

CCDC 2

Stipulated Price Contract

2 0 2 0

Name of Project

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CCDC 2 STIPULATED PRICE CONTRACT

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AGREEMENT BETWEEN OWNER AND CONTRACTOR

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

This Agreement made on _____ 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 *(insert below the description or title of the Work)*

located at *(insert below the Place of the Work)*

for which the Agreement has been signed by the parties, and for which *(insert below the name of the Consultant)*

is acting as and is hereinafter called the "*Consultant*" and

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 *Ready-for-Takeover*, 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 bid 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*.

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
- General Conditions

*

** (Insert here, attaching additional pages if required, a list identifying all other Contract Documents e.g. supplementary conditions; Division 01 of the Specifications – GENERAL REQUIREMENTS; Project information that the Contractor may rely upon; technical 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; time schedule)*

ARTICLE A-4 CONTRACT PRICE

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

/100 dollars \$

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

/100 dollars \$

4.3 Total amount payable by the *Owner* to the *Contractor* for 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 *Payment Legislation*, and in accordance with legislation and statutory regulations respecting holdback percentages, 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* unless otherwise prescribed by *Payment Legislation* together with such *Value Added Taxes* as may be applicable to such payments,
- .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 Interest

- .1 Should either party fail to make payments as they become due under the terms of the *Contract* or in an award by adjudication, 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 5.2.1 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.

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.

6.2 The delivery of a *Notice in Writing* will be by hand, by courier, by prepaid first class mail, or by other form of electronic communication during the transmission of which no indication of failure of receipt is communicated to the sender.

6.3 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 will 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* will be deemed to have been received on the *Working Day* next following such day.

6.4 A *Notice in Writing* sent by any form of electronic communication will 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 will 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.

6.5 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

email address

Contractor

*name of Contractor**

address

email address

Consultant

*name of Consultant**

address

email address

** If it is intended that a specific individual must receive the notice, 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

OWNER

name of Owner

signature

signature

name of person signing

name and title of person signing

WITNESS

CONTRACTOR

name of Contractor

signature

signature

name of person signing

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*.

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*.

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.

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*.

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*.

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.

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.

Contract Price

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

Contract Time

The *Contract Time* is the time from commencement of the *Work* to the date of *Ready-for-Takeover* as stipulated in paragraph 1.3 of Article A-1 of the Agreement – THE WORK .

Contractor

The *Contractor* is the person or entity identified as such in the Agreement.

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.

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.

Owner

The *Owner* is the person or entity identified as such in the Agreement.

Other Contractor

Other Contractor means a contractor, other than the *Contractor* or a *Subcontractor*, engaged by the *Owner* for the *Project*.

Payment Legislation

Payment Legislation means such legislation in effect at the *Place of the Work* which governs payment under construction contracts.

Place of the Work

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

Product

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

Project

The *Project* means the total construction contemplated of which the *Work* may be the whole or a part.

Ready-for-Takeover

Ready-for-Takeover shall have been attained when the conditions set out in paragraph 12.1.1 of GC 12.1 – READY-FOR-TAKEOVER have been met, as verified by the *Consultant* pursuant to paragraph 12.1.4.2 of GC 12.1 – READY-FOR-TAKEOVER.

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*.

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*.

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*.

Substantial Performance of the Work

Substantial Performance of the Work is as defined in the lien legislation applicable to the *Place of the Work*.

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*.

Supplier

A *Supplier* is a person or entity having a direct contract with the *Contractor* to supply *Products*.

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*.

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 tax legislation.

Work

The *Work* means the total construction and related services required by the *Contract Documents*.

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

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 The *Contract Documents* are complementary, and what is required by one shall be as binding as if required by all. Performance by the *Contractor* shall be required only to the extent consistent with the *Contract Documents*.
- 1.1.3 The *Contractor* shall review the *Contract Documents* for the purpose of facilitating co-ordination and execution of the *Work* by the *Contractor*.
- 1.1.4 The *Contractor* is not responsible for errors, omissions or inconsistencies in the *Contract Documents*. If there are perceived errors, omissions or inconsistencies discovered by or made known to the *Contractor*, the *Contractor* shall promptly report to the *Consultant* and shall not proceed with the work affected until the *Contractor* has received corrected or additional information from the *Consultant*.
- 1.1.5 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 *Owner* and *Contractor*,
 - the Definitions,
 - Supplementary Conditions,
 - the General Conditions,
 - Division 01 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 amended or later dated documents shall govern over earlier documents of the same type.
 - .5 noted materials and annotations shall govern over graphic indications.
- 1.1.6 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*.
- 1.1.7 Words and abbreviations which have well known technical or trade meanings are used in the *Contract Documents* in accordance with such recognized meanings.
- 1.1.8 References in the *Contract Documents* to the singular shall be considered to include the plural as the context requires.
- 1.1.9 Neither the organization of the *Specifications* nor the arrangement of *Drawings* shall control the *Contractor* in dividing the work among *Subcontractors* and *Suppliers*.
- 1.1.10 *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*.
- 1.1.11 Physical 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*, the *Consultant* or the *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 *Consultant* and the *Contractor*.

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 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 – PAYMENT and GC 5.5 – FINAL PAYMENT.
- 2.2.5 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 perform the *Work* in accordance with the *Contract Documents*.
- 2.2.6 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*.
- 2.2.7 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.
- 2.2.8 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*.
- 2.2.9 The *Consultant's* interpretations and findings will be given in writing to the parties within a reasonable time.
- 2.2.10 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.
- 2.2.11 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*.
- 2.2.12 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*.
- 2.2.13 The *Consultant* will review and take appropriate action upon *Shop Drawings*, samples and other submittals by the *Contractor*, in accordance with the *Contract Documents*.

- 2.2.14 The *Consultant* will prepare *Change Orders* and *Change Directives* as provided in GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 2.2.15 The *Consultant* will conduct reviews of the *Work* to determine the date of *Substantial Performance of the Work* and verify that *Ready-for-Takeover* has been attained.
- 2.2.16 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.
- 2.2.17 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.
- 2.2.18 If the *Consultant's* engagement is terminated, the *Owner* shall immediately engage a *Consultant* against whom the *Contractor* makes no reasonable objection and whose duties and responsibilities under the *Contract Documents* will be that of the former *Consultant*.

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*, 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 required 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 others 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 was incorporated in the *Work* or 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 finding.

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 THE 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 the *Owner's* own forces with the *Work* of the *Contract*;
- .2 enter into separate contracts with *Other Contractors* under conditions of contract which are compatible with the conditions of the *Contract*;
- .3 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
- .4 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 co-ordinate and schedule the *Work* with the work of *Other Contractors* or the *Owner's* own forces that are identified in the *Contract Documents*;
- .3 participate with *Other Contractors* and the *Owner* in reviewing their construction schedules when directed to do so; and
- .4 report promptly 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 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.

3.2.5 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. In the absence of *Other Contractors* having reciprocal obligations, disputes and other matters in question initiated by the *Contractor* against *Other Contractors* will be considered disputes and other matters in question between the *Contractor* and the *Owner*.

3.2.6 Should the *Owner*, the *Consultant*, *Other Contractors*, or anyone employed by them directly or indirectly 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.

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* unless otherwise specified in the *Contract Documents*.

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 CONSTRUCTION SCHEDULE

3.4.1 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 3.5 SUPERVISION

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

3.5.2 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 3.6 SUBCONTRACTORS AND SUPPLIERS

3.6.1 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 applicable 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 any persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Contractor*.

3.6.2 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.

3.6.3 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.

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

3.6.5 The *Contractor* shall not be required to employ as a *Subcontractor* or *Supplier*, a person or firm to which the *Contractor* may reasonably object.

3.6.6 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 3.7 LABOUR AND PRODUCTS

3.7.1 The *Contractor* shall maintain good order and discipline among the *Contractor*'s employees engaged on the *Work* and employ only workers that are skilled in the tasks assigned.

3.7.2 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*.

3.7.3 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*.

GC 3.8 SHOP DRAWINGS

3.8.1 The *Contractor* shall provide *Shop Drawings* as required in the *Contract Documents*.

3.8.2 The *Contractor* shall provide *Shop Drawings* to the *Consultant* to review in accordance with an agreed schedule, or in the absence of an agreed schedule, in orderly sequence and sufficiently in advance so as to cause no delay in the *Work* or in the work of *Other Contractors* or the *Owner*'s own forces.

- 3.8.3 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*.
- 3.8.4 The *Consultant's* review is for conformity to the design concept and for general arrangement only.
- 3.8.5 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.
- 3.8.6 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*.
- 3.8.7 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*.

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 the *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, 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 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.
- 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 items called for under cash allowances must be ordered 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 PAYMENT

- 5.2.1 Applications for payment on account as provided in Article A-5 of the Agreement – PAYMENT shall be submitted monthly to the *Owner* and the *Consultant* simultaneously 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 as specified in the *Contract* and supported by such evidence as the *Consultant* may reasonably require.
- 5.2.6 Applications for payment shall be based on the schedule of values accepted by the *Consultant* and shall comply with the provisions of *Payment Legislation*.
- 5.2.7 Each application for payment shall include evidence of compliance with workers' compensation legislation at the *Place of the Work* and after the first payment, a declaration by the *Contractor* as to the distribution made of the amounts previously received using document CCDC 9A 'Statutory Declaration'.
- 5.2.8 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 PAYMENT

- 5.3.1 After receipt by the *Consultant* and the *Owner* of an application for payment submitted by the *Contractor* in accordance with GC 5.2 – APPLICATIONS FOR PAYMENT:
 - .1 The *Consultant* will issue to the *Owner* and copy to the *Contractor*, no later than 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* certifies a different amount, or rejects the application or part thereof, the *Owner* shall promptly issue a written notice to the *Contractor* giving reasons for the revision or rejection, such written notice to be in compliance with *Payment Legislation*.
 - .2 The *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement – PAYMENT on or before 28 calendar days after the receipt by the *Owner* and the *Consultant* of the application for payment, and in any event, in compliance with *Payment Legislation*.

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK

- 5.4.1 The *Consultant* will review the *Work* to certify or verify the validity of the application for *Substantial Performance of the Work* and will promptly, and in any event, no later than 20 calendar days after receipt of the *Contractors* 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*.
- 5.4.2 Where the holdback amount required by the applicable lien legislation has not been placed in a separate lien holdback account, the *Owner* shall, no later than 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*.
- 5.4.3 Subject to the requirements of any *Payment Legislation*, all holdback amount prescribed by the applicable lien legislation for the *Work* shall become due and payable to the *Contractor* no later than 10 *Working Days* following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*.
- 5.4.4 The *Contractor* shall submit an application for payment of the lien holdback amount in accordance with GC 5.3 – PAYMENT.
- 5.4.5 Where legislation permits progressive release of the holdback for a portion of the *Work* and the *Consultant* has certified or verified that the part of the *Work* has been performed prior to *Substantial Performance of the Work*, the *Owner* hereby agrees to release, and shall release, such portion to the *Contractor* in accordance with such legislation.

5.4.6 Notwithstanding any progressive release of the holdback, the *Contractor* shall ensure that such parts of the *Work* are protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when the holdback was released.

GC 5.5 FINAL PAYMENT

5.5.1 When the *Contractor* considers that the *Work* is completed, the *Contractor* shall submit an application for final payment.

5.5.2 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 when the *Consultant* finds the *Contractor's* application for final payment valid, the *Consultant* will promptly issue a final certificate for payment to the *Owner*, with a copy to the *Contractor*.

5.5.3 If the *Consultant* rejects the application or part thereof, the *Owner* will promptly issue a written notice to the *Contractor* giving reasons for the revision or rejection, such written notice to be in compliance with *Payment Legislation*.

5.5.4 Subject to the provision of paragraph 10.4.1 of GC 10.4 – WORKERS' COMPENSATION, and any 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 and in any event, in compliance with *Payment Legislation*.

GC 5.6 DEFERRED WORK

5.6.1 If because of climatic or other conditions reasonably beyond the control of the *Contractor*, or if the *Owner* and the *Contractor* agree that, there are items of work that must be deferred, 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 deferred *Work*.

