SC1. GENERAL

1.1 The Canadian Standard Construction Document CCDC 2, 2020 for Stipulated Price Contract, English version hereby forms the basis of this Contract.

1.2 The following amendments, additions, and deletions to CCDC 2, 2020 form part of the Contract Documents.

SC2. AGREEMENT BETWEEN OWNER AND CONTRACTOR

SC2.1 ARTICLE A-1 – THE WORK:

2.1.1 Delete paragraph 1.3 and add the following:

"1.3 Commence the Work immediately upon award of this Contract and attain completion of the Work so as to permit occupancy by the date specified in the ***"Request for Tender"*** and Substantial Performance of the Work by the date specified in the ***"Request for Tender"*** all in accordance with the Construction Schedule as hereinafter defined, and attain Total Completion of the Work as soon as reasonably possible thereafter and in any event by the date which is four (4) weeks following Substantial Performance of the Work".

SC2.2 ARTICLE A-3 – CONTRACT DOCUMENTS

2.2.1 Add the following:

- "TDSB Supplementary Conditions for use with CCDC 2 2020 - Stipulated Price Contract
- Addendums
- Divisions 0 through division 48 of the Specifications
- material and finishing schedules
- the Drawings
- Issued for Construction Drawings
- Instructions to Bidders and Standard Terms and Conditions
- Purchase Order"

SC2.3 ARTICLE A-4 – CONTRACT PRICE

2.3.1 Delete paragraph 4.4 and replace with:

"4.4 The Contract Price set out in Article 4.1 herein represents the total compensation payable to the Contractor for the completion of all demolition, construction, and commissioning of the Contract Work as defined in the Drawings and Specifications, and the Contractor shall not be entitled to a Change in the Work under Part 6 'Changes to the Work' or the payment of additional compensation of any kind unless such change is the direct result of a request from the Owner directing a change to either the quantity or quality of the services or materials provided for in the Work and Contract Documents."

SC2.6 "ARTICLE A-9 – TIME OF THE ESSENCE:

2.6.1 Add new Article A-9 as follows:

"Article A-9 TIME OF THE ESSENCE

9.1 Time is of the essence for this Agreement. Contractor shall vigorously prosecute the Work when and as required by Owner, maintaining at all times a rate of progress satisfactory to the Owner and adequate to assure full and timely performance of the Work. Contractor shall coordinate its Work with work on other phases of the Project, including the work of other contractors, if any, so as not to delay or hinder such work. In order to maintain its schedule and facilitate the work of others, Contractor shall work overtime, increase the size and number of crews, work multiple shifts, increase the capacity of equipment and plant, change the sequence of operations, change the methods of operations, submit a plan or schedule for improving progress, or take such other measures as directed by Owner and, except as otherwise provided in this Contract, all such measures shall be at Contractor's expense."

SC3. DEFINITIONS

SC3.1 Definitions

3.1.1 Amend the following definitions:

Consultant:

Add at the end of the first sentence the words "or such other person or entity as may be designated as the Consultant for the purposes of the Contract Documents by written notice given by the Owner to the Contractor from time to time. Within the Contract Documents, 'Architect' and 'Engineer' shall be deleted and replaced with Consultant."

Contract Documents:

Add at the end of the sentence the words "in writing"

Substantial Performance of the Work:

Delete definition Substantial Performance of the Work in its entirety and replace with the following:

"Substantial Performance means when all of the following have occurred:

(a) the Contract is deemed to have been substantially performed within the meaning of the *Construction Lien Act or Construction Act*, R.S.O. 1990 c. C.30, as applicable, and is so certified by the Consultant and a certificate of substantial performance is issued by the Consultant and published in accordance with the relevant and applicable provincial provisions of the relevant *Act* in accordance with GC 5.4.1; and

(b) all Work which has been completed has been performed substantially to the requirements of the Contract Documents including without limitation

substantially in accordance with the Drawings and Specifications therefor and is so certified by the Consultant; and

(c) where applicable, the Contractor has obtained and delivered to the Consultant and the Owner clear inspection reports from all authorities having jurisdiction with respect to any component of the Work which has been completed, unless such inspection reports are not obtained because of any failure on the part of the Consultant to perform any action or take any step which is necessary to permit the authorities to perform any required inspection of the relevant component of the Work or required as a condition to such inspection or the issuance of an inspection report; and

(d) the Contractor in consultation with the Consultant shall have prepared and delivered to the Consultant and the Owner a "punch list" defined as all items of the Work which are incomplete, outstanding, deficient or defective and in general non-conformance with the Contract Documents as determined by the Owner and/or Consultant in their sole discretion, and remain to be completed or rectified with projected completion dates for each item specified."

Subcontractor:

Delete definition Subcontractor in its entirety and replace with the following:

"Subcontract:

Subcontract means any and all Subcontracts and supply agreements in respect of the performance of any part of the Work or the supply of any equipment, services, labour or materials in connection with the Work which are entered into by the Contractor with a Subcontractor or a Supplier in accordance with GC 3.6 – SUBCONTRACTORS AND SUPPLIERS."

3.1.2 Add the following definitions:

"As-built Drawings

As-Built Drawings means drawings prepared by the *Contractor* and/or the *Consultant* (as applicable) by marking on a copy of the *Drawings* the changes from the *Drawings* which occur during construction including, but not limited to, the exact location of major building components and structures shown on the *Drawings*. For certainty, *As-Built Drawings* shall be in computer-aided design (CAD) format, as well as in paper and pdf formats.

Construction Schedule:

Construction Schedule means the schedule for the Project prepared by the Contractor and approved by the Owner as revised and/or updated from time to time pursuant to the Owner's written approval.

Hazardous Substance:

In addition to substances generally recognized as hazardous substances or characterized as such under applicable legislation, hazardous substance shall include any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of them that may impair the natural environment, injure or damage property, plant

or animal life or harm or impair the health of any individual.

Issued for Construction Drawings:

Issued for Construction (IFC) refers to a set of bid drawings and specifications that have been modified to include all the changes in the documents due to relevant addenda, selection of alternate pricing options, and other negotiated changes.

Certificate of Payment Form:

Means the standard form provided by the Consultant and/or Owner.

Mould:

Mould means as defined by CCA82 2004 Mould Guideline for the Canadian Construction Industry Canadian Construction Association Standard Construction Document Form #CCA 82 – 2004 Mould Guidelines for the Construction Industry (CCA82).

Owner's Representative:

The Owner may appoint an individual as the Owner's Representative within the Contract. This individual will be identified in writing to the Contractor at the time of contract award or anytime thereafter. If the Owner's Representative changes during the contract the Owner may notify the Contractor in writing of such change.

Standard Contract Breakdown:

Standard Contract Breakdown means the contract breakdown or schedule of values provided by the Contractor in a format agreed to by the Consultant and/or Owner.

Total Completion:

Total Performance means completion of all of the Work, including deficiencies identified by the Consultant."

GENERAL CONDITIONS

SC4. PART 1 GENERAL PROVISIONS

SC4.1 GC 1.1 CONTRACT DOCUMENTS

4.1.1 Refer to paragraph 1.1.1:

Delete the second sentence in paragraph 1.1.1 and replace with:

1.1.1 "It is intended that all work and services required for completion of the Work and for the construction and administration of the Project shall be supplied at no additional cost to the Owner in excess of the Contract Price, including all such work that is depicted and described in the Contract Documents or is reasonably inferable from the drawings and specifications and the Contract Documents as being necessary to produce the intended results of the Contract Documents. The Contractor warrants that it has reviewed the Contract Documents and that the Contract Documents, including all Drawings and Specifications, are fully adequate to take into account all construction work, labour and materials necessary to bring

about completion of the Work as indicated in the Contract Documents for the agreed Contract Price."

4.1.2 Refer to paragraph 1.1.5:

Delete paragraph 1.1.5.1 in its entirety and replace with the following:

"1.1.5.1 the order of priority of documents from highest to lowest shall be

- the Agreement between Owner and Contractor, as amended by the Supplementary Conditions
- the Definitions, as amended by the Supplementary Conditions
- Supplementary Conditions,
- the General Conditions, as amended by the Supplementary Conditions
- Addendum's
- Division 01 of the Specifications
- Technical Specifications
- material and finishing schedules
- the Drawings
    - Drawings of larger scale shall govern over those of smaller scale of the same date.
    - dimensions shown on Drawings shall govern over dimensions scaled from Drawings.
    - amended or later dated documents shall govern over earlier documents of the same type.
    - noted materials and annotations shall govern over graphic indications.
- Issued for Construction Drawings
- Instructions to Bidders and Standard Terms and Conditions
- Purchase Order

4.1.3 Add the following as new paragraph 1.1.12:

"1.1.12 The Contractor shall be provided with an electronic version of the Contract Documents to perform the Work. The Owner will not be providing the Contractor with paper copies of the Contract Drawings or Contract Specifications. Additional copies may be purchased from the Consultant/Owner (as applicable) at Cost Plus 10%."

