



Brightshores Health System

1800 8th St E,
Owen Sound,
ON N4K 6M9

(the “Customer” or “Purchaser(s)”)

Request for Tender (RFT)
General Contractor
For
NEMT Facility Construction

RFT Document: **214872**

Issue Date: **September 27, 2024**

Closing Time: Proponents must submit one (1) electronic copy of their Tender on MMC’s Bonfire Procurement Portal before the Closing Time of **October 17, 2024 at 2:00:00 p.m. EST**

TO BE CLEAR, AND NOTWITHSTANDING ANY OTHER TERM OF THIS REQUEST FOR TENDERS (“RFT”) THAT MAY BE INTERPRETED OTHERWISE, IT IS NOT THE INTENT OF MMC OR THE PURCHASER(S), NOR THE EFFECT OF THIS RFT, TO INITIATE CONTRACTUAL RELATIONS BY THE PROVISION OF A TENDER BY ANY PROPONENT IN RESPONSE TO THIS RFT.

NOTWITHSTANDING ANY OTHER TERM OF THIS RFT, THIS RFT IS MERELY A CALL FOR TENDERS AND NOT A TENDER CALL INTENDING TO PLACE LEGALLY BINDING OBLIGATIONS ON MMC OR THE PURCHASER(S) OR ON ANY PROPONENT TO ENTER INTO A DEFINITIVE AGREEMENT OR TO BE BOUND BY ANY OF THE TERMS OF ITS TENDER. IT IS NOT THE INTENTION OF MMC OR THE PURCHASER(S) TO ENTER INTO A DEFINITIVE AGREEMENT FOR THE DELIVERABLES DESCRIBED IN THIS RFT OR ENTER INTO ANY OTHER LEGALLY BINDING OBLIGATIONS UNLESS AND UNTIL MMC AND THE PURCHASER(S) HAVE COMPLETED THE NEGOTIATION AND FINALIZATION OF A DEFINITIVE AGREEMENT SATISFACTORY TO MMC, THE PURCHASER(S) AND THE PROPONENT, IF ANY, THAT MMC AND THE PURCHASER(S) DETERMINES TO NEGOTIATE WITH.

IT IS CONCEIVABLE THAT THESE EVENTS WILL NOT OCCUR DUE TO THE DISCRETION OF MMC AND THE PURCHASER(S) AND/OR ANY PROPONENT TO NOT PROCEED AFFORDED IN THIS RFT, AS THERE IS NO LEGALLY BINDING OBLIGATION ON MMC AND THE PURCHASER(S) OR ANY PROPONENT TO PROCEED.

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**REQUEST FOR TENDER (“RFT”)
RFT # 214872**

ARTICLE 1.– INTRODUCTION

1.1 Background

MMC is a not-for-profit organization that negotiates and manages major contracts for its customers as one of its responsibilities. For further information about MMC visit its website at www.mohawkmedbuy.ca.

MMC is issuing this RFP and will administer the RFP process set forth herein for the benefit and on behalf of the Potential Purchasers. References herein to “Potential Purchasers” or “Purchasers” include any Canadian Healthcare Provider that has been provided access, to MMC contracts, including any contract arising from this RFP process. For the purposes hereof, a Canadian Healthcare Provider means: (i) a public hospital; (ii) a Department or Ministry (or an agency thereof) of the Federal, a Provincial or a Territorial Government or any entity owned by, controlled by or created by any one or more of the foregoing, that directly provides healthcare services in Canada or represents or acts on behalf of or otherwise contracts for public hospitals or other publicly funded providers of healthcare services in Canada, which entities would include a provincial or regional health authority and an entity providing provincial or regional materials management services for healthcare providers in Canada; (iii) a not-for-profit or charitable organization that provides healthcare services in Canada; and (iv) an entity, controlled by any one or more of the foregoing, which provides purchasing or materials management services to Canadian healthcare providers.

Shared Services West members and customers (listed below) have integrated with Mohawk Medbuy Corporation:

Halton Healthcare Services
Trillium Health Partners
William Osler Health System
Baycrest
Runnymede Healthcare Centre
West Park Healthcare Centre
Haldimand War Memorial Hospital and Edgewater Gardens:
Headwaters Health Care Centre
Collingwood General & Marine Hospital
Georgian Bay General Hospital
ErinoakKids
St. Jerome’s University
Wellington Health Care Alliance

MMC is representing the Customer(s) as its Bid Administrator, as further defined in ARTICLE 2 - RFP PROCEDURES, and any rights or obligations of MMC enumerated

herein will be exercised on the Customer(s)'s behalf and in the Customer(s) best interests.

MMC is issuing this RFT and will administer the RFT procedure set forth herein for the immediate benefit, and on behalf, of Brightshores Health System (the "Customer(s)").

1.2 Project Scope and Objectives:

This RFT is being issued by the Purchaser(s) to obtain Bids for Services related to General Construction from Prequalified Parties (the "Deliverables"). MMC is representing the Purchaser(s) as its Bid Administrator, as further defined in ARTICLE 2 - RFT PROCEDURES, and any rights or obligations of MMC enumerated herein will be exercised on the Purchaser(s)'s behalf and in the Purchaser(s)'s best interests.

The project is a new 690 m² pre-engineered building complete with concrete foundation. Electrical and Civil works to be provided.

The GC is only required to erect the Client supplied Pre-Engineering Building. See appendix for shop drawings & material list. The list of materials is the structural pre-engineered building c/w metal cladding.

The GC is also required to provide handling of the material which is Client provided from the current storage space to the new site selection as per the drawings. See attached location map for general location of storage area and revised site location.

