

Appendix "A"

Supplementary Conditions to CCDC2-2020

September 2022

Please check to confirm your agreement:

- I / We confirm my / our willingness to comply with the Supplementary terms and conditions to CCDC2-2020 and those set out in this RFP.

GENERAL REFERENCE

The standard construction document, CCDC 2 - 2020, Stipulated Price Contract, consisting of the Agreement between Owner and Contractor, Definitions and the General Conditions of the Stipulated Price Contract, and these Supplementary Conditions, are part of the *Contract Documents*.

The following Supplementary Conditions shall be read in conjunction with the Canadian standard construction document, CCDC 2 - 2020. These Supplementary Conditions and Amendments shall modify, delete and/or add to the Agreement between the *Owner* and the *Contractor*, Definitions and General Conditions of the Stipulated Price Contract CCDC 2-2020.

Section and paragraph references below are to the corresponding sections and paragraphs of the Agreement between Owner and Contractor, Definitions and General Conditions of the Stipulated Price Contract all forming part of standard construction document, CCDC 2 – 2020, Stipulated Price Contract. The Stipulated Price Contract, CCDC 2 - 2020, is amended as follows:

1. GENERAL

These Supplementary Conditions and Amendments shall modify, delete and/or add to the Agreement between the *Owner* and the *Contractor*, Definitions and General Conditions of the CCDC 2-2020, Stipulated Price Contract.

Where any article, paragraph or subparagraph in the Agreement, Definitions or General Conditions is supplemented by one of the following, the provisions of such article, paragraph or subparagraph shall remain in effect and the supplemental provisions shall be considered as added thereto.

Where any article, paragraph or subparagraph in the Agreement, Definitions or General Conditions is amended, deleted, voided, or superseded by any of the following, the provisions of such article, paragraph or subparagraph not so amended, voided, deleted or superseded, shall remain in effect, and the numbering of the deleted item will be retained, unused.

2. AGREEMENT BETWEEN OWNER AND CONTRACTOR

2.1 ARTICLE A-1 THE WORK

2.1.1 Delete paragraph 1.3 and insert new paragraph 1.3 as follows:

“1.3 commence the *Work* by the _____ day of _____ in the year _____ and, subject to adjustment in the *Contract Time* as provided for in the *Contract Documents* attain *Ready-for-Takeover* by the *Scheduled Ready-for-Takeover Date*, and attain the *Total Completion of the Work* by the *Scheduled Total Complete Date*.”

2.2 ARTICLE A-5 PAYMENT

2.2.1 Delete paragraph 5.1.2 and insert new paragraph 5.1.2 as follows:

5.1.2 upon *Substantial Performance of the Work* as certified by the *Consultant*, after the publication of the certificate of *Substantial Performance of the Work* and there being no claims for lien registered against the *Project*, and the conditions of GC 5.4.10 have been satisfied, and subject to GC 5.4, pay to the *Contractor* the unpaid balance of the holdback amount in accordance with the requirements of the *Construction Act* together with such *Value Added Taxes* as may be applicable to such, and

2.2.2 Delete subparagraph 5.2.1(1) and insert new subparagraph 5.2.1(1) as follows:

(1) “The Royal Bank of Canada Prime Lending Rate at time of occurrence plus two percent (2%).”

2.2.3 Delete subparagraph 5.2.1(2).

2.3 ARTICLE A-8 SUCCESSION

2.3.1 Amend paragraph 8.1 by inserting the word, “permitted”, before the word, “assigns”.

2.4 ARTICLE A-9 GENERAL

2.4.1 Insert new Article A-9 as follows:

“ARTICLE A-9 GENERAL

9.1 It is agreed that one of the reasons why the *Contractor* was selected for the *Work* is the *Contractor’s* representation and warranty that it will attain *Ready-for-Takeover* and the *Total Completion Date* by the date set out in Article A-1, paragraph 1.3 and the *Contractor* acknowledges that it has been advised by the *Owner* that it is critical to the *Owner* that *Ready-for-Takeover* be achieved by the prescribed date and that time is of the essence for this *Contract*.

9.2 Time is of essence of the *Contract*.

9.3 *Contractor* is an independent contractor in performing its obligations under the *Contract*. The *Contract* does not create any agency, partnership, joint venture, fiduciary or other relationship of the *Contractor* with the *Owner* other than the relationship of independent contractor. Nothing contained in the *Contract* shall

create any employment or contractual relationship between *Owner* (or anyone acting on its behalf) and any *Contractor* personnel.

- 9.4 No approval or consent of, or certification, inspection, review, comment, verification, confirmation, acknowledgement or audit by, any governmental authority, *Owner*, or the *Consultant*, or anyone on their behalf, shall relieve *Contractor* from performing or fulfilling any of its obligations under the *Contract*. Without limitation, whenever any drawings, plans, procedures, programs or other work product of *Contractor* requires any review, inspection, comment or approval by any governmental authority, *Owner*, or the *Consultant*, or anyone on their behalf, any such review, inspection, comment or approval shall not, in any way, reduce or modify any of *Contractor's* obligations under the *Contract*.
- 9.5 If any part of the *Contract* or the application of such part to any party, person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of the *Contract*, or the application of such part to any other party, person or circumstance, shall not be affected thereby and each provision of the *Contract* shall be valid and enforceable to the fullest extent permitted by law.
- 9.6 This Agreement, including the *Contract Documents* described herein and the attachments, documents and other agreements to be furnished or executed in connection herewith, supersede all prior negotiations, representations or agreements, either written or oral, with respect to the subject matter hereof. No modification to the *Contract* shall be effective unless made in writing signed by both *Owner* and *Contractor*, unless otherwise provided for herein.
- 9.7 This *Contract* may be executed in any number of counterparts, and all such counterparts shall together constitute one instrument binding on the parties hereto, provided each party hereto has executed at least one counterpart, including any counterpart executed by a party hereto and transmitted to the other party hereto by facsimile transmission or by electronic mail with PDF attachment, and each shall be deemed to be an original, notwithstanding that all parties are not signatory to the same counterpart."

3. DEFINITIONS

- 3.1.1 Amend the Definition, "*Working Day*", by adding the words, "or Easter Monday", after "Sunday" in the first line.
- 3.1.2 Add the following new Definitions:

Commissioning

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

Completion of Commissioning

Completion of Commissioning means the point in time at which the *Owner* and the *Consultant* are satisfied that the *Contractor* has successfully completed *Commissioning*.

COVID-19

COVID-19 means the novel coronavirus infectious disease SARS-CoV-2 referenced by the World Health Organization and any related viruses, diseases, and/or strains, including any second or subsequent waves.

Construction Act

Construction Act means the Ontario *Construction Act*, R.S.O. 1990, c. C.30, and its regulations, as may be amended from time to time.

Deficiency List

Deficiency List means the deficiency list prepared by the *Consultant* and/or *Owner*, acting reasonably, listing itemized deficiencies in the *Work*.

Governmental Authorities

Governmental Authorities means any government, legislature, municipality, regulatory authority, agency, commission, department, board, or other law regulation or rule making entity (including, without limitation, a minister of the Crown).

Hazardous Substances

Hazardous Substances are any substances including, without limitation, any solid, liquid, gas, odour, heat, sound, vibration or radiation, mould, bacteria or any combination thereof which may impair the natural environment, injure or damage property, plant or animal life, or harm or impair the health of any person, and includes any substances recognized or characterized as hazardous or toxic under applicable law.

OHSA

OHSA shall refer to the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1. as amended, and all regulations passed thereunder.

Proper Invoice

Proper Invoice has the meaning given to it in the *Construction Act*. For greater clarity, a *Proper Invoice* must meet the requirements of section 6.1 of the *Construction Act* and any other requirements this *Contract* specifies. Any references to “application for payment” in the *Contract* shall be deemed to refer to “*Proper Invoice*”.

Scheduled Ready-for-Takeover Date

Scheduled Ready-for-Takeover Date means [insert date].

Scheduled Total Completion Date

Scheduled Total Completion Date means thirty (30) days following *Ready-for-Takeover*. The *Scheduled Total Completion Date* shall only be amended in writing by the *Owner*.

Submittals

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

Total Completion of the Work

Total Completion of the Work means the point in time when the *Work* is totally performed in accordance with the *Contract Documents* and certified as such by the *Consultant*.

GC 1.1

GENERAL CONDITIONS OF THE STIPULATED PRICE CONTRACT

.1 Delete paragraph 1.1.4 and replace it with the following:

1.1.4 Applying the standard of care described in paragraph 1.5.1, the *Contractor* shall review the *Contract Documents* and promptly report to the *Consultant* any error, inconsistency, omission, or non-compliance with applicable laws, the *Contractor* may discover or any doubt as to meaning or intent the *Contractor* may have. 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*. If the *Contractor* does discover any error, inconsistency, omission, or non-compliance with applicable laws in the *Contract Documents*, or if the *Contractor* has any doubt as to meaning or intent of any part thereof, the *Contractor* shall not proceed with the *Work* affected until the *Contractor* has received direction from the *Consultant*.

.3 Amend paragraph 1.1.5.1 by moving "Supplementary Conditions" to the top of the order of priority.

.4 Delete paragraph 1.1.10 in its entirety and substitute new paragraph 1.1.10:

"1.1.10 The design information furnished to the *Contractor* as part of the *Contract Documents*, including the *Drawings* and *Specifications*, are the property of the *Owner* and/or the *Consultant*, and are to be used by the *Contractor* only for the purposes of performing the *Work*. The *Contractor* shall not copy, alter or utilize the aforesaid design information for any purpose unrelated to the *Work* without written authorization from the *Owner* and the *Consultant*."

.4 Add new paragraphs 1.1.12 to 1.1.17:

"1.1.12 It is intended that all provisions of this *Contract* shall be fully binding and effective between the parties, but in the event that any particular provision or provisions or a part of one is found to be void, voidable or

unenforceable for any reason whatsoever, then the particular provision or provisions shall be deemed severed from the remainder of this *Contract* and all other provisions shall remain in full force.