GC 5.7 NON-CONFORMING WORK

5.7.1 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 to the *Consultant*, in a form that can be reasonably evaluated, 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 the *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 applications 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 in as much as it contributes directly to the implementation of the *Change Directive*:

Labour

- 1 rates that are listed in the schedule or as agreed by the *Owner* and the *Contractor* including wages, benefits, compensation, contributions, assessments, or taxes incurred for such items as employment insurance, provincial or territorial health insurance, workers' compensation, and Canada or Quebec Pension Plan for:
 - (1) trade labour in the direct employ of the *Contractor*;
 - (2) the *Contractor*'s personnel when stationed at the field office;
 - (3) the *Contractor*'s personnel engaged at shops or on the road, in expediting the production or transportation of materials or equipment; and
 - (4) the *Contractor*'s office personnel engaged in a technical capacity, or other personnel identified in Article A-3 of the Agreement – CONTRACT DOCUMENTS for the time spent in the performance of the *Work*;

Products, Construction Equipment and Temporary Work

- 2 cost of all *Products* including cost of transportation thereof;
- 3 in the absence of agreed rates, cost less salvage value of *Construction Equipment*, *Temporary Work* and tools, exclusive of hand tools under \$1,000 owned by the *Contractor*;
- 4 rental cost of *Construction Equipment*, *Temporary Work* and tools, exclusive of hand tools under \$1,000;
- 5 cost of all equipment and services required for the *Contractor*'s field office;

Subcontract

- 6 subcontract amounts of Subcontractor with pricing mechanism approved by the *Owner*;

Others

- 7 travel and subsistence expenses of the *Contractor*'s personnel described in paragraph 6.3.7.1;
- 8 deposits lost provided that they are not caused by negligent acts or omissions of the *Contractor*;
- 9 cost of quality assurance such as independent inspection and testing services;
- 10 charges levied by authorities having jurisdiction at the *Place of the Work*;
- 11 royalties, patent license 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;
- 12 premium for all contract securities and insurance for which the *Contractor* is required, by the *Contract Documents*, to provide, maintain and pay in relation to the performance of the *Work*;
- 13 losses and expenses sustained by the *Contractor* for matters which are the subject of insurance under the policies prescribed in GC 11.1 – INSURANCE when such losses and expenses are not recoverable because the amounts are in excess of collectible amounts or within the deductible amounts;
- 14 taxes and duties, other than *Value Added Taxes*, income, capital, or property taxes, relating to the *Work* for which the *Contractor* is liable;
- 15 charges for voice and data communications, courier services, expressage, transmittal and reproduction of documents, and petty cash items;
- 16 cost for removal and disposal of waste products and debris;
- 17 legal costs, incurred by the *Contractor*, in relation to the performance of the *Work* provided that they are not:
 - (1) relating to a dispute between the *Owner* and the *Contractor* unless such costs are part of a settlement or awarded by arbitration or court,
 - (2) the result of the negligent acts or omissions of the *Contractor*, or
 - (3) the result of a breach of this *Contract* by the *Contractor*;
- 18 cost of auditing when requested by the *Owner*; and
- 19 cost of *Project* specific information technology in accordance with the method determined by the parties.

- 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* performance of the *Work* attributable to the *Change Directive* 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.
- 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 a finding.
- 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* and 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 *Owner*, through the *Consultant*, shall 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 promptly inform 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 the *Owner*, the *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, resulting in the failure of the *Contractor* to attain *Ready-for-Takeover* by the date stipulated in Article A-1 of the Agreement – THE WORK, 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*, the *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 2.2.12 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 and the *Consultant* will make a finding upon such claim.
- 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 perform 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* which provides the detail of such neglect to perform the *Work* properly or such failure to comply with the requirements of the *Contract* to a substantial degree, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Contractor Notice in Writing*, containing particulars of the default including references to applicable provisions of the *Contract*, 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,
 - .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 by giving *Notice in Writing*:
- .1 correct such default and deduct the cost thereof from any payment then or thereafter due the *Contractor* for the *Work* 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,
 - .2 withhold further payment to the *Contractor* until a final certificate for payment is issued,
 - .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 in force 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*,
 - .2 the *Consultant* fails to issue a certificate as provided in Part 5 of the General Conditions – PAYMENT,
 - .3 the *Owner* fails to pay the *Contractor* when due the amounts certified by the *Consultant* or awarded by adjudication, arbitration or court, or
 - .4 the *Owner* fails to comply with the requirements of the *Contract* to a substantial degree and the *Consultant*, except for GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, gives a written statement to the *Owner* and the *Contractor* that provides detail of such failure to comply with the requirements of the *Contract* to a substantial degree.
- 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* by giving a *Notice in Writing* to the *Owner* 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 8.3.3 to 8.3.8 of GC 8.3 – NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.4 – RETENTION OF RIGHTS apply to that dispute with the necessary changes to detail as may be required.
- 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 ADJUDICATION

- 8.2.1 Nothing in this *Contract* shall be deemed to affect the rights of the parties to resolve any dispute by adjudication as may be prescribed by applicable legislation.

GC 8.3 NEGOTIATION, MEDIATION AND ARBITRATION

- 8.3.1 In accordance with the rules for mediation as provided in CCDC 40 'Rules for Mediation and Arbitration of Construction Industry Disputes' 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.
- 8.3.2 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*.
- 8.3.3 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.
- 8.3.4 After a period of 10 *Working Days* following receipt of a responding party's *Notice in Writing* of reply under paragraph 8.3.2, 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 as provided in CCDC 40 in effect at the time of bid closing.
- 8.3.5 If the dispute has not been resolved at the mediation or within such further period as is agreed by the parties, the Project Mediator will terminate the mediated negotiations by giving *Notice in Writing* to the *Owner*, the *Contractor* and the *Consultant*.
- 8.3.6 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 8.3.5, either party may refer the dispute to be finally resolved by arbitration under the rules of arbitration as provided in CCDC 40 in effect at the time of bid closing. The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- 8.3.7 On expiration of the 10 *Working Days*, the arbitration agreement under paragraph 8.3.6 is not binding on the parties and, if a *Notice in Writing* is not given under paragraph 8.3.6 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.
- 8.3.8 If neither party, by *Notice in Writing*, given within 10 *Working Days* of the date of *Notice in Writing* requesting arbitration in paragraph 8.3.6, requires that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.3.6 shall be:
- .1 held in abeyance until:
 - (1) *Ready-for-Takeover*,
 - (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 8.3.6.

GC 8.4 RETENTION OF RIGHTS

- 8.4.1 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.
- 8.4.2 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 8.3.6 of GC 8.3 – 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*, 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 or omissions in the *Contract Documents*; or
 - .2 acts or omissions by the *Owner*, the *Consultant*, *Other Contractors*, or 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 the *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 substance 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 any toxic or hazardous substance which was 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 substance 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 the *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 the *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 13.1 – INDEMNIFICATION.
- 9.2.8 If the *Owner* and the *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 13.1 – 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 *Owner*, through the *Consultant*, shall 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 The *Contractor* shall be responsible for establishing, initiating, maintaining, and supervising all health and safety precautions and programs in connection with the performance of the *Work* in accordance with the applicable health and safety legislation.
- 9.4.2 The *Owner* and the *Contractor* shall comply with all health and safety precautions and programs established at the *Place of the Work*.
- 9.4.3 The *Owner* and the *Contractor* shall comply with the rules, regulations and practices required by the applicable health and safety legislation.
- 9.4.4 The *Owner* shall cause the *Consultant*, *Other Contractors* and the *Owner's* own forces to comply with all health and safety precautions and programs established by the *Contractor* at the *Place of the Work*.
- 9.4.5 Nothing in this *Contract* shall affect the determination of liability under the applicable health and safety legislation.

GC 9.5 MOULD

- 9.5.1 If the *Contractor* or the *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,
 - .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 the *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 the *Contractor*.
- 9.5.2 If the *Owner* and the *Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was 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,
 - .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 9.5.1.3, and
 - .4 indemnify the *Owner* as required by GC 13.1 – INDEMNIFICATION.
- 9.5.3 If the *Owner* and the *Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was not caused by the *Contractor's* operations under the *Contract*, the *Owner* shall promptly, at the *Owner's* own expense:
- .1 take all reasonable and necessary steps to safely remediate or dispose of the mould,
 - .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,
 - .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 13.1 – 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 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 issue 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; 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 physical model, plan or design of which was supplied to the *Contractor* as part of the *Contract*.

GC 10.4 WORKERS' COMPENSATION

- 10.4.1 Prior to commencing the *Work*, and again with the *Contractor*'s applications for payment, the *Contractor* shall provide evidence of compliance with workers' compensation legislation at the *Place of the Work*.

PART 11 INSURANCE

GC 11.1 INSURANCE

- 11.1.1 Without restricting the generality of GC 13.1 – INDEMNIFICATION, the *Contractor* shall provide, maintain and pay for the following insurance coverages, the 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 *Ready-for-Takeover*. Liability coverage shall be provided for completed operations hazards from the date of *Ready-for-Takeover* on an ongoing basis for a period of 6 years following *Ready-for-Takeover*.
 2. Automobile Liability Insurance from the date of commencement of the *Work* until one year after the date of *Ready-for-Takeover*.
 3. Unmanned aerial vehicle aircraft, manned aircraft or watercraft Liability Insurance when owned or non-owned manned or unmanned 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 *Ready-for-Takeover*;
 - (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*; and
 - (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 *Ready-for-Takeover*.
 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 *Other Contractors*, the *Owner* shall, in accordance with the *Owner's* obligations under the provisions relating to construction by the *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 *Ready-for-Takeover*.
- .8 *Contractors' Pollution Liability Insurance* from the date of commencement of the *Work* until one year after the date of *Ready-for-Takeover*.

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 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 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.

PART 12 OWNER TAKEOVER

GC 12.1 READY-FOR-TAKEOVER

12.1.1 The prerequisites to attaining *Ready-for-Takeover* of the *Work* are limited to the following:

- .1 The *Consultant* has certified or verified the *Substantial Performance of the Work*.
- .2 Evidence of compliance with the requirements for occupancy or occupancy permit as prescribed by the authorities having jurisdiction.
- .3 Final cleaning and waste removal at the time of applying for *Ready-for-Takeover*, as required by the *Contract Documents*.
- .4 The delivery to the *Owner* of such operations and maintenance documents reasonably necessary for immediate operation and maintenance, as required by the *Contract Documents*.
- .5 Make available a copy of the as-built drawings completed to date on site.
- .6 Startup, testing required for immediate occupancy, as required by the *Contract Documents*.
- .7 Ability to secure access to the *Work* has been provided to the *Owner*, if required by the *Contract Documents*.
- .8 Demonstration and training, as required by the *Contract Documents*, is scheduled by the *Contractor* acting reasonably.

12.1.2 If any prerequisites set forth in paragraphs 12.1.1.3 to 12.1.1.6 must be deferred because of conditions reasonably beyond the control of the *Contractor*, or by agreement between the *Owner* and the *Contractor* to do so, *Ready-for-Takeover* shall not be delayed.

12.1.3 When the *Contractor* considers that the *Work* is *Ready-for-Takeover*, the *Contractor* shall deliver to the *Consultant* and to the *Owner* a comprehensive list of items to be completed or corrected, together with a written application for *Ready-for-Takeover* for review. Failure to include an item on the list does not alter the responsibility of the *Contractor* to complete the *Contract*.

12.1.4 The *Consultant* will review the *Work* to verify the validity of the application and will promptly, and in any event, no later than 10 calendar days after receipt of the *Contractor's* list and application:

- .1 advise the *Contractor* in writing that the *Work* is not *Ready-for-Takeover* and give reasons why, or
- .2 confirm the date of *Ready-for-Takeover* in writing to each of the *Owner* and the *Contractor*.

12.1.5 Immediately following the confirmation of the date of *Ready-for-Takeover*, the *Contractor*, in consultation with the *Consultant*, shall establish a reasonable date for finishing the *Work*.

12.1.6 The provision of GC 12.1 – READY-FOR-TAKEOVER shall be subject to GC 12.2 – EARLY OCCUPANCY BY THE OWNER.

GC 12.2 EARLY OCCUPANCY BY THE OWNER

12.2.1 The *Owner* may take occupancy of a part or the entirety of the *Work* before *Ready-for-Takeover* has been attained only as agreed by the *Contractor* which agreement shall not be unreasonably withheld.

12.2.2 The *Owner* shall not occupy a part or the entirety of the *Work* without prior approval by authorities having jurisdiction.

