

1. GENERAL

- .1 The Standard Construction Document CCDC 2 2020 for a Stipulated Price Contract, English version, consisting of the Agreement Between *Owner* and Contractor, Definitions and General Conditions of the Stipulated Price Contract, Parts 1 to 13 inclusive, governing same, together with the provisions of the Ontario *Construction Act* is hereby made part of these *Contract Documents*, with the amendments, additions and modifications set forth within these Supplementary Conditions.
- .2 These Supplementary Conditions supersede, replace or amend the Contract Document clauses, as noted in each item.
- .3 Throughout the *Contract Documents*, references to the “General Conditions of the Contract” or “General Conditions” shall include the Supplementary Conditions listed herein.
- .4 These Supplementary Conditions shall apply to all *Work*, as defined by the *Contract Documents*.
- .5 Where any article, paragraph or sub-paragraph in the General Conditions is supplemented by one of the following paragraphs, the provisions of such article, paragraph or sub-paragraphs shall remain in effect and the Supplemental Conditions shall be considered as added thereto.
- .6 Where any article, paragraph, or sub-paragraph in the *Contract Documents* is amended, voided, or superseded by any of the following paragraphs, the provisions of such article, paragraph, or sub-paragraph not so amended, voided or superseded shall remain in effect.

2. CCDC 2-2020 AGREEMENT BETWEEN OWNER AND CONTRACTOR

- .1 Add the following to the list of Contract Documents in paragraph 3.1:
 - “ - Supplementary General Conditions to CCDC 2 –
2020 (this Document)
 - Drawings and Specifications
 - Bid Documents, including Instructions to Bidders, Form of Tender, and Tender addenda, if applicable
 - Performance Bond, if applicable
 - Labour and Material Payment Bond, if applicable
 - Purchase Order”
- .2 Delete Article A-4.4 and replace it with the following:
 - “4.4 The *Contract Price* shall remain fixed for the duration of the *Contract Time*, subject only to adjustments as provided for in the *Contract Documents*. For

certainty, and without limiting the general application of the preceding sentence, the *Contractor* assumes all risks in connection with cost increases for overhead, *Products, Labour, and Construction Equipment* prescribed by the *Contract Documents* for the performance of the *Work*, and the *Contractor* assumes all responsibility for liabilities and additional costs that may arise as a result of the *Contractor's* inclusion of any *Product, Construction Equipment, Supplier, or Subcontractor* in its calculation of the *Contract Price*.”

- .3 Add to the end of paragraph 5.2.1 (2)

“Royal Bank of Canada
2459 Parkedale Avenue
Brockville, Ontario
K6V 3G9”

- .4 Delete Articles A-6.2 through A-6.5 and substitute new article 6.2 as follows:

“6.2 The delivery of the *Notice in Writing* will be by hand, courier or by prepaid first-class mail. A *Notice in Writing* delivered by one party in accordance with this *Contract* will be deemed to have been received by the other party on the date of delivery if delivered by hand or courier, or if sent by mail it shall be deemed to have been received five calendar days after the date on which it was mailed, provided that if either such day is not a *Working Day* then the *Notice in Writing* shall be deemed to have been received on the *Working Day* next following such day. An address for a party may be changed by *Notice of Writing* to the other party setting out the new address in accordance with this Article.”

- .5 Add new Article A-9 – CONSTRUCTION SAFETY as follows:

“ARTICLE A-9 CONSTRUCTION SAFETY

9.1 The *Contractor* represents and warrants that in tendering for the *Work*, and in entering into a *Contract* with the *Owner* for the performance of the *Work* that the *Contractor* will comply with all applicable statutory obligations, including without limitation, the obligations imposed by the Ontario *Occupational Health and Safety Act*.

9.2 The *Contractor* further declares and agrees that if awarded the *Contract*, the undersigned shall abide by all of the items identified under Construction Safety in the General Instructions of the *Contract Documents* and, for the purposes of the Project, the undersigned specifically agrees to be the “*constructor*” of the Project within the meaning of the Act, and as such, shall assume all the obligations and responsibilities, and observe all construction safety requirements and procedures and duties of inspection imposed by the Act on the “*constructor*”, as defined in the General Instructions of the *Contract Documents*, for all *Work*

and services performed by the undersigned, the Subcontractors or other contractors on or in connection with the Project.”