- 1.1.13 The *Owner* shall provide the *Contractor*, without charge, one (1) electronic set of the *Contract Documents* to perform the *Work*.
- 1.1.14 Neither the *Owner* nor the *Consultant* will be responsible for oral instructions.
- 1.1.15 Inconsistencies and/or omissions from the *Drawings* and/or *Specifications* which do not allow for a complete job shall be brought to the *Consultant's* attention. Notwithstanding the foregoing, inconsistencies and 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*.
- 1.1.16 The *Contractor* shall keep one copy of the current *Contract Documents*, including, but not limited to *Supplemental Instructions*, *Contemplated Change Orders*, *Change Orders*, *Change Directives*, reviewed *Shop Drawings*, *Submittals*, *Addenda*, *Bid Revisions*, reports and records of meetings at the *Place of the Work*, in good order and available to the *Owner* and *Consultant*.
- 1.1.17 In the *Contract Documents*:
- .1 the singular shall include the plural and vice versa, as context may require;
 - .2 the word "including" shall mean "including, without limitation"; and
 - .3 any reference to a statute shall be deemed to refer to the statute as it is amended from time to time and to also include reference to the regulations enacted under that statute.

GC 1.4 ASSIGNMENT

- .1 Delete paragraph 1.4.1 in its entirety and substitute new paragraph 1.4.1:

"1.4.1 The *Contractor* shall not assign the *Contract* or any portion thereof without the prior written consent of the *Owner*, acting reasonably. If *Owner* assigns this *Contract* or any part thereof, *Owner* shall provide written notice to the *Contractor* of such assignment."

GC 1.5 PROJECT REQUIREMENTS

.1 Add new GC 1.5 as follows:

“GC 1.5 – PROJECT REQUIREMENTS

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

- .1 it has the necessary high degree of experience and expertise required to perform the *Work* and it will in the performance of the *Work* exercise a standard of care, skill and diligence that would normally be provided by an experienced and prudent contractor providing similar services for hospital projects of a similar nature. The *Contractor* acknowledges and agrees that throughout the *Contract*, the *Contractor’s* obligations, duties and responsibilities shall be interpreted in accordance with this standard. The *Contractor* shall exercise the same standard of due care and diligence in respect of any *Products*, personnel, or procedures which it may recommend to the *Owner*.
- .2 the personnel it assigns to the *Project* are experienced and it has a sufficient staff of qualified and competent personnel to replace its designated contract personnel referred to in GC 3.5 – SUPERVISION, subject to the *Owner’s* approval, in the event of death, incapacity, termination or resignation;
- .3 there are no pending, threatened or anticipated claims or litigation involving the *Contractor* that would have a material adverse effect on the financial ability of the *Contractor* to perform the *Work*; and
- .4 it will achieve *Ready-for-Takeover* and the *Total Completion of the Work* by the dates set out in Article A-1.3.”

GC 1.6 CONFIDENTIALITY

.1 Add new GC 1.6 as follows:

“GC 1.6 – CONFIDENTIALITY

“1.6.1 *Contractor* shall not, except as is required to carry out its obligations, duties, responsibilities or liabilities under the *Contract*, divulge any confidential information communicated to or acquired by it in the course

of carrying out its obligations, duties, responsibilities or liabilities under the *Contract*. No confidential information shall be used by the *Contractor* on any other project without the prior written consent and approval of the *Owner* (which approval may be arbitrarily withheld). The *Contractor* shall not have any proprietary rights to or interest in the confidential information, nor shall the *Contractor* have any right to license such information to any *Subcontractor*, *Supplier* or other third party. The term “confidential information” as used herein shall mean all information which the *Contractor* receives, either directly or indirectly, from the *Owner* or from the *Consultant*, except:

- .1 information which the *Contractor* can demonstrate is, at the time of disclosure, already known to the *Contractor*;
- .2 information which, at the time of disclosure, is or thereafter becomes a part of the public domain through no act or omission on the part of the *Contractor*; and
- .3 information which is disclosed to the *Contractor* by a third party without a covenant of confidentiality.

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

1.6.3 The *Contractor* covenants and agrees that the confidentiality covenant contained herein shall survive the termination or discharge of date of such termination or discharge.”

GC 2.2 ROLE OF THE CONSULTANT

- .1 Amend paragraph 2.2.3 by adding the following sentence to the end:

“The presence of such project representatives at the *Place of the Work* or the *Work* shall not relieve *Contractor* from any responsibility to perform the *Work* as required by the *Contract Documents*.”

- .2 Amend paragraph 2.2.5 by (a) adding the word “schedules” after the word “techniques”, (b) adding to the end of the second sentence of paragraph 2.2.5, “or to adhere to the construction schedule”, and (c) adding the following sentence to the end of the paragraph:

“The *Consultant* will not have control over, charge of, or be responsible for, the acts or omissions of the *Contractor*, *Subcontractors*, *Suppliers*, or their

agents, employees, or any other person performing any portion of the Work.”

- .3 Amend paragraph 2.2.6 by deleting “Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER” and capitalizing “the”.
- .4 Amend paragraph 2.2.7 by inserting “*Contractor* or *Owner* on its own behalf or on behalf of” after the word “by” in the second line.
- .5 Delete paragraph 2.2.12 and replace with the following:

“The *Contractor* shall be responsible for requesting any additional instructions or clarifications that may be required from the *Consultant* which are needed for the performance of the *Work*, and shall request such instructions or clarifications in time to avoid any delay or additional cost of the *Work*.”
- .6 Amend paragraph 2.2.13 by deleting the word “submittals” and replacing with “*Submittals*”.
- .7 Amend paragraph 2.2.18 by deleting the words “against whom the *Contractor* makes no reasonable objection”.

GC 2.3 REVIEW AND INSPECTION OF THE WORK

- .1 Amend paragraph 2.3.2 by inserting in line 1 “, *Commissioning*” after “inspections,”. Insert in line 3 “and *Commissioning*” after “inspection”.
- .2 Amend paragraph 2.3.3 by inserting in line 1 “, *Commissioning*” after “certificates.
- .3 Amend paragraph 2.3.4 by inserting in lines 2 and 3 “*Commissioning*” after “inspections,”.
- .4 Amend paragraph 2.3.5 by inserting “Subject to paragraph 2.3.4” at the beginning of the third sentence.
- .5 Amend paragraph 2.3.6 and paragraph 2.3.7 by inserting “or *Commissioning*” after “inspection” in all instances.
- .6 Add new paragraph 2.3.8:

“2.3.8 No inspection, review, comment, approval, verification, confirmation or certification, under the *Contract*, nor any failure to do so, shall relieve the *Contractor* from performing or fulfilling any of its obligations under this *Contract* or be construed as an acceptance of the *Work* or any part thereof.”

GC 2.4 DEFECTIVE WORK

- .1 Amend paragraph 2.4.1 by adding the following to the end of the paragraph:

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

- .2 Add new paragraphs 2.4.4 to 2.4.7 as follows:

“2.4.4 The *Contractor* shall prioritize the correction of any defective work which, in the sole discretion of the *Owner*, adversely affects the day-to-day operation of the *Owner*.

2.4.5 Upon notification of a defect in the *Work*, the *Contractor* shall, within five working days, promptly provide a written statement outlining the proposed remedial measures and a schedule for implementation. Once approved by the *Consultant*, the *Contractor* shall proceed with the remedial measures without adversely affecting the construction schedule.

2.4.6 Notwithstanding any rejection of the *Work* by the *Consultant* or deduction of an amount otherwise due to the *Contractor* by the *Owner* as a result of defective work, the *Contractor* is required to continue the *Work* in accordance with the *Contract Documents*.

2.4.7 The *Contractor* shall rectify all defective *Work* and deficiencies throughout the *Work* so that the *Work* meets the requirements of the *Contract Documents*, whether or not they are specifically identified by the *Owner* or *Consultant*.”

GC 3.1 CONTROL OF THE WORK

- .1 Amend paragraph 3.1.1 by inserting “schedule, coordinate,” after the word “effectively”.

- .2 Amend paragraph 3.1.2 by adding the word “schedules” after the word “techniques” and by adding the following to the end of the sentence “and shall coordinate the *Work* so as not to interfere with, interrupt, obstruct, delay, or otherwise affect, the work of *Other Contractors* or the *Owner’s* own forces”.

- .3 Add new paragraphs 3.1.3 and 3.1.4 as follows:

“3.1.3 Prior to commencing procurement, or fabrication construction activities, the *Contractor* shall verify, at the *Place of the Work*, all relevant measurements and levels necessary for proper and complete fabrication, assembly and installation of the *Work* and shall further carefully compare such field measurements and conditions with the

requirements of the *Contract Documents*. Where dimensions are not included or exact locations are not apparent, the *Contractor* shall immediately notify the *Consultant*, in writing, and obtain written instructions from the *Consultant* before proceeding with any part of the affected work.

- 3.1.4 *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*. *Contractor* acknowledges that both time and quality are of the essence and *Contractor* will perform the *Work* or cause the *Subcontractors* and *Suppliers* to perform the *Work* in accordance with the construction schedule.”

GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

- .1 Delete subparagraphs 3.2.2.1 and 3.2.2.2 in their entirety and replace with “Intentionally deleted”.
- .2 Amend paragraph 3.2.3 by adding the words “at no extra cost” after the word “shall” at the end of the second line.
- .3 Add new subparagraph 3.2.3.5:

“3.2.3.5 Subject to GC 9.4 – CONSTRUCTION SAFETY, for the *Owner’s* own forces and for other contractors, assume overall responsibility for compliance with all aspects of the applicable health and safety legislation in the *Place of the Work*, including all of the responsibilities of “constructor” under *OHSA*. The *Owner’s* own forces and other contractors will be required to comply with the directions and instructions from the *Contractor*.”
- .4 Delete the last sentence of paragraph 3.2.5.
- .5 Delete paragraph 3.2.6 and replace with the following:

“3.2.6 Entry by the *Owner’s* forces and by other contractors does not indicate acceptance of the *Work* and does not relieve the *Contractor* of any responsibility under the *Contract* including the responsibility to complete the *Work* in accordance with the *Contract Documents*.”
- .6 Add new paragraph 3.2.7 as follows:

“3.2.7 Placing, installing, application and connection of work by the *Owner’s* own forces or by other contractors, on and to the *Work* will not relieve the *Contractor’s* responsibility to provide and maintain the specified warranties unless a defect has been created by the *Owner’s* own forces or *Other Contractors*.”

