Drawings* other than those requested by the *Consultant*.

GC 3.8.13 Reviewed *Shop Drawings* shall not authorize a change in the *Contract Price* and/or the *Contract Time*.

GC 3.8.14 The *Contractor* shall prepare a *Shop Drawings* schedule acceptable to the *Owner* and the *Consultant* prior to the first application for payment. A draft of the proposed *Shop Drawings* schedule shall be submitted by the *Contractor* to the *Consultant* and the *Owner* for approval. The draft *Shop Drawings* schedule shall clearly indicate the phasing of *Shop Drawings* submissions. The *Contractor* shall periodically re-submit the *Shop Drawings* schedule to correspond to changes in the construction schedule.

GC 3.8.15 Except where the parties have agreed to a different *Shop Drawings* schedule pursuant to paragraph 3.8.3, the *Contractor* shall comply with the requirements for *Shop Drawings* submissions stated in the *Specifications*.

GC 3.8.16 The *Contractor* shall not use the term "by others" on *Shop Drawings* or other submittals. The related trade, *Subcontractor* or *Supplier* shall be stated.

GC 3.8.17 Certain *Specifications* sections require the *Shop Drawings* to bear the seal and signature of a professional engineer. Such professional engineer must be registered in the jurisdiction of the *Place of the Work* and shall have expertise in the area of practice reflected in the

Shop Drawings.

GC 3.8.18 The *Consultant* will review and return *Shop Drawings* and submittals in accordance with the schedule agreed upon in paragraph 3.8.3, The *Contractor* shall allow the *Consultant* a minimum of 14 days to review *Shop Drawings* from the date of receipt. If resubmission of *Shop Drawings* is required, a further 14 day period is required for the *Consultant's* review.

GC 3.9 USE OF THE WORK

SC#59 Add new General Condition 3.9 – USE OF THE WORK

GC 3.9.1 The *Contractor* shall confine *Construction Equipment, Temporary Work, storage of Products, waste products and debris, and operations of employees and Subcontractors* to limits indicated by laws, ordinances, permits, by direction of the Owner or *Consultant*, or the *Contract Documents* and shall not unreasonably encumber the *Place of Work*.

GC 3.9.2 The *Contractor* shall not load or permit to be loaded any part of the *Work* with a weight or force that will endanger the safety of the *Work*.

GC 3.9.3 Add new paragraph 3.9.3 as follows:

The *Owner* shall have the right to enter or occupy the *Work* in whole or in part for the purpose of placing fittings and equipment, or for other use before *Substantial Performance of the Work*, if, in the opinion of the *Consultant*, such entry and occupation does not prevent or substantially interfere with the *Contractor* in the performance of the *Contract* within the *Contract Time*. Such entry or occupation shall neither be considered as acceptance of the *Work*, nor in any way relieve the *Contractor* from its responsibility to complete the *Contract*.

GC 3.10 CLEAN UP

SC#60 Add new General Condition 3.10 – CLEANUP:

GC 3.10.1 The *Contractor* shall maintain the *Work* in a safe and tidy condition and free from accumulation of waste products and debris, other than that caused by the *Owner, Other Contractors* or their employees. The *Contractor* shall remove accumulated waste and debris at least once a week as a minimum or as required by the nature of the *Work*.

GC 3.10.2 Before applying for the *Substantial Performance of the Work* as provided in GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK, the *Contractor* shall remove waste products and debris, other than that resulting from the work of the *Owner, Other Contractors* or their employees, and shall leave the *Place of the Work* clean and suitable for use or occupancy by the *Owner*. The *Contractor* shall remove products, tools, materials, *Construction Equipment, and Temporary Work* not required for the performance of the remaining work.

GC 3.10.3 Prior to application for the final payment, the *Contractor* shall remove any remaining products, tools, materials, *Construction Equipment, Temporary Work, and waste products and debris, other than those resulting from the work of the Owner, Other Contractors* or their employees.

GC 3.10.4 In the event that the *Contractor* fails to remove waste and debris as provided in this GC 3.10, then the *Owner* or the *Consultant* may give the *Contractor* twenty-four (24) hours written notice to meet its obligations respecting clean up. Should the *Contractor* fail to

meet its obligations pursuant to this GC 3.10 within the twenty-four (24) hour period next following delivery of the notice, the *Owner* may remove such waste and debris and deduct from payments otherwise due to the *Contractor*, the *Owner's* costs for such clean up, including a reasonable mark-up for administration costs.

GC 3.10.5 The *Contractor* shall clean up garbage during and after construction, and maintain the site in a neat and orderly condition on a daily basis. Prior to leaving the site at the end of construction, the *Contractor* shall make good all damage to the building and its components caused by the performance of the *Work* or by any *Subcontractor* or *Supplier*. The *Contractor* shall leave the site in a clean and finished state; remove all equipment and materials; remove all paint, stains, labels, dirt, etc. from the *Work*; and touch up all damaged painted areas.

GC 3.10.6 Without limitation to or waiver of the *Owner's* other rights and remedies, the *Owner* shall have the right to back charge to the *Contractor* the cost of damage to the site caused by transportation in and out of the site by the *Contractor*, *Subcontractors* or *Suppliers*, if not repaired before final payment.

GC 3.10.7 The *Contractor* shall dispose of debris at location and in a manner acceptable to the *Owner*, and authorities having jurisdiction in the area of the *Work* and the disposal area, and cover containers with tarpaulins tied in place to prevent scattering of debris on site and during transport.

GC 3.11 CONTRACTOR STANDARD OF CARE

SC#61 Add new General Condition 3.11 – CONTRACTOR STANDARD OF CARE as follows:

GC 3.11.1 In performing its services and obligations under the *Contract*, the *Contractor* shall exercise the 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 performance of the *Contractor's* obligations, duties and responsibilities shall be judged against this standard. The *Contractor* shall exercise the same standard of care, skill and diligence in respect of any *Products*, personnel or procedures which it may recommend to the *Owner*.

GC 3.11.2 The *Contractor* further represents, covenants and warrants to the *Owner* that:

- .1 the personnel it assigns to the *Project* are appropriately experienced;
- .2 it has a sufficient staff of qualified and competent personnel to replace any of its appointed representatives, subject to the *Owner's* approval, in the event of death, incapacity, removal or resignation; and
- .3 there are no pending, threatened or anticipated claims, liabilities or contingent liabilities that would have a material effect on the financial ability of the *Contractor* to perform its work under the *Contract*.

GC 3.12 OCCUPANCY OF THE WORK

SC#62 Add new General Condition 3.12 – OCCUPANCY OF THE WORK as follows:

GC 3.12.1 The *Owner* reserves the right to take possession of and use for any intended purpose any portion or all of the undelivered portion of the *Project* even though the *Work* may not be substantially performed, provided that such taking possession and use will not interfere, in any material way, with the progress of the *Work*. The taking of possession or use of any

such portion of the *Project* shall not be deemed to be the *Owner's* acknowledgement or acceptance of the *Work* or the *Project*, nor shall it relieve the *Contractor* of any of its obligations under the *Contract*.

- GC 3.12.2 Whether the *Project* contemplates *Work* by way of renovations in buildings which will be in use or be occupied during the course of the *Work* or where the *Project* involves *Work* that is adjacent to a structure which is in use or is occupied, the *Contractor*, without in any way limiting its responsibilities under the *Contract*, shall take all reasonable steps to avoid interference with fire exits, building access and egress, continuity of electric power and all other utilities, to suppress dust and noise and to avoid conditions likely to propagate mould or fungus of any kind and all other steps reasonably necessary to promote and maintain the safety and comfort of the users and occupants of such structures or adjacent structures.

GC 3.13 DOCUMENTS AT THE SITE

SC#63 Add new General Condition 3.13 – DOCUMENTS AT THE SITE as follows:

- GC 3.13.1 The *Contractor* shall keep one copy of current *Contract Documents*, submittals, reports, and records of meetings at the *Place of the Work*, in good order and available to the *Owner* and the *Consultant*.

GC 3.14 CUTTING AND REMEDIAL WORK

SC#64 Add new General Condition 3.14 – CUTTING AND REMEDIAL WORK as follows:

- 3.14.1 The *Contractor* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly.
- 3.14.2 The *Contractor* shall co-ordinate the *Work* to ensure that the cutting and remedial work is kept to a minimum.
- 3.14.3 Cutting and remedial work shall be performed by specialists familiar with the *Products* affected and shall be performed in a manner to neither damage nor endanger the work.

GC 4.1 CASH ALLOWANCES

SC#65 GC 4.1.1 Delete the second sentence in paragraph 4.1.1

SC#66 GC 4.1.4 Capitalize the word “overhead” in paragraph 4.1.4.

SC#67 Add new paragraphs 4.1.8 and 4.1.9 as follows:

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

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

SC#68 GC 5.1.1 Delete paragraph 5.1.1 in its entirety.

SC#69 GC 5.1.2 Delete paragraph 5.1.2 in its entirety.

GC 5.2 APPLICATIONS FOR PAYMENT

SC#70 GC 5.2.1 Add the following at the end of paragraph 5.2.1:

Each application for payment shall include the information required for a “*Proper Invoice*” in Section 6.1 of the *Construction Act* and the following information:

[NTD: Note that the following items can be revised or deleted, as applicable, for each project.]