Construction is scheduled to start as soon as possible, pending issuance of Building Permit. Project Substantial completion is anticipated to be December 15, 2024.

Upon signing the CCDC2 contract with BHS's Supplementary Conditions, the General Contractor shall mobilize within 5 business days.

1.3 Prequalified Contractors

1.3.1 Pre-qualified General Contractors

The following invited proponents have been prequalified on the first stage RFSQ No. 207767 in the Category A division (Construction value estimated between \$25k-\$1M), as per the Prequalification Notification Letter issued June 9, 2023, and are invited to submit a bid in response to this RFT.

Category A: \$25,000 to \$1,000,000
Anacond Contracting Inc.
K&L Construction
J.P. Commercial Contractors
Shertine Construction
Sutherland Schultz Limited

1.4 Current State

Please refer to drawings in the attached documents

1.5 Additional Requirements/Instructions

1.5.1 Compliance with AODA

As part of its response to this RFT, a Proponent may describe all measures that the Proponent intends to implement or make available in order that the Deliverables provided in response to this RFT be in compliance with applicable accessibility standards under the *Accessibility for Ontarians with Disabilities Act, 2005* (“**AODA**”) and its regulations, including but not limited to (i) any training that has been, or will be, provided to Proponent’s staff; and (ii) all policies implemented by Proponent in respect of the AODA and its regulations. The Agreement shall require that the successful Proponent provide all Deliverables in accordance with the AODA and its regulations.

1.5.2 Anti-Racist, Anti-Discrimination and Anti-Oppression Commitment

In submitting a Tender, a Proponent represents that it acknowledges and agrees that:

- a. historically marginalized groups in our communities often encounter barriers and inequities to full access and participation;
- b. the diversity of relevant stakeholders contributes to the growth, enrichment and strength of our communities;
- c. during the term of this RFT process and any Agreement to which the Proponent may become a party, the Proponent will aim to ensure that all appropriate stakeholders receive fair and equitable treatment including access and opportunity to participate with dignity and respect, and enjoy an environment that is free from racism and other forms of discrimination and/or oppression; and
- d. the Proponent supports the dismantling all forms of racism, discrimination and oppression in its organization, including in its own operations, program, and governance structures.

In the event that MMC or any Purchaser, each acting reasonably, becomes aware that the Proponent is acting in a manner that is in conflict with the representations set out in this Section 1.5.3, then the Proponent may be disqualified from this RFT process.

1.5.3 Accessing the RFT Documents and Responding to the RFT

- a) The RFT is available only through MMC’s Bonfire Procurement Portal. For further information about Bonfire, visit the MMC procurement portal at ssw.bonfirehub.ca. Parties that intend to respond to the RFT must ensure that they have the necessary software to access and download the RFT through Bonfire. Parties that intend to respond to the RFT must consult

the portal in a reasonably regular manner for any document updates or Addenda, and must base Tenders on the most current version of the RFT available on the portal.

- b) Proponents may contact Bonfire Support via email at support@gobonfire.com or by phone 800-354-8010 x2. Proponents will not contact MMC or the Purchaser(s) for such technical support.
- c) MMC and the Purchaser(s) will not assume any risk, responsibility or liability whatsoever to any Proponent for ensuring that the Bonfire portal is in good working order or that the Proponents are able to download and upload documents or other material from or to the website, including, without limitation, delays caused by Bonfire when responding to Proponents' requests for technical support. **It is the Proponents responsibility to upload their Tender in sufficient time prior to the Closing Time to enable the Proponent to submit a Tender. MMC and the Purchaser(s) make no representation, warranty or condition that the Bonfire website will be uninterrupted, timely, secure, or error-free.**

ARTICLE 2.- TENDER SUBMISSION

2.1 Tender Submission

All Proponents interested in participating in this RFT must submit their response to MMC's Bonfire Procurement Portal at <https://ssw.bonfirehub.ca/portal/?tab=openOpportunities>.

No offline or hard copies will be accepted.

Proponents **must submit one (1) electronic copy** of their Tender on SSW's Bonfire Procurement Portal **before** the Closing Time.

Tenders sent by any other electronic means shall not be considered.

Uploading large documents may take significant time, depending on the size of the file(s) and your Internet connection speed.

Proponents will receive an email confirmation receipt with a unique confirmation number once Tenders are submitted.

Minimum system requirements are Internet Explorer 11, Microsoft Edge, Google Chrome, or Mozilla Firefox. JavaScript must be enabled. Browser cookies must be enabled.

Please contact Bonfire at Support@GoBonfire.com for technical questions related to your submission. You can also visit their help forum at <https://bonfirehub.zendesk.com/hc>

In addition:

- a) Tenders must be submitted in English;