GC 3.3 TEMPORARY WORK

- .1 Add to end of paragraph 3.3.3:

“and shall advise the *Owner* and *Consultant* where the *Contractor* reasonably believes that the design or method of construction specified in the *Contract Documents* may threaten the quality of the *Work* or the safety of persons”.

GC 3.4 CONSTRUCTION SCHEDULE

- .1 Delete paragraph 3.4.1 in its entirety and substitute the following:

“3.4.1 The *Contractor* shall,

- .1 Unless it is required to be submitted earlier in accordance with Division 1 of the *Specifications*, then prior to submitting the first application for payment, submit to the *Owner* and the *Consultant* for their review and acceptance a construction schedule in electronic format and in hard copy, indicating the critical path for the *Project* demonstrating that the *Work* will be performed in conformity with the *Contract Time* and the *Contract Documents*. Once accepted by the *Owner* and the *Consultant*, the construction schedule submitted by the *Contractor* shall become the baseline construction schedule;
- .2 Provide the necessary expertise and resources (including, without limitation, personnel and equipment) as are necessary to maintain progress under the accepted baseline construction schedule referred to in paragraph 3.4.1.1 or any successor or revised schedule accepted by the *Owner* pursuant to this GC 3.4;
- .3 Monitor the progress of the *Work* on a weekly basis relative to the construction schedule, reviewed and accepted pursuant to paragraph 3.4.1.1, or any successor or revised schedule accepted in writing by the *Owner* pursuant to GC 3.4, update the construction schedule on a monthly basis and advise the *Consultant* and the *Owner* in writing of any variation from the baseline construction schedule or slippage in the baseline construction schedule; and
- .4 If, after applying the expertise and resources required under paragraph 3.4.1.2, the *Contractor* forms the view that the slippage in baseline construction schedule reported in paragraph 3.4.1.3 cannot be recovered by the *Contractor*, it shall, in the same notice provided under paragraph 3.4.1.3, indicate to the *Consultant* and the *Owner* if the *Contractor* intends to apply for an extension of *Contract Time* as provided in PART 6 - CHANGES IN THE WORK.”

.2 Add new paragraphs 3.4.2 and 3.4.3:

"3.4.2 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 to that effect to the *Owner* or the *Consultant* pursuant to 3.4.1.3, the *Contractor* shall take appropriate steps to cause the actual progress of the *Work* to conform to the schedule and shall produce and present to the *Owner* and the *Consultant* a recovery plan demonstrating how the *Contractor* will achieve the recovery of the schedule and a summary of any costs to be claimed by the *Contractor* against the *Owner* therefor. For such delay to the schedule caused by the *Contractor* or anyone employed or engaged by the *Contractor* directly or indirectly, the *Contractor* shall, at the *Contractor's* expense, employ additional labour and equipment or work overtime or employ any other reasonable procedures, at no expense to the *Owner*, to bring the *Work* back to conform with the schedule.

3.4.3 The delivery by the *Contractor* of an updated schedule (including with a *Proper Invoice* and as contemplated by paragraph 3.4.1.2) shall not amend the *Contract Time* or be deemed to amend the baseline accepted construction schedule. The *Contract Time* shall only be amended in accordance with the terms of the *Contract*. The baseline construction schedule shall only be amended to reflect any adjustments in the *Contract Time* that are made in accordance with the terms of the *Contract* and, in any event, only with the *Owner's* prior written consent."

GC 3.5 SUPERVISION

.1 Delete paragraph 3.5.1 in its entirety and substitute new paragraph 3.5.1:

"3.5.1 The *Contractor* shall employ competent project managers, superintendents, coordinators and other personnel referred to in the Instructions to Bidders and Tender Form who will not be removed or replaced during the course of the *Work* without the written consent of the *Owner*, which approval shall not be unreasonably withheld. Should any of the *Contractor's* personnel prove to be unacceptable to the *Owner*, the *Owner* shall give written notice to the *Contractor* who shall, within seven days of receipt of the written notice, immediately make arrangements to appoint a replacement acceptable to the *Owner*."

.2 Add new paragraph 3.5.3:

"3.5.3 The *Contractor's* site superintendent for the *Contract* shall devote their full time during working hours to the *Project* and remain on the *Project* until a final certificate of payment has been issued by the

Consultant and all deficiencies in the *Work* have been rectified to the satisfaction of the *Owner*. The full-time site superintendent for the *Contract* named in the Stipulated Price Bid Form and any acceptable replacement shall represent the *Contractor* at the *Place of the Work* and notices and instructions given to the site superintendent for the *Contract* by the *Consultant* shall be held to have been received by the *Contractor*."

GC 3.6 SUBCONTRACTORS AND SUPPLIERS

- .1 Amend paragraph 3.6.2 by inserting the following at the end of the paragraph:

"The *Contractor* agrees not to change *Subcontractors* without prior written approval of the *Owner*. Where the *Contractor* wishes to change identified *Subcontractors* or *Suppliers*, it shall set out in writing to the *Owner* sufficient reasons for the desired change. If the *Owner* is not satisfied with the *Contractor's* reason for wanting to change an identified *Subcontractor* or *Supplier*, it shall have the *Consultant* notify the *Contractor* that its request is not acceptable to the *Owner* and that the *Contractor* is required to proceed with the identified *Subcontractor* or *Supplier*."

- .2 Amend 3.6.4 by inserting the following at the end of the paragraph:

"unless the request to change a proposed *Subcontractor* or *Supplier* is a result of issues with the ability of the *Subcontractor* or *Supplier* to complete the *Work*, in which case the *Contractor* will not be entitled to any change in *Contract Price* or *Contract Time*".

GC 3.7 LABOUR AND PRODUCTS

- .1 Add new paragraph 3.7.4 as follows:

"3.7.4 The *Contractor* is responsible for the safe on-site storage of *Products* and their protection (including *Products* supplied by the *Owner* and *Other Contractors* to be installed under the *Contract*) in such ways as to avoid dangerous conditions or contamination to the *Products* or other persons or property and in locations at the *Place of the Work* to the satisfaction of the *Owner* and the *Consultant*. The *Owner* shall provide all relevant information on the *Products* to be supplied by the *Owner*."

GC 3.8 SHOP DRAWINGS

- .1 Add the words "AND OTHER SUBMITTALS" to the title after "SHOP DRAWINGS".
- .2 Add "and *Submittals*" after the words "*Shop Drawings*" in clauses 3.8.1, 3.8.2, 3.8.3, 3.8.3.2, 3.8.5, 3.8.6 and 3.8.7.

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

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

.4 Delete paragraph 3.8.7 in its entirety and substitute new paragraph 3.8.7:

“3.8.7 The *Consultant* will review and return *Shop Drawings* and *Submittals* in accordance with the schedule agreed upon in 3.8.8, or, in the absence of such schedule, within 15 *Working Days*. If, for any reason, the *Consultant* cannot process them within the agreed-upon schedule or within 15 *Working Days*, the *Consultant* shall notify the *Contractor* and both shall meet to review and arrive at an acceptable revised schedule for processing. The *Contractor* shall update the *Shop Drawings* and *Submittals* schedule to correspond to changes in the construction schedule.”

.5 Add new paragraphs 3.8.8 to 3.8.13 as follows:

“3.8.8 Prior to the first application for payment, the *Contractor* and the *Consultant* shall jointly prepare a schedule of the dates for submission and return of *Shop Drawings* and any *Submittals*.

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

3.8.10 *Shop Drawings* and *Submittals* 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.

3.8.11 The *Consultant’s* review is for conformity to the design concept and for general arrangement only.

3.8.12 *Shop Drawings* and *Submittals* which require approval of any legally constituted authority having jurisdiction shall be provided to such authority by the *Contractor* for approval. For greater certainty, the *Contractor* shall be responsible for all costs associated with making any such submission and obtaining any associated permits or approvals, including costs associated with any review or inspection and any permit fees, trade or otherwise.

3.8.13 The *Contractor* shall provide revised *Shop Drawings* and *Submittals* 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 and Submittals other than those requested by the Consultant.”

GC 3.9 USE OF THE WORK

.1 Add new GC 3.9 as follows:

“GC 3.9 – USE OF THE WORK

- 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, or the *Contract Documents* and shall not unreasonably encumber the *Place of the Work*.
- 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*.
- 3.9.3 If storage or other areas are required for the *Work* in addition to the *Work Site, Contractor* shall be responsible for making arrangements to obtain the additional areas and obtaining any necessary permits, permission or authorization and, if required, for making permit, rental or other payments that may be required for such purpose.”

GC 3.10 CUTTING AND REMEDIAL WORK

.1 Add new GC 3.10 as follows:

“GC 3.10 – CUTTING AND REMEDIAL WORK

- 3.10.1 The *Contractor* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly.
- 3.10.2 The *Contractor* shall co-ordinate the *Work* to ensure that the cutting and remedial work is kept to a minimum.
- 3.10.3 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 3.11 CLEANUP

.1 Add new GC 3.11 as follows:

“GC 3.11 – CLEANUP

- 3.11.1 The *Contractor* shall on a daily basis 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. The *Contractor* shall advise the *Owner* or *Consultant* of any clean-up that is required or any situation on the site caused by another contractor that is potentially hazardous to the safety of the site or the workers.

3.11.2 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.

