



## REQUEST FOR TENDER

**EICS-24-50**

**City Hall 5<sup>th</sup> and 6<sup>th</sup> Floor Washrooms Renovation**

**File No. 570.02-1113**

Date issued: September 25, 2024

ELECTRONIC SUBMISSIONS will be received by the Bidding System, no later than **2:00 p.m. local time, on October 10, 2024**

**\*\*\*ELECTRONIC SUBMISSIONS ONLY\*\*\***

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## SECTION 1.0 INSTRUCTIONS TO BIDDERS

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### 1.1 **Procurement By-law**

This process will be guided by the City of Burlington's Procurement By-law (by-law 004-2022, as amended). It is the responsibility of the Bidder to be familiar with the Procurement By-law, which can be found on the City of Burlington (the "City") website: [www.burlington.ca](http://www.burlington.ca)

### 1.2 **Single Point of Contact**

In relation to this procurement process, all communication shall be directed to:

Hasan Rabby  
Contract Administrator  
City of Burlington  
[Hasan.rabby@burlington.ca](mailto:Hasan.rabby@burlington.ca)

All request for information, instructions or clarifications shall be directed to the Single Point of Contact only. Requests should be made through the Bidding System by clicking on the "Submit a Question" button found within the bid detail of the specified bid solicitation.

Bidders shall not communicate with other City of Burlington employees or agents regarding this Bid Solicitation prior to award. Any attempt by a Bidder to bypass or influence the procurement process may result in disqualification of their Bid.

The City will not be responsible for any verbal statement, instruction or representations. In case of difference between any verbal information and written document, the written document shall govern. Information obtained from any source, other than the Single Point of Contact in writing, shall not be relied upon.

### 1.3 **Pre-qualified Bidders**

Not Applicable.

### 1.4 **Project Timetable**

The following table represents the project timelines. These timelines are subject to change at the discretion of the City of Burlington ("the City").

Description	Date
Issue Date	September 25, 2024
Mandatory Site Meeting	October 02, 2024, 1:30 pm local time
Deadline for Questions	October 04, 2024, 2:00 pm local time
Closing Date and Time	October 10, 2024, 2:00 pm local time
Anticipated Award	October 18, 2024
Construction Start	November 18, 2024
Work Completion/Substantial Performance	January 31, 2025

## **SECTION 1.0 INSTRUCTIONS TO BIDDERS**

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### **1.5 Mandatory Site Visit**

Bidders shall attend the Mandatory Site Visit, as detailed below, and ensure they have provided their information on the sign in sheet. Where a Bid is submitted by a company whose name does not appear on the sign in sheet, it will be deemed non-compliant and rejected.

**Date:           October 02, 2024**

**Time:           1:30 pm**

**Location:     426 Brant Street, Burlington, ON L7R 3Z6**

Each Bidder should examine the site and work to be completed prior to submitting their Bid. Failure to do so, shall not alleviate the Bidder from all duties required to fulfil their obligations under this contract, or be accepted as basis for any claim for extra compensation or an extension of time.

### **1.6 Deadline for Questions**

Questions must be received by the Single Point of Contact no later than the deadline for questions noted in the Project Timetable.

If a Bidder finds any discrepancies or omissions within the Request for Tenders (“RFT”) documents, or requires any clarifications regarding the RFT documents, questions and clarifications should be sent to the Single Point of Contact through the Bidding System by clicking on the “Submit a Question” button found within the bid details page of that opportunity.

The City shall not be bound by any verbal instruction or information provided by any City employee or Consultant of the City. Only responses provided in an Addendum shall form part of this Bid Solicitation Document.

### **1.7 Addenda**

All Addenda issued through the Bidding System shall form part of the Bid Solicitation Document.

Any questions and clarifications regarding the terms of reference shall be requested through the Bidding System by the date noted above. Those that are deemed pertinent to the Bid Solicitation document will be addressed in the form of an Addendum.

Bidders shall acknowledge the receipt of all Addenda in the Bidding System prior to the submission of their Bid. Where Addenda has been issued, the system will not allow the Bidder to submit a Bid prior to acknowledging said Addenda.

Where an Addendum is issued after a Bid has been submitted, the Bidding

## **SECTION 1.0 INSTRUCTIONS TO BIDDERS**

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System will automatically withdraw the submitted Bid. The Bid status will change to incomplete and will not be accepted by the City as a submitted Bid. It is the responsibility of the Bidder to acknowledge all Addenda and ensure the Bid has been received by the Bidding System. Bidders should check the Bidding System for Addenda up until the Bid closing date and time.

Addenda cannot be acknowledged after the closing date and time.

### **1.8 Brand Name and Requesting Approved Equivalents**

Any reference to a brand name or a particular manufacturer shall be understood to have been made solely for the purpose of establishing and describing required performance and quality levels of the product to be supplied, unless specified otherwise.

No reference to the brand name of a particular manufacturer shall be construed to restrict Bidders to that manufacturer. Bidders are invited to Bid equivalent and comparable equipment or items of any manufacturer, pending approval from the City in the form of an Addendum. It is the Bidder's responsibility to demonstrate that the item meets the specifications.

**Bidder's shall request that their proposed product be deemed an approved equivalent prior to the Deadline for Questions or the date specified in the project timetable.**

The request must be made in writing to the Single Point of Contact and include enough detail to determine equivalency by comparing the City's specifications to their alternate product. It will not be the City's responsibility to perform this comparison.

If the City is willing to consider the product with its differences, it will be communicated in the form of an Addendum prior to the closing date.

The acceptability of any alternate products will remain at the sole discretion of the City of Burlington. In the event a demonstration of the product is required to confirm equivalency, it will be conducted after the bid has closed.

The cost of any testing requirements to establish acceptable equivalent or comparable products will be borne by the Bidder, unless otherwise stated by the City.

### **1.9 Compliance with Laws, Acts and Regulations**

Bidders shall abide by all applicable provincial and federal laws, as well the City by-laws. Some of the applicable laws are highlighted below for information purpose only. In case of any discrepancy between this Bid Solicitation document

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and the provision of applicable laws, the latter shall prevail. This list is not intended to be a comprehensive summary of relevant laws.

- i. City of Burlington [Procurement By-law](#)
- ii. Construction Act
- iii. CRA (Canada Revenue Agency) regulations
- iv. AODA (Accessibility for Ontarians with Disabilities Act)
- v. WSIB (Workplace Safety and Insurance Act)
- vi. Occupational Health and Safety Act
- vii. Migratory Birds Conservation Act

Non-compliance to provincial or federal laws or City by-laws may result in rejection of the Bidder's Bid submission and/or termination of Contract.

### **1.10 Electronic Bid Submission and Bid Results**

All Bids shall be submitted through the Bidding System only. Bidders must have a Bidding System Vendor account and shall ensure the account is created with the Bidders full legal company name.

Hard copy Bid Submission will not be accepted by the City.

Bids will not be accepted after the Closing Date and Time.

There will be no public opening for this Tender. Unofficial Bid results will be posted to the City's Bidding System at <https://burlington.bidsandtenders.ca> and are typically available upon Tender closing, subject to further review for compliance.

Once the determination of compliance is complete, Bid results will be updated if required.

### **1.11 Withdrawal of Bid Submission / Irrevocable Period**

Bidders may edit or withdraw their Bid in the Bidding System up until the Closing Date and Time. The closing time shall be determined by the web clock within the Bidding System. After such time, requests to withdraw Bid Submissions will not be considered.

Bids will be irrevocable by the Bidder, and open for acceptance by the City, for **90 (ninety)** days following the Closing Date.

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## SECTION 1.0 INSTRUCTIONS TO BIDDERS

### 1.12 **No Lobbying**

Any attempt by the Bidder or their agents to contact any of the following persons, directly or indirectly, with respect to this procurement may lead to disqualification:

- i. any elected or appointed officer;
- ii. any staff of the City except the Single Point of Contact as identified in the Bid Solicitation document; or
- iii. any other person connected in any way with the procurement.

### 1.13 **No Collusion**

Bidders including any of their agents are prohibited from engaging in any comparison of figures or arrangement with any other individual, corporation or person submitting a Bid for the same Work and shall be fair in all respects and shall be without collusion or fraud.

### 1.14 **Conflict of Interest**

By submitting a Bid, the Bidder is confirming that they have no conflict of interest with respect to other work and/or other clients except otherwise specified on the Form of Tender submitted by the Bidder. The Bidder shall ensure that all subcontractors and sub-consultants also have no conflict with respect to other work and/or other clients.

### 1.15 **Incurred Costs**

The City will not be liable, nor reimburse any Bidder for costs incurred in the preparation of the Bid, or any other services that may be requested as part of the procurement process.

### 1.16 **Confidential Information**

All information and documentation provided by the City or to the City in connection with this Bid Solicitation document, before or after the issuance of this Bid Solicitation Document is the sole property of the City and must be treated as confidential and shall not be disclosed without prior written authorization from the City.

Bidders shall identify any confidential information in their Bid submission. The City will make reasonable efforts to safeguard confidential information of Bidders, subject to its disclosure requirements under the Municipal Freedom of Information and Protection of Privacy Act or any other disclosure requirements imposed by law or by order of a court tribunal. Bidders are advised that their Bid submissions may be disclosed, on a confidential basis, to advisers retained by the City to advise or assist with the Bid process, including the evaluation of Bid submissions.



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### **1.17 Examination of Site**

- i. Bidders will accept the site conditions, and the requirements of the work, as is. No modifications to the Bid will be accepted after the Closing Time.
- ii. No claim for extras will be allowed for work or difficulties encountered due to conditions of the site which were visible, knowable, or reasonably inferable, prior to the time of submission of Bid. Bidders shall accept sole responsibility for any error or neglect on their part in this regard.
- iii. Before submitting a Bid, each Bidder shall:
  - a. carefully examine this entire Bid Solicitation document to determine the extent of the Work, and various provisions including the maps, drawings, reports and specifications;
  - b. report all discrepancies between the various documents and site conditions;
  - c. provide subcontractors, sub-consultants and suppliers to whom the Bidder intends to sublet a portion or portions of the Work with complete information as to the requirements of the Work. This is to include maps, drawings, reports, specifications and all requirements of the Bid Solicitation document including any addenda.
- iv. In the event of discrepancies between the maps, drawings, reports, and the specifications with regard to quantity or quantities of materials or items, and in the absence of Addenda in clarification of said discrepancies, the Bidder is to include for the larger quantity or quantities.
- v. No additional payments will be made for any costs incurred through failure of the Bidder to abide by provisions stipulated in all of the articles and sub-articles of this item.
- vi. It is the Bidder's sole responsibility to verify all site measurements and quantities.
- vii. No responsibility will be assumed by the City for the exactness of soil data shown on any drawings or made available in the Bid Solicitation document.

### **1.18 Bid Prices**

- i. The amounts stipulated on the bid form are intended to cover the cost of the complete work as described in this Bid Solicitation document.
- ii. All prices shall be in Canadian Funds, FOB Destination (City locations).
- iii. HST is extra and shall not be included in bid prices.
- iv. Pricing for any items under the heading Optional Pricing will not to be included in the summary table. Optional items may or may not be selected and added to the total tendered price at the sole discretion of the City.

## **SECTION 1.0 INSTRUCTIONS TO BIDDERS**

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- v. Pricing for any items under the heading Provisional Pricing will be included in the summary table. Provisional items may be cancelled at any time. The Bidder shall have no claim for delay or loss of overhead or profit should the City delete any or all Provisional items.
- vi. The person submitting the bid on behalf of the Bidder shall have authority to bind the Bidder.
- vii. All information required on the forms shall be completed in full including references and subcontractors that it proposes to use for work described. Changes made to the list of nominated subcontractors after the closing of the Bid, shall have prior written approval of the City's Project Manager.
- viii. All price(s) submitted shall be a reasonable price for each particular item as determined by the City and under no condition will an unbalanced Bid be considered. Submissions containing prices which appear to be so unbalanced as to likely affect the interests of the City adversely will be clarified and may be rejected.

### **1.19 Provisional Pricing**

Items listed in the Bid as "Provisional", may or may not be required for completion of the Work called for under the Contract. The necessity for the items, and subsequent quantities will be determined by the City. Should any of these items be required, the Vendor will be compensated on the basis of the unit prices(s) quoted. In the event that Provisional items are deleted, or quantities are less than estimated, no adjustment or compensation will be awarded to the Vendor by the City of Burlington for loss of revenue or for any other reason.

### **1.20 Bid Irregularities**

Bids with one or more of the following may be declared informal and/or disqualified and/or non-compliant:

- i. Bids that do not strictly comply with Schedule B of the Procurement By-Law (004-2022, as amended and applicable to electronic bidding).
- ii. Bids that do not comply strictly with all terms and conditions of the Bid Solicitation document.
- iii. Bids that are incomplete, conditional, qualified, illegible or obscure.
- iv. Bids that are based upon an unreasonable period of time for completion of the Work.
- v. Bids received from Bidders involved in civil litigation or pending litigation with the City or banned or on probation with the City.
- vi. Bids received from any Bidder deemed to be unskilled or experienced in the work contemplated, or those who have defaulted on, or failed to satisfactorily complete other similar work in the past.
- vii. Bids submitted by Bidders that are not prequalified, where applicable.

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## SECTION 1.0 INSTRUCTIONS TO BIDDERS

### 1.21 Indemnification

The Bidder will indemnify and save harmless and defend the City, its elected officials, officers, employees, contractors, agents and their successors and assigns, from and against all actions claims and demands whatsoever which may be brought against or made upon the City and against all losses, liability, judgments, claims, costs, demands or expenses which the City may sustain, suffer, or be put to resulting from or arising out of the Bidder's failure to exercise reasonable care, skill or diligence in the performance or rendering of any Work or service required hereunder to be performed or rendered by the Bidder, its agents, servants, employees or subcontractors, or any of them as well as for the infringement of or use of any intellectual property rights including any copyright or patent arising out of the reproduction or use in any manner of any plans, designs, drawings, specifications, information, negatives, data, material, sketches, notes, documents, memoranda, or computer software furnished by the Bidder in the performance of this Contract.

### 1.22 Non-Assignment

It is mutually agreed and understood that the Bidder shall not assign, transfer, convey, sublet or otherwise dispose of their agreement or their right, title or interest therein, or their power to execute the Contract, to any other person, firm, Bidder or corporation without the previous written consent of the City. An assignment agreement may be required.

### 1.23 Waiver

No term or provision of the Bid Solicitation document shall be deemed waived and no breach consented to, unless such waiver or consent is in writing and signed by an authorized representative of the party claimed to have waived or consented to the breach. No consent by a party to, or waiver of, a breach under the procurement process shall constitute consent to, waiver of, or excuse for any other, different or subsequent breach.

The City does not accept responsibility for any information or any errors or omissions which may be contained in the Bid Solicitation document or the data, materials or documents disclosed or as provided to the Bidders pursuant to the procurement. The City makes no representation or warranty, either expressed or implied, in fact or in law with respect to the accuracy or completeness of the Bid Solicitation document or such data, materials or documents and the City shall not be responsible for any actions, costs, losses or liability whatsoever arising from any Bidder's reliance or use of the Bid Solicitation document or any other technical or historical data, materials or documents provided by the City. The Bidder is responsible for obtaining its own independent financial, legal, accounting and technical advice with respect to any information included in the Bid Solicitation document or in any data, materials, or documents provided or required by the City.

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### **1.24 Reserved Rights of the City**

The City reserves the right, in its sole and unfettered discretion, to:

- a) make changes, including substantial changes, to the Bid Solicitation document provided that those changes are issued by way of addenda in the manner set out in the Bid Solicitation document;
- b) make public the names of any or all Bidders;
- c) check references other than those provided by any Bidder;
- d) to reject any, or any part of, any or all Bids, or cancel the bidding process at any stage and/or issue a new bid call for the same or similar deliverables;
- e) disqualify any Bidder:
  - i. whose Bid contains misrepresentations or any other, inaccurate or misleading information, or any qualifications within their Bid,
  - ii. who has engaged in conduct prohibited by the Bid Solicitation document,
  - iii. with inadequate credentials or due to unsatisfactory past performance,
- f) reject Bid(s) from Bidder who has engaged in lobbying or has contravened any of the terms of the Bid Solicitation document;
- g) reject a Bid on the basis of:
  - i. information provided by references or credit check or other due diligence efforts,
  - ii. the information provided by a Bidder pursuant to the City exercising its clarification rights under the procurement process, or
  - iii. other relevant information that arises during the procurement process;
- h) if a single Bid is received, choose to reject the Bid of the sole Bidder and cancel the bidding process or enter into direct negotiations with the sole Bidder;
- i) accept a Bid other than the lowest or highest scoring and/or to not accept any Bid for any reason whatsoever;
- j) negotiate in circumstances as permitted by the Procurement By-law, and include additional terms and conditions during the process of negotiations;
- k) no longer consider a Bidder if a satisfactory outcome is not reached as part of negotiation, as determined by the City in its sole discretion and move to the next highest ranked Bid in such event;
- l) select a Bidder other than the Bidder whose Bid reflects the lowest cost to the City and/or award the Contract to any Bidder;
- m) not award the Contract if the costs of completing the Work exceed budget funding or if necessary internal approvals are not obtained.

These reserved rights are in addition to any other expressed rights or any other rights which may be implied in the circumstances. The City shall not be liable for any expenses, costs or losses suffered by any Bidder or any third party resulting from the City exercising any of its expressed or implied rights under this bidding process.

## SECTION 1.0 INSTRUCTIONS TO BIDDERS

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### 1.25 Bid Submission

- a) Bidders must include the appropriate submission requirements and mandatory forms specified in this section.
- b) Bidders shall have a “vendor account” in the Bidding System and be registered as a “plan taker” for this Bid Solicitation document. Only the plan takers will have access to download this Bid Solicitation document, receive addenda email notifications, download addenda and to submit their Bid electronically through the Bidding System.
- c) The onus is on the Bidder to ensure that the Bid is received in the Bidding System on or before the Closing Time. The Closing Time shall be determined by the Bidding System’s web clock. The timing of the Bid submission shall be based on when the Bid is RECEIVED by the Bidding System, not when a Bid is submitted by a Bidder.

Bidders shall allow sufficient time to upload their Bid submission and attachment(s) (if applicable) and to resolve any issues that may arise as Bid transmission can be delayed in an “internet traffic jam” due to file transfer size, transmission speed, etc.

- d) Upon receiving a Bid, the Bidding System will send a confirmation email to the Bidder advising that their Bid was submitted successfully. If a Bidder does not receive a confirmation email despite submitting a Bid, they should contact technical support of the service provider hosting the Bidding System via email: [support@bidsandtenders.ca](mailto:support@bidsandtenders.ca)
- e) The Bidding System will not accept Bids after the Closing Time as determined by the Bidding System’s web clock. Bids submitted by fax or paper copy or any other format will not be accepted.

### 1.26 Bid Review

- a) All Bids received on or before the Closing Time will be reviewed for compliance based on this Bid Solicitation document as well as the City’s [Procurement By-law](#). Non-compliant Bids will be rejected. Bids not meeting any of the mandatory requirements included in this Bid Solicitation document will be disqualified. Bidders may be contacted to clarify their submissions.
- b) It is the Bidder’s responsibility to satisfy the City that they can comply with the requirements contained within this Bid Solicitation document and that they possess the necessary inventory, equipment, facilities, resources and staff to perform the work specified in this Bid Solicitation document. Bidders may be required to submit evidence of above in a form acceptable to the City. Substitution of materials, equipment or methods different from that outlined in

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the terms of reference will not be accepted unless provided for within this Bid Solicitation document or with the written approval of the City.

- c) As part of the Technical Evaluation, the City reserves the right to shortlist Bidders, interview their proposed team, subcontractors or sub-consultants and/or ask for a presentation and/or demonstration to the City's evaluation committee or ask for a test / trial version of the solution or product proposed. The City also reserves the right to examine Bidder's facilities, equipment and visit the subcontractors or sub-consultants proposed or Bidder's existing and past clients. The award decision may be revised based on the above.
- d) The City will be responsible for travel costs of the City's staff only, if travel is required. No additional charges will be accepted by the City for any cost incurred by the Bidder or any other party in participating in the Bid evaluations.
- e) The City may, in its sole discretion, check references, conduct credit checks, review the litigation history and history of professional liability or other insurance claims and obtain any other type of information that might aid the City in its selection. The City reserves the right to consider all or any information received from all available sources, whether internally or externally obtained. The City may disqualify any Bid from further consideration based on results of reference or credit checks or review of litigation or claim history. The foregoing may include the City's own experiences with the respective Bidder(s) or any of the subcontractors and sub-consultants proposed in their Bid.

### **1.27 Award Recommendation**

- a) The lowest compliant Bid will be recommended for award subject to availability of funds.
- b) The documents listed below will be incorporated as deemed necessary by the City, into the Contract with the successful Bidder. If there is a discrepancy between the wording of one document and the wording of any other document that appears on the list, the wording of the document that first appears on the list shall take precedence:
  - i. City approved change orders or Contract or Agreement amendment
  - ii. Purchase Order, Contract or Agreement executed with the Contractor including exhibits
  - iii. Bid Solicitation document issued by the City, including addenda, if applicable
  - iv. Bid submitted by the Contractor

## **SECTION 1.0 INSTRUCTIONS TO BIDDERS**

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- c) There shall be no obligation on the City as a result of seeking Bids or conducting the procurement process and the City reserves the right to pursue other Bidders, cancel the Bid Solicitation, issue a revised request, or to pursue any other course of action which would aid in meeting its needs.

### **1.28 Documents Required for Award**

Within ten (10) working days of receiving a request from the City, the Bidder (the "Recommended Bidder" shall provide the following:

- i. Insurance certificate with coverage specified in the Bid Solicitation document.
- ii. WSIB clearance certificate valid on date of award or an exemption letter.
- iii. Form 31 Labour and Material Payment Bond.
- iv. Form 32 Performance Bond.
- v. Power of Attorney for the Bonds.
- vi. Acknowledgement of Section 7 and Section 80.49 of Ontario Regulation 191/11.
- vii. Contract security, if applicable as specified in the Bid Solicitation document.
- viii. An executed agreement, if applicable duly signed and sealed by the authorized signatory.
- ix. Health and Safety policy.
- x. Any other submittal specified in the Bid Solicitation document as a requirement of award.

### **1.29 Bid Deposit**

The Bid submission must be accompanied by a bid deposit in the form of a digital Bid Bond in an electronically verifiable and enforceable (e-Bond) format in the amount(s) not less than 5% of the total Contract Value, made payable to The Corporation of the City of Burlington as surety that, if the Bid is accepted, a Contract will be entered into for the proper performance of the work. For more information, contact your surety company or visit the Surety Association of Canada website: <https://www.suretycanada.com/SAC/Surety-Bonds/E-Bonding.aspx>

Bidders shall upload their Bid Bond to the Bidding System, in the bid submission file labeled "Bid Bond". All instruction and details for accessing authentication shall be included with the digital Bond uploaded in the Bidding System.

Bids that do not contain the bid deposit(s) in the required amount as specified in this paragraph will be declared non-compliant and will be rejected. A scanned

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PDF copy of bonds or original certified cheque, bank draft, money order, etc. are not acceptable as Bid deposit and will result in Bid rejection.

The bid deposit of the Bidder whose submission is accepted shall be forfeited by the Bidder should the Bidder fail to execute a Contract or provide the necessary documents as required within this Bid Solicitation document (including signed agreement, satisfactory security, insurance certificate, Workplace Safety and Insurance Board letter of clearance) within the time stipulated as a written notice from the City.

### **1.30 Counterparts and Scanned Original Signature**

This Agreement may be signed in counterparts, each will be deemed an original, but all counterparts together will constitute one instrument.

The Vendor may sign this Agreement by means of a scanned original signature that is received by the City in a file format acceptable to the City. Such scanned original signature shall be deemed to be an original signature for the purposes of this with the same legal effect as an original signature.

### **1.31 City Representative**

For the execution of the contract, all communication shall be directed to:

Colin Metham  
Project Coordinator  
City of Burlington  
colin.metham@burlington.ca



## SECTION 2.0 SPECIAL PROVISIONS

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### 2.1 Project Scope

This project includes for the following works:

Interior renovations of four washrooms on the 5<sup>th</sup> and 6<sup>th</sup> floors of City Hall as detailed in the project specific drawings and specifications including hazardous material abatement.

### 2.2 Operational Constraints

The 5<sup>th</sup> and 6<sup>th</sup> floor offices will be occupied during construction. As such, the Contractor must make provisions to perform the work in such a manner that minimizes the impact to the occupants and the following is to be considered:

- One washroom on each floor is to be operational at all times.
- Demolition, abatement and noisy work to be completed between the hours of 5:00pm and 7:00am
- Floor protection is to be used in the hallways and elevator throughout construction duration. Elevator pads are to be used when moving debris and material.
- The hallways are to remain free of material and debris and cleaned at the end of every workday.
- A small disposal bin is permitted in the City Hall loading area if it is not blocking the City disposal bins
- A detailed plan on how abatement will be executed will be required for review and approval prior to starting demolition.
- Scheduling of work to be shared with Operations/City PM so it can be coordinated with the occupants' schedules

### 2.3 Holiday Restrictions

The use of construction accesses, lane closures, and the loading and unloading of materials and construction equipment onto and from the road shall not be carried out on the following Canadian Statutory/Civic Holidays and special event days:

<b>Holiday</b>	<b>2024</b>	<b>2025</b>
New Years Day	January 1	January 1
Family Day	February 19	February 17
Good Friday	March 29	April 18
Easter Monday	April 1	April 21
Victoria Day	May 20	May 19

## SECTION 2.0 SPECIAL PROVISIONS

Canada Day	July 1	July 1
August Civic Holiday	August 5	August 4
Labour Day	September 2	September 1
National Day for Truth and Reconciliation	September 30	September 30
Thanksgiving Day	October 14	October 13
Christmas Eve	December 24	December 24
Christmas Day	December 25	December 25
Boxing Day	December 26	December 26

### 2.4 **Construction Schedule**

A construction schedule, identifying the delivery of each stage of work, is to be provided within 1 week following award of this contract. The City's Project Manager must approve the construction schedule before construction starts.

The construction schedule is to be updated by-weekly throughout the progress of the project. The City's Project Manager must approve the construction schedule.

All completion dates include an allowance for poor weather days (rain, heat, smog, etc.)

Bidder shall note that the award of this contract is subject to the City of Burlington receiving the necessary Government and/ or agency approvals permits.

### 2.5 **Staging**

No space for staging will be available.

### 2.6 **Provisional Items**

All items in the Form of Tender marked 'Provisional' shall be used only where specifically ordered by the Contract Administrator. In the event of any deletions of the contract, no adjustment or compensation will be awarded to the Contractor for loss of revenue or for any other reason

### 2.7 **Excess Material**

The work for this item shall in accordance with City of Burlington Standard Specifications and Ontario Regulation 406/19.

Material removed from site shall not to be taken to the Burlington Executive Airpark.

Materials gained from stripping, excavating, and asphalt milling/removal operations carried out under this Contract, which are unsuitable for or which are surplus to the requirements, shall be disposed of outside the right-of-way at locations arranged for by the Contractor at his expense. The Contractor shall

## **SECTION 2.0 SPECIAL PROVISIONS**

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provide the Contract Administrator with a release form for each disposal site signed by the Property Owner of the disposal site as per OPSS.MUNI 180. Contractor must obtain a Site Alteration Permit for the fill dump site and/or disposal area within the City of Burlington prior to placing the fill material as per Site Alteration By-Law 64- 2014 (or most current site alteration by-law).

The price bid for the Contract Items requiring excavation and stripping operations shall be full compensation for hauling and placing the unsuitable or surplus materials at the disposal areas.

### **2.8 Deletions and Reduction of Quantities**

It should be noted that portions of this contract may be deleted, or quantities reduced to meet budgetary restraints.

### **2.9 Protection of Existing Trees**

#### **Tree Damage**

Any tree damage as a result of construction work will be the responsibility of the Contractor. Either pruning would be needed or planting a new tree if one is damaged as a result of work in progress. This will be determined by either the City Arborist or the City representative. Prior to construction starting the City representative and Contractor will walk the project to determine the existing tree conditions.

### **2.10 Site Office**

A site office/trailer will not be required for this project.

### **2.11 Permits and Approvals**

A building permit will be provided by the City prior to construction starting.

### **2.12 Testing**

The Contractor will be responsible for all fees/costs associated with tests required to complete works specified within this Contract and is included in the Allowance.

### **2.13 Restoration**

The Contractor will be responsible for any areas damaged during construction to the satisfaction of the City's Project Manager at no additional cost to the City. This includes construction access points and routes, and any damages to park structures. All new sod is to be watered until fully established as determined by the Project Manager. All landscape will be inspected at the end of the one-year

## **SECTION 2.0 SPECIAL PROVISIONS**

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maintenance period and will be replaced by the contractor if necessary, at no additional cost to the City.

### **2.14 COVID-19 Measures**

All current Provincial and Regional public health guidelines shall be followed with respect to working during the COVID-19 Pandemic, and all costs associated with adhering to the latest COVID-19 protocols, guidelines and vaccination policy shall be included in the bid.

**SECTION 3.0 SPECIAL PROVISIONS – HALTON REGION**

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**NOT APPLICABLE**

## **SECTION 4.0 CITY OF BURLINGTON STANDARD CONTRACT DOCUMENTS**

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The City of Burlington Engineering Services Contract Documents can be found at [www.burlington.ca](http://www.burlington.ca) under the “Building and Renovating” menu – Design Standards – Standard Specifications:

- City of Burlington Standard Specifications 2022

The following contract documents are enclosed as **Appendix F**.

- Utility Letter
- Contractor Performance Evaluation and Letter
- AODA Acknowledgment form

### **Standard Drawings**

- Index
- Section 1 - Drafting Specifications
- Section 2 - Roadwork and Miscellaneous
- Section 3 - Streetscape
- Section 4 – Street Lighting
- Section 5 - Grates and Covers
- Section 6 - Sewer Installation
- Section 7 - Landscape
- Section 8 - Traffic
- Section 9 - Drainage Design Standards

Any additions or amendments to the **City of Burlington Standard Specifications** required by the City for this project is included in **Section 2: Special Provisions**.

## SECTION 5.0 DRAWINGS

The following list of Drawings form part of the Bid Solicitation document and are available as **Appendix A – IFT Drawings** to be downloaded from the Bidding System.