- b) Tenders should contain concise written material and illustrations that enable a clear understanding and evaluation of the Proponent's capabilities and the qualities of its Tender. Legibility, clarity, and completeness of the Proponent's Tender are encouraged;
- c) Each Proponent's Tender will be prepared without any connection, knowledge, comparison of information, or arrangement with any other Proponent or any employee, representative, or agent thereof, and each Proponent will be responsible to ensure that its participation in this RFT process is conducted fairly and without collusion or fraud. Without limiting MMC's or the Purchaser(s)'s general reservation of rights, the MMC and the Purchaser(s) may without liability, cost or penalty, in its sole discretion, disqualify any Tender where there is any evidence that the Proponent, its employees, agents, contractors or representatives colluded with one or more other Proponents or any of its or their respective employees, agents, contractors or representatives in the preparation of the Tender;
- d) Except with the prior written consent of the MMC and the Purchaser(s), Proponents shall not make any public announcement or distribute any literature regarding: (i) this RFT, (ii) any discussions relating to this RFT, (iii) any award or other results relating to this RFT, or (iv) otherwise promote itself in connection with this RFT. Further, no public announcement or the distribution of any literature is to be made by the selected Proponent in respect of any contract negotiations or the execution of an agreement unless otherwise agreed to by the MMC or the Purchaser(s) in writing;
- e) The entire content of the Proponent's Tender is to be self-contained and the content of web sites or other external documents referred to in the Tender will not be considered to form part of its Tender. The MMC or the Purchaser(s) is under no obligation to seek out information not contained in the Tender;
- f) The Tender and any accompanying documentation provided by a Proponent in connection with this RFT will become the property of the Purchaser(s) and will not be returned unless the Tender is received after the Closing Time, as noted above;
- g) The issuance of this RFT to any prospective Proponent shall not cause any express or implied commitment or undertaking on the part of the MMC or the Purchaser(s) to acquire any products or services; and
- h) The Tender must be priced to include all anticipated expenses related to the Deliverables. Expense quotes must be itemized and must be consistent with the Purchaser'(s)' current expense claim policy/policies as well as relevant Broader Public Sector directives. The Purchaser(s) will not agree to reimburse additional expenses, unless such additional expenses are approved by the Purchaser(s) in advance.

2.2 Submission Procedures

Proponents shall allow sufficient time to ensure that their Tender is received before the Closing Time.

2.3 Withdrawal of Tender

Proponents can withdraw a Tender before the closing time in Bonfire. Submissions are only accessible to Bid Administrator after closing. A Proponent may withdraw its Tender after the closing only by giving written notice received by the Bid Administrator.

2.4 Amendment of Tender

A Proponent may amend its Tender in the MMC Bonfire Portal after submission but only if the Tender is amended and resubmitted before the Closing Time.

ARTICLE 3.- RFT PROCEDURES

3.1 Bid Administrator

All questions and communications of any kind regarding this RFT must be directed to the Bid Administrator, unless otherwise requested by the Bid Administrator. The only method of communication with the Bid Administrator is through MMC's Bonfire Procurement Portal for this RFT. The following provisions shall apply to any communications with the Bid Administrator, or the delivery of documents to the Bid Administrator:

Name: Lauren Hutten
Title: Redevelopment Specialist

3.2 Notice of RFT

The Proponent is put on notice that from the date of issue of the RFT through Agreement execution:

- a) Only the Bid Administrator is authorized to amend or waive the requirements of the RFT pursuant to the terms of this RFT;
- b) Proponents must not contact the Purchaser(s), its employees, or its agents in regard to this RFT, unless authorized by the Bid Administrator;
- c) Under no circumstances may the Proponent rely upon any information or instructions from the Purchaser(s), its employees, or its agents unless the information or instructions are provided in writing by the Bid Administrator; and
- d) Neither the Purchaser(s), its employees nor its agents may be responsible for any information or instructions provided to the Proponent, with the

exception of information or instructions provided in writing by the Bid Administrator.

3.3 Proponents to Review RFT

Proponents shall promptly examine all the documents comprising this RFT and:

- a) Shall report any errors, omissions, or ambiguities; and
- b) May direct questions or seek additional information in writing via MMC's Bonfire Procurement Portal or by e-mail on or before the Deadline for Questions as set out in ARTICLE 6 - SELECTION MILESTONES. All questions submitted by Proponents by e-mail to the Bid Administrator shall be deemed to be received once the e-mail has entered into the Bid Administrator's e-mail inbox. No such communications are to be directed to anyone other than the Bid Administrator. MMC is under no obligation to provide additional information but may do so at its sole discretion.

It is the responsibility of the Proponent to seek clarification from MMC on any matter it considers to be unclear. MMC shall not be responsible for any misunderstanding on the part of the Proponent concerning this RFT or its process.

3.4 Optional Site Visit

Optional Site Visit: <i>Front Entrance Owen Sound Hospital 1800 8th St E, Owen Sound, ON N4K 6M9</i>	October 3, 2024 @ 11:00 am
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Each vendor may send a maximum of 2 representatives.

3.5 Clarification and Questions

Proponents may request clarification of this RFT from the Bid Administrator via Bonfire no later than ten (10) days before the closing time. MMC reserves the right to offer oral answers to minor questions:

3.6 Questions and Answers

MMC will provide all Proponents with written responses to questions that are submitted in accordance with Section 3.4 Clarification and Questions, subject to the provisions of this Section. All Addenda shall form part of this RFT. Questions and answers will be distributed in numbered Addenda in the same form as the RFT. In answering the Proponent's questions, MMC shall include in the Addenda all questions but not attribute the questions to any Proponent.

Notwithstanding the foregoing, MMC may, in its sole discretion, answer similar questions from various Proponents only once, edit the questions for clarity, and exclude questions that are either inappropriate or not comprehensible or reference the proponent by name.

3.7 Issued Addenda

Each Proponent shall be responsible for verifying before submitting its Tender that it has received all Addenda that have been issued.

3.8 Rights

MMC and the Purchaser(s) shall have the right without liability, cost, or penalty and in consultation with the Purchaser(s) to exercise any of the rights set out in Section 3.2 Amendments to the RFT to Section 3.13 Consultants.