- .1 a confirmation that a draft application for payment was submitted at least five *Working Days* prior to the date of submission of the application for payment in accordance with paragraph 5.2.9;
- .2 a confirmation that the amounts claimed in such application for payment correspond to the schedule of values submitted in accordance with paragraph 5.2.4 along with supporting documentation such as timesheets, packing slips and *As-Built Drawings*, as applicable, and any other supporting documentation as the *Consultant* may direct in accordance with paragraph 5.2.9;
- .3 separate line items setting out (i) the amount the *Owner* has indicated will be withheld from the payment in accordance with GC 5.6; (ii) the amount of the required holdbacks under the *Construction Act*; and (iii) the amount the *Owner* has indicated it intends to set off from the payment in accordance with GC 5.2.11;
- .4 a *Statutory Declaration* on CCDC Form 9A;
- .5 a Workplace Safety & Insurance Board Clearance Certificate;
- .6 a certificate, issued by an agency or firm providing workers’ compensation insurance to the *Contractor*, verifying that coverage is in force at the time of making the application for payment, and that coverage will remain in force for at least 60 days thereafter;
- .7 a declaration by the *Contractor*, in a form approved by the *Consultant*, verifying that the performance of the *Work* is in compliance with all applicable regulatory requirements respecting environmental protection, first safety, public safety and occupational health and safety;
- .8 a pre-approved schedule of values, supplied by the *Contractor*, for Divisions 1 through 14 of the *Work*, aggregating the total amount of the *Contract Price*;
- .9 a separate pre-approved schedule of values, supplied by each *Subcontractor*, for each of Division 15, 16, and 17 of the *Work*, aggregating the total amount of the *Contract Price*;
- .10 invoices to support all claims against the cash allowance;
- .11 an acceptable construction schedule pursuant to GC 3.4;
- .12 the information set out in the *Proper Invoice Checklist*; and

.13 any other information required by the *Contract Documents* or as the *Consultant* may direct.

If an application for payment does not include all information required by this paragraph 5.2.1, if any of the required confirmations made by the *Contractor* in its application for payment are untrue or if the *Contractor* is otherwise in breach of this *Contract*, it shall not be considered a “*Proper Invoice*” for the purposes of the *Construction Act* or this *Contract*. If the *Owner* or the *Consultant* determine that an application for payment does not constitute a *Proper Invoice*, the application for payment shall be rejected through a *Notice of Non-Payment* and the *Contractor* shall resubmit the application for payment with all required information. For clarity, the *Owner* shall have no obligation to make a payment and the time periods set out in this GC 5.2 and in Section 6.4 of the *Construction Act* shall not apply until the *Contractor* has submitted an application for payment that constitutes a *Proper Invoice*.

SC#71 GC 5.2.2 Delete paragraph 5.2.2 in its entirety and substitute the following:

Applications for payment shall be dated the last day of each payment period, which is the last day of the month or an alternative day of the month agreed in writing by the parties. The amount claimed shall be for the value, proportionate to the amount of the *Contract*, or work performed and *Products* delivered and incorporated into the *Work* at that date. No amount claimed shall include products delivered and incorporated into the work, unless the products are free and clear of all security interests, liens and other claims of third parties.

SC#72 GC 5.2.3 Amend paragraph 5.2.3 by adding the following to the end of that paragraph:

No amount claimed shall include *Products* delivered to the *Place of the Work* unless the *Products* are free and clear of all security interests, liens, and other claims of third parties.

SC#73 Delete existing paragraphs 5.2.7 and 5.2.8.

Add new paragraphs 5.2.7, 5.2.8, 5.2.9, 5.2.10 and 5.2.11 as follows:

GC 5.2.7 The *Contractor* shall prepare and maintain current *As-Built Drawings* which shall consist of the *Drawings* and *Specifications* revised by the *Contractor* during the *Work*, showing changes to the *Drawings* and *Specifications*, which current *As-Built Drawings* shall be maintained by the *Contractor* and made available to the *Consultant* for review with each application for progress payment. The *Consultant* shall retain a reasonable amount for the value of the *As-Built Drawings* not presented for review.

GC 5.2.8 Prior to each application for payment, the *Contractor* and the *Consultant* shall jointly review the progress of the *Work*.

GC 5.2.9 No later than five *Working Days* prior to the date of an application for payment, the *Contractor* shall submit to the *Consultant* a draft application for payment containing all information and drafts of all submittals required by GC 5.2.1. If the *Consultant* requires further evidence or supporting documentation, it shall direct the *Contractor* to include such information in its application for payment no later than three *Working Days* after receipt of a draft application for payment.

GC 5.2.10 Where the *Contractor* is required to perform start-up testing and/or commissioning activities in respect of a portion of the *Work*, an application for payment in respect of such portion of the *Work* may only be submitted once such testing and/or commissioning has been successfully completed by the *Contractor* as determined by the *Consultant*, including

the submission of any related document. For clarity, an application for payment submitted prior to successful completion of required testing and/or commissioning shall not be considered a "Proper Invoice" for the purposes of the *Construction Act* and the *Consultant* shall not issue a certificate of payment in respect of such application for payment.

GC 5.2.11 If the *Owner* intends to exercise its right of set off pursuant to Article A-5.3 against a future payment, the *Owner* shall provide notice to the *Contractor*. Provided the *Contractor* receives such notice at least five *Working Days* prior to its submission of an application for payment, it shall include a separate line item setting out the amount the *Owner* has indicated it intends to set off from the payment."

SC#74 Delete GC 5.3 – PAYMENT in its entirety and replace with the following:

GC 5.3 PAYMENT

GC 5.3.1 After receipt by the *Consultant* and the *Owner* of an application for payment submitted by the *Contractor* in accordance with GC 5.2 – APPLICATIONS FOR PAYMENT:

- .1 the *Consultant* will issue to the *Owner* and copy to the *Contractor*, no later than 14 calendar days after the receipt of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due. If the *Consultant* issues a certificate for payment for an amount less than the full amount stated on the application for payment, the *Consultant* will issue a *Notice of Non-Payment* in respect of the disputed amount; and
- .2 the *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement - PAYMENT in the amount set out in the certificate for payment on or before the day that is 28 calendar days following receipt by the *Consultant* of the application for payment.

GC 5.3.2 **[Payment to the Contractor will be made by electronic funds transfer.] [NTD: Note that the method of payment can be revised for each project, as needed.]**

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK

SC#75 GC 5.4 Delete GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK in its entirety and replace it with the following:

GC 5.4.1 Prior to submitting its written application for *Substantial Performance of the Work*, the *Contractor* shall submit to the *Consultant* all:

- .1 guarantees;
- .2 warranties;
- .3 certificates;
- .4 final testing and balancing reports;
- .5 distribution system diagrams;
- .6 spare parts;

- .7 a complete manual for the operation and recommended maintenance of all systems, equipment, materials and finishes, and other similar concepts for use by the Owner;
- .8 samples;
- .9 reports and correspondence from authorities having jurisdiction in the *Place of the Work*;
- .10 *Shop Drawings*;
- .11 inspection certificates;
- .12 marked-up record or *As-Built Drawings* from the construction trailer;

and 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 conformance with the requirements of municipal, governmental, and utility authorities having jurisdiction in the *Place of the Work*. The *Consultant* shall refuse to certify *Substantial Performance of the Work* if the submittals referred to in this paragraph 5.4.1 are not provided by the *Contractor*.

GC 5.4.2 The *Consultant* will review the *Work* to verify the validity of the application for *Substantial Performance of the Work* and shall promptly, and in any event, no later than 30 calendar days after receipt of the *Contractor's* complete deficiency list and application, the *Consultant* shall:

- .1 prepare a final deficiency list incorporating all items to be completed or corrected. Each item is to have an indicated value for correction or completion. Determination of the value of items on the deficiencies list shall be made in accordance with GC 5.8.1. The final deficiency list complete with values is to be included with the *Consultant's* draft verification and shall be reviewed with the *Owner* prior to 5.4.2.2; and
- .2 having completed 5.4.2.1, the *Consultant* shall:
 - a. advise the *Contractor* in writing that the *Work* or the designated portion of the *Work* is not substantially performed and give reasons why, or
 - b. state the date of *Substantial Performance of the Work* in a certificate and issue a copy of that certificate to each the *Owner* and the *Contractor*.

GC 5.4.3 The acceptance by the *Contractor* of the *Substantial Performance of the Work* certificate, or the acceptance of a certificate by a *Subcontractor* or for any payment due thereunder shall constitute a waiver by either the *Contractor*, or the *Subcontractor*, as the case may be, of all claims whatsoever against the *Owner* under this *Contract* or any trade contract whether for a change in the *Contract Price*, extension of *Contract Time*, or otherwise, except those made in writing prior to the *Contractor's* application for payment upon *Substantial Performance of the Work* and still unsettled.

GC 5.4.4 The *Contractor* shall conform to all requirements of *Applicable Law* in force in the jurisdiction of the *Place of the Work* with respect to publishing a copy of the *Substantial Performance of the Work* certificate. As applicable, the *Contractor* shall provide suitable evidence of the publication to the *Consultant* and *Owner*. If the *Contractor* fails to publish

such notice and the publication of the notice is a requirement of *Applicable Law* in the *Place of the Work*, the *Owner* shall be at liberty to publish and back charge the *Contractor* its reasonable costs for doing so.