Drawing Name	Drawing Number	Revision Date
ARCHITECTURAL & CIVIL		
Cover Sheet & OBC Matrix	A 0.00	
Fifth Floor Plan	A 2.00	2024-08-14
Sixth Floor Plan	A 2.10	2024-08-14
Interior Elevations & Door Schedule	A 2.20	2024-08-14
MECHANICAL		
Fifth Floor Plan	M 1.0	04-24-2024
Sixth Floor Plan	M 2.0	04-24-2024
Mechanical Specifications	M 3.0	04-24-2024
ELECTRICAL		
Electrical Plan	E 1.0	04-24-2024
Electrical Specifications	E 2.0	04-24-2024

## SECTION 6.0 SPECIFICATIONS

The following list of Specifications form part of the Bid Solicitation document and are available as **Appendix B - Specifications** to be downloaded from the Bidding System.

<u>SPECIFICATIONS</u> SECTION NUMBER		# PAGES
	City of Burlington - front end documents	
	<b>DIVISION 1 - GENERAL REQUIREMENTS</b>	
00010	List of Contract Documents	1-2
01005	General Instructions	1-7
01020	Cash Allowances	1-2
01200	Meeting and Progress Records	1-2
01340	Shop Drawings, Product Data & Samples	1-2
01545	Safety Requirements	1-3
01570	Health & Environmental Specifications	1-4
01575	Environmental Protection	1-2
01710	Cleaning	1-2
01720	Project Record Documents	1-5
01730	Operations and Maintenance Data	1-1
01740	Warranties	1-1
	<b>DIVISION 2 - SITE WORK</b>	
02050	Demolition	1-3
	<b>DIVISION 6 – WOOD &amp; PLASTICS</b>	
06100	Rough Carpentry	1-3
06400	Architectural Woodwork	1-3
	<b>DIVISION 7 - THERMAL &amp; MOISTURE PROTECTION</b>	
07270	Firestopping and Smoke Seals	1-4
07900	Sealants	1-3
	<b>DIVISION 8 - DOORS &amp; WINDOWS</b>	
08100	Commercial Steel Doors and Frames	1-14
08211	Wood Doors	1-2
	<b>DIVISION 9 - FINISHES</b>	
09330	Porcelain Tile	1-3
09510	Acoustic Unit Ceiling	1-2
09900	Painting	1-4
	<b>DIVISION 10 – SPECIALTIES</b>	
10800	Washroom Accessories	1-4



**SECTION 7.0 AMENDMENTS TO CCDC 2 - 2008 STIPULATED PRICE CONTRACT**

The Standard Construction Document CCDC 2 - 2008 for a Stipulated Price Contract, English version, consisting of the Agreement Between *City* and *Contractor*, Definitions and General Conditions of the Stipulated Price Contract, Parts 1 to 13 inclusive, governing same is hereby made part of the *Contract Documents*, with the following amendments, additions and modifications:

**AGREEMENT BETWEEN CITY AND CONTRACTOR**

**ARTICLE A-1 THE WORK**

1.3 In Article 1.3 change “*Substantial Performance of the Work*” to “*Total Completion of the Work*.”

1.4 Add new paragraph 1.4 as follows:

1.4 Provide all the labour, material, equipment, machinery, *Products*, and work including, without limitation, all commissioning services required by the *Contract Documents* in order to fully complete and construct the *Work* and in accordance with, and satisfaction of all applicable laws including, without limitation, those relating to occupational health and safety and any and all obligations, responsibilities and duties required by or set in any site plan agreement or approval, attributable to the *Place of Work* and/or the proposed development therein and furnish efficient business and construction administration and superintendence consistent with the interests of the *City*.

**ARTICLE A-3 – CONTRACT DOCUMENTS**

3.1 Change paragraph 3.1 to read as follows:

Include in the list of *Contract Documents* in paragraph 3.1:

- Amendments to CCDC 2 – 2008
- Agreement between *City* and *Contractor*
- Addendum (s)
- Definitions
- the General Conditions
- Form of Offer
- All documents as indicated in the document entitled “List of Contract Documents”
- All the drawings as indicated in the document entitled “List of Drawings for Contract”

Add new paragraph 3.2 as follows:

3.2 The scope of *Work* included is as follows:

Lump Sum for All <i>Work</i>	\$ _____
Cash Allowance	\$ _____
Sub Total	\$ _____

[NTD: additions]

**ARTICLE A-5 – PAYMENT**

- 5.1.1 Delete the words “in the amount certified by the *Consultant*” in the first and second line of Article 5.1.1.
- 5.1.3 Amend Article 5.1.3 by deleting the words “upon issuance of the final certificate for payment” in the first line.
- 5.3.1 Delete paragraph 5.3.1 in its entirety and replace with the following:

Should either party fail to make payments as they become due under the terms of the *Contract* or in an award by arbitration or Court, or under a determination in an adjudication conducted pursuant to the Part II.1 of the *Act* and Part 13 – ADJUDICATION, interest on such amounts shall also become due and payable until payment is made at the prejudgment interest rate determined under subsection 127(2) of the *Courts of Justice Act*.

- 5.3.2 Delete paragraph 5.3.2 in its entirety.

**ARTICLE A-7 LANGUAGE OF THE CONTRACT**

- 7.1 Delete paragraph 7.1 in its entirety.

**ARTICLE A-9 – CONFLICT OF INTEREST**

Add new Article A-9 – Conflict of Interest:

- 9.1 The *Contractor*, all of the *Subcontractors* and *Suppliers*, and any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall not engage in any activity or provide any services where such activity or the provision of such services creates a conflict of interest (actually or potentially, in the sole opinion of the *City*) with the provision of the *Work* pursuant to the *Contract*. The *Contractor* acknowledges and agrees that a conflict of interest, as described in this Article A-9, includes, but is not limited to, the use of *Confidential Information* where the *City* has not specifically authorized such use.
- 9.2 The *Contractor* shall disclose to the *City*, in writing, without delay, any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest, including the retention of any *Subcontractor* or *Supplier* that is directly or indirectly affiliated with or related to the *Contractor*.
- 9.3 The *Contractor* covenants and agrees that it will not hire or retain the services of any employee or previous employee of the *City* where to do so constitutes a breach by such employee or previous employee of the *City's* conflict of interest policy, as it may be amended from time to time, until after completion of the *Work* under the *Contract*.
- 9.4 It is of the essence of the *Contract* that the *City* shall not have direct or indirect liability to any *Subcontractor* or *Supplier*, and that the *City* relies on the maintenance of an arm's-length relationship between the *Contractor* and its *Subcontractors* and *Suppliers*.

Consistent with this fundamental term of the *Contract*, the *Contractor* will not enter into any agreement or understanding with any *Subcontractor* or *Supplier*, whether as part of any contract or any written or oral collateral agreement, pursuant to which the parties thereto agree to cooperate in the presentation of a claim for payment against the *City*, directly or through the *Contractor*, where such claim is, in whole or in part, in respect of a disputed claim by the *Subcontractor* or *Supplier* against the *Contractor*, where the payment to the *Subcontractor* or *Supplier* by the *Contractor* is agreed to be conditional or contingent on the ability to recover those amounts or a portion thereof from the *City*, failing which the *Contractor* shall be saved harmless from all or a portion of those claims. The *Contractor* acknowledges that any such agreement would undermine the required arm's-length relationship and constitute a conflict of interest. The *Contractor* further acknowledges that it will be impossible to properly assess damages arising from such a breach and agrees that the appropriate remedy is to bar any claims for amounts to which the offending agreement pertains. For greater certainty, the *Contractor* shall only be entitled to advance claims against the *City* for amounts pertaining to *Subcontractor* or *Supplier* claims where the *Contractor* has actually paid or unconditionally acknowledged liability for those claims or where those claims are the subject of litigation or binding arbitration between the *Subcontractor* or *Supplier* and the *Contractor* has been found liable for those claims.

- 9.5 Notwithstanding paragraph 7.1.2 of GC 7.1 - CITY'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT, a breach of this Article by the *Contractor*, any of the *Subcontractors*, or any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall entitle the *City* to terminate the *Contract*, in addition to any other rights and remedies that the *City* has in the *Contract*, in law, or in equity.

#### ARTICLE A-10 – CONFIDENTIALITY

Add new Article A-10 – Confidentiality:

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

**DEFINITIONS**

4. Delete Definition 4. **Consultant** and replace it with the following:

“The „*Consultant*“ shall be the person or entity designated as the *Consultant* by the *City*, from time to time.

8. Amend Definition 8. **Contract Time** by removing the term “*Substantial Performance of the Work*” and inserting the term “*Total Completion of the Work.*”

16. Amend Definition 16. **Provide** by adding the following to the end of the Definition:

*Provide* has this meaning whether or not the first letter is capitalized.

18. Amend Definition 18. **Specifications** by adding “and includes the *City’s* standard forms and *Standard Drawings.*” at the end of the definition.

25. Amend Definition 25. **Work** by adding the following to the end of the Definition:

The *Specifications* and the *Drawings* for the *Work* are integral and any work necessary and described in (or reasonably inferred from) the *Specifications* but not shown on the *Drawings*, or necessary and shown on (or reasonably inferred from) the *Drawings* but not described in the *Specifications* shall be deemed to be part of the *Work* and carried out as part of the *Contract*.

Add the following new definitions:

- 1a. **Act**

*Act* means the *Construction Act*, R.S.O. 1990, c.C.30 as amended, and all regulations thereto.

- 1b. **Authority**

*Authority* means the Authorized Nominating Authority designated under section 13.2 of the *Act*.

- 1b. **Addendum/Addenda**

*Addendum* or *Addenda* means all attachments to the Agreement between the *City* and *Contractor*, that are titled “Addendum” and are listed in ARTICLE - 3 CONTRACT DOCUMENTS.

- 1c. **As-Built Drawings**

*As-Built Drawings* means the *Drawings* and *Specifications* revised by the *Contractor* during the *Work*, showing any and all changes or variation to the *Work* from the requirements of the *Drawings* and *Specifications*.

1d. City's Representatives

Means the City's consultant, contract administrator, project manager or such other persons as the City designates in the Contract.

2a. **Confidential Information**

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

- 1) is or becomes generally available to the public without fault or breach on the part of the *Contractor*, including without limitation breach of any duty of confidentiality owed by the *Contractor* to the *City* or to any third party, but only after that information becomes generally available to the public;
- 2) the *Contractor* can demonstrate to have been rightfully obtained by the *Contractor* from a third party who had the right to transfer or disclose it to the *Contractor* free of any obligation of confidence;
- 3) the *Contractor* can demonstrate to have been rightfully known to or in the possession of the *Contractor* at the time of disclosure, free of any obligation of confidence; or
- 4) is independently developed by the *Contractor* without use of any *Confidential Information*.

3a. **Construction Schedule**

*Construction Schedule* means the schedule for the performance of the *Work* provided by the *Contractor* pursuant to GC 3.5 CONSTRUCTION SCHEDULE, including any amendments to the *Construction Schedule* made pursuant to the *Contract Documents*.

10a. **Force Majeure**

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

10b. **Form of Offer**

*Form of Offer* means the City’s tender form as set out in Article A-3 CONTRACT DOCUMENTS and includes the *Price Schedules*.

10.c **Include**

*Include* means “including but not limiting the generality of”, unless inconsistent with the context. *Include* has this meaning whether or not the first letter is capitalized.

10d. **Install**

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

10e. **Labour Dispute**

*Labour Dispute* means any lawful or unlawful labour problems, work stoppage, labour disruption, strike (including lockouts decreed or recommended for its members by a recognized contractor’s association of which the *Contractor* is a member or to which the *Contractor* is otherwise bound), job action, slow down, picketing, refusal to work or continue to work, refusal to supply materials, cessation or work or other labour controversy which does, or might, affect the *Work*.

11a. **OHSA**

*OHSA* means the *Occupational Health and Safety Act* (Ontario).

11b. **Ontario Provincial Standard Specifications**

*Ontario Provincial Standard Specifications* means the most current version or edition of the Ontario Provincial Standard Specifications.

11c. **Other Party**

*Other Party* means any other party having an interest in the *Work* as the *City* may advise.

12a. **Personal Information**

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

13a. **Price Schedules**

*Price Schedules* means the “Stipulated Price Contract/Price Schedule,” the “Unit Price Schedule,” the “Separate Price Schedule” and the “Substitution Price Schedule,” or any one of them, or any combination of them, forming part of the *Form of Offer*.

13b. **Proper Invoice**

*Proper Invoice* means an invoice submitted by the Contractor to the City’s Representative. The invoice shall contain the following information and shall be submitted in accordance with Schedule “A”:

1. the Contractor’s name, address, telephone number and mailing address;
2. the date of the Proper Invoice and the period during which the services or materials for which payment is being applied for were supplied;
3. information identifying the authority, whether in the contract or otherwise, under which the services or materials were supplied;
4. a description, including quantity where appropriate, of the services or materials that were supplied during the payment period;
5. the amount payable for the services or materials that were supplied during the payment period, with a clear identification of the portions of the amount that are holdbacks, and HST;
6. the name, title, telephone number and mailing address of the person to whom payment is to be sent;
7. the payment terms as specified by the City in the Contract;
8. the invoice number and if applicable, the revision number;
9. the Contractor’s HST number;
10. invoices and time sheets from all subtrades whose work is included in the Proper Invoice, if required in the Contract;
11. backup documentation to support any cash allowances and extra work claimed in the Proper Invoice;
12. a schedule of values indicating:
  - (i) For lump sum contracts, the percentage of work completed per division with each division further subdivided to show the percentage of work completed for each subtrade;
  - (ii) For unit price contracts, the tender quantity, unit of measure, previous quantity, current quantity, to-date quantity.
  - (iii) an updated list of change orders, showing the percentage of work completed under each change order;
  - (iv) an updated cash allowance list, showing the percentage of work completed in respect of each cash allowance, if required by the Contract;
13. a Statutory Declaration where required by the Contract attesting to the truth of the statements made therein,
14. a Workplace Safety & Insurance Board Clearance Certificate.

15a. **Proposed Change**

*Proposed Change* means a proposed change in the *Work* prior to the issuance of a *Change Directive* or a *Change Order* in respect of such proposed change.



16a. **Request for Information/RFI**

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

17a. **Standard Drawings**

*Standard Drawings* means the most current version or edition of the *City's* standard drawings, the *Ontario Provincial Standard Drawings* and the standard drawings of any *Other Party* as may be applicable and as set out in the *Contract Documents*.

24a. **Testing Company**

A *Testing Company* is the person or entity designated by the *City* or *Consultant* to provide testing inspection services to confirm that the *Work* conforms to the *Contract Documents*.

24b. **Total Completion of the Work**

*Total Completion of the Work* means when the *Work*, except those items arising from the provisions of GC 12.3 WARRANTY, has been performed to the requirements of the *Contract Documents* and is so certified by the *Consultant* as agreed upon by the *City*.

25a. **Warranty Reserve**

*Warranty Reserve* has the meaning set out in paragraph 5.2.12.

**GENERAL CONDITIONS OF THE STIPULATED PRICE CONTRACT**

Add new preamble as follows:

- 1.1 Where a General Condition or paragraph of the General Conditions of the Stipulated Price Contract is deleted by these Amendments to CCDC 2 - 2008, the numbering of the remaining General Conditions or paragraphs shall remain unchanged and the numbering of the deleted item will be retained, unused, unless specifically stated otherwise.

**GC 1.1 CONTRACT DOCUMENTS**

- 1.1.1 Amend paragraph 1.1.1 by deleting the second sentence in its entirety and by adding the following:

The *Contractor* acknowledges and agrees that the *Contract Price* is a stipulated sum, which includes all labour, *Products*, *Construction Equipment* and services necessary for the performance of the *Work* by the *Contractor* and the *Contractor* shall comply with and shall perform the *Work* for the *Contract Price* in accordance with the true intent and meaning of the *Contract Documents* taken as a whole, as they are intended to correlate and to provide for and comprise everything necessary for the *Total Completion of the Work*.

1.1.6 Add the following to the end of paragraph 1.1.6:

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

1.1.7 Delete 1.1.7.1 in its entirety and replace with the following:

.1 Where the *Contract Documents* contain inconsistent provisions dealing with the same matter, or if there is any inconsistency in the *Drawings* or any conflict between the *Drawings* and the *Specifications*, the *Contractor* shall provide the better quality or greater quantity of *Work* or materials, as applicable, unless the *City* otherwise directs in writing. After applying the above, if there remains some inconsistency, the order of priority of documents, from highest to lowest, shall be:

- Amendments to CCDC 2-2008
- the Agreement between the *City* and the *Contractor*
- Addendums
- General Conditions
- *Form of Offer*
- Definitions
- the *Specifications*
- the *Drawings*

Add new paragraphs 1.1.7.5, 1.1.7.6, 1.1.7.7, 1.1.7.8, 1.1.7.9 and 1.1.7.10 as follows:

- 5 noted materials and annotations on the *Drawings* shall govern over the graphic representation of the *Drawings*.
  - 6 finishes in the room finish schedules shall govern over those shown on the *Drawings*.
  - .7 Schedules of Division 01 – General Requirements of the *Specifications* shall form part of and be read in conjunction with the technical specification section as listed in the table of contents of the *Specifications*.
  - 8 architectural drawings shall have precedence over structural, plumbing, mechanical, electrical and landscape drawings insofar as outlining, determining and interpreting conflicts over the required design intent of all architectural layouts and architectural elements of construction, it being understood that the integrity and installation of the systems designed by the *Consultant* or its sub-consultants are to remain with each of the applicable drawing disciplines.
  - 9 fixturing drawings provided by the *City* shall have precedence over architectural drawings insofar as outlining, determining and interpreting conflicts over the required design intent of all architectural layouts.
  - .10 should reference standards in the *Specifications* conflict with the *Specifications*, the more stringent requirements shall govern, unless the *City* and/or the *Consultant* gives written directions to the contrary.
- 1.1.8 Add “as determined by the *City*” after the words “sufficient copies”.
- 1.1.9 Replace “and shall remain the *Consultant*’s property” with “and shall remain the *City*’s property.” At the end of the section, include “in conjunction with the *City*.”
- 1.1.11 Add new paragraph 1.1.11 as follows:
- The *Contract Documents* shall be signed in sufficient copies, as determined by the *City*, by the *City* and the *Contractor*, and each of the *Contractor*, the *City* and the *Consultant* shall retain one set of signed and sealed *Contract Documents*.

### **GC 1.3 RIGHTS AND REMEDIES**

- 1.3.2 Delete the word “No” from the beginning of paragraph 1.3.2 and substitute the words:

Except with respect to the notice requirements set out in paragraphs 6.4.1, 6.5.4 and 6.6.1.

**GC 2.1 AUTHORITY OF THE CONSULTANT**

2.1.2 Delete the words “the *Contractor*”.

2.1.3 Delete the first word “shall” and replace it with “may”. Delete the phrase “against whom the *Contractor* makes no reasonable objection and”.

**GC 2.2 ROLE OF THE CONSULTANT**

2.2.7 Delete the words “Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE CITY”.

2.2.15 Add “*Proposed Changes*” before “*Change Orders*” in the first line.

2.2.16 Add to the end of sentence “and for the *Total Completion of the Work*.”

2.2.19 Add a new paragraph 2.2.19 as follows:

In any written or printed notice to the *Contractor* in respect of any *Work* of any nature required to be done under any of the provisions of the *Contract*, or of any other matter, it shall not be obligatory upon the *Consultant* to specify minutely or in detail everything required, nor to specify by measurement the exact extent thereof, or the precise spot or spots where the *Work* or material may be defective or faulty or where any of the requirements of the *Specifications* have not been observed; rather, the *Consultant* is only required to provide a reference in such notice to the clause or clauses bearing upon the matter, and a description of the locality in general terms, and sufficiently clear, in the opinion of the *Consultant*, to indicate where the defect or trouble exists and such notice shall be deemed to be sufficient notice.

**GC 2.3 REVIEW AND INSPECTION OF THE WORK**

2.3.2 Amend paragraph 2.3.2 by adding the words “and *City*” after the word “*Consultant*” in the third line, and add to end of the sentence “and the *City* shall have access to the *Work* for the purpose of reviewing the inspections, tests and approvals, and any results thereof.”

2.3.4 Insert the word “review” after the word “inspections” in the first, second and third lines of paragraph 2.3.4.

2.3.5 Add “, in consultation with the *City*,” after the word “*Consultant*”.

2.3.8 Add new paragraph 2.3.8 as follows:

The *Contractor* shall attend all site meetings related to the *Work* and any meetings of the *City*, when reasonably called upon to do so, to discuss the *Construction Schedule* and the progress of the *Work*.

## C 2.4 DEFECTIVE WORK

Add new paragraphs 2.4.1.1 and 2.4.1.2:

- 2.4.1.1 The *Contractor* shall rectify, in a manner acceptable to the *City* and the *Consultant*, all defective work and deficiencies throughout the *Work*, whether or not they are specifically identified by the *City* or the *Consultant*.
- 2.4.1.2 The *Contractor*, in consultation with the *City*, shall prioritize the correction of any defective work, which, in the sole discretion of the *City*, adversely affects the day to day operation of the *City*.
- 2.4.3 Delete the last sentence in this paragraph.

## GC 3.1 CONTROL OF THE WORK

- 3.1.1 Delete the word “total” in the sentence.
- 3.1.2 Delete the word “solely” in the sentence.
- 3.1.3 Add a new paragraph 3.1.3 as follows:

Prior to commencing the *Work*, 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 Add a new paragraph 3.1.4 as follows:

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

- 3.1.5 Add a new paragraph 3.1.5 as follows:

General review during construction by the *City*, *Consultant* and any *Testing Company* will be undertaken so that the *City* may be informed as to the quality of the *Contractor's* performance. The review does not relieve the *Contractor* of the responsibility to carry out its own quality control and to make the *Work* conform to the *Contract* requirements.

3.1.6 Add a new paragraph 3.1.6 as follows:

The *Contractor* is responsible for the quality of the *Work* and shall undertake any quality control activities specified in the *Contract* or as may be reasonably required for that particular portion of the *Work*.

3.1.7 Add a new paragraph 3.1.7 as follows:

The *Contractor* shall at all times perform the services required hereunder as diligently and expeditiously as is consistent with the highest professional standards and the orderly progress of the *Work*, and in accordance with the *Contract* and any revisions thereto, in order to maintain the desired development and construction schedule for the *Project*, and in order not to delay the *Work* or the *Project*. The *Contractor* shall at all times provide sufficient personnel to accomplish its services within the time limits required by the *City*.

**GC 3.2 CONSTRUCTION BY CITY OR OTHER CONTRACTORS**

3.2.2.1 Delete paragraph 3.2.2.1 in its entirety.

3.2.2.2 Delete paragraph 3.2.2.2 in its entirety.

3.2.3.2 Delete paragraph 3.2.3.2 and replace it with the following:

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

3.2.3.1 Add “the *City's* own forces” after the word “City”.

3.2.3.4 Add new paragraph 3.2.3.4 as follows:

Subject to GC 9.4 CONSTRUCTION SAFETY, for the *City's* own forces and for other contractors, assume overall responsibility for compliance with all aspects of the applicable health and safety legislation of the *Place of the Work*, including all of the responsibilities of the “Constructor” as that term is defined in *OHSA*.

3.2.7 Add new paragraph 3.2.7 as follows:

Entry by the *City's* own forces or by other contractors does not constitute acceptance of the *Work* and does not relieve the *Contractor* of its responsibilities to complete the *Contract*.

3.2.8 Add new paragraph 3.2.8 as follows:

The placing, installation and connection of the *Work* by the *City's* own forces or by other contractors on and to the *Work* does not relieve the *Contractor* of its responsibility to provide the specified warranties.

### GC 3.3 TEMPORARY WORK

- 332 In paragraph 3.3.2, in the second line after the words “where required by law”, insert “or the *Consultant*”.
- 333 In the third line of paragraph 3.3.3, add the words “for *Temporary Work*” after the words “specify a method of construction in whole or in part.”.

### GC 3.4 DOCUMENT REVIEW

- 341 Delete paragraph 3.4.1 in its entirety and substitute new paragraph 3.4.1:

The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* and *City* any error, inconsistency, or omission the *Contractor* may discover. Such review by the *Contractor* shall be undertaken with the standard of care described in paragraph 3.14.1 of the *Contract*. Except for its obligation to make such review and report the result, the *Contractor* does not assume any responsibility to the *City* or to the *Consultant* for the accuracy of the *Contract Documents*. Provided it has exercised the degree of care and skill described in this paragraph 3.4.1, the *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* could not reasonably have discovered through the exercise of the required standard of care. If the *Contractor* does discover any error, inconsistency, or omission in the *Contract Documents*, the *Contractor* shall not proceed with the work affected until the *Contractor* has received corrected or missing information from the *Consultant*.

- 342 Add new paragraph 3.4.2. as follows:

If, at any time, the *Contractor* finds errors, inconsistencies, or omissions in the *Contract Documents* or has any doubt as to the meaning or intent of any part thereof, including laying out of the *Work*, the *Contractor* shall immediately notify the *Consultant* and *City*, and request instructions, a *Supplemental Instruction*, *Proposed Change*, *Change Order*, or *Change Directive*, as the case may require. Neither the *City* nor the *Consultant* will be responsible for the consequences of any action of the *Contractor* based on oral instructions.

- 343 Add new paragraphs 3.4.3 and 3.4.4 as follows:

Errors, inconsistencies and/or omissions in the *Drawings* and/or *Specifications* which do not allow completion of all or a portion of the *Work* shall be brought to the *Consultant* and *City*'s attention prior to the commencement of the *Work*, or during the *Work*, as the case may be, by means of an *RFI*.

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

of the *Work* to establish a change and/or changes in the *Work* pursuant to Part 6 – CHANGES IN THE WORK.

### GC 3.5 CONSTRUCTION SCHEDULE

3.5.1 Delete paragraph 3.5.1 in its entirety and replace with the following:

The *Contractor* shall:

**1** within ten (10) days of receiving written confirmation of the award of the *Contract*, prepare and submit to the *City* and the *Consultant* for their review and acceptance, a construction schedule, in a form satisfactory to the *City*, that indicates the timing of the activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate the *Work* will be performed in conformity with the *Contract Time* and in accordance with the *Contract Documents*. The *Contractor* shall make allowance in the construction schedule for the staged installation of the *City*'s furniture, fixtures and equipment; and the *City*'s sequential occupancy, as set out in the *Contract Documents*. The *Contractor* shall employ construction scheduling software, where required by the *Specifications*, that permits the progress of the *Work* to be monitored in relation to the critical path established in the schedule. The *Contractor* shall provide the schedule and any successor or revised schedules in both electronic format and hard copy. Once accepted by the *City* and the *Consultant*, the construction schedule submitted by the *Contractor* shall become the baseline construction schedule;

**2** provide the expertise and resources, such resources including manpower and equipment, as are necessary to maintain progress under the accepted baseline construction schedule or any successor or revised schedule accepted by the *City* pursuant to GC 3.5 CONSTRUCTION SCHEDULE;

**3** monitor the progress of the *Work* on a weekly basis relative to the baseline construction schedule, or any successor or revised schedule accepted by the *City* pursuant to GC 3.5 CONSTRUCTION SCHEDULE, update the schedule on a monthly basis, at a minimum, or as required by the *Consultant* and advise the *Consultant* and the *City* in writing of any variation from the baseline or slippage in the schedule; and

**4** if, after applying the expertise and resources required under subparagraph 3.5.1.2, the *Contractor* forms the opinion that the variation or slippage in schedule reported pursuant to subparagraph 3.5.1.3 cannot be recovered by the *Contractor*, it shall, in the same notice, indicate to the *Consultant* and the *City* if the *Contractor* intends to apply for an extension of *Contract Time* as provided in PART 6 - CHANGES IN THE WORK.

3.5.2 Add new paragraph 3.5.2 as follows:

If, at any time, it appears to the *City* or the *Consultant* that the actual progress of the *Work* is behind schedule or is likely to become behind schedule, or if the



*Contractor* has given notice of such to the *City* or the *Consultant* pursuant to subparagraph 3.5.1.3, the *Contractor* shall take appropriate steps to cause the actual progress of the *Work* to conform to the schedule or minimize the resulting delay and shall produce and present to the *City* and the *Consultant* a recovery plan demonstrating how the *Contractor* will achieve the recovery of the schedule. If the *Contractor* intends to apply for a change in the *Contract Price* in relation to a schedule recovery plan, then the *Contractor* shall proceed in accordance with GC 6.5 DELAYS.

### GC 3.6 SUPERVISION

3.6.1 Delete paragraph 3.6.1 in its entirety and replace with the following:

3.6.1 The *Contractor* shall provide all necessary supervision and appoint a competent representative who shall be in full-time attendance at the *Place of the Work* while work is being performed. The appointed representative shall not be changed except for valid reasons, and upon the *Contractor* obtaining the *City's* written consent.

3.6.3 Add new paragraph 3.6.3:

The *City* may, at any time during the course of the *Work*, request the replacement of the appointed representative, where the grounds for the request involve conduct which jeopardizes the safety and security of the site or the *City's* operations. Immediately upon receipt of the request, the *Contractor* shall make arrangements to appoint a replacement acceptable to the *City*, as evidenced by the *City's* written consent.

### GC 3.7 SUBCONTRACTORS AND SUPPLIERS

3.7.1.1 In paragraph 3.7.1.1 add to the end of the second line “including any warranties and service agreements which extend beyond the term of the *Contract*, and without limiting the generality of the foregoing, provisions which provide for all warranties to commence to run from the date of *Substantial Performance of the Work* in the event of early release of holdback, pursuant to GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK.

3.7.1.2 In subparagraph 3.7.1.2 after the words “the *Contract Documents*” insert “including required surety bonding”.

3.7.2 In paragraph 3.7.2, in the first line, delete the words “if requested by the *City*”.

Add to the end of the paragraph the following:

The *Contractor* agrees not to change *Subcontractors* without prior written consent of the *City*, which approval will not be unreasonably withheld.

3.7.7 Add new paragraphs 3.7.7, 3.7.8 and 3.7.9 as follows:

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

3.7.8 Neither the *City* nor the *Consultant* shall incur any liability to the *Contractor* or any *Subcontractor* or *Supplier* for specifying any *Product* or a particular subcontractor(s) or supplier(s) for any aspect of the *Work*.

3.7.9 In addition to the obligations assumed by the *Contractor* pursuant to GC 3.7 SUBCONTRACTORS AND SUPPLIERS, the *Contractor* agrees to discharge all liabilities incurred by it for labour, materials, services, *Subcontractors* and *Products*, used or reasonably required for use in the performance of the *Work*, on the date upon which each such liability becomes due, 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 3.8 LABOUR AND PRODUCTS

3.8.2 Delete paragraph 3.8.2 and substitute with the following:

*Products* provided shall be new and shall conform to all current applicable specifications of the Canadian Standards Association, Canadian Standards Board or General Standards Board, ASTM, National Building Code, Ontario Building Code, National Fire Prevention Association, the Technical Standards and Safety Authority (also known as TSSA) and all governmental authorities having jurisdiction at the *Place of the Work*, unless otherwise specified. *Products* which are not specified shall be of a quality consistent with those specified and their use acceptable to the *Consultant*. *Products* brought on to the *Place of the Work* by the *Contractor* shall be deemed to be the property of the *City*, but the *City* shall be under no liability for loss thereof or damage thereto arising from any cause whatsoever. The said *Products* shall be at the sole risk of the *Contractor*.