SC4.2 GC 1.3 RIGHTS AND REMEDIES

4.2.1 Add the following as new paragraph 1.3.3:

"1.3.3 The Owner's rights and the Contractor's obligations under GC13.1-INDEMNIFICATION and other indemnification provisions, provisions of the Contract dealing with warranties or the correction of defective or non-conforming Work and any other provisions of the Contract that contemplate continuing rights

and obligations shall survive the expiry of the Contract Time, the completion of the Work or the earlier termination of the Contract."

SC4.3 GC 1.4 ASSIGNMENT

4.3.1 Delete paragraph 1.4.1 and add the following:

"1.4.1 The Owner shall have the absolute right to assign the Contract to any person or entity as may be designated by the Owner by written notice given by the Owner to the Contractor. The Contractor shall not assign the Contract or a portion thereof without the written consent of the Owner, which consent will not be unreasonably withheld."

SC4.4 "GC 1.5 PROJECT REQUIREMENTS"

4.4.1 Add the following as new paragraph 1.5.1:

"1.5.1 The Contractor represents, covenants, and warrants to the Owner that:

(a) It has the necessary high degree of experience and expertise required to enable it to perform the services required by the Contract Documents;

(b) The personnel it assigns to the Project are qualified, competent and highly experienced; and

(c) It has a sufficient staff of qualified and competent personnel to replace its designated supervisor, subject to the Owner's approval, in the event of death, incapacity or resignation; and

(d) There are no pending, threatened or anticipated claims that would have a material effect on the financial ability of the Contractor to perform its Work under the Contract; and

(e) If the Contractor is not maintaining the Construction Schedule, consistent with its obligations under this Contract, then at the request of the Owner or the Consultant, it shall increase its efforts on the Project including the addition of more personnel to the Project during regular times and during periods of time for which overtime may be required at no additional cost to the Owner."

SC4.5 "GC 1.6 EXAMINATION OF THE SITE"

4.5.1 Add the following as new paragraph 1.6.1:

"1.6.1 The Contractor represents and warrants that in entering into the Contract, it has visited and carefully examined the Place of Work in accordance with the standards described in GC 1.5, GC 1.7.1 and GC 13.1 and 13.2 and satisfied itself as to the scope and character of the Work and all conditions affecting the Work, including, without limitation, the Owner's use and occupancy requirements, physical conditions of the Place of Work, the nature and location of the Work, conditions relating to the transportation, handling and storage of materials, availability of and proximity to labour, materials, services, utilities and facilities, access to the site,

weather conditions and other aspects and matters regarding the completion of the Work within the Contract Time and Contract Price or that, not having acted in accordance with the standard described in GC 1.5, GC 1.7.1 and GC 13.1 and 13.2 or not having carried out such visit and examination, 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 more expensive or more onerous to fulfill, including safety and toxic or hazardous conditions and which would have been revealed by a Contractor acting in accordance with the standard described in GC 1.5, GC 1.7.1 and GC 13.1 and 13.2."

SC4.6 "GC 1.7 DILIGENCE, CARE AND SKILL"

4.6.1 Add the following as new paragraph 1.7.1:

"1.7.1 In performing the Work, the Contractor shall at all times exercise the standard of diligence, care and skill that would normally be provided by an experienced, skilled and prudent contractor supplying similar services in a timely and good and workmanlike manner."

SC4.7 "GC 1.8 CONTRACT PRICE"

4.7.1 Add the following as new paragraph 1.8.1:

"1.8.1 The Contract Price is the agreed amount for all the Work, including all risks, hazards, and difficulties in connection therewith assumed by the Contractor in performing the Work under the Contract. The Contractor acknowledges that it has fully reviewed the plans, drawings, specifications and other Contract Documents which comprise the Work, has reviewed the site and all conditions under which the Work will be performed and has satisfied itself that the Work required to complete the Project as depicted in the Contract Documents can be performed for the all-inclusive sum of the Contract Price without claim for additional compensation. It is intended that all work and services required for completion of the Work and for the construction and administration of the Project shall be supplied at no additional cost to the Owner, including all such work that is in the Contract Documents or is reasonably inferable from the drawings and specifications and the Contract Documents as being necessary to produce the intended results."

SC4.8 "GC 1.9 DOCUMENT REVIEW"

4.8.1 Add the following as new paragraph 1.9.1:

"1.9.1 The Contractor acknowledges that prior to submitting its bid for the Work, it thoroughly reviewed the drawings and specifications, bid documents and other Contract Documents for the Project and that it is sufficiently familiar with the drawings and specifications, bid documents and other Contract Documents. The Contractor further acknowledges that the Owner, in entering into this Contract, is relying on the Contractor's review of the drawings and specifications to substantiate that they are sufficiently complete, coordinated, constructible and otherwise

adequate to take into account all work, labour and material required for the completion of the Project for the Contract Price."

SC5. PART 2 - ADMINISTRATION OF THE CONTRACT

SC5.1 GC 2.2 ROLE OF THE CONSULTANT

5.1.1 Refer to paragraph 2.2.4:

2.2.4 In the second line delete the word "determine" and replace with "make recommendations":

5.1.2 Refer to paragraph 2.2.6:

2.2.6 Delete from paragraph the words "except with respect to GC 5.1 -FINANCING INFORMATION REQUIRED OF THE OWNER" in the first line":

5.1.3 Refer to paragraph 2.2.8, 2.2.9 and 2.2.10:

2.2.8, 2.2.9 & 2.2.10 Delete all uses of "findings" and replace with "recommendations".

SC5.2 GC 2.3 REVIEW AND INSPECTION OF WORK

5.2.1 Refer to paragraph 2.3.1:

2.3.1 Add the words "and the Owner" immediately following the words "the Consultant" appearing in the second sentence of the paragraph.

5.2.2 Refer to paragraph 2.3.2:

2.3.2 Add the words "and the Owner" immediately following the words "the Consultant" in the second line of the paragraph.

5.2.3 Refer to paragraph 2.3.3:

2.3.3 Add the words "and the Owner" immediately following the words "the Consultant" in the paragraph.

5.2.4 Add new paragraph 2.3.8:

"2.3.8 The Contractor shall review the Construction Schedule and shall study the characteristics of the Place of the Work and the requirements of the Project in order to ensure that progress of the Work proceeds in a manner consistent with the requirements of the Construction Schedule."

SC5.3 GC 2.4 DEFECTIVE WORK

5.3.1 Delete paragraph 2.4.3 in its entirety and replace it with the following:

2.4.3 "If in the opinion of the Consultant or the Owner it is not expedient to correct defective work or work not performed as provided in the Contract Documents, the Owner acting reasonably may deduct from the amount otherwise due to the Contractor the greater of (i) the difference in value between the work as performed and that called for by the Contract Documents and (ii) the cost to rectify the

defective or substandard work. If the Owner and the Contractor do not agree on the difference in value or the cost to rectify the work, they shall refer the matter to the Consultant for a preliminary determination (if applicable)."

5.3.2 Add new paragraph 2.4.4:

2.4.4 "To the extent that the Owner has suffered costs, damages or loss as a result of any defective work or the removal, replacement or re-execution of defective work, or delay, the Owner acting reasonably shall be entitled to set-off all such reasonable costs, damages and loss against the Contract Price."

SC6. PART 3 – EXECUTION OF THE WORK

SC6.1 GC 3.1 CONTROL OF THE WORK

6.1.1 Refer to paragraph 3.1.2:

3.1.2 Following the word "Contract" to read as follows "…and shall coordinate the Work so as not to unnecessarily interfere with, interrupt, obstruct, delay or otherwise affect the work of others."

SC6.2 GC 3.2 CONSTRUCTION BY THE OWNER OR OTHER CONTRACTORS

6.2.1 Add to paragraph 3.2.3:

"3.2.3.5 Failure by the Contractor to so report shall invalidate any claims against the Owner by reason of the deficiencies in the work of other contractors or Owner's forces except those deficiencies not then reasonably discoverable."

6.2.2 Add new paragraph 3.2.7 as follows:

"3.2.7 When separate contracts are awarded for other parts of the Project, or when work is performed by the Owner's own forces, the Owner shall require its own forces and those of any other contractors to comply with the Contractor's role as "Constructor" under the *Occupational Health and Safety Act* ("*OHSA*") or such other similar legislation applicable to the Work in force in the Province in which the Work is being undertaken and with the Contractor's safety programs and procedures in force at the Place of the Work to the extent the Contractor informs the Owner and such other contractors in writing of such safety programs and procedures."

6.2.3 Add new paragraph 3.2.8 as follows:

"3.2.8 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 to the best of the *Contractor*'s knowledge, information, and belief and in making such review the *Contractor* does not assume any responsibility to the *Owner* or the *Consultant* for the accuracy of the review. The *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* did not discover. If the *Contractor* does discover any error, inconsistency or omission in the *Contract Documents*, the *Contractor* shall not proceed with the

work affected until the *Contractor* has received corrected or missing information from the *Consultant.*"

SC6.3 GC 3.4 CONSTRUCTION SCHEDULE

6.3.1 Refer to paragraph 3.4.1:

3.4.1.1 Add the following to the end of this subsection: "….and complete the Work strictly in accordance with the Construction Schedule."