- GC 5.4.5 After the issuance of the *Substantial Performance of the Work* certificate, the *Contractor* shall:
- .1 submit an application for payment of the holdback amounts, and the application by the *Contractor* shall be accompanied by:
 - a. a certificate, issued by an agency or firm providing workers' compensation insurance to the *Contractor*, verifying that coverage is in force at the time of making application for payment, and that coverage will remain in force for at least 60 days thereafter; and,
 - b. a declaration by the *Contractor*, in a form approved by the *Consultant*, verifying performance of the *Work* in compliance with all applicable regulatory requirements respecting environmental protection, fire safety, public safety and occupational health and safety;
 - c. a *Statutory Declaration* to state that all accounts for labour, subcontracts, *Products*, *Construction Equipment*, and other indebtedness which may have been incurred by the *Contractor* in the *Substantial Performance of the Work* and for which the *Owner* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute; and
 - d. a statement that no written notices of liens have been received by it.
- GC 5.4.6 After the receipt of a complete application for payment of the holdback amounts from the *Contractor*, the *Consultant* will issue a certificate for payment of the holdback payments.
- GC 5.4.7 Where legislation permits progressive release of the holdback for a portion of the *Work* and the *Consultant* has certified or verified that the part of the *Work* has been performed prior to *Substantial Performance of the Work*, the *Owner* may, in its sole discretion, release such portion to the *Contractor* in accordance with such legislation.
- GC 5.4.8 Notwithstanding any progressive release of the holdback, the *Contractor* shall ensure that such parts of the *Work* are protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparently when the holdback was released.

GC 5.5 FINAL PAYMENT

SC#76 GC 5.5.1 Delete paragraph 5.5.1 in its entirety and substitute as follows:

When the *Contractor* considers that the *Work* is completed, as defined in the lien legislation applicable to the *Place of the Work* or if such definition does not exist, in accordance with other applicable legislation, industry practice or provisions which may be agreed to between the parties, the *Contractor* shall submit an application for final payment. The *Contractor's* application for final payment shall be accompanied by any documents or materials not yet delivered pursuant to paragraph 5.4.1, together with complete and final *As-Built Drawings* and:

- .1 all of the requirements for an application for payment as set out in paragraph 5.2.1.
- .2 the *Contractor's* written request for release of the deficiency holdback; and
- .3 the evidence of workers' compensation compliance required by paragraph 10.4.1.

The *Work* shall be deemed not to be completed until all of the aforementioned documents have been delivered, and the *Owner* may withhold payment in respect of the delivery of any documents in an amount determined by the *Consultant* in accordance with the provisions of GC 5.6 – DEFERRED WORK.

SC#77 Delete the entirety of paragraphs 5.5.2, 5.5.3 and 5.5.4 and substitute the following new paragraphs 5.5.2, 5.5.3 and 5.5.4:

GC 5.5.2 The *Consultant* will issue to the *Owner* and copy to the *Contractor*, no later than 14 calendar days after the receipt of the application for final payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due. If the *Consultant* issues a certificate for payment for an amount less than the full amount stated on the application for final payment or does not issue a certificate for payment, the *Consultant* will issue a *Notice of Non-Payment* in respect of the disputed amount.

GC 5.5.3 Subject to the provision of paragraph 10.4.1 of GC 10.4 - WORKERS' COMPENSATION, and any lien legislation applicable to the *Place of the Work*, the *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement - PAYMENT in the amount set out in the certificate for payment on or before the day that is 28 calendar days following receipt by the *Consultant* of the application for final payment.

GC 5.5.4 The *Contractor* shall submit, with the application for final payment upon total completion, a written statement that the *Work* has been performed to the requirements of the *Contract Documents*, and itemizing approved changes in the *Work* and the *Consultant's* written instructions and modifications indicated by the Governmental Authorities having jurisdiction and such other materials or documentation as may be required to be submitted under the *Contract Documents*.

GC 5.6 DEFERRED WORK

SC#78 GC 5.6.1 Delete paragraph 5.6.1 and replace with the following:

If because of conditions reasonably beyond the control of the *Contractor*, there are items of work that cannot be performed, payment in full for that portion of the *Work* which has been performed as certified by the *Consultant* shall not be withheld or delayed by the *Owner* on account thereof, but the *Owner* may withhold, until the remaining portion of the *Work* is finished, only such an amount that the *Consultant* determines is sufficient and reasonable to cover the cost of performing such remaining work and will do so by issuing a *Notice of Non-Payment* in respect of the disputed amount.

SC#79 GC 5.6.2 Add a new paragraph 5.6.2 as follows:

If the *Owner* intends to exercise its right to withhold payment pursuant to GC 5.6.1, it may provide notice to the *Contractor*. Provided the *Contractor* receives such notice at least five *Working Days* prior to its submission of an application for payment, it shall include a separate line item setting out the amount the *Owner* has indicated it intends to withhold from the payment. If the *Owner* does not provide such notice, it may withhold amounts in accordance with this GC 5.6 from any payment and issue a *Notice of Non-Payment* in respect of the amount withheld in accordance with GC 5.6.1.

GC 5.8 DEFICIENCY HOLDBACK

SC#80 Add new General Condition 5.8 – DEFICIENCY HOLDBACK:

GC 5.8.1 Notwithstanding any provisions contained in the *Contract Documents* concerning certification and release of monies to the *Contractor*, the *Owner* reserves the right to establish a deficiency holdback, at the time of the review for *Substantial Performance of the Work*, based on a 200% dollar value of the deficiencies listed by the *Consultant*. The value of work outstanding for the calculation of *Substantial Performance of the Work* under the *Construction Act* shall utilize this 200% dollar value. No individual deficiency will be valued at less than two hundred dollars (\$200.00). The *Owner* shall retain the entire deficiency holdback amount until completion of all of the deficiencies listed by the *Consultant* to the satisfaction of the *Consultant*. The *Owner* shall notify the *Contractor* of the amount of the deficiencies holdback it intends to withhold in accordance with this GC 5.8.1 with the issuance of the certificate of *Substantial Performance of the Work* and the *Contractor* shall include a separate line item setting out the amount of the deficiencies holdback in its application for payment submitted pursuant to GC 5.4.5.

GC 5.9 RIGHT TO DISPUTE AMOUNTS

SC#81 GC 5.9.1 Add new General Condition 5.9 – RIGHT TO DISPUTE AMOUNTS

The *Owner* may, in its sole discretion, pay amounts to the *Contractor* that have not been certified by the *Consultant* for any reason. Any payment by the *Owner* shall not constitute acceptance of any portion of the *Work* or *Products* which are not in accordance with the requirements of the *Contract Documents* or acceptance by the *Owner* of any amounts set out in an application for payment. The *Owner* reserves the right to dispute any amounts set out in an application for payment at any time during the *Contract Time*, whether or not it has previously made a payment in respect of such amounts.

GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

- SC#82 Add new paragraphs 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7 and 6.1.8 as follows:
- GC 6.1.3 The *Contractor* agrees that changes resulting from construction coordination, including but not limited to, site surface conditions, site coordination, and *Subcontractor* and *Supplier* coordination are included in the *Contract Price* and the *Contractor* shall be precluded from making any claim for a change in the *Contract Price* as a result of such changes.
- GC 6.1.4 Labour costs shall be actual, prevailing rates at the *Place of the Work* paid to workers, plus statutory charges on labour including WSIB, unemployment insurance, Canada pension, vacation pay, hospitalization and medical insurance. The *Contractor* shall provides these rates, when requested by the *Consultant*, for review and/or agreement.
- GC 6.1.5 Quotations for changes to the *Work* shall be accompanied by itemized breakdowns together with detailed, substantiating quotations or cost vouchers from *Subcontractors* and *Suppliers*, submitted in a format acceptable to the *Consultant* and including any costs associated with extensions in *Contract Time*.
- GC 6.1.6 When both additions and deletions covering related *Work* or substitutions are involved in a change to the *Work*, payment, including *Overhead* and profit, shall be calculated on the basis of the net difference, if any, with respect to that change in the *Work*.
- GC 6.1.7 No extension to the *Contract Time* shall be granted for changes in the *Work* unless the *Contractor* can clearly demonstrate that such changes significantly alter the overall construction schedule submitted at the commencement of the *Work*. Extensions of *Contract Time* and all associated costs, if approved pursuant to GC 3.4.3, are to be included in the relevant *Change Order*.
- GC 6.1.8 When a change in the *Work* is proposed or required, the *Contractor* shall within 10 calendar days submit to the *Consultant* for review a claim for a change in *Contract Price* and/or *Contract Time*. Should 10 calendar days be insufficient to prepare the submission, the *Contractor* shall within 5 calendar days, advise the *Consultant* in writing of the proposed date of submission of the claim. Claims submitted after the dates prescribed herein will not be considered.
- GC 6.2 CHANGE ORDER**
- SC#83 GC 6.2.1 Add after the last sentence in the paragraph:
- The adjustment in the *Contract Time* and the *Contract Price* shall include an adjustment, if any, for delay or for the impact that the change in the *Work* has on the *Work* of the *Contractor*, and once such adjustment is made, the *Contractor* shall be precluded from making any further claims for delay or impact with respect to the change in the *Work*.
- SC#84 GC 6.2.3 Add new paragraph 6.2.3 as follows:
- The value of a change shall be determined in one or more of the following methods as directed by the *Consultant*.
- .1 by estimate and acceptance of a lump sum;
 - .2 by negotiated unit prices which include the *Contractor's Overhead* and profit, or;
 - .3 by the actual cost to the *Owner*, such costs to be the actual cost after all credits included in the change have been deducted, plus the following ranges of mark-up

on such costs:

- a. for *Change Orders* with a value of \$0 to \$15,000 the total *Subcontractor/Supplier* mark-up including *Overhead* and profit shall be 10% and the total *Contractor* mark-up including overhead and profit shall be 5%.
- b. For *Change Orders* in excess of \$15,000, the total *Subcontractor/Supplier* mark-up including *Overhead* and profit shall be 5% and the total *Contractor* mark-up including *Overhead* and profit shall be 3%.