- .6 Add the following new Article A-10 as follows:

“ARTICLE A-10 TIME OF THE ESSENCE

- 10.1 It is agreed that one of the reasons the *Contractor* was selected by the *Owner* for this *Contract* is the *Contractor’s* representation and covenant that it will attain *Substantial Performance, Occupancy* (if applicable), and *Ready-for-Takeover* within the *Contract Time* stated in Article A-1 of this *Contract*.
- 10.2 The *Contractor* acknowledges and agrees that it is responsible to marshal its resources and those of its *Subcontractors and Suppliers* in a manner which will permit timely attainment of *Substantial Performance, Occupancy* (if applicable), and *Ready-for-Takeover*. The *Contractor* agrees that time is of the essence of this *Contract*.”

3. DEFINITIONS

- .1 Amend Definition ***Consultant*** by adding the following to the end of the Definition:
- “The term “*Consultant*” means the *Consultant* or the *Consultant’s* authorized representative, and for the purposes of the Contract, the terms “Consultant”, “Architect” and “Engineer” shall be considered synonymous.”
- .2 Amend Definition ***Contract Documents*** by adding “in writing” to the end of the Definition.
- .3 Amend Definition ***Owner*** by adding the following to the end of the Definition: “The term “*Owner*” means the *Owner* or the *Owner’s* authorized agent or representative as designated to the *Contractor* in writing but does not include the *Consultant*. For the purposes of this Contract the “*Owner*” and “Board” shall be considered synonymous.”
- .4 Add the following new definitions:

“ **CCDC 41**

CCDC 41 means CCDC 41 CCDC Insurance Requirements Publication Date: December 14, 2020.

Construction Schedule

Construction Schedule means the schedule for the performance of the *Work*

provided by the *Contractor* pursuant to GC 3.4, including any amendments to the Construction Schedule made pursuant to the Contract Documents.

Excess Soil

“*Excess Soil*” means excess soil as that term is defined under section 3 of the *Excess Soil Regulation*.

Excess Soil Regulation

“*Excess Soil Regulation*” means O. Reg. 406/19: On-Site and Excess Soil Management to the *Environmental Protection Act*, R.S.O. 1990, c. E.19.

Force Majeure

“*Force Majeure*” means delays in or failure in the performance of either party under the Contract if and to the extent the failure in performance is caused by events or circumstances which are beyond the control and without the fault or negligence of the party affected, and which by reasonable diligence the party affected was unable to prevent, including but not limited to decrees of Federal or Provincial Government, Pandemics, Epidemics and/or disease, acts of God, fires, floods, explosions, riots, war, rebellion, sabotage and atomic or nuclear incidents; however lack of finances, strikes or other concerted acts by workers, delay or failure arising out of the nature of the work to be done, or from the normal action of the elements, or from any normal difficulties which may be encountered in the performance of the work, having regard to the nature thereof, shall in no event be deemed to be a cause beyond the party’s control.

Install

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

Labour Dispute

Labour Dispute means any lawful or unlawful labour problems, work stoppage, labour disruption, strike, job action, slow down, lock-outs, picketing, refusal to work or continue to work, refusal to supply materials, cessation of work or other labour controversy which does, or might, affect the *Work*.

Overhead

Overhead means all site and head office operations and facilities, all site and head office administration and supervision; all duties and taxes for permits and licenses required by the authorities having jurisdiction at the Place of the *Work*;

all requirements of Division 1, including but not limited to Submittals, warranty, quality control, insurance and bonding; calculations, testing and inspections; meals and accommodations; and, tools, expendables and clean-up costs.

Provide

Provide, when used in conjunction with Products, means to supply, install and put into service. Provide has this meaning whether or not the first letter is capitalized.