3.9 Amendments to the RFT

MMC and the Purchaser(s) shall have the right to amend or supplement this RFT in writing prior to the Closing Time. Proponents shall be informed of any such change and provided with numbered Addenda issued by the Bid Administrator. No other statement, whether written or oral, will amend this RFT. The Proponent is responsible to ensure it has received all Addenda, if any. The Addenda shall be binding on each Proponent.

3.10 Right to Cancel the RFT

MMC shall have the right to cancel this RFT at any time, either prior to or after the Closing Time without award. Thereafter MMC and the Purchaser(s) may decide to conduct a new procurement process or take other actions at its discretion. MMC and the Purchaser(s) shall not be obligated to provide reasons for the cancellation.

3.11 Clarification of Proponent's Tender

MMC shall have the right at any time after Tender submission, to seek clarification from any Proponent in respect of the Proponent's Tender, without contacting other Proponents. MMC is not obliged to seek clarification of any aspect of a Tender.

3.12 Verification of Information

MMC shall have the right at any time after Bid submission, to seek clarification from any Bidder in respect of the Bidder's Bid, without contacting other Bidders. MMC is not obliged to seek clarification of any aspect of a Bid.

3.13 Right to Waive Irregularities

MMC shall have the right to waive any irregularities in Tenders or in the submission of Tenders, provided that such irregularities are minor and do not constitute a material deviation as set out in ARTICLE 4 - MANDATORY REQUIREMENTS below.

3.14 Consultants

MMC reserves the right to disclose to its consultants the RFT and any Tender in order to secure expert opinion.

3.15 No Liability

The Proponent agrees that:

- a) Any action or proceeding relating to this RFT process shall be brought in any court of competent jurisdiction in the Province of Ontario and for that purpose the Proponent irrevocably and unconditionally attorns and submits to the jurisdiction of that Ontario court.
- b) It irrevocably waives any right to and shall not oppose any Ontario action or proceeding relating to this RFT process on any jurisdictional basis.
- c) It shall not oppose the enforcement against it, in any other jurisdiction, of any judgement or order duly obtained from an Ontario court as contemplated by this RFT.

The Proponent further agrees that if MMC or a Purchaser commits a material breach of this RFT, their collective liability to the Proponent, and the aggregate amount of damages recoverable against MMC and the Purchasers for any matter relating to or arising from that material breach, whether based upon an action or claim in contract, warranty, equity, negligence, intended conduct, or otherwise, including any action or claim arising from the acts or omissions, negligent or otherwise, of MMC or a Purchaser, shall be no greater than the Tender preparation costs that the Proponent seeking damages can demonstrate.

ARTICLE 4.- MANDATORY REQUIREMENTS

This Section and other mandatory requirements in this document contain the project or work requirements that must be complied with in order for the Tender to receive consideration. If, in the determination of the Purchaser, the Tender does not comply with the mandatory requirements, the Purchaser shall, without liability cost or penalty, eliminate the Tender from the RFT process. For the purposes of this RFT, the terms comply and compliance means that the Tender conforms to mandatory requirements without material deviation. A material deviation is one:

- a) that results in the material component of mandatory requirement not being complied with; or
- b) that affects in any substantial way the scope, quality or performance of what is being requested pursuant to this RFT.

4.1 Agents/Subcontractors

The Tender shall indicate whether the Proponent intends to use agents or subcontractors to perform the services outlined in the Agreement and shall provide details on who they are and the service(s) the agent/subcontractor shall perform. The successful Proponent shall remain responsible for the performance of the Agreement notwithstanding its use of agents or subcontractors as approved by the Purchaser(s).

4.2 Prime Contractor

1. Prime Contractor on this project is the General Contractor who if successfully awarded the project work, will be responsible for the Work of this Project. Prime Contractor is also identified as the "Contractor", "Proponent", or "Bidder" throughout Documents.
2. Contractor is responsible for specified work for completion of project to acceptance of Owner.
3. Contractor is responsible for provision of qualified Subcontractors as required to perform work.
4. Prime Contractor is responsible for full time on-site supervision of the Work at times during Project period, when any of their own forces or forces of their Subcontractors is on site. Provide on-site Supervisor. Prior to start of Work, identify to Consultant, on-site Supervisor.

4.3 Permits, Licenses and Approvals

4.3.1 General

Proponents shall obtain all permits, licenses and approvals required in connection with the service pursuant to this RFT. The costs of obtaining permits, licenses and approvals shall be the responsibility of and shall be paid for by the Proponent.

4.4 Other

- a) To be eligible to submit a Bid in response to this RFT, a Bidder must be prequalified on RFSQ No. 207767.
- b) Each Proponent must submit its Tender in accordance with the requirements of Section 2.1 of this RFT;
- c) Each Proponent must fill, sign (as applicable) and submit all required Schedules;
- d) Performance Bond
 - i. Provide security for performance of the Contract in the form of a Performance Bond for 50% of the Contract Price.

- ii. Bond shall be in accordance with the latest edition of the Canadian Construction Documents Committee (CCDC) Standard Form of Performance Bond, CCDC 221.
 - iii. Bond 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.
 - iv. Bond shall name Brightshores Health System as the obligee and shall be signed, sealed, and dated by both Contractor and Surety Company.
 - v. Submit bond to Owner within fifteen (15) days after contract award.
- e) Labour and Material Bond
- i. Provide security for payment of labour and material provided in the performance of the Work in the form of a Labour and Material Payment Bond for 50% of the Contract Price.
 - ii. Bond shall be in accordance with the latest edition of the Canadian Construction Documents Committee (CCDC) Standard Form of Labour and Material Payment Bond, CCDC 222.
 - iii. Bond 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.
 - iv. Bond shall name Brightshores Health System as the obligee and shall be signed, sealed, and dated by both Contractor and Surety Company.
 - v. Submit bond to Owner within fifteen (15) days after contract award

ARTICLE 5.- RATED REQUIREMENTS

5.1 Rated Requirements Details

The following outlines the proposed rated criteria requirements for Proponents. Additional details can be found in Schedule A.