3.8.3 Amend paragraph 3.8.3 by adding the words, "... agents, *Subcontractors* and *Suppliers*..." after the word "employees" in the first line.

Add new paragraphs 3.8.4, 3.8.5, 3.8.6, 3.8.7, 3.8.8, and 3.8.9 as follows:

3.8.4 All manufactured *Products* which are identified by their proprietary names or by part or catalogue number in the *Specifications* shall be used by the *Contractor*. No substitutes for such specified *Products* shall be used without the written approval of the *City* and the *Consultant*. Substitutes will only be considered by the *Consultant* when submitted in sufficient time to permit proper review and investigation. When requesting approval for the use of substitutes, the *Contractor* shall include in its submission any *Proposed Change* in the *Contract Price*. The *Contractor* shall use all proprietary *Products* in strict accordance with the

Manufacturer's directions. Where there is a choice of proprietary *Products* specified for one use, the *Contractor* may select any one of the *Products* so specified for this use.

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

3.8.6 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 *City*. All *Work* and *Products* delivered to the *Place of the Work* by the *Contractor* shall be the property of the *City*. The *Contractor* shall remove all surplus or rejected materials as its property when notified in writing to do so by the *Consultant*.

3.8.7 Upon receipt of a written notice from the *Consultant* or the *City*, the *Contractor* shall dismiss, from the *Place of the Work*, tradesmen, labourers or others:

.1 whose *Work* is unsatisfactory to the *Consultant* or the *City*;

.2 who are considered by the *Consultant* or the *City* to be unskilled or inexperienced;

.3 who are considered by the *Consultant* or the *City* to be performing *Work* in an unsafe, inappropriate or objectionable manner, including public urination or other forms or public misconduct.

3.8.8 The *Contractor* shall not employ any persons for the *Work* whose labour affiliation, or lack thereof, is incompatible with other labour employed in connection with the *Work*. Any costs arising from *Labour Disputes*, as a result of the employ of any such person by the *Contractor*, its *Subcontractors* or *Suppliers*, shall be the sole expense of the *Contractor*.

3.8.9 The *Contractor* shall cooperate with the *City* and its representatives and shall take all reasonable and necessary actions to maintain stable and harmonious labour relations with respect to the *Work* at the *Place of the Work*, including cooperation to attempt to avoid *Work* stoppages, trade union jurisdictional disputes and other *Labour Disputes*. In the event that there is a *Labour Dispute* that stops the *Work*, the *Contractor* shall ensure that the *Place of the Work* and the *Work* are left in a safe, secure condition, as required by authorities having jurisdiction at the *Place of the Work*, and in accordance with the *Contract Documents*.

### GC 3.9 DOCUMENTS AT THE SITE

3.9.1 Delete paragraph 3.9.1 in its entirety and substitute the following:

The *Contractor* shall keep at the *Place of the Work* one copy of the current *Contract Documents*, *Supplemental Instructions*, contemplated *Change Orders*, *Change Orders*, *Change Directives*, cash allowance disbursement authorizations, reviewed *Shop Drawings*, current as-built drawings as required by paragraph

5.2.10, submittals, reports and records of meetings, in good order and available to the *City* and *Consultant*.

Add new paragraphs 3.9.2, 3.9.3 and 3.9.4 as follows:

- 3.9.2 The *Contractor* shall cause its supervisor, or such competent person as it may delegate, to prepare and keep at the *Place of the Work* 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 *Work* activities (the “Logs”). The Logs shall also include any extraordinary or emergency events which may occur and the identities of any persons who visit the site who are not part of the day-to-day work force. The *Contractor* shall bring the Logs to the site meetings for review by the *Consultant*. The *Consultant* may issue comments and instructions to the *Contractor* to rectify the Logs which shall be completed by the *Contractor* by the next site meeting.
- 3.9.3 During the course of the *Work*, the *Contractor* shall maintain records, either at its head office or at the *Place of the Work*, recording manpower and material resourcing on the *Project*, including records which document the activities of the *Contractor* in connection with GC 3.5 CONSTRUCTION SCHEDULE, and comparing that resourcing to the resourcing anticipated when the most recent version of the schedule was prepared pursuant to GC 3.5 CONSTRUCTION SCHEDULE (the “Records”). The *Contractor* shall make the Records available to the *Consultant* or the *City*, upon request, during normal business hours, prior to *Total Completion of the Work*.
- 3.9.4 The *Contractor* shall maintain and keep accurate *Project* records (which means all tangible records, documents, computer printouts, electronic information, books, plans, *Drawings*, *Specifications*, accounts or other information relating to the *Work*) in its office in Ontario in accordance with requirements of law but in any event for not less than six (6) years from *Total Completion of the Work* or until all claims have been settled. During this time, the *Contractor* shall allow the *City* access to the *Project* records during normal business hours upon the giving of reasonable notice. The *Contractor* shall ensure that equivalent provisions to those provided herein are made in each subcontract and shall require the *Subcontractors* and *Suppliers* to incorporate them into every level of contract thereunder for any part of the *Work*.

### GC 3.10 SHOP DRAWINGS

- 3.10.3 Delete paragraph 3.10.3 in its entirety and replace with the following:

The *Contractor* shall prepare a *Shop Drawings* schedule acceptable to the *City* and the *Consultant* prior to the first application for payment. A draft of the proposed *Shop Drawings* schedule shall be submitted by the *Contractor* to the *Consultant* and the *City* for approval. The draft *Shop Drawings* schedule shall clearly indicate the phasing of *Shop Drawings* submissions.

- 3.10.8.1 In the second line, delete the words “or will do so”.

3.10.9 Add the following at the end of paragraph 3.10.9:

Where manufacturers' literature is submitted in lieu of scaled drawings, it shall be clearly marked in ink, to indicate the specific items for which review is requested.

Add new paragraphs 3.10.13, 3.10.14, 3.10.15, 3.10.16, 3.10.17, 3.10.18, 3.10.19, 3.10.20, and 3.10.21 as follows:

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

3.10.14 Except where the parties have agreed to a different *Shop Drawings* schedule pursuant to paragraph 3.10.3, the *Contractor* shall comply with the requirements for *Shop Drawings* submissions stated in the *Specifications*.

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

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

3.10.17 The *Consultant* will review and return *Shop Drawings* and submittals in accordance with the schedule agreed upon in paragraph 3.10.3, or, in the absence of such a schedule, with reasonable promptness.

3.10.18 *Shop Drawings* are to be marked as „Revise and Resubmit“, „Reviewed as Modified“ or „Reviewed“. *Shop Drawings* bearing the „Revise and Resubmit“ stamp shall be corrected and resubmitted. Only „Reviewed“ copies of *Shop Drawings* are to be kept at the *Place of Work*.

3.10.19 All details in *Shop Drawings* shall show clearly the relations of the various parts to the main members and lines of the structure. When correct fabrication of the *Work* depends upon field measurements, such measurements shall be made and noted on the *Shop Drawings* before being submitted for final approval. The *Shop Drawings* shall clearly indicate location, service and function of each item. When manufacturer's publications in the form of catalogues, pamphlets or other data sheets are submitted by the *Contractor* in lieu of prepared *Shop Drawings*, such publications shall specifically indicate the item for which approval by the *Consultant* is requested.

3.10.20 Each submitted *Shop Drawing* shall be accompanied by transmittal forms listing the names of the manufacturer, the job, the drawing number, the number of copies and the reference to the specification to which the *Shop Drawings* refer.

3.10.21 *Shop Drawings* shall clearly show assembly and installation details with fastening to adjoining materials or components. The *Contractor* shall verify that *Shop*

*Drawings* for component parts and assembly of each item will support the system of which they form part.

### GC 3.11 USE OF THE WORK

3.11.3 Add new paragraph 3.11.3 as follows:

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

3.11.4 Add new paragraph 3.11.4 as follows:

The *Contractor* shall abide by and enforce directives and policies regarding signs, advertisements, fires, and smoking at the *Place of Work* as directed by the *City*.

### GC 3.13 CLEAN UP

3.13.2 In paragraph 3.13.2, in the fourth line add the word “materials” between the word “tools” and the words “*Construction Equipment*”. Delete the words “waste products and debris” and substitute the words “waste products, debris, snow and ice.”

3.13.3 In paragraph 3.13.3, in the first and second lines add the word “materials” between the word “tools” and the words “*Construction Equipment*”.

3.13.4 Add new paragraph 3.13.4 as follows:

In the event that the *Contractor* fails to remove waste, debris, snow and ice as provided in this GC 3.13 CLEAN UP, then the *City* or the *Consultant* may give the *Contractor* twenty-four (24) hours’ written notice to meet its obligations respecting clean up. Should the *Contractor* fail to meet its obligations pursuant to GC 3.13 CLEAN UP within the twenty-four (24) hour period next following delivery of the notice, the *City* may remove such waste and debris and deduct from payments otherwise due to the *Contractor*, the *City’s* costs for such clean up, including a reasonable mark-up for administration. Failure by the *City* to remove such waste and debris after providing twenty-four (24) hour notice does not absolve the *Contractor* of its obligations under the *Contract*. The *City* shall not be liable for any losses, damages, expenses, fines, penalties, liabilities, claims, suits, actions or other proceedings of any kind, arising out of or in consequence of the *City’s* removal of such waste and debris.

### GC 3.14 CONTRACTOR STANDARD OF CARE

Add a new General Condition 3.14 as follows:

- 3.14.1 In performing its services and obligations under the *Contract*, the *Contractor* shall exercise the standard of care, skill, and diligence that would normally be provided by an experienced and prudent contractor supplying similar services for similar projects. The *Contractor* acknowledges and agrees that throughout the *Contract*, the performance of the *Contractor's* obligations, duties, and responsibilities shall be judged against this standard. The *Contractor* shall exercise the same standard of care, skill, and diligence in respect of any *Products*, personnel, or procedures which it may recommend to the *City*.
- 3.14.2 The *Contractor* further represents covenants and warrants to the *City* that:
- .1 the personnel it assigns to the *Project* are appropriately experienced;
  - 2 it has a sufficient staff of qualified and competent personnel to replace any of its appointed representatives, subject to the *City's* approval, in the event of death, incapacity, removal or resignation;
  - 3 it has a qualified team of *Subcontractors* and *Suppliers* with a proven record of performing large projects on time;
  - 4 there are no pending, threatened or anticipated claims that would have a material effect on the financial ability of the *Contractor* to perform its work under the *Contract*.

### GC 4.1 CASH ALLOWANCES

- 4.1.1 Add the following to the end of the paragraph:

The *Consultant* may direct the *Contractor* to bid work for which payment is made from a cash allowance.

- 4.1.4 Delete paragraph 4.1.4 in its entirety and substitute the following:

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 *Consultant'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 the *Contract Documents*.

4.1.5 Delete paragraph 4.1.5 in its entirety and substitute the following:

The net amount of any unexpended cash allowances, after providing for any reallocations as contemplated in paragraph 4.1.4, shall be deducted from the *Contract Price by Change Order* without any adjustment for the *Contractor's* overhead and profit on such amount.

Add new paragraph 4.1.8 as follows:

4.1.8 The *City* reserves the right to call, or to have the *Contractor* call, for competitive bids for portions of the *Work*, to be paid for from cash allowances.

### GC 5.1 FINANCING INFORMATION REQUIRED OF THE CITY

5.1.1 Delete paragraph 5.1.1 in its entirety.

5.1.2 Delete paragraph 5.1.2 in its entirety.

### GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT

Add new paragraphs 5.2.8, 5.2.9, 5.2.10, 5.2.11, 5.2.12 and 5.2.13 as follows:

5.2.8 A *Proper Invoice* is deemed to be received by the City on the date that it is sent by email to the City's Representative provided that the email is delivered before 5:00 pm. If the email is sent after 5:00 pm the *Proper Invoice* is deemed to be received by the City on the following day.

5.2.9 A *Proper Invoice* may be revised by the *Contractor* after it has been given to the *City*, provided that the *Consultant* agrees in advance to the revision and the *Proper Invoice* continues to meet the definition of a *Proper Invoice* after it has been revised.

5.2.10 No amount claimed in a *Proper Invoice* shall include *Products* delivered to the *Place of Work* which have not yet been incorporated into the *Work*.

5.2.11 Any *Products* delivered to the *Place of Work* but not yet incorporated into the *Work* shall remain at the risk of the *Contractor* notwithstanding that title has passed to the *City* pursuant to paragraphs 3.8.2 and 3.8.4 of GC LABOUR AND PRODUCTS.

5.2.12 The *Contractor* shall prepare and maintain the *Place of Work* 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 made available by the *Contractor* to the *Consultant* for review at the weekly or bi-weekly site meeting prior to each application for progress payment. The *Consultant* shall retain a reasonable amount for the value of the as-built drawings not presented for review.



5.2.13 The *Contract Price* shall provide the basis for the following *Maintenance Holdbacks*:

<i>Contract Price</i>	<i>Maintenance Holdbacks</i>
\$0-\$2,000,000	2%
Greater than \$2,000,000	1%

The Maintenance Holdbacks (1 or 2% based on value of contract 5.2.13), net of claims by the City during the 1 year period, shall be paid to the Contractor at the time of expiration of one (1) year period. The Maintenance Holdbacks shall be in addition to the required 10% holdback under the Act.

**GC 5.3 PROGRESS PAYMENT**

5.3.1 Add the word “progress” after the words “application for” in the first line, of paragraph 5.3.1.

5.3.1.1 Delete subparagraph 5.3.1.1 in its entirety.

5.3.1.2 Amend subparagraph 5.3.1.2 as follows:

Add the word “progress” after the words “application for” in the second line of paragraph 5.3.1.2.

Delete the second sentence of paragraph 5.3.1.2.

5.3.1.3 Delete subparagraph 5.3.1.3 in its entirety and substitute the following:

Subject to the giving of notice of non-payment under subparagraph 5.3.1.4, the *City* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement – PAYMENT no later than 28 calendar days after receiving the *Contractor’s* application for progress payment.

5.3.1.4 Add new subparagraph 5.3.1.4 as follows:

In the event that the *City* intends to pay the *Contractor* an amount that is less than that set out in the *Proper Invoice*, the *City* shall, no later than 14 calendar days after receiving the *Proper Invoice* from the *Contractor*, give to the *Contractor* a notice of non-payment, in the form and manner prescribed in the *Act*, specifying the amount of the *Proper Invoice* that is not being paid and detailing the reasons for non-payment.

**GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK**

5.4.3 Delete paragraph 5.4.3 in its entirety and substitute as follows:

Immediately prior to the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor*, in consultation with the *Consultant*, shall establish a schedule for completion of the *Work* and the *Construction Schedule* shall be

deemed to be amended to include this completion schedule.

Add new paragraphs 5.4.4, 5.4.5, 5.4.6, and 5.4.7 as follows:

- 5.4.4 Within seven (7) days of receiving a copy of the certificate of *Substantial Performance of the Work* signed by the *Consultant*, the *Contractor* shall publish a copy of the certificate in the Daily Commercial News (in accordance with the *Act*) and shall provide to the *Consultant* and the *City* the date of publication and the name of the construction trade newspaper in which the publication occurred. If the *Contractor* fails to comply with this provision, the *City* may publish a copy of the certificate and charge the *Contractor* with the costs so incurred.
- 5.4.5 Prior to submitting its written application for *Substantial Performance of the Work*, the *Contractor* shall submit to the *Consultant* all:
- .1 guarantees;
  - .2 warranties, completed as per paragraph 12.3.8;
  - .3 certificates;
  - .4 testing and balancing reports;
  - .5 distribution system diagrams;
  - .6 spare parts;
  - .7 maintenance/operation manuals;
  - .8 samples;
  - .9 reports and correspondence from authorities having jurisdiction in the *Place of the Work*;
  - .10 shop drawings;
  - .11 completed as-built drawings;
  - .12 inspection certificates;
  - .13 an original of the performance bond rider pursuant to paragraph 11.2.2;
  - .14 copies of the Logs, as defined in and pursuant to paragraph 3.9.2;
  - .15 copies of the Records, as defined in and pursuant to paragraph 3.9.3.

and other materials or documentation required to be submitted under the *Contract*, together with written proof acceptable to the *City* and the *Consultant* that the *Work* has been substantially performed in conformance with the requirements of municipal, governmental and utility authorities having jurisdiction in the *Place of the Work*.

- 5.4.6 Where the *Contractor* is unable to deliver the documents and materials described in paragraph 5.4.5, then, provided that none of the missing documents and materials interferes with the use and occupancy of the *Project* in a material way, and except as described herein, the failure to deliver shall not be grounds for the *Consultant* to refuse to certify *Substantial Performance of the Work*. However, certification of *Substantial Performance of the Work* will be withheld if the *Contractor* fails to deliver maintenance manuals, as required in subparagraph 5.4.5.7, the original of the performance bond rider and completed as-built drawings, as required in subparagraph 5.4.5.11. Any documents or materials not delivered in accordance with paragraph 5.4.5 shall be delivered as provided in paragraph 5.7.1 of GC 5.7 FINAL PAYMENT.

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

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

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

**GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK – Refer to Schedule A for Payment of Holdback Invoice Sample/Template**

Add new paragraphs 5.5.1.3 and 5.5.1.4 as follows:

5.5.1.3 submit a statement that no written notices of lien have been received by it.

5.5.1.4 submit a Workplace Safety & Insurance Board Clearance Certificate.

5.5.2 Amend paragraph 5.5.2 by adding the following sentence to the end of that

paragraph:

A reserve fund may be retained by the *City* to secure the correction of deficiencies, the amount of such reserve fund to be based on the *Consultant's* reasonable estimate of the cost of correcting deficient items.

5.5.3 Delete paragraph 5.5.3 in its entirety

5.5.5 Delete paragraph 5.5.5 in its entirety.

5.5.6 In the event that the *City* intends to pay the *Contractor* an amount that is less than that set out in the *Contractor's* application for payment of the holdback, the *City* shall, no later than 20 calendar days before the expiration of the holdback period stipulated in the *Act*, publish a notice in the form prescribed in the *Act*, specifying the amount of the holdback that the *City* refuses to pay and notify the *Contractor* of the publication of the notice.

#### GC 5.7 FINAL PAYMENT

Delete GC 5.7 FINAL PAYMENT in its entirety and replace with the following:

5.7.1 When the *Contractor* considers that the *Work* is totally complete, the contractor shall submit an application for payment upon *Total Completion of the Work*.

5.7.2 The *Consultant* will, no later than 10 *Working Days* after the receipt of an application from the *Contractor* for payment upon *Total Completion of the Work*, review the *Work* to verify the validity of the application.

5.7.3 Upon making application for payment upon *Total Completion of the Work*, the *Contractor* shall submit to the *Consultant* any documents or materials not yet delivered pursuant to paragraph 5.4.5 including:

1. All specified written guarantees, warranties, bonds, records, certificates, testing and balancing reports, as built drawings and any other items in accordance with the Contract Documents; and

- 2 A statement from the Workplace Safety & Insurance Board stating that all assessments from the Workplace Safety & Insurance Board to the end of this Project have been paid in full.

5.7.4 The Work shall be deemed not to have been totally performed until all of the aforementioned documents have been delivered, and the City may withhold payment in respect of the delivery of any documents determined by the Consultant in accordance with the provisions of GC 5.8 WITHHOLDING OF PAYMENT.

**GC 5.8 WITHHOLDING OF PAYMENT**

5.8.1 Delete Article 5.8.1 in its entirety and replace with paragraph 5.8.1 as follows:

- 5.8.1 Notwithstanding GC 12.3 and save and except for payment of the holdback under GC 5.5, the City will issue notice of non-payment and withhold any money for any defects, deficiencies or work not done and use the money to correct any defects or deficiencies or to complete the *Work*. Further, the *Contractor* is responsible for all costs of the *City* in the event the *City* retains an expert, consultant or contractor to correct the defect or deficiency or to complete the *Work*.

**GC 5.10 CLAIMS FOR LIEN**

Add a new General Condition 5.10 as follows:

5.10.1 In the event that a claim for lien is registered against the title to the *Project* by a *Subcontractor* or *Supplier* of labour, services or materials or other person entitled to a lien and for whom the *Contractor* is responsible in law, and provided the *City* has paid all amounts properly owing under the *Contract*, the *Contractor* shall, at its own expense:

- .1 within ten (10) days of demand by the *City*, ensure that any and all claims for lien and certificates of action are discharged, released, or vacated by the posting of security or otherwise; and
- .2 in the case of written notices of lien, ensure that such notices are withdrawn, in writing.

5.10.2 In the event that the *Contractor* fails to conform with the requirements of paragraph 5.10.1, the *City* may fulfil those requirements without *Notice in Writing* to the *Contractor* and set off and deduct from any amount owing to the *Contractor*, all costs and associated expenses, including the costs of posting security and all legal fees and disbursements associated with discharging or vacating the claim for lien or certificate of action and defending the action. If there is no amount owing by the *City* to the *Contractor*, then the *Contractor* shall reimburse the *City* for all of the said costs and associated expenses.

- 5.103 Should there be any construction lien action, claim, demand or encumbrances in connection with the Project, the *Contractor* shall indemnify and save harmless the *City* and shall pay all costs of the *City* on a substantial indemnity basis which may be incurred by the *City* in taking any action it deems necessary. Further, the *Contractor* shall pay all costs of any experts, consultants or other witnesses used by the *City* to resolve any construction lien. The *City* shall be entitled to retain, in addition to any other holdbacks, funds up to 125% of the amount of any lien or charge at law including, but not limited to, construction liens notwithstanding that security may have been posted or deposited in court or elsewhere related to said lien or charge. The *City* will not release said funds after deduction of cost incurred by the *City* pursuant to said lien or charge when the City Solicitor is satisfied that there is no further liability to the *City* in respect of said lien or charge

### GC 6.1 CITY'S RIGHT TO MAKE CHANGES

- 6.1.2 Amend paragraph 6.1.2 by adding the following to the end of that paragraph:

This requirement is of the essence and it is the express intention of the parties that any claims by the *Contractor* for a change in the *Contract Price* and/or *Contract Time* shall be barred unless there has been strict compliance with PART 6 CHANGES IN THE WORK. No course of conduct or dealing between the parties, no express or implied acceptance of alterations or additions to the *Work* and no claims that the *City* has been unjustly enriched by any alteration or addition to the *Work*, whether in fact there is any such unjust enrichment or not, shall be the basis of a claim for additional payment under this *Contract* or a claim for any extension of the *Contract Time*. All *Change Orders* shall include claims for delay, bonding costs, loss of profit, impact, extended overhead, time, site conditions and the cumulative effect of any previous *Change Orders*, and the *Contractor* shall be precluded from making any subsequent claims for damages and/or an increase in the *Contract Price*, for any reason whatsoever, including but not limited to claims made against the *Contractor* by *Supplier* and/or *Subcontractors*.

Add new paragraphs 6.1.3, 6.1.4, 6.1.5 and 6.1.6 as follows:

- 6.1.3 The *Contractor* agrees that changes resulting from construction coordination, including but not limited to site surface conditions, site coordination, *Subcontractor* and *Supplier* coordination are included in the *Contract Price* and shall not entitle the *Contractor* to claim in addition to the *Contract Price* in relation to coordination.

- 6.1.4 The *Contractor* shall pay the cost of any addition, deletion or other revisions to the *Work* by a *Change Order* or *Change Directive* made necessary by the *Contractor*'s failure to perform in accordance with the *Contract Documents*.”
- 6.1.5 Calculations for changes are to be made after all credits in the contemplated *Change Order* or *Change Directive* have been deducted.”
- 6.1.6 For any changes in the *Work* over \$20,000.00, the markup in GC 6.2 and GC 6.3 shall be reduced by one half (e.g. 2.5% instead of 5%) for the amount exceeding \$20,000.00 only.

## GC 6.2 CHANGE ORDER

Delete paragraphs 6.2.1 and 6.2.2 in their entirety and replace it with the following:

- 6.2.1 When a change in the *Work* is proposed or required the *Contractor* shall present to the *Consultant* and the *City* for approval its claim for a change in the *Contract Price* and change in *Contract Time* with a detailed breakdown of the estimated costs of the proposed or required change to allow for a proper evaluation of the cost of the change in the *Work* in a form acceptable to the *Consultant* and the *City* within five (5) *Working Days* or such longer period of time as is reasonably required. The *City* will satisfy itself as to the correctness of such claim and, when approved by the *City*, a *Change Order* shall be issued to the *Contractor* amending the *Contract Price* and *Contract Time* as appropriate. The value of *Work* performed in the change shall be included for payment with the regular certificates for payment.

Add new paragraphs 6.2.3, 6.2.4, 6.2.5, 6.2.6, 6.2.7, 6.2.8, 6.2.9, 6.2.10 and 6.2.11 as follows:

- 6.2.3 The value of a change shall be determined in one or more of the following methods as directed by the *City*:
- 1 by quotation and acceptance of a lump sum, and all quotations must contain an itemized and complete breakdown of costs, including hours and hourly rates of labour, payroll burden, itemized costs of materials, quantity of materials, *Products*, and all other costs to perform the change in the *Work*, including the mark-up disclosed in the paragraphs below, such that the quotations are capable of being evaluated by the *Consultant*. The *Contractor* shall require *Subcontractors* and *Suppliers* to supply similar information to the *Consultant*.
  - 2 by unit prices set out in the form of tender or subsequently agreed upon by the parties. Unit prices shall include materials, labour, equipment, delivery, freight, handling, disposal, statutory charges, supervisions, testing, all applicable duties, brokerage charges, import charges, HST, bonding, overhead, profit and all relative charges and expenses including, but not limited to, office administration charges such as disbursements, travel costs, printing and incidentals to the *Contractor*, and shall be the

total cost to the *City*. Adjustment to the *Contract Price* shall be based on a net quantity difference from the original quantity.

3 by the amount, net of all credits, of time, materials, *Construction Equipment* and *Products* expended:

(1) by a *Subcontractor* applying its labour charge out rates, together with the actual costs, without mark-up, of materials, *Construction Equipment* and *Products* utilized in the change, plus the *Subcontractor's* mark-up disclosed in the paragraphs below which applies to material and *Product* costs only;

(2) by the *Contractor* applying its labour charge out rates, together with the actual costs, without mark-up, of materials, *Construction Equipment* and *Products* plus the mark-up disclosed in the paragraphs below which applies to material, *Construction Equipment* and *Product* costs only;

(3) the *Contractor* shall be entitled to the *Contractor* mark-up in the paragraphs below on the value of *Subcontractor* work even where the *Subcontractor* is not entitled to a mark-up on its labour charge out rates pursuant to paragraph 6.2.3.3(1).

4 the mark-ups described in paragraphs 6.2.3.1 and 6.2.3.3 include all necessary supervision, general account items, general clean-up, small tools, as-built drawings and job safety necessary to perform the change. Additional bonding cost is excluded from the mark-ups but may be included as a cost, using the value declared for bonding by the *Contractor* in its bid to the *City*, unless otherwise agreed by the parties.

6.2.4 In cases where the value of a change is determined by estimates and acceptance in a lump sum, or when unit prices are to be agreed upon, the estimate or agreed unit price shall be prepared as follows:

1. where the change is to be carried out by the *Contractor's* own forces, the value of the change shall be estimated by adding to the actual cost of the materials and labour the *Contractor* anticipates will be required (which costs shall be substantiated by quotations or invoices as requested by the *City*) an allowance for the *Contractor's* overhead and profit of not more than ten percent (10%);
2. where a change is to be carried out by a *Subcontractor*, value of the change shall be estimated in the same manner as in paragraph 6.2.3.1 above. The allowances for the *Subcontractor's* overhead and profit shall not be more than five percent (5%). In such cases, the *Contractor* shall be permitted to add thereto, an allowance in respect of combined overhead and profit of not more than five percent (5%) of the total of the *Subcontractor's* overhead and profit;

6.2.5 In the case of changes in the *Work* to be paid for by unit prices set out in the *Contract Documents* or subsequently agreed upon, or by cost and a fixed or percentage fee, the



- form of presentation of costs and methods of measurement shall be agreed to by the *City* and *Contractor* before proceeding with the change. The *Contractor* shall keep accurate records, as agreed upon, of quantities or costs and present an account of the cost of the change in the *Work*, together with vouchers where applicable.
- 6.2.6 If the method of valuation, measurement, change in *Contract Price* and change in *Contract Time* cannot be promptly agreed upon and the change is required to be proceeded with, then the *City* in the first instance, in consultation with the *Consultant*, will determine the method of valuation, measurement, the change in *Contract Price* and *Contract Time* subject to final determination in the manner set forth in Part 8 – DISPUTE RESOLUTION. In this case the *City* will issue a written authorization for the change setting forth the method of valuation and if by lump sum his valuation of the change in *Contract Price* and *Contract Time*.
- 6.2.7 In the case of a dispute in the valuation of a change authorized in the *Work* and pending final determination of such value, the *Consultant*, with input from and subject to the approval of the *City*, acting reasonably, will certify the value of work performed in accordance with his own evaluation of the change and include the amount with the regular certificates for payment. The *Contractor* shall keep accurate records of quantities and cost of such work.
- 6.2.8 In the cases where the value of a change is to be determined by costs and a fixed percentage fee:
1. where the change is to be carried out by the *Contractor*'s own forces, the value of the change shall be determined by adding to the actual cost of materials and labour (which costs shall be substantiated by time-sheets, invoices, etc. as requested by the *City*), an allowance for the *Contractor*'s overhead and profit of not more than ten percent (10%);
  2. where the change is to be carried out by a *Subcontractor*, the value of the change shall be determined in the same manner as in paragraph 6.2.8.1 above. The allowance for the *Subcontractor*'s overhead and profit shall not be more than five percent (5%). In such cases, the *Contractor* shall be permitted to add thereto an allowance in respect of combined overhead and profit of not more than five percent (5%) of the total of the *Subcontractor*'s price exclusive of the *Subcontractor*'s overhead and profit.
- 6.2.9 Where such change is made in the *Work* to be carried out by the *Contractor* and/or *Subcontractor* under this *General Condition*, the *Contractor*'s and *Subcontractor*'s "overhead" shall be deemed to include all indirect costs caused by the change including: the cost of applicable taxes; change order, change directive and supplemental instruction preparation; computer services; cleaning and cleaning services; any increase in insurance, bonding, and workplace safety insurance values and durations; any increase in warranty or guaranty values or durations; estimating, costing, accounting, payroll; office administration, processing correspondence, timekeeping, material consumed in the construction contract administration and management process, reproduction, office, shop drawing review and preparation; place of work office and head office overheads; place of work site contractor and

subcontractor superintendent, supervisors and assistants; material re-handling; safety equipment, safety wear and first aid; security; technical staff; telephone and facsimile services and charges; temporary heat, light and power; temporary protection; temporary place of work offices, trailers and storage compounds; and timekeeping, related site clean-up, and related as constructed drawings.