12.2.3 If the *Owner* takes occupancy of a part of the *Work* before *Ready-for-Takeover* has been attained:

- .1 The part of the *Work* which is occupied shall be deemed to have been taken over by the *Owner* as from the date on which it is occupied.
- .2 The *Contractor* shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the *Owner*.
- .3 The warranty period specified in paragraph 12.3.1 of GC 12.3 – WARRANTY for that part of the *Work* shall start from the date on which it is occupied.

12.2.4 If the *Owner* takes occupancy of the entirety of the *Work* before all the prerequisites are met as described in paragraph 12.1.1 of GC 12.1 – READY-FOR-TAKEOVER, the *Work* shall, subject to the requirements of the applicable lien legislation, be deemed to achieve *Ready-for-Takeover*. This shall not relieve the *Contractor*'s responsibility to complete the *Work* in a timely manner.

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 when *Ready-for-Takeover* has been attained.

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.

PART 13 INDEMNIFICATION AND WAIVER

GC 13.1 INDEMNIFICATION

13.1.1 Without restricting the parties' obligation to indemnify respecting toxic and hazardous substances, patent fees and defect in title claims all as described in paragraphs 13.1.4 and 13.1.5, 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 negligent 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 *Ready-for-Takeover* date 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*.

- 13.1.2 The obligation of either party to indemnify as set forth in paragraph 13.1.1 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 minimum liability insurance limit for one occurrence, of the applicable insurance policy, 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 indemnification by a party against the other with respect to losses suffered by them, such obligation shall be restricted to direct loss and damage, and neither party shall have any liability to the other for indirect, consequential, punitive or exemplary damages.
 - .4 In respect to indemnification respecting claims by third parties, the obligation to indemnify is without limit.
- 13.1.3 The obligation of either party to indemnify the other as set forth in paragraphs 13.1.1 and 13.1.2 shall be inclusive of interest and all legal costs.
- 13.1.4 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.
- 13.1.5 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*.
- 13.1.6 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 become known; and
 - .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 13.2 WAIVER OF CLAIMS

- 13.2.1 Subject to any lien legislation applicable to 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* under the *Contract*, 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 *Ready-for-Takeover* date, except as follows:
- .1 claims arising prior to or on the *Ready-for-Takeover* date for which *Notice in Writing* of claim has been received by the *Owner* from the *Contractor* no later than 5 calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work* or 20 calendar days following the *Ready-for-Takeover* date, whichever is later;
 - .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 respecting toxic and hazardous substances, patent fees and defect in title matters for which a right of indemnity could be asserted by the *Contractor* pursuant to the provisions of paragraphs 13.1.4 or 13.1.5 of GC 13.1 – INDEMNIFICATION; and
 - .4 claims resulting from acts or omissions which occur after the *Ready-for-Takeover* date.
- 13.2.2 The *Contractor* waives and releases the *Owner* from all claims resulting from acts or omissions which occurred after the *Ready-for-Takeover* date except for:
- .1 indemnification respecting third party claims, and claims respecting toxic and hazardous substances, patent fees and defect in title matters, all as referred in paragraphs 13.2.1.2 and 13.2.1.3; and
 - .2 claims for which *Notice in Writing* of claim has been received by the *Owner* from the *Contractor* within 395 calendar days following the *Ready-for-Takeover* date.
- 13.2.3 Subject to any lien legislation applicable to 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* under the *Contract*, 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 *Ready-for-Takeover* date, except as follows:
- .1 claims arising prior to or on the *Ready-for-Takeover* date for which *Notice in Writing* of claim has been received by the *Contractor* from the *Owner* no later than 20 calendar days following the *Ready-for-Takeover* date;

- .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 respecting toxic and hazardous substances for which a right of indemnity could be asserted by the *Owner* against the *Contractor* pursuant to the provisions of paragraph 13.1.4 of GC 13.1 – 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 *Ready-for-Takeover* date.
- 13.2.4 Respecting claims arising upon substantial defects and deficiencies in the *Work*, as referenced in paragraph 13.2.3.4, and notwithstanding paragraph 13.2.3.5, the *Owner* waives and releases the *Contractor* from all claims 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 *Ready-for-Takeover* date, provided that 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, the time within which any such claim may be brought shall be such shorter period as may be prescribed by any limitation statute of the Province or Territory of the *Place of the Work*.
- 13.2.5 The *Owner* waives and releases the *Contractor* from all claims arising from acts or omissions which occur after the *Ready-for-Takeover* date, except for:
- .1 indemnification for claims advanced against the *Owner* by third parties, as referenced in paragraph 13.2.3.2;
 - .2 claims respecting toxic and hazardous substances for which a right of indemnity could be asserted by the *Owner* against the *Contractor*, as referenced in paragraph 13.2.3.3;
 - .3 claims arising under GC 12.3 – WARRANTY; and
 - .4 claims for which *Notice in Writing* has been received by the *Contractor* from the *Owner* within 395 calendar days following the *Ready-for-Takeover* date.
- 13.2.6 “*Notice in Writing* of claim” as provided for in GC 13.2 – WAIVER OF CLAIMS to preserve a claim or right of action which would otherwise, by the provisions of GC 13.2 – WAIVER OF CLAIMS, be deemed to be waived, must include the following:
- .1 a clear and unequivocal statement of an 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.
- 13.2.7 A claim for lien asserted under the lien legislation prevailing at the *Place of the Work* shall qualify as notice of claim for the purposes of this *Contract*.
- 13.2.8 The party giving the *Notice in Writing* of claim as provided for in GC 13.2 – WAIVER OF CLAIMS shall submit within a reasonable time a detailed account of the amount claimed.
- 13.2.9 Where the event or series of events giving rise to a claim made under paragraphs 13.2.1 or 13.2.3 has a continuing effect, the detailed account submitted under paragraph 13.2.8 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 such claim 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.
- 13.2.10 Nothing in GC 13.2 – WAIVER OF CLAIMS shall be deemed to affect the rights of the parties under any lien legislation or limitations legislation prevailing at the *Place of the Work*.

These Supplementary Conditions modify, delete and/or add to the Agreement between Owner and Contractor, the Definitions and the General Conditions of the Stipulated Price Contract, Standard Construction Document CCDC 2 – 2020.

SC1. AGREEMENT BETWEEN OWNER AND CONTRACTOR

SC1.1 ARTICLE A-5 PAYMENT

1.1.1 Delete paragraph 5.2 and replace it with the following:

“5.2 Should either party fail to make payments as they become due under this Contract, or in an award by adjudication, arbitration or court, interest will begin to accrue on the amount that is not paid from the date when it is due until the date it is paid at the prejudgment interest rate prescribed by the Judicature Act (Nunavut).”

SC1.2 ARTICLE A-9 TIME IS OF THE ESSENCE

1.2.1 Add a new Article A-9 as follows:

“ARTICLE A-9 TIME IS OF THE ESSENCE

9.1 The Contractor represents and warrants that it will attain Ready-for-Takeover by the date stipulated in paragraph 1.3 of Article A-1 of the Agreement – THE WORK, as such date may be adjusted in accordance with this Contract, and acknowledges that it has been advised by the Owner that it is critical to the Owner that Ready-for-Takeover is attained by such date. The Contractor acknowledges and agrees that time shall be of the essence in the performance of the Contractor’s obligations under this Contract.

9.2 The Contractor acknowledges and agree that the civil works portion of the Work is to start by Fall 2026 and that time is of the essence with respect to the commencement of the Project.”

SC2. DEFINITIONS

SC2.1 DEFINITIONS

2.1.1 Amend the Definition of “Consultant” by adding the following to the end:

“For purposes of this Contract, the terms "Consultant", "Architect" and "Engineer", wherever used in the Contract Documents, shall be considered synonymous.”

2.1.2 Amend the Definition of “Owner” by adding the following to the end:

“For purposes of this Contract, the term “Owner”, wherever used in the Contract Documents, shall include the Owner’s designated representative and/or project manager.”

2.1.3 Delete the Definition of “Substantial Performance of the Work” and replace it with the following:

“Substantial Performance of the Work is deemed to have been achieved when (a) the Work can be used for its intended purposes, and (b) the value of the Work to be performed under the Contract is capable of completion or, where there is a known defect, correction at a cost of not more than (i) 2% of the Contract Price and (ii) \$150,000.”

2.1.4 Add the following new Definitions:

“Act

Act means the Mechanics’ Lien Act, RSNWT, 1988 as duplicated for Nunavut by the Nunavut Act, SC 1993,c.28, and all amendments thereto

OHS Legislation

OHS Legislation means the Occupational Health and Safety legislation applicable to the Place of the Work, and all rules and regulations made thereunder.

Proper Invoice

Proper Invoice means an application for payment given by the Contractor to the Owner that fully complies with the requirements of GC 5.1A – PROPER INVOICE.

Record Drawings

Record Drawings means the drawings prepared by the Contractor by marking on a copy of the Drawings the changes from the Drawings which occur during the course of the Work including, but not limited to, the exact location of major building components and structures that were shown generally on the Drawings. For certainty, Record Drawings shall be delivered in computer-aided design (CAD) format, as well as in PDF formats, unless the Owner directs otherwise

WSSC

WSSC means the Workers' Safety & Compensation Commission (Nunavut)."

SC3. GENERAL CONDITIONS

SC3.1 GC 1.1 CONTRACT DOCUMENTS

3.1.1 Amend paragraph 1.1.2 by adding the following to the end:

"The intent of the Contract Documents is to include all labour, Products, materials, Construction Equipment and services necessary or normally considered necessary for the performance of the Work in accordance with the Contract Documents. Any item of Work mentioned in the Contract Documents or reasonably inferable from the Contract Documents but not otherwise shown or described, shall be provided by the Contractor as if shown or otherwise described or inferable. Any items omitted from the Contract Documents which are reasonably necessary or inferable for the completion of the Work, or related work, shall be considered a portion of the Work and included in the scope of Work to be performed under this Contract."

3.1.2 Delete paragraph 1.1.4 and replace it with the following:

"1.1.4 The Contractor shall review the Contract Documents and shall report promptly to the Consultant any error, inconsistency or omission the Contractor may discover. If the Contractor finds any error, inconsistency or omission in the Contract Documents or has any doubt as to the meaning or intent of any part thereof, the Contractor shall immediately notify the Owner and the Consultant, who will provide written instructions or explanations. The Contractor shall not proceed with the Work affected until the Contractor has received corrected or missing information from the Consultant in writing. Neither the Owner nor the Consultant will be responsible for oral instructions

3.1.3 Amend paragraph 1.1.5.1 by moving " Supplementary Condition" above "the Agreement between the Owner and the Contractor":

3.1.4 Amend paragraph 1.1.9 by adding new paragraphs 1.1.9.1 as follows:

"1.1.9.1 The Drawings are intended to convey the scope of the Work and indicate elevations and general and approximate locations, arrangement and sizes of fixtures, equipment, outlets, utilities and underground services. The Contractor shall obtain more accurate information and shall become familiar with and satisfy itself as to the site conditions and spaces before proceeding with the Work. Where site conditions require reasonable minor changes to indicated locations and arrangements, including relocation of existing conditions which interfere with the Work, the Contractor shall make such changes at no additional cost to the Owner."

SC3.2 GC 1.4 ASSIGNMENT

3.2.1 Delete paragraph 1.4.1 and replace it with the following:

“1.4.1 The Owner may assign the Contract, or any portion thereof, upon written notice to the Contractor. The Contractor may not assign the Contract, or any portion thereof, without the prior written consent of the Owner, which consent shall not be unreasonably withheld

SC3.3 GC 2.1 AUTHORITY OF THE CONSULTANT

3.3.1 Delete paragraph 2.1.2.

SC3.4 GC 2.2 ROLE OF THE CONSULTANT

3.4.1 Amend paragraph 2.2.12 by adding the following to the end:

“If, in the opinion of the Contractor, a Supplemental Instruction involves an adjustment in the Contract Price or the Contract Time, the Contractor shall, within five (5) Working Days of receipt of the Supplemental Instruction, provide the Consultant with a Notice in Writing to that effect and shall await further instructions. The Contractor’s failure to provide such Notice in Writing within the time stipulated in this paragraph shall be deemed an acceptance of the Supplemental Instruction by the Contractor without adjustment to the Contract Price or Contract Time.”