6.3.2 Add new paragraph 3.4.1.4 as follows:

"3.4.1.4 Carry out the Work to completion as rapidly as possible consistent with good practice, safe working conditions and reasonable economy."

6.3.3 Add new paragraph 3.4.1.5 as follows:

"3.4.1.5 Commence Work immediately upon award of Contract and shall provide sufficient labour for the steady progress of the Work including overtime work, if required to meet the scheduled rate of completion provided for in the Construction Schedule, at all times working in compliance with *OHSA* and/or the Owner's Construction Division Health and Safety policy whichever discloses the higher standard."

6.3.4 Add new paragraph 3.4.1.6 as follows:

"3.4.1.6 Provide overtime work without cost to the Owner if such is deemed necessary to meet the schedule."

6.3.5 Add new paragraph 3.4.1.7 as follows:

"3.4.1.7 Provide to the Owner pursuant to a written request to the Contractor, such copies of the Construction Schedule in Primavera, MS Project or such other native format as the Owner may from time to time require which is to include a CPM and a Substantial Performance date."

SC6.4 GC 3.5 SUPERVISION

6.4.1 Refer to paragraph 3.5.1:

3.5.1 Delete second sentence and replace with:
"The representative shall not be changed except for valid reasons, and upon the Contractor obtaining the Owner's written consent, which consent will not unreasonably be withheld. If the Owner requests in writing that the representative be changed, the Contractor shall proceed with such change within ten (10) Working Days of the written notice."

SC6.5 GC 3.8 SHOP DRAWINGS

6.5.1 Refer to paragraph 3.8.3:

3.8.3.1 Delete from the second line the words "or will do so".

6.5.2 Add the following as a new paragraph 3.8.8:

"3.8.8 The Contractor shall be responsible for any additional costs incurred by the Owner arising from excessive re-submission of *Shop Drawings* in excess of two submissions."

6.5.3 Add the following as new paragraphs 3.8.9:

"3.8.9.1 The *Contractor* shall maintain the *Work* in a safe and tidy condition and free from the accumulation of waste products and debris, other than that caused by the *Owner*, other contractors or their employees.

3.8.9.2 Before applying for *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, *Construction Equipment*, and *Temporary Work* not required for the performance of the remaining work.

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

SC7. PART 4 – ALLOWANCES

SC7.1 GC 4.1 CASH ALLOWANCE

7.1.1 Add the following as a new paragraph 4.1.8:

"4.1.8 The cash allowance shall not be used for anything other than its intended purpose pursuant to the Contract Documents unless otherwise agreed to by the Owner in writing."

SC8. PART 5 – PAYMENT

SC8.1 GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

8.1.1 Refer to paragraph 5.1.1:

5.1.1 Delete paragraph in its entirety.

SC8.2 GC 5.2 APPLICATION FOR PAYMENT

8.2.1 Delete paragraph 5.2.2 and replace it with the following:

5.2.2 "Application for payment shall be dated on the 25th day of the agreed monthly payment period and the amount claimed shall be the value, proportionate to the amount of the Contract, of Work performed at the last day of the agreed monthly payment period. The Contractor is to use the Certificate of Payment Form provided by the Consultant/Owner."

8.2.2 Delete paragraph 5.2.4 and replace with:

5.2.4 "The Contractor shall submit to the Consultant/Owner (as applicable), within ten (10) days of written request for the review and approval by the Consultant/Owner (as applicable), a schedule of values for the parts of the Work, aggregating the total amount of the Contract Price using the Standard Contract Breakdown provided by the Consultant/Owner (as applicable)."

8.2.3 Add the following to the end of subsection 5.2.8:

5.2.8 "Any Products delivered to the Place of the Work may be included in the monthly application for payment at the sole discretion of the Owner after which they shall not be removed from the Place of the Work."

8.2.4 Add the following as a new paragraph 5.2.9:

5.2.9 "Contractor's invoice must include their H.S.T. Registration Number."

SC8.3 GC 5.3 PAYMENT

8.3.1 Add the following as a new paragraph 5.3.2:

"5.3.2 With the second and all subsequent applications for payment, except the final payment and release of holdback applications, the Contractor shall submit a Statutory Declaration on CCDC Form 9A. When submitting Statutory Declaration CCDC Form 9A, the Contractor shall delete the words "(2) payments deferred by agreement, or" and "(3) accounts withheld by reason of legitimate dispute which have been identified to the party or parties, from whom payment has been withheld", and substitute the words "(2) the accounts listed on Schedule A attached hereto."

8.3.2 Add the following as new paragraph 5.3.3:

"5.3.3 Prior to submission of the first application for payment, Contractor shall submit a current Workplace Safety and Insurance Board ("WSIB") Clearance Certificate applicable to the scope of work under this Contract pursuant to the *Workplace Safety and Insurance Act* ("*WSIA*"). WSIB coverage must be maintained throughout the term of the Contract and any optional extensions. In addition, as per Bill 119, the *Workplace Safety and Insurance Amendment Act, 2008* ("*WSIAA*"), makes insurance coverage mandatory for independent operators, sole proprietors, partners in partnerships and executive officers of corporations (collectively, the "Categories") of persons in the construction industry effective January 1, 2013. The Owner may request proof of coverage at any time during the Contract period. Failure to furnish proof may be cause for Contract termination at the sole discretion of the Owner. The Contractor covenants and agrees to pay when due, and to ensure that each of its Subcontractors pays when due, all amounts required to be paid by it or its Subcontractors, from time to time during the term of the Contract, under the *WSIA* and/or the *WSIAA*, failing which the Owner shall have the right, in addition to and not in substitution for any other right it may have pursuant to the Contract or otherwise at law or in equity, to pay to the WSIB any amount due pursuant to the

WSIA or the *WSIAA* unpaid by the Contractor or its Subcontractors and to deduct such amount from any amount due and owing from time to time to the Contractor pursuant to the Contract together with all costs incurred by the Owner in connection therewith."

8.3.3 Add the following as new paragraph 5.3.4:

"5.3.4 With each application for payment, the Contractor shall submit a clearance certificate or its Provincial equivalent."

8.3.4 Add the following as new paragraph 5.3.5:

"5.3.5 In the event that a construction lien arising out of or attributable to the Work or Products provided under the Contract Documents is registered or claimed against the Place of the Work (other than as a result of the Owner's failure to make payments to the Contractor when due hereunder), the Contractor agrees at its expense to promptly cause such lien and any certificate of action related thereto to be discharged, or vacated by order of a court of competent jurisdiction, from title to the Place of the Work. If the Contractor shall fail to do so within a reasonable time not to exceed ten (10) days, the Owner may, at its option and at the Contractor's expense, take such actions and make such payments as may be necessary to cause such lien and any certificate of action to be vacated or discharged and the Owner may deduct from the next succeeding applications for payment all amounts so paid. The Contractor shall indemnify, defend and hold harmless the Owner from all claims, causes of action, suits, losses, damages, costs and expenses arising out of or in connection with any such lien."

SC8.4 GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT HOLDBACK

8.4.1 Refer to paragraph 5.4.2:

5.4.2 Delete paragraph in its entirety.

8.4.2 Add the following as a new paragraph 5.4.7:

"5.4.7 Immediately following the issuance of a certificate of substantial performance of the Work or any designated portion thereof, the Contractor shall publish a copy of the certificate of substantial performance in a construction trade newspaper within the meaning of the *Construction Act*. The construction trade newspaper shall be subject to approval by the Owner. Upon publication, the Contractor shall provide to the Consultant and the Owner a copy of the certificate of publication from the construction trade newspaper as approved by the Owner."

SC8.5 GC 5.5 FINAL PAYMENT

8.5.1 Delete paragraph 5.5.1 and replace it with the following:

"5.5.1 When the Contractor has achieved completion of the Work, the Contractor shall submit an application for final payment. The Contractor must, when applying for final payment, provide the Consultant/Owner (as applicable) with:

(a) a statement based on the schedule of values for the relevant portion of the Work; and

(b) a statutory declaration of the Contractor on CCDC Form 9A, amended as provided in paragraph 5.3.2; and

(c) a WSIB clearance certificate or its provincial equivalent as provided in paragraph 5.3.3; and

(d) evidence satisfactory to the Consultant and the Owner that there are no liens registered against or otherwise claimed in respect of the Work."