3.11.3 Prior to application for final payment, the *Contractor* shall remove any and all 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.”

GC 3.12 DOCUMENTS AT THE SITE

.1 Add new GC 3.12 – DOCUMENTS AT THE SITE as follows:

“GC 3.12 DOCUMENTS AT THE SITE

3.12.1 The *Contractor* shall keep one copy of the current *Contract Documents, Supplemental Instructions, Change Orders, Change Directives, reviewed Shop Drawings, Submittals*, reports and records of meetings at the *Place of the Work*, in good order and available to the *Owner* and *Consultant*.”.

GC 4.1 CASH ALLOWANCES

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

“4.1.4 Where the actual cost of the *Work* under any cash allowance exceeds the amount of the allowance, any unexpended amounts from other cash allowances shall be reallocated, at the *Owner’s* direction, to cover the shortfall, and, in that case, there shall be no additional amount added to the *Contract Price* for overhead and profit. Only where the actual cost of the *Work* under all cash allowances exceeds the total amount of all cash allowances shall the *Contractor* be compensated for the excess incurred and substantiated, plus an amount for overhead and profit on the excess only, as set out in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGE.”

- .2 Delete paragraph 4.1.7 in its entirety and substitute new paragraph 4.1.7.

“4.1.7 The *Contractor* shall provide a schedule prior to the first application for progress payment that shows when the *Owner* must authorize ordering of items called for under cash allowances to avoid delaying the progress of the *Work*.”

- .2 Add new paragraph 4.1.8:

“4.1.8 The *Owner* reserves the right to call at its own expense, or to have the *Contractor* call at its own expense, competitive bids for portions of the *Work*, to be paid for from cash allowances. If the *Owner* determines to proceed with competitive bids, the *Contractor* shall comply with the directions of the *Owner*.”

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

- .1 Delete paragraphs 5.1.1 and 5.1.2 in their entirety and replace with “Intentionally deleted”.

GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT

- .1 Delete paragraph 5.2.1 and replace it with the following:

“5.2.1 The *Contractor* shall submit *Proper Invoices* on the fifth day of the month following the month to which the *Proper Invoice* relates. Seven (7) days prior to the end of the month, the *Contractor* shall submit to the *Owner* a draft invoice that includes the amounts the *Contractor* intends to apply for in its forthcoming *Proper Invoice* for that month. For greater clarity, if the *Contractor* submits a *Proper Invoice* before the fifth day of the month following the month to which the *Proper Invoice* relates, the *Owner* shall not review it until, and it shall not be considered given to the *Owner* until, the fifth day of the month. In addition to the information required by section 6.1 of the *Construction Act*, *Proper Invoices* shall include:

- .1 an updated schedule of values;
- .2 a CCDC document 9A 2018 statutory declaration;
- .3 an updated WSIB clearance certificate;
- .4 a detailed description of expenditures under cash allowances (if any);
- .5 an updated schedule of the *Work* as contemplated by paragraph 3.4.1.3 (as measured and tracked against the approved construction schedule); and

- .6 any other information or documents required prescribed by the *Contract Documents*.
- .2 Delete paragraph 5.2.2 in its entirety and replace with “Intentionally deleted”.
- .3 Amend paragraph 5.2.3 by deleting “delivered to” and substitute “incorporated into”.
- .4 Amend paragraph 5.2.4 by inserting at the end of the paragraph the following:
“The format of the schedule of values shall be in accordance with Division 1 of the *Contract Specifications*.”
- .5 Add to the end of paragraph 5.2.8 the following new sentence:
“Any *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall remain at the risk of the *Contractor* until *Substantial Performance of the Work*, notwithstanding that title has passed to the *Owner* pursuant to GC 14.1 OWNERSHIP OF MATERIALS.”
- .6 Add new paragraph 5.2.9 as follows:
“5.2.9 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* reserves the right to retain a reasonable amount for the value of the as-built drawings not presented for review.”

GC 5.3 PROGRESS PAYMENT

- .1 Delete from the first line of subparagraph 5.3.1.1, the words “calendar days” and substitute the words “*Working Days*”.
- .2 Amend subparagraph 5.3.1.2 by
“The *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement – PAYMENT no later than 10 *Working Days* after receipt of a certificate of payment issued by the *Consultant*.”

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK

- .1 Amend paragraph 5.4.1 by (a) deleting the words “20 calendar days” and substituting the words “fifteen (15) *Working Days*”, and (b) adding the following to the beginning of the paragraph:

“When the *Contractor* considers that the *Work* is substantially performed, or if permitted by the *Payment Legislation* a designated portion thereof which the *Owner* agrees to accept separately is substantially performed, the *Contractor* shall deliver to the *Consultant* and *Owner* a request for *Substantial Performance of the Work*, including a list of incomplete and defective or deficient work to be rectified, for review by the *Consultant* to establish *Substantial Performance of the Work* or substantial performance of the designated portion of *Work*.”

.2 Delete paragraph 5.4.2 and replace with “Intentionally deleted”.

.3 Delete paragraph 5.4.3 and substitute new paragraph 5.4.3:

“Subject to the terms and conditions of the *Contract*, the requirements of any *Payment Legislation*, and any notice of non-payment of holdback, the holdback amount authorized by the certificate for payment of holdback referred to in paragraph 5.4.8 is due and payable no later than ten (10) *Working Days* following the expiry of the applicable lien period stipulated in the *Payment Legislation* applicable to the *Place of the Work*. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens or written notices of lien against the *Work* or, if permitted by the *Payment Legislation* applicable to the *Place of the Work*, other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.”

.4 Amend paragraph 5.4.4 by deleting the word “The” at the beginning of the paragraph and replacing with: “Upon receipt of the certificate issued by the *Consultant* for *Substantial Performance of the Work* in accordance with GC 5.4.1.2, the”.

.5 Amend paragraph 5.4.5 by deleting “hereby agrees to release, and shall release” and replace with “may release”.

.5 Add new paragraphs 5.4.7 to 5.4.9 as follows:

“5.4.7 Immediately following the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor*, in consultation with the *Consultant*, shall establish reasonable dates for finishing the *Work* and correcting any deficient *Work*, which in any event shall be consistent with the scheduled *Total Completion Date*.

5.4.8 After the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor* shall:

- .1 submit an application for payment of the holdback amount,
- .2 submit CCDC 9A ‘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,

- .3 Submit a written request for release of holdback including a declaration that no written notices of lien have been received by it, and
- .4 Submit Workplace Safety & Insurance Board Clearance Certificate.

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

GC 5.5 FINAL PAYMENT

- .1 Delete paragraph 5.5.1 in its entirety and substitute new paragraph 5.5.1:

“When the *Contractor* considers that the *Work* is completed and satisfies the requirements of *Total Completion Date* and *Completion of Commissioning*, 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 as agreed to in writing by the *Owner* pursuant to paragraph 5.4.10 together with fully complete as-built drawings reviewed by the *Consultant* and in a final form acceptable to the *Owner*. Should the *Contractor* fail to deliver any of the said documents, or other documents required to be delivered pursuant to the *Contract Documents*, the *Owner* shall be at liberty to withhold from amounts otherwise payable to the *Contractor*, an amount, in the discretion of the *Owner*, up to the full amount otherwise payable to the *Contractor* as security for the obligation of the *Contractor* to deliver the undelivered documents.

- .2 Delete from the first line of paragraph 5.5.2 the words, “calendar days” and substitute the words “*Working Days*”.
- .3 Delete paragraph 5.5.4 in its entirety and substitute new paragraph 5.5.4:

“Subject to the other requirements of the *Contract*, the unpaid balance of the *Contract Price* shall become payable to the *Contractor* on the later of: (i) the

10th *Working Day* following the expiration of the statutory limitation period stipulated in the *Construction Act*, and (ii) the 10th *Working Day* following the issuance of the *Consultant's* final certificate for payment, subject to the *Owner's* right to withhold payment from the unpaid balance of the *Contract Price* for any amounts required pursuant to GC 5.6 DEFERRED WORK and GC 5.8 WITHHOLDING OF PAYMENT, and any sums required to satisfy any lien or trust claims arising from the *Work*.

.4 Add new paragraph 5.5.5:

"5.5.5 As additional preconditions for release of the final payment, the *Contractor* shall submit the following documentation:

- .1 *Contractor's* written request for release of final payment, including a declaration that no written notices of lien have been received by it.
- .2 *Contractor's* Statutory Declaration CCDC 9A-2001.
- .3 *Contractor's* Workplace Safety & Insurance Board Clearance Certificate.

GC 5.8 WITHHOLDING OF PAYMENT

.1 Add new GC 5.8 as follows:

"GC 5.8 – WITHHOLDING OF PAYMENT

"5.8.1 Notwithstanding the provisions of GC 5.3 PAYMENT, GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK and GC 5.5 FINAL PAYMENT, the *Owner* may withhold payment of any amounts otherwise due under the *Contract* on account of any costs or damages the *Owner* has incurred or, is likely to incur, by reason of:

- .1 defective or incomplete portions of the *Work* or damage to the work of other contractors not rectified in accordance with the *Contract*;
- .2 failure of the *Contractor* to indemnify the *Owner* in accordance with the terms of the *Contract*;
- .3 failure of the *Contractor* to fulfil its obligations in respect of construction liens in accordance with GC 14.2;
- .4 evidence of the *Contractor's* failure to make payments to *Subcontractors* or *Suppliers*;

- .5 unsatisfactory prosecution of the *Work* by the *Contractor* or any *Subcontractor*; and
- .6 failure to attain the *Contract Time*.

5.8.2 Where the *Owner* has withheld payment of any portion of the *Contract Price* pursuant to the provision of paragraph 5.6.1 of GC 5.6 – DEFERRED WORK or paragraph 5.8.1 of GC 5.8 – WITHHOLDING OF PAYMENT, the *Owner* shall be entitled to apply such withheld portion towards any costs or damages suffered by the *Owner*.”