Request for Information (RFI)

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

Submittals

Submittals are documents or items required by the *Contract Documents* to be provided by the *Contractor*, including but not limited to:

- *Shop Drawings*, samples, models, mock-ups to indicate details or characteristics, before the portion of the *Work* that they represent can be incorporated into the *Work*; and
- As-Built drawings and manuals to provide instructions to the operation and maintenance of the *Work*.”

Total Performance of the Work or Totally Performed

Total Performance of the *Work* or *Totally Performed* means when the entire *Work* (except for the correction of deficiencies that are identified after the receipt of the Proper Invoice for payment, in accordance with GC 5.4) has been fully and Totally Performed to the requirements of the *Contract Documents*, including completion in accordance with the *Construction Act* and the correction of all Deficiencies that were identified prior to the receipt of such Proper Invoice.

4. GENERAL CONDITIONS

.1 GC1.1 CONTRACT DOCUMENTS

- .1 Delete paragraphs 1.1.3 and 1.1.4, and add new paragraph 1.1.3:

“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*, and shall report promptly to the *Consultant* any error, inconsistency or omission the *Contractor* may discover. Such review by the *Contractor* shall comply with the standard of care described in paragraph GC 3.9.1 of the *Contract*. Except for its obligation to make such review and report the result, the *Contractor* does not assume any responsibility to the *Owner* or to the *Consultant* for the accuracy of the *Contract Documents*. The *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* could not reasonably have discovered. If the *Contractor* does discover 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 *Consultant* in writing and the *Contractor* shall not proceed with the work affected until the *Contractor* has received corrected or missing information from the *Consultant*.”

- .2 Amend subparagraph 1.1.6 by adding the following to the end of that subparagraph:

“Except where the *Consultant* shall be indemnified as a third-party beneficiary as provided in subparagraphs 9.2.7.4, 9.5.3.4 and in 13.1.3.”

- .3 Add the following sub-paragraphs to the end of paragraph 1.1.9:

- “1 The Specifications are divided into divisions and sections for convenience but shall be read as a whole and neither such division nor anything else contained in the *Contract Documents* will be construed to place responsibility on the *Owner* or the *Consultant* to settle disputes among the Subcontractors and Suppliers with respect to such divisions.
- .2 The Drawings are divided into groups, types and sets for convenience but shall be read as a whole and neither such grouping, nor separation of information from Drawing to Drawing nor anything else contained in the *Contract Documents* will be construed to place responsibility on the *Owner* or the *Consultant* to divide or control the *Work*, nor to settle disputes among the Subcontractors and Suppliers with respect to such divisions.
- .3 The Drawings are, in part, diagrammatic and are intended to convey the scope of the *Work* and indicate general and appropriate locations, arrangements and sizes of fixtures, equipment and outlets. The *Contractor* shall obtain more accurate information about the locations, arrangements and sizes from study and coordination of the Drawings, including Shop Drawings, and shall become familiar with conditions and

spaces affecting those matters before proceeding with the *Work*.

- .4 Where site conditions require reasonable minor changes in indicated locations and arrangements, the *Contractor* shall make such changes at no additional cost to the *Owner*. Similarly, where known conditions or existing conditions interfere with new installation and require relocation, the *Contractor* shall include such relocation in the *Work*.”

- .4 Add new paragraphs 1.1.5.6, and 1.1.5.7 as follows:

1.1.5.6 Architectural Drawings shall have precedence over structural, plumbing, mechanical, electrical and landscape Drawings insofar as outlining, determining and interpreting conflicts over the required design intent of all architectural layouts and architectural elements of construction, it being understood that the integrity and installation of the systems designed by the Consultant or its sub-Consultants are to remain with each of the applicable Drawing disciplines.

1.1.5.7 Should reference standards and Specifications conflict with each other or if certain requirements of the Specifications conflict with other requirements of the Specifications, the more stringent requirements shall govern.”

.2 GC 1.3 RIGHTS AND REMEDIES

- .1 In paragraph 1.3.2 delete the word “No” from the beginning of the paragraph and replace it with the words:

“Except with respect to the requirements set out in paragraphs 6.4.1, 6.5.4, 6.6.1 and 8.3.2, no...”