6.2.10 Where the *Contractor* submits an invoice from a *Subcontractor* or material supplier as part of its detailed breakdown of the cost of change, the *contractor* is deemed to represent and warrant to the *City* that the amount shown on the invoice is the amount the *Contractor* is liable to pay for the services and materials described on the invoice, net of all discounts, unless the *Contractor* indicates otherwise when submitting its detailed breakdown. When the *Contractor* submits an estimate or quotation from a *Subcontractor* or material supplier as part of its detailed breakdown of the estimated cost of a change, the *Contractor* is deemed to represent and warrant to the *City* that, subject to any qualifications on the face of the estimate or quotation and any qualifications made by the *Contractor* within the detailed breakdown, that the amount set out in the estimate or quotation is the amount the *Contractor* has agreed to pay should the *Contractor* be authorized to proceed with the change, net of all discounts. Notwithstanding the foregoing, the *Contractor* shall be entitled to take a commercially reasonable early payment discount (if offered) when the *Contractor* pays its *Subcontractor* or material supplier prior to receiving payment from the *City*.

6.2.11 It is intended in all matters referred to above that both the *City* and the *Contractor* shall act promptly.

### GC 6.3 CHANGE DIRECTIVE

6.3.6 Delete paragraph 6.3.6 in its entirety, and replace with the following:

6.3.6 The adjustment in the *Contract Price* for a change carried out by way of a *Change Directive* shall be determined on the basis of unit prices where provided for in the *Contract Documents*, or the cost of expenditures and savings to perform the work attributable to the change. If a change in the *Work* results in a net increase in the *Contract Price*, overhead and profit shall be calculated as per the provisions described under GC 6.1 CITY'S RIGHT TO MAKE CHANGES and GC 6.2 CHANGE ORDER.

6.3.7 Delete paragraph 6.3.7 in its entirety.

6.3.8 In paragraph 6.3.8, delete the words "any item under any cost element referred to in paragraph 6.3.7" and substitute the words "any expenditures and savings".

### GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

6.4.1 Delete paragraph 6.4.1 and replace with the following:

6.4.1 If the *Contractor* was given access to the *Place of the Work* prior to the submission of the bid on which the *Contract* was awarded, then the *Contractor*

confirms that it carefully investigated the *Place of the Work* and carried out such tests as it deemed appropriate and, in doing so, applied to that investigation the degree of care and skill required by paragraph 3.14.1.

642 Amend paragraph 6.4.2 by addition of a new first sentence as follows:

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

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

643 Delete paragraph 6.4.3 in its entirety and substitute the following:

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

## GC 6.5 DELAYS

65.1 Delete the words after the word “for” in the fourth line of paragraph 6.5.1, and add the words “...reasonable direct costs directly flowing from the delay, but excluding any consequential, indirect or special damages.”

65.2 Delete the words after the word “for” in the fourth line of paragraph 6.5.2, and add the words “...reasonable direct costs directly flowing from the delay, but excluding any consequential, indirect or special damages.”

65.3 Delete paragraph 6.5.3 in its entirety and replace with the following:

If the *Contractor* is delayed in the performance of the *Work* by *Force Majeure*, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. The extension of time shall not be less than the time lost as a result of the event causing the delay, unless the *Contractor* agrees to a shorter extension. The *Contractor* shall not be entitled to payment for costs incurred by such delays.

Add new paragraphs 6.5.6, 6.5.7, 6.5.8, 6.5.9 and 6.5.10 as follows:

65.6 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor* or anyone directly or indirectly employed or engaged by the *Contractor*, or by any cause within the *Contractor's* control, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may decide in

consultation with the *Contractor*. The *City* shall be reimbursed by the *Contractor* for all reasonable costs incurred by the *City* as the result of such delay, including, but not limited to, the cost of all additional services required by the *City* from the *Consultant* or any sub-consultants, project managers, or others employed or engaged by the *City*, and in particular, the costs of the *Consultant's* services during the period between the date of *Total Completion of the Work* stated in Article A-1 herein, or as amended pursuant to the *Contract*, and any later or actual date of *Total Completion of the Work* achieved by the *Contractor*.

657 Without limiting the obligations of the *Contractor* described in GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS or GC 9.4 CONSTRUCTION SAFETY, the *City* may, by *Notice in Writing*, direct the *Contractor* to stop the *Work* where the *City* determines that there is an imminent risk to the safety of persons or property at the *Place of the Work*. In the event that the *Contractor* receives such notice, it shall immediately stop the *Work* and secure the site. The *Contractor* shall not be entitled to an extension of the *Contract Time* or to an increase in the *Contract Price* unless the resulting delay, if any, would entitle the *Contractor* to an extension of the *Contract Time* or the reimbursement of the *Contractor's* costs as provided in paragraphs 6.5.1, 6.5.2 or 6.5.3.

658 If the *City* is delayed in making any payment as it becomes due under the terms of the *Contract* or in an award by arbitration or court and such delay is caused by:

- .1 technical or other failure at the *City's* financial institution resulting in the *City* not having access to the *City's* own funds; or
- .2 a pandemic or natural disaster resulting in the *City* not having access to the *City's* own funds or not having staff available to process the payment under the *Contract* or other similar inability to make the payment; or
- .3 other similar extraordinary circumstance beyond the *City's* control that prevents the *City* from making the payment;

then, in such a circumstance, the time for payment shall be extended for such reasonable time as the *Consultant* shall recommend in consultation with the *City*. The extension of time shall not be less than the time lost as a result of the circumstance causing the delay, unless the *City* agrees to a shorter extension. The *City* shall make reasonable efforts to make the delayed payment as soon as practicable.

In such a circumstance the *Contractor* shall not be entitled to payment for costs incurred due to the delayed payment including, but not limited to, interest on the delayed payment. Furthermore, no such delay in payment shall be considered a default or grounds for termination under GC 7.2 CONTRACTOR'S RIGHT TO STOP THE WORK OR TERMINATE THE CONTRACT.

65.9 If the *City* is delayed in receiving *Total Completion of the Work* from the *Contractor* by the date specified in Article A-1.3 of the *Contract* by an action or omission of the *Contractor*, or anyone employed or engaged by the *Contractor* directly or indirectly, contrary to the provisions of the *Contract Documents*, then the *City* shall be reimbursed by the *Contractor* for reasonable costs incurred by the *City* as a result of such delay and the *City* may retain and set-off such reimbursement amounts from progress payments to the *Contractor*.

65.10 If the *City* is delayed in receiving *Total Completion of the Work* from the *Contractor* by the date specified in Article A-1.3 of the *Contract* by a stop work order issued by a court or other public authority as a result of an act or fault of the *Contractor* or any person employed or engaged by the *Contractor* directly or indirectly, the *City* shall be reimbursed by the *Contractor* for reasonable costs incurred by the *City* as a result of such delay and the *City* may retain and set- off such reimbursement amounts from progress payments to the *Contractor*.

#### **GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE**

6.6.1 Delete paragraph 6.6.1 and change to read as follows:

If the *Contractor* intends to make a claim for an increase to the *Contract Price*, or if the *City* intends to make a claim against the *Contractor* for a credit to the *Contract Price*, the party that intends to make the claim shall give timely *Notice in Writing*, in accordance with paragraph 6.6.2, of intent to claim to the other party and to the *Consultant*.

6.6.2 Delete paragraph 6.6.2 and change to read as follows:

Upon commencement of the event or series of events giving rise to a claim, the party intending to make the claim shall:

- .1 take all reasonable measures to mitigate any loss or expense which may be incurred as a result of such event or series of events,
- .2 keep such records as may be necessary to support the claim, and
- .3 provide *Notice in Writing*.

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

Revise the heading to read “**CITY’S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR’S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT**”

7.1.2 Delete paragraph 7.1.2 entirely and replace with the following:

If the *Contractor*:

- a) neglects to execute the *Work* properly, in the opinion of the *Consultant*; or

- b) allows work to be done contrary to the intention of the *Contract Documents*;  
or
- c) fails or neglects to maintain the latest schedule provided pursuant to GC 3.5 CONSTRUCTION SCHEDULE; or
- d) Fails for three (3) consecutive *Working Days* to provide sufficient forces at the *Place of Work* to maintain the latest schedule; or
- e) fails to comply with all municipal laws and regulations as they pertain to the *City* in respect of the operation of the *Contractor's* business and/or if the *Contractor* fails to ensure that its *Subcontractors* and *Suppliers* also remain in compliance with such municipal laws and regulations in respect of the performance of the *Contract*; or
- f) fails to comply with all federal and provincial laws in respect of the performance of the *Contract*; or
- g) or any of its *Subcontractors* or *Suppliers* is a party in a claim, judicial or arbitral proceedings against the *City*, other than in respect of the *Contract*; or,
- h) or any of its *Subcontractors* or *Suppliers* is related to or controlled by another person or entity to whom or to which, as applicable, statements c), d), or e) immediately above applies; or,
- i) fails to comply with the requirements of the *Contract* to a substantial degree;
- j) Makes any incorrect or untrue statements in any of the *Contract Documents*

and if the *Consultant* has given a written statement to the *City* and *Contractor* that sufficient cause exists to justify such action, the *City* may, without prejudice to any other right or remedy the *City* may have, give the *Contractor Notice in Writing* that the *Contractor* is in default of the *Contractor's* contractual obligations and instruct the *Contractor* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.

Add a new subparagraph 7.1.3.4 as follows:

- 7.1.3.4 An “acceptable schedule” as referred to in subparagraph 7.1.3.2. means a schedule approved by the *Consultant* and the *City* wherein the default can be corrected within the balance of the *Contract Time* and shall not cause delay to any other aspect of the *Work* or the work of other contractors, and in no event shall it be deemed to give a right to extend the *Contract Time*.
- 7.1.4.1 Amend subparagraph 7.1.4.1 to include the following words after the word “thereof;” “which includes the *City's* legal fees and disbursements and

compensation to the *Consultant* for any additional services provided by the *Consultant*,”

7.1.5.3 Delete subparagraph 7.1.5.3 and replace with the following:

7.1.5.3. charge the *Contractor* the amount by which the full cost of finishing the *Work* as certified by the *Consultant*, including compensation to the *Consultant* for the *Consultant*'s additional services, the City's legal fees and disbursements and a reasonable allowance as determined by the WARRANTY, exceeds the unpaid balance of the *Contract Price* excluding the *Warranty Reserve* set out in paragraph 5.2.12 and any reserve fund set out in paragraph 5.5.2.

Add new subparagraph 7.1.5.5 as follows:

7.1.5.5 In addition to any charges certified by the *Consultant* pursuant to the provisions of subparagraph 7.1.5.3, the *Contractor* shall pay an allowance for the additional time and service required of the *City*'s representative and other employees of the *City*, equivalent to the relevant payroll costs, plus ten percent (10%).

Delete paragraph 7.1.6 and add new paragraphs 7.1.6, 7.1.7, 7.1.8, 7.1.9, 7.1.10, and 7.1.11 as follows:

7.1.6 In addition to its right to terminate the *Contract* set out herein and in ARTICLE A–9 CONFLICT OF INTEREST, paragraph 9.5, the *City* may terminate the *Contract* at any time for any other reason and without cause upon giving the *Contractor Notice in Writing* to that effect. In such event, the *Contractor* shall be entitled to be paid for all or a portion of the *Work* performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Contractor* may have sustained as a result of the termination of the *Contract*, but in no event shall the *Contractor* be entitled to be compensated for any loss of profit on unperformed portions of the *Work*, or indirect, special, or consequential damages incurred.

7.1.7 The *City* may suspend all or a portion of the *Work* under this *Contract* at any time for any reason and without cause upon giving the *Contractor Notice in Writing* to that effect. In such event, the *Contractor* shall be entitled to be paid for all or a portion of the *Work* performed to the date of suspension and be compensated for all actual costs incurred arising from the suspension, including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Contractor* may have sustained as a result of the suspension of the *Work*, but in no event shall the *Contractor* be entitled to be compensated for any indirect, special, or consequential damages incurred. In the event that the suspension continues for more than 180 calendar days, the *Contract* shall be deemed to be terminated and the provisions of paragraph 7.1.6 shall apply.

7.1.8 In the event of *Force Majeure* lasting a minimum of thirty (30) days the *City* may, upon giving the *Contractor Notice in Writing*, terminate the *Contract*,

provided however, the *Notice in Writing* must be provided prior to the end of the *Force Majeure*.

- 7.1.9 In the case of either a termination of the *Contract* or a suspension of the *Work* under GC 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK, OR TERMINATE THE CONTRACT or GC 7.2 - CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT or ARTICLE A-9 CONFLICT OF INTEREST, the *Contractor* shall use its best commercial efforts to mitigate the financial consequences to the *City* arising out of the termination or suspension, as the case may be.
- 7.1.10 Upon the resumption of the performance of the *Work* following a suspension under GC 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT or GC 7.2 - CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* will endeavour to minimize the delay and financial consequences arising out of the suspension.
- 7.1.11 The *Contractor's* obligations under the *Contract* as to quality, correction, and warranty of the *Work* performed by the *Contractor* up to the time of termination or suspension shall continue after such termination of the *Contract* or suspension of all or a portion of the *Work*.

#### **GC 7.2 CONTRACTOR'S RIGHT TO STOP THE WORK OR TERMINATE THE CONTRACT**

- 7.2.2 Delete paragraph 7.2.2 in its entirety.
- 7.2.3.1 Delete subparagraph 7.2.3.1 in its entirety.
- 7.2.3.2 Delete subparagraph 7.2.3.2 in its entirety and replace with the following:  
  
.2 after providing the *City* with 10 *Working Days*' written notice that the *Consultant* has not issued a certificate, the *Consultant* fails to issue a certificate as provided in GC 5.3 – PROGRESS PAYMENT, or  
  
Delete subparagraph 7.2.3.3 in its entirety and substitute with the following:
- 7.2.3.3 the *City* fails to pay the *Contractor* when due the amount certified by the *Consultant* or awarded by arbitration or a court, except where the *City* has a bona fide claim for set off, or
- 7.2.3.4 In subparagraph 7.2.3.4, delete the words "except for GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER".  
  
Add new subparagraph 7.2.3.5 as follows:



7.2.3.5 The foregoing defaults in contractual obligations shall not apply to the withholding of certificates or payments, or both, because of the *Contractor's* failure to pay all legitimate claims promptly, or because of the registration of claims for liens against the title to the *City's* property, until such claims and liens are discharged.

Add the following to the end of paragraph 7.2.4:

7.2.4 If the default cannot be corrected within the 10 *Working Days* specified in the preceding sentence, the *City* shall be deemed to have cured the default if it:

- .1 commences correction of the default within the specified time;
- .2 provides the *Contractor* with an acceptable schedule for such correction;  
and
- .3 completes the correction in accordance with such schedule.

Delete paragraph 7.2.5 in its entirety and substitute the following:

7.2.5 If the *Contractor* terminates the *Contract* under the conditions described in GC 7.2, the *Contractor* shall be entitled to be paid for that portion of the *Work* performed to the date of termination, as determined by the *Consultant*. The *Contractor* shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization, losses sustained on *Products* and *Construction Equipment*. The *Contractor* shall not be entitled to any recovery for any special, indirect or consequential losses, including loss of profit.

Add new paragraphs 7.2.6 and 7.2.7 as follows:

7.2.6 If the *Contractor* stops the *Work* or terminates the *Contract* as provided for in paragraphs 7.2.1 and 7.2.3 above, the *Contractor* shall ensure the site and the *Work* are left in a safe, secure condition as required by authorities having jurisdiction at the *Place of the Work* and the *Contract Documents*.

7.2.7 “The provisions of 7.2.3, 7.2.4 and 7.2.5 shall not apply to the proper withholding of certificates and/or payments because of the registration of notices of liens against the *City's* property, until such liens are discharged.”

## GC 8.1 AUTHORITY OF THE CONSULTANT

8.1.3 Delete last sentence of 8.1.3 and substitute the following:

If it is subsequently determined that such instructions were at variance with the *Contract Documents*, the *City* shall pay the *Contractor* costs incurred by the *Contractor* in carrying out such instructions which the *Contractor* was required to do beyond the requirements of the *Contract Documents*, including costs resulting from interruption of the *Work*.

## **GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION**

Change heading to read “GC 8.2 DISPUTE RESOLUTION”

Delete GC 8.2 in its entirety and replace with the following:

The following dispute resolution process shall apply to disputes that arise prior to completion of the Work:

8.2.1 In the event of any dispute arising between the City and the Contractor as to their respective rights and obligations under the Contract, which is not resolved in the first instance by the Consultant, if applicable, either party hereto may give the other Notice in Writing of such dispute. The Notice in Writing of dispute shall be made within 14 days of the dispute arising. The City and the Contractor shall meet, along with any other parties involved in the Project that either party believes will contribute to a resolution of the dispute, including the Consultant and any Subcontractor or Supplier, to attempt to resolve the dispute. If the dispute cannot be resolved within 14 days of the Notice in Writing, then the City or the Contractor may elevate the dispute for resolution by adjudication pursuant to GC 8.2.2.

8.2.2 Any dispute that is not resolved pursuant to paragraph 8.2.1, that relates to the valuation of services or materials supplied under the Contract or payment in accordance with GC 5.2 – PROGRESS APPLICATIONS FOR PROGRESS PAYMENT or GC 5.3 – PROGRESS PAYMENT may be referred to adjudication in accordance with PART 13 – ADJUDICATION.

8.2.3 Subject to the provisions of the Act, the Contractor shall complete the Work, in accordance with the directions of the Consultant, notwithstanding any dispute, claim, arbitration, adjudication, or any legal action initiated by either or both of the parties.

The following dispute resolution process shall apply to disputes that arise after completion of the Work:

8.2.4 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations.

8.2.5 In the event the dispute is not resolved after the negotiations referred to in paragraph 8.2.4, the parties will refer the dispute to a third party, mutually agreed upon between the parties, to assist the parties in concluding an agreement on the dispute.

8.2.6 In the event that the dispute is not resolved after the mediated negotiations referred to in paragraph 8.2.5, the parties may refer the dispute to binding arbitration, upon the mutual agreement of the parties. If the parties agree to refer the dispute to arbitration, the decision of the arbitrator shall be final and binding upon the parties and the arbitration shall be conducted in the jurisdiction of the Place of the Work. The Rules for Arbitration of Construction Disputes as provided in CCDC 40 shall govern the arbitration process, unless the parties mutually agree that a different set of rules are to govern.

## **GC 8.3 RETENTION OF RIGHTS**

8.3.2 Change the words “8.2.6 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION” to “8.2.3 of GC 8.2 – ADJUDICATION”.

### GC 9.1 PROTECTION OF WORK AND PROPERTY

Delete subparagraph 9.1.1.1 in its entirety and substitute the following:

9.1.1.1 Errors in the *Contract Documents* which the *Contractor* could not have discovered applying the standard of care described in paragraph 3.14.1;

Delete paragraph 9.1.2 in its entirety and substitute as follows:

9.1.2 Before commencing any *Work*, the *Contractor* shall determine the locations of all underground utilities and structures indicated in or inferable from the *Contract Documents*, or that are inferable from an inspection of the *Place of the Work* exercising the degree of care and skill described in paragraph 3.14.1.

Add new paragraph 9.1.5 as follows:

9.1.5 With respect to any damage to which paragraph 9.1.4 applies, the *Contractor* shall neither undertake to repair or replace any damage whatsoever to the work of other contractors, or to adjoining property, nor acknowledge that the same was caused or occasioned by the *Contractor*, without first consulting the *City* and receiving written instructions as to the course of action to be followed from either the *City* or the *Consultant*. Where, however, there is danger to life, the environment, or public safety, the *Contractor* shall take such emergency action as it deems necessary to remove the danger.

Add new paragraphs 9.1.6 and 9.1.7 as follows:

9.1.6 Where permanent installations or otherwise, such as roads, curbs, sidewalks, boulevards, sod, trees, hydrants, fencing and street lighting abut, front or adjoin the *Work*, the *Contractor* shall identify the conditions of same prior to the commencement of the *Work* and record said conditions in such a manner as directed by the *Consultant*, to assist in the indemnification of the *City* and the *Contractor* against subsequent damage which may be alleged by others. Should any damage occur which is attributable to the *Contractor*, the *Contractor* shall be responsible to make good such damage at his own expense or pay all costs incurred by others in making good such damage.

9.1.7 The *Contractor* shall be responsible for keeping the work free from trespassers and for protection of work and the public from any loss or injury from commencement to completion and acceptance of the *Work* by the *City*.

### GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

Add a new subparagraph 9.2.5.5 as follows:

9.2.5.5 in addition to the steps described in subparagraph 9.2.5.3, take any further steps it deems necessary to mitigate or stabilize any conditions resulting from encountering toxic or hazardous substances or materials.

9.2.6 Add the following to paragraph 9.2.6, after the word “responsible” in the second line:

...or whether any toxic or hazardous substances or materials already at the *Place of the Work* (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the *Contractor* or anyone for whom the *Contractor* is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damages to the property of the *City* or others,...

9.2.8 Add the following to paragraph 9.2.8, after the word “responsible” in the second line:

...or whether any toxic or hazardous substances or materials already at the *Place of the Work* (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the *Contractor* or anyone for whom the *Contractor* is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damages to the property of the *City* or others,...

Add a new paragraph 9.2.10 as follows:

9.2.10 The *Contractor* shall indemnify and hold harmless the *City*, *Consultant*, and other *consultants*, *Subcontractors*, *Suppliers* and their agents and employees, from and against claims, 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* after the *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-12.1 INDEMNIFICATION or which otherwise exist respecting a person or party described in this paragraph.

#### GC 9.4 CONSTRUCTION SAFETY

Delete paragraph 9.4.1 in its entirety and substitute as follows:

9.4.1 The *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations, and practices required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in

connection with the performance of the *Work*. For the purpose of the *Contract*, the *Contractor* shall be deemed to be “Constructor” as defined in *OHSA*.

Add new paragraphs 9.4.2, 9.4.3, 9.4.4 and 9.4.5 as follows:

- 9.4.2 Prior to the commencement of the *Work*, the *Contractor* shall submit to the *City*:
- 1 a current Workplace Safety & Insurance Board Clearance Certificate, as required by paragraph 10.4.1;
  - 2 certificates of insurance as required by paragraph 11.1.3;
  - 3 documentation setting out the *Contractor’s* in-house safety programs;
  - 4 a copy of the Notice of Project filed with the Ministry of Labour naming itself as “constructor” under the *OHSA*.
- 9.4.3 The *Contractor* shall indemnify and save harmless the *City*, its agents, officers, directors, employees, consultants, successors, appointees, and assigns from and against the consequences of any and all safety infractions committed by the *Contractor* 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 *City* 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.
- 9.4.4 The *City* undertakes to include in its contracts with other contractors and in its instructions to its own forces the requirement that the other contractor or its own forces, as the case may be, comply with the policies and procedures of and the directions and instructions from the *Contractor* with respect to occupational health and safety and related matters. Prior to admission to the *Place of the Work*, the *Contractor* may, as a condition of admission, require any other contractor or the *City’s* own forces to sign a written acknowledgment in the following form:

#### **Acknowledgement**

The undersigned acknowledges that the work it will perform on behalf of the *City* requires it to enter a *Place of the Work* which is under the total control of the *Contractor* that has a *Contract* with the *City*, pursuant to which the *Contractor* has assumed overall responsibility for compliance with all aspects of the applicable health and safety legislation, including all the responsibilities of the “constructor” under the *Occupational Health and Safety Act*, as well as responsibility to co-ordinate and schedule the activities of our work with the *Work* of the *Contractor* under its *Contract*. The undersigned agrees to comply with the *Contractor’s* directions and instructions with respect to health, safety, co-ordination, and scheduling and acknowledges that its failure to do so will be cause for termination of employment or of the undersigned’s *Contract* with the *City*, as the case may be. The undersigned also agrees to have the *Contractor* named as an additional insured

on any comprehensive liability insurance policy, where such insurance is required.

\_\_\_\_\_  
Name:

Title:

Date:

- 9.4.5 The *City* has authority to stop the progress of the *Work* whenever in the opinion of the *City* such stoppage is necessary to ensure the safety of life, or of the *Work* or of neighbouring property.

### GC 9.5 MOULD

Delete subparagraph 9.5.3.3 and replace with the following:

- 9.5.3.3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and the *City*. 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 *City* shall reimburse the *Contractor* for the reasonable costs incurred as a result of the delay and as a result of taking those steps, and

- 9.5.3.4 Delete subparagraph 9.5.3.4 in its entirety.

### GC 10.1 TAXES AND DUTIES

- 10.1.2 Amend paragraph 10.1.2 by adding the following sentence to the end of the paragraph:

For greater certainty, the *Contractor* shall not be entitled to any mark-up for overhead or profit on any increase in such taxes and duties and the *City* shall not be entitled to any credit relating to mark-up for overhead or profit on any decrease in such taxes.

Add new paragraph 10.1.3 as follows:

- 10.1.3 Where the *City* 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 *City*, 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 *City*. The *Contractor* agrees to endorse over to the *City* 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

- 10.2.3 Add the following two sentences to the end of paragraph 10.2.3:

The *Contractor* shall notify the “Chief Building Official” or the registered code agency 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 registered code agency as applicable under the Ontario Building Code.

10.2.4 Amend paragraph 10.2.4 by adding the word “by-laws” after the word “regulations.”

10.2.5 Amend paragraph 10.2.5 by adding the words “Subject to paragraph 3.14.1” at the beginning of the paragraph and by adding the word “by-laws” after the word “regulations”

10.2.6 Amend paragraph 10.2.6 by adding the word “by-laws” after the word “regulations” and by adding the following sentence to the end of the paragraph:

In the event the *City* suffers loss or damage as a result of the *Contractor’s* failure to comply with paragraph 10.2.5 and notwithstanding any limitations described in paragraph 12.1.1, the *Contractor* agrees to indemnify and to hold harmless the *City* and the *Consultant* from and against any claims, demands, losses, costs, damages, actions, suits or proceedings resulting from such failure by the *Contractor*.

10.2.7 Amend paragraph 10.2.7 by adding the word “by-laws” after the word “regulations.”

Add new paragraphs 10.2.8 and 10.2.9 as follows:

10.2.8 The *Contractor* shall obtain all certificates of inspection and occupancy that may be required by authorities have jurisdiction over the *Work* and shall deliver such certificates to the *Consultant* upon completion of the *Work*.

10.2.9 Where the *Specifications*, the *Consultant’s* instructions or any governing laws or ordinances require any work to be specially tested or approved, the *Contractor* shall give the *Consultant* timely notice of the date when such work will be ready for inspection. If any *Work*, which requires inspection is covered up without approval, the *Contractor* may be required to remove and replace the covering at his own expense.”

#### GC 10.4 WORKERS’ COMPENSATION

10.4.1 Delete paragraph 10.4.1 and replaces with the following:

Within seven (7) days of receipt of written notice to do so and prior to commencing the *Work*, and with each and every application for payment thereafter, including the *Contractor’s* application for payment of the holdback amount following *Substantial Performance of the Work* and again with the *Contractor’s* application for final payment, the *Contractor* shall provide a Clearance Certificate from the Workplace Safety and Insurance Board.

## GC 11.1 INSURANCE

Delete GC 11.1 Insurance in its entirety and replace with the following:

11.1.1 The *Contractor*, during the term of the *Contract*, at its expense, shall take out and keep in full force and effect the following insurance policies:

- 1 Commercial General Liability Insurance, written on IBC Form 2100 or its equivalent, including but not limited to bodily injury and property damage, personal and advertising injury, medical payments, products liability, completed- operations liability, City's and contractor's protective liability, blanket contractual liability, premises liability, and contingent employer's liability coverage to a limit of not less than five million dollars (\$5,000,000) per occurrence. The policy will include a cross liability and severability of interest clause and be endorsed to name the *City* and the *Consultant* as an additional insured.

Coverage shall be subject to the following:

(1) Where the *Work* involves one or more of the following activities:

- (a) the use of explosives for blasting;
- (b) vibration from pile driving or caisson work; or
- (c) the removal or weakening of support of any property, building or land whether such support be natural or otherwise.

The policy will be endorsed to include explosion, collapse and underground ("XCU") coverages and such coverage should be noted on the Certificate of Insurance.

(2) unless otherwise approved by the *City*, the *Contractor's* deductible for property damage claims will be not more than ten thousand dollars (\$10,000).

(3) if the policy has an aggregate limit, the amount of the aggregate shall be double the per occurrence limit; and

(4) the policy shall be maintained for completed operations hazards from the date of *Substantial Performance of the Work*, on an ongoing basis for a period of 6 years following *Substantial Performance of the Work*.

- 2 Non-Owned Automobile Liability Insurance to a limit of not less than one million (\$1,000,000) in respect to vehicles not owned by the *Contractor* and used or operated on its behalf in the performance of the *Work* under the *Contract*.
- 3 Automobile Liability Insurance (OAP1) to a limit of not less than five million dollars (\$5,000,000) per occurrence in respect to the use and operation of vehicles owned and leased by the *Contractor* in the performance of the *Work* under the *Contract*.
- 4 Aircraft and Watercraft liability insurance with respect to owned or non-owned



aircraft and watercraft (if used directly or indirectly in the performance of the *Work*), including use of additional premises to a limit of not less than five million dollars (\$5,000,000) per occurrence for bodily injury, death and property damage including loss of use thereof and limits of not less than five million dollars (\$5,000,000) for aircraft passenger hazard.