SC#85 GC 6.2.4 Add new paragraph 6.2.4 as follows:

All quotations will be submitted in a complete manner listing:

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

SC#86 GC 6.2.5 Add new paragraph 6.2.5 as follows:

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

GC 6.3 CHANGE DIRECTIVE

SC#87 GC 6.3.6 Amend paragraph 6.3.6 by deleting the final period and adding as follows:

- .4 Ten percent (10%) for profit plus five percent (5%) for overhead on work by the *Contractor's* own forces up to the value of \$15,000 and five percent (5%) for profit plus three percent (3%) for *Overhead* on work by the *Contractor's* own forces in excess of \$15,000 and,
- .5 Ten percent (10%) fee on amounts paid to *Subcontractors* or *Suppliers* under subparagraph 6.3.7.6 for changes up to the value of \$15,000 and five percent (5%) on changes over \$15,000.

Unless a *Subcontractor's* or *Supplier's* price has been approved by the *Owner*, the *Subcontractor* or *Supplier* shall be entitled to its actual net cost as determined in accordance with paragraph 6.3.7, plus ten percent (10%) for profit and five percent (5%) for *Overhead* on such actual net cost for changes in the *Work*, up to the value of \$15,000 and five percent (5%) for profit and three percent (3%) for overhead on such actual net cost changes in the *Work* in excess of \$15,000.

SC#88 GC 6.3.6.2 Delete paragraph 6.3.6.2 and replace it with the following:

If a change in the *Work* results in a net decrease in the *Contract Price* in excess of \$15,000 the amount of the credit shall be the net cost, with deduction for *Overhead* and profit. If a change in the *Work* results in a net decrease in the *Contract Price* of \$15,000 or less, the amount of the credit shall be the net cost, without deduction for *Overhead* or profit.

SC#89 GC 6.3.7 In subparagraph 6.3.7 insert “while directly engaged in the work attributable to the change” after the words “in the direct implementation of the *Change Directive*”.

SC#90 GC 6.3.7 At the end of paragraph 6.3.7 add the following:

All other costs attributable to the change in the *Work* including the costs of all administrative or supervisory personnel are included in *Overhead* and profit calculated in accordance with the provisions of paragraph 6.1.6 of GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES.

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

SC#91 GC 6.4.1 Delete paragraph 6.4.1 and replace with the following:

GC 6.4.1.1 Prior to the submission of the bid on which the *Contract* was awarded, the *Contractor* confirms that it carefully investigated the *Place of the Work* and carried out such tests as it deemed appropriate and, in doing so, applied to that investigation the degree of care and skill required by paragraph 3.11.1.

GC 6.4.1.2 The *Contractor* is deemed to assume all risk of conditions or circumstances now existing or arising in the course of the *Work* which could make the work more expensive or more difficult to perform than was contemplated at the time the *Contract* was executed. No claim by the *Contractor* will be considered by the *Owner* or the *Consultant* in connection with conditions which could reasonably have been ascertained by such investigation or other due diligence undertaken prior to the execution of the *Contract*.

SC#92 GC 6.4.2 Amend paragraph 6.4.2 by adding a new first sentence as follows:

Having regard to paragraph 6.4.1, if the *Contractor* believes that the conditions of the *Place of the Work* differ materially from those reasonably anticipated, differ materially from those indicated in the *Contract Documents* or were concealed from discovery notwithstanding the conduct of the investigation described in paragraph 6.4.1, it shall provide the *Owner* and the *Consultant* with *Notice in Writing* no later than five (5) *Working Days* after the first observation of such conditions.

Amend the existing second sentence of paragraph 6.4.2 in the second line, following the word “materially” by adding the words “or were concealed from discovery notwithstanding the conduct of the investigation described in paragraph 6.4.1,”

SC#93 GC 6.4.3 Delete paragraph 6.4.3 in its entirety and substitute the following:

If the *Consultant* makes a finding pursuant to paragraph 6.4.2 that no change in the *Contract Price* or the *Contract Time* is justified, the *Consultant* shall report in writing the reasons for this finding to the *Owner* and the *Contractor*.

SC#94 GC 6.4.5 Add a new paragraph 6.4.5. as follows:

No claims for additional compensation or for an extension of *Contract Time* shall be allowed if the *Contractor* fails to give *Notice in Writing* to the *Owner* or *Consultant*, as

required by paragraph 6.4.2.

GC 6.5 DELAYS

- SC#95 GC 6.5.1 Delete the words after the word “for” in the fourth line of paragraph 6.5.1, and add the words “...reasonable direct costs directly flowing from the delay, but excluding any consequential, indirect or special damages (including, without limitation, loss of profits, loss of opportunity or loss of productivity).”
- SC#96 GC 6.5.2 Delete the words after the word “for” in the fourth line of paragraph 6.5.2, and add the words “...reasonable direct costs directly flowing from the delay, but excluding any consequential, indirect or special damages (including, without limitation, loss of profits, loss of opportunity or loss of productivity).”
- SC#97 GC 6.5.3 Delete paragraph 6.5.3 in its entirety and replace with the following:
- If the *Contractor* is delayed in the performance of the *Work* by *Force Majeure*, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. 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 the actions of the *Owner*.
- SC#98 GC 6.5.4 Delete paragraph 6.5.4 in its entirety and replace with the following:
- No extension or compensation shall be made for delay or impact on the *Work* unless *Notice in Writing* of a claim is given to the *Consultant* not later than ten (10) *Working Days* after the commencement of the delays or impact on the *Work*, provided however, that, in the case of a continuing cause of delay or impact on the *Work*, only one notice of claim shall be necessary.
- SC#99 Add new paragraphs 6.5.6, 6.5.7 and 6.5.8 as follows:
- GC 6.5.6 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor* or anyone directly or indirectly employed or engaged by the *Contractor*, or by any cause within the *Contractor*'s control, then the *Contract Time* may be extended for such reasonable time as the *Owner* may decide in consultation with the *Consultant* and the *Contractor*. The *Owner* shall be reimbursed by the *Contractor* for all reasonable costs incurred by the *Owner* as the result of such delay, including, but not limited to, the cost of all additional services required by the *Owner* from the *Consultant* or any sub-consultants, project managers, or others employed or engaged by the *Owner*, and in particular, the costs of the *Consultant*'s services during the period between the date of *Substantial Performance of the Work* stated in Article A-1 herein, as the same may be extended through the provision of these General Conditions, and any later or actual date of *Substantial Performance of the Work* achieved by the *Contractor*.
- GC 6.5.7 Without limiting the obligations of the *Contractor* described in GC 3.2 – CONSTRUCTION BY OWNER OR OTHER CONTRACTORS or GC 9.4 – CONSTRUCTION SAFETY, the *Owner* or *Consultant* may, by *Notice in Writing*, direct the *Contractor* to stop the *Work* where the *Owner* or *Consultant* determines that there is an imminent risk to the safety of persons or property at the *Place of the Work*. In the event that the *Contractor* receives such notice, it shall immediately stop the *Work* and secure the site. The *Contractor* shall not be entitled to an extension of the *Contract Time* or to an increase in the *Contract Price* unless the resulting delay, if any, would entitle the

-
- Contractor* to an extension of the Contact Time or the reimbursement of the *Contractor's* costs as provided in paragraphs 6.5.1, 6.5.2 or 6.5.3.
- GC 6.5.8 No claim for delay shall be made and the *Contract Time* shall not be extended due to climatic conditions or arising from the *Contractor's* efforts to maintain the *Contract* schedule.
- GC 6.6 CLAIMS FOR A CHANGE IN THE CONTRACT PRICE**
- SC#100 GC 6.6 Delete GC 6.6 – CLAIMS FOR A CHANGE IN THE CONTRACT PRICE in its entirety.
- GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT**
- SC#101 GC 7.1 Revise the heading to read "OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT"
- SC#102 GC 7.1.2 Delete paragraph 7.1.2 and replace with the following:
- If the *Contractor* should neglect to prosecute the *Work* properly, fails or neglects to maintain the latest schedule provided pursuant to GC 3.4, or otherwise fails to comply with the requirements of the *Contract*, and if the *Consultant* has given a written statement to the *Contractor* that sufficient cause exists to justify such action, the *Owner* may notify the *Contractor*, in writing, that the *Contractor* is in default of the *Contractor's* contractual obligations and instruct the *Contractor* to correct the default in the five (5) *Working Days* immediately following the receipt of such notice.
- SC#103 GC 7.1.3.4 Add new subparagraph 7.1.3.4 as follows:
- An "acceptable schedule" as referred to in subparagraph 7.1.3.2. means a schedule approved by the *Consultant* and the *Owner* wherein the default can be corrected within the balance of the *Contract Time* and shall not cause delay to any other aspect of the *Work* or the work of *Other Contractors*, and in no event shall it be deemed to give a right to extend the *Contract Time*.
- SC#104 GC 7.1.4.1 Delete sentence and replace with the following:
- Correct such default and deduct the cost, including *Owner's* expenses, thereof from any payment then or thereafter due the *Contractor*.
- SC#105 GC 7.1.5.3 In subparagraph 7.1.5.3 delete the words: "however, if such cost of finishing the *Work* is less than the unpaid balance of the *Contract Price*, the *Owner* shall pay the *Contractor* the difference;"
- SC#106 Delete paragraph 7.1.6 in its entirety and add new paragraphs 7.1.6, 7.1.7, 7.1.8, 7.1.9 and 7.1.10 as follows:

GC 7.1.6 In addition to its right to terminate the Contract set out herein, the Owner may terminate this Contract at any time for any other reason and without cause upon giving the Contractor fifteen (15) Working Days Notice in Writing to that effect. In such event, the Owner shall pay to the Contractor:

- .1 the portion of the *Contract Price* applicable to the *Work* performed up to the date of *termination* that has not previously been paid to the *Contractor* as determined by the *Consultant*, and
- .2 all of the *Contractor's* reasonable and direct out-of-pocket costs of effecting the termination (without mark-up), including documented demobilization costs and subcontract cancellation charges with arm's -length *Subcontractors* (with respect to which *Contractor* agrees to mitigate such cancellation charges), provided that *Contractor* supplies *Owner* with invoices, information and other documentation as requested by the *Owner* to support these payments,

but in no event shall the Contractor be entitled to be compensated for any loss of profit on unperformed portions of the Work, or indirect, special, or consequential damages incurred.

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

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

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

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

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

SC#107 GC 7.2.2 Delete paragraph 7.2.2 in its entirety.

-
- SC#108 GC 7.2.3.1 Delete subparagraph 7.2.3.1 in its entirety.
- SC#109 GC 7.2.3.2 Delete subparagraph 7.2.3.2 in its entirety.
- SC#110 GC 7.2.3.3 Delete subparagraph 7.2.3.3 in its entirety.
- SC#111 GC 7.2.3.4 In subparagraph 7.2.3.4, delete the words "except for GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER".
- SC#112 GC 7.2.5 Delete paragraph 7.2.5 in its entirety and replace it with the following::
- If the default cannot be corrected within the 5 *Working Days* specified in paragraph 7.2.4, the *Owner* shall be deemed to have cured the default if it:
- .1 commences correction of the default within the specified time;
 - .2 provides the *Contractor* with an acceptable schedule for such correction; and,
 - .3 completes the correction in accordance with such schedule.
- SC#113 Add new paragraphs 7.2.6, 7.2.7, 7.2.8 and 7.2.9 as follows:
- GC 7.2.6 If the *Contractor* terminates the *Contract* under the conditions described in GC 7.2 – CONTRACTOR’S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* shall be entitled to be paid for all *Work* performed to the date of termination, as determined by the *Consultant*. The *Contractor* shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization and losses sustained on *Products* and *Construction Equipment*. The *Contractor* shall not be entitled to any recovery for any special, indirect or consequential losses, including loss of profit.
- GC 7.2.7 The *Contractor* shall not be entitled to give notice of the *Owner*’s default or terminate the *Contract* in the event the *Owner* withholds certificates or payment or both in accordance with the *Contract* because of:
- (a) the *Contractor*’s failure to pay all legitimate claims promptly, or
 - (b) the failure of the *Contractor* to discharge construction liens which are registered against the title to the *Place of the Work*.
- GC 7.2.8 The *Contractor*’s obligations under the *Contract* as to quality, correction and warranty of the *Work* performed by the *Contractor* up to the effective date of termination shall continue in force and shall survive termination by the *Contractor* in accordance with paragraph 7.2.4.
- GC 7.2.9 If the *Contractor* suspends the *Work* or terminates the *Contract* as provided for in GC 7.2 – CONTRACTOR’S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* shall ensure the site and the *Work* are left in a safe, secure condition as required by authorities having jurisdiction at the *Place of the Work* and the *Contract Documents*.
- GC 8.1 AUTHORITY OF THE CONSULTANT**

SC#114 GC 8.1.1 Add the following to the beginning of paragraph 8.1.1:

“Unless either party has referred a matter to adjudication pursuant to Section 13.5 of the *Construction Act*,”

SC#115 GC 8.1.2 Delete 8.1.2 in its entirety and replace it with the following new 8.1.2:

If a dispute arises under the *Contract* in respect of a matter in which the *Consultant* has no authority under the *Contract* to make a finding, and provided that neither party has referred a matter to adjudication pursuant to Section 13.5 of the *Construction Act*, the procedures set out in paragraphs 8.3.3 to 8.3.8 of GC 8.3 - NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.4 - RETENTION OF RIGHTS apply to that dispute with the necessary changes to detail as may be required.

SC#116 GC 8.1.3 Delete entire paragraph.

GC 8.2 ADJUDICATION

SC#117 GC 8.2.2 Add the following new paragraph 8.2.2:

Either party may refer a matter set out in Section 13.5(1) of the *Construction Act* to adjudication pursuant to Part II.1 of the *Construction Act*. The parties agree that no other matter may be referred to adjudication unless the parties agree in writing.

SC#118 GC 8.2.3 Add the following new paragraph 8.2.3:

The parties agree that no other matter may be referred to adjudication unless the parties agree in writing. The parties agree and consent that any *Construction Act Document* may be sent to the other party and any adjudicator via electronic mail and that service of such *Construction Act Documents* will be effective at the time and date of sending, except that where an electronic mail message is sent after 4:00 p.m. Eastern Time, service of such *Construction Act Documents* will be deemed to be effective the following day. The e-mail message to which a *Construction Act Document* is attached shall include the sender’s name, address, telephone number and the name and telephone number of a person to contact in the event of a transmission problem. Any *Construction Act Documents* shall be served in accordance with this section unless the parties subsequently agree otherwise in writing or an adjudicator directs otherwise.

GC 8.3 NEGOTIATION, MEDIATION AND ARBITRATION

SC#119 GC 8.3.1 Amend paragraph 8.3.1 by changing part of the second line from “shall appoint a *Project Mediator*” to “may appoint a *Project Mediator*, except that such an appointment shall only be made if both the *Owner* and the *Contractor* agree.”

SC#120 GC 8.3.4 Amend paragraph 8.3.4 by changing part of the second line from “the parties shall request the *Project Mediator*” to “and subject to paragraph 8.2.1 the parties may request the *Project Mediator*”.

- SC#121 Delete paragraphs 8.3.6, 8.3.7 and 8.3.8 in their entirety.
- Add new paragraph 8.3.6 as follows:
- GC 8.3.6 The dispute may be finally resolved by arbitration under the Rules for Arbitration of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing, provided that both the *Contractor* and the *Owner* agree. If the *Contractor* and the *Owner* agree to resolve the dispute by arbitration, the arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- GC 9.1 PROTECTION OF WORK AND PROPERTY**
- SC#122 GC 9.1.1.1 Delete subparagraph 9.1.1.1 in its entirety and substitute the following:
- errors or omissions in the *Contract Documents* which the *Contractor* could not have discovered applying the standard of care described in paragraph 3.11.1;
- SC#123 GC 9.1.2 Delete paragraph 9.1.2 in its entirety and substitute as follows:
- Before commencing any *Work*, the *Contractor* shall determine the locations of all underground or hidden utilities and structures indicated in or inferable from the *Contract Documents*, or that are inferable from an inspection of the *Place of the Work* exercising the degree of care and skill described in paragraph 3.11.1.
- SC#124 GC 9.1.5 Add new paragraph 9.1.5 as follows:
- With respect to any damage to which paragraphs 9.1.3 or 9.1.4 apply, the *Contractor* shall neither undertake to repair or replace any damage whatsoever to the work of *Other Contractors*, or to adjoining property, nor acknowledge that the same was caused or occasioned by the *Contractor*, without first consulting the *Owner* and receiving written instructions as to the course of action to be followed from either the *Owner* or the *Consultant*. Where, however, there is danger to life, the environment, or public safety, the *Contractor* shall take such emergency action as it deems necessary to remove the danger.
- GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES**
- SC#125 GC 9.2.5.5 Add new subparagraph 9.2.5.5 as follows:
- in addition to the steps described in subparagraph 9.2.5.3, take any further steps it deems necessary to mitigate or stabilize any conditions resulting from encountering toxic or hazardous substances or materials
- SC#126 GC 9.2.6 Add the following to paragraph 9.2.6, after the word “responsible” in the second line:
- ...or whether any toxic or hazardous substances or materials already at the *Place of the Work* (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the *Contractor* or anyone for whom the *Contractor* is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damages to the property of the *Owner* or others,...
- SC#127 GC 9.2.7 Delete subparagraph 9.2.7.4 in its entirety.