GC 6.1 OWNER’S RIGHT TO MAKE CHANGES

.1 Add the following new paragraphs 6.1.3 to 6.1.8:

“6.1.3 With respect to the valuation of any adjustment in the *Contract Price*, subject to any different or additional requirements contained in the *Specifications*, the following shall apply:

- .1 If applicable, unit prices included in the *Contract*, or prices pro rata thereto, will be used to value changes;
- .2 Proposed methods of adjustment should contain itemized breakdowns describing the net actual value of the *Work* (excluding *Value Added Taxes*), the *Contractor’s* mark-up for overhead and profit, the mark-up for overhead and profit of *Subcontractors*, and where appropriate, detailed quotations or cost vouchers from *Subcontractor* and *Suppliers*;
- .3 All overhead costs are deemed to include both site and head office overhead costs, as well as any applicable insurance and bonding costs;
- .4 Labour costs shall be the actual labour costs based upon rates prevailing at the *Place of the Work* and payable to workers, plus applicable statutory charges such as WSIB, Employment Insurance, Canada Pension, vacation pay, and hospitalization and medical insurance;
- .5 If a change involves both additions and deletions to the *Work*, the value of the change will be determined based upon the net difference to the *Work* occasioned by the change. For greater certainty, the *Contractor’s* mark-up for overhead and profit only will be applied to the net value of the change.

- 6.1.4 The *Owner*, through the *Consultant*, reserves the right to authorize payment for a change in the *Work* by means of *Cash Allowance*. For greater certainty, the *Contractor* is not entitled to any mark-up for overhead and profit on such amounts.
- 6.1.5 In the event that any change to the *Work* results in a reduction in the *Contract Price*, the *Contractor* shall not be entitled to claim for any lost revenue, lost profit or loss of anticipated profit related thereto.
- 6.1.6 There shall be no adjustments to the *Contract Time* or *Contract Price* or compensation or payment of any kind whatsoever including potential or contingent costs for matters such as loss of profit, loss of productivity, loss of opportunity or any other such losses based on the quantity, scope or cumulative value or number of changes in the *Work* whether resulting from one or more *Change Orders* or *Change Directives*, unless agreed in writing by the parties in a *Change Order*.
- 6.1.7 Any *Change Order* or *Change Directive* shall clearly set out what, if any, extension of the *Contract Time* is anticipated as a result thereof and failing the inclusion of the same, *Contractor* shall be barred in making a claim for extension of the *Contract Time* in respect thereof.
- 6.1.8 Where *Work* is added to the *Contract*, the *Contractor* shall only be entitled to an increase in the *Contract Price* by the cost of performing the *Work* as agreed or in accordance with GC 6.3.7 as amended including all applicable taxes, but excluding *Value Added Taxes*, plus the following, identified separately:
- .1 *Contractor's* mark-up on its own work:
 - .1 Overhead: 10%
 - .2 Profit: 5%
 - .2 *Contractor's* mark-up on *Subcontractor's* work:
 - .1 Overhead: 5%
 - .2 Profit: 5%
 - .3 *Subcontractor's* mark-up on its own work:
 - .1 Overhead: 10%
 - .2 Profit: 5%
 - .4 If *Subcontractor* retains another subcontractor ("sub-subcontractor"), no additional mark-up shall be charged to the *Owner* for the sub-subcontractor's work."

GC 6.2 CHANGE ORDER

- .1 Delete paragraph 6.2.1 and insert new paragraph 6.2.1 as follows:

“6.2.1 When a change in the *Work* is proposed or required, the *Consultant* shall provide a notice describing the proposed change in the *Work* to the *Contractor*. The *Contractor* shall comply with the following:

- .1 The *Contractor* shall provide quotations from the *Subcontractors* on the *Subcontractor’s* letterhead and with *Subcontractor’s* signature.
- .2 Quotations from the *Subcontractors* and the *Contractor* shall have a complete breakdown for all items of material, a total number of hours for labour, and a dollar rate applied against individual material items and labour quantities.
- .3 Quotation shall stipulate any adjustment in the *Contract Time*, if any, for the proposed change in the *Work*.
- .4 Quotation shall indicate percentage values for overhead and profit by the *Contractor* and the *Subcontractors*.
- .5 The *Contractor* shall ensure all mathematical calculations are complete.
- .6 Quotations submitted with any of the above items missing or incorrect will be returned for revision.”

.2 Add new paragraph 6.2.3 as follows:

“6.2.3 Upon the *Owner* and *Contractor* signing a *Change Order*, the *Change Order* shall constitute full and final settlement of all matters addressed in the *Change Order*, including, without limitation, any increases or decreases of the *Contract Price* and/or changes to the *Contract Time* related to the subject matter of the *Change Order*.”

GC 6.3 CHANGE DIRECTIVE

.1 Delete paragraph 6.3.7.1 (1), (2), (3) and (4) in their entirety and substitute new paragraph 6.3.7.1 (1) as follows:

“(1) directly engaged in carrying out the work attributable to the *Change Directive*, excluding any field office or head office supervisory personnel

.2 Delete paragraphs 6.3.7.5, 6.3.7.11, 6.3.7.13, 6.3.7.15, 6.3.7.17 and 6.3.7.19 and replace with “Intentionally deleted”.

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- .1 Delete paragraph 6.4.1 and insert new paragraph 6.4.1 as follows:

“The *Contractor* shall immediately, and in no event, later than two (2) *Working Days* after first observance, notify the *Consultant* and the *Owner* in writing, if in its opinion, the subsurface or otherwise concealed physical conditions at the *Place of the Work* which existed before the commencement of the *Work* differ materially from those indicated in the *Contract Documents* or a reasonable assumption of probable conditions based thereon.”

- .2 Add new paragraphs 6.4.5 and 6.4.6 as follows:

“6.4.5 The *Contractor* confirms that, prior to bidding the *Project*, applying the standard of care described in paragraph 1.5.1, it carefully investigated the *Place of the Work* given the amount of time provided between the issue of the bid documents and the actual closing of bids, the degree of access provided to the *Contractor* prior to submission of bid, and the sufficiency and completeness of the information provided by the *Owner*. Notwithstanding any other provision in the *Contract*, the *Contractor* is not entitled to compensation or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such investigation undertaken prior to the submission of the bid.

6.4.6 *Contractor* shall not be entitled to claim, and waives its rights to make a claim, for any additional compensation or any increase to the *Contract Time* or *Contract Price*, if the *Contractor* fails to provide notice to the *Owner* as required in GC 6.4.1.”

GC 6.5 DELAYS

- .1 Add the following to the end of paragraph 6.5.1: “but excluding any special, indirect or consequential losses or damages, including but not limited to, loss of use, loss of productivity, loss of revenue, overhead and/or profit resulting from such delay.”
- .2 Add the following to the end of paragraph 6.5.2: “but excluding any special, indirect or consequential losses or damages, including but not limited to, loss of use, loss of productivity, loss of revenue, overhead and/or profit resulting from such delay. This paragraph does not apply to any order, direction, regulation, law or ordinance issued by a governmental or quasi-governmental authority in relation to the COVID-19 pandemic or any other epidemic or pandemic.”
- .2 Add the following to the end of paragraph 6.5.3: “provided that such costs are reasonable (and, in any event, shall exclude any special, indirect or consequential losses or damages, including but not limited to, loss of use, loss of productivity, loss of revenue, overhead and/or profit).”

- .3 Amend subparagraph 6.5.3.3 by adding “epidemics and pandemics (except for *COVID-19*)” after the word “conditions”.
- .3 Add new paragraphs 6.5.6, 6.5.7, and 6.5.8 as follows:
 - “6.5.6 The *Contractor* shall at all times perform the services required to perform the *Work* in accordance with the *Contract Documents* as diligently and expeditiously and to maintain an orderly progress of the *Work*, and in accordance with the *Contract Time* and any revisions thereto. The *Contractor* shall at all times provide sufficient personnel to accomplish its services within the *Contract Time*.
 - 6.5.7 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor* or anyone employed or engaged by the *Contractor* directly or indirectly, or by any cause within the *Contractor’s* control, then the *Contractor* shall take appropriate steps, in accordance with paragraph 3.4.2, to recover any lost time, and the costs of such recovery efforts shall be to the *Contractor’s* account. To the extent that the *Contractor* caused delay results in the *Owner* incurring additional costs and expenses and/or a change in the *Contract Time*, the *Contractor* shall be liable to the *Owner* for the *Owner’s* cost and damages arising therefrom, including but not limited to, all services required by the *Owner* from the *Consultant* as a result of such delay by the *Contractor* and, in particular, the cost of the *Consultant’s* services during the period between the date of *Ready-for-Takeover* stated in Article A-1 herein as the same may be extended through the provision of these General Conditions and any later, actual date of *Ready-for-Takeover* achieved by the *Contractor*.
 - 6.5.8 The *Contractor* shall assume any and all known conditions of *COVID-19* at the time of the execution of this *Contract* during and throughout the performance of the *Work*. Where there is any delay to the *Contract Time* and/or *Project*, or increase to the cost of the *Work*, caused or contributed by, resulting from, or related to *COVID-19*, including any stop work order, legislation, measures, or direction, issued by any *Governmental Authorities* having jurisdiction over the *Project* then:
 - .1 the *Contractor* shall be entitled to an extension of the *Contract Time* for a reasonable time caused by complying with such stop work order, legislation, measure, or direction;
 - .2 the *Contractor* shall not be entitled to any increase in compensation whatsoever, including, without limitation, any (a) increase to the *Contract Price*, payment of (b) costs, expenses or damages, and/or (c) any indirect, consequential, or special damages, such as loss of profits, loss of opportunity or loss of productivity; and

- .3 *Contractor* shall take and continue to take all commercially reasonable steps to eliminate or mitigate the consequences and delays related to such stop work order, legislation, measure, and/or direction.”

GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE

- .1 In paragraph 6.6.5, delete “claim” in the second line and replace it with “necessary claim information”.
- .2 Add new paragraph 6.6.7:
 - “6.6.7. The *Owner* may make claims arising out of the costs incurred for additional services provided by the *Consultant* resulting from the *Contractor’s* failure to perform the *Work* in accordance with the terms and conditions of the *Contract*, including the *Contractor’s* issuance of unnecessary requests for information. The *Consultant* will notify the *Owner* and *Contractor* where it has been determined that additional services will be required or have been provided in order not to cause a delay. The *Owner* shall make claims against the *Contractor* based on the *Consultant’s* invoices.”

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

- .1 Amend paragraph 7.1.2 by (a) deleting the words “and if the *Consultant* has given a written statement to the *Owner* and *Contractor* which provides the detail of such neglect to perform the *Work* properly or such failure to comply with the requirements of the *Contractor* to a substantial degree”, and (b) deleting the words “including references to applicable provisions of the *Contract*”.
- .2 Delete subparagraph 7.1.3.2 and replace with “provides the *Owner* with a schedule acceptable to the *Owner*, acting reasonably, for such correction.”
- .3 Delete paragraph 7.1.5.2 and insert new paragraph 7.1.5.2 as follows:
 - “withhold further payment to the *Contractor* until the *Owner* has completed all *Work* required by the *Contract Documents* and satisfied any of its costs or damages resulting from the *Contractor’s* default; and”
- .4 Add new paragraphs 7.1.7 and 7.1.8 as follows:
 - “7.1.7 Upon providing seven (7) calendar days’ *Notice in Writing* to the *Contractor*, the *Owner* may, at its sole option and discretion and without penalty, terminate the *Contract* for convenience. The *Owner’s* rights pursuant to the immediately preceding sentence shall include, without limitation, the right to have the *Contractor* assign any

contracts or written agreements with *Subcontractors* or *Suppliers* directly to the *Owner* and the *Contractor* hereby consents to such assignment. Upon receiving the notice of termination, the *Contractor* shall cease or cause the cessation of all operations except those which, in the *Contractor's* opinion, are necessary for the safety of personnel or for the care and preservation of the *Work*. Subject to any directions in the notice of termination, the *Contractor* shall discontinue or cause to be discontinued the ordering of *Products*, material, equipment and supplies and shall make reasonable efforts to cancel existing orders on the best terms available. If the *Contract* is terminated for convenience pursuant to this paragraph, the *Contractor* shall not be entitled to any costs, expenses, damages, losses or reimbursement of any kind whatsoever (and the *Contractor* waives any claim against the *Owner* related to or arising from the termination), save and except for the amounts expressly contemplated in paragraph 7.1.8. For clarity, notwithstanding any other provision in the *Contract*, the *Owner* shall not be liable to the *Contractor* for any actual or alleged damages of any kind whatsoever (including without limitation indirect, incidental, special, consequential or other damages, including loss of profits).

7.1.8 If the *Contract* is terminated pursuant to paragraph 7.1.7, the *Owner* shall pay the *Contractor* within thirty (30) calendar days of the date that an application for payment is submitted for:

- .1 all *Work* properly performed to the date of termination, less amounts previously paid;
- .2 demobilization and other reasonable and substantiated direct costs the *Contractor* incurs as a result of the termination and which could not have been reasonably avoided or mitigated by the *Contractor*; and
- .3 any supplier costs related to *Products* already in production or fabrication that cannot reasonably be terminated and other similar reasonable direct and substantiated costs the *Contractor* incurs as a direct result of the early termination of subtrade or supplier contracts.

The *Contractor* shall ensure equivalent provisions to paragraphs 7.1.7 and 7.1.8 are included in its contracts with *Subcontractors* and *Suppliers*."

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

- .1 Delete paragraph 7.2.2 in its entirety and replace with the following:

“If the entirety of the *Work* is stopped or otherwise suspended for a period of sixty (60) calendar days or more under an order of a court or other *Governmental Authority* as the result of an act or default of the *Owner* or anyone employed or engaged by the *Owner*, the *Contractor* may, without prejudice to any other right or remedy that the *Contractor* may have, by giving the *Owner Notice in Writing*, terminate the *Contract*. This provision shall not apply, and the *Contractor* shall have no right to terminate this *Contract* pursuant to this GC 7.2.2, if the stoppage or suspension has ceased prior to the giving of the *Notice in Writing*. In addition, this GC 7.2.2 shall not apply to any order, direction, regulation, law or ordinance issued by a governmental or quasi-governmental authority in relation to *COVID-19* or any other epidemic or pandemic.”

- .2 Delete subparagraph 7.2.3.1 in its entirety and replace with “Intentionally deleted”.
- .3 Delete subparagraph 7.2.3.3 in its entirety and substitute new subparagraph 7.2.3.3 as follows:

“the *Owner* fails to pay an amount properly due under the *Contract*, or the *Owner* fails to pay any amount it is required to pay under an adjudicator’s determination, rendered pursuant to Part IV of the *Construction Act*, within ten (10) days of the determination being communicated to the parties as required by section 13.19(2) of the *Construction Act*, or the *Owner* fails to pay the *Contractor* the amounts the arbitrator or court ordered the *Owner* to pay in accordance with the terms of the award or order, or”.
- .4 Delete from subparagraph 7.2.3.4 the words, “, except for GC 5.1 – FINACING INFORMATION REQUIRED OF THE OWNER,”.
- .5 Amend paragraph 7.2.4 by deleting “5” and substitute “15”.
- .6 Amend paragraph 7.2.5 by (a) deleting the words “including reasonable profit” in line 2 and substituting the words “, for direct damages”; (b) deleting the word “damages” in line 3 and substituting the words “direct damages”; and (c) deleting the period at the end of the paragraph and replacing it with a comma and adding the following words: “but excluding any special, indirect or consequential losses or damages, including but not limited to, loss of use, loss of productivity, loss of revenue, overhead and/or profit”.
- .7 Add the following new paragraph 7.2.6:

“7.2.6 The *Owner’s* withholding of progress payments, holdback payment and/or final payments pursuant to GC 5.6 and GC 5.8 shall not constitute a default under GC 7.2.3 permitting the *Contractor* to stop the *Work* or terminate the *Contract*.”

GC 8.1 AUTHORITY OF THE CONSULTANT

.1 Delete paragraphs 8.1.1, 8.1.2 and 8.1.3, and insert the following new paragraphs:

“8.1.1 Differences between the parties to the *Contract* as to the interpretation, application or administration of this *Contract* or any failure to agree where agreement between the parties is called for, herein collectively called disputes, which are not resolved in the first instance by finding of the *Consultant* pursuant to the provisions of GC 2.2 ROLE OF THE CONSULTANT, paragraphs 2.2.6, 2.2.7, 2.2.8 and 2.2.9 shall be settled in accordance with the requirements of this General Condition.

8.1.2 The claimant shall give written notice of such dispute to the other party no later than 7 days after the receipt of the *Consultant's* finding given under GC 2.2 - ROLE OF THE CONSULTANT, paragraphs 2.2.6, 2.2.7, 2.2.8 and 2.2.9. Such notice shall set forth particulars of the matters in dispute, the probable extent and value of the damage and the relevant provisions of the *Contract Documents*. The other party shall reply within 7 days to such notice after he receives or is considered to have received it, setting out in such reply his grounds and relevant provisions of the *Contract Documents*.

8.1.3 If the matter in dispute is not resolved promptly, the *Consultant* will give such instructions as in its opinion are necessary for the proper performance of the *Work* and to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim they may have. If it is subsequently determined that such instructions were in error or at variance with the *Contract Documents*, the *Owner* shall pay the *Contractor* verifiable costs incurred by the *Contractor* in carrying out such instructions which the *Contractor* was required to do beyond what the *Contract Documents* correctly understood and interpreted would have required him to do including costs resulting from interruption of the *Work*.

8.1.4 It is agreed that no act by either party shall be construed as a renunciation or waiver of any of its rights or recourses, provided it has given the notices in accordance with paragraph 8.1.2 and has carried out the instructions as provided in paragraph 8.1.3.

8.1.5 If the parties have agreed to submit disputes to arbitration, then the dispute shall be submitted to arbitration in accordance with the provisions of the arbitration legislation of the *Place of the Work*.

8.1.6 If no agreement is made for arbitration, then either party may submit the dispute to such judicial tribunal as the circumstances may require.

8.1.7 In recognition of the obligation by the *Contractor* to perform the disputed work as provided in paragraph 8.1.3, it is agreed that settlement of dispute proceedings may be commenced immediately following the dispute in accordance with the foregoing settlement of dispute procedures.

GC 8.2 ADJUDICATION

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

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

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

8.2.4 Disputes related to the termination or abandonment of the *Contract*, as well as any disputes that arise or are advanced following the termination or abandonment of the *Contract*, shall not be referred to adjudication under the *Construction Act*.”

GC 8.3 NEGOTIATION, MEDIATION AND ARBITRATION

.1 Delete GC 8.3 in its entirety and replace with “Intentionally deleted”.

GC 8.4 RETENTION OF RIGHTS

.1 Add new paragraph 8.4.3 as follows:

“8.4.3 If the parties agree under paragraph 8.1.5 to have a dispute resolved by arbitration, the *Contractor* agrees that this paragraph 8.4.3 shall be construed as a formal consent to the stay of any lien proceedings until

an award is rendered in the arbitration or such dispute is otherwise resolved between the parties; provided, however, that in no event shall the *Contractor* be deprived of its right to enforce its lien against the *Project* should the *Owner* fail to satisfy any arbitral award. For greater certainty, nothing in this paragraph 8.4.3 shall prevent the *Contractor* from taking the steps required by the *Construction Act* to preserve and/or perfect a lien to which it may be entitled.