3.4.2 Amend paragraph 2.2.18 by deleting the words “against whom the Contractor makes no reasonable objection and”.

SC3.5 GC 2.3 REVIEW AND INSPECTION OF THE WORK

3.5.1 Amend paragraph 2.3.5 by adding the following to the end of the second sentence:

“, and there shall be no extension of the Contract Time resulting from any delay caused by such examination and correction.”

SC3.6 GC 2.4 DEFECTIVE WORK

3.6.1 Amend paragraph 2.4.1 by adding the following to the end:

“The Contractor shall prioritize the correction of defective work identified as priorities by the Owner or the Consultant.”

SC3.7 GC 3.0 PRE-CONSTRUCTION SUBMITTALS

3.7.1 Add a new GC 3.0 as follows:

“GC 3.0 PRE-CONSTRUCTION SUBMITTALS

3.0.1 Within ten (10) Working Days of the execution of the Contract, the Contractor shall submit to the Owner:

- .1 a copy of the Notice filed with the Chief Safety Officer or appropriate Ministry under the OHS Legislation naming the Contractor as “Principal Contractor” for the Project;
- .2 the bonds described in GC 14.3 – CONTRACT SECURITY;
- .3 certificates of insurance confirming the insurance policies required by this Contract are in place;
- .4 the construction schedule referred to in paragraph 3.4.1.1 of GC 3.4 – CONSTRUCTION SCHEDULE;
- .5 a current WSCC clearance certificate; and
- .6 a copy of the Contractor’s safety program to be implemented for the Project.”

SC3.8 GC 3.1 CONTROL OF THE WORK

3.8.1 Add new paragraphs 3.1.3 to 3.1.6 as follows:

“3.1.3 Prior to commencing the Work, the Contractor shall verify 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 Contract Documents. Without limiting the generality of the foregoing, the Contractor is responsible for the coordination of the various parts of the Work so that no part shall be left in an unfinished or incomplete condition.

- 3.1.4 The Contractor shall be entirely responsible for the proper laying out of the whole of the Work and shall, at every appropriate stage of the Work, take all proper steps to have all proper checks and surveys made to verify the correctness of all such lines, levels and measurements.
- 3.1.5 The Contractor shall perform the Work in accordance with the Contract Documents and applicable laws, ordinances, rules, regulations, or codes relating to the performance of the Work.
- 3.1.6 The Contractor, without in any way limiting its responsibilities under this Contract, shall:
 - .1 perform the Work so as to avoid disturbing the occupants of the Place of the Work or any adjacent structures or the public in general,
 - .2 respect and comply with local regulations and all Owner's requirements regarding permitted work hours, noise levels and work conditions,
 - .3 take all reasonable steps to avoid interference with fire exits, building access and egress, continuity of electric power and all other utilities, to suppress dust and noise, to avoid conditions likely to propagate mould or fungus of any kind, and shall take all other steps reasonably necessary to promote and maintain the safety and comfort of the users and occupants of any structures at the Place of the Work or any adjacent structures and the public in general, and/or to maintain access to and the operation of such structures,,
 - .4 take precautions not to allow any unauthorized visitors entry to the Place of the Work."

SC3.9 GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTS

- 3.9.1 Amend paragraph 3.2.2 by deleting the word "Owner" in the second line and replacing it with the word "Contractor".
- 3.9.2 Delete paragraphs 3.2.2.2 and 3.2.2.3.
- 3.9.3 Add a new paragraph 3.2.3.5 as follows:

"3.2.3.5 assume overall compliance with respect to all OHS Legislation and all related rules, regulations, and practices at the Place of the Work, including all of the responsibilities of the "Principal Contractor" under the OHS Legislation."

SC3.10 GC 3.4 CONSTRUCTION SCHEDULE

- 3.10.1 Delete paragraph 3.4.1 and replace it with the following:
 - "3.4.1 The Contractor shall:
 - .1 within ten (10) Working Days of signing this Contract submit to the Owner, for its approval, a construction schedule that indicates the timing of major activities and critical milestone dates for the Project, including conformity with the Contract Time. The schedule shall be in provided in electronic format, and once accepted by the Owner and the Consultant, the construction schedule submitted by the Contractor shall become the baseline construction schedule ("**Baseline Construction Schedule**")"; and
 - .2 provide the expertise and resources, including manpower and Construction Equipment, as are necessary to maintain progress under the Baseline Construction Schedule or any successor or revised schedule approved by the Owner; and

- .3 monitor the progress of the Work relative to the Baseline Construction Schedule and provide an updated schedule each month or as otherwise requested by the Owner and showing the current progress of the Work as against the Baseline Construction Schedule. The Contractor shall advise the Owner in writing of any variation from the baseline or slippage within two (2) Working Days of such variation or slippage becoming apparent. No variation from the baseline or slippage in the schedule shall amend or otherwise modify the Baseline Construction Schedule without the Owner's prior written consent; and
 - .4 at the Owner's request, provide to the Owner and the Consultant with a look-ahead schedule indicating the major activities to be undertaken or constructed in the next month.
- 3.4.2 If at any time it should appear that the actual progress of the Work is behind schedule or is likely to fall behind schedule, or if the Contractor has so advised the Consultant and the Owner, the Contractor shall take appropriate steps, at the Contractor's own expense, to cause the actual progress of the Work to conform to the schedule and shall produce and present to the Owner and the Consultant, for review and approval, a recovery plan demonstrating how the Contractor will achieve the recovery of the schedule.
 - 3.4.3 The Contractor shall not change the scheduled Ready-for-Takeover date."

SC3.11 GC 3.5 SUPERVISION

3.11.1 Delete paragraph 3.5.1 and replace it with the following:

- "3.5.1 The Contractor shall provide all necessary supervision and shall appoint a competent full-time supervisor who shall be in attendance at the Place of the Work on a full-time basis while the Work is being performed. The supervisor shall not be changed by the Contractor except for valid reasons, and upon the Contractor obtaining the Owner's prior written consent, which will not be unreasonably withheld."

SC3.12 GC 3.6 SUBCONTRACTORS AND SUPPLIERS

3.12.1 Add a new paragraph 3.6.1.4 as follows:

- "3.6.1.4 ensure that all Subcontractors and Suppliers and anyone employed or engaged by them directly or indirectly have the qualifications, technical skills, levels of experience and knowledge required (including with respect to all applicable health and construction safety rules and regulations), and all applicable permits, licenses and approvals necessary to perform the work assigned to them in accordance with the terms of this Contract."

3.12.2 Amend paragraph 3.6.2 as follows:

- (a) delete the words "before signing the Contract" in the third line of that paragraph; and
- (b) add the following to the end:

"The Contractor agrees not to change Subcontractors or Suppliers without the prior written approval of the Owner, which approval will not be unreasonably withheld."

3.12.3 Amend paragraph 3.6.3 by deleting the words "before the Owner has signed the Contract" in the first line.

3.12.4 Add new paragraphs 3.6.7 through 3.6.11 as follows:

- "3.6.7 If the Contractor has identified any Subcontractor or Supplier in its response to a request for proposals issued by the Owner, the Contractor shall employ such Subcontractor or Supplier on the Project.

3.6.8 If the Contractor intends to change any Subcontractors or Suppliers, the Contractor

shall advise the Owner in writing, giving the Contractor's reasons for the proposed change. The Contractor shall not change any Subcontractors or Suppliers without the prior written approval of the Owner.

- 3.6.9 Notwithstanding paragraph 3.6.5, the Owner may, in its sole discretion, assign to the Contractor, and the Contractor agrees to the accept, the assignment of any contract procured and/or entered into by the Owner for work or services or Products required on the Project that has been pre-tendered or pre-negotiated by the Owner.
- 3.6.10 The Contractor hereby assigns and transfers to the Owner all subcontracts entered into with Subcontractors and Suppliers, and the Contractor shall ensure that each such subcontract is freely assignable to the Owner or as it may direct. Provided that it is expressly understood and agreed, notwithstanding anything contained in the Contract Documents to the contrary, that the Contractor shall remain solely responsible for the performance and observance of all of the covenants and agreements to be performed by the Contractor and for the enforcement of the covenants and obligations of the Subcontractors and Suppliers, unless and until the Owner exercises its rights to assign any Subcontractor or Supplier contracts. Until such time as the Owner exercises its rights of assignment, nothing contained in this paragraph shall be deemed to create any contractual or other liability upon the Owner for the performance of obligations under such Subcontractor or Supplier contracts or render the Owner liable to any Subcontractors or Suppliers for the fulfilment or non-fulfilment of the covenants or obligations of the Contractor, and the Contractor shall be fully responsible for all of its obligations and liabilities under such assignable Subcontractor and Supplier contracts.
- 3.6.11 If the Contractor has confirmed as part of its proposal that it will hire trainees from the Owner' pre-trades training program ("Trainees"), the Contractor shall employ not less than such number of Trainees, as agreed to by the Contractor and the Owner, for the Work on the Project. Such employment may be by the Contractor directly or through one or more of its Subcontractors."

SC3.13 GC 3.7 LABOUR AND PRODUCTS

- 3.13.1 Amend paragraph 3.7.1 by inserting the words " , agents, Subcontractors and Suppliers" after the word "employees" in the first line.
- 3.13.2 Amend paragraph 3.7.2 by adding the following sentence to the end:
"The Contractor represents and warrants that the Products are not subject to any conditional sales contracts and are not subject to any security rights claimed or obtained by any third party which may subject any of the Products to seizure and/or removal from the Place of the Work."
- 3.13.3 Add new paragraphs 3.7.4 to 3.7.6as follows:
- "3.7.4 The Contractor is responsible for the safe transportation and on-site storage of Products and their protection (including Products supplied by the Owner and Other Contractors) so as to avoid dangerous conditions, deterioration, damage or contamination to the Products, persons or property. The Contractor shall store the Products in locations at the Place of the Work to the satisfaction of the Owner and the Consultant. If the Contractor is required to store the Products at locations other than the Place of the Work, the Contractor shall first obtain the Owner's written approval regarding the location, conditions, and terms of such storage.
- 3.7.5 Without in any way limiting the Contractor's obligations under this Contract, the Contractor shall prepare and implement job site rules which shall govern work on the Project. Such job site rules shall be consistent with the Contractor's duties and obligations under the OHS Legislation, with the Owner's health and safety policies, if any, and shall include provisions making smoking, vaping and the consumption of alcohol or non-prescription drugs on the Project the subject of discipline proceedings and/or termination of employment.

- 3.7.6 The Owner or the Consultant, acting reasonably, shall have the right to order the Contractor to remove from the Project, without cost to the Owner, any representative or employee of the Contractor or any representative or employee of a Subcontractor or Supplier whose conduct, in the opinion of the Owner or the Consultant, jeopardizes the safety or security of the Project, any person, the Owner's operations, is a detriment to the Project, or whose behaviour may be considered as harassment in the workplace. Immediately upon receipt of such order the Contractor shall make arrangements for the appointment of a replacement representative or employee acceptable to the Owner."

SC3.14 GC 3.8 SHOP DRAWINGS

- 3.14.1 Amend paragraph 3.8.3 as follows:

- (a) add the following after the first sentence:

"Each Shop Drawing submitted to the Consultant shall bear the stamp, date and signature of the person responsible for the review of that Shop Drawing on behalf of the Contractor."

- (b) add a new paragraph 3.8.3.3 as follows:

"3.8.3.3 that the Contractor has reviewed each Shop Drawing for accuracy, completeness and coordination."

- 3.14.2 Add new paragraphs 3.8.8 to 3.8.11 as follows:

"3.8.8 Reviewed Shop Drawings shall not authorize a change in the Contract Price or the Contract Time.

3.8.9 The Contractor shall not use the term "by others" on Shop Drawings but shall identify the responsible Subcontractor or Supplier where such work is within the scope of the Work.

3.8.10 Where Specifications require the Shop Drawings to bear the seal and signature of a professional, such professional shall 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.

3.8.11 The Consultant's review of the Shop Drawings shall not relieve the Contractor from responsibility for defective Work resulting from errors or omissions of any kind on the reviewed Shop Drawings and shall not constitute authorization to the Contractor to perform additional Work or changed Work. The Contractor is solely responsible for dimensions to be confirmed and correlated at the job site, for information that pertains solely to fabrication processes, and for techniques of construction and installation."