8.5.2 Refer to paragraph 5.5.4:

5.5.4 In second line delete "5 calendar days" and replace with "20 calendar days".

SC8.6 "GC 5.8 WITHHOLDING OF PAYMENMT"

8.6.1 Add the following as new paragraph 5.8.1:

"5.8.1 Notwithstanding the provisions of GC 5.3 – PAYMENT, and GC 5.5 – FINAL PAYMENT, and subject to GC 5.4 –SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK the Consultant and/or the Owner may decline to approve any application for payment and may withhold any certificate for payment, including a certificate for payment of holdback or a final certificate for payment, in whole or in part, to the extent necessary to protect the Owner and the Owner may withhold such funds as may be necessary to offset any previous payment made to the Contractor or to protect the Owner from loss because of:

1. Defective portions of the Work not remedied; and
2. Evidence of the Contractor's failure to make payments properly to Subcontractors or Suppliers; and
3. Damage to work of other contractors; and
4. The Contractor's failure to remove liens in accordance with GC 5.3.5; and
5. Work that is not in conformance with the Contract Documents and has not been remedied in accordance with the requirements of the Contract; and
6. the Owner determining that the Contractor is not reasonably progressing toward Substantial Performance of the Work in accordance with the Construction Schedule; and
7. Contractor's failure to comply with any material provision of the Contract."

8.6.2 Add the following as new paragraph 5.8.2:

"5.8.2 When the Owner has withheld payment of any portion of the Contract Price pursuant to the provisions of the Contract, the Owner acting reasonably shall be entitled after ten (10) days following written notice to the Contractor to apply such portion of the Contract Price withheld towards the costs of any required remedial work, or for

damages or losses arising under the Contract and/or the failure of the Contractor to properly carry out the Work."

SC9. PART 6 – CHANGES IN THE WORK

SC9.1 GC 6.2 CHANGE ORDER

9.1.1 Refer to paragraph 6.2.1:

6.2.1 Add the words "The Contract Price, including authorized adjustments thereto strictly in accordance with Part 6 herein and the terms of the Contract Documents, is the total amount payable by the Owner to the Contractor for the performance of the Work, including all risks, hazards and difficulties therewith assumed by the Contractor under the Contract and the only permitted Changes hereunder shall be as a direct result of a request from the Owner directing a change to either the quantity or quality of the services or materials in the Work." to the beginning of paragraph 6.2.1; and

Add the words "in accordance with paragraph 6.2.3" immediately following the words "Contract Price, if any," in the third line of paragraph 6.2.1.

9.1.2 Add new paragraphs 6.2.3:

"6.2.3 Any adjustment to the Contract Price required as a result of a Change Order shall be determined by one of the following methods as agreed to by the Contractor and the Owner:

.1 A lump sum (excluding Value Added Taxes) in an amount agreed between the Contractor and the Owner based on an estimate of the actual net increase or decrease in costs to the Contractor resulting from the Change Order, and in the case of an increase in net costs, together with a mark-up on such net cost increase on account of the Contractor's overhead and profit in the amount specified in paragraph 6.2.5. In the event of a net decrease in the costs to the Contractor as a result of Change Order or Change Directive, there shall be no deduction for the Contractor's overhead and profit. Such estimate shall be prepared by the Contractor and reviewed by the Consultant/Owner (as applicable) and shall be substantiated by an itemized cost breakdown calculated in accordance with paragraphs 6.2.4, 6.2.5 and 6.3.7 and satisfactory to the Consultant/Owner (as applicable); or

.2 The actual net increase or decrease in costs to the Contractor resulting from the Change Order together with, in the case of an increase in net costs, a mark-up on such net cost increase on account of the Contractor's overhead and profit in the amount specified in paragraph 6.2.5. In the event of a net decrease in the costs to the Contractor as a result of Change Order, there shall be no deduction for the Contractor's overhead and profit. The net actual increase or decrease in costs shall be calculated in accordance with paragraphs 6.2.4 and 6.2.5 and shall be substantiated by actual invoices.

The Contractor shall prepare and submit to the Consultant/Owner (as applicable) proposed pricing for any proposed change in the Work in an acceptable form in accordance with this paragraph 6.2.3 within 15 Working Days after notice of the proposed change is given to the Contractor under paragraph 6.2.1 together with full back up or a detailed cost breakdown."

9.1.3 Add new paragraphs 6.2.4:

"6.2.4 The actual net cost increase or decrease attributable to a Change Order shall be determined based on the reimbursable costs identified in paragraph 6.2.3 but excluding the Contractor's overhead and profit. For the purposes of this Contract, the term "overhead" shall include the following costs, it being acknowledged that such overhead costs shall not be reimbursable costs under paragraph 6.2.3 but are included in and recovered by the Contractor pursuant to the mark-up permitted in paragraph 6.2.5:

.1 the Contractor's head office and site office expenses, including stationary, courier, facsimile and long-distance telephone communications, photocopying and printing, postage and other office supplies and other general office and administrative expenses;

.2 salaries, wages and benefits of the Contractor's head office personnel and of superintendents, non-working foremen, engineers, timekeepers, estimators, accountants, clerks, watchmen and similar personnel employed directly on the Work and contributions, assessments and taxes for such items as unemployment insurance, provincial health insurance, workers' compensation and Canada Pension Plan based thereon (it being acknowledged that salaries, wages and benefits of labourers and working foremen and contributions, assessments and taxes based thereon are reimbursable costs under paragraphs 6.2 and 6.3);

.3 the cost for use of temporary offices, sheds, trailers, etc. including the cost of telephone, electrical power, water, heat and all other utilities supplied thereto or consumed therein; and

.4 travel and subsistence expenses for out of town labour if local labour is not available;

.5 premiums for insurance or bonds required under the Contract including any extensions thereto, except that in the event the Owner requires the Contractor to obtain any increased insurance coverage or bond, the Owner shall pay the incremental cost thereof;

.6 the cost of licenses and permits required by the Contractor in connection with the Work except for the building permit, the cost of which shall be paid by the Owner; and

.7 printing charges attributable to proposed changes in the Work, Change Orders and Change Directives.

9.1.4 Add new paragraphs 6.2.5:

"6.2.5 In connection with any adjustment of the Contract Price in accordance with paragraph 6.2.3.1 or 6.2.3.2, the Contractor shall be allowed a mark-up on account of overhead and profit as follows:

.1 for work performed by the Contractor (but not its Subcontractors), a total mark-up of not more than 10% for changes $10,000.00 or less and not more than 5% for changes in excess of $10,000.00 of the estimated net increase in the cost of such Work as determined in accordance with paragraph 6.2.3.1 and 6.2.3.3;

.2 for work performed by a Subcontractor (and excluding any Work performed by the Contractor), a total mark-up by the Contractor of not more than 5% of the costs payable to such Subcontractor for such work, subject to the limitation that this markup shall not be applied to the Subcontractor's mark-up for overhead and profit;

.3 The Contractor shall not accept any mark-up by its Subcontractors of more than 10% for changes $10,000.00 or less or more than 5% for changes in excess of $10,000.00. The Contractor is not entitled to be paid any amounts by the Owner that are in excess of these thresholds.

.4 mark-ups for overhead and profit shall be applied only to the net increase in the cost of all work attributable to a particular Change Order. The net increase in cost shall be the estimated or actual increase in costs attributable to the change less the estimated or actual decrease in costs attributable to the change, in each case determined in accordance with paragraphs 6.2.3 and 6.2.4."

9.1.5 Add new paragraphs 6.2.6:

"6.2.6 In connection with any adjustment of the Contract Price in accordance with paragraph 6.2.3.1 or 6.2.3.2, the Contractor shall not be allowed a mark-up on account of overhead and profit as follows:

.1 no mark-up for overhead and profit will be permitted in respect of Value Added Taxes.

.2 no mark-up for overhead and profit will be permitted with respect to Unit Prices proposed in the bid submissions, including but not limited to unit prices, labour rates, alternate unit prices, separate unit prices, and itemized pricing; and

.3 no mark-up or deduction for overhead and profit will be permitted in respect of a net decrease or credit in the cost of the Work as a result of a Change Order."

SC9.2 GC 6.3 CHANGE DIRECTIVE

9.2.1 Refer to paragraphs 6.3.6:

6.3.6 Add the words "determined in accordance with paragraph 6.2.5" at the end of paragraph 6.3.6.1.

9.2.2 Refer to paragraph 6.3.7 and amend as follows:

6.3.7.1 Delete paragraph and replace with:

"wages and benefits paid for labour in the direct employ of the Contractor under applicable collective bargaining agreements, or under a wage schedule agreed upon by the Owner and Contractor, but excluding the Contractor's head office personnel and of superintendents, non-working foremen, engineers, timekeepers, estimators, accountants, clerks, watchmen and similar personnel";

9.2.3 Refer to paragraph 6.3.7

6.3.7 Delete paragraphs 6.3.7.7and, 6.3.7.12 and, 6.3.7.15 and, 6.3.7.17and, 6.3.7.19

9.2.4 Refer to paragraph 6.3.7.11 and amend as follows:

6.3.7.11 Add the words "except as a result of the acts or omissions of the Contractor" at the end of paragraph, 6.3.7.11.

SC9.3 GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

9.3.1 Refer to paragraphs 6.4.2:

6.4.2 In first line delete "finding" in the two locations and replace with "recommendation which shall not be binding on the *Owner*".