GC 9.1 PROTECTION OF WORK AND PROPERTY

- .1 Delete subparagraph 9.1.1.1 in its entirety and replace with the following:

“errors in the *Contract Documents* which the *Contractor* could not have discovered applying the standard of care described in paragraph 1.5.1;”
- .2 Delete paragraph 9.1.2 in its entirety and replace with the following:

“Before commencing any *Work*, the *Contractor* shall determine the locations of all underground utilities and structures indicated in or reasonably determinable from the *Contract Documents* or that are discoverable by applying to an inspection of the *Place of the Work* the degree of care and skill described in paragraph 1.5.1.”
- .3 Add new paragraph 9.1.5 as follows:

“9.1.5 The *Contractor* shall neither undertake to repair and/or replace any damage whatsoever to the *Work of Other Contractors*, or to adjoining property, nor acknowledge the same was caused or occasioned by the *Contractor*, without first providing reasonable notice to the *Owner* and the *Consultant*. However, where there is danger to life or public safety, the *Contractor* shall take such emergency action as it deems necessary to remove the danger.”

GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

- .1 Add new subparagraph 9.2.5.5 as follows:

“.5 comply with the *Owner’s* requirements and specifications for *Hazardous Substances* contained in the *Contract Documents*.”
- .2 Add to paragraph 9.2.6 after the word "responsible", the following:

“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 damage to the property of the *Owner* or others,”

3. Add paragraph 9.2.7 after the word “responsible”, the following:

“or that any toxic or *Hazardous Substances* or materials already at the *Place of the Work* prior to the *Contractor* commencing 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 comply with legal and regulatory requirements,”.

- .4 Add to paragraph 9.2.8 after the word “responsible”, the following:

“or that any toxic or *Hazardous Substances* or materials already at the *Place of the Work* prior to the *Contractor* commencing 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 damage to the property of the *Owner* or others,”

- .5 Amend subparagraph 9.2.8.4 by adding “and the *Consultant*” after the word “*Owner*”.

- .6 Add new paragraph 9.2.10 as follows:

“9.2.10 *Contractor* shall indemnify and hold harmless *Owner*, *Owner’s* other contractors and suppliers, and their agents and employees, from and against claims and demands, losses, costs, damage, actions, suits, or proceedings arising out of or resulting from exposure to, or the presence of, toxic or hazardous substances or materials which were brought onto or made at the *Place of the Work* by *Contractor*, its *Subcontractors*, *Suppliers*, employees, agents or representatives after *Contractor* commenced the *Work*. This obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity set out in GC 13.1 INDEMNIFICATION or which otherwise exist respecting a person or party described in this paragraph.”

GC 9.4 CONSTRUCTION SAFETY

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

“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 the *Owner’s* Safety and Infection Control Regulations, Guidelines and Instructions

for Contractors, a copy of which is found at Division 1 of the *Specifications*. The *Contractor* shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the *Work*. The *Contractor* hereby accepts the designation of “constructor” as defined under the *OHSA* for the *Project*, and responsibility for the obligations and liabilities associated therewith.

- .2 Delete paragraphs 9.4.2 to 9.4.5 and replace with the following paragraphs 9.4.2 to 9.4.7 as follows:

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

- .1 a current WSIB clearance certificate;
- .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 of the *Contractor's* in-house safety-related programs;
- .4 a copy of the Notice of Project filed with the Ministry of Labour naming itself as “constructor” under *OHSA*.

9.4.3 The *Contractor* hereby represents and warrants to the *Owner* that appropriate health and safety instruction and training have been provided and will be provided to the *Contractor's* employees and *Subcontractors*, *Suppliers* and any one for whom the *Contractor* is responsible, before the *Work* is commenced and agrees to provide to the *Owner*, if requested, proof of such instruction and training.

9.4.4 The *Contractor* shall tour the appropriate area to familiarize itself with the job site prior to commencement of the *Work*. The *Contractor* shall ensure all of the *Work* is performed in a safe manner. Without limiting the generality of the foregoing, the *Contractor* shall ensure that all of its employees and *Subcontractors* are fully acquainted and comply with the *Contractor's* health and safety requirements, policies and procedures, and all the applicable laws, statutes and regulations. In addition, the *Contractor* shall ensure that all its employees and *Subcontractors* are, and remain, in full compliance with the applicable safety requirements prior to the commencement of the work and at all times during which the *Work* is performed.

9.4.5 The *Contractor* shall never work in a manner that may endanger anyone.

9.4.6 The *Contractor* shall indemnify and save harmless the *Owner*, the *Consultant* and their respective agents, officers, directors, employees, consultants, successors and assigns from and against the consequences of any and all safety infractions committed by the *Contractor* under *OHSA*, including the payment of legal fees and disbursements on a solicitor and client basis. Such indemnity shall apply to the extent to which the *Owner* is not covered by insurance, provided that the indemnity contained in this paragraph shall be limited to costs and damages resulting directly from such infractions and shall not extend to any consequential, indirect or special damages.

9.4.7 In the event that the *Owner* engages *Other Contractors* at the *Place of the Work* or performs work with its own forces, the *Owner* shall require its own forces and such *Other Contractors* to comply with the directions and instructions of the *Contractor* in respect of health and safety and related matters at the *Place of the Work*."

GC 9.5 MOULD

- .1 Amend subparagraph 9.5.1.1 by adding "and the *Consultant*" after the words "the other party".
- .2 Amend subparagraph 9.5.2.3 by adding ", including costs" after the word "incurred".
- .3 Amend subparagraph 9.5.2.4 by adding "and the *Consultant*" after the word "*Owner*".
- .3 Delete paragraph 9.5.3.3 in its entirety and substitute new paragraph 9.5.3.3 as follows:

"9.5.3.3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. 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 its reasonable costs incurred as a result of the delay as certified by the *Consultant*, and"

GC 10.1 TAXES AND DUTIES

- .1 Add new paragraph 10.1.3:

"10.1.3 Where the *Owner* is entitled to an exemption or a recovery of sales taxes, customs duties, excise taxes or *Value Added Taxes* applicable to the *Contract*, the *Contractor* shall, at the request of the *Owner* or the *Owner's* representative, assist with 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

.1 Add to the end of paragraph 10.2.4, the following words:

“The *Contractor* shall notify the Chief Building Official or the authority having jurisdiction where applicable, of the readiness, substantial completion, and completion of the stages of construction set out in the Ontario Building Code. The *Contractor* shall be present at each site inspection by an inspector or authority having jurisdiction as applicable under the Ontario Building Code.”

.2 Delete from the first line of paragraph 10.2.5 the word, “The” and substitute the words “Subject to paragraphs 1.1.4 and 3.8.12, the”.

GC 11.1 INSURANCE

.1 Add new paragraphs 11.1.9, 11.1.10 and 11.1.11 as follows:

“11.1.9 Where exclusion exists in any of the insurance coverages required under CCDC41 for asbestos removal, contamination, transportation or disposal, the *Contractor* must provide proof of the following coverages in amounts of \$5,000,000 inclusive per occurrence prior to commencement of *Work*:

- a. Asbestos Abatement Liability, including resultant pollution damage; and
- b. Contractor's Pollution Liability.

11.1.10 If applicable to the work performed by the *Contractor* or any party on behalf of the *Contractor*, the *Contractor* must provide proof of the following coverage in the amount of \$2,000,000 inclusive per occurrence prior to commencement of *Work*:

- a. Professional Liability Insurance.

11.1.11 If applicable to the work performed by the *Contractor* or any party on behalf of the *Contractor*, the *Contractor* must provide proof of the following coverage in the amount of \$2,000,000 inclusive per occurrence prior to commencement of *Work*:

- a. Collapse and Underground Liability Insurance

GC 11.2 CONTRACT SECURITY

.1 Add new GC 11.2 as follows:

“GC 11.2 – CONTRACT SECURITY

- 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*.
- 11.2.2 If the *Contract Documents* require surety bonds to be provided, such bonds shall be issued by a duly licensed surety company authorized to transact the business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfilment of the *Contract*. The form of such bonds shall be in accordance with the latest editions of the CCDC approved bond forms.”

GC 12.1 READY-FOR-TAKEOVER

- .1 Add new subparagraphs 12.1.1.9 and 12.1.1.10 as follows:
- “.9 All the documentation and information required to be included in the application described in paragraph 12.1.3 has been provided to the *Owner* and *Consultant*.
- .10 Any other prerequisites for attaining *Ready-for-Takeover* prescribed by the *Contract Documents* have been completed.”
- .2 Add the following to the end of paragraph 12.1.3:
- “The *Contractor’s* written application shall include the following:
- (a) Submission of warranties, maintenance manuals and as-built drawings and *Specifications* in a manner acceptable to the *Owner*;
 - (b) Instruction of *Owner* in the operation of systems;
 - (c) Approval to occupy completed work, from authorities having jurisdiction;
 - (d) Insurance advisory organization approval of sprinkler system received by the *Consultant*;
 - (e) Submission to and acceptance by the *Consultant* of interim accounts of the *Work* showing all additions and deletions to the *Contract Price*;
 - (f) Elevator inspection and approval by governing authority received by the *Consultant*;
 - (g) All systems and equipment started up, commissioned and tested including final balancing;

- (h) All life safety systems verified by the *Contractor* and *Consultant* as complying with the requirements of the *Contract Documents*;
- (i) Local fire authority has inspected and confirmed that life safety systems are acceptable;

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

- .3 Amend paragraph 12.1.4 by (a) deleting “10 calendar days” and replacing with “fifteen (15) Working Days”, and (b) adding the following to the end of the sentence: “, or such longer period as may be reasonably required in the circumstances.”

- .4 Add a new paragraph 12.1.7 as follows:

“12.1.7 The following portion of the *Contract Price* shall be allocated to the delivery and completion of all the prerequisites for attaining *Ready-for-Takeover* set forth in paragraph 12.1.1: one (1) percent (the “**RFT Security**”).