SC3.15 GC 3.9 CLEANUP

- 3.15.1 Add a new GC 3.9 as follows:

"GC 3.9 CLEANUP

3.9.1 The Contractor shall maintain the Work and the Place of the Work in a safe and tidy condition and free from the accumulation of waste products and debris. The Contractor shall ensure the Place of the Work is cleaned and left in a tidy condition on a daily basis, failing which the Owner may, upon not less than twenty-four (24) hours written notice, perform the clean up work by the most expedient method and back charge the full cost of such cleanup to the Contractor.

3.9.2 Before delivering the application for Ready-for-Takeover the Contractor shall remove any and all surplus Products, tools, Construction Equipment, Temporary Work, waste products and debris and shall ensure the Place of the Work is clean and tidy and suitable for occupancy by the Owner."

SC3.16 GC 3.10 STANDARD OF CARE

3.16.1 Add a new GC 3.101 as follows:

“GC 3.10 STANDARD OF CARE

3.10.1 In performing this Contract the Contractor shall exercise a standard of care, skill, judgment and diligence that would normally be exercised by an experienced, skilled and prudent contractor supplying similar services for similar projects. The Contractor acknowledges and agrees that, throughout this Contract, the Contractor’s obligations, duties and responsibilities shall be interpreted in accordance with this standard. The Contractor shall exercise the same standard of care, skill, judgment and diligence in respect of any Products, Subcontractors, Suppliers, personnel or procedures which it may employ on the Project.”

SC3.17 GC 4.1 CASH ALLOWANCES

3.17.1 Add a new GC 4.1.8 as follows:

“4.1.8 The owner reserves the right to call, or to have the contractor call for competitive bids for portions of the Work to be paid for from any cash allowances.”

SC3.18 GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

3.18.1 Delete GC 5.1.

SC3.19 GC 5.1A PROPER INVOICE

3.19.1 Add a new GC 5.1A as follows:

“GC 5.1A PROPER INVOICE

5.1A.1 In this Contract, a Proper Invoice shall mean an application for payment made by the Contractor that:

- .1 is given to the Owner by e-mail sent to **INSERT EMAIL ADDRESS** and is concurrently sent by e-mail to the Consultant; and
- .2 includes all of the following:
 - .1 the Contractor’s name and address and GST registration number;
 - .2 the date of the application for payment and the period during which the services or materials were supplied;
 - .3 the Contract, Change Order, or Change directive identification number under which the services or materials were supplied;
 - .4 a description, including quantities where appropriate, of the services and materials that were supplied;
 - .5 the amount payable for the services or materials that were supplied;
 - .6 the name, title, telephone number and mailing address of the person to whom payment is to be sent;
 - .7 a statement based on the schedule of values for the Work approved by the Owner;
 - .8 where the application includes amounts charged on the basis of hourly rates, documentation in support of the amount claimed, including dates that the Work was performed, identity of the person(s) involved, the hours spent, and a description of the Work performed;
 - .9 copies of any Change Orders and Change Directives for which the Contractor is claiming payment, together with copies of invoices and other documents in support of the amounts claimed on account of changes in the Work;
 - .10 for all applications for payment except the final payment, an updated construction schedule that complies with the requirements of paragraph

3.4.1.1 of GC 3.4 – CONSTRUCTION SCHEDULE;

.11 a current valid clearance certificate issued by the WSCC; and

.12 for the second and all subsequent applications for payment, a CCDC 9A Statutory Declaration stating that all accounts for services and materials and other indebtedness incurred by the Contractor for which the Owner may in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified matter in dispute.”

SC3.20 GC 5.2 APPLICATIONS FOR PAYMENT

3.20.1 Delete paragraphs 5.2.1 and 5.2.2 and replace them with the following:

“5.2.1 The Contract Price shall be payable in accordance with the following:

a. The Owner agrees to pay two advances to the Contractor, in the aggregate amount of \$_____ (the “**Advances**”) on account of the Contract Price, in accordance with the following:

a. A first advance, in the amount of \$_____ (“**Advance 1**”), less statutory holdback, will be made within ten (10) Business Days following the execution of the Contract by both parties.

b. A second advance, in the amount of \$_____ (“**Advance 2**”), less statutory holdback, will be made within ten (10) Business Days following the date on which the Contractor has delivered all of the documents required by **GC 3.0 PRE-CONSTRUCTION SUBMITTALS**.

provided, however, the Advances shall be held in trust by the Contractor and, subject to the agreement of the Owner, may only be applied towards the undisputed amounts of a Proper Invoice and the Contract Price. To the extent that the Contract is terminated, for any reason, any remaining balance of the Advances that has not been applied to a Proper Invoice with the Owner’s approval shall be immediately reimbursed to the Owner within five (5) Business Days of such termination.

b. The Owner shall pay the remaining balance of the Contract Price to the Contractor as progress payments as the Work progresses.

5.2.2 Notwithstanding the foregoing, the Contractor shall not give a Proper Invoice between:

a. December 5th and January 6th, inclusive; and

b. the date certified as the date of Substantial Performance of the Work and the date that the Contract is completed.”

3.20.2 Amend paragraph 5.2.3 by adding the following to the end:

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

3.20.3 Amend paragraph 5.2.5 by inserting the words “, or as directed by the Consultant” after the words “as specified in the Contract”.

3.20.4 Amend paragraph 5.2.6 by adding the following to the end:

“, as modified by paragraph 5.1A.1 of GC 5.1A – PROPER INVOICE.”

3.20.5 Amend paragraph 5.2.8 by adding the following to the end:

“Subject to the Owner’s absolute discretion, claims for Products not yet delivered to the Place of the Work shall not be considered by the Consultant or the Owner for payment until such time as they have been delivered and installed at the Place of the Work. Any Products delivered to the Place of the Work but not yet incorporated into the Work shall remain at the risk of the

Contractor notwithstanding that title has passed to the Owner pursuant to GC 14.1 – OWNERSHIP OF MATERIALS.”

SC3.21 GC 5.3 PAYMENT

3.21.1 Delete paragraph 5.3.1 and replace it with the following:

“5.3.1 After receipt by the Consultant and the Owner of an application for payment submitted by the Contractor in accordance with GC 5.2 – APPLICATIONS FOR PAYMENT, the Consultant will issue to the Owner and copy to the Contractor, no later than ten (10) calendar days after the date of receipt of a Proper Invoice, a certificate for payment in the amount applied for, or in such other amount as the Consultant determines to be properly due. For clarity no certificate of payment shall be issued where the invoice delivered by the Contractor does not meet the requirements of a Proper Invoice as provided for in GC 5.1A – PROPER INVOICE.

5.3.2 Subject to the Owner’s right of setoff and subject to the holdback provisions of the Act, the Owner will pay the amount payable under a Proper Invoice for progress payment no later than thirty (30) calendar days after the date the Owner receives the certificate of payment from the Consultant. Provided that the Owner’s obligation to make payment shall not arise unless and until the Contractor’s application for payment constitutes a complete Proper Invoice as provided in GC 5.1A – PROPER INVOICE.

For certainty, and without limitation, the Owner may refuse to pay all or any portion of an application for progress payment where:

- .1 the application does not comply with all of the requirements of a Proper Invoice in GC 5.1A – PROPER INVOICE; and/or
- .2 the Owner is entitled to deduct and retain amounts in accordance with the Contract Documents; and/or
- .3 the amount applied for exceeds the amount stated in the certificate for payment issued by the Consultant pursuant to paragraph 5.3.1.

5.3.3 Payment by the *Owner* shall not preclude the *Owner* from thereafter disputing any of the items for which payment was made and shall not be construed as acceptance of any part of the *Work*.”

SC3.22 GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK

3.22.1 Delete paragraphs 5.4.2 to 5.4.4 and replace them with the following:

“5.4.2 Immediately after the issuance of the certificate of Substantial Performance of the Work the Contractor shall, in consultation with the Owner and the Consultant, establish reasonable dates for finishing the Work and correcting deficiencies.

5.4.3 The Contractor shall submit an application for payment of the lien holdback amount which shall include all of the following:

- .1 an invoice for the release of the holdback amount;
- .2 a declaration that no notices of any lien(s) have been received by the Contractor;
- .3 a current valid clearance certificate issued by the WSCC;
- .4 a CCDC 9A Statutory Declaration stating that all accounts for services and materials and other indebtedness incurred by the Contractor for which the Owner may in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified matter in dispute; and
- .5 a copy of all guarantees, warranties, certificates, testing and balancing reports and spare parts, Shop Drawings, maintenance and operating manuals, correspondence from authorities having jurisdiction, and all other close-out documents or materials specified in the Contract Documents for the Work completed to the date of the application for payment.

- 5.4.4 Subject to the Owner's right to give notice of non-payment of holdback in accordance with the Act, the Owner will pay the amount authorized by the certificate for payment of the holdback in accordance with the Act. For certainty, and without limitation, the Owner may refuse to pay a portion of the holdback where the Owner is entitled to deduct and retain amounts in accordance with the Contract Documents."

3.22.2 Delete paragraph 5.4.5.

SC3.23 GC 5.5 FINAL PAYMENT

3.23.1 Delete paragraph 5.5.1 and replace it with the following:

"5.5.1 When the Contractor considers that the Contract is completed, the Contractor shall deliver to the Owner and the Consultant a Proper Invoice for final payment."

3.23.2 Delete paragraphs 5.5.3 and 5.5.4 and replace them with the following:

"5.5.3 Subject to the Owner's right of setoff, the Owner will pay the amount payable under a Proper Invoice for final payment no later than thirty (30) calendar days after the date the Owner receives the certificate of payment from the Consultant. Provided that the Owner's obligation to make payment shall not arise unless and until the Contractor's application for payment constitutes a complete Proper Invoice as provided in GC 5.1A – PROPER INVOICE. For certainty, and without limitation, the Owner may refuse to pay all or any portion of an application for final payment where:

- .1 the application does not comply with all of the requirements of a Proper Invoice in GC 5.1A – PROPER INVOICE; and/or
- .2 the Owner is entitled to deduct and retain amounts in accordance with the Contract Documents; and/or
- .3 the amount applied for exceeds the amount stated in the certificate for payment issued by the Consultant pursuant to paragraph 5.5.2."

SC3.24 GC 5.8 WITHHOLDING OF PAYMENT

3.24.1 Add a new GC 5.8 as follows:

"GC 5.8 WITHHOLDING OF PAYMENT

5.8.1 Notwithstanding any provision in the Contract Documents to the contrary, the Owner may withhold payment of any amount claimed in an application for payment, in a Proper Invoice, or in any certificate for payment to the extent required to offset any claims the Owner may have against the Contractor, or to offset previous over-payment made to the Contractor, or for damages or costs incurred by the Owner, or to the extent as may be necessary to protect and/or indemnify the Owner from loss, claims and/or damages.

5.8.2 Where the Owner has withheld payment to the Contractor pursuant to the provisions of this Contract, the Owner shall be entitled to apply the funds withheld toward the costs of any required remedial work, completion costs, or toward damages or losses suffered and for which the Owner is entitled to compensation under this Contract, including legal costs and expenses."

SC3.25 GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

3.25.1 Amend paragraph 6.1.2 by adding the following to the end:

"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, Contract Time and/or the Contract 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 changes to the Contract or the Work, and no claims that the Owner has been unjustly enriched

by any change to the Work, whether or not there is any such unjust enrichment, shall be the basis of a claim for damages or additional payment or for a change in the Contract Price or Contract Time, or a claim for an amendment to the Contract. Without limiting the generality of the foregoing, under circumstances of expediency and provided that the change in the Contract Price will be less than \$ [REDACTED], the Contractor shall perform a change in the Work without first obtaining a Change Order or a Change Directive where it has received from the Owner's [insert title] some form of written or e-mail direction agreeing to the change, in which case such change, and the value of such change, if any, will be determined pursuant to GC 6.2 or GC 6.3, at the option of the Owner."

3.25.2 Add a new paragraph 6.1.3 as follows:

"6.1.3 The Contractor agrees that changes resulting from construction coordination or Subcontractor or Supplier coordination are included in the Contract Price and shall not entitle the Contractor to claim any increase to the Contract Price."

SC3.26 GC 6.2 CHANGE ORDER

3.26.1 Amend paragraph 6.2.1 by adding the following to the end:

"Such adjustments and method of adjustment must be submitted by the Contractor to the Consultant in sufficient time to prevent interruption of the orderly progress of construction and, in any event, no later than ten (10) days from the Contractor's receipt of the proposed change in the Work."