- 5 “Broad Form” property insurance in the joint names of the *Contractor*, the *City*, *Subcontractors* and the *Consultant* as their interests appear and to a limit of not less than the sum of 1.1 times the *Contract* price with a deductible of not more than five thousand dollars (\$5000). The “Broad Form” property policy shall contain a waiver of any subrogation rights which the *Contractor*’s insurer may have against the *City* and against those for whom the *City* is in law responsible, whether the damage is caused by the act, omission or negligence of the *City* or those for whom the *City* is in law responsible. The “Broad Form” property policy will be maintained continuously from the commencement of the *Work* and until the date of *Substantial Performance of the Work*.
- 6 Boiler and Machinery insurance in the joint names of the *Contractor*, the *City*, *Subcontractors* and the *Consultant* as their respective interests may appear and to a limit of not less than the replacement cost value of the permanent or temporary boilers and pressure vessels, and other insurable objects forming part of the *Work* with a deductible of not more than five thousand dollars (\$5000). The boiler and machinery insurance policy shall contain a waiver of any subrogation rights which the *Contractor*’s insurer may have against the *City* and against those for whom the *City* is in law responsible, whether the damage is caused by the act, omission or negligence of the *City* or those for whom the *City* is in law responsible. The boiler and machinery policy will be maintained continuously from the commencement of the *Work* and until the date of *Substantial Performance of the Work*.
- 7 The “Broad Form” and Boiler and Machinery insurance policies shall provide that, in the case of a loss or damage, payment shall be made to the *Contractor*, *City*, *Subcontractor* and the *Consultant* as their respective interests may appear. In the event of loss or damage:
  - 1) The *Contractor* shall act on behalf of the *City* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Contractor* shall proceed to restore the *Work*. Loss or damage shall not affect the rights and obligations of either party under the *Contract* except that the *Contractor* shall be entitled to such reasonable extension of *Contract Time* relative to the extent of the loss or damage as the *Consultant* may recommend in consultation with the *Contractor*;
  - 2) The *Contractor* shall be entitled to receive from the *City*, in addition to the amount due under the *Contract*, the amount which the *City*’s interest in restoration of the *Work* has been appraised, such amount to be paid as the restoration of the *Work* proceeds in accordance with the progress payment provisions. In addition, the *Contractor* shall be entitled to receive from the payments made by the insurer the amount of the *Contractor*’s interest in the

restoration of the *Work*; and

- 3) To the *Work* arising from the work of the *City*, the *City*'s own forces or another contractor, the *City* shall, in accordance with the *City*'s obligations under the provisions relating to construction by *City* or other contractors, pay the *Contractor* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as in accordance with the progress payment provisions.

8 Contractor's Equipment Insurance with respect to loss or damage to the  
*Contractor*'s equipment, tools and stock, or in the care, custody and control of the  
*Contractor* or for which the *Contractor* is legally liable.

9

11.1.2 All policies of insurance required under paragraph 11.1.1 shall:

- (a) be written with an insurer licensed to do business in Ontario;
- (b) be non-contributing with and will apply only as primary and not excess to any other insurance or self-insurance available to the *City*;
- (c) contain an undertaking by the insurers to notify the *City* in writing not less than thirty (30) days and fifteen (15) days in the case of automobile liability insurance (15 days in the event of non-payment of premiums) before any change, termination or cancellation of coverage; and
- (d) any deductible amounts shall be borne by the *Contractor*.

11.1.3 Prior to the commencement of the *Work*, the *Contractor* will provide to the *City* proof of insurance on a form of a Certificate of Insurance which has been signed by an authorized representative of the insurer. The *Contractor* will make available complete certified copies of all applicable insurance policies for examination if required by the *City*.

11.1.4 The *Contractor* will deliver to the *City* Certificates of Insurance evidencing renewal or replacement of the policies required under the *Contract* at least fifteen (15) *Working Days* prior to the expiration or replacement of the current policies without demand by the *City*.

11.1.5 The *City* reserves the right to require the *Contractor* to purchase such additional insurance coverage as the *City* may reasonably require. The *City* reserves the right to request such higher limits of insurance or otherwise alter the types of insurance coverage requirements due to material or significant change arising from such matters as the nature of the *Work*, agreement value, industry standards, and availability of insurance, as the *City* may reasonably require from time to time. Where such a right is exercised by the *City*, the *City* will compensate the *Contractor* for any resulting increase in applicable insurance premiums and only when the *Contractor* can establish to the satisfaction of the *City*, acting reasonably, that such increase in applicable insurance premiums does not result from the actions or omissions, negligence, claims history or reassessment by the insurer of the insurable risk posed by the *Contractor*.

11.1.6 The above insurance requirements will not be read to limit the liability of the *Contractor* and will not be deemed a waiver by the *City* of its right to damages and indemnity from the

*Contractor* for default under the *Contract* or for any loss arising out of or related to the performance or non-performance by the *Contractor* of its obligations under the *Contract*.

11.1.7 The *Contractor* shall pay all premiums on all policies as they become due provided that the *City* may pay premiums as they become due and deduct the amount thereof from monies due from the *City* to the *Contractor* should the *Contractor* fail to do so.

11.1.8 The *Contractor* shall not do or omit to do anything that would impair or invalidate the insurance policies.

11.1.9 Insurance Claims Protocol. Claims or alleged claims received by the *Contractor* and not settled within five (5) *Working Days* of receipt shall be handled in the following manner:

- (a) The *Contractor* shall retain an independent adjuster who will determine the *Contractor's* liability for all third party claims, and advise the claimant in writing of the determination of liability within thirty (30) days of notice of the claim to the *Contractor*. Copies of such determination of liability letters will be provided to the *City*.
- (b) If the *Contractor* or the *Contractor's* independent adjuster fails to respond within the time noted in (a) or responds in a manner inconsistent with the evidence at hand, the *City* reserves the right to appoint an independent adjuster to review the claim and determine liability thereof. Any monies incurred by the *City* to investigate, defend and satisfy any third-party claim where it was determined that the *Contractor* was liable will be deducted from monies owing to the *Contractor* by the *City*.
- (c) If a claim is settled to the satisfaction of the claimant, the *Contractor* will provide the *City* with a copy of the claimant's Release. The claimant's Release shall cover the interests of the *Contractor* and the *City*, its employees, agents and anyone for whom it is in law responsible.

## GC 11.2 CONTRACT SECURITY

Delete paragraphs 11.2.1 and 11.2.2 in their entirety and replace with the following:

11.2.1 The *Contractor* shall, prior to the execution of the *Contract* and within seven (7) days of receiving written notice to so do, furnish a performance bond and a labour and material payment bond in the form of the *City's* current bond forms, issued by such surety company as the *City* may approve and shall maintain the bonds in good standing until the fulfillment of the *Contract*. The bonds shall be for fifty per cent (50%) of the *Contract Price* or such other amount as may be specified in the *Contract Documents*.

11.2.2 The performance and the labour and material bonds shall be applicable to all of the *Contractor's* obligations under the *Contract*, including its obligations pursuant to GC 12.3 WARRANTY. The *Contractor* represents and warrants that it has provided its surety with a copy of the *Contract* prior to the issuance of such bonds.

In addition, the *Contractor* shall advise the surety for the performance and the labour and material bonds, in writing, with a copy to the *City*, of any *Change Orders* to the *Contract* so that the validity of coverage of the performance and the labour and material bonds are at no time impaired or in jeopardy and a rider indicating any increase in the penal amount of the bonds as a result of such *Change Orders* shall be provided to the *City* at *Substantial Performance of the Work*.

11.2.3 Where required by the *Contract Documents*, the *Contractor* shall obtain a 50% performance and a 50% labour & material payment bond from required *Subcontractors*, and shall provide copies of such bonds to the *City* upon receipt. Each of such bonds shall be in accordance with the latest edition of the *City's* current bond forms and issued by a duly licensed surety company authorized to transact the business of suretyship in the province or territory of the *Place of Work*, and shall be maintained in good standing until the fulfillment of the respective subcontract.

11.2.4 Subcontractor default insurance will not be accepted as a substitute to surety bonds.

11.2.5 The costs attributable to providing such bonds shall be included in the *Contract Price*.

11.2.6 The performance bond shall remain in effect for two (2) years from the date on which final payment under the *Contract* falls due and also cover any extended warranties.

## GC 12.1 INDEMNIFICATION

Delete General Condition 12.1 – INDEMNIFICATION in its entirety and substitute as follows:

12.1.1 The *Contractor* shall indemnify and hold harmless the *City*, the *Consultant* and any *Other Party*, their agents, employees and assigns from any and all losses, damages, fines, penalties and surcharges, liabilities, judgments, claims, demands, causes of action, contracts, suits, actions or other proceedings of any kind and expenses, which the indemnified person or persons may suffer or incur, howsoever caused, arising out of, resulting from or attributable to the *Contractor's* or any *Subcontractor's* or *Supplier's* performance or non- performance of the *Contract*, regardless of whether or not caused in part by a party indemnified hereunder. It is expressly understood that the *Contractor* will save harmless the *City* from all claims made by any party other than the *Contractor* itself, financial or otherwise, relating to labour and materials furnished by the *Contractor* or by others for the *Work*.

12.1.2 The *City* shall indemnify and hold harmless the *Contractor*, his 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*.

12.1.3 Notwithstanding the provisions of GC 1.1 CONTRACT DOCUMENTS, paragraph

1.1.7, GC 12.1 INDEMNIFICATION shall govern over the provisions of paragraph 1.3.1 of GC 1.3 –RIGHTS AND REMEDIES.

## GC 12.2 WAIVER OF CLAIMS

- 12.2.1 In the fourth line, add the words “claims for delay pursuant to GC 6.5 DELAYS, claims for an increase in the *Contract Price*, pursuant to GC 6.6 CLAIMS FOR A CHANGE IN THE CONTRACT PRICE” after the word “limitation”. Add the words “(collectively “Claims”)” after “*Substantial Performance of the Work*” in the sixth line.
- 12.2.1.1 Change the word “claims” to “Claims” and change the word “claim” to “Claim”.
- 12.2.1.2 Change the word “claims” to “Claims”.
- 12.2.1.3 Delete paragraph in its entirety.
- 12.2.1.4 Change the word “claims” to “Claims”.
- 12.2.2 Change the words “in paragraphs 12.2.1.2 and 12.2.1.3” to “in paragraph 12.2.1.2”. Change the word “claims” to “Claims” in both instances and change the word “claim” to “Claim”.
- 12.2.3 Delete paragraph in its entirety.
- 12.2.4 Delete paragraph in its entirety.
- 12.2.5 Delete paragraph in its entirety.
- 12.2.6 Change the word “claim” to “Claim” in all instances in the paragraph.
- 12.2.7 Change “The party” to “The *Contractor*”. Change the word “claim” to “Claim” in all instances in the paragraph.
- 12.2.8 Change “under paragraphs 12.2.1 or 12.2.3” to “under paragraph 12.2.1”. Change both instances of the words “the party” to “the *Contractor*”. Change the word “claim” to “Claim” in all instances in the paragraph.
- 12.2.9 Delete paragraph 12.2.9 in its entirety.
- 12.2.10 Delete paragraph 12.2.10 in its entirety.

Add paragraph 12.2.11 as follows:

No action or failure by the City will constitute a waiver of any right or duty afforded to them under the Contract, nor shall any action or failure to act constitute any approval of or acquiescence in the breach thereunder except as may be specifically agreed in writing.

## GC 12.3 WARRANTY

- 12.3.1 Delete the words “*Substantial Performance of the Work*” and add the words “*Total Completion of the Work*” at the end of the sentence.
- 12.3.2 Delete from the first line of paragraph 12.3.2 the word, “The” and substitute the words “Subject to paragraph 3.4.1, the...”
- Add new paragraphs 12.3.7 and 12.3.8 as follows:
- 12.3.7 Where required by the *Contract Documents*, the *Contractor* shall provide a maintenance bond as security for the performance of the *Contractor’s* obligations as set out in GC 12.3 WARRANTY.
- 12.3.8 The *Contractor* shall provide fully and properly completed and signed copies of all warranties and guarantees required by the *Contract Documents*, containing:
- .1 the proper name of the *Owner*;
  - .2 the proper name and address of the *Project*;
  - .3 the date the warranty commences, which shall be at the “date of *Total Completion of the Work*” unless otherwise agreed upon by the *Consultant* in writing.
  - .4 a clear definition of what is being warranted and/or guaranteed as required by the *Contract Documents*; and
  - .5 the signature and seal of the company issuing the warranty, countersigned by the *Contractor*.

### Add Part 13 – ADJUDICATION as follows:

## Part 13 ADJUDICATION

### GC 13.1 Commencement of Adjudication

- 13.1.1 If either party wishes to refer a dispute to adjudication in accordance with Part II.1 of the *Act*, such party shall give the other party *Notice in Writing* of an adjudication, setting out:
- .1 the names and addresses of the parties;
  - .2 the nature, and a brief description, of the dispute including details respecting how and when it arose,
  - .3 the nature of the redress sought,
  - .4 the names of 3 adjudicators that the referring party nominates to adjudicate the dispute, each of whom must be listed in the registry established by the *Authority*, and
  - .5 the date that any required notice was given in accordance with paragraph 13.3.1 and a

copy of the notice.

- 13.1.2 The party giving *Notice in Writing* of an adjudication in accordance with paragraph 13.1.1, shall, on the same day, provide a copy of the notice to the *Authority* in electronic format.
- 13.1.3 A *Notice in Writing* of an adjudication that is given to the *City* shall be delivered in person to the City Clerk's Office and by email to the City's Representative.

### **GC 13.2 APPOINTMENT OF ADJUDICATOR**

- 13.2.1 By no later than the third calendar day following receipt of *Notice in Writing* of an adjudication, the responding party shall give *Notice in Writing* to the referring party stating either that (i) the responding party accepts one of the referring party's nominees or (ii) none of the referring party's nominees are acceptable. If the responding party accepts one of the referring party's nominees, the referring party shall notify the nominee of such appointment on the day that *Notice in Writing* of the acceptance is received from the responding party, and shall request the nominee's prompt consent to conduct the adjudication. If none of the referring party's nominees are acceptable to the responding party, the parties may discuss the appointment of another mutually agreeable adjudicator. In the event that the parties have not selected a mutually agreeable adjudicator by the close of business on the third calendar day following the giving of *Notice in Writing* of an adjudication, the referring party shall, by the next calendar day, request that the *Authority* appoint an adjudicator.
- 13.2.2 If, by the close of business on the fourth day following the giving of *Notice in Writing* of an adjudication, the parties' agreed upon adjudicator, if any, has not consented to conduct the adjudication, the referring party shall immediately request that the *Authority* appoint an adjudicator.

### **GC 13.3 ADJUDICATION PROCEDURE**

- 13.3.1 With the exception of disputes that arise as a result of notice of non-payment given by the *City* it is a pre-condition to either party giving *Notice in Writing* of an adjudication at least 30 calendar days prior to giving *Notice in Writing* of an adjudication, the party giving *Notice in Writing* of a dispute, which notice shall set out the nature, and a brief description, of the dispute. Any *Notice in Writing* of a dispute in accordance with this paragraph.
- 13.3.2 No later than 5 calendar days after an adjudicator agrees, or is appointed, to conduct the adjudication, the party who gave *Notice in Writing* of an adjudication shall provide to the adjudicator a copy of the *Notice in Writing* of an adjudication, and shall provide to the responding party and the adjudicator any documents that the party intends to rely upon during the adjudication.

- 13.3.3 The adjudicator shall make a determination of the matter that is the subject of the adjudication no later than 30 calendar days after receiving the documents referred to in paragraph 13.3.2.
- 13.3.4 Subject to the consent of the adjudicator, each party shall, if requested by the other party, agree to extend the timeline referred to in 13.3.4 to 40 calendar days or such other reasonable extensions as either party may request.
- 13.3.5 Neither party may deliver *Notice in Writing* of an adjudication in accordance with Part II.1 of the *Act* after completion of the *Work*.

#### **GC 13.4 DETERMINATIONS**

- 13.4.1 On the adjudicator's own initiative, or on the application of any party made within 5 calendar days of the date that a determination is communicated to the parties, the adjudicator may amend the determination or the written reasons accompanying such determination, if any, to remove any clerical mistake or error arising from an accidental slip or omission. Any amendment of a determination shall be made as soon as possible after the date that the application was received by the adjudicator or, where the correction is made on the adjudicator's own initiative, as soon as possible after the adjudicator becomes aware of the need to make a correction.
- 13.4.2 Determinations made by an adjudicator shall be binding upon the parties until a determination of the matter by a court or as otherwise provided by the *Act*.
- 13.4.3 The fee for adjudication shall be split between the Contractor and the City and shall be set in accordance with the fee schedule published on the ANA's website. If the request for adjudication is determined to be frivolous, vexatious or made without good faith, the requesting party shall pay the entirety of the fee required by the adjudicator. The cost sharing split of the adjudicator's fee shall include all costs associated with the request, including but not limited to, travel costs, inspection costs, lodging and the costs of assistance to the adjudicator.
- 13.4.4 On joint projects between the City of Burlington and the Region of Halton, both municipality organizations shall be considered a consolidated party to adjudication.
- 13.4.5 Adjudication must take place within the City of Burlington.

#### **GC 13 TREE PROTECTION**

- 13.1 The *Contractor* shall adhere to any direction given by the *Consultant* or the *City* for protection of trees and shall follow the *City's* manual for tree protection standards.

#### **GC 14 MATERIALS EQUIPMENT AND PRODUCTS**

- 14.1 Substitution of equipment or material other than those specifically named in the *Contract Documents* may be approved by the *City* through the *Consultant* with the following conditions:



1. Requests for substitutions shall be accompanied by documentary proof of equality or difference in price and delivery, if any, in the form of certified quotations from suppliers of both specified and proposed *Product*.
2. In the case of a lower price, the *City* shall receive all benefits of the difference in cost involved in any substitution, and the *Contract* shall be altered by *change Order* to credit the *City* with any savings so obtained.
3. All materials and equipment substituted or offered as alternatives shall have spare parts and servicing available and shall fit into space allocation shown on the drawings.
4. If any material or equipment being considered for substitution involves additional design, architectural or engineering fees or other costs in checking whether or not the substitute material or equipment is suitable for the *Project*, such fees or costs shall be paid by the *Contractor*.

## GC 15 STANDARDS

15.1 When requested by the *Consultant*, the *Contractor* shall provide, free of charge, copies of all standards referred to in the specification for the joint use of the *Consultant* and *Contractor* on the site.

## GC 16 TESTS AND SAMPLES

16.1 The *Contractor* shall furnish to the *Consultant* tests results and mix designs as may be requested.

16.2 Any inspection and testing performed by the *City* or under any cash allowance is solely for the *City's* own information and shall not relieve the *contractor* from his responsibility under the *Contract* for the proper conduct of the *Work* and for conducting whatever tests that are necessary to ascertain that the *Work* is in accordance with the *Contract*.

16.3 The *Contractor* shall submit for the *Consultant's* approval such standard manufacturers' samples as the *Consultant* may reasonably require. Samples shall be labelled as to origin and intended use in the *Work* and shall conform to the requirements of the *Contract Documents*.

## GC 17 MAINTENANCE AND OPERATION MANUALS

17.1 The *Contractor* shall prepare three bound copies each containing manufacturers' data as follows:

1. A title sheet shall be labelled with the *Project* name, the Date of *Substantial Performance of the Work* and the Date of *Total Completion of the Work*.
2. An index page shall be provided listing all of the contents and cross referenced to the labelled tags.

AMENDMENTS TO CCDC2 – 2008

3. Each section shall be marked by a labelled tag protected with a celluloid cover.
4. All notes shall be typed, or, if applicable, printed literature may be used. Any drawings shall be neatly drafted in ink or white printed.
5. Covers shall be suitable to accommodate 21.6 x 27.9 cm (8-1/2" x 11") sheets. A hard faced loose-leaf binder shall be used.
6. Maintenance instructions shall be provided for all exterior and interior floors, walls and ceiling surfaces.
7. Operating and maintenance instructions shall be provided for all mechanical and electrical equipment.
8. All separate or extended warranties shall be provided including contact names, addresses, phone and fax numbers for service.
9. An electronic copy of the manufacturer's data shall be provided in PDF format on a USB device.

### GC 18 RECORD DRAWINGS

18.1 Two printed copies of "As Constructed" drawings and reviewed *Shop Drawings* of the *Work* of all trades are required to be provided to the *City*, showing all changes from the original *Contract Documents*. Such drawings shall also be provided to the *City*, by the *Contractor*, in Autocad format and in PDF format on a USB device.

### GC 19 PROVINCIAL SMOG ALERT

19.1 A provincial smog alert may be issued by the Ministry of the Environment when the Air quality Index reading reaches 50 or greater. When there is a smog alert, the *City* will notify the *Contractor* as soon as possible. On the next day (or second day of the smog alert), all hot mix asphalt work is to be stopped. This may be in effect until the smog alert has been lifted.

There will be no additional compensation for this down time.

### GC 20 HOURS OF WORK

20.1 The City of Burlington By-laws Number 19-2003 and 49-2008 regulate the hours of construction work in the City of Burlington. Work and construction related noise is permitted only between the hours of 7:00 a.m. and 7:00 p.m.

20.2 In addition to the above, no work or noise will be permitted on Sundays and Statutory Holidays in Ontario except in emergencies, and then only with the written permission of the *City*.

### GC 21 TIME OF THE ESSENCE

21.1 Time is of the essence for this *Contract*. The *Contractor* shall commence the *Work* on the date first set out in paragraph 1.3 of Article A-1 and proceed with the *Work* in an orderly fashion

**THE CORPORATION OF THE CITY OF BURLINGTON**

**AMENDMENTS TO CCDC2 – 2008**

so as to ensure that the *Work* is completed by the completion date set out in paragraph 1.3 of Article A-1.

END OF AMENDMENTS TO CCDC 2 - 2008

<b>Contract #:</b>	ES-24-XX	<b>Invoice #:</b>		<b>COMPLETED BY CITY REPRESENTATIVE</b>	
<b>File No.</b>	570.02-XXXX	<b>Invoice Date:</b>		Date Issued to City Representative: _____	
<b>Period Ending:</b>		<b>Revision #:</b>		City Representative Receipt Date: _____	
<b>Payment Terms:</b>		<b>Rev. Invoice Date:</b>		Proper Invoice Confirmation Date: _____	
<b>Payment Type:</b>	<input type="checkbox"/> Progress Payment <input type="checkbox"/> Release of Holdback			Approved for Payment: _____	
<b>Company Name:</b>				Department Manager	
<b>Company Address:</b>	<b>Mailing Address:</b>			Approved for Payment: _____	
				(more than \$250,000.00) Director	
				Approved for Payment: _____	
				(more than \$350,000.00) Executive Director	
<b>Telephone #:</b>				Due to Accounts Payable: _____	
<b>Email:</b>				<b>PAYMENT DUE:</b> _____	
<b>Contractors HST #:</b>				Internal Purchase Order #: _____	

<b>CITY REPRESENTATIVE:</b>	
<b>Name:</b> _____ <b>Title:</b> Project Manager <b>Telephone #:</b> 905-335-7600    Ext. #: _____	<b>Address:</b> City of Burlington 426 Brant Street PO Box 5013 Burlington, ON L7R-3Z6
<b>Name:</b> _____ <b>Title:</b> Contract Administrator <b>Telephone #:</b> 905-335-7600    Ext. #: _____	

<b>Contract Value</b>	<b>\$0.00</b>	<b>Invoiced Amount (Excluding HST)</b>	<b>Non-Payment Amount</b>	<b>Notice of Non-Payment Date</b>
		\$ -	\$ -	
	<b>Previous Amount</b>	<b>Approved Amount</b>	<b>To Date Amount</b>	
<b>Gross Payment</b>	\$ -	\$ -	\$ -	
<b>10% Lien Holdback</b>	\$ -	\$ -	\$ -	
<b>Maintenance Holdback *</b>	\$ -	\$ -	\$ -	
<b>Net Payment</b>	\$ -	\$ -	\$ -	
<b>13% HST</b>		\$ -		
<b>Net Amount Payable</b>		\$ -		

<b>Required Supporting Documents:</b>			
1)	Current Workplace Safety & Insurance Board (WSIB) Clearance Certificate and Certificate of Insurance	4)	A schedule of values, including at a minimum, description of items as listed in the tender, tender quantity, unit of measure, previous quantity, current quantity to-date quantity and all corresponding dollar amounts to support the invoice.
2)	Statutory Declaration (CCDC Document 9A-2018) attesting to the truth of the statement made herein.	5)	Provide all backup documentation to support Extra Work Orders claimed. This includes Time and Material sheets signed by the City Inspector or designate and supporting invoices for material.
3)	Form 9 and Publication Advertisement for 10% Holdback Release	6)	* Maintenance Holdback means Warranty Holdback in CCDC contracts. Refer to contract documents for the holdback percentage.

## **SECTION 8.0 CCDC 2 – 2008 - STIPULATED PRICE CONTRACT**

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Any additions or amendments to the CCDC 2 - 2008 Stipulated Price Contract required by the City for this project is included in **Section 7: Amendments to CCDC 2 – 2008 Stipulated Price Contract.**

CCDC 2

stipulated price contract

2 0 0 8

EICS-24-50 City Hall 5th and 6th Floor Washrooms Renovation

Apply a CCDC 2 copyright seal here. The application of the seal demonstrates the intention of the party proposing the use of this document that it be an accurate and unamended form of CCDC 2 – 2008 except to the extent that any alterations, additions or modifications are set forth in supplementary conditions.

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- GC 9.3 Artifacts and Fossils
- GC 9.4 Construction Safety
- GC 9.5 Mould

### PART 10 GOVERNING REGULATIONS

- GC 10.1 Taxes and Duties
- GC 10.2 Laws, Notices, Permits, and Fees
- GC 10.3 Patent Fees
- GC 10.4 Workers' Compensation

### PART 11 INSURANCE AND CONTRACT SECURITY

- GC 11.1 Insurance
- GC 11.2 Contract Security

### PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY

- GC 12.1 Indemnification
- GC 12.2 Waiver of Claims
- GC 12.3 Warranty

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- Public Sector Owners
- Private Sector Owners
- Canadian Bar Association (Ex-Officio)
- \* The Association of Canadian Engineering Companies
- \* The Canadian Construction Association
- \* Construction Specifications Canada
- \* The Royal Architectural Institute of Canada

\*Committee policy and procedures are directed and approved by the four constituent national organizations.

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**AGREEMENT BETWEEN OWNER AND CONTRACTOR**

For use when a stipulated price is the basis of payment.

**This Agreement** made on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ .

**by and between the parties**

\_\_\_\_\_ hereinafter called the "Owner"

**and**

\_\_\_\_\_ hereinafter called the "Contractor"

The *Owner* and the *Contractor* agree as follows:

**ARTICLE A-1 THE WORK**

The *Contractor* shall:

1.1 perform the *Work* required by the *Contract Documents* for

\_\_\_\_\_ located at \_\_\_\_\_ *insert above the name of the Work*

\_\_\_\_\_ for which the Agreement has been signed by the parties, and for which \_\_\_\_\_ *insert above the Place of the Work*

\_\_\_\_\_ is acting as and is hereinafter called the "*Consultant*" and \_\_\_\_\_ *insert above the name of the Consultant*

1.2 do and fulfill everything indicated by the *Contract Documents*, and

1.3 commence the *Work* by the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ and, subject to adjustment in *Contract Time* as provided for in the *Contract Documents*, attain *Substantial Performance of the Work*, by the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ .

**ARTICLE A-2 AGREEMENTS AND AMENDMENTS**

2.1 The *Contract* supersedes all prior negotiations, representations or agreements, either written or oral, relating in any manner to the *Work*, including the bidding documents that are not expressly listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS.

2.2 The *Contract* may be amended only as provided in the *Contract Documents*.

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**ARTICLE A-3 CONTRACT DOCUMENTS**

3.1 The following are the *Contract Documents* referred to in Article A-1 of the Agreement - THE WORK:

- Agreement between *Owner* and *Contractor*
- Definitions
- The General Conditions of the Stipulated Price Contract
- \*

\* *(Insert here, attaching additional pages if required, a list identifying all other Contract Documents e.g. supplementary conditions; information documents; specifications, giving a list of contents with section numbers and titles, number of pages and date; material finishing schedules; drawings, giving drawing number, title, date, revision date or mark; addenda, giving title, number, date)*

**ARTICLE A-4 CONTRACT PRICE**

4.1 The *Contract Price*, which excludes *Value Added Taxes*, is:

\_\_\_\_\_/100 dollars \$ \_\_\_\_\_

4.2 *Value Added Taxes* (of 13 %) payable by the *Owner* to the *Contractor* are:

\_\_\_\_\_/100 dollars \$ \_\_\_\_\_

4.3 Total amount payable by the *Owner* to the *Contractor* for the construction of the *Work* is:

\_\_\_\_\_/100 dollars \$ \_\_\_\_\_

4.4 These amounts shall be subject to adjustments as provided in the *Contract Documents*.

4.5 All amounts are in Canadian funds.

**ARTICLE A-5 PAYMENT**

5.1 Subject to the provisions of the *Contract Documents*, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback of \_\_\_\_\_ percent ( \_\_\_\_\_ %), the *Owner* shall:

- .1 make progress payments to the *Contractor* on account of the *Contract Price* when due in the amount certified by the *Consultant* together with such *Value Added Taxes* as may be applicable to such payments, and
- .2 upon *Substantial Performance of the Work*, pay to the *Contractor* the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, and
- .3 upon the issuance of the final certificate for payment, pay to the *Contractor* the unpaid balance of the *Contract Price* when due together with such *Value Added Taxes* as may be applicable to such payment.

5.2 In the event of loss or damage occurring where payment becomes due under the property and boiler insurance policies, payments shall be made to the *Contractor* in accordance with the provisions of GC 11.1 – INSURANCE.

5.3 Interest

- .1 Should either party fail to make payments as they become due under the terms of the *Contract* or in an award by arbitration or court, interest at the following rates on such unpaid amounts shall also become due and payable until payment:
  - (1) 2% per annum above the prime rate for the first 60 days.
  - (2) 4% per annum above the prime rate after the first 60 days.
 Such interest shall be compounded on a monthly basis. The prime rate shall be the rate of interest quoted by

\_\_\_\_\_  
(Insert name of chartered lending institution whose prime rate is to be used)  
for prime business loans as it may change from time to time.

- .2 Interest shall apply at the rate and in the manner prescribed by paragraph 5.3.1 of this Article on the settlement amount of any claim in dispute that is resolved either pursuant to Part 8 of the General Conditions – DISPUTE RESOLUTION or otherwise, from the date the amount would have been due and payable under the *Contract*, had it not been in dispute, until the date it is paid.

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**ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING**

6.1 *Notices in Writing* will be addressed to the recipient at the address set out below. The delivery of a *Notice in Writing* will be by hand, by courier, by prepaid first class mail, or by facsimile or other form of electronic communication during the transmission of which no indication of failure of receipt is communicated to the sender. A *Notice in Writing* delivered by one party in accordance with this *Contract* will be deemed to have been received by the other party on the date of delivery if delivered by hand or courier, or if sent by mail it shall be deemed to have been received five calendar days after the date on which it was mailed, provided that if either such day is not a *Working Day*, then the *Notice in Writing* shall be deemed to have been received on the *Working Day* next following such day. A *Notice in Writing* sent by facsimile or other form of electronic communication shall be deemed to have been received on the date of its transmission provided that if such day is not a *Working Day* or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first *Working Day* next following the transmission thereof. An address for a party may be changed by *Notice in Writing* to the other party setting out the new address in accordance with this Article.