.3 GC1.5 EXAMINATION OF DOCUMENTS AND SITE

- .1 Add new GC 1.5 –as follows:

“EXAMINATION OF DOCUMENTS AND SITE

1.5.1 The *Contractor* declares and represents that in tendering for the *Work*, and in entering into a Contract with the *Owner* for the performance of the *Work*, it has either investigated for itself the character of the *Work* to be done and all local conditions, including the location of any utility which can be determined from the records or other information available at the offices of any person, partnership, corporation, including a municipal corporation and any Board or commission thereof having jurisdiction or control over the utility that might affect its tender or its acceptance of the *Work*, or that, not having so investigated, the *Contractor* has assumed and does hereby assume all risk of conditions now existing or arising in the course of the *Work* which might or could make the *Work*, or any items thereof more expensive in character, or more onerous to

fulfil, than was contemplated or known when the tender was made or the Contract signed.

1.5.2 “The *Contractor* also declares that in tendering for the *Work* and in entering into this Contract, the *Contractor* did not and does not rely upon information furnished by the *Owner* or any of its agents or servants respecting the nature or confirmation of the ground at the site of the *Work*, or the location, character, quality or quantity of the materials to be removed or to be employed in the construction of *Work*, or the character of the construction machinery and equipment or facilities needed to perform the *Work*, or the general and local performance of the *Work* under the Contract and expressly waives and releases the *Owner* from all claims with respect to the said information with respect to the *Work*.”

.4 GC2.2 ROLE OF THE CONSULTANT

- .1 Amend paragraph 2.2.6 by deleting the words:

“Except with respect to GC5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER”.

- .2 Amend paragraph 2.2.8 by adding the following to the end of that paragraph:

“The Owner and the Contractor shall waive any claims against the Consultant arising out of the making of such interpretations and findings made in accordance with paragraphs 2.2.6, 2.2.7 and 2.2.8.”

- .3 Amend paragraph 2.2.12 by adding the following to the end of that paragraph:

“If, in the opinion of the *Contractor*, the Supplemental Instruction involves an adjustment in the Contract Price or in the Contract Time, it shall, within ten (10) Working Days of receipt of a Supplemental Instruction, provide the Consultant with a notice in writing to that effect. Failure to provide written notification within the time stipulated in this paragraph 2.2.12 shall be deemed an acceptance of the Supplemental Instruction by the *Contractor*, without any adjustment in the Contract Price or Contract Time.”

- .4 Delete the comma after the word “submittals” and add the words “which are provided” before the words “in accordance” in paragraph 2.2.13.

- .5 Add new paragraph 2.2.19 as follows:

“The *Owner*, acting reasonably, may from time to time require the *Contractor* to remove from the Project any personnel of the *Contractor*, including project managers, superintendents or Subcontractors. Such persons shall be replaced by

the *Contractor* in a timely fashion to the satisfaction of the Consultant and the *Owner*, at no cost to the *Owner*.”

.5 GC 2.3 REVIEW AND INSPECTION OF THE WORK

- .1 Amend paragraph 2.3.2 by adding the words “and *Owner*” after the words “Consultant” in the second and third lines.
- .2 In paragraph 2.3.4 add the word “review” after the word “inspections” in the first and second lines of paragraph 2.3.4
- .3 In Paragraph 2.3.5; In the first line after “Consultant”, add “or the *Owner*”.
- .4 Add a new paragraph 2.3.8 as follows:
“2.3.8 The *Owner* 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 *Owner* and the inspection of the *Work* by authorized agencies.”

.6 GC 2.4 DEFECTIVE WORK

- .1 Add new subparagraphs 2.4.1.1 and 2.4.1.2:

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

2.4.1.2 The *Contractor* shall prioritize the correction of any defective work which, in the sole discretion of the *Owner*, adversely affects the day-to-day operation of the *Owner* or which, in the sole discretion of the *Consultant*, adversely affects the progress of the *Work*.”
- .2 Add new paragraph 2.4.4 as follows:

“2.4.4 Neither acceptance of the *Work* by the Consultant or the Owner, nor any failure by the Consultant or the Owner to identify, observe or warn of defective *Work* or any deficiency in the *Work* shall relieve the *Contractor* from the *Contractor*’s responsibility for rectifying such defects or deficiencies at the *Contractor*’s sole cost.”