- SC#128 GC 9.2.8 Add the following to paragraph 9.2.8, after the word “responsible” in the second line:
- ...or whether any toxic or hazardous substances or materials already at the *Place of the Work* (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the *Contractor* or anyone for whom the *Contractor* is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damages to the property of the *Owner* or others,...
- SC#129 GC 9.2.10 The *Contractor*, *Subcontractors* and Suppliers shall not bring on to the *Place of the Work* any toxic or hazardous substances and materials except as required in order to perform the *Work*. If such toxic or hazardous substances or materials are required, storage in quantities sufficient to allow work to proceed to the end of any current work week only shall be permitted. All such toxic and hazardous materials and substances at the *Place of the Work* shall be handled and disposed of only in accordance with all *Applicable Law*.
- SC#130 GC 9.2.11 The *Contractor* shall indemnify and hold harmless the *Owner*, its parent, subsidiaries and affiliates, the *Consultant* and their respective partners, officers, directors, agents and employees from and against any and all liabilities, costs, expenses, and claims resulting from bodily injury, including death, and damage to property of any person, corporation or other body politic, that arises from the use by the *Contractor*, *Subcontractors* and Suppliers of any toxic or hazardous substances or materials at the *Place of the Work*.
- GC 9.4 CONSTRUCTION SAFETY**
- SC#131 Delete paragraphs 9.4.1 to 9.4.5 in their entirety and substitute as follows:
- GC 9.4.1 The *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations and practices required by the 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*. The *Contractor* shall assume overall responsibility, carry out and discharge all duties and obligations of, and be designated or registered as the “prime contractor”, “constructor” or equivalent role with respect to the health and construction safety legislation applicable to the *Place of the Work* and the Project, including responsibility for all health and safety at the *Place of the Work* and over the *Owner* and *Other Contractors*. In order to effectively exercise that responsibility, the *Owner* authorizes the *Contractor* to supervise the *Owner's* own forces at the *Place of the Work* with respect to applicable health and construction safety matters and, where reasonably necessary due to health or construction safety considerations, deny the *Owner's* own forces or *Other Contractors* access to the *Place of Work*.

- GC 9.4.2 Prior to the commencement of the *Work*, the *Contractor* shall submit to the *Owner*:
- .1 the evidence of workers' compensation compliance required by GC 10.4.1;
 - .2 copies of the *Contractor's* insurance policies having application to the *Project* or certificates of insurance, at the option of the *Owner*;
 - .3 documentation setting out the *Contractor's* in-house safety programs;
 - .4 copies of any documentation or notices to be filed or delivered to the authorities having jurisdiction for the regulation of occupational health and safety at the *Place of the Work*.
- GC 9.4.3 The *Contractor* shall indemnify and save harmless the *Owner*, its agents, trustees, officers, directors, employees, consultants, successors, appointees, and assigns from and against the consequences of any and all safety infractions committed by the *Contractor* under the occupational health and safety legislation in force at the *Place of the Work* including the payment of legal fees and disbursements on a substantial indemnity basis.
- GC 9.4.4 The *Owner* undertakes to include in its contracts with *Other Contractors* and in its instructions to its own forces the requirement that the *Other Contractor* or its own forces, as the case may be, comply with the policies and procedures of and the directions and instructions from the *Contractor* with respect to occupational health and safety and related matters.
- GC 9.4.5 If the *Owner* is of the reasonable opinion that the *Contractor* has not taken such precautions as are necessary to ensure compliance with the requirements of paragraph 9.4.1, the *Owner* may take any remedial measures which it deems necessary, including stopping the performance of all or any portion of the *Work*, and the *Owner* may use its employees, the *Contractor*, any *Subcontractor* or any *Other Contractors* to perform such remedial measures.
- GC 9.4.6 The *Contractor* shall file any notices or any similar document required pursuant to the *Contract* or the safety regulations in force at the *Place of the Work*. This duty of the *Contractor* will be considered to be included in the *Work* and no separate payment therefore will be made to the *Contractor*.
- GC 9.4.7 Unless otherwise provided in the *Contract Documents*, the *Contractor* shall develop, maintain and supervise for the duration of the *Work* a comprehensive safety program that will effectively incorporate and implement all required safety precautions. The program shall, at a minimum, respond fully to the applicable safety regulations and general construction practices for the safety of persons or property, including, without limitation, any general safety rules and regulations of the *Owner* and any workers' compensation or occupational health and safety statutes or regulations in force at the *Place of the Work*.
- GC 9.4.8 The *Contractor* shall provide a copy of the safety program described in paragraph 9.4.7 hereof to the *Consultant* for delivery to the *Owner* prior to the commencement of the *Work*, and shall, ensure, as far as it is reasonably practical to do so, that every employer and worker performing work in respect of the *Project* complies with such program.

GC 9.4.9 The *Contractor* shall arrange regular safety meetings, and shall supply and maintain, at its own expense, at its office or other well-known place at the job site, safety equipment necessary to protect the workers and general public against accident or injury as prescribed by the authorities having jurisdiction at the *Place of the Work*, including, without limitation, articles necessary for administering first-aid to any person and an emergency procedure for the immediate removal of any injured person to a hospital or a doctor's care.

GC 9.4.10 The *Contractor* shall promptly report in writing to the *Owner* and the *Consultant* all accidents of any sort arising out of or in connection with the performance of the *Work*, whether on or adjacent to the job site, giving full details and statement of witnesses. If death or serious injuries or damages are caused, the accident shall be promptly reported by the *Contractor* to the *Owner* and the *Consultant* by telephone or messenger in addition to any reporting required under the applicable safety regulations.

GC 9.5 MOULD

SC#132 GC 9.5.3.3 Delete subparagraph 9.5.3.3 and replace with the following:

extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and the *Owner*. If, in the opinion of the *Consultant*, the *Contractor* has been delayed in performing the *Work* and/or has incurred additional costs under paragraph 9.5.1.2, the *Owner* shall reimburse the *Contractor* for the reasonable costs incurred as a result of the delay and as a result of taking those steps, and

GC 10.1 TAXES AND DUTIES

SC#133 GC 10.1.2 Amend paragraph 10.1.2 by adding the following sentence to the end of the paragraph:

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

SC#134 GC 10.1.3 Add new paragraph 10.1.3 as follows:

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

GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

SC#135 GC 10.2.5 Amend paragraph 10.2.5 by addition the words "Subject to GC 3.4" at the beginning of the paragraph. Add the following to the end of the second sentence:

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

SC#136 GC 10.2.6 Amend paragraph 10.2.6 by adding the following sentence to the end of the paragraph:

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

SC#137 GC 10.2.8 Add new paragraph 10.2.8 as follows:

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

GC 10.4 WORKERS' COMPENSATION

SC#138 GC 10.4.1 Delete paragraph 10.4.1 and replace with the following:

Prior to commencing the *Work*, and with each and every application for payment thereafter, including the *Contractor's* application for payment of the holdback amount following *Substantial Performance of the Work* and again with the *Contractor's* application for final payment, the *Contractor* shall provide evidence of compliance with workers' compensation legislation in force at the *Place of the Work*, including payments due thereunder.

SC#139 GC 10.4.2 Add new paragraph 10.4.2 as follows:

At any time during the term of the *Contract*, when requested by the *Owner*, the *Contractor* shall provide such evidence of compliance by the *Contractor* and *Subcontractors*.

GC 11.1 INSURANCE

SC#140 GC 11 Delete entirety of GC 11 - INSURANCE and CCDC 41 and replace with the following:

GC 11.1.1 Without restricting the generality of GC 12.3 – WARRANTY, 13.1 – INDEMNIFICATION, and 13.2 – WAIVER OF CLAIMS, the *Contractor* shall provide, maintain, and pay for the insurance coverages specified in GC 11.1 – INSURANCE. Unless otherwise stipulated, the duration of each insurance policy shall be from the date of commencement of the *Work* until the expiration of the warranty periods set out in the *Contract Documents*. Prior to commencement of the *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements.

.1 General Liability Insurance

General liability insurance shall be in the name of the *Contractor*, with the *Owner* and the *Consultant* named as additional insureds, with limits of not less than \$5,000,000.00 inclusive per occurrence for bodily injury, death, and damage to property, including loss of use thereof, for itself and each of its employees, *Subcontractors* and/or agents. The insurance coverage shall not be less than the insurance required by IBC Form 2100, or its equivalent replacement, provided that IBC Form 2100 shall contain the latest edition of the

relevant CCDC endorsement form. To achieve the desired limit, umbrella, or excess liability insurance may be used. All liability coverage shall be maintained for completed operations hazards from the date of *Substantial Performance of the Work*, as set out in the *Substantial Performance of the Work* certificate, on an ongoing basis for a period of 6 years following *Substantial Performance of the Work*. Where the *Contractor* maintains a single, blanket policy, the addition of the *Owner* and the *Consultant* is limited to liability arising out of the *Project* and all operations necessary or incidental thereto. The policy shall be endorsed to provide the *Owner* with not less than 30 days' notice, in writing, in advance of any cancellation and of change or amendment restricting coverage.

.2 Automobile Liability Insurance

Automobile liability insurance in respect of licensed vehicles shall limits of not less than \$5,000,000.00 inclusive per occurrence for bodily injury, death and damage to property, covering all licensed vehicles owned or leased by the *Contractor*, and endorsed to provide the *Owner* with not less than 30 days' notice, in writing, in advance of any cancellation, change or amendment restricting coverage. Where the policy has been issued pursuant to a government-operated automobile insurance system, the *Contractor* shall provide the *Owner* with confirmation of automobile insurance coverage for all automobiles registered in the name of the *Contractor*.