Proponents are to provide a completed copy of “Schedule B - Proponent Confirmation and Pricing Submission Form” within their submission.

Pricing Tenders be scored on a relative pricing formula as follows:

$$\frac{\text{Lowest Estimated Maximum Contract Value}}{\text{Proponent's Estimated Maximum Contract Value}} \times \text{RFT Weighting for Pricing} \\ = \text{Proponent's Pricing Tender Score}$$

Evaluation Criteria	
Rated Criteria	Weight (%)
Mandatory Requirements	Pass/ Fail
Pricing	
Base Bid Pricing (Schedule B - Bid Form)	100
Total	100

5.2 In the Event of a Tie Score

In the event of a tie score, the successful Proponent will be determined by comparing scores of the highest weighted rated criteria section in the Scoring Criteria, which is the bid price. The Proponent with the highest score in this rated criteria section will be considered the successful Proponent. If there is still a tie, the section with the next highest weighted rated criteria section will be considered and so forth until a clear winner is determined.

ARTICLE 6.- SELECTION MILESTONES

Event	Date
1) RFT issued to MMC Bonfire Portal:	September 27, 2024
2) Optional Site Visit: <i>Front Entrance Owen Sound Hospital 1800 8th St E, Owen Sound, ON N4K 6M9</i>	October 3, 2024 @ 11:00 am EST
3) Deadline to submit Questions	October 8, 2024 @ 2:00 pm EST
4) Deadline for Issuing Addenda	October 10, 2024 @ 2:00 pm EST
5) Submission of Tenders/ Closing Time	October 17, 2024 @ 2:00 pm EST
6) Anticipated Contract Execution Date	October 2024

The above dates are subject to change at the sole discretion of MMC. In the event a change is made to these dates, the Proponents will be informed in the same form as the RFT.

ARTICLE 7. - DISQUALIFICATION OF TENDERS

MMC, without liability, cost or penalty to itself or the Purchaser(s), in its sole discretion, may disqualify any Tender at any stage of the RFT process if:

- a) The Tender contains incorrect information;
- b) The Tender contains misrepresentations or any other inaccurate or misleading information;

- c) There is any evidence that the Proponent, its employees, or agents colluded with one or more other Proponents or any of its or their respective employees or agents in the preparation of the Tender;
- d) The Proponent's lack of co-operation impedes the RFT process or the evaluation of the Tender;
- e) The Proponent has previously breached a contract with the Purchaser(s);
- f) The Proponent submits a Tender that is determined to be in any way non-compliant with the mandatory requirements of this RFT;
- g) In the case of a Tender jointly submitted by multiple parties, one party decides to opt out of the RFT process, cannot continue to be a Proponent, or cannot fulfill the obligations set out in this RFT;
- h) There is an actual or perceived conflict of interest by the Proponent or a Proponent does not disclose a conflict of interest;
- i) The Proponent submits a Tender with respect to the subject matter of this RFT to anyone other than the Bid Administrator; or
- j) To reject any or all Tenders in its absolute discretion, or to accept or reject a Tender if only one Tender is submitted.
- k) To reject any or all Tenders in its absolute discretion, including where a Proponent has launched legal proceedings against the MMC and/or the Purchaser(s), or is otherwise engaged in a dispute with MMC Organization and/or the Purchaser(s).

ARTICLE 8.- AGREEMENT AND AWARD

8.1 Form of the Contract

The form of Contract, including the Agreement, Definitions, and General Conditions is CCDC 2 – 2020, Stipulated Price Contract, subject to the modifications specified in Section 00 73 00 – Supplementary Conditions.

8.2 Negotiations with Proponents

After selection of the successful Proponent, if any, the Purchaser(s) may finalize the terms and conditions of the Agreement with the Proponent and, prior to releasing the Award Notification, the Purchaser(s) shall have the option of entering into a Letter of Intent on terms satisfactory to the Purchaser(s) as an interim measure.

It is expected that MMC, the Purchaser(s) and the successful Proponent, if any, will negotiate and execute a comprehensive form of agreement that will become the

Agreement, setting out substantially all of the terms and conditions that will apply to the provision of the Deliverables under this RFT. This negotiation process may include the successful Proponent submitting a best and final offer that will be at least as favorable as that contained in its Tender.

8.3 Award

The Purchaser(s) reserves the right to award all or any part of the work set out in this RFT to one Proponent or a combination of Proponents or to accept all or part of a Tender that receives the highest ranking as per the Scoring Criteria.