.7 GC 3.1 CONTROL OF THE WORK

- .2 Add new paragraph 3.1.3:

“3.1.3 Prior to commencing individual procurement, fabrication and construction activities, the *Contractor* shall verify, at the *Place of the Work*, all

relevant measurements and levels necessary for proper and complete fabrication, assembly and installation of the *Work* and shall further carefully compare such field measurements and conditions with the requirements of the *Contract Documents*. Where dimensions are not included or exact locations are not apparent, the *Contractor* shall immediately notify the *Consultant* in writing and obtain written instruction from the *Consultant* before proceeding with any part of the affected work.”

.8 GC 3.2 CONSTRUCTION BY THE OWNER OR OTHER CONTRACTORS

.1 Delete paragraphs 3.2.2.1, and 3.2.2.3 in their entirety.

.2 Add new paragraph 3.2.3.5 as follows:

“3.2.3.5 Subject to GC 9.4 CONSTRUCTION SAFETY, for the *Owner*’s own forces and for other contractors, assume overall responsibility for compliance with all aspects of the applicable health and safety legislation in force at the Place of the *Work*, including all of the responsibilities of the “Constructor”, pursuant to the Occupational Health and Safety Act (Ontario).”

.9 GC 3.5 SUPERVISION

.1 In paragraphs 3.5.1 and 3.5.2 substitute the word “representative” for “superintendent”.

.2 Add new paragraph 3.5.3, 3.5.4, 3.5.5 and 3.5.6 as follows:

“3.5.3 The superintendent for the Project shall be acceptable to the Owner and Consultant, and shall be in full time attendance at the Place of *Work* while the *Work* is being performed. The Contractor shall provide the Owner and the Consultant with the names, addresses and telephone numbers (Office and Cellular) of the superintendent referred to in this paragraph 3.5.1 and other responsible persons who may be contacted for emergency and other reasons during non-working hours.

3.5.4 The superintendent shall not be changed by the Contractor without valid reason, which reason shall be provided in writing. The superintendent shall not be changed without prior consultation with an agreement by the Owner.

3.5.5 The Contractor shall replace the superintendent and/or the Project Manager within 2 Working Days of the Owner’s written notification, if the superintendent’s performance is not acceptable to the Owner.

3.5.6 The superintendent must remain assigned to the Project and present at the Place of the *Work* from the start of the *Work*, through the lien period, and

shall remain at the Place of the *Work* until all deficiencies are completed and accepted, unless otherwise authorized by the Owner.”

.10 GC 3.6 SUBCONTRACTORS AND SUPPLIERS

- .1 In paragraph 3.6.1.1 add to the end of the second line “including any warranties and service agreements which extend beyond the term of the Contract.”
- .2 In subparagraph 3.6.1.2 after the words “the Contract Documents” insert the words “including any required surety bonding”.
- .3 Add to the end of paragraph 3.6.2 the following sentences:

“Substitution of any Subcontractor and/or Suppliers after submission of the Contractor’s bid will not be accepted unless a valid reason is given in writing to and approved by the Owner, whose approval may be arbitrarily withheld. The reason for substitution must be provided to the Owner and to the original Subcontractor and/or Supplier and the Subcontractor and/or Supplier shall be given the opportunity to reply to the Contractor and Owner. The Contractor shall be fully aware of the capability of each Subcontractor and/or Supplier included in its bid, including but not limited to technical ability, financial stability and ability to maintain the proposed construction schedule.”
- .4 In paragraph 3.6.4, change the word “shall” to “may” in the second line.
- .5 Add new paragraph 3.6.7 as follows:

“3.6.7 The Contractor covenants that each subcontract or supply contract which the Contractor enters into for the purpose of performing the *Work* shall expressly provide for the assignment thereof to the Owner (at the option of the Owner) and the assumption by the Owner of the obligations of the Contractor thereunder, upon the termination of the Contract and upon written notice by the Owner to the other parties to such subcontracts or supply contracts, without the imposition of further terms or conditions; provided, however, that until the Owner has given such notice, nothing herein contained shall be deemed to create any contractual or other liability upon the Owner for the performance of obligations under such subcontracts or supply contracts.”