.3 Contractors' Equipment Insurance

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

.4 Other Insurance

- (1) The policies shall allow for partial or total use or occupancy of the *Work*.
- (2) The policies shall provide that, in the case of a loss or damage, payment shall be made to the *Owner* and the *Contractor* as their respective interests may appear. The *Contractor* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Contractor* shall proceed to restore the *Work*. Loss or damage shall not affect the rights and obligations of either party under the *Contract* except that the *Contractor* shall be entitled to such reasonable extension of the *Contract Time*, relative to the extent of the loss or damage, as determined by the *Owner*, in its sole discretion.
- (3) The *Contractor* shall be entitled to receive from the *Owner*, in addition to the amount due under the *Contract*, the amount at which the *Owner's* interest in restoration of the *Work* has been appraised, such amount to be paid as the restoration of the *Work* proceeds and as provided in GC 5.2 – APPLICATIONS FOR PAYMENT and GC 5.3 –PAYMENT. In addition, the *Contractor* shall be entitled to receive from the payments made by the insurer the amount of the *Contractor's* interest in the restoration of the *Work*.
- (4) In the case of loss or damage to the *Work* arising from the work of *Other Contractors*, or the *Owner's* own forces, the *Owner*, in accordance with the *Owner* shall pay the *Contractor* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as

provided in GC 5.2 – APPLICATIONS FOR PAYMENT and GC 5.3 –PAYMENT.

GC 11.1.2 The *Contractor* shall be responsible for deductible amounts under the policies except where such amounts may be excluded from the *Contractor's* responsibility by the terms of GC 9.1 - PROTECTION OF WORK AND PROPERTY and GC 9.2 - TOXIC AND HAZARDOUS SUBSTANCES.

GC 11.1.3 Where the full insurable value of the *Work* is substantially less than the *Contract Price*, the *Owner* may reduce the amount of insurance required to waive the course of construction insurance requirement.

GC 11.1.4 If the *Contractor* fails to provide or maintain insurance as required by the *Contract Documents*, then the *Owner* shall have the right to provide and maintain such insurance and provide evidence of same to the *Contractor*. The *Contractor* shall pay the costs thereof to the *Owner* on demand, or the *Owner* may deduct the amount that is due or may become due to the *Contractor*.

GC 11.1.5 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.

GC 11.2 CONTRACT SECURITY

SC#141 Add a new General Condition 11.2 – CONTRACT SECURITY:

GC 11.2.1 The *Contractor* shall, prior to commencement of the *Work* or within the specified time, provide to the *Owner* any *Contract* security specified in the *Contract Documents*.

GC 11.2.2 If the *Contract Documents* require surety bonds to be provided, such bonds shall be issued by a duly licensed surety company, which has been approved by the *Owner*, authorized to transact a 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*, including all warranty and maintenance periods set out in the *Contract Documents*.

GC 11.2.3 It is the intention of the parties that the performance bond shall be applicable to all of the *Contractor's* obligations in the *Contract* Document and, wherever a performance bond is provided with language which conflicts with this intention, it shall be deemed to be amended to comply. The *Contractor* represents and warrants to the *Owner* that it has provided its surety with a copy of the *Contract Documents* prior to the issuance of such bonds.

GC 12.1 READY-FOR-TAKEOVER

SC#142 GC 12.1.1.9 Add new subparagraph 12.1.1.9 as follows:

The Contractor shall remove all waste products and debris, other than that resulting from the work of the Owner, Other Contractors or their employees, and shall leave the Place of the Work clean and suitable for use or occupancy by the Owner. The Contractor shall remove products, tools, Construction Equipment, and Temporary Work not required for the performance of the remaining work.

SC#143 GC 12.1.5 Delete paragraph 12.1.5 in its entirety and substitute the following:

Following the confirmation of the date of *Ready-for-Takeover*, the following shall apply to completing the *Work*:

- (i) *Contractor* is to complete the *Work* within sixty (60) calendar days.
- (ii) No payments will be processed between *Ready-for-Takeover* and the completion of the *Work*.
- (iii) The *Owner* reserves the right to contract out any or all unfinished *Work* if it has not been completed within 60 days of *Ready-for-Takeover* without prejudice to any other right or remedy and without affecting the warranty period. The cost of completing the *Work* shall be deducted from the *Contract Price*.

SC#144

Add new paragraphs 12.1.7 and 12.1.8 as follows:

GC 12.1.7 The *Contractor* shall submit full and complete digital record or *As-Built Drawings* to the *Consultant* within 45 days of the confirmation of the date of *Ready-for-Takeover* and the *Owner* shall be at liberty to withhold, from amounts otherwise payable to the *Contractor*, an amount not to exceed one percent of the *Contract Price* as security for the obligation of the *Contractor* to deliver such digital record or *As-Built Drawings*.

GC 12.1.8 Together with the submission of its written application for *Ready-for-Takeover*, the *Contractor* shall submit to the *Consultant* and to the *Owner* a statutory declaration setting forth in reasonable detail any then outstanding and unresolved disputes or claims between the *Contractor* and any *Subcontractor* or *Supplier*, including any claims allegedly arising from delay, which are, directly or indirectly, related to any then outstanding or anticipated disputes or claims between the *Contractor* and the *Owner*, and this disclosure shall, at a minimum:

- .1 identify the parties involved;
- .2 identify the amount in dispute;
- .3 provide a brief statement summarizing the position of each party;
- .4 include copies of any correspondence or documents in support of either party's position;
- .5 include copies of any documents of any court or arbitration process related to the matter;
- .6 identify the dispute or claim between the *Contractor* and the *Owner* to which the matter relates; and
- .7 include a copy of any written agreement or a summary of any oral agreement between the parties related to resolution of the matter.

The disclosure requirements detailed herein are of a continuing nature and survive completion of the *Work*. Accordingly, the *Contractor* shall supplement the information provided with the original statutory declaration with additional materials pertaining to new or existing disputes or claims, as they become available. The *Contractor* shall not be entitled to recover from the *Owner* any amount pertaining to any claim or dispute referred to in this paragraph, if the provisions of this paragraph have not been fully complied with. For greater certainty, the *Contractor* is not obliged to make the aforementioned disclosure with respect to any dispute or claim that is not related to or does not touch upon any then outstanding and unresolved dispute or claim between the *Contractor* and the *Owner*.

GC 12.2 EARLY OCCUPANCE BY THE OWNER

SC#145 GC 12.2.4 Delete paragraph 12.2.4 in its entirety.

GC 12.3 WARRANTY

SC#146 GC 12.3.2 Delete from the first line of paragraph 12.3.2 the word, “The” and substitute the words “Subject to paragraph 3.4.1, the...”

SC#147 GC 12.3.4 Add the following sentence to paragraph 12.3.4: “Defects and deficiencies shall include, without limitation, shrinkage, expansion and movement.”

SC#148 Add new paragraphs 12.3.7 to 12.3.12 as follows:

GC 12.3.7 Where required by the *Contract Documents*, the *Contractor* shall provide a maintenance bond as security for the performance of the *Contractor’s* obligations as set out in GC 12.3 – WARRANTY.

GC 12.3.8 The *Contractor* shall provide fully and properly completed and signed copies of all warranties and guarantees required by the *Contract Documents*, containing:

- .1 the proper name of the *Owner*;
- .2 the proper name and address of the *Project*;
- .3 the date the warranty commences, which shall be at the “date of *Substantial Performance of the Work*” unless otherwise agreed upon by the *Consultant* in writing.
- .4 a clear definition of what is being warranted and/or guaranteed as required by the *Contract Documents*; and
- .5 the signature and seal (if required by the governing law of the *Contract*) of the company issuing the warranty, countersigned by the *Contractor*.

GC 12.3.9 Should any *Work* be repaired or replaced during the time period for which it is covered by the specified warranty, a new warranty shall be provided under the same conditions and for the same period as specified herein before. The new warranty shall commence at the completion of the repair or replacement.

GC 12.3.10 The *Contractor* shall ensure that its *Subcontractors* are bound to the requirements of GC 12.3 – WARRANTY for the *Subcontractor’s* portion of the *Work*.

GC 12.3.11 The *Contractor* shall ensure that all warranties, guarantees or other obligations for *Work*, services or *Products* performed or supplied by any *Subcontractor*, Supplier or other person in connection with the *Work* are obtained and available for the direct benefit of the *Owner*. In the alternative, the *Contractor* shall assign to the *Owner* all warranties, guarantees or other obligations for *Work*, services or *Products* performed or supplied by any *Subcontractor*, Supplier or other person in connection with the *Work* and such assignment shall be with the consent of the assigning party, where required by *Applicable Law*, or by the terms of that party’s contract. Such assignment shall be in addition to, and shall in no way limit, the warranty rights of the *Owner* under the *Contract Documents*.

GC 12.3.12 The *Contractor* shall commence or correct any deficiency within 2 *Working Days* after receiving a notice from the *Owner* or the *Consultant*, and shall complete the *Work* as expeditiously as possible, except in the case where the deficiency prevents maintaining security or where basic systems essential to the ongoing business of the *Owner* and/or its tenants cannot be maintained operational as designed. In those circumstances all necessary corrections and/or installations of temporary replacements shall be carried out immediately as an emergency service. Should the *Contractor* fail to provide this emergency service within 8 hours of a request being made during the normal business hours of the *Contractor*, the *Owner* is authorized, notwithstanding GC 3.1, to carry out all necessary repairs or replacements at the *Contractor's* expense.