The Purchaser(s) reserves the right to reject any or all Tenders. The Purchaser(s) shall not be obligated to provide reasons for the rejection of any Tender. In addition, the Purchaser(s) is not obligated to award an Agreement to any Proponent, even if one or any of the Proponents are evaluated as qualified. Without limiting the generality of the above, the Purchaser(s) will not be obligated to award an Agreement if:

- a) It is not in the public interest to award an Agreement;
- b) In the sole discretion of the Purchaser(s), it decides to not award the Agreement;
- c) Only one Proponent bids;
- d) The Tender prices exceed bid prices received by MMC for previous work of a similar nature;
- e) The Tender prices exceed the costs the Purchaser(s) would incur by doing the work, or most of the work, with its own resources;
- f) The Tender prices exceed the funds available for the work;
- g) The Tender has been disqualified pursuant to ARTICLE 7 - DISQUALIFICATION OF TENDERS of this RFT;
- h) The successful Proponent fails to enter into an Agreement in accordance with ARTICLE 9 - AGREEMENT AND AWARD;
- i) The Proponent fails to obtain any of the permits, licenses, consults or authorizations required pursuant to this RFT;
- j) The Proponent is bankrupt or insolvent;
- k) The Proponent has made false declarations;

- l) The Proponent has significant or persistent deficiencies in the performance of any substantive requirements or obligations under a prior contract with the Purchaser(s);
- m) The Proponent has a final judgment in respect of serious crimes or offences;
- n) The Proponent has conducted professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the Proponent; or
- o) The Proponent has failed to pay taxes.

8.4 Notification to Other Proponents of Award and Debriefing

Once an agreement is executed by the successful Proponent and the Purchaser(s), an Award Notification will be posted in the manner that the RFT was posted. A debriefing must be requested in writing within sixty (60) calendar days of the posting of the Award Notification.

Notwithstanding any other provision in this Request for Tender regarding confidentiality, the Canadian Free Trade Agreement implemented (CFTA) requires the total value of the Agreement be published in an award notice no later than seventy-two (72) days after the award of the Agreement. By submitting a response to the Request for Tender the Proponent agrees to the publishing of the total value of the Agreement should it win the award.

8.5 Agreement not Reached

In the event that the successful Proponent fails or refuses to enter into or execute the Agreement within thirty (30) calendar days of notification to the Proponent, the Purchaser(s) reserves the right to:

- a) Extend the period for signing the Agreement;
- b) Exclude that Proponent's Tender from further consideration and negotiate a final Agreement with the next highest ranked Proponent without becoming obligated to offer to negotiate with all Proponents; and
- c) Exercise any other applicable right set out in this RFT, including but not limited to cancelling this RFT or issuing a new RFT for the same or similar work.

8.6 Term

The proposed term of the Agreement will be until the completion of the Work

Anticipated completion by December 15, 2024

ARTICLE 9. - ADDITIONAL TERMS AND CONDITIONS FOR THE RFT

9.1 Acceptance of RFT

By submitting a Tender in response to this RFT, the Proponent agrees to accept and to be bound by all of the terms and conditions contained in this RFT.

9.2 Confidential Information

All correspondences, documentation and information of any kind provided to any Proponent in connection with or arising out of this RFT or the acceptance of any Tender:

- a) Remains the property of the Purchaser(s);
- b) Must be treated as strictly confidential and as such, shall neither be disclosed to a third party under any circumstances, except in support of its Tender and subject to such third party being bound to the same duty of confidentiality, nor used for other commercial purposes;
- c) Must not be used for any purpose other than for replying to this RFT and for fulfillment or any related subsequent agreement; and
- d) Must be returned upon request.

All Proponents electing not to submit a Tender are to dispose of any and all confidential information made available as part of the procurement process by or on behalf of the Purchaser(s) in a responsible manner.

Proponents are to ensure the secure handling and preservation of the Purchaser(s) business information and intellectual property, belonging to the Purchaser(s), furnished in connection with this RFT.

9.3 Proponent's Submission

All correspondence, documentation and information provided in response to or because of this RFT may be reproduced for the purposes of evaluating the Proponent's submission to this RFT.

If a portion of a Proponent's Tender is to be held confidential, such provisions must be clearly identified in the Tender.

9.4 Personal Information and Personal Health Information

If the scope of work requires the collection, copying and disposal of personal information and personal health information furnished in connection with this RFT, Proponents are to ensure privacy, security and confidentiality of that information in all interactions with the Purchaser(s) by all Proponent personnel and associated agents and subcontractors.

Such information is to be used for no other purpose unless prior written consent has been provided by the Purchaser(s) and in accordance with all applicable laws including, without limitation, the *Protection of Personal Information and Electronic Documents Act* (“PPIEDA”) of Canada, the *Personal Health Information Protection Act* (“PHIPA”) of Ontario and their applicable regulations.

9.5 Consent

It is the responsibility of each Proponent to obtain the consent of such individuals prior to providing the information to MMC. MMC will consider that the appropriate consents have been obtained for the disclosure to and use by the Purchaser(s) of the requested information for the purposes described.

9.6 Freedom of Information and Protection of Privacy Act

Without prejudice to the Parties’ respective rights and obligations under ARTICLE 10 - ADDITIONAL TERMS AND CONDITIONS FOR THE RFT, the Proponent acknowledges that the Purchaser(s) is bound by the *Freedom of Information and Protection of Privacy Act* (“FIPPA”), as amended from time to time, and that this RFT, any resulting Agreement and any information provided to the Purchaser(s) in connection with its performance or otherwise in connection with this RFT or any resulting Agreement may be subject to disclosure in accordance with FIPPA. Non-Disclosure Agreement

MMC and/or the Purchaser(s) reserve the right to require any Proponent to enter into a non-disclosure agreement satisfactory to MMC and the Purchaser(s).

9.7 Costs

This RFT does not obligate the Purchaser(s) to pay for any costs, of any kind whatsoever that may be incurred by a Proponent or any third parties, in connection with the Tender.

9.8 Conflict of Interest

The Proponent should not have any actual or potential conflict of interest or any other type of unfair advantage in submitting its Tender or in performing or observing the contractual obligations set out in the Agreement, except to the extent any such conflict of interest or unfair advantage are set out in the Tender. The Proponent is instructed to see ARTICLE 7 - DISQUALIFICATION OF TENDERS in that regard.