9.3.2 Add new paragraph 6.4.5:

"6.4.5 The Contractor acknowledges and declares its understanding and awareness that any information contained in the Contract Documents furnished by the Owner is approximate, represents the Owner's attempt to provide its best information, and is not in any manner guaranteed by the Owner. Contractor shall carry out its own investigation and satisfy itself and the Consultant as to the accuracy of the information provided by the Owner"

9.3.3 Add new paragraph 6.4.6:

"6.4.6 A Change Order shall be a final determination or adjustment in the Contract Time and Contract Price. There shall be no adjustments to the Contract Time or Contract Price or compensation or payment of any kind whatsoever (including, without limitation, claims for loss of productivity) based on the aggregate number, scope or value of changes in the Work whether resulting from Change Order or Change Directive. For greater clarity, Contractor agrees to waive any and all claims related to delays or impacts on productivity based on the aggregate number, scope or value of changes in the Work."

SC9.4 GC 6.5 DELAYS

9.4.1 Delete paragraph 6.5.1 and replace with the following:

"6.5.1 The Contractor shall not be entitled to and shall not claim for reimbursement of any losses, costs or damages from the Owner for delays or hindrances from any cause during the progress of the Work or any portion of the Work, or any claim for loss of productivity or other impact claims, no matter how caused or for any costs or losses

incurred as a result of being required to accelerate the Work or perform the work out of sequence."

9.4.2 Refer to paragraph 6.5.3 and amend as follows:

.1 Insert the words "(other than labour disputes resulting from the act or omission of the Contractor)" after the words "labour disputes" in the first line of paragraph 6.5.3.1;

.2 Delete the words "lock-outs (including" in the first line of paragraph 6.5.3.1;

.3 Delete the closing bracket following the word "bound" at the end of paragraph 6.5.3.1;

.4 Insert the words "(other than fire caused by the acts or omissions of the Contractor)" following the word "fire" in paragraph 6.5.3.2; and

.5 Delete GC 6.5.3.3 in its entirety, and replace with:

GC 6.5.3.3 "Severe or abnormal weather conditions, but excluding reasonably anticipated inclement weather conditions for the Place of Work, or"'

.6 Insert the words "other than lack of financial resources" immediately following the words "Contractor's control" in the first line of paragraph 6.5.3.4.

SC9.5 GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE

9.5.1 Refer to paragraph 6.6.1:

6.6.1 Add to the end of 6.6.1 the words "within ten (10) days of the time the Contractor becomes aware of circumstances or events giving rise to an increase in the Contract Price failing which the Contractor waives entitlement to any increase in the Contract Price"

9.5.2 Delete paragraph 6.6.3 and replace with the following:

"6.6.3 If the *Contractor* intends to make a claim for an increase to the *Contract Price* for any reason, the Contractor shall provide *Notice in Writing* to the *Owner* and to the *Consultant*, of any claim for an increase in the *Contract price* advising of its intent to make such a claim and outlining all circumstances giving rise to such a claim within five (5) business days of the events giving rise to such claim. Failure to provide such notice shall disentitle the *Contractor* from claiming such increase in the *Contract Price* and the *Contractor* shall be deemed to have waived any such claim.

SC10. PART 7 – DEFAULT NOTICE

SC10.1 GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT

10.1.1 Refer to paragraph 7.1.1:

7.1.1 After "insolvency" in second line add "or becomes bankrupt, insolvent, or takes the benefit of any other legislation for the protection from creditors or of bankrupt or insolvent debtors,"

10.1.2 Delete paragraph 7.1.2, 7.1.3 and 7.1.4 and replace with the following:

"7.1.2 Notwithstanding anything else to the contrary contained herein, if the Owner determines, in its sole discretion, that the Contractor is neglecting to prosecute the Work properly or otherwise fails to comply with the requirements of the Contract to a substantial degree, the Owner may, without prejudice to any other right or remedy the Owner may have, terminate this Contract without notice to the Contractor and recover damages against the Contractor arising from the failure to perform together with and costs or damages arising from such delay and any additional cost of completion of the Work."

10.1.3 Add new paragraph as follows 7.1.5.5:

"7.1.5.5 Give notice to all Suppliers and Subcontractors under Subcontracts that have been assigned to the Owner, or its designate, that the Owner is exercising its right to assume all of the rights and to perform all of the obligations, from the date of the assumption, of the Contractor under such Subcontracts and directing the Subcontractors and Suppliers to disregard any notices or instructions from the Contractor and after the date of such notice from the Owner. Notwithstanding the foregoing, the Owner shall not be liable, and the Contractor shall remain liable for any payments to the Suppliers and/or Subcontractors up to the date of such notice from the Owner."

10.1.4 Add new paragraph 7.1.7 as follows:

"7.1.7 The Owner reserves the right to stop any work creating undue noise or that otherwise disrupts the Owner's use or the carrying out of Owner's responsibilities. Any such work will have to be carried out at a time mutually agreeable to the Owner and the Contractor at no additional cost to the Owner."

SC10.2 GC 7.2 CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

10.2.1 Delete paragraph 7.2.3.1 in its entirety:

10.2.2 Refer to paragraph 7.2.3.4 and amend as follows:

7.2.3.4 Delete from lines 1 and 2 the words "…except for GC 5.1- FINANCING INFORMATION REQUIRED OF THE OWNER."

10.2.3 Refer to paragraph 7.2.5 and amend as follows:

7.2.5 Insert the word "direct" immediately before the word "damages" in the third line.

10.2.4 Add new paragraph 7.2.6 as follows:

"7.2.6 The withholding of any certificate for payment or of any progress, holdback or final payments as a result of the Contractor's failure to pay a Subcontractor or Supplier,

to protect the Owner's interests in the event of the registration of a lien or receipt of notice of a lien, or otherwise pursuant to the terms of this Contract, shall not constitute a default under GC 7.2.3 permitting the Contractor to claim that the Owner is in default of the Owner's contractual obligations. For greater clarity, the withholding of monies as per the Contract terms and conditions shall not constitute a default under GC 7.2.3.

SC11. PART 8 – DISPUTE RESOLUTION

SC11.1 GC 8.1 AUTHORITY OF THE CONSULTANT

11.1.1 Refer to paragraph 8.1.1:

8.1.1 Delete "findings" in third line and replace with "the recommendation which shall not be binding on the Owner".

11.1.2 Refer to paragraph 8.1.2:

8.1.2 Delete "a finding" in second line and replace with "a recommendation which shall not be binding on the Owner".

SC11.2 GC 8.2 ADJUDICATION

11.2.1 Refer to paragraph 8.2.1:

8.2.1 Delete paragraph 8.2.1 in its entirety:

SC11.3 GC 8.3 NEGOTIATION, MEDITATION AND ARBITRATION

11.3.1 Refer to paragraphs 8.3.6 and 8.3.7 and 8.3.8

Delete paragraphs 8.3.6 and 8.3.7 in their entirety and replace with the following:

"8.3.6 By giving a *Notice in Writing* to the Contractor and the *Consultant*, within than 10 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.3.5, the Owner may in its sole discretion, refer the dispute to be finally resolved by arbitration under the rules of arbitration as provided in CCDC 40 in effect at the time of bid closing. The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.

SC12. PART 9 – PROTECTION OF PERSONS AND PROPERTY

SC12.1 GC 9.1 PROTECTION OF WORK AND PROPERTY

12.1.1 Refer to paragraph 9.1.3:

9.1.3 Add the words "or for paying the cost for another contractor to make good such damage if the Contractor fails to do so or the Owner elects to use another contractor, at its discretion" at the end of paragraph 9.1.3.

12.1.2 Add new paragraph 9.1.5:

"9.1.5 The Contractor shall not undertake to repair and/or replace any damage whatsoever to adjoining property or acknowledge 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."

12.1.3 Add new paragraph 9.1.6:

"9.1.6 Notwithstanding paragraph 9.1.5, where there is danger to life or property, the Contractor may take such emergency action as is necessary to remove the danger and shall indemnify and hold harmless the Owner and the Consultant, their respective partners, employees and agents from and against all claims, demands, losses, costs, damages, actions, suits or proceedings by third parties ("Claims") that arise out of, or are attributable to such action, except to the extent that such actions were reasonable in the circumstances and except where such Claims do not arise from the negligence of the Contractor."

SC12.2 GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

12.2.1 Delete paragraph 9.2.2 in its entirety and replace with the following:

"9.2.2 In order to determine whether any toxic or hazardous substances or materials are present at the Place of the Work, the Owner retained an environmental consultant to conduct an environmental review of the Place of the Work and to prepare a report of the results of such review. Such report, a copy of which is in the tender documents, is hereinafter referred to as the "Environmental Report".

12.2.2 Refer to paragraph 9.2.3:

9.2.3 Add the following "The Contractor shall take all reasonable steps to ensure that no person suffers injury, sickness or death and that no property is injured or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances or materials at the Place of the Work that are disclosed by the Owner pursuant to the Environmental Report or otherwise become known to exist on or after the date of commencement of the Work." at the end of paragraph 9.2.3.