**Owner**

\_\_\_\_\_  
*name of Owner\**

\_\_\_\_\_  
*address*

\_\_\_\_\_  
*facsimile number*

\_\_\_\_\_  
*email address*

**Contractor**

\_\_\_\_\_  
*name of Contractor\**

\_\_\_\_\_  
*address*

\_\_\_\_\_  
*facsimile number*

\_\_\_\_\_  
*email address*

**Consultant**

\_\_\_\_\_  
*name of Consultant\**

\_\_\_\_\_  
*address*

\_\_\_\_\_  
*facsimile number*

\_\_\_\_\_  
*email address*

*\* If it is intended that the notice must be received by a specific individual, that individual's name shall be indicated.*

**ARTICLE A-7 LANGUAGE OF THE CONTRACT**

7.1 When the *Contract Documents* are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English / ~~French~~ # language shall prevail.  
# Complete this statement by striking out inapplicable term.

7.2 This Agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.

**ARTICLE A-8 SUCCESSION**

8.1 The *Contract* shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and assigns.

**In witness whereof** the parties hereto have executed this Agreement by the hands of their duly authorized representatives.

SIGNED AND DELIVERED  
in the presence of:

**WITNESS**

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

**WITNESS**

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

**OWNER**

\_\_\_\_\_  
*name of owner*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name and title of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name and title of person signing*

**CONTRACTOR**

\_\_\_\_\_  
*name of Contractor*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name and title of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name and title of person signing*

*N.B. Where legal jurisdiction, local practice or Owner or Contractor requirement calls for:*  
*(a) proof of authority to execute this document, attach such proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Agreement for and on behalf of the corporation or partnership; or*  
*(b) the affixing of a corporate seal, this Agreement should be properly sealed.*

## DEFINITIONS

The following Definitions shall apply to all *Contract Documents*.

**1. Change Directive**

A *Change Directive* is a written instruction prepared by the *Consultant* and signed by the *Owner* directing the *Contractor* to proceed with a change in the *Work* within the general scope of the *Contract Documents* prior to the *Owner* and the *Contractor* agreeing upon adjustments in the *Contract Price* and the *Contract Time*.

**2. Change Order**

A *Change Order* is a written amendment to the *Contract* prepared by the *Consultant* and signed by the *Owner* and the *Contractor* stating their agreement upon:

- a change in the *Work*;
- the method of adjustment or the amount of the adjustment in the *Contract Price*, if any; and
- the extent of the adjustment in the *Contract Time*, if any.

**3. Construction Equipment**

*Construction Equipment* means all machinery and equipment, either operated or not operated, that is required for preparing, fabricating, conveying, erecting, or otherwise performing the *Work* but is not incorporated into the *Work*.

**4. Consultant**

The *Consultant* is the person or entity engaged by the *Owner* and identified as such in the Agreement. The *Consultant* is the Architect, the Engineer or entity licensed to practise in the province or territory of the *Place of the Work*. The term *Consultant* means the *Consultant* or the *Consultant's* authorized representative.

**5. Contract**

The *Contract* is the undertaking by the parties to perform their respective duties, responsibilities and obligations as prescribed in the *Contract Documents* and represents the entire agreement between the parties.

**6. Contract Documents**

The *Contract Documents* consist of those documents listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS and amendments agreed upon between the parties.

**7. Contract Price**

The *Contract Price* is the amount stipulated in Article A-4 of the Agreement - CONTRACT PRICE.

**8. Contract Time**

The *Contract Time* is the time stipulated in paragraph 1.3 of Article A-1 of the Agreement - THE WORK from commencement of the *Work* to *Substantial Performance of the Work*.

**9. Contractor**

The *Contractor* is the person or entity identified as such in the Agreement. The term *Contractor* means the *Contractor* or the *Contractor's* authorized representative as designated to the *Owner* in writing.

**10. Drawings**

The *Drawings* are the graphic and pictorial portions of the *Contract Documents*, wherever located and whenever issued, showing the design, location and dimensions of the *Work*, generally including plans, elevations, sections, details, and diagrams.

**11. Notice in Writing**

A *Notice in Writing*, where identified in the *Contract Documents*, is a written communication between the parties or between them and the *Consultant* that is transmitted in accordance with the provisions of Article A-6 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

**12. Owner**

The *Owner* is the person or entity identified as such in the Agreement. The term *Owner* means the *Owner* or the *Owner's* authorized agent or representative as designated to the *Contractor* in writing, but does not include the *Consultant*.

**13. Place of the Work**

The *Place of the Work* is the designated site or location of the *Work* identified in the *Contract Documents*.

**14. Product**

*Product or Products* means material, machinery, equipment, and fixtures forming the *Work*, but does not include *Construction Equipment*.

- 15. Project**  
The *Project* means the total construction contemplated of which the *Work* may be the whole or a part.
- 16. Provide**  
*Provide* means to supply and install.
- 17. Shop Drawings**  
*Shop Drawings* are drawings, diagrams, illustrations, schedules, performance charts, brochures, *Product* data, and other data which the *Contractor* provides to illustrate details of portions of the *Work*.
- 18. Specifications**  
The *Specifications* are that portion of the *Contract Documents*, wherever located and whenever issued, consisting of the written requirements and standards for *Products*, systems, workmanship, quality, and the services necessary for the performance of the *Work*.
- 19. Subcontractor**  
A *Subcontractor* is a person or entity having a direct contract with the *Contractor* to perform a part or parts of the *Work* at the *Place of the Work*.
- 20. Substantial Performance of the Work**  
*Substantial Performance of the Work* is as defined in the lien legislation applicable to the *Place of the Work*. If such legislation is not in force or does not contain such definition, or if the *Work* is governed by the Civil Code of Quebec, *Substantial Performance of the Work* shall have been reached when the *Work* is ready for use or is being used for the purpose intended and is so certified by the *Consultant*.
- 21. Supplemental Instruction**  
A *Supplemental Instruction* is an instruction, not involving adjustment in the *Contract Price* or *Contract Time*, in the form of *Specifications*, *Drawings*, schedules, samples, models or written instructions, consistent with the intent of the *Contract Documents*. It is to be issued by the *Consultant* to supplement the *Contract Documents* as required for the performance of the *Work*.
- 22. Supplier**  
A *Supplier* is a person or entity having a direct contract with the *Contractor* to supply *Products*.
- 23. Temporary Work**  
*Temporary Work* means temporary supports, structures, facilities, services, and other temporary items, excluding *Construction Equipment*, required for the execution of the *Work* but not incorporated into the *Work*.
- 24. Value Added Taxes**  
*Value Added Taxes* means such sum as shall be levied upon the *Contract Price* by the Federal or any Provincial or Territorial Government and is computed as a percentage of the *Contract Price* and includes the Goods and Services Tax, the Quebec Sales Tax, the Harmonized Sales Tax, and any similar tax, the collection and payment of which have been imposed on the *Contractor* by the tax legislation.
- 25. Work**  
The *Work* means the total construction and related services required by the *Contract Documents*.
- 26. Working Day**  
*Working Day* means a day other than a Saturday, Sunday, statutory holiday, or statutory vacation day that is observed by the construction industry in the area of the *Place of the Work*.

**GENERAL CONDITIONS OF THE STIPULATED PRICE CONTRACT****PART 1 GENERAL PROVISIONS****GC 1.1 CONTRACT DOCUMENTS**

- 1.1.1 The intent of the *Contract Documents* is to include the labour, *Products* and services necessary for the performance of the *Work* by the *Contractor* in accordance with these documents. It is not intended, however, that the *Contractor* shall supply products or perform work not consistent with, not covered by, or not properly inferable from the *Contract Documents*.
- 1.1.2 Nothing contained in the *Contract Documents* shall create any contractual relationship between:
- .1 the *Owner* and a *Subcontractor*, a *Supplier*, or their agent, employee, or other person performing any portion of the *Work*.
  - .2 the *Consultant* and the *Contractor*, a *Subcontractor*, a *Supplier*, or their agent, employee, or other person performing any portion of the *Work*.
- 1.1.3 The *Contract Documents* are complementary, and what is required by any one shall be as binding as if required by all.
- 1.1.4 Words and abbreviations which have well known technical or trade meanings are used in the *Contract Documents* in accordance with such recognized meanings.
- 1.1.5 References in the *Contract Documents* to the singular shall be considered to include the plural as the context requires.
- 1.1.6 Neither the organization of the *Specifications* nor the arrangement of *Drawings* shall control the *Contractor* in dividing the work among *Subcontractors* and *Suppliers*.
- 1.1.7 If there is a conflict within the *Contract Documents*:
- .1 the order of priority of documents, from highest to lowest, shall be
    - the Agreement between the *Owner* and the *Contractor*,
    - the Definitions,
    - Supplementary Conditions,
    - the General Conditions,
    - Division 1 of the *Specifications*,
    - technical *Specifications*,
    - material and finishing schedules,
    - the *Drawings*.
  - .2 *Drawings* of larger scale shall govern over those of smaller scale of the same date.
  - .3 dimensions shown on *Drawings* shall govern over dimensions scaled from *Drawings*.
  - .4 later dated documents shall govern over earlier documents of the same type.
- 1.1.8 The *Owner* shall provide the *Contractor*, without charge, sufficient copies of the *Contract Documents* to perform the *Work*.
- 1.1.9 *Specifications*, *Drawings*, models, and copies thereof furnished by the *Consultant* are and shall remain the *Consultant's* property, with the exception of the signed *Contract* sets, which shall belong to each party to the *Contract*. All *Specifications*, *Drawings* and models furnished by the *Consultant* are to be used only with respect to the *Work* and are not to be used on other work. These *Specifications*, *Drawings* and models are not to be copied or altered in any manner without the written authorization of the *Consultant*.
- 1.1.10 Models furnished by the *Contractor* at the *Owner's* expense are the property of the *Owner*.

**GC 1.2 LAW OF THE CONTRACT**

- 1.2.1 The law of the *Place of the Work* shall govern the interpretation of the *Contract*.

**GC 1.3 RIGHTS AND REMEDIES**

- 1.3.1 Except as expressly provided in the *Contract Documents*, the duties and obligations imposed by the *Contract Documents* and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.
- 1.3.2 No action or failure to act by the *Owner*, *Consultant* or *Contractor* shall constitute a waiver of any right or duty afforded any of them under the *Contract*, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## **GC 1.4 ASSIGNMENT**

- 1.4.1 Neither party to the *Contract* shall assign the *Contract* or a portion thereof without the written consent of the other, which consent shall not be unreasonably withheld.

## **PART 2 ADMINISTRATION OF THE CONTRACT**

### **GC 2.1 AUTHORITY OF THE CONSULTANT**

- 2.1.1 The *Consultant* will have authority to act on behalf of the *Owner* only to the extent provided in the *Contract Documents*, unless otherwise modified by written agreement as provided in paragraph 2.1.2.
- 2.1.2 The duties, responsibilities and limitations of authority of the *Consultant* as set forth in the *Contract Documents* shall be modified or extended only with the written consent of the *Owner*, the *Contractor* and the *Consultant*.
- 2.1.3 If the *Consultant's* employment is terminated, the *Owner* shall immediately appoint or reappoint a *Consultant* against whom the *Contractor* makes no reasonable objection and whose status under the *Contract Documents* shall be that of the former *Consultant*.

### **GC 2.2 ROLE OF THE CONSULTANT**

- 2.2.1 The *Consultant* will provide administration of the *Contract* as described in the *Contract Documents*.
- 2.2.2 The *Consultant* will visit the *Place of the Work* at intervals appropriate to the progress of construction to become familiar with the progress and quality of the work and to determine if the *Work* is proceeding in general conformity with the *Contract Documents*.
- 2.2.3 If the *Owner* and the *Consultant* agree, the *Consultant* will provide at the *Place of the Work*, one or more project representatives to assist in carrying out the *Consultant's* responsibilities. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in writing to the *Contractor*.
- 2.2.4 The *Consultant* will promptly inform the *Owner* of the date of receipt of the *Contractor's* applications for payment as provided in paragraph 5.3.1.1 of GC 5.3 – PROGRESS PAYMENT.
- 2.2.5 Based on the *Consultant's* observations and evaluation of the *Contractor's* applications for payment, the *Consultant* will determine the amounts owing to the *Contractor* under the *Contract* and will issue certificates for payment as provided in Article A-5 of the Agreement - PAYMENT, GC 5.3 - PROGRESS PAYMENT and GC 5.7 - FINAL PAYMENT.
- 2.2.6 The *Consultant* will not be responsible for and will not have control, charge or supervision of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs required in connection with the *Work* in accordance with the applicable construction safety legislation, other regulations or general construction practice. The *Consultant* will not be responsible for the *Contractor's* failure to carry out the *Work* in accordance with the *Contract Documents*. 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 persons performing portions of the *Work*.
- 2.2.7 Except with respect to GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER, the *Consultant* will be, in the first instance, the interpreter of the requirements of the *Contract Documents*.
- 2.2.8 Matters in question relating to the performance of the *Work* or the interpretation of the *Contract Documents* shall be initially referred in writing to the *Consultant* by the party raising the question for interpretations and findings and copied to the other party.
- 2.2.9 Interpretations and findings of the *Consultant* shall be consistent with the intent of the *Contract Documents*. In making such interpretations and findings the *Consultant* will not show partiality to either the *Owner* or the *Contractor*.
- 2.2.10 The *Consultant's* interpretations and findings will be given in writing to the parties within a reasonable time.
- 2.2.11 With respect to claims for a change in *Contract Price*, the *Consultant* will make findings as set out in GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE.
- 2.2.12 The *Consultant* will have authority to reject work which in the *Consultant's* opinion does not conform to the requirements of the *Contract Documents*. Whenever the *Consultant* considers it necessary or advisable, the *Consultant* will have authority to require inspection or testing of work, whether or not such work is fabricated, installed or completed. However, neither the authority of the *Consultant* to act nor any decision either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the *Consultant* to the *Contractor*, *Subcontractors*, *Suppliers*, or their agents, employees, or other persons performing any of the *Work*.



- 2.2.13 During the progress of the *Work* the *Consultant* will furnish *Supplemental Instructions* to the *Contractor* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Consultant* and the *Contractor*.
- 2.2.14 The *Consultant* will review and take appropriate action upon *Shop Drawings*, samples and other *Contractor's* submittals, in accordance with the *Contract Documents*.
- 2.2.15 The *Consultant* will prepare *Change Orders* and *Change Directives* as provided in GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 2.2.16 The *Consultant* will conduct reviews of the *Work* to determine the date of *Substantial Performance of the Work* as provided in GC 5.4 - SUBSTANTIAL PERFORMANCE OF THE WORK.
- 2.2.17 All certificates issued by the *Consultant* will be to the best of the *Consultant's* knowledge, information and belief. By issuing any certificate, the *Consultant* does not guarantee the *Work* is correct or complete.
- 2.2.18 The *Consultant* will receive and review written warranties and related documents required by the *Contract* and provided by the *Contractor* and will forward such warranties and documents to the *Owner* for the *Owner's* acceptance.

### **GC 2.3 REVIEW AND INSPECTION OF THE WORK**

- 2.3.1 The *Owner* and the *Consultant* shall have access to the *Work* at all times. The *Contractor* shall provide sufficient, safe and proper facilities at all times for the review of the *Work* by the *Consultant* and the inspection of the *Work* by authorized agencies. If parts of the *Work* are in preparation at locations other than the *Place of the Work*, the *Owner* and the *Consultant* shall be given access to such work whenever it is in progress.
- 2.3.2 If work is designated for tests, inspections or approvals in the *Contract Documents*, or by the *Consultant's* instructions, or by the laws or ordinances of the *Place of the Work*, the *Contractor* shall give the *Consultant* reasonable notification of when the work will be ready for review and inspection. The *Contractor* shall arrange for and shall give the *Consultant* reasonable notification of the date and time of inspections by other authorities.
- 2.3.3 The *Contractor* shall furnish promptly to the *Consultant* two copies of certificates and inspection reports relating to the *Work*.
- 2.3.4 If the *Contractor* covers, or permits to be covered, work that has been designated for special tests, inspections or approvals before such special tests, inspections or approvals are made, given or completed, the *Contractor* shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good covering work at the *Contractor's* expense.
- 2.3.5 The *Consultant* may order any portion or portions of the *Work* to be examined to confirm that such work is in accordance with the requirements of the *Contract Documents*. If the work is not in accordance with the requirements of the *Contract Documents*, the *Contractor* shall correct the work and pay the cost of examination and correction. If the work is in accordance with the requirements of the *Contract Documents*, the *Owner* shall pay the cost of examination and restoration.
- 2.3.6 The *Contractor* shall pay the cost of making any test or inspection, including the cost of samples required for such test or inspection, if such test or inspection is designated in the *Contract Documents* to be performed by the *Contractor* or is designated by the laws or ordinances applicable to the *Place of the Work*.
- 2.3.7 The *Contractor* shall pay the cost of samples required for any test or inspection to be performed by the *Consultant* or the *Owner* if such test or inspection is designated in the *Contract Documents*.

### **GC 2.4 DEFECTIVE WORK**

- 2.4.1 The *Contractor* shall promptly correct defective work that has been rejected by the *Consultant* as failing to conform to the *Contract Documents* whether or not the defective work has been incorporated in the *Work* and whether or not the defect is the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the *Contractor*.
- 2.4.2 The *Contractor* shall make good promptly other contractors' work destroyed or damaged by such corrections at the *Contractor's* expense.
- 2.4.3 If in the opinion of the *Consultant* it is not expedient to correct defective work or work not performed as provided in the *Contract Documents*, the *Owner* may deduct from the amount otherwise due to the *Contractor* the difference in value between the work as performed and that called for by the *Contract Documents*. If the *Owner* and the *Contractor* do not agree on the difference in value, they shall refer the matter to the *Consultant* for a determination.

## **PART 3 EXECUTION OF THE WORK**

### **GC 3.1 CONTROL OF THE WORK**

- 3.1.1 The *Contractor* shall have total control of the *Work* and shall effectively direct and supervise the *Work* so as to ensure conformity with the *Contract Documents*.
- 3.1.2 The *Contractor* shall be solely responsible for construction means, methods, techniques, sequences, and procedures and for co-ordinating the various parts of the *Work* under the *Contract*.

### **GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS**

- 3.2.1 The *Owner* reserves the right to award separate contracts in connection with other parts of the *Project* to other contractors and to perform work with own forces.
- 3.2.2 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Owner* shall:
- .1 provide for the co-ordination of the activities and work of other contractors and *Owner's* own forces with the *Work* of the *Contract*;
  - .2 assume overall responsibility for compliance with the applicable health and construction safety legislation at the *Place of the Work*;
  - .3 enter into separate contracts with other contractors under conditions of contract which are compatible with the conditions of the *Contract*;
  - .4 ensure that insurance coverage is provided to the same requirements as are called for in GC 11.1 - INSURANCE and co-ordinate such insurance with the insurance coverage of the *Contractor* as it affects the *Work*; and
  - .5 take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors or the *Owner's* own forces.
- 3.2.3 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Contractor* shall:
- .1 afford the *Owner* and other contractors reasonable opportunity to store their products and execute their work;
  - .2 cooperate with other contractors and the *Owner* in reviewing their construction schedules; and
  - .3 promptly report to the *Consultant* in writing any apparent deficiencies in the work of other contractors or of the *Owner's* own forces, where such work affects the proper execution of any portion of the *Work*, prior to proceeding with that portion of the *Work*.
- 3.2.4 Where the *Contract Documents* identify work to be performed by other contractors or the *Owner's* own forces, the *Contractor* shall co-ordinate and schedule the *Work* with the work of other contractors and the *Owner's* own forces as specified in the *Contract Documents*.
- 3.2.5 Where a change in the *Work* is required as a result of the co-ordination and integration of the work of other contractors or *Owner's* own forces with the *Work*, the changes shall be authorized and valued as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 3.2.6 Disputes and other matters in question between the *Contractor* and other contractors shall be dealt with as provided in Part 8 of the General Conditions - DISPUTE RESOLUTION provided the other contractors have reciprocal obligations. The *Contractor* shall be deemed to have consented to arbitration of any dispute with any other contractor whose contract with the *Owner* contains a similar agreement to arbitrate.

### **GC 3.3 TEMPORARY WORK**

- 3.3.1 The *Contractor* shall have the sole responsibility for the design, erection, operation, maintenance, and removal of *Temporary Work*.
- 3.3.2 The *Contractor* shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform those functions referred to in paragraph 3.3.1 where required by law or by the *Contract Documents* and in all cases where such *Temporary Work* is of such a nature that professional engineering skill is required to produce safe and satisfactory results.

3.3.3 Notwithstanding the provisions of GC 3.1 - CONTROL OF THE WORK, paragraphs 3.3.1 and 3.3.2 or provisions to the contrary elsewhere in the *Contract Documents* where such *Contract Documents* include designs for *Temporary Work* or specify a method of construction in whole or in part, such designs or methods of construction shall be considered to be part of the design of the *Work* and the *Contractor* shall not be held responsible for that part of the design or the specified method of construction. The *Contractor* shall, however, be responsible for the execution of such design or specified method of construction in the same manner as for the execution of the *Work*.

#### **GC 3.4 DOCUMENT REVIEW**

3.4.1 The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* any error, inconsistency or omission the *Contractor* may discover. Such review by the *Contractor* shall be to the best of the *Contractor's* knowledge, information and belief and in making such review the *Contractor* does not assume any responsibility to the *Owner* or the *Consultant* for the accuracy of the review. The *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies or omissions in the *Contract Documents*, which the *Contractor* did not discover. If the *Contractor* does discover any error, inconsistency or omission in the *Contract Documents*, the *Contractor* shall not proceed with the work affected until the *Contractor* has received corrected or missing information from the *Consultant*.

#### **GC 3.5 CONSTRUCTION SCHEDULE**

3.5.1 The *Contractor* shall:

- .1 prepare and submit to the *Owner* and the *Consultant* prior to the first application for payment, a construction schedule that indicates the timing of the major activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate the *Work* will be performed in conformity with the *Contract Time*;
- .2 monitor the progress of the *Work* relative to the construction schedule and update the schedule on a monthly basis or as stipulated by the *Contract Documents*; and
- .3 advise the *Consultant* of any revisions required to the schedule as the result of extensions of the *Contract Time* as provided in Part 6 of the General Conditions - CHANGES IN THE WORK.

#### **GC 3.6 SUPERVISION**

3.6.1 The *Contractor* shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the *Place of the Work* while work is being performed. The appointed representative shall not be changed except for valid reason.

3.6.2 The appointed representative shall represent the *Contractor* at the *Place of the Work*. Information and instructions provided by the *Consultant* to the *Contractor's* appointed representative shall be deemed to have been received by the *Contractor*, except with respect to Article A-6 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

#### **GC 3.7 SUBCONTRACTORS AND SUPPLIERS**

3.7.1 The *Contractor* shall preserve and protect the rights of the parties under the *Contract* with respect to work to be performed under subcontract, and shall:

- .1 enter into contracts or written agreements with *Subcontractors* and *Suppliers* to require them to perform their work as provided in the *Contract Documents*;
- .2 incorporate the terms and conditions of the *Contract Documents* into all contracts or written agreements with *Subcontractors* and *Suppliers*; and
- .3 be as fully responsible to the *Owner* for acts and omissions of *Subcontractors*, *Suppliers* and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Contractor*.

3.7.2 The *Contractor* shall indicate in writing, if requested by the *Owner*, those *Subcontractors* or *Suppliers* whose bids have been received by the *Contractor* which the *Contractor* would be prepared to accept for the performance of a portion of the *Work*. Should the *Owner* not object before signing the *Contract*, the *Contractor* shall employ those *Subcontractors* or *Suppliers* so identified by the *Contractor* in writing for the performance of that portion of the *Work* to which their bid applies.

3.7.3 The *Owner* may, for reasonable cause, at any time before the *Owner* has signed the *Contract*, object to the use of a proposed *Subcontractor* or *Supplier* and require the *Contractor* to employ one of the other subcontract bidders.

3.7.4 If the *Owner* requires the *Contractor* to change a proposed *Subcontractor* or *Supplier*, the *Contract Price* and *Contract Time* shall be adjusted by the differences occasioned by such required change.

- 3.7.5 The *Contractor* shall not be required to employ as a *Subcontractor* or *Supplier*, a person or firm to which the *Contractor* may reasonably object.
- 3.7.6 The *Owner*, through the *Consultant*, may provide to a *Subcontractor* or *Supplier* information as to the percentage of the *Subcontractor's* or *Supplier's* work which has been certified for payment.

### **GC 3.8 LABOUR AND PRODUCTS**

- 3.8.1 The *Contractor* shall provide and pay for labour, *Products*, tools, *Construction Equipment*, water, heat, light, power, transportation, and other facilities and services necessary for the performance of the *Work* in accordance with the *Contract*.
- 3.8.2 Unless otherwise specified in the *Contract Documents*, *Products* provided shall be new. *Products* which are not specified shall be of a quality consistent with those specified and their use acceptable to the *Consultant*.
- 3.8.3 The *Contractor* shall maintain good order and discipline among the *Contractor's* employees engaged on the *Work* and shall not employ on the *Work* anyone not skilled in the tasks assigned.

### **GC 3.9 DOCUMENTS AT THE SITE**

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

### **GC 3.10 SHOP DRAWINGS**

- 3.10.1 The *Contractor* shall provide *Shop Drawings* as required in the *Contract Documents*.
- 3.10.2 The *Contractor* shall provide *Shop Drawings* to the *Consultant* to review in orderly sequence and sufficiently in advance so as to cause no delay in the *Work* or in the work of other contractors.
- 3.10.3 Upon request of the *Contractor* or the *Consultant*, they shall jointly prepare a schedule of the dates for provision, review and return of *Shop Drawings*.
- 3.10.4 The *Contractor* shall provide *Shop Drawings* in the form specified, or if not specified, as directed by the *Consultant*.
- 3.10.5 *Shop Drawings* provided by the *Contractor* to the *Consultant* shall indicate by stamp, date and signature of the person responsible for the review that the *Contractor* has reviewed each one of them.
- 3.10.6 The *Consultant's* review is for conformity to the design concept and for general arrangement only.
- 3.10.7 *Shop Drawings* which require approval of any legally constituted authority having jurisdiction shall be provided to such authority by the *Contractor* for approval.
- 3.10.8 The *Contractor* shall review all *Shop Drawings* before providing them to the *Consultant*. The *Contractor* represents by this review that:
- .1 the *Contractor* has determined and verified all applicable field measurements, field construction conditions, *Product* requirements, catalogue numbers and similar data, or will do so, and
  - .2 the *Contractor* has checked and co-ordinated each *Shop Drawing* with the requirements of the *Work* and of the *Contract Documents*.
- 3.10.9 At the time of providing *Shop Drawings*, the *Contractor* shall expressly advise the *Consultant* in writing of any deviations in a *Shop Drawing* from the requirements of the *Contract Documents*. The *Consultant* shall indicate the acceptance or rejection of such deviation expressly in writing.
- 3.10.10 The *Consultant's* review shall not relieve the *Contractor* of responsibility for errors or omissions in the *Shop Drawings* or for meeting all requirements of the *Contract Documents*.
- 3.10.11 The *Contractor* shall provide revised *Shop Drawings* to correct those which the *Consultant* rejects as inconsistent with the *Contract Documents*, unless otherwise directed by the *Consultant*. The *Contractor* shall notify the *Consultant* in writing of any revisions to the *Shop Drawings* other than those requested by the *Consultant*.
- 3.10.12 The *Consultant* will review and return *Shop Drawings* in accordance with the schedule agreed upon, or, in the absence of such schedule, with reasonable promptness so as to cause no delay in the performance of the *Work*.

### **GC 3.11 USE OF THE WORK**

- 3.11.1 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*.
- 3.11.2 The *Contractor* shall not load or permit to be loaded any part of the *Work* with a weight or force that will endanger the safety of the *Work*.

### **GC 3.12 CUTTING AND REMEDIAL WORK**

- 3.12.1 The *Contractor* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly.
- 3.12.2 The *Contractor* shall co-ordinate the *Work* to ensure that the cutting and remedial work is kept to a minimum.
- 3.12.3 Should the *Owner*, the *Consultant*, other contractors or anyone employed by them be responsible for ill-timed work necessitating cutting or remedial work to be performed, the cost of such cutting or remedial work shall be valued as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 3.12.4 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 3.13 CLEANUP**

- 3.13.1 The *Contractor* shall maintain the *Work* in a safe and tidy condition and free from the accumulation of waste products and debris, other than that caused by the *Owner*, other contractors or their employees.
- 3.13.2 Before applying for *Substantial Performance of the Work* as provided in GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK, 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.
- 3.13.3 Prior to application for the final payment, the *Contractor* shall remove any remaining products, tools, *Construction Equipment*, *Temporary Work*, and waste products and debris, other than those resulting from the work of the *Owner*, other contractors or their employees.

## **PART 4 ALLOWANCES**

### **GC 4.1 CASH ALLOWANCES**

- 4.1.1 The *Contract Price* includes the cash allowances, if any, stated in the *Contract Documents*. The scope of work or costs included in such cash allowances shall be as described in the *Contract Documents*.
- 4.1.2 The *Contract Price*, and not the cash allowances, includes the *Contractor's* overhead and profit in connection with such cash allowances.
- 4.1.3 Expenditures under cash allowances shall be authorized by the *Owner* through the *Consultant*.
- 4.1.4 Where the actual cost of the *Work* under any cash allowance exceeds the amount of the allowance, the *Contractor* shall be compensated for the excess incurred and substantiated plus an amount for overhead and profit on the excess as set out in the *Contract Documents*. Where the actual cost of the *Work* under any cash allowance is less than the amount of the allowance, the *Owner* shall be credited for the unexpended portion of the cash allowance, but not for the *Contractor's* overhead and profit on such amount. Multiple cash allowances shall not be combined for the purpose of calculating the foregoing.
- 4.1.5 The *Contract Price* shall be adjusted by *Change Order* to provide for any difference between the amount of each cash allowance and the actual cost of the work under that cash allowance.
- 4.1.6 The value of the work performed under a cash allowance is eligible to be included in progress payments.
- 4.1.7 The *Contractor* and the *Consultant* shall jointly prepare a schedule that shows when the *Consultant* and *Owner* must authorize ordering of items called for under cash allowances to avoid delaying the progress of the *Work*.

## **GC 4.2 CONTINGENCY ALLOWANCE**

- 4.2.1 The *Contract Price* includes the contingency allowance, if any, stated in the *Contract Documents*.
- 4.2.2 The contingency allowance includes the *Contractor's* overhead and profit in connection with such contingency allowance.
- 4.2.3 Expenditures under the contingency allowance shall be authorized and valued as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 4.2.4 The *Contract Price* shall be adjusted by *Change Order* to provide for any difference between the expenditures authorized under paragraph 4.2.3 and the contingency allowance.