9.9 Governing Law

The RFT, the Proponent’s Tender and the resulting Agreement shall be governed by the laws of Ontario and the federal laws of Canada applicable therein and the parties’ attorney to the exclusive jurisdiction of the Courts of Ontario for any dispute.

9.10 No Liability

Neither the Purchaser(s) nor MMC shall be liable to any Proponent, person or entity for any losses, expenses, costs, claims or damages of any kind

- a) Arising out of or by reason of or attributable to the Proponent responding to this RFT;
- b) As a result of the use of any information, error or omission contained in this RFT, provided during the RFT process or during the term of the Agreement; or
- c) which may occur between quantities of work actually done or supplied and the estimated quantities set out in this RFT.

9.11 General Reservation of Rights by MMC and the Purchaser(s)

MMC and the Purchaser(s) reserve the right to:

- a) Make public the names of any or all Proponents;
- b) Adjust a Proponent's scoring or reject a Proponent's Tender on the basis of:
 - A financial analysis determining the actual cost of the Tender when considering factors including quality, service, price, and transition costs arising from the replacement of existing goods, services, practices, methodologies, and infrastructure (howsoever originally established);
 - Information provided by references;
 - The Proponent's past performance on previous contracts awarded by MMC and the Purchaser(s);
 - The information provided by a Proponent pursuant to MMC and the Purchaser(s) exercising its clarification rights under this RFT process; or
 - Other relevant information that arises during this RFT process;
- c) Verify with any Proponent or with a third party any information set out in a Tender;
- d) Select any Proponent other than the Proponent whose Tender reflects the lowest cost to MMC and the Purchaser(s) or the highest overall score;
- e) Accept any Tender in whole or in part;
- f) Discuss with any Proponent different or additional terms to those contemplated in this RFT or in any Proponent's Tender;
- g) If a single Tender is received, reject the Tender of the sole Proponent and cancel this RFT process or enter into direct negotiations with the sole Proponent;
- h) Negotiate in respect of any term or condition proposed by Proponent in its Tender, whether a business or legal term or condition or otherwise; and
- i) To check references other than those provided by any Proponent.

These reserved rights are in addition to any other express rights or any other rights which may be implied in the circumstances, and MMC and the Purchaser(s) and its respective representatives or funders shall not be liable for any expenses, costs, losses or any direct

or indirect or punitive or other damages incurred or suffered by any Proponent or any third party resulting from MMC and the Purchaser(s) exercising any of its express or implied rights under this RFT or otherwise, whether in contract, tort (including gross negligence), or under any equitable or other principle available at law or otherwise.

By submitting its Tender, the Proponent authorizes the collection by MMC and the Purchaser(s) and its representatives of the information set out under (e) and (f) in the manner contemplated in those subparagraphs.

9.12 Bid Protest Procedure

Notwithstanding Section 10.13 Governing Law and subject to having attended a debriefing in accordance to section 9.3, any dispute, complaint, or protest (a “Bid Protest”) in respect of this RFT by a Proponent, including, without limitation, the awarding of any Agreement to another Proponent or otherwise, shall be addressed by the Proponent solely through a notice to the Bid Administrator, in writing within ten (10) days from such debriefing, referring to this section of the RFT.

The Bid Protest(s) shall be recorded and acknowledged by the Bid Administrator on behalf of MMC and the Purchaser(s) in a prompt manner. Bid Protests in writing that are not timely received may not be considered by MMC, and the Proponent will be notified in writing.

Bid Protests in writing shall include the following:

- a) a specific identification of the provision and/or procurement procedure that is alleged to have been breached;
- b) a specific description of each act alleged to have breached the procurement process;
- c) a precise statement of the relevant facts;
- d) an identification of the issues to be resolved;
- e) the Proponent’s arguments and supporting documentation; and
- f) the Proponent’s requested remedy.

A Response to the Bid Protest will be developed by MMC and the Purchaser(s) and may involve personnel from the Issuer and/or the Purchaser(s) at an appropriate level as are reasonably required to provide a response to the Bid Protest.

MMC and the Purchaser(s) may wish to seek clarifications before providing a Response, and reserves the right to delay providing a Response until the Agreement has been entered into by the MMC and the Purchaser(s) and the successful Proponent.

A Proponent is also entitled to submit a complaint to the Director of Supply Chain Ontario in accordance with the process established by the Ministry of Government and Consumer Services. See:

<https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/EN/bid-dispute>.

9.13 Electronic Signature

MMC and the Purchaser reserve the right to conduct business transactions with electronic documents and using electronic signatures instead of paper-based documents and wet ink signatures. Each decision to execute a document using an electronic signature shall have no effect on the legal validity of any prior or subsequently completed transactions using either electronic or paper-based documents or electronic or wet ink signatures

9.14 MMC and the Purchaser(s)'s Information Only an Estimate

MMC and the Purchaser(s) and its advisors make no representation, warranty, or guarantee as to the accuracy of the information contained in the RFT or issued by way of addenda. Any quantities shown or data contained in this RFT or provided by way of Addenda are estimates only and are for the sole purpose of indicating to Proponents the general size of the work.

It is the Proponent's responsibility to avail itself of all the necessary information to prepare a Tender in response to this RFT.

9.15 Entire RFT

This RFT, any Addenda to it, and the following attachments, Schedules and Appendices listed below constitute the entire RFT.