12.2.3 Delete paragraph 9.2.4 in its entirety and replace it with the following:

"9.2.4 The Contractor shall be responsible for taking all necessary steps, in accordance with legal requirements, to dispose of, store or otherwise render harmless toxic or hazardous substances or materials, including mould, which were at the Place of the Work prior to the Contractor commencing the Work, as disclosed by the Owner pursuant to the Environmental Report, or which are brought onto or permitted to be brought onto the site by the Contractor and/or anyone for whom it is responsible on or after the date the Contractor commenced the Work, the cost of such Work being included in the Contract Price. For the purposes of this Contract "Excluded Hazardous Substances" means toxic or hazardous substances that:

(a) were at the Place of the Work prior to the date that the Contractor commenced the Work, but which were not disclosed by the Owner pursuant to the Environmental Report; or

(b) were at the Place of the Work prior to the date that the Contractor commenced the Work and were disclosed by the Owner pursuant to the Environmental Report but which are of a type or category that was not properly identified or categorized in the Environmental Report; or

(c) were at the Place of the Work prior to the date that the Contractor commenced the Work and were disclosed by the Owner pursuant to the Environmental Report but which are in amounts or concentrations in excess of the amounts or concentrations specified in the Environmental Report or no amount or concentration was so specified for such substances in the Environmental Report; or

(d) are present at the Place of the Work as a result of the willful acts or negligence of the Owner or any persons for whom it is responsible in law.

If pursuant to a Change Order or Change Directive the Owner requires the Contractor to dispose of, store or otherwise render harmless any Excluded Hazardous Substances, the Contract Price and Contract Time shall be adjusted accordingly."

12.2.4 Refer to paragraph 9.2.5.2:

9.2.5.2 Delete the words "which were not disclosed by the Owner or which were disclosed but have not been dealt with as required under paragraph 9.2.4" in the third and fourth lines of paragraph 9.2.5.2.

12.2.5 Delete paragraph 9.2.8 in its entirety and replace it with the following:

"9.2.8 The Owner shall indemnify and hold harmless the Contractor, its agents and employees, from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of or resulting from exposure to, or the presence of, toxic or hazardous substances or materials which were at the Place of the Work prior to the Contractor commencing the Work and undisclosed to the Contractor in the Environmental Report or as a result of the wilful acts or negligence of the Owner or any persons for whom it is responsible in law. The Contractor shall indemnify and save harmless the Owner, its agents and employees, from and against claims, demands, losses, costs, damages, actions, suits or proceedings arising out of or resulting from exposure to, or the presence of, toxic or hazardous substances or materials at the Place of the Work as a result of (i) acts or negligence of the Contractor, its Subcontractors or Suppliers or any persons for whom they are respectively responsible in law or (ii) any default by the Contractor in the performance of the Work or any of its other obligations under the Contract. The Contractor shall leave the Place of the Work clean and in full compliance with the requirements of all laws, regulations, guidelines, directives and by-laws, including without limitation, any environmental protection legislation in force at the Place of Work or such other applicable provincial or federal legislation, and all guidelines issued thereunder. The foregoing obligations shall not be construed to negate,

abridge or reduce other rights or obligations of indemnity set out in GC 12.1 - INDEMNIFICATION or which otherwise exist respecting a person or party described in this paragraph."

SC12.3 GC 9.4 CONSTRUCTION SAFETY

12.3.1 Refer to paragraph 9.4:

Delete paragraphs 9.4.4 and 9.4.5 and replace with the following new paragraphs:

"9.4.4(a) Without in any way limiting the generality of any other provision of this Contract, the Contractor shall assume and be solely responsible for compliance with all aspects of the health and safety laws, regulations, and policies (including, without limitation, *OHSA*) applicable to the Work in the Province in which the Work is undertaken relating to the Project, including, without limitation, fulfilling and performing all of the responsibilities, duties and obligations of a "Constructor" under *OHSA* or its provincial equivalent, for the Project and in connection with any Subcontractors working on the Project and initiating, maintaining, and supervising all safety precautions and programs in connection with the Project. Prior to the commencement of the Work, the Contractor shall obtain the agreement of the Ministry of Labour in the requisite Provincial jurisdiction for the Project to its assumption of the role of "Constructor" for the duration of and in relation to the Work and it shall, where necessary file a Notice of Project with such Ministry of Labour designating itself as "Constructor". The Contractor shall indemnify and hold harmless the Owner from any liability for claims, damages or penalties, including legal fees and disbursements to defend any offences, arising from the Contractor's failure to fulfill the obligations under this paragraph, including failure to comply with the obligations of the "Constructor" in accordance with applicable legislation. Without prejudice to any other right or remedy which may be available to the Owner, failure of the Contractor or any of its Subcontractors or Suppliers to fulfill any of the responsibilities described in this paragraph may result in immediate suspension of the work by the Owner or termination of the Contract by the Owner. Furthermore the Owner may set-off against any amounts due to the Contractor under GC 5 herein, any amount for which the Owner becomes liable as a result of the breach by the Contractor of this provision or as a result of any fines or penalties levied under *OHSA* or any other relevant Provincial health and safety legislation in force in the Province in which the Work is undertaken. The Contractor hereby represents and warrants to the Owner that appropriate health and safety instruction and training is provided to the Contractor's employees, Subcontractors and Suppliers (to the extent same shall have access to the Project site) before the Work is commenced and agrees to provide to the Owner, if requested, proof of such instruction and training."

(b) The Contractor and its Subcontractors will be responsible for the health and safety of their workers in accordance with all applicable federal, provincial and municipal laws, regulations and codes relating thereto including without limitation the *OHSA* or its Provincial equivalent applicable to the Work in the Province in which the

Work is undertaken.

(c) The Contractor shall comply and shall cause its Subcontractors to comply with all federal, provincial and municipal laws, regulations and codes concerning construction safety, building by-laws and occupational health and safety applicable to the Project and safety standards and rules established during the progress of the Work.

(d) The Contractor shall furnish a copy of its company safety plan to the Owner's Representative within ten (10) Working Days of execution of the Contract and prior to commencement of the Work."

SC12.4 GC 9.5 MOULD

12.4.1 Refer to paragraph 9.5.3:

9.5.3 Delete the first two lines and replace with the following:
"If the Owner and the Contractor agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was not caused by the Contractor's operations under the Contract, the Owner shall, at its sole option retain another contractor or retain the Contractor to take all necessary steps to safely remediate and dispose of the mould, and shall at the Owner's expense:"

12.4.2 Delete paragraph 9.5.4 and replace with the following:

9.5.4 "Should the Owner retain the Contractor for the purposes of taking all necessary steps to safely remediate and dispose of any Mould, the Contractor shall adhere to the CCA82 2004 Mould Guideline for the Canadian Construction Industry as it pertains to the performance of the Contractor in performing the Work. The provisions of GC 9.2 shall apply, and Mould shall be defined as a Hazardous Substance for the purposes of GC 9.2 hereunder."

SC13. PART 10 – GOVERING REGULATIONS

SC13.1 GC 10.4 WORKERS' COMPENSATION

13.1.1 Refer to paragraph 10.4.1:

10.4.1 After "payment" in the second line add ", and with each application for payment,"

SC14. PART 11 – INSURANCE

SC14.1 GC 11. INSURANCE

14.1.1 Delete Part 11 INSURANCE and replace with the following:

"GC 11.1 INSURANCE

11.1.1 The Contractor covenants and agrees with Owner that from the date of commencement of the Work, and during any part of the access period that the Contractor is performing work at the premises, until the completion date, and at any time thereafter during substantial, material construction, reconstruction, alteration or rehabilitation as determined by the Owner in its unfettered discretion, the

Contractor shall purchase, provide and maintain, or cause to be purchased, provided and maintained, to the satisfaction of Owner, at Contractor's expense, insurance complying with the following requirements. The Contractor shall be responsible for payment of all amounts within the deductible or self-insured retention under each policy of insurance. All insurance policies required to be provided by the Contractor under this Contract will be primary over any insurance or self-insurance program carried by the Owner and shall not call into contribution any insurance available to the Owner.

.1 **Commercial General Liability Insurance:**

The Contractor shall purchase, provide and maintain, or cause to be purchased, provided and maintained, at its sole expense, Commercial General Liability insurance covering the Contractor and all Subcontractors of any tier engaged in the Project against claims for bodily injury (including death), operations liability, contractual liability, personal injury and property damage arising out of all construction operations pertaining to the premises or arising out of the control or use of the premises by the Contractor. The policy limit shall be no less than Ten Million Dollars ($10,000,000) per occurrence and Ten Million Dollars ($10,000,000) in the aggregate and will specifically state by its wording or endorsement that:

(i) The Owner, its trustees, directors, officers, employees, servants and agents, and the Consultant are included as additional insured under the policy with respect to operations and obligations of the Contractor as outlined in this Agreement; and

(ii) The policy includes contractual liability, SPF. 6 Non-Owned Automobile Liability, products and completed operations, contingent employer's liability, and employees as additional insureds; and

(iii) The policy contains a cross-liability clause which shall have the effect of insuring each person, firm or corporation named in the policy as an insured in the same manner and to the same extent as if a separate policy had been issued to each; and

(iv) The policy contains a waiver of subrogation right which the insurers may have against the Owner, its trustees, directors, officers, employees, servants and agents, the Consultant, and any other parties named as additional insured at the direction of the Owner.