3.26.2 Amend paragraph 6.2.2 by adding the following to the end:

"An adjustment to the Contract Time will be considered only when the Contractor demonstrates to the Owner that a change in the Work affects the critical path of the Work. Any costs associated with an adjustment to the Contract Time shall be identified by the Contractor and shall be limited to the reasonable direct costs directly attributable to the adjustment to the Contract Time."

3.26.3 Add new paragraph 6.2.3 as follows:

"6.2.3 The Contractor shall not be entitled to any additional compensation or an adjustment to the Contract Time arising out of changes to the Work aside from the amounts stated in a Change Order. In no event shall the Owner be liable to the Contractor for any costs, including indirect, impact or consequential costs, arising out of changes to the Work beyond the agreed upon amount of the Change Order."

SC3.27 GC 6.3 CHANGE DIRECTIVE

3.27.1 Amend paragraph 6.3.7 as follows:

- (a) insert the words "Subject to paragraph 6.3.14," at the beginning of that paragraph; and
- (b) delete paragraphs 6.3.7.5, 6.3.7.12 to and including 6.3.7.15, and 6.3.7.17 to and including 6.3.7.19.

3.27.2 Amend paragraph 6.3.12 by adding the following to the beginning:

"An adjustment to the Contract Time will be considered only where the change affects the critical path of the Work."

3.27.3 Add a new paragraph 6.3.14 as follows:

"6.3.14 Without limitation, the following shall not form part of the cost of performing the work attributable to a Change Directive, and shall not be recoverable by the Contractor:

- .1 head office salaries and benefits and all other overhead or general expenses, except only for the amounts described in paragraph 6.3.7.1;

- .2 capital expenses and interest on capital;
- .3 general cleanup, except where the performance of the work attributed to the Change Directive causes specific additional cleanup requirements;
- .4 wages paid for field supervision of Subcontractors;
- .5 wages, salaries, rentals or other expenses that exceed the rates that are standard in the locality of the Place of the Work or that are otherwise deemed unreasonable;
- .6 costs or expenses attributable to the negligence, improper work, deficiencies or breaches of contract by the Contractor or any Subcontractor or Supplier; and
- .7 costs of quality assurance, such as inspection and testing services, charges levied by authorities having jurisdiction, and any legal fees unless any such costs or fees are pre-approved in writing by the Owner.”

SC3.28 GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

3.28.1 Add a new paragraph 6.4.0 as follows:

“6.4.0 The Contractor confirms that, before signing this Contract, it carefully investigated and examined the Place of the Work, the Contract Documents, and any other documents made available by the Owner, and applied to that investigation and examination the degree of care and skill described in paragraph 3.10.1 of GC 3.10 – STANDARD OF CARE. If the Contractor has not conducted the investigations and examinations described in this paragraph 6.4.0, it is deemed to assume all risk of conditions or circumstances now existing or arising in the course of the Work which could make the Work more expensive or more difficult to perform. No allowances will be made for additional costs and no claims by the Contractor will be considered for an adjustment in the Contract Price or Contract Time in connection with conditions which were reasonably apparent or which could reasonably have been discovered by such investigations or examinations made before signing of the Contract.”

3.28.2 Amend paragraphs 6.4.1.1 and 6.4.1.2 by adding the following to the end of each paragraph:

“and which were concealed from discovery notwithstanding the conduct of the investigations and examinations described in paragraph 6.4.0”

3.28.3 Amend paragraph 6.4.2 by inserting the words “and were concealed from discovery notwithstanding the conduct of the investigations and examinations described in paragraph 6.4.0” after the word “materially” in the second line.

SC3.29 GC 6.5 DELAYS

3.29.1 Amend paragraph 6.5.1 by deleting the last sentence and replacing it with the following:

“The Contractor shall be reimbursed by the Owner for reasonable direct costs directly flowing from the delay but excluding the costs of the Contractor’s head office personnel and overhead costs, any consequential, indirect or special damages, and any loss of profit or loss of opportunity costs and damages arising from or caused by such delay, regardless of whether any such excluded costs, damages or claims are made or incurred by the Contractor or any Subcontractor or Supplier.”

3.29.2 Amend paragraph 6.5.2 by deleting the last sentence and replacing it with the following:

“The Contractor shall be reimbursed by the Owner for reasonable direct costs directly flowing from the delay but excluding the costs of the Contractor’s head office personnel and overhead costs, any consequential, indirect or special damages, and any loss of profit or loss of opportunity costs and damages arising from or caused by such delay, regardless of whether any such excluded costs, damages or claims are made or incurred by the Contractor or any Subcontractor or Supplier. Provided that this paragraph 6.5.2 shall not apply where the stop work order is issued as a result of a declaration of a state of emergency or the occurrence of

an epidemic or pandemic, in which case any resulting delay shall be governed by paragraph 6.5.3.”

3.29.3 Amend paragraph 6.5.3 by adding a new subparagraph 6.5.3.0 as follows:

“6.5.3.0 acts, orders, legislation, regulations or directives of any court, government or other public authority, including stop work orders or Project closures or suspensions, made or issued as a result of a declaration of a state of emergency or the occurrence of an epidemic or pandemic,”

3.29.4 Amend paragraph 6.5.4 by adding the following to the end of the paragraph:

“For greater certainty, it is the intention of the parties that an extension for delay will be considered only when the Contractor demonstrates that the delay impacts the critical path of the Work and that the Contractor has made reasonable efforts to mitigate the delay, and any adjustment to the Contract Time shall only be to the extent that the critical path of the Work is affected. Without in any way limiting the generality of the foregoing, it is a condition precedent to the Contractor’s claim for extension of the Contract Time and for additional compensation or reimbursement of costs that the notice provisions in this paragraph be strictly adhered to in each instance, except where the event of delay itself reasonably precludes strict adherence to such notice provisions. If the Contractor fails to comply with such notice provisions, it shall be deemed to have waived the right to claim for the effects of delay.”

3.29.5 Add new paragraphs 6.5.6 to 6.5.9 as follows:

6.5.6 The Contractor shall take all reasonable steps to reschedule the Work and to minimize the effect of the delay referred to in paragraphs 6.5.1, 6.5.2 and 6.5.3. If the Contractor fails to do so, the extension of the Contract Time and/or any amounts which may otherwise be payable to the Contractor will be reduced accordingly.

6.5.7 The Contractor shall be responsible for the care, maintenance and protection of the Project in the event of any suspension of the Work as a result of the delay described in paragraphs 6.5.1, 6.5.2, or 6.5.3. In the event of such suspension, the Contractor shall be reimbursed by the Owner for the reasonable direct costs incurred by Contractor for such care, maintenance, and protection, but excluding the Contractor’s head office personnel and overhead costs.

6.5.8 The parties acknowledge and agree that the Owner shall not be liable for any delay or part thereof that occurs concurrently with an independent cause of delay for which the Owner is not responsible. In addition, in the event the Owner is responsible for two or more separate causes of delay that run in whole or in part parallel to each other, those two or more events shall be considered as one for the purpose of determining the duration of the extension of the Contract Time and/or any amount payable to the Contractor.

6.5.9 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, which includes all parties responsible for transporting Products and materials to the Place of the Work, then the Contract Time shall be extended for such reasonable time as the Consultant may decide in consultation with the Owner and the Contractor. The Owner shall be reimbursed by the Contractor for all reasonable costs and expenses incurred by the Owner as a result of such delay including, but not limited to, the cost of all additional services required by the Owner from the Consultant or any subconsultants, project managers or others employed or engaged by the Owner.”

SC3.30 GC 7.1 OWNER’S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR’S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT

3.30.1 Delete paragraph 7.1.2 and replace it with the following:

“7.1.2 If the Contractor neglects to prosecute the Work properly, or fails or neglects to maintain the construction schedule, or otherwise fails to comply with the requirements of this Contract to a material extent, the Owner may, without prejudice to any other right or remedy the Owner may have, notify the Contractor in writing that the Contractor is in default of the Contractor’s contractual obligations and instruct the Contractor to correct the default in the ten (10) Working Days immediately following the receipt of such notice, but without affecting in any respect the liability of the Contractor in respect of earlier defaults.”

3.30.2 Amend paragraph 7.1.3 by replacing “5 Working Days” with “ten (10) Working Days.”

3.30.3 Delete paragraph 7.1.4.1 and replace it with the following

“7.1.4.1 correct such default and deduct the cost thereof from any payment then or thereafter due the Contractor, or”

3.30.4 Add a new paragraph 7.1.5A and 7.1.5B as follows:

“7.1.5A The Owner may terminate this Contract for convenience, in whole or in part, at any time for any or no reason. In such event, the Owner shall pay for the Work performed up to the effective date of termination, including demobilization costs, and for such additional reasonable direct costs directly flowing from and which are a reasonable consequence of the termination, but excluding the costs of the Contractor’s head office personnel and overhead costs, any consequential, indirect or special damages, and any loss of profit or loss of opportunity costs and damages arising from or caused by the termination, and regardless of whether any such excluded costs, damages or claims are made or incurred by any Subcontractor or Supplier.

7.1.5B If the Owner terminates the Contractor’s right to continue with the Work in whole or in part or terminates the Contract as provided in this GC 7.1, the Contractor shall deliver to the Owner, within five (5) days of the effective date of the termination, all of the materials listed in paragraph 12.1.1 of GC 12.1 – READY-FOR-TAKEOVER in the possession of or available to the Contractor.”

SC3.31 GC 7.2 CONTRACTOR’S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

3.31.1 Delete paragraph 7.2.2.

3.31.2 Amend paragraph 7.2.3 as follows:

(a) delete paragraphs 7.2.3.1 and 7.2.3.2;

(b) delete paragraphs 7.2.3.3 and 7.2.3.4 and replace them with the following:

“7.2.3.3 the Owner fails to pay the Contractor when due the amount certified by the Consultant or awarded by arbitration or a court; provided that this paragraph shall not apply to the Owner’s withholding of payments in accordance with the Contract Documents, or

7.2.3.4 the Owner fails to comply with the requirements of the Contract to a substantial degree, and the Consultant gives a written statement to the Owner and the Contractor that provides details of such failure to comply and confirms to the Contractor and the Owner that sufficient cause exists to justify the Contractor’s action.”

3.31.3 Amend paragraph 7.2.4 by replacing “5 Working Days” with “ten (10) Working Days.”

3.31.4 Delete paragraph 7.2.5 and replace it with the following:

“7.2.5 If the default cannot be corrected within the ten (10) Working Days specified in paragraph 7.2.4, the Owner shall be deemed to have cured the default if it:

- .1 commences the correction of the default within the specified time, and
 - .2 provides the Contractor with a reasonable schedule for such correction, and
 - .3 completes the correction in accordance with such schedule.
- 7.2.6 If the Contractor terminates the Contract under the conditions described in this GC 7.2, the Contractor shall ensure the Work and the Place of the Work are left in a safe and secure condition as required by authorities having jurisdiction and the Contract Documents and shall be entitled to be paid for all Work performed to the date of termination. Subject to the Contractor's obligation to mitigate costs, the Contractor shall be entitled to recover the costs directly flowing from and which are a reasonable consequence of the termination, but excluding the costs of the Contractor's head office personnel and overhead costs, any consequential, indirect or special damages, and any loss of profit or loss of opportunity costs and damages arising from or caused by such termination, regardless of whether any such excluded costs, damages or claims are made or incurred by the Contractor or any Subcontractor or Supplier. The Owner shall not be liable to the Contractor for any other claims, costs or damages whatsoever arising from such termination of the Contract."