- Schedule A – Description of Products and Services
- Schedule B - Proponent Confirmation & Pricing Tender
- Schedule C – Brightshores Health System - Supplementary Conditions

Appendices as separate files on Bonfire

- Appendix A – BHS - Contractor Safety Policy (2023)
- Appendix B – BHS - IPAC Policy (2022)
- Appendix C – Steel Building Shop Drawings T24-0417
- Appendix D - Bill of Materials T24-0417
- Appendix E - NEMT_Issued for Tender_Sept27-24

Schedule A - Description of Products and Services

Scope of Work: As required per Appendix E – Drawings package

Hours of Work: 07:00 – 19:00

Fire Alarm: Troy Fire & Life Safety

The project is a new 690 m² pre-engineered building complete with concrete foundation. Electrical and Civil works to be provided.

The GC is only required to erect the Client supplied Pre-Engineering Building. See appendix for shop drawings & material list. The list of materials is the structural pre-engineered building c/w metal cladding.

The GC is also required to provide handling of the material which is Client provided from the current storage space to the new site selection as per the drawings. See attached location map for general location of storage area and revised site location.

Construction is scheduled to start as soon as possible, pending issuance of Building Permit. Project Substantial completion is anticipated to be December 15, 2024.

Schedule B - Proponent Confirmation & Pricing Tender

BID FOR: RFT 214872 - Outdoor NEMT Facility Construction
1800 8th St E,
Owen Sound,
ON N4K 6M9

FILL OUT FOLLOWING SECTIONS CAREFULLY AND IN ENTIRETY. FAILURE TO DO SO MAY RESULT IN BID BEING RULED INFORMAL.

SUBMITTED BY: (Name): _____

(Address): _____

Having examined the Instructions to Bidders, General Conditions, Supplementary Conditions (if any), Drawings, Schedules, Specifications and Addenda, as well as the existing premises and conditions (if applicable) affecting the Work, I/we offer to provide all labour, material, plant and equipment required to complete this Work including Duties and levies in force at the time of Bidding, but excludes Harmonized Sales Tax, for the following total Stipulated Bid Price of:

.....DOLLARS

(\$.....) in Canadian funds, which excludes an amount of applicable

Harmonized Sales tax equal to:.....

(\$.....) in Canadian funds.

If notified of the acceptance of this offer within 90 days of the time set for the closing of Bids, I/We will execute a Contract for same in the form of the Standard Construction Document CCDC2 - 2020 for a Stipulated Price Contract as amended by the General Conditions, Supplementary Conditions (if any) and Addenda. The following Addenda are included in this Bid: (Indicate all Addenda by number).

Addendum No:.....

SCHEDULE

I/We the undersigned acknowledge and agree to complete all Work of this project to the requirements as defined in Document entitled Instructions to Bidders.

ALLOWANCES

Cash allowances as specified in Section 01 21 00 – Allowances, are included in the Stipulated Bid Price (applicable HST to be excluded from allowances, but included in total HST amount identified on page 1).

SUBCONTRACTORS

I/We the undersigned Bidder, have received bids from the Subcontractors or Suppliers named below for the items of work requested, and are prepared to accept these names for the performance of these items of work.

Item #	Item of Work	Name of Subcontractor or Supplier
1	Civil	
2	Electrical	
3	Pre – Engineered Building Erector	
4	Overhead Door Supplier/Installer	
5	Concrete Foundations	

I/We, the undersigned, declare that:

The submission of a Bid will be interpreted to mean that the Bidder:

- a) Is qualified to perform the Work in accordance with the Bid Documents and the bid price covers all obligations and things necessary for the performance of the Work;
- b) Agrees to attain Substantial Performance of the Work within _____ weeks after receiving notice of contract award.
- c) Is fully aware if the Bidder is a non-resident under the Income Tax Act (Canada) and amounts payable to the Bidder under this Agreement are subject to withholding taxes under applicable Laws, the Purchaser shall withhold and remit such amounts to the applicable taxing authority in accordance with applicable Laws;

- d) This Bid is open to acceptance by the Owner for a period of [90] [ninety] calendar days from the Bid Closing Time.
- e) Has the legal and financial capacities, and commercial and technical abilities to undertake this Request for Tenders;
- f) Is not bankrupt or insolvent;
- g) Have not made any false declarations as it relates to the Request for Tenders;
- h) Has not failed to pay taxes;
- i) Can adequately staff the project;
- j) Accepts all the terms and conditions of this Request for Tenders;
- k) All Bid Form Supplements called for by the Bid Documents form an integral part of this bid, and
- l) Acknowledges that they have read, understood and agreed to the Terms and Conditions as listed; and
- m) Confirms that there is not nor was there any actual or perceived unfair advantage or conflict of interest in submitting the Bid or performing or observing the contractual obligations of the Bidder in the Agreement.

Bidder Firm Name:	
Representative Name(s):	
Business Title:	
Contact Phone:	
Contact E-mail Address:	

Signature
I/we have the authority to bind the Bidder

Date

Signature
I/we have the authority to bind the Bidder

Date

Schedule C - Brightshores Supplementary Conditions

CCDC 2 with Brightshores SUPPLEMENTARY CONDITIONS.

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:

Schedule "C"

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

- (a) 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**

- (a) 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*

- (b) 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%).”

- (c) Delete subparagraph 5.2.1(2).

2.3 **ARTICLE A-8 SUCCESSION**

- (a) Amend paragraph 8.1 by inserting the word, “permitted”, before the word, “assigns”.

2.4 **ARTICLE A-9 GENERAL**

- (a) 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

(a) Amend the Definition, "Working Day", by adding the words, "or Easter Monday", after "Sunday" in the first line.

(b) 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 not 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 CCDC 41 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.”