The policy shall provide no less than two (2) years completed operations coverage. Upon Substantial Performance of the Work, the Contractor will provide to the Owner proof of commercial general liability insurance coverage, including coverage for products and completed operations hazards, on an annual basis for a further 6 years. Such coverage to include the interest of the Owner as additional insured with respect to the Work.

.2 **Installation Floater:**

The Contractor shall, from the date of commencement of the Work until the completion date, and during any part of the access period that the Contractor is performing work at the premises, purchase, provide and maintain, or cause to be purchased, provided and maintained, at its own expense, an Installation Floater policy insuring not less than the sum of the amount of the Contract Price. The coverage shall be maintained continuously until ten (10) days after the date of the final certificate for payment. The policy shall contain no exclusion for loss or damage caused by the perils of flood or earth movement, including earthquake and will include a waiver of waiver of subrogation in favour of Owner, its trustees, directors, officers, employees, servants, agents, and the Consultant.

.3 **Builders Risk/Course of Construction Property Insurance:**

The Contractor shall, from the date of commencement of the Work until the completion date, and during any part of the access period that Contractor is performing work at the Premises, purchase, provide and maintain, or cause to be purchased, provided and maintained, at its expense, All risks course of construction (builders risks) inclusive of broad form comprehensive boiler and machinery (equipment breakdown) insurance. Such coverage shall be in the name of the Contractor and will show Owner, Consultant, and all Subcontractors of any tier engaged in the project as additional insured in an amount not less than the full replacement cost value of the project. The policy shall be no more restrictive than the IBC 4042 or 4047 policy, including the appropriate CCDC endorsements. The policy shall contain no exclusion for loss or damage caused by the perils of flood or earth movement, including earthquake. The policy shall provide replacement cost coverage on all property including that used in or pertaining to site preparation, demolition of existing structures, erection and/or fabrication and/or reconstruction and/or repair of the insured project while on site, off site or in transit. The policy shall be extended to cover soft costs, delayed rents/delay in start-up (24 months minimum), interest, advertising costs and rental commissions when the loss is caused by an insured risk. Such policy shall include a waiver by the insurer of any rights of subrogation against Owner, its trustees, directors, officers, employees, servants, agents, and the Consultant.

.4 **Equipment and Automobile Liability Insurance:**

The Contractor, at no cost to the Owner, shall ensure that the Contractor and all Subcontractors purchase, provide and maintain "All Risks" contractors' equipment insurance covering construction machinery and equipment used by the Contractor and all Subcontractors for the performance of the Project, together with automobile liability insurance covering all vehicles owned or leased by the Contractor and all Subcontractors for bodily injury, including death, and damage to property with limits of not less than Two Million Dollars ($2,000,000).

.5 **Contractors Errors and Omissions Insurance:**

The Contractor shall purchase, provide and maintain, or cause to be purchased, provided and maintained, at its sole expense, contractors errors and omissions insurance coverage extending to cover the Contractor and all Subcontractors for claims alleging faulty workmanship, design errors or omissions (if applicable) and the use of defective materials or products which would not otherwise be covered under a Commercial General Liability policy. Such policy shall have a(n) maintenance/extended reporting period of at least two (2) years following the date of the final certificate for payment under the Contract.

.6 **Contractors Pollution Liability:**

The Contractor shall purchase, provide and maintain or cause to be purchased, provided and maintained, at no cost to Owner, contractors' pollution liability insurance covering the Contractor and all Subcontractors with a minimum limit of liability in the amount of Two Million Dollars ($2,000,000) per claim and in the aggregate. Such policy shall have an extended reporting period being a minimum of 36 months from the completion date.

.7 **Unmanned Aerial Vehicles/Drones:**

The Contractor shall purchase, provide and maintain or cause to be purchased, provided and maintained, at no cost to Owner, UAV/Drone Liability coverage covering the Contractor and all Subcontractors of any tier engaged in use of UAVs/Drones as part of the Work with a minimum limit of liability in the amount of Two Million Dollars ($2,000,000) per claim and in the aggregate.

.8 **WSIB Insurance:**

The Contractor shall purchase, provide and maintain or cause to be purchased, provided and maintained, at no cost to Owner, WSIB Insurance covering the Contractor and Subcontractors in accordance paragraph 5.3.2.1 herein but in any event no less than Province of Ontario minimum requirements. Contractor and Subcontractors shall provide Owner with certificates evidencing that such insurance is in full force and effect.

.9 **Other Insurance against Risks:**

The Contractor and all Subcontractors shall purchase, provide and maintain or cause to be purchased, provided and maintained, at no cost to Owner, any other insurance against such risks and in such amounts as Owner may from time to time reasonably require upon not less than thirty (30) days written notice to Contractor, provided that such insurance may be required only for such risks and in such amount as is customarily obtained by prudent owners of comparable facilities, acting reasonably.

.10 **Coverage:**

All policies of insurance shall specifically provide coverage whether or not the Project is partially completed or occupied for any purpose. No policy of insurance

shall be terminated, cancelled or materially altered unless written notice of such termination, cancellation or material change is given by the insurers to the Owner at least thirty (30) days before the effective date thereof.

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

11.1.3 All required insurance policies shall be with insurers licensed to underwrite insurance in the Province of Ontario.

11.1.4 The Owner will have the right, but not the obligation, to prohibit the Contractor or any Subcontractor from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and confirmed by the Owner. Failure of the Owner to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Owner to identify a deficiency from evidence provided will not be construed as a waiver of the Contractor's obligation to maintain such insurance.

11.1.5 By requiring insurance, the Owner does not represent that coverage and limits will necessarily be adequate to protect the Contractor. Insurance effected or procured by the Owner or the Contractor will not reduce or limit the Contractor's contractual obligation to indemnify and defend the Owner for claims or suits which result from or are connected with the performance of the Contract.

11.1.6 Other Insurance Requirements: To the extent that any applicable law, the nature of the Contractor's business or any other factor require the Contractor to maintain any particular type of insurance (in addition to the insurance expressly required by this Agreement) with respect to the Place of the Work or any contents thereof, the Contractor shall comply with all such requirements at its sole expense.

11.1.7 Proof of Insurance: Prior to commencing the Work, and from time to time upon written request by the Owner as the Work progresses, the Contractor shall submit to the Owner certificates of insurance or other proof of the insurance coverage from an independent insurance consultant, acceptable to the Owner, confirming that Contractor's and Subcontractor's insurance coverage is in conformity with the requirements of this Contract, together with copies of the relevant portion or portions of each insurance policy incorporating the terms and paragraphs referred to above. Neither the Contractor nor any of his Subcontractors shall begin work on the site until all necessary proofs of insurance have been furnished. Failure to furnish proof may be cause for termination at the sole discretion of the Owner.

11.1.8 Owner's right to waive/amend insurance requirements. The Owner and Contractor acknowledge and agree that the Project may not require all insurance policies and coverages listed herein. The Owner shall have the right to determine, in its sole discretion, whether and to what extent certain insurance policies, coverages, and limits listed herein are required for the Project. The Owner shall have the right, but

not the obligation, to waive or amend such requirements depending upon the nature and scope of the Work. "

SC14.2 GC 11.2 BONDS

14.2.1 Add Part 11.2 BONDS and the following paragraphs:

"GC 11.2 BONDS

11.2.1 The Contractor shall, at least seven (7) days prior to commencement of the Work, provide to the Owner the following surety bonds unless otherwise directed by the Owner in writing:

.1 a labour and material payment bond of at least 50% of the Contract Price; and/or;
.2 a performance bond of at least 50% of the Contract Price.

11.2.2 Such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the Province of Ontario and shall be maintained in good standing until the fulfillment of the Contract, including the warranty period. The form of such bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

11.2.3 The Contractor acknowledges and agrees that the cost of such bonds shall be included in the Contract Price.

11.2.4 The Contractor acknowledges and agrees that a failure to provide a surety bond in a timely manner in accordance with this section may result in an immediate suspension or termination from the Project with no additional compensation payable to the Contractor.

11.2.5 The Owner may, at its sole discretion, waive the requirement and/or timing for a surety bond(s) under this section.

SC15. PART 12 – OWNER TAKEOVER

SC15.1 GC 12.1 READY-FOR-TAKEOVER

15.1.1 Refer to paragraph 12.1.2:

12.1.2 Delete the following wording from paragraph 12.1.2 "….must be deferred because of conditions reasonably beyond the control of the Contractor, or by agreement between the Owner and the Contractor to do so,…." and replace with "….are not met, the Owner at its sole discretion may defer any of them and…."