GC 13.1 INDEMNIFICATION AND WAIVER

SC#149 Delete GC 13.1 – INDEMNIFICATION in its entirety and substitute as follows:

GC 13.1.1 The *Contractor* shall indemnify and hold harmless the *Owner*, its parent, subsidiaries and affiliates, the *Consultant* and their respective partners, trustees, officers, directors, agents and employees from and against any and all claims, liabilities, expenses, demands, losses, damages, actions, costs, suits, or proceedings (hereinafter called “claims”), whether in respect of claims suffered by the *Owner* or in respect of claims by third parties, that directly or indirectly arise out of, or are attributable to, the acts or omissions of the *Contractor*, its employees, agents, *Subcontractors*, Suppliers or any other persons for whom it is in law responsible (including, without limitation, claims that directly or indirectly arise out of, or are attributable to, loss of use or damage to the *Work*, the *Owner's* property or equipment, the *Contractor's* property or equipment or equipment or property adjacent to the *Place of the Work* or death or injury to the *Contractor's* personnel).

GC 13.1.2 The provisions of GC 13.1 - INDEMNIFICATION shall survive the termination of the *Contract*, howsoever caused and no payment or partial payment, no issuance of a final certificate of payment and no occupancy in whole or in part of the *Work* shall constitute a waiver or release of any of the provisions of GC 13.1.

GC 13.2 WAIVER OF CLAIMS

SC#150 GC 13.2.1 In the third line, add the words “claims for delay pursuant to GC – 6.5 DELAYS” after the word “limitation”. Add the words “(collectively “Claims”)” after “*Ready-for-Takeover* date” in the sixth line.

SC#151 GC 13.2.1.1 Change the word “claims” to “Claims” and change the word “claim” to “Claim”.

SC#152 GC 13.2.1.2 Delete paragraph in its entirety.

SC#153 GC 13.2.1.4 Change the word “claims” to “Claims”.

SC#154 GC 13.2.2 Change the words “in paragraphs 13.2.1.2 and 13.2.1.3” to “in paragraph 13.2.1.3”. Change the word “claims” to “Claims” in both instances and change the word “claim” to “Claim”. Delete the reference to "395 calendar days" in the last line of paragraph 13.2.2 and substitute "120 calendar days".

SC#155 GC 13.2.3 Delete paragraph in its entirety.

SC#156 GC 13.2.4 Delete paragraph in its entirety.

SC#157 GC 13.2.5 Delete paragraph in its entirety.

- SC#158 GC 13.2.6 Change the word “claim” to “Claim” in all instances in the paragraph.
- SC#159 GC 13.2.8 Change “The party” to “The *Contractor*”. Change the word “claim” to “Claim” in all instances in the paragraph.
- SC#160 GC 13.2.9 Change “under paragraphs 13.2.1 or 13.2.3” to “under paragraph 13.2.1”. Change both instances of the words “the party” to “the *Contractor*”. Change the word “claim” to “Claim” in all instances in the paragraph.

GC 14 OTHER PROVISIONS

- SC#161 Add new General Condition 14 – OTHER PROVISIONS as follows:

GC 14.1 OWNERSHIP OF MATERIALS

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

GC 14.2 CONSTRUCTION LIENS

- GC 14.2.1 In the event that a claim for lien is registered against the *Project* by a *Subcontractor*, *Sub-subcontractor* or Supplier, and provided the *Owner* has paid all amounts properly owing under the *Contract*, the *Contractor* shall, at its own expense:
- .1 within 10 calendar days, ensure that any and all claims for lien and certificates of action are discharged, released, or vacated by the posting of security or otherwise; and
 - .2 in the case of written notices of lien, ensure that such notices are withdrawn, in writing.
- GC 14.2.2 In the event that the *Contractor* fails to conform with the requirements of paragraph 14.2.1, the *Owner* may fulfil those requirements without *Notice in Writing* to the *Contractor* and set off and deduct from any amount owing to the *Contractor*, all costs and associated expenses, including the costs of posting security and all legal fees and disbursements associated with discharging or vacating the claim for lien or certificate of action and defending the action. If there is no amount owing by the *Owner* to the *Contractor*, then the *Contractor* shall reimburse the *Owner* for all of the said costs and associated expenses.
- GC 14.2.3 Notwithstanding any other provision in the *Contract*, the *Consultant* shall not be obligated to issue a certificate and the *Owner* shall not be obligated to make payment to the *Contractor* if, at the time such certificate or payment was otherwise due:
- .1 a claim for lien has been registered against the *Project* lands;
 - .2 if the *Owner* or mortgagee of the *Project* lands has received written notice of a lien; or
 - .3 the *Owner* or *Consultant* reasonably believe that any party has purported to retain title to *Products* or materials in respect of which an application for payment has

been made.

GC 14.2.4 Without limiting the foregoing, the *Contractor* shall, if requested by the *Owner*, defend, indemnify and save the *Owner* harmless from the amount of all such claims and the costs of defending any and all actions commenced against the *Owner* pursuant to the construction/builder's lien legislation in force at the *Place of the Work*, including the legal costs of the *Owner*, unless the lien was a direct result of a breach of the *Contract* by the *Owner* or the non-payment by the *Owner* of a valid charge or claim under the *Contract*.

GC 14.2.5 GC 14.2 – CONSTRUCTION LIENS does not apply to construction/builder's liens claimed by the *Contractor*.

GC 14.3 CONTRACTOR DISCHARGE OF LIABILITIES

14.3.1 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, materials, services, *Subcontractors* 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 14.4 RECORDS/DAILY REPORTS/DAILY LOGS

GC 14.4.1 The *Contractor* shall maintain and keep accurate *Project* records (which means all tangible records, documents, computer printouts, electronic information, books, plans, *Drawings*, *Specifications*, accounts or other information relating to the *Work*) in its office in Ontario in accordance with requirements of *Applicable Law*, but in any event for not less than 6 years from *Substantial Performance* of the *Work* or until all claims have been settled. During this time, the *Contractor* shall allow the *Owner* access to the *Project* records during normal business hours upon the giving of reasonable notice. The *Contractor* shall ensure that equivalent provisions to those provided herein are made in each subcontract and shall require the *Subcontractors* and *Suppliers* to incorporate them into every level of contract thereunder for any part of the *Work*.

GC 14.5 CONTINGENT LIABILITY

GC 14.5.1 The parties expressly agree that notwithstanding any other provision of this *Agreement*, the remedies, recourse and rights of the *Contractor* or any third party shall be limited to the *Owner*, and the *Contractor* unconditionally and irrevocably waives and releases all other claims, remedies, recourse or rights against the Crown in right of Ontario in respect of the *Agreement*, and that it shall have no remedies, recourse or rights in respect of the *Agreement* against the Crown in right of Ontario, any Ministry, Minister, agent, agency, servant, employee or representative of the Crown or any director, officer, servant, agent, employee or representative of a Crown agency or a corporation in which the Crown holds a majority of the shares or appoints a majority of the directors or member, other than against the *Owner* and the *Owner's* assets.

GC 14.6 DOCUMENT REVIEW

GC 14.6.1 The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* any error, inconsistency, or omission the *Contractor* may discover. Such review by the *Contractor* shall be undertaken with the standard of care described in paragraph 3.11.1 of the *Contract*. Except for its obligation to make such review and report the result, the *Contractor* does not assume any responsibility to the *Owner* or to the

Consultant for the accuracy of the *Contract Documents*. Provided it has exercised the degree of care and skill described in this paragraph 14.6.1, the *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* could not reasonably have discovered through the exercise of the required standard of care.

GC 14.6.2 If, at any time, the *Contractor* finds errors, inconsistencies, or omissions in the *Contract Documents* or has any doubt as to the meaning or intent of any part thereof, including laying out of the *Work*, the *Contractor* shall immediately notify the *Consultant*, and request instructions, a *Supplemental Instruction*, *Change Order*, or *Change Directive*, as the case may require, and the *Contractor* shall not proceed with the work affected until the *Contractor* has received such instructions, a *Supplemental Instruction*, *Change Order* or *Change Directive*. Neither the *Owner* nor the *Consultant* will be responsible for the consequences of any action of the *Contractor* based on oral instructions.

GC 14.6.3 Errors, inconsistencies and/or omissions in the *Drawings* and/or *Specifications* which do not allow completion of the *Work* of the *Contract* shall be brought to the *Consultant's* attention prior to the execution of the *Contract* by means of an *RFI*.

GC 14.6.4 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 required or normally recognized within respective trade practices as being necessary for the complete execution of the *Work*. The *Contractor* shall not use subsequent *RFIs*, issued during execution of the *Work* to establish a change and/or changes in the *Work* pursuant to Part 6 – CHANGES IN THE WORK.

GC 14.7 DOCUMENTS AT THE SITE

GC 14.7.1 The *Contractor* shall keep one copy of the current *Contract Documents*, *Supplemental Instructions*, contemplated *Change Orders*, *Change Orders*, *Change Directives*, cash allowance disbursement authorizations, reviewed *Shop Drawings*, submittals, reports and records of meeting at the *Place of the Work*, or available to the *Owner* electronically in good order and available to the *Owner* and *Consultant*.

END OF SUPPLEMENTARY CONDITIONS

Exhibit “1”

Proper Invoice Checklist

[NTD: This will be a list of any additional project-specific requirements for a “Proper Invoice” to be prepared by the consultant for each project.]

23992246.7