SC3.32 GC 8.3 NEGOTIATION, MEDIATION AND ARBITRATION

3.32.1 Delete paragraphs 8.3.1 through 8.3.8 and replace them with the following:

- "8.3.1 Differences between the parties as to the interpretation, application or administration of this Contract or any failure to agree where agreement between the parties is called for, herein collectively called "Disputes", shall be resolved in accordance with the provisions of this GC 8.3.
- 8.3.2 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations conducted by senior representatives of the parties for a period of up to thirty (30) days, having such written and verbal communications and meetings as appropriate. The parties agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations.
- 8.3.3 If the Dispute is not resolved through negotiations, the parties may jointly agree to refer the Dispute to mediation; provided that there shall be no mediation unless both parties jointly agree to mediate and agree on a mediator. The fees and expenses of the mediator and the venue shall be shared equally by the parties.
- 8.3.4 If the Dispute is not resolved through negotiations or mediation, the parties may jointly refer the Dispute to confidential final binding arbitration. Unless both parties jointly refer a Dispute to arbitration, there shall be no arbitration of such Dispute.
- 8.3.5 Any arbitration under paragraph 8.3.4 shall be conducted by a single arbitrator agreed upon by the parties to the Dispute. If the parties cannot agree upon a single arbitrator, the arbitration shall be conducted by a single arbitrator appointed by a Court of competent jurisdiction in the Place of the Work upon the application of any party to the Dispute, with notice to the other parties to the Dispute. The venue for the arbitration shall be in Iqaluit, NU, unless otherwise agreed to by the parties. The costs of the arbitrator and the venue shall be shared equally among the parties to the arbitration. The arbitrator shall issue an award supported by written reasons. The award of such arbitrator shall be final and binding upon all the parties hereto and their representatives and nominees and there shall be no appeal therefrom. The arbitration shall be conducted in accordance with the provisions of the Arbitrations Act applicable to the Place of the Work, and any amendments thereto for the time being in force.
- 8.3.6 Unless the Owner determines that the Dispute should be addressed immediately, all Disputes shall be:

- .1 held in abeyance until:
 - (a) Ready-for-Takeover;
 - (b) the Contract has been terminated; or
 - (c) the Contractor has abandoned the Work.which ever earlier, and
 - .2 consolidated, where permitted by the applicable legislation, into a single arbitration or proceeding.
- 8.3.7 If a Dispute is not resolved promptly, the Consultant shall give instructions for the proper performance of the Work and to prevent delays pending resolution of the Dispute. The Contractor shall act immediately according to such instructions, it being understood that by doing so neither party will jeopardize, waive, or renounce any rights or claim the party may have.
- 8.3.8 Nothing in this GC 8.3- NEGOTIATION, MEDIATION, ARBITRATION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation. If the parties refer a Dispute to arbitration, as provided in paragraph 8.3.4, the Contractor agrees that this paragraph 8.3.8 shall be construed as a formal consent to the stay of any lien proceedings commenced by the Contractor in relation to the Dispute until an award is rendered in the arbitration or such Dispute is otherwise resolved between the parties. Provided nothing in this paragraph shall prevent the Contractor from taking the steps required by the Lien Legislation in the jurisdiction of the Place of the Work to preserve and/or perfect a lien to which it may be entitled.
- 8.3.9 The Contractor acknowledges and agrees that it may be called upon by the Owner to provide information, documentation and/or other reasonable assistance with respect to any disputes between the Owner and any other party, and the Contractor agrees that it shall provide such information, documentation and other reasonable assistance if requested to do so by the Owner.
- 8.3.10 Notwithstanding any other provisions of this Contract, the Owner shall not be liable to the Contractor for consequential, indirect, aggravated, punitive or exemplary damages. ”

SC3.33 GC 9.1 PROTECTION OF WORK AND PROPERTY

- 3.33.1 Amend paragraph 9.1.1.1 by adding the following to the end:
“, which the Contractor could not reasonably have discovered applying the degree of care and skill described in this Contract.”
- 3.33.2 Add a new paragraph 9.1.5 as follows:
“9.1.5 Without in any way limiting the Contractor's obligations under this GC 9.1, should the Contractor or any Subcontractor or Supplier cause loss or damage to property, including roads, buildings, structures, paving, grass, sod, trees or other plantings, whether owned by the Owner or others, and whether at the Place of the Work or adjoining it, the Contractor shall be liable for the cost of making good such damage and for the repair and replacement costs, including the costs of any consultants, and such costs may be deducted by the Owner from amounts otherwise owing to the Contractor.”

SC3.34 GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

- 3.34.1 Amend paragraph 9.2.3 by deleting the words “The Owner” in the first line and replacing them with “The Contractor”.
- 3.34.2 Amend paragraph 9.2.4 by deleting the words “Unless the Contract expressly provides otherwise, the Owner” in the first line and replacing them with “The Contractor”.

- 3.34.3 Add a new paragraph 9.2.5.5 as follows:
“9.2.5.5 take all necessary steps to mitigate the impact on Contract Time and Contract Price.”
- 3.34.4 Amend paragraph 9.2.7.3 by adding the following after the words “as a result of the delay” at the end of the second line:
“, but excluding the costs of the Contractor’s head office personnel and overhead costs, any consequential, indirect or special damages, and any loss of profit or loss of opportunity costs and damages arising from or caused by such delay, regardless of whether any such excluded costs, damages or claims are made or incurred by the Contractor or any Subcontractor or Supplier.”
- 3.34.5 Amend paragraph 9.2.8 by adding the following after the word “responsible” in the second line:
“, or that any toxic or hazardous substances already at the Place of the Work (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the Contractor or anyone for whom the Contractor is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment or material damage to the property of the Owner or others,”
- 3.34.6 Add a new paragraph 9.2.10 and 9.2.11 as follows:
“9.2.10 The *Contractor* shall, immediately upon becoming aware of any environmentally toxic and hazardous substance or materials (within the meaning of applicable environmental legislation), notify the *Owner* in writing setting out particulars concerning the type of the environmentally toxic and hazardous substance or materials, where it was discovered, and all other information that the *Contractor* has at the time of the notice.

9.2.11 The Contractor shall indemnify the Owner and its officers, directors, employees, consultants, successors and assigns in respect of any loss, costs, expense or fine which might be imposed in respect of any failure by the Contractor to satisfy its obligations under this GC 9.2 and, without limiting the general nature of this indemnity, the Contractor shall indemnify the Owner, its officers, directors, employees, consultants, successors and assigns in respect of any loss, costs, expense or fine if the Project is made subject to an order from a court or government agency requiring remediation of any contamination caused as a result of the Work performed by the Contractor or its Subcontractors.”

SC3.35 GC 9.4 CONSTRUCTION SAFETY

- 3.35.1 Add new paragraphs 9.4.6 to 9.4.9 as follows:
“9.4.6 Without limiting the generality of paragraph 9.4.1, the Contractor shall be and shall assume all of the responsibilities of the “Principal Contractor” under the OHS legislation for the Project and shall file a notice with the appropriate government agency naming the Contractor as the “Principal Contractor”.

9.4.7 The Contractor shall be solely and exclusively responsible for controlling the workplace and the Place of the Work and shall take all steps to effectively direct and supervise the Work in order to ensure conformity and compliance with OHS Legislation and all other applicable construction health and safety requirements, regulations, industry standards and guidelines. The Contractor represents and warrants to the Owner that appropriate health and construction safety instruction and training have been provided and will be provided to the Contractor’s employees, Subcontractors, Suppliers and all others attending at the Place of the Work, including the Owner’s representatives, the Owner’s own forces and Other Contractors. No comments, suggestions or instructions from the Owner, the Consultant or any other representative of the Owner are to be relied upon or assumed to reduce or replace the Contractor’s designation as the

“Principal Contractor” or its responsibility for construction safety on the Project.

- 9.4.8 The Contractor shall indemnify and save harmless the Owner and its officers, directors, employees, consultants, successors and assigns from and against any and all liability, costs, expenses, charges, fines, damages and all other consequences arising from any and all safety infractions on the Project, including the payment of legal fees and disbursements on a full indemnity basis.”

SC3.36 GC 9.5 MOULD

- 3.36.1 Amend paragraph 9.5.3.3 by adding the following after the words “as a result of the delay”:

“, but excluding the costs of the Contractor’s head office personnel and overhead costs, any consequential, indirect or special damages, and any loss of profit or loss of opportunity costs and damages arising from or caused by such delay, regardless of whether any such excluded costs, damages or claims are made or incurred by the Contractor or any Subcontractor or Supplier.”

SC3.37 GC 11.1 INSURANCE

- 3.37.1 Add new paragraphs 11.1.1.10 to 11.1.1.13 as follows:

- .10 In addition to the insurance requirements specified in CCDC 41 – CCDC INSURANCE REQUIREMENTS, the *Contractor* shall obtain, maintain and pay for ‘wrap-up’ general liability insurance in the joint names of the *Owner*, the *Contractor*, any affiliated company or assignee of the *Owner* established by the *Owner* for this Project, all *Subcontractors*, all subcontractors, and all trade subcontractors with limits of not less than \$10,000,000 per occurrence. The insurance coverage shall be primary to all other insurance policies and shall not be substantially 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, except for liability arising from damage to the *Project* during construction, which shall be limited to the completed operations period. The insurance shall be maintained from the date of commencement of the *Project* until 30 calendar days after the date of *Ready-for-Takeover of the Work*. The *Contractor* is responsible to provide coverage for completed operations hazards from the date of *Ready-for-Takeover of the Work* for a period of 30 calendar days.
- .11 In addition to the insurance requirements specified in CCDC 41 – CCDC INSURANCE REQUIREMENTS, the *Contractor* shall obtain, maintain and pay for Marine Cargo Insurance covering the replacement value of any goods in transit by water or land including, without limitation, the prefabricated modular homes. This policy must have extensions for craning and storage.
- .12 In addition to the insurance requirements specified in CCDC 41 – CCDC INSURANCE REQUIREMENTS, the *Contractor* shall obtain, maintain and pay for Course of Construction/All risk insurance for the amount of the Contract Price from the commencement of the Work until Completion and turn-over of the Project to the Owner.
- .13 *Contractor* shall without limiting its obligations or liabilities hereto, obtain, maintain and pay for during the period of this Agreement, WSCC coverage, as applicable. The *Contractor* confirms that it will consult with the WSCC and will register with the WSCC as required in accordance with direction provided by WSCC. The *Contractor* agrees that if the *Contractor* is assessed any fee by the WSCC, including, but not limited to, any extra levies or assessment as a result of an injury or death to an employee (worker) of the *Contractor* or subcontractor or due to unsafe working conditions, these extra amounts will not be reimbursed by the Owner.”

SC3.38 GC 12.1 READY-FOR-TAKEOVER

3.38.1 Delete paragraphs 12.1.1.4 and 12.1.1.5 and replace them with the following:

“12.1.1.4 The delivery to the Owner of guarantees, warranties, certificates, testing and balancing reports and spare parts, Shop Drawings, maintenance and operating manuals, correspondence from authorities having jurisdiction, and all other close-out materials or documents specified in the Contract Documents, to the extent that they have not previously been delivered.

12.1.1.5 The delivery to the Owner of the final Record Drawings acceptable to the Consultant.”

3.38.2 Delete paragraph 12.1.2.

3.38.3 Amend paragraph 12.1.5 by adding the following to the end:

“, which shall be no later than thirty (30) days after Ready-for-Takeover.”

3.38.4 Delete paragraph 12.1.6.

SC3.39 GC 12.2 EARLY OCCUPANCY BY THE OWNER

3.39.1 Delete paragraphs 12.2.1 to 12.2.4 and replace them with the following:

“12.2.1 The Owner, its agents, and Other Contractors shall have the right to enter, occupy, take possession of or use for any intended purpose any portion or all of the undelivered portion of the Project, even though Ready-for-Takeover may not have been attained, provided that reasonable notice has been provided and such entry, occupation, taking of possession or use will not interfere, in any material way, with the progress of the Work. The entry, occupation, taking of possession or use of any such portion of the Project shall not be deemed to be the Owner’s acknowledgement or acceptance of the Work or the Project, nor shall it be deemed to be an acknowledgement or acceptance by the Owner that such Work, or portions of the Work, have met the Ready-For-Takeover requirements described in the Contract Documents, nor shall it entitle the Contractor to an adjustment in the Contract Time or Contract Price.

12.2.2 The entry, occupation, taking of possession or use of any portion of the Project by the Owner, its agents or Other Contractors pursuant to this GC 12.2 – EARLY OCCUPANCY BY THE OWNER shall not relieve the Contractor of any of its obligations under the Contract, including the Contractor’s designation and obligations as “Principal Contractor” under OHS Legislation and the Contractor’s obligations respecting construction health and safety and all of the Contractor’s other obligations, rules, regulations and practices shall continue to apply notwithstanding such entry, occupation, taking of possession or use.”

SC3.40 GC 12.3 WARRANTY

3.40.1 Amend paragraph 12.3.1 by adding the following to the end:

“Notwithstanding the foregoing, if an item of Work is not completed at Ready-for-Takeover, except for extended warranties as described in paragraph 12.3.6, the warranty period for such item of Work shall be one (1) year from the date that such item of Work has been completed and accepted in writing by the Owner.”