.11 GC 3.7 LABOUR AND PRODUCTS

- .1 Amend paragraph 3.7.1 by adding the words, “..., agents, *Subcontractors* and *Suppliers*...” after the word “employees” in the first line.
- .2 Add new paragraph 3.7.4:

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

- .3 Add new paragraph 3.7.5 as follows:

“3.7.5 Materials, appliances, equipment and other *Products* are sometimes specified by reference to brand names, proprietary names, trademarks or symbols. In such cases, the name of a manufacturer, distributor, Supplier or dealer is sometimes given to assist the *Contractor* to find a source Supplier. This shall not relieve the *Contractor* from its responsibility from finding its own source of supply even if the source named no longer supplies the *Product* specified. If the *Contractor* is unable to obtain the specified *Product*, the *Contractor* shall supply a substitute product equivalent to or better than the specified *Product*, as approved by the *Consultant*, with no extra compensation. Should the *Contractor* be unable to obtain a substitute *Product* equivalent to or superior to the specified *Product* and the *Owner* accepts a different *Product*, the Contract Price shall be adjusted accordingly, as approved by the *Consultant*. The *Contractor* shall not change the source of supply of any *Product* without the written authorization of the *Consultant*.”

.12 **GC 3.8 SHOP DRAWINGS**

- .1 Add the words “AND OTHER SUBMITTALS” to the Title after SHOP DRAWINGS.
- .2 Add “and *Submittals*” after the words “*Shop Drawings*” in paragraphs 3.8.1, 3.8.2, 3.8.3, 3.8.5, 3.8.6, and 3.8.7.
- .3 Delete the last sentence in paragraph 3.8.5.
- .4 Delete the words “so as to cause no delay in the performance of the *Work*” in paragraph 3.8.7.
- .5 Add new paragraphs 3.8.8, 3.8.9, 3.8.10, and 3.8.11 as follows:

“3.8.8 Reviewed Shop Drawings, including comments and/or instructions marked thereon, shall not authorize a change in the Contract Price and/or the Contract Time.”

3.8.9 The *Contractor* shall provide *Shop Drawings* in the form specified, or if not

specified, as directed by the *Consultant*.

3.8.10 *Shop Drawings* which require approval of any legally constituted authority having jurisdiction shall be provided to such authority by the *Contractor* for approval.

3.8.11 The *Contractor* shall provide revised *Shop Drawings* to correct those which the *Consultant* rejects as inconsistent with the *Contract Documents*, unless otherwise directed by the *Consultant*. The *Contractor* shall notify the *Consultant* in writing of any revisions to the *Shop Drawings* other than those requested by the *Consultant*.

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

.13 GC 3.9 PERFORMANCE BY CONTRACTOR

.1 Add new GC 3.9.1 as follows:

“PERFORMANCE BY CONTRACTOR

3.9.1 In performing its services and obligations under the *Contract*, the *Contractor* shall exercise a standard of care, skill and diligence that would normally be provided by an experienced and prudent contractor supplying similar services for similar projects. The *Contractor* acknowledges and agrees that throughout the *Contract*, the *Contractor’s* obligations, duties and responsibilities shall be interpreted in accordance with this standard. The *Contractor* shall exercise the same standard of care, skill and diligence in respect of any *Products*, personnel or procedures which it may recommend to the *Owner* or employ on the *Project*.

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

- .1 The personnel it assigns to the *Project* are appropriately experienced;
- .2 It has a sufficient staff of qualified and competent personnel to replace its designated supervisor and project manager, subject to the *Owner’s* approval in the event of death, incapacity, removal or resignation, and there are no pending, threatened or anticipated claims, liabilities or contingent liabilities that would have a material effect on the financial ability of the *Contractor* to perform its *Work* under the *Contract*.”