15.1.2 Refer to paragraph 12.1.3:

12.1.3 Add the following to the beginning of paragraph 12.1.3:

"Commencing no later than 4 months before the scheduled milestone - "READY-FOR TAKEOVER" date the Contractor shall at each site meeting, report status of each of the pre-requisites to attaining the milestone, which shall be recorded in the minutes of meetings."

15.1.3 Add the following to the end of paragraph 12.1.5:

12.1.5 ", which shall be no later than thirty (30) days after milestone - "READY-FOR TAKEOVER"

15.1.4 Refer to paragraph 12.1.6:

12.1.6 Delete paragraph in its entirety.

SC15.2 GC 12.2 EARLY OCCUPANCY BY THE OWNER

15.2.1 Refer to paragraph 12.2.1:

12.2.1 Delete the following wording from paragraph 12.2.1 "…only as agreed by the Contractor which agreement shall not be unreasonably withheld." and replace with "….only with prior approval by authorities having jurisdiction."

15.2.2 Refer to paragraph 12.2.2:

12.2.2 Delete paragraph in its entirety.

SC15.3 GC 12.3 WARRANTY

15.3.1 Delete GC 12.3 WARRANTY in its entirety and replace with the following:

"GC 12.3 WARRANTY

12.3.1 The warranty period with regard to the Contract is one year from the date of Substantial Performance of the Work and/or those periods specified in the Contract Documents for certain portions of the Work or Products.

12.3.2 The Contractor shall be responsible for the proper performance of the Work.

12.3.3 Except for the provisions of paragraph 12.3.6 and subject to paragraph 12.3.2, the Contractor shall correct promptly, at the Contractor's expense, defects or deficiencies in the Work which appear prior to and during the warranty periods specified herein.

12.3.4 The Owner, through the Consultant (if applicable), shall promptly give the Contractor notice in writing of observed defects and deficiencies that occur during the warranty period.

12.3.5 The Contractor shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.3.

12.3.6 The Contractor shall be responsible for obtaining Product warranties in excess of one year on behalf of the Owner from the manufacturer. These Product warranties shall be issued by the manufacturer to the benefit of the Owner."

SC16. PART 13 – INDEMNIFICATION AND WAIVER

Delete Part 13 INDEMNIFICATION AND WAIVER in its entirety and replace with the following:

SC16.1 GC 13.1 INDEMINFICATION

16.1.1 Delete GC 13.1 INSURANCE and replace with the following:

"GC 13.1 INDEMNIFICATION

13.1.1 The Contractor shall indemnify and hold harmless the Owner, and/or Owner's Representatives and employees, and/or Project Manager and/or the Consultant and any other parties that may be requested by the Owner and from whom an interest can be presented and their respective partners, trustees, directors and officers, their agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings (hereinafter called "claims"), by third parties that arise out of, or are attributable to, the Contractor's performance of the Contract provided such claims are:

.1 attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, or to any consequential injury or damage arising from any of the foregoing, or

.2 caused by negligent acts or omissions or willful misconduct of the Contractor or any Subcontractor or anyone for whose acts the Contractor or any Subcontractor may be liable, and

.3 made in writing within a period of 6 years from the date of Substantial Performance of the Work as set out in the certificate of Substantial Performance of the Work, or within such shorter period as may be prescribed by any limitation statute of the province or territory of the Place of the Work.

13.1.2 The obligation of the Contractor to indemnify under GC 13.1.1 shall be limited to $10,000,000 per occurrence from the commencement of the Work until Substantial Performance of the Work and thereafter to an aggregate limit of $10,000,000.

13.1.3 The Owner shall indemnify and hold harmless the Contractor, the Contractor's agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the Contractor's performance of the Contract which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the Place of the Work.

13.1.4 GC 13.1 - INDEMNIFICATION shall govern over the provisions of paragraph 1.3.1 of GC 1.3 – RIGHTS AND REMEDIES.

13.1.5 The Contractor shall indemnify and save harmless the Owner, the Trustees of the Toronto District School Board, the Consultant, and the Owner's Representative or Project Manager, where applicable, its partners, officers, employees, agents and other representatives of the Owner for whom an interest can be represented (collectively, the "Indemnified Parties") from any and all losses, damages,

liabilities, judgments, claims, demands, causes of action, suits, actions or other proceedings of any kind or nature and expenses (including legal fees on a full indemnity basis), incurred or suffered by the Indemnified Parties, that arise out of or in connection with or as a result of anything done or omitted to be done by the Contractor, any Subcontractors or Suppliers or any of their respective officers, employees or agents in carrying out the Work or otherwise in carrying out the Work or the performance of Contractor's obligations under this Contract except to the extent caused or contributed to by any acts or omissions of the Indemnified Parties.

13.1.6 Limitation of Liability: The Owner, the Trustees of the Toronto District School Board and its partners, directors, officers, employees, agents and other representatives shall not be liable to the Contractor for any losses, expenses, costs, claims, damages or liabilities arising in connection with or as a result of:

.1 anything done or omitted to be done by the Contractor, any Subcontractor or Supplier or any of their respective officers, employees or agents, in carrying out the Work or otherwise in the performance of this Contract; or

.2 the construction of the Work, Subcontracts for any part of the Work or any of the Contract Documents, notwithstanding any consent to or approval of any of the foregoing by the Owner or the Owner's Representative."

SC16.2 GC 13.2 WAIVER OF CLAIMS

16.2.1 Delete GC 13.2 WAIVER OF CLAIMS in its entirety and replace with the following:

"GC 13.2 WAIVER OF CLAIMS

13.2.1 As of the date of the final certificate for payment, the Contractor expressly waives and releases the Owner from all claims against the Owner including without limitation those that might arise from the negligence or breach of contract by the Owner except:

.1 those made in writing prior to the Contractor's application for final payment and still unsettled; and

.2 those arising from the provisions of GC 9.2 - TOXIC AND HAZARDOUS SUBSTANCES or GC 10.3 - PATENT FEES.

13.2.2 GC 13.2 - WAIVER OF CLAIMS shall govern over the provisions of paragraph 1.3.1 of GC 1.3 - RIGHTS AND REMEDIES.

SC17. PART 14 – OTHER PROVISIONS

SC17.1 GC 14.1 OTHER PARAGRAPHS

17.1.1 Add GC 14.1 OTHER PARAGRAPHS as follows:

14.1.1 "In performing its obligations under this Contract, the Contractor shall act in good faith and furnish appropriate skill and judgment. The Contractor shall also co-operate with the Consultant and the Owner in furthering the interests of the Owner.

The Contractor shall at all times furnish sufficient business administration and superintendence and an adequate supply of workers and materials. The Contractor shall perform the work in an expeditious manner consistent with the best interests of the Owner.

14.2.1 The Contractor shall perform the Work in a good and workmanlike manner, using new materials, in accordance with all applicable laws and current best practices and standards in the construction industry at the Place of the Work. The Contractor acknowledges that both time and quality are of the essence and the Contractor will perform the Work or cause the Subcontractors and Suppliers to perform the work in accordance with the Construction Schedule, as amended from time to time, and in a professional manner.

14.3.1 The Contractor shall not erect, affix, install or maintain any signs, lettering, identification, promotional or other written materials on the Project or at the Place of the Work without the prior written consent of the Owner and only in accordance with all applicable laws.

14.4.1 The Owner shall have the right to audit the invoices of the Contractor and all Subcontractors who have contracted with the Contractor. The Contractor shall comply with the Owner's request to audit forthwith and shall prepare and/or submit all relevant documents as requested by Owner for review by no later than five (5) days from the Owner's request. The Contractor shall authorize and direct all Subcontractors who have contracted with the Contractor to provide all original invoices of the Subcontractor that have been supplied to the Contractor and the Contractor shall provide to the Owner an executed authorization and direction addressed to the Subcontractors for all original invoices in a form acceptable to the Owner within five (5) days from the Owner's request. The Contractor agrees to waive any requirements as to confidentiality between the Contractor and its Subcontractors in order to give effect to this provision.

14.5.1 The term "Consultant" shall be replaced with "Consultant/Owner (as applicable)" throughout the Contract and Contract Documents.

14.6.1 The Contractor shall prepare and maintain a daily site log or diary recording, which shall include the following:

(a) daily weather conditions and temperatures at the Place of the Work,
(b) the number of workers of the Contractor, Subcontractors, Suppliers, and any other forces at the Place of the Work,
(c) the Construction Equipment at the Place of the Work,
(d) the descriptions and quantities of Products delivered and utilized, and
(e) the general nature of Project activities.

Such log or diary shall also record any extraordinary or emergency events which may occur and also the identities of any persons who visit the Place of the Work who are not part of the day-to-day workforce. The Contractor shall also take or arrange for the taking of Project photographs to record the progress of the Work.

14.6.2 The Contractor shall maintain, either at its head office or at the Project site, records recording manpower and material resourcing on the Project, including the records identified in paragraph 14.4.1 and other records which document the activities of the Contractor.

14.6.3 Upon request by the Owner or the Consultant, the Contractor shall make available for inspection and copying all of the records generated pursuant to this GC 14.6, along with any other routine Project records ordinarily maintained by the Contractor.

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