3.40.2 Amend paragraph 12.3.3 by adding the following to the end:

“The Contractor shall correct all remedial and warranty work identified in the Notice in Writing within ten (10) days of receipt of such notice, or within such other time as the parties may agree, failing which the Owner may engage others to perform the work necessary to complete and rectify such warranty work at the risk and cost of the Contractor.”

3.40.3 Amend paragraph 12.3.4 by adding the following to the end:

“The Contractor shall perform all remedial and warranty work at its own cost and expense and at a time convenient to the Owner, which may be outside of normal working hours. Before performing the remedial and warranty work the Contractor shall provide, for the Owner’s review and approval, a proposed schedule for the performance of such work.”

SC3.41 GC 13.1 INDEMNIFICATION

3.41.1 Delete paragraphs 13.1.1 through 13.1.6 and replace them with the following:

“13.1.1 The Contractor shall defend, indemnify and hold harmless the Owner, Qikiqtaaluk Business Development Corporation, Qikqitani Inuit Association, and their respective officers, directors, employees, consultants, agents, successors and assigns from and against all claims, demands, damages, losses, expenses, costs including legal fees, actions, suits or proceedings (collectively “**Claims**”) by whomsoever made, brought or prosecuted in any manner, arising out of, resulting from or attributable to, directly or indirectly, the Contractor’s or any Subcontractor’s performance or non-performance of the Work or the Contract, including Claims arising out of the condition of the Work, the Project site, adjoining land, driveways, streets or alleys used in connection with the performance of the Work, regardless of whether or not caused in part by a party indemnified hereunder. It is expressly understood that the Contractor will save harmless the Owner from all Claims made by any person other than the Contractor itself, financial or otherwise, relating to or arising from the Work.

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

SC3.42 GC 13.2 WAIVER OF CLAIMS

3.42.1 Delete paragraphs 13.2.1 through 13.2.10 and replace them with the following:

“13.2.1 As of the date on which the Owner makes final payment to the Contractor, the Owner expressly waives and releases the Contractor from all claims against the Contractor including, without limitation, those that might arise from negligence or breach of contract by the Contractor except for one or more of the following:

- .1 those made in writing prior to the date of the final certificate for payment and still unsettled;
- .2 those arising from the provisions of GC 13.1 – INDEMNIFICATION or GC 12.3 – WARRANTY;
- .3 those arising from GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES and arising from the Contractor bringing or introducing any toxic or hazardous substances to the Place of the Work after the Contractor commences the Work;
- .4 those made by Notice in Writing within a period of six years from Ready-for-Takeover, or within such shorter period as may be prescribed in any limitation statute of the province or territory of the Place of the Work, and arising from any liability of the Contractor for damages resulting from the Contractor’s performance of the Contract or substantial defects or deficiencies in the Work for which the Contractor is proven responsible.

13.2.2 As of the date of Ready-for-Takeover, the Contractor expressly waives and releases the Owner from all claims which it has or reasonably ought to have knowledge of that could be advanced against the Owner including, without limitation, those that might arise from the negligence or breach of contract by the Owner except:

- .1 those for which Notice in Writing was given prior to the Contractor’s application for

Ready-for-Takeover and still unsettled; and

- .2 claims for payment for Work completed after the Contractor's application for Ready-for-Takeover.”

SC3.43 PART 14 – OTHER PROVISIONS

3.43.1 Add a new Part as follows:

“PART 14 OTHER PROVISIONS

GC 14.1 OWNERSHIP OF MATERIALS

14.1.1 Unless otherwise specified, all materials existing at the Place of the Work at the time this Contract is entered into shall remain the property of the Owner. All Work and Products delivered to the Place of the Work shall be the property of the Owner and shall be free of any encumbrances. The Contractor shall remove all surplus or rejected materials from the Place of the Work.

GC 14.2 LIENS AND ACTIONS

14.2.1 The Contractor shall save and keep the Owner and the Place of the Work free from all construction liens and all other liens whatsoever arising out of the Work. If any lien is claimed, filed or registered or any written notice of a lien is received by reason of any Work supplied or claimed to have been supplied by or through a Subcontractor or Supplier, and provided the Owner has paid all amounts properly due under this Contract, the Contractor shall, at its own expense, within ten (10) Working Days of being notified of the lien or written notice of a lien, secure the discharge, release, vacating or withdrawal of such lien or written notice of a lien by payment or by giving security or in such other manner as is or may be required or permitted by law, failing which the Owner may, but shall not be required, take such steps as it, in its absolute discretion, may deem necessary to release, vacate or discharge the lien or written notice of a lien.

14.2.2 If a lien action is commenced arising out of a lien described in paragraph 14.2.1, the Contractor shall take all reasonable steps to remove the Owner from such action and shall indemnify the Owner and hold it harmless in such action.

14.2.3 All amounts, including legal costs on a full indemnity basis, disbursements, interest, borrowing, premium or other bonding costs and/or charges incurred by the Owner in releasing, vacating, discharging and/or otherwise dealing with a Subcontractor or Supplier lien, written notice of a lien and/or defending or otherwise dealing with a lien action, shall be charged to the Contractor and shall be set off and deducted from any amount owing to the Contractor. If there is no amount owing by the Owner to the Contractor at that time, then the Contractor shall reimburse the Owner for all costs and amounts incurred by the Owner.

GC 14.3 CONTRACT SECURITY

14.3.1 The Contractor shall, prior to commencing the Work, deliver to the Owner a performance bond and a labour and material payment bond in the form of the most recent CCDC 221 and 222 bond specimens, and each in the amount of fifty per cent (50%) of the Contract Price.

14.3.2 Such bonds shall be issued by a duly licensed surety company authorized to transact the business of suretyship in Nunavut and shall be maintained in good standing until the fulfillment of the Contract, including without limitation, all warranty obligations. All premiums and other costs of the bonds are included in the Contract Price.

GC 14.4 DAILY REPORTS / DAILY LOGS

14.4.1 The Contractor shall cause its supervisor, or such competent person as it may delegate, to prepare and maintain a daily site log or diary recording, at least, the following: (a) daily weather conditions and temperatures at the Place of the Work, (b) the number of workers of the Contractor, Subcontractors, Suppliers and any other

forces at the Place of the Work, (c) the Construction Equipment at the Place of the Work, (d) the descriptions and quantities of Products delivered and utilized, and (e) the general nature of Project activities. Such log or diary shall also record any extraordinary or emergency events which may occur and also the identities of any persons who visit the Place of the Work who are not part of the day-to-day workforce. The Contractor shall also take or arrange for the taking of Project photographs to record the progress of the Work.

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

14.4.3 Upon request by the Owner or the Consultant, the Contractor shall make available for inspection and copying all of the records generated pursuant to this GC 14.4, along with any other routine Project records ordinarily maintained by the Contractor.

GC 14.5 ADVERTISING AND PUBLIC STATEMENTS

14.5.1 The Contractor shall not publish, issue or make any statements, social media posts, or news release, electronic or otherwise, concerning the Contract, the Work, or the Project, and shall not use the Owner's name, logo, etc. without the prior express written consent of the Owner. For greater certainty, the Contractor shall obtain the prior written approval of the Owner for any public advertising, social media posts, written public sales promotions, press release or other general publicity matter, in which the name or logo of the Owner is mentioned or used, or in which words are used from which any connection with the Owner may be inferred. The Contractor will not erect or permit the erection of any sign or advertising at the Place of the Work without the prior written approval of the Owner.

GC 14.6 LOCAL COMMUNITY

14.6.1 The Contractor understands that the Owner is committed to providing opportunities for the local community when possible. To that end, the Contractor shall make commercially reasonable efforts to identify opportunities to engage local employees, subcontractors, and suppliers for the Work whenever possible.

14.6.2 Where the Owner has established a pre-trades training program, the Contractor agrees that it will directly (or indirectly through subcontractors) hire trainees who have successfully completed the program for the performance of the Work. The number trainees hired, whether directly or indirectly, shall be not less than the number specified on the Contractor's Proposal Form, subject to the availability of trainees and the Owner's agreement to the change, which will not be unreasonably withheld.

GC 14.7 AMENDMENTS TO THE CONTRACT

14.7.1 No alteration or amendment to this Contract, no course of conduct or dealing between the parties, and no express or implied acceptance of alterations or amendments to the Contract shall be binding unless it is in writing and signed by each party.

14.7.2 No waiver by or on behalf of a party of any breach of a provision of this Contract shall be binding upon the party unless it is expressed in writing and duly executed by the party or signed by its fully authorized representatives, and such a waiver shall not operate as a waiver of any future breach, whether of a like or different character. No waiver shall be inferred from or implied by the conduct of either party.

14.7.3 Should any provision of this Contract be held to be void or unenforceable, the remaining provisions shall remain in full force and effect, to be read and construed as if the void or unenforceable provisions were originally deleted

GC 14.8 CUSTOMS DUTIES AND TARIFFS

14.8.1 Any increase or decrease in costs to the Contractor due to changes in taxes and duties imposed by the Territory of Nunavut or by the Government of Canada after the execution

of this Contract shall increase or decrease the Contract Price accordingly. The Contractor shall not be entitled to any fee or mark-up on any increase in the Contract Price due to changes in taxes and duties.

14.8.2 Increases or decreases in the Contractor's costs as a result of tariffs shall be dealt with as set out in this CG14.8.2:

- .1 the Contractor will only be entitled to claim an increase in the Contract Price if a tariff is imposed by the Government of Canada after the execution of this Contract, or if a tariff imposed by the Government of Canada at the time of execution of this Contract is increased after the execution of this Contract (each a "**Subject Tariff**") on materials, goods, Products or anything else which is specified in the Contract Documents or which is used in the manufacture or production of goods, Products or anything else which is specified in the Contract Documents (each a "**Subject Item**"). For certainty, the Contractor shall not be entitled to any increase in the Contract Price as a result of any increase in costs as a result of any tariffs announced or imposed by the government of the United States of America or any other government, state or province.
- .2 If, as a result of a Subject Tariff there will be or there is an increase in costs to the Contractor, the Contractor shall immediately give Notice in Writing to the Owner that includes all of the following:
 - (a) a description of the Subject Item to which the Subject Tariff applies or will be applied and, if the Subject Tariff does not yet apply, the date on which the Subject Tariff will be applied to the Subject Item;
 - (b) an extract from or a reference to the section of the Contract Documents where the Subject Item is specified or an explanation of how the Subject Item is used in the manufacture or production of goods, Products or anything else which is specified in the Contract Documents;
 - (c) an estimate of the increase of the costs to the Contractor and an estimate of the increase to the Contract Price as a result of the imposition of the Subject Tariff;
 - (d) a list of suggested product or supplier alternatives for the Subject Item, and the estimated change in the Contract Price and the Contract Time if any of the suggested alternatives are implemented;
 - (e) other mitigation steps that may be taken to reduce costs, such as bulk purchasing or advance purchase and storage of Subject Items ahead of the imposition of the Subject Tariff;
 - (f) such other information and documents which the Owner may request.
- .3 After reviewing the information and documents provided pursuant to GC 14.8.2.2, the Owner may make additions, deletions or other revisions to the Work by Change Order or Change Directive in relation to a Subject Tariff or a Subject Item. If the Change Order or Change Directive includes an increase to the Contract Price resulting from the imposition of a Subject Tariff, then:
 - (a) such increase shall be limited to the actual amount paid to Canada Customs on account of the imposition of the Subject Tariff on the Subject Item, as stated in and as evidenced by a copy of the Commercial Invoice and a printout of the Commercial Accounting Declaration to be provided by the Contractor to the Owner. For certainty, the Contractor is not entitled to recover any amount paid on account of tariffs that were in effect at the time the Contract was executed; and
 - (b) the Contractor shall not be entitled to any fee or mark-up on any part of a Change Order or a Change Directive which results from a Subject Tariff.

- .4 If any tariff imposed by the Government of Canada is reduced or removed after the time the execution of the Contract, the Contract Price shall be reduced accordingly. the Contractor shall provide to Owner, upon request, copies of invoices, quotations, estimates, Canada Customs documents, and any other relevant documents which Owner may request, for the purpose of determining the reduction in the Contract Price.

END OF SUPPLEMENTARY CONDITIONS