.14 GC 3.10 BOARD OCCUPANCY

- .1 Add a new GC 3.10 as follows:

“GC 3.10 BOARD OCCUPANCY

3.10.1 The Board and other contractors as assigned by the Board shall have the right to enter, use and occupy the Place of the *Work*, in whole or in part, and place fittings and equipment at or within the *Work* before completion of the Contract. The Contractor shall observe and protect the right of other contractors and persons authorized by the Board or Consultant to use the Place of the *Work*.”

.15 GC 3.11 DOCUMENTS AT THE SITE

- .1 Add a new GC 3.11 as follows:

“GC 3.11 DOCUMENTS AT THE SITE

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

.16 GC 3.12 USE OF THE WORK

- .1 Add a new GC 3.12 as follows:

“GC 3.12 USE OF THE WORK

3.12.1 The *Contractor* shall confine *Construction Equipment*, *Temporary Work*, storage of *Products*, waste products and debris, and operations of employees and *Subcontractors* to limits indicated by laws, ordinances, permits, or the *Contract Documents* and shall not unreasonably encumber the *Place of the Work*.

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

.17 GC 3.13 CUTTING AND REMEDIAL WORK

- .1 Add a new GC.3.13 as follows:

“GC 3.13 CUTTING AND REMEDIAL WORK

3.13.1 The *Contractor* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly.

3.13.2 The *Contractor* shall co-ordinate the *Work* to ensure that the cutting and remedial work is kept to a minimum.

3.13.3 Should the *Owner*, the *Consultant*, other contractors or anyone employed by them be responsible for ill-timed work necessitating cutting or remedial work to be performed, the cost of such cutting or remedial work shall be valued as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.

3.13.4 Cutting and remedial work shall be performed by specialists familiar with the *Products* affected and shall be performed in a manner to neither damage nor endanger the *Work*”

.18 GC 3.14 CLEANUP

.1 Add a new GC 3.14 as follow:

“GC 3.14 CLEAN UP

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

3.14.2 Before applying for *Substantial Performance of the Work and Payment of Holdback* as provided in GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK, the *Contractor* shall remove waste products and debris, other than that resulting from the work of the *Owner*, other contractors or their employees, and shall leave the *Place of the Work* clean and suitable for use or occupancy by the *Owner*. The *Contractor* shall remove products, tools, *Construction Equipment*, and *Temporary Work* not required for the performance of the remaining work.

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

3.14.4 The *Owner* shall have the right to back charge cleaning to the *Contractor* if the cleaning is not completed within 24 hours of written notice to clean and the *Owner* shall have the right to back charge the cost of damage to the *Place of Work* caused by the *Contractor’s*, *Subcontractor’s*, or *Supplier’s* transportation in and out of the *Place of Work* if not repaired within five *Working Days* or written notice to repair or before final payment, whichever is earlier.

.19 GC 3.15 EXCESS SOIL MANAGEMENT

- .1 Add new GC 3.15 – EXCESS SOIL MANAGEMENT as follows:

“GC 3.15 EXCESS SOIL MANAGEMENT

3.15.1 The *Contractor* shall be solely responsible for the proper management of all *Excess Soil* at the *Place of the Work* and for performance of the *Work* in compliance with the rules, regulations and practices required by the *Excess Soil Regulation* until such time as *Ready-for-Takeover* is achieved. Without restricting the generality of the previous sentence, the *Contractor*’s responsibility under this GC 3.15 includes the designation, transportation, tracking, temporary and/or final placement, record keeping, and reporting of all *Excess Soil* in connection with the *Work* all in compliance with the *Excess Soil Regulation*.

3.15.2 The *Contractor* shall indemnify and save harmless the *Owner*, their agents, officers, directors, administrators, employees, consultants, successors and assigns from and against the consequences of any and all health and safety infractions committed directly by the *Contractor*, or those for whom it is responsible at law, under the *Excess Soil Regulation*, or any environmental protection legislation, including the payment of legal fees and disbursements on a substantial indemnity basis. Such indemnity shall apply to the extent to which the *Owner* is not covered by insurance.”

.20 GC 4.1 CASH ALLOWANCES