## **PART 5 PAYMENT**

### **GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER**

- 5.1.1 The *Owner* shall, at the request of the *Contractor*, before signing the *Contract*, and promptly from time to time thereafter, furnish to the *Contractor* reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*.
- 5.1.2 The *Owner* shall give the *Contractor Notice in Writing* of any material change in the *Owner's* financial arrangements to fulfill the *Owner's* obligations under the *Contract* during the performance of the *Contract*.

### **GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT**

- 5.2.1 Applications for payment on account as provided in Article A-5 of the Agreement - PAYMENT may be made monthly as the *Work* progresses.
- 5.2.2 Applications for payment shall be dated the last day of each payment period, which is the last day of the month or an alternative day of the month agreed in writing by the parties.
- 5.2.3 The amount claimed shall be for the value, proportionate to the amount of the *Contract*, of *Work* performed and *Products* delivered to the *Place of the Work* as of the last day of the payment period.
- 5.2.4 The *Contractor* shall submit to the *Consultant*, at least 15 calendar days before the first application for payment, a schedule of values for the parts of the *Work*, aggregating the total amount of the *Contract Price*, so as to facilitate evaluation of applications for payment.
- 5.2.5 The schedule of values shall be made out in such form and supported by such evidence as the *Consultant* may reasonably direct and when accepted by the *Consultant*, shall be used as the basis for applications for payment, unless it is found to be in error.
- 5.2.6 The *Contractor* shall include a statement based on the schedule of values with each application for payment.
- 5.2.7 Applications for payment for *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall be supported by such evidence as the *Consultant* may reasonably require to establish the value and delivery of the *Products*.

### **GC 5.3 PROGRESS PAYMENT**

- 5.3.1 After receipt by the *Consultant* of an application for payment submitted by the *Contractor* in accordance with GC 5.2 - APPLICATIONS FOR PROGRESS PAYMENT:
  - .1 the *Consultant* will promptly inform the *Owner* of the date of receipt of the *Contractor's* application for payment,
  - .2 the *Consultant* will issue to the *Owner* and copy to the *Contractor*, no later than 10 calendar days after the receipt of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due. If the *Consultant* amends the application, the *Consultant* will promptly advise the *Contractor* in writing giving reasons for the amendment,
  - .3 the *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement - PAYMENT on or before 20 calendar days after the later of:
    - receipt by the *Consultant* of the application for payment, or
    - the last day of the monthly payment period for which the application for payment is made.

#### **GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK**

- 5.4.1 When the *Contractor* considers that the *Work* is substantially performed, or if permitted by the lien legislation applicable to the *Place of the Work* a designated portion thereof which the *Owner* agrees to accept separately is substantially performed, the *Contractor* shall, within one *Working Day*, deliver to the *Consultant* and to the *Owner* a comprehensive list of items to be completed or corrected, together with a written application for a review by the *Consultant* to establish *Substantial Performance of the Work* or substantial performance of the designated portion of the *Work*. Failure to include an item on the list does not alter the responsibility of the *Contractor* to complete the *Contract*.
- 5.4.2 The *Consultant* will review the *Work* to verify the validity of the application and shall promptly, and in any event, no later than 20 calendar days after receipt of the *Contractor's* list and application:
- .1 advise the *Contractor* in writing that the *Work* or the designated portion of the *Work* is not substantially performed and give reasons why, or
  - .2 state the date of *Substantial Performance of the Work* or a designated portion of the *Work* in a certificate and issue a copy of that certificate to each of the *Owner* and the *Contractor*.
- 5.4.3 Immediately following the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor*, in consultation with the *Consultant*, shall establish a reasonable date for finishing the *Work*.

#### **GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK**

- 5.5.1 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.
- 5.5.2 After the receipt of an application for payment from the *Contractor* and the statement as provided in paragraph 5.5.1, the *Consultant* will issue a certificate for payment of the holdback amount.
- 5.5.3 Where the holdback amount required by the applicable lien legislation has not been placed in a separate holdback account, the *Owner* shall, 10 calendar days prior to the expiry of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*, place the holdback amount in a bank account in the joint names of the *Owner* and the *Contractor*.
- 5.5.4 In the common law jurisdictions, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable on the first calendar day following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice or provisions which may be agreed to between the parties. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.
- 5.5.5 In the Province of Quebec, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable 30 calendar days after the issuance of the certificate. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.

#### **GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK**

- 5.6.1 In the common law jurisdictions, where legislation permits and where, upon application by the *Contractor*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Contractor* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, on the first calendar day following the expiration of the holdback period for such work stipulated in the lien 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 against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.

- 5.6.2 In the Province of Quebec, where, upon application by the *Contractor*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Contractor* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, no later than 30 calendar days after such certification by the *Consultant*. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.
- 5.6.3 Notwithstanding the provisions of the preceding paragraphs, and notwithstanding the wording of such certificates, the *Contractor* shall ensure that such subcontract work or *Products* are protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when such certificates were issued.

#### **GC 5.7 FINAL PAYMENT**

- 5.7.1 When the *Contractor* considers that the *Work* is completed, the *Contractor* shall submit an application for final payment.
- 5.7.2 The *Consultant* will, no later than 10 calendar days after the receipt of an application from the *Contractor* for final payment, review the *Work* to verify the validity of the application and advise the *Contractor* in writing that the application is valid or give reasons why it is not valid.
- 5.7.3 When the *Consultant* finds the *Contractor's* application for final payment valid, the *Consultant* will promptly issue a final certificate for payment.
- 5.7.4 Subject to the provision of paragraph 10.4.1 of GC 10.4 - WORKERS' COMPENSATION, and any lien legislation applicable to the *Place of the Work*, the *Owner* shall, no later than 5 calendar days after the issuance of a final certificate for payment, pay the *Contractor* as provided in Article A-5 of the Agreement - PAYMENT.

#### **GC 5.8 WITHHOLDING OF PAYMENT**

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

#### **GC 5.9 NON-CONFORMING WORK**

- 5.9.1 No payment by the *Owner* under the *Contract* nor partial or entire use or occupancy of the *Work* by the *Owner* shall constitute an acceptance of any portion of the *Work* or *Products* which are not in accordance with the requirements of the *Contract Documents*.

### **PART 6 CHANGES IN THE WORK**

#### **GC 6.1 OWNER'S RIGHT TO MAKE CHANGES**

- 6.1.1 The *Owner*, through the *Consultant*, without invalidating the *Contract*, may make:
- .1 changes in the *Work* consisting of additions, deletions or other revisions to the *Work* by *Change Order* or *Change Directive*, and
  - .2 changes to the *Contract Time* for the *Work*, or any part thereof, by *Change Order*.
- 6.1.2 The *Contractor* shall not perform a change in the *Work* without a *Change Order* or a *Change Directive*.

#### **GC 6.2 CHANGE ORDER**

- 6.2.1 When a change in the *Work* is proposed or required, the *Consultant* will provide the *Contractor* with a written description of the proposed change in the *Work*. The *Contractor* shall promptly present, in a form acceptable to the *Consultant*, a method of adjustment or an amount of adjustment for the *Contract Price*, if any, and the adjustment in the *Contract Time*, if any, for the proposed change in the *Work*.
- 6.2.2 When the *Owner* and *Contractor* agree to the adjustments in the *Contract Price* and *Contract Time* or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a *Change Order*. The value of the work performed as the result of a *Change Order* shall be included in the application for progress payment.



### GC 6.3 CHANGE DIRECTIVE

- 6.3.1 If the *Owner* requires the *Contractor* to proceed with a change in the *Work* prior to the *Owner* and the *Contractor* agreeing upon the corresponding adjustment in *Contract Price* and *Contract Time*, the *Owner*, through the *Consultant*, shall issue a *Change Directive*.
- 6.3.2 A *Change Directive* shall only be used to direct a change in the *Work* which is within the general scope of the *Contract Documents*.
- 6.3.3 A *Change Directive* shall not be used to direct a change in the *Contract Time* only.
- 6.3.4 Upon receipt of a *Change Directive*, the *Contractor* shall proceed promptly with the change in the *Work*.
- 6.3.5 For the purpose of valuing *Change Directives*, changes in the *Work* that are not substitutions or otherwise related to each other shall not be grouped together in the same *Change Directive*.
- 6.3.6 The adjustment in the *Contract Price* for a change carried out by way of a *Change Directive* shall be determined on the basis of the cost of the *Contractor's* actual expenditures and savings attributable to the *Change Directive*, valued in accordance with paragraph 6.3.7 and as follows:
- 1 If the change results in a net increase in the *Contractor's* cost, the *Contract Price* shall be increased by the amount of the net increase in the *Contractor's* cost, plus the *Contractor's* percentage fee on such net increase.
  - 2 If the change results in a net decrease in the *Contractor's* cost, the *Contract Price* shall be decreased by the amount of the net decrease in the *Contractor's* cost, without adjustment for the *Contractor's* percentage fee.
  - 3 The *Contractor's* fee shall be as specified in the *Contract Documents* or as otherwise agreed by the parties.
- 6.3.7 The cost of performing the work attributable to the *Change Directive* shall be limited to the actual cost of the following:
- 1 salaries, wages and benefits paid to personnel in the direct employ of the *Contractor* under a salary or wage schedule agreed upon by the *Owner* and the *Contractor*, or in the absence of such a schedule, actual salaries, wages and benefits paid under applicable bargaining agreement, and in the absence of a salary or wage schedule and bargaining agreement, actual salaries, wages and benefits paid by the *Contractor*, for personnel
    - (1) stationed at the *Contractor's* field office, in whatever capacity employed;
    - (2) engaged in expediting the production or transportation of material or equipment, at shops or on the road;
    - (3) engaged in the preparation or review of *Shop Drawings*, fabrication drawings, and coordination drawings; or
    - (4) engaged in the processing of changes in the *Work*.
  - 2 contributions, assessments or taxes incurred for such items as employment insurance, provincial or territorial health insurance, workers' compensation, and Canada or Quebec Pension Plan, insofar as such cost is based on wages, salaries or other remuneration paid to employees of the *Contractor* and included in the cost of the *Work* as provided in paragraph 6.3.7.1;
  - 3 travel and subsistence expenses of the *Contractor's* personnel described in paragraph 6.3.7.1;
  - 4 all *Products* including cost of transportation thereof;
  - 5 materials, supplies, *Construction Equipment*, *Temporary Work*, and hand tools not owned by the workers, including transportation and maintenance thereof, which are consumed in the performance of the *Work*; and cost less salvage value on such items used but not consumed, which remain the property of the *Contractor*;
  - 6 all tools and *Construction Equipment*, exclusive of hand tools used in the performance of the *Work*, whether rented from or provided by the *Contractor* or others, including installation, minor repairs and replacements, dismantling, removal, transportation, and delivery cost thereof;
  - 7 all equipment and services required for the *Contractor's* field office;
  - 8 deposits lost;
  - 9 the amounts of all subcontracts;
  - 10 quality assurance such as independent inspection and testing services;
  - 11 charges levied by authorities having jurisdiction at the *Place of the Work*;
  - 12 royalties, patent licence fees and damages for infringement of patents and cost of defending suits therefor subject always to the *Contractor's* obligations to indemnify the *Owner* as provided in paragraph 10.3.1 of GC 10.3 - PATENT FEES;
  - 13 any adjustment in premiums for all bonds and insurance which the *Contractor* is required, by the *Contract Documents*, to purchase and maintain;
  - 14 any adjustment in taxes, other than *Value Added Taxes*, and duties for which the *Contractor* is liable;
  - 15 charges for long distance telephone and facsimile communications, courier services, expressage, and petty cash items incurred in relation to the performance of the *Work*;
  - 16 removal and disposal of waste products and debris; and
  - 17 safety measures and requirements.

- 6.3.8 Notwithstanding any other provisions contained in the General Conditions of the *Contract*, it is the intention of the parties that the cost of any item under any cost element referred to in paragraph 6.3.7 shall cover and include any and all costs or liabilities attributable to the *Change Directive* other than those which are the result of or occasioned by any failure on the part of the *Contractor* to exercise reasonable care and diligence in the *Contractor's* attention to the *Work*. Any cost due to failure on the part of the *Contractor* to exercise reasonable care and diligence in the *Contractor's* attention to the *Work* shall be borne by the *Contractor*.
- 6.3.9 The *Contractor* shall keep full and detailed accounts and records necessary for the documentation of the cost of performing the *Work* attributable to the *Change Directive* and shall provide the *Consultant* with copies thereof when requested.
- 6.3.10 For the purpose of valuing *Change Directives*, the *Owner* shall be afforded reasonable access to all of the *Contractor's* pertinent documents related to the cost of performing the *Work* attributable to the *Change Directive*.
- 6.3.11 Pending determination of the final amount of a *Change Directive*, the undisputed value of the *Work* performed as the result of a *Change Directive* is eligible to be included in progress payments.
- 6.3.12 If the *Owner* and the *Contractor* do not agree on the proposed adjustment in the *Contract Time* attributable to the change in the *Work*, or the method of determining it, the adjustment shall be referred to the *Consultant* for determination.
- 6.3.13 When the *Owner* and the *Contractor* reach agreement on the adjustment to the *Contract Price* and to the *Contract Time*, this agreement shall be recorded in a *Change Order*.

#### **GC 6.4 CONCEALED OR UNKNOWN CONDITIONS**

- 6.4.1 If the *Owner* or the *Contractor* discover conditions at the *Place of the Work* which are:
- .1 subsurface or otherwise concealed physical conditions which existed before the commencement of the *Work* which differ materially from those indicated in the *Contract Documents*; or
  - .2 physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the *Contract Documents*,
- then the observing party shall give *Notice in Writing* to the other party of such conditions before they are disturbed and in no event later than 5 *Working Days* after first observance of the conditions.
- 6.4.2 The *Consultant* will promptly investigate such conditions and make a finding. If the finding is that the conditions differ materially and this would cause an increase or decrease in the *Contractor's* cost or time to perform the *Work*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 - CHANGE ORDER or GC 6.3 - CHANGE DIRECTIVE.
- 6.4.3 If the *Consultant* finds that the conditions at the *Place of the Work* are not materially different or that no change in the *Contract Price* or the *Contract Time* is justified, the *Consultant* will report the reasons for this finding to the *Owner* and the *Contractor* in writing.
- 6.4.4 If such concealed or unknown conditions relate to toxic and hazardous substances and materials, artifacts and fossils, or mould, the parties will be governed by the provisions of GC 9.2 - TOXIC AND HAZARDOUS SUBSTANCES, GC 9.3 - ARTIFACTS AND FOSSILS and GC 9.5 – MOULD.

#### **GC 6.5 DELAYS**

- 6.5.1 If the *Contractor* is delayed in the performance of the *Work* by an action or omission of the *Owner*, *Consultant* or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the *Contract Documents*, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. The *Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Contractor* as the result of such delay.
- 6.5.2 If the *Contractor* is delayed in the performance of the *Work* by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Contractor* or any person employed or engaged by the *Contractor* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. The *Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Contractor* as the result of such delay.

- 6.5.3 If the *Contractor* is delayed in the performance of the *Work* by:
- 1 labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the *Contractor* is a member or to which the *Contractor* is otherwise bound),
  - 2 fire, unusual delay by common carriers or unavoidable casualties,
  - 3 abnormally adverse weather conditions, or
  - 4 any cause beyond the *Contractor's* control other than one resulting from a default or breach of *Contract* by the *Contractor*,
- then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Contractor* agrees to a shorter extension. The *Contractor* shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the *Owner*, *Consultant* or anyone employed or engaged by them directly or indirectly.
- 6.5.4 No extension shall be made for delay unless *Notice in Writing* of the cause of delay is given to the *Consultant* not later than 10 *Working Days* after the commencement of the delay. In the case of a continuing cause of delay only one *Notice in Writing* shall be necessary.
- 6.5.5 If no schedule is made under paragraph 2.2.13 of GC 2.2 - ROLE OF THE CONSULTANT, then no request for extension shall be made because of failure of the *Consultant* to furnish instructions until 10 *Working Days* after demand for such instructions has been made.

## **GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE**

- 6.6.1 If the *Contractor* intends to make a claim for an increase to the *Contract Price*, or if the *Owner* intends to make a claim against the *Contractor* for a credit to the *Contract Price*, the party that intends to make the claim shall give timely *Notice in Writing* of intent to claim to the other party and to the *Consultant*.
- 6.6.2 Upon commencement of the event or series of events giving rise to a claim, the party intending to make the claim shall:
- 1 take all reasonable measures to mitigate any loss or expense which may be incurred as a result of such event or series of events, and
  - 2 keep such records as may be necessary to support the claim.
- 6.6.3 The party making the claim shall submit within a reasonable time to the *Consultant* a detailed account of the amount claimed and the grounds upon which the claim is based.
- 6.6.4 Where the event or series of events giving rise to the claim has a continuing effect, the detailed account submitted under paragraph 6.6.3 shall be considered to be an interim account and the party making the claim shall, at such intervals as the *Consultant* may reasonably require, submit further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 6.6.5 The *Consultant's* findings, with respect to a claim made by either party, will be given by *Notice in Writing* to both parties within 30 *Working Days* after receipt of the claim by the *Consultant*, or within such other time period as may be agreed by the parties.
- 6.6.6 If such finding is not acceptable to either party, the claim shall be settled in accordance with Part 8 of the General Conditions - DISPUTE RESOLUTION.

## **PART 7 DEFAULT NOTICE**

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

- 7.1.1 If the *Contractor* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Contractor's* insolvency, or if a receiver is appointed because of the *Contractor's* insolvency, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, terminate the *Contractor's* right to continue with the *Work*, by giving the *Contractor* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.1.2 If the *Contractor* neglects to prosecute the *Work* properly or otherwise fails to comply with the requirements of the *Contract* to a substantial degree and if the *Consultant* has given a written statement to the *Owner* and *Contractor* that sufficient cause exists to justify such action, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Contractor* *Notice in Writing* that the *Contractor* is in default of the *Contractor's* contractual obligations and instruct the *Contractor* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.

- 7.1.3 If the default cannot be corrected in the 5 *Working Days* specified or in such other time period as may be subsequently agreed in writing by the parties, the *Contractor* shall be in compliance with the *Owner's* instructions if the *Contractor*:
- .1 commences the correction of the default within the specified time, and
  - .2 provides the *Owner* with an acceptable schedule for such correction, and
  - .3 corrects the default in accordance with the *Contract* terms and with such schedule.
- 7.1.4 If the *Contractor* fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the *Owner* may have, the *Owner* may:
- .1 correct such default and deduct the cost thereof from any payment then or thereafter due the *Contractor* provided the *Consultant* has certified such cost to the *Owner* and the *Contractor*, or
  - .2 terminate the *Contractor's* right to continue with the *Work* in whole or in part or terminate the *Contract*.
- 7.1.5 If the *Owner* terminates the *Contractor's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Owner* shall be entitled to:
- .1 take possession of the *Work* and *Products* at the *Place of the Work*; subject to the rights of third parties, utilize the *Construction Equipment* at the *Place of the Work*; finish the *Work* by whatever method the *Owner* may consider expedient, but without undue delay or expense, and
  - .2 withhold further payment to the *Contractor* until a final certificate for payment is issued, and
  - .3 charge the *Contractor* the amount by which the full cost of finishing the *Work* as certified by the *Consultant*, including compensation to the *Consultant* for the *Consultant's* additional services and a reasonable allowance as determined by the *Consultant* to cover the cost of corrections to work performed by the *Contractor* that may be required under GC 12.3 - WARRANTY, exceeds the unpaid balance of the *Contract Price*; however, if such cost of finishing the *Work* is less than the unpaid balance of the *Contract Price*, the *Owner* shall pay the *Contractor* the difference, and
  - .4 on expiry of the warranty period, charge the *Contractor* the amount by which the cost of corrections to the *Contractor's* work under GC 12.3 - WARRANTY exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the *Contractor* the difference.
- 7.1.6 The *Contractor's* obligation under the *Contract* as to quality, correction and warranty of the work performed by the *Contractor* up to the time of termination shall continue after such termination of the *Contract*.

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

- 7.2.1 If the *Owner* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Owner's* insolvency, or if a receiver is appointed because of the *Owner's* insolvency, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, terminate the *Contract* by giving the *Owner* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.2.2 If the *Work* is suspended or otherwise delayed for a period of 20 *Working Days* or more under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Contractor* or of anyone directly or indirectly employed or engaged by the *Contractor*, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, terminate the *Contract* by giving the *Owner* *Notice in Writing* to that effect.
- 7.2.3 The *Contractor* may give *Notice in Writing* to the *Owner*, with a copy to the *Consultant*, that the *Owner* is in default of the *Owner's* contractual obligations if:
- .1 the *Owner* fails to furnish, when so requested by the *Contractor*, reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*, or
  - .2 the *Consultant* fails to issue a certificate as provided in GC 5.3 - PROGRESS PAYMENT, or
  - .3 the *Owner* fails to pay the *Contractor* when due the amounts certified by the *Consultant* or awarded by arbitration or court, or
  - .4 the *Owner* violates the requirements of the *Contract* to a substantial degree and the *Consultant*, except for GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER, confirms by written statement to the *Contractor* that sufficient cause exists.
- 7.2.4 The *Contractor's* *Notice in Writing* to the *Owner* provided under paragraph 7.2.3 shall advise that if the default is not corrected within 5 *Working Days* following the receipt of the *Notice in Writing*, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, suspend the *Work* or terminate the *Contract*.
- 7.2.5 If the *Contractor* terminates the *Contract* under the conditions set out above, the *Contractor* shall be entitled to be paid for all work performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Contractor* may have sustained as a result of the termination of the *Contract*.

## **PART 8 DISPUTE RESOLUTION**

### **GC 8.1 AUTHORITY OF THE CONSULTANT**

- 8.1.1 Differences between the parties to the *Contract* as to the interpretation, application or administration of the *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 findings of the *Consultant* as provided in GC 2.2 - ROLE OF THE CONSULTANT, shall be settled in accordance with the requirements of Part 8 of the General Conditions - DISPUTE RESOLUTION.
- 8.1.2 If a dispute arises under the *Contract* in respect of a matter in which the *Consultant* has no authority under the *Contract* to make a finding, the procedures set out in paragraph 8.1.3 and paragraphs 8.2.3 to 8.2.8 of GC 8.2 - NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.3 - RETENTION OF RIGHTS apply to that dispute with the necessary changes to detail as may be required.
- 8.1.3 If a dispute is not resolved promptly, the *Consultant* will give such instructions as in the *Consultant's* 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 the party 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* 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, including costs resulting from interruption of the *Work*.

### **GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION**

- 8.2.1 In accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing, the parties shall appoint a Project Mediator
- .1 within 20 *Working Days* after the *Contract* was awarded, or
  - .2 if the parties neglected to make an appointment within the 20 *Working Days*, within 10 *Working Days* after either party by *Notice in Writing* requests that the Project Mediator be appointed.
- 8.2.2 A party shall be conclusively deemed to have accepted a finding of the *Consultant* under GC 2.2 - ROLE OF THE CONSULTANT and to have expressly waived and released the other party from any claims in respect of the particular matter dealt with in that finding unless, within 15 *Working Days* after receipt of that finding, the party sends a *Notice in Writing* of dispute to the other party and to the *Consultant*, which contains the particulars of the matter in dispute and the relevant provisions of the *Contract Documents*. The responding party shall send a *Notice in Writing* of reply to the dispute within 10 *Working Days* after receipt of such *Notice in Writing* setting out particulars of this response and any relevant provisions of the *Contract Documents*.
- 8.2.3 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations.
- 8.2.4 After a period of 10 *Working Days* following receipt of a responding party's *Notice in Writing* of reply under paragraph 8.2.2, the parties shall request the Project Mediator to assist the parties to reach agreement on any unresolved dispute. The mediated negotiations shall be conducted in accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing.
- 8.2.5 If the dispute has not been resolved within 10 *Working Days* after the Project Mediator was requested under paragraph 8.2.4 or within such further period agreed by the parties, the Project Mediator shall terminate the mediated negotiations by giving *Notice in Writing* to the *Owner*, the *Contractor* and the *Consultant*.
- 8.2.6 By giving a *Notice in Writing* to the other party and the *Consultant*, not later than 10 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.2.5, either party may refer the dispute to be finally resolved by arbitration under the Rules for Arbitration of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing. The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- 8.2.7 On expiration of the 10 *Working Days*, the arbitration agreement under paragraph 8.2.6 is not binding on the parties and, if a *Notice in Writing* is not given under paragraph 8.2.6 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.

- 8.2.8 If neither party, by *Notice in Writing*, given within 10 *Working Days* of the date of *Notice in Writing* requesting arbitration in paragraph 8.2.6, requires that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.2.6 shall be
- .1 held in abeyance until
    - (1) *Substantial Performance of the Work*,
    - (2) the *Contract* has been terminated, or
    - (3) the *Contractor* has abandoned the *Work*,whichever is earlier; and
  - .2 consolidated into a single arbitration under the rules governing the arbitration under paragraph 8.2.6.

### **GC 8.3 RETENTION OF RIGHTS**

- 8.3.1 It is agreed that no act by either party shall be construed as a renunciation or waiver of any rights or recourses, provided the party has given the *Notice in Writing* required under Part 8 of the General Conditions - DISPUTE RESOLUTION and has carried out the instructions as provided in paragraph 8.1.3 of GC 8.1 – AUTHORITY OF THE CONSULTANT.
- 8.3.2 Nothing in Part 8 of the General Conditions - DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the *Place of the Work* and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.2.6 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

## **PART 9 PROTECTION OF PERSONS AND PROPERTY**

### **GC 9.1 PROTECTION OF WORK AND PROPERTY**

- 9.1.1 The *Contractor* shall protect the *Work* and the *Owner's* property and property adjacent to the *Place of the Work* from damage which may arise as the result of the *Contractor's* operations under the *Contract*, and shall be responsible for such damage, except damage which occurs as the result of:
- .1 errors in the *Contract Documents*;
  - .2 acts or omissions by the *Owner*, the *Consultant*, other contractors, their agents and employees.
- 9.1.2 Before commencing any work, the *Contractor* shall determine the location of all underground utilities and structures indicated in the *Contract Documents* or that are reasonably apparent in an inspection of the *Place of the Work*.
- 9.1.3 Should the *Contractor* in the performance of the *Contract* damage the *Work*, the *Owner's* property or property adjacent to the *Place of the Work*, the *Contractor* shall be responsible for making good such damage at the *Contractor's* expense.
- 9.1.4 Should damage occur to the *Work* or *Owner's* property for which the *Contractor* is not responsible, as provided in paragraph 9.1.1, the *Contractor* shall make good such damage to the *Work* and, if the *Owner* so directs, to the *Owner's* property. The *Contract Price* and *Contract Time* shall be adjusted as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.

### **GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES**

- 9.2.1 For the purposes of applicable legislation related to toxic and hazardous substances, the *Owner* shall be deemed to have control and management of the *Place of the Work* with respect to existing conditions.
- 9.2.2 Prior to the *Contractor* commencing the *Work*, the *Owner* shall,
- .1 take all reasonable steps to determine whether any toxic or hazardous substances are present at the *Place of the Work*, and
  - .2 provide the *Consultant* and the *Contractor* with a written list of any such substances that are known to exist and their locations.
- 9.2.3 The *Owner* shall take all reasonable steps to ensure that no person's exposure to any toxic or hazardous substances exceeds the time weighted levels prescribed by applicable legislation at the *Place of the Work* and that no property is damaged or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances which were at the *Place of the Work* prior to the *Contractor* commencing the *Work*.
- 9.2.4 Unless the *Contract* expressly provides otherwise, the *Owner* shall be responsible for taking all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the *Place of the Work* prior to the *Contractor* commencing the *Work*.

- 9.2.5 If the *Contractor*
- .1 encounters toxic or hazardous substances at the *Place of the Work*, or
  - .2 has reasonable grounds to believe that toxic or hazardous substances are present at the *Place of the Work*, which were not brought to the *Place of the Work* by the *Contractor* or anyone for whom the *Contractor* is responsible and which were not disclosed by the *Owner* or which were disclosed but have not been dealt with as required under paragraph 9.2.4, the *Contractor* shall
  - .3 take all reasonable steps, including stopping the *Work*, to ensure that no person's exposure to any toxic or hazardous substances exceeds any applicable time weighted levels prescribed by applicable legislation at the *Place of the Work*, and
  - .4 immediately report the circumstances to the *Consultant* and the *Owner* in writing.
- 9.2.6 If the *Owner* and *Contractor* do not agree on the existence, significance of, or whether the toxic or hazardous substances were brought onto the *Place of the Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and the *Contractor*.
- 9.2.7 If the *Owner* and *Contractor* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were not brought onto the place of the *Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, the *Owner* shall promptly at the *Owner's* own expense:
- .1 take all steps as required under paragraph 9.2.4;
  - .2 reimburse the *Contractor* for the costs of all steps taken pursuant to paragraph 9.2.5;
  - .3 extend the *Contract* time for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and the expert referred to in 9.2.6 and reimburse the *Contractor* for reasonable costs incurred as a result of the delay; and
  - .4 indemnify the *Contractor* as required by GC 12.1 - INDEMNIFICATION.
- 9.2.8 If the *Owner* and *Contractor* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were brought onto the place of the *Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, the *Contractor* shall promptly at the *Contractor's* own expense:
- .1 take all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to safely remove and dispose the toxic or hazardous substances;
  - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the place of the *Work* as provided in paragraph 9.1.3 of GC 9.1 – PROTECTION OF WORK AND PROPERTY;
  - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.2.6; and
  - .4 indemnify the *Owner* as required by GC 12.1 - INDEMNIFICATION.
- 9.2.9 If either party does not accept the expert's findings under paragraph 9.2.6, the disagreement shall be settled in accordance with Part 8 of the General Conditions - Dispute Resolution. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by paragraph 9.2.7 or 9.2.8 it being understood that by so doing, neither party will jeopardize any claim that party may have to be reimbursed as provided by GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.

### **GC 9.3 ARTIFACTS AND FOSSILS**

- 9.3.1 Fossils, coins, articles of value or antiquity, structures and other remains or things of scientific or historic interest discovered at the *Place or Work* shall, as between the *Owner* and the *Contractor*, be deemed to be the absolute property of the *Owner*.
- 9.3.2 The *Contractor* shall take all reasonable precautions to prevent removal or damage to discoveries as identified in paragraph 9.3.1, and shall advise the *Consultant* upon discovery of such items.
- 9.3.3 The *Consultant* will investigate the impact on the *Work* of the discoveries identified in paragraph 9.3.1. If conditions are found that would cause an increase or decrease in the *Contractor's* cost or time to perform the *Work*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 - CHANGE ORDER or GC 6.3 CHANGE DIRECTIVE.

### **GC 9.4 CONSTRUCTION SAFETY**

- 9.4.1 Subject to paragraph 3.2.2.2 of GC 3.2 - CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, the *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations and practices required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the *Work*.