The *Contractor* shall include the amount of the *RFT Security* in its schedule of values referred to in paragraphs 5.2.4 and 5.2.5 of GC 5.2 – APPLICATIONS FOR PAYMENT. The *RFT Security* shall not be released to the *Contractor* until it has delivered or completed all of the prerequisites described in paragraph 12.1.1. If the *Contractor* fails to deliver or complete all of the prerequisites described in paragraph 12.1.1 by thirty (30) calendar days following the date by which the *Contractor* was required to achieve *Ready-for-Takeover* pursuant to paragraph 1.3 of Article A-1 (as it may have been adjusted pursuant to the terms of the *Contract Documents*), the *RFT Security* shall be forfeited to the *Owner*.”

GC 12.2 EARLY OCCUPANCY BY THE OWNER

- .1 Delete paragraphs 12.2.1 to 12.2.4 and replace with the following:

“12.2.1 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 uses before *Substantial Performance of the Work*, if, in the opinion of the *Consultant*, such entry or occupation does not prevent or substantially interfere with the *Contractor* in completion of the *Contract* within the *Contract Time*. Such entry or occupation shall not be considered as acceptance of the *Work* or in any way relieve the

Contractor from responsibility to complete the *Contract* or its obligations under the *Contract*.

- 12.2.2 The use or occupancy of the *Work* or any part thereof by the *Owner* shall not be taken in any manner as an acceptance by the *Owner* of any work or any other part or parts of the *Work* or *Products* not in accordance with the *Contract Documents* or to relieve the *Contractor* or his surety from liability in respect of the observance or performance of the *Contract* save to the extent that loss or damage is caused during such use or occupancy by the *Owner* or by persons for whom the *Owner* is responsible. In particular, without limiting the generality of the foregoing, the use or occupancy of the *Work* or any part thereof by the *Owner* shall not release the *Contractor* from liability, or waive or impair any rights of the *Owner*."

GC 12.3 WARRANTY

- .1 Amend paragraph 12.3.6 by adding “, unless otherwise required by the *Contract Documents*” to the end of the third sentence.
- .2 Delete from the first line of paragraph 12.3.2 the word, “The”, and substitute the words, “Subject to paragraph 1.1.4, the”.
- .3 Insert new paragraph 12.3.7 as follows:
- “12.3.7 The time period for the warranty with respect to any item corrected shall commence from the date when the defect is corrected and the remedial work is accepted by the *Consultant*.”

GC 13.1 INDEMNIFICATION

- .1 Delete paragraph 13.1.1 in its entirety and substitute the following:
- “13.1.1 The *Contractor* shall indemnify and hold harmless the *Owner*, the *Consultant* and their respective agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings (hereinafter called “claims”) that arise out of, or are attributable to, the *Contractor’s* performance of the *Work* or anyone for whose acts the *Contractor* may be liable including *Subcontractor* and *Suppliers*.”
- .2 Delete paragraph 13.1.2 in its entirety and substitute the following:
- “13.1.2 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.

.3 Delete paragraph 13.1.5 in its entirety and replace with "Intentionally deleted".

.4 Add new paragraph 13.1.7 as follows:

"13.1.7 *Owner* shall not be liable in any circumstance for loss of profit, loss of productivity, loss of profit, or business shutdown or indirect, consequential or punitive damages, whether such liability arises in contract, tort, indemnity or on any other basis whatsoever."

GC 13.2 WAIVER OF CLAIMS

.1 Delete paragraphs 13.2.3, 13.2.4, and 13.2.5 in their entirety and replace with "Intentionally deleted".

.2 Add a new paragraph 13.2.11 as follows:

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

Add new PART 14 OTHER PROVISIONS as follows:

.1 Add new PART 14 OTHER PROVISIONS as follows:

"PART 14 OTHER PROVISIONS

GC 14.1 OWNERSHIP OF MATERIALS

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

GC 14.2 CONSTRUCTION LIENS

14.2.1 In the event that a construction lien is filed, claimed or registered against the *Place of the Work* or the *Project* or is otherwise preserved, or the *Owner* receives any written notice of lien by reason of labour,

services, equipment, *Products*, materials or any work supplied or claimed to have been supplied by or through a *Subcontractor* or *Supplier* (of any tier), the *Contractor* shall, at its own expense:

- .1 within seven (7) *Working Days* of being notified of the lien, secure the discharge, release, or vacation of lien by payment or by giving security or in such other manner that is required or permitted by law; and
- .2 within seven (7) *Working Days* of receiving written notice of lien, ensure such notices are withdrawn in writing or vacated.

If the lien or notice is merely vacated, the *Contractor* shall, if requested, undertake the *Owner's* defence of any subsequent action commenced in respect of the lien or notice at the *Contractor's* expense. In the event that the *Contractor* fails to conform with the requirements of this paragraph 14.2.1, the *Owner* may, but shall not be required, take such steps as it, in its absolute discretion, may deem necessary to release, vacate or discharge the lien or notice of lien.

- 14.2.2 If a lien action or any other action or legal proceeding arising out of the *Work* or related to the *Work* is commenced, the *Contractor* shall take all reasonable steps to remove the *Owner* from such action or legal proceeding, and shall indemnify the *Owner* and hold it harmless in such action or proceeding, except where the claim makes substantial claims against the *Owner* beyond the recovery of holdback.
- 14.2.3 All amounts incurred by the *Owner* as a result of taking any of the steps described in paragraph 14.2.1, including all amounts posted as security or paid to the lien claimant and associated expenses, including the costs of borrowing the appropriate cash, letter of credit or bond as security and legal fees and disbursements, shall be charged to the *Contractor* and may be set off and deducted from any amount owing to the *Contractor*.
- 14.2.4 Without limiting the foregoing, the *Contractor* shall satisfy any judgment and pay all costs resulting from any construction liens, written notices of lien, or any actions brought in connection with any liens or written notices of lien, or in connection with any other claim or lawsuit brought against the *Owner* by any person that provided services or materials to the *Project* lands which constituted part of the *Work*, and the *Contractor* shall indemnify the *Owner* for any and all costs (including legal fees) the *Owner* may incur in connection with such claims or actions.

GC 14.3 CONTRACTOR DISCHARGE OF LIABILITIES

- 14.3.1 In addition to the obligations assumed by the *Contractor* pursuant to GC 3.6, 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 AS-BUILT DRAWINGS

- 14.4.1 Unless otherwise provided in the *Contract Documents*, the *Contractor* shall prepare as-built drawings and provide them to the *Consultant* for review and amend the as-built drawings, at its own expense until the as-built drawings are in a form satisfactory to the *Owner*.

GC 14.5 DAILY REPORTS/DAILY LOGS

- 14.5.1 The *Contractor* shall cause its supervisor, or such competent person as it may delegate, to prepare a daily log or diary reporting on weather conditions, work force of the *Contractor*, *Subcontractors*, *Suppliers* and any other forces on site and also record the general nature of *Project* activities. Such log or diary shall also include any extraordinary or emergency events which may occur and also the identities of any persons who visit the site who are not part of the day-to-day work force.
- 14.5.2 The *Contractor* shall also maintain records, either at its head office or at the job site, recording manpower and material resourcing on the *Project*, including records which document the activities of the *Contractor* in connection with GC 3.4, and comparing that resourcing to the resourcing anticipated when the most recent version of the schedule was prepared pursuant to GC 3.4.

GC 14.6 HOSPITAL RELATED PROVISIONS

- 14.6.1 The *Contractor* recognizes and understands that the *Owner* is a hospital approved under the *Public Hospitals Act* (Ontario) and is therefore subject to a highly regulated legal and operational environment. Without limiting the generality of any other provision in the *Contract*, the *Contractor* shall provide reasonable co-operation and assistance to the *Owner* during any evaluations of the *Work* (including, without limitation, any post-occupancy evaluation required by the Ministry of Health and Long Term Care) and in obtaining required regulatory approvals prior to using the *Work* (including, without limitation, approvals required by Section 4(2) of the *Public Hospitals Act*).

- 14.6.2 The *Contractor* acknowledges that the security and safety of the patients, employees and other occupants of the existing hospital is paramount. If any of the employees of the *Contractor* or the *Subcontractors* is determined by the *Owner* to be a concern for the security or safety of such patients, employees or occupants, the *Owner* may require that the *Contractor* replace such employee.
- 14.6.3 The *Contractor* recognizes that part of the *Work* may consist of the renovation of existing buildings and structures or the addition of a structure to an existing building and that the provision of patient care during construction is a priority for the *Owner*. The *Contractor* shall comply with the reasonable instructions provided by the *Owner* (including, without limitation, the *Owner's* infection control practitioner) in regard to patient care and the operation and use of the hospital during the performance of the *Work*. Any costs incurred by the *Contractor* in complying with the said instructions shall be part of the *Contract Price*.
- 14.6.4 Notwithstanding any other provision in the *Contract*, paramountcy of access must be given to emergency and police vehicles and no claim may be made by the *Contractor* for any delay in the performance of the *Work* as a result of any temporary lack of access to the *Place of Work* resulting from this paramountcy of access by emergency and police vehicles, provided that the *Owner* will use commercially reasonable efforts to avoid and to limit the duration of any temporary lack of access for this reason.
- 14.6.5 The *Owner* has the authority, but without the obligation, to stop the *Work* in any circumstance affecting the safety of life or property or otherwise may cause an unsafe condition for the operation of the existing hospital. The *Contractor* shall abide by the *Owner's* instructions to stop the *Work* and to any related instructions pertaining to the circumstance without any increase in the *Contract Price* and extension in the *Contract Time* if such circumstance was caused by the *Contractor*, *Subcontractors* or *Suppliers*.
- 14.6.6 The *Contractor* shall, and shall cause the *Subcontractors* and *Suppliers* to, comply with hospital policies and procedures including, without limitation, environmental requirements, infection control measures and safety and emergency preparedness guidelines which are or come into force (including, without limitation, those forming part of the *Contract Documents*) as such documents are amended by the *Owner* from time to time, provided that a material amendment to the hospital policies and procedures by the *Owner* after the date of the *Contract* which gives rise to a significant change in the *Work* shall be dealt with in accordance PART 6 CHANGES IN THE WORK."