## **GC 9.5 MOULD**

- 9.5.1 If the *Contractor* or *Owner* observes or reasonably suspects the presence of mould at the *Place of the Work*, the remediation of which is not expressly part of the *Work*,
- .1 the observing party shall promptly report the circumstances to the other party in writing, and
  - .2 the *Contractor* shall promptly take all reasonable steps, including stopping the *Work* if necessary, to ensure that no person suffers injury, sickness or death and that no property is damaged as a result of exposure to or the presence of the mould, and
  - .3 if the *Owner* and *Contractor* do not agree on the existence, significance or cause of the mould or as to what steps need be taken to deal with it, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and *Contractor*.
- 9.5.2 If the *Owner* and *Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was caused by the *Contractor*'s operations under the *Contract*, the *Contractor* shall promptly, at the *Contractor*'s own expense:
- .1 take all reasonable and necessary steps to safely remediate or dispose of the mould, and
  - .2 make good any damage to the *Work*, the *Owner*'s property or property adjacent to the *Place of the Work* as provided in paragraph 9.1.3 of GC 9.1 - PROTECTION OF WORK AND PROPERTY, and
  - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.5.1.3, and
  - .4 indemnify the *Owner* as required by GC 12.1 - INDEMNIFICATION.
- 9.5.3 If the *Owner* and *Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was not caused by the *Contractor*'s operations under the *Contract*, the *Owner* shall promptly, at the *Owner*'s own expense:
- .1 take all reasonable and necessary steps to safely remediate or dispose of the mould, and
  - .2 reimburse the *Contractor* for the cost of taking the steps under paragraph 9.5.1.2 and making good any damage to the *Work* as provided in paragraph 9.1.4 of GC 9.1 - PROTECTION OF WORK AND PROPERTY, and
  - .3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and the expert referred to in paragraph 9.5.1.3 and reimburse the *Contractor* for reasonable costs incurred as a result of the delay, and
  - .4 indemnify the *Contractor* as required by GC 12.1 - INDEMNIFICATION.
- 9.5.4 If either party does not accept the expert's finding under paragraph 9.5.1.3, the disagreement shall be settled in accordance with Part 8 of the General Conditions - DISPUTE RESOLUTION. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by paragraphs 9.5.2 or 9.5.3, it being understood that by so doing neither party will jeopardize any claim the party may have to be reimbursed as provided by GC 9.5 - MOULD.

## **PART 10 GOVERNING REGULATIONS**

### **GC 10.1 TAXES AND DUTIES**

- 10.1.1 The *Contract Price* shall include all taxes and customs duties in effect at the time of the bid closing except for *Value Added Taxes* payable by the *Owner* to the *Contractor* as stipulated in Article A-4 of the Agreement - CONTRACT PRICE.
- 10.1.2 Any increase or decrease in costs to the *Contractor* due to changes in such included taxes and duties after the time of the bid closing shall increase or decrease the *Contract Price* accordingly.

### **GC 10.2 LAWS, NOTICES, PERMITS, AND FEES**

- 10.2.1 The laws of the *Place of the Work* shall govern the *Work*.
- 10.2.2 The *Owner* shall obtain and pay for development approvals, building permit, permanent easements, rights of servitude, and all other necessary approvals and permits, except for the permits and fees referred to in paragraph 10.2.3 or for which the *Contract Documents* specify as the responsibility of the *Contractor*.
- 10.2.3 The *Contractor* shall be responsible for the procurement of permits, licences, inspections, and certificates, which are necessary for the performance of the *Work* and customarily obtained by contractors in the jurisdiction of the *Place of the Work* after the issuance of the building permit. The *Contract Price* includes the cost of these permits, licences, inspections, and certificates, and their procurement.
- 10.2.4 The *Contractor* shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the *Work* and which relate to the *Work*, to the preservation of the public health, and to construction safety.



- 10.2.5 The *Contractor* shall not be responsible for verifying that the *Contract Documents* are in compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the *Work*. If the *Contract Documents* are at variance therewith, or if, subsequent to the time of bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the *Contract Documents*, the *Contractor* shall advise the *Consultant* in writing requesting direction immediately upon such variance or change becoming known. The *Consultant* will make the changes required to the *Contract Documents* as provided in GC 6.1 - OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 10.2.6 If the *Contractor* fails to advise the *Consultant* in writing; and fails to obtain direction as required in paragraph 10.2.5; and performs work knowing it to be contrary to any laws, ordinances, rules, regulations, or codes; the *Contractor* shall be responsible for and shall correct the violations thereof; and shall bear the costs, expenses and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations, or codes.
- 10.2.7 If, subsequent to the time of bid closing, changes are made to applicable laws, ordinances, rules, regulations, or codes of authorities having jurisdiction which affect the cost of the *Work*, either party may submit a claim in accordance with the requirements of GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE.

### **GC 10.3 PATENT FEES**

- 10.3.1 The *Contractor* shall pay the royalties and patent licence fees required for the performance of the *Contract*. The *Contractor* shall hold the *Owner* harmless 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 an infringement or an alleged infringement of a patent of invention by the *Contractor* or anyone for whose acts the *Contractor* may be liable.
- 10.3.2 The *Owner* shall hold the *Contractor* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Contractor's* performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention in executing anything for the purpose of the *Contract*, the model, plan or design of which was supplied to the *Contractor* as part of the *Contract Documents*.

### **GC 10.4 WORKERS' COMPENSATION**

- 10.4.1 Prior to commencing the *Work*, again with the *Contractor's* application for payment of the holdback amount following *Substantial Performance of the Work* and again with the *Contractor's* application for final payment, the *Contractor* shall provide evidence of compliance with workers' compensation legislation at the *Place of the Work*, including payments due thereunder.
- 10.4.2 At any time during the term of the *Contract*, when requested by the *Owner*, the *Contractor* shall provide such evidence of compliance by the *Contractor* and *Subcontractors*.

## **PART 11 INSURANCE AND CONTRACT SECURITY**

### **GC 11.1 INSURANCE**

- 11.1.1 Without restricting the generality of GC 12.1 - INDEMNIFICATION, the *Contractor* shall provide, maintain and pay for the following insurance coverages, the minimum requirements of which are specified in CCDC 41 – CCDC Insurance Requirements in effect at the time of bid closing except as hereinafter provided:
- 1 General liability insurance in the name of the *Contractor* and include, or in the case of a single, blanket policy, be endorsed to name, the *Owner* and the *Consultant* as insureds but only with respect to liability, other than legal liability arising out of their sole negligence, arising out of the operations of the *Contractor* with regard to the *Work*. General liability insurance shall be maintained from the date of commencement of the *Work* until one year from the date of *Substantial Performance of the Work*. Liability coverage shall be provided for completed operations hazards from the date of *Substantial Performance of the Work*, as set out in the certificate of *Substantial Performance of the Work*, on an ongoing basis for a period of 6 years following *Substantial Performance of the Work*.
  - 2 Automobile Liability Insurance from the date of commencement of the *Work* until one year after the date of *Substantial Performance of the Work*.
  - 3 Aircraft or Watercraft Liability Insurance when owned or non-owned aircraft or watercraft are used directly or indirectly in the performance of the *Work*
  - 4 "Broad form" property insurance in the joint names of the *Contractor*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The "Broad form" property insurance shall be provided from the date of commencement of the *Work* until the earliest of:
    - (1) 10 calendar days after the date of *Substantial Performance of the Work*;

- (2) on the commencement of use or occupancy of any part or section of the *Work* unless such use or occupancy is for construction purposes, habitational, office, banking, convenience store under 465 square metres in area, or parking purposes, or for the installation, testing and commissioning of equipment forming part of the *Work*;
  - (3) when left unattended for more than 30 consecutive calendar days or when construction activity has ceased for more than 30 consecutive calendar days.
- 5 Boiler and machinery insurance in the joint names of the *Contractor*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The coverage shall be maintained continuously from commencement of use or operation of the boiler and machinery objects insured by the policy and until 10 calendar days after the date of *Substantial Performance of the Work*.
- 6 The “Broad form” property and boiler and machinery policies shall provide that, in the case of a loss or damage, payment shall be made to the *Owner* and the *Contractor* as their respective interests may appear. In the event of loss or damage:
- (1) the *Contractor* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Contractor* shall proceed to restore the *Work*. Loss or damage shall not affect the rights and obligations of either party under the *Contract* except that the *Contractor* shall be entitled to such reasonable extension of *Contract Time* relative to the extent of the loss or damage as the *Consultant* may recommend in consultation with the *Contractor*;
  - (2) the *Contractor* shall be entitled to receive from the *Owner*, in addition to the amount due under the *Contract*, the amount which the *Owner's* interest in restoration of the *Work* has been appraised, such amount to be paid as the restoration of the *Work* proceeds in accordance with the progress payment provisions. In addition the *Contractor* shall be entitled to receive from the payments made by the insurer the amount of the *Contractor's* interest in the restoration of the *Work*; and
  - (3) to the *Work* arising from the work of the *Owner*, the *Owner's* own forces or another contractor, the *Owner* shall, in accordance with the *Owner's* obligations under the provisions relating to construction by *Owner* or other contractors, pay the *Contractor* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as in accordance with the progress payment provisions.
- 7 Contractors' Equipment Insurance from the date of commencement of the *Work* until one year after the date of *Substantial Performance of the Work*.

- 11.1.2 Prior to commencement of the *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the *Work*.
- 11.1.3 The parties shall pay their share of the deductible amounts in direct proportion to their responsibility in regards to any loss for which the above policies are required to pay, except where such amounts may be excluded by the terms of the *Contract*.
- 11.1.4 If the *Contractor* fails to provide or maintain insurance as required by the *Contract Documents*, then the *Owner* shall have the right to provide and maintain such insurance and give evidence to the *Contractor* and the *Consultant*. The *Contractor* shall pay the cost thereof to the *Owner* on demand or the *Owner* may deduct the cost from the amount which is due or may become due to the *Contractor*.
- 11.1.5 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.
- 11.1.6 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies reduced insurance requirements, the parties shall address such reduction, prior to the *Contractor's* insurance policy becoming due for renewal, and record any agreement in a *Change Order*.
- 11.1.7 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies increased insurance requirements, the *Owner* may request the increased coverage from the *Contractor* by way of a *Change Order*.
- 11.1.8 A *Change Directive* shall not be used to direct a change in the insurance requirements in response to the revision of CCDC 41 – INSURANCE REQUIREMENTS.

## 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 fulfillment of the *Contract*. The form of such bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

## **PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY**

### **GC 12.1 INDEMNIFICATION**

12.1.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.1.4 and 12.1.5, the *Owner* and the *Contractor* shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to their involvement as parties to this *Contract*, provided such claims are:

.1 caused by:

(1) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or

(2) a failure of the party to the *Contract* from whom indemnification is sought to fulfill its terms or conditions; and

.2 made by *Notice in Writing* within a period of 6 years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.4.2.2 of GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*.

The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.

12.1.2 The obligation of either party to indemnify as set forth in paragraph 12.1.1 shall be limited as follows:

.1 In respect to losses suffered by the *Owner* and the *Contractor* for which insurance is to be provided by either party pursuant to GC 11.1 – INSURANCE, the general liability insurance limit for one occurrence as referred to in CCDC 41 in effect at the time of bid closing.

.2 In respect to losses suffered by the *Owner* and the *Contractor* for which insurance is not required to be provided by either party in accordance with GC 11.1 – INSURANCE, the greater of the *Contract Price* as recorded in Article A-4 – CONTRACT PRICE or \$2,000,000, but in no event shall the sum be greater than \$20,000,000.

.3 In respect to claims by third parties for direct loss resulting from bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, the obligation to indemnify is without limit. In respect to all other claims for indemnity as a result of claims advanced by third parties, the limits of indemnity set forth in paragraphs 12.1.2.1 and 12.1.2.2 shall apply.

12.1.3 The obligation of either party to indemnify the other as set forth in paragraphs 12.1.1 and 12.1.2 shall be inclusive of interest and all legal costs.

12.1.4 The *Owner* and the *Contractor* shall indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of their obligations described in GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.

12.1.5 The *Owner* shall indemnify and hold harmless the *Contractor* from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings:

.1 as described in paragraph 10.3.2 of GC 10.3 – PATENT FEES, and

.2 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*.

12.1.6 In respect to any claim for indemnity or to be held harmless by the *Owner* or the *Contractor*:

.1 *Notice in Writing* of such claim shall be given within a reasonable time after the facts upon which such claim is based became known;

.2 should any party be required as a result of its obligation to indemnify another to pay or satisfy a final order, judgment or award made against the party entitled by this contract to be indemnified, then the indemnifying party upon assuming all liability for any costs that might result shall have the right to appeal in the name of the party against whom such final order or judgment has been made until such rights of appeal have been exhausted.

## GC 12.2 WAIVER OF CLAIMS

- 12.2.1 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Contractor* waives and releases the *Owner* from all claims which the *Contractor* has or reasonably ought to have knowledge of that could be advanced by the *Contractor* against the *Owner* arising from the *Contractor's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
- 1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Owner* from the *Contractor* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
  - 2 indemnification for claims advanced against the *Contractor* by third parties for which a right of indemnification may be asserted by the *Contractor* against the *Owner* pursuant to the provisions of this *Contract*;
  - 3 claims for which a right of indemnity could be asserted by the *Contractor* pursuant to the provisions of paragraphs 12.1.4 or 12.1.5 of GC 12.1 – INDEMNIFICATION; and
  - 4 claims resulting from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.2.2 The *Contractor* waives and releases the *Owner* from all claims referenced in paragraph 12.2.1.4 except for those referred in paragraphs 12.2.1.2 and 12.2.1.3 and claims for which *Notice in Writing* of claim has been received by the *Owner* from the *Contractor* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.3 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Owner* waives and releases the *Contractor* from all claims which the *Owner* has or reasonably ought to have knowledge of that could be advanced by the *Owner* against the *Contractor* arising from the *Owner's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
- 1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Contractor* from the *Owner* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
  - 2 indemnification for claims advanced against the *Owner* by third parties for which a right of indemnification may be asserted by the *Owner* against the *Contractor* pursuant to the provisions of this *Contract*;
  - 3 claims for which a right of indemnity could be asserted by the *Owner* against the *Contractor* pursuant to the provisions of paragraph 12.1.4 of GC 12.1 - INDEMNIFICATION;
  - 4 damages arising from the *Contractor's* actions which result in substantial defects or deficiencies in the *Work*. “Substantial defects or deficiencies” mean those defects or deficiencies in the *Work* which affect the *Work* to such an extent or in such a manner that a significant part or the whole of the *Work* is unfit for the purpose intended by the *Contract Documents*;
  - 5 claims arising pursuant to GC 12.3 - WARRANTY; and
  - 6 claims arising from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.2.4 The *Owner* waives and releases the *Contractor* from all claims referred to in paragraph 12.2.3.4 except claims for which *Notice in Writing* of claim has been received by the *Contractor* from the *Owner* within a period of six years from the date of *Substantial Performance of the Work* should any limitation statute of the Province or Territory of the *Place of the Work* permit such agreement. If the applicable limitation statute does not permit such agreement, within such shorter period as may be prescribed by:
- 1 any limitation statute of the Province or Territory of the *Place of the Work*; or
  - 2 if the *Place of the Work* is the Province of Quebec, then Article 2118 of the Civil Code of Quebec.
- 12.2.5 The *Owner* waives and releases the *Contractor* from all claims referenced in paragraph 12.2.3.6 except for those referred in paragraph 12.2.3.2, 12.2.3.3 and those arising under GC 12.3 – WARRANTY and claims for which *Notice in Writing* has been received by the *Contractor* from the *Owner* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.6 “*Notice in Writing* of claim” as provided for in GC 12.2 – WAIVER OF CLAIMS to preserve a claim or right of action which would otherwise, by the provisions of GC 12.2 – WAIVER OF CLAIMS, be deemed to be waived, must include the following:
- 1 a clear and unequivocal statement of the intention to claim;
  - 2 a statement as to the nature of the claim and the grounds upon which the claim is based; and
  - 3 a statement of the estimated quantum of the claim.
- 12.2.7 The party giving “*Notice in Writing* of claim” as provided for in GC 12.2 – WAIVER OF CLAIMS shall submit within a reasonable time a detailed account of the amount claimed.

- 12.2.8 Where the event or series of events giving rise to a claim made under paragraphs 12.2.1 or 12.2.3 has a continuing effect, the detailed account submitted under paragraph 12.2.7 shall be considered to be an interim account and the party making the claim shall submit further interim accounts, at reasonable intervals, giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 12.2.9 If a *Notice in Writing* of claim pursuant to paragraph 12.2.1.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.3.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.
- 12.2.10 If a *Notice in Writing* of claim pursuant to paragraph 12.2.3.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.1.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.

### **GC 12.3 WARRANTY**

- 12.3.1 Except for extended warranties as described in paragraph 12.3.6, the warranty period under the *Contract* is one year from the date of *Substantial Performance of the Work*.
- 12.3.2 The *Contractor* shall be responsible for the proper performance of the *Work* to the extent that the design and *Contract Documents* permit such performance.
- 12.3.3 The *Owner*, through the *Consultant*, shall promptly give the *Contractor Notice in Writing* of observed defects and deficiencies which occur during the one year warranty period.
- 12.3.4 Subject to paragraph 12.3.2, the *Contractor* shall correct promptly, at the *Contractor's* expense, defects or deficiencies in the *Work* which appear prior to and during the one year warranty period.
- 12.3.5 The *Contractor* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.4.
- 12.3.6 Any extended warranties required beyond the one year warranty period as described in paragraph 12.3.1, shall be as specified in the *Contract Documents*. Extended warranties shall be issued by the warrantor to the benefit of the *Owner*. The *Contractor's* responsibility with respect to extended warranties shall be limited to obtaining any such extended warranties from the warrantor. The obligations under such extended warranties are solely the responsibilities of the warrantor.

**CCDC 41  
CCDC INSURANCE REQUIREMENTS**

**PUBLICATION DATE: JANUARY 21, 2008**

1. General liability insurance shall be with limits of not less than \$5,000,000 per occurrence, an aggregate limit of not less than \$5,000,000 within any policy year with respect to completed operations, and a deductible not exceeding \$5,000. The insurance coverage shall not be less than the insurance provided by IBC Form 2100 (including an extension for a standard provincial and territorial form of non-owned automobile liability policy) and IBC Form 2320. To achieve the desired limit, umbrella or excess liability insurance may be used. Subject to satisfactory proof of financial capability by the *Contractor*, the *Owner* may agree to increase the deductible amounts.
2. Automobile liability insurance in respect of vehicles that are required by law to be insured under a contract by a Motor Vehicle Liability Policy, shall have limits of not less than \$5,000,000 inclusive per occurrence for bodily injury, death and damage to property, covering all vehicles owned or leased by the *Contractor*. Where the policy has been issued pursuant to a government-operated automobile insurance system, the *Contractor* shall provide the *Owner* with confirmation of automobile insurance coverage for all automobiles registered in the name of the *Contractor*.
3. Aircraft and watercraft liability insurance with respect to owned or non-owned aircraft and watercraft (if used directly or indirectly in the performance of the *Work*), including use of additional premises, shall have limits of not less than \$5,000,000 inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof and limits of not less than \$5,000,000 for aircraft passenger hazard. Such insurance shall be in a form acceptable to the *Owner*.
4. "Broad form" property insurance shall have limits of not less than the sum of 1.1 times *Contract Price* and the full value, as stated in the *Contract*, of *Products* and design services that are specified to be provided by the *Owner* for incorporation into the *Work*, with a deductible not exceeding \$5,000. The insurance coverage shall not be less than the insurance provided by IBC Forms 4042 and 4047 (excluding flood and earthquake) or their equivalent replacement. Subject to satisfactory proof of financial capability by the *Contractor*, the *Owner* may agree to increase the deductible amounts.
5. Boiler and machinery insurance shall have limits of not less than the replacement value of the permanent or temporary boilers and pressure vessels, and other insurable objects forming part of the *Work*. The insurance coverage shall not be less than the insurance provided by a comprehensive boiler and machinery policy.
6. "Broad form" contractors' equipment insurance coverage covering *Construction Equipment* used by the *Contractor* for the performance of the *Work*, shall be in a form acceptable to the *Owner* and shall not allow subrogation claims by the insurer against the *Owner*. Subject to satisfactory proof of financial capability by the *Contractor* for self-insurance, the *Owner* may agree to waive the equipment insurance requirement.
7. Standard Exclusions
  - 7.1 In addition to the broad form property exclusions identified in IBC forms 4042(1995), and 4047(2000), the *Contractor* is not required to provide the following insurance coverage:
    - Asbestos
    - Cyber Risk
    - Mould
    - Terrorism

## **SECTION 9.0 LIST OF APPENDICES**

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### List of Appendices

1. Appendix A - IFT Drawings
2. Appendix B - Specifications
3. Appendix C - Hazardous Building Material Assessment – Preconstruction
4. Appendix D - Hazardous Materials Specifications
5. Appendix E - Asbestos and Lead Test Results
6. Appendix F - Safe Work, Contractor Perf & AODA Form

# EICS-24-50 - City Hall 5th and 6th Floor Washrooms Renovation

Opening Date: September 25, 2024 1:00 PM

Closing Time / Submission Deadline: October 10, 2024 2:00 PM

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## Schedule of Prices

\*Denotes a "MANDATORY" field

**Do not enter \$0.00 unless you are providing the line item at zero dollars to the City.**

If the line item and/or table is "NON-MANDATORY" and you do not wish to provide pricing for it, leave the table and/or line item blank. Do not enter a \$0.00 dollar value.

### 1. City Hall 5th and 6th Floor Washrooms Renovation

Provide the unit prices in Canadian currency. All prices shall be F.O.B. destination; freight prepaid and included to Burlington, Ontario unless otherwise specified. **Unit prices shall be exclusive of Harmonized Sales Tax (HST)**, but shall include all charges of every kind attributable to the services, equipment or goods provided.

The unit prices and provisional pricing will set the foundation for any approved increases or decreases in Work. The Total Bid Price and unit prices must remain fixed and firm for the term of the Contract, unless otherwise specified in this Bid Solicitation document.

Item No	Description	Unit	Quantity	Unit Price *	Total	
1.1	General Conditions: including site supervision, project management, mobilization, demobilization, safety provisions, overhead & profit, insurance, bonding, close-out and as-builts	Lump Sum	1			*
1.2	General scope includes all work except items listed below	Lump Sum	1			*
1.3	Demo & Abatement	Lump Sum	1			*
1.4	Finishes	Lump Sum	1			*
1.5	Architectural Millwork	Lump Sum	1			*
1.6	Mechanical/Plumbing	Lump Sum	1			*
1.7	Electrical	Lump Sum	1			*
Subtotal:						

### 2. Allowance

Item No	Description	Unit of Measure	Quantity	Unit Price	Total	
2.1	Cash Allowance - Door Hardware (only to be used with approval from the City)	Lump Sum	1	\$18,000.0000	\$ 18,000.00	*
2.2	Testing and Inspections	Lump Sum	1	\$10,000.0000	\$ 10,000.00	*
Subtotal:					\$ 28,000.00	

### 3. Unit Prices

Table 3: Unit Prices is NOT subjected to the Bid evaluation process. During construction, if any extra work is required to be executed by the Contractor, the City will utilize these rates to determine the cost and/or payment for the extra work.

Item No	Description	Unit of Measure	Unit Price *
3.1	Floor Tile	m2	
3.2	Wall Tile	m2	
3.3	Painting	m2	
3.4	Project Manager	hr.	
3.5	Site Superintendent	hr.	
3.6	Project Coordinator	hr.	
3.7	General Labour	hr.	
3.8	Electrician	hr.	
3.9	Tile Installer	hr.	
3.10	Plumber	hr.	
3.11	Painter	hr.	
3.12	Carpenter	hr.	
3.13	Abatement	hr.	

### Summary Table

Bid Form	Amount
1. City Hall 5th and 6th Floor Washrooms Renovation	
2. Allowance	\$ 28,000.00
HST (13%)	\$ 3,640.00
Total Price:	

### Specifications

### Bidder's Team Information

Provide information for the following employees for this Bid.

Title	Name *	E-mail *	Cell Phone Number *
Contact for the purpose of tender			
Project Manager			
Site Superintendent			

## References - Similar Experience

Please provide references for similar work completed for a government entity within the last five (5) years. Similar works shall include working within an occupied environment.

Only contractors/subcontractors that have demonstrated ability and experience in construction projects of similar (or greater) scale and complexity will be qualified for this tender. Those that do not meet these requirements will be disqualified. The contractor/subcontractor performing the works must have successfully completed a minimum of 3 qualifying projects in the last 5 years to be qualified.

The City reserves the right to consider information provided by these references during the Bid review, along with any information received in response to enquiries made by the City to third parties apart from the references provided, in relation to the reputation, reliability, experience and capabilities of the Bidder.

The City reserves the right to request additional references where required.

Poor reference(s) and/or unsatisfactory safety records may result in the City deeming a bid non-compliant, and subsequent rejection of the Bidder is at the discretion of the City.

Description	Reference #1 *	Reference #2 *	Reference #3 *	
Project Name				*
Brief Project Description				*
Client Organization Name				*
Explain your role in the Project (GC or Subcontractor)				*
Value of Work				*
Date of Completion (Month and Year)				*
Client Contact Name				*
Client Phone Number				*
Client Email Address				*

## Subcontractors

Bidders shall list on Subcontractors required to perform the work. Subcontractors listed herein can not be changed without prior written approval from the City.

Where not applicable, Bidders shall note "OWN FORCES".

Type of Work	Name of Subcontractor *	Contact Name for Subcontractor *	Contact Telephone Number *	Contact Email Address *	
Demolition & Abatement					*
Painting					*
Mechanical					*
Electrical					*

## Documents

It is your responsibility to make sure the uploaded file(s) is/are not defective or corrupted and are able to be opened and viewed by the City. If the attached file(s) cannot be opened or viewed, your Bid / Proposal may be rejected.

## **BONDING UPLOAD SECTION**

Bidders / Proponents shall submit with their bid a Digital Bond in the amount identified in the Bid / Proposal Solicitation document.

The Bid submission must be accompanied by a bid deposit in the form of a digital bid bond in an electronically verifiable and enforceable (e-Bond) format in the amount(s) not less than the amount as required in the tender document, made payable to The Corporation of the City of Burlington as surety that, if the Bid is accepted, a Contract will be entered into for the proper performance of the work. For more information, contact your surety company or visit the Surety Association of Canada website:

<https://www.suretycanada.com/SAC/Surety-Bonds/E-Bonding.aspx>

Bidders shall upload their Bid Bond to the Bidding System, in the bid submission file labeled "Bid Bond". All instruction and details for accessing authentication shall be included with the digital Bond uploaded in the Bidding System.

Bids that do not contain the bid deposit(s) in the required amount as specified in this paragraph will be declared non-compliant and will be rejected. A scanned PDF copy of bonds or original certified cheque, bank draft, money order, etc. are not acceptable as Bid deposit and will result in your Bid being rejected.

The bid deposit of the Bidder whose submission is accepted shall be forfeited by the Bidder should the Bidder fail to execute a Contract or provide the necessary documents as required within this Bid Solicitation document (including signed agreement, satisfactory security, insurance certificate, Workplace Safety and Insurance Board letter of clearance) within the time stipulated as a written notice from the City.

- Bid Bond - 5% \* (mandatory)

## Form of Tender

SUBMITTED TO: THE CORPORATION OF THE CITY OF BURLINGTON (the "City")

I/We have read and understand this Bid Solicitation document, and agree to perform the Work required in accordance with this Bid Solicitation document and my/our Bid at the price(s) detailed in my/our Bid.

I/We confirm that:

1. The person named in this Form of Offer is authorized to sign and electronically submit this Bid through the Bidding System.
2. I/We meet all mandatory requirements of the Bid Solicitation document.
3. The bid deposit, if applicable, as specified in the Bid Solicitation document is submitted through the Bidding System.
4. My/Our Bid will remain open for acceptance for a period of Ninety (90) calendar days from the Closing Time. The City may, at any time within this period, accept my/our Bid whether or not any other Bid has previously been accepted.
5. All prices provided in my/our Bid will remain fixed and firm for the duration of the term of the agreement, unless specified otherwise.
6. All prices provided in my/our Bid are in Canadian funds and include all charges of every kind attributable to the Work. Harmonized Sales Tax will be extra and not shown, unless specified otherwise.
7. To the best of my/our knowledge and belief:
  - a) the information provided in my/our Bid is correct; and
  - b) my/our Bid is made without any comparison of figures or arrangement with any other individual, corporation or person submitting a Bid for the same Work and is in all respects fair and without collusion or fraud.
8. I/We comply with the City's Procurement By-law as well as all other applicable provincial and federal laws and municipal by-laws.
9. All staff that form part of my/our team for the Work included in the Bid Solicitation document, including all subcontractors, have undergone accessibility awareness training in accordance with the *Accessibility for Ontarians With Disabilities Act, 2005*, S. O. 2005, c.11, Integrated Accessibility Standards O.Reg 191/11 requirements. I/We indemnify the City from and against any cost, expenses, fines, penalties, damages or losses that the City incurs or suffers as a result of my/our failure to comply with the Act.
10. I/We agree and understand that the recommendation to award the Work may be subject to the approval from the City Council as well as availability of funds.

I/We agree to be bound by the terms and conditions and have authority to bind the corporation and submit this Bid / Proposal on behalf of the Bidder. / Proponent

I am authorized to bind the Bidder / Proponent. I understand that by typing my name in the box above, I am signing this Form of Offer / Proposal Submission Form electronically on behalf of the Bidder / Proponent. I consent to the use and acceptance of such electronic signature and acknowledge that such electronic signature will have the same force and effect as a handwritten signature.

The Bidder / Proponent shall declare any actual, potential or perceived conflict of interest that could arise from submitting their Bid / Proposal. Disclose any perceived, potential or actual Conflict of Interest of the Bidder / Proponent, any Bidder / Proponent Advisor or any of the employees of the Bidder / Proponent or any employee of Bidder / Proponent Advisor engaged in the development or oversight of development of your Bid / Proposal (including for such employees in their personal capacities) in respect of the Goods and/or Services which, to the best of your knowledge and after due inquiry represents a complete summary of perceived, potential or actual Conflicts of Interest.

Do you have a potential conflict of interest?

Yes  No

The following addendum / addenda issued by the City shall form part of the Bid / Proposal Solicitation document. The revisions and additions noted herein along with any attachments shall be read in conjunction with all other related documents. This Addendum shall, take precedence over the previously issued documents where differences occur.

The Bidder / Proponent acknowledges and agrees that the addendum / addenda below form part of the RFP / Bid Solicitation

Document. Bidder / Proponent must check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
There have not been any addenda issued for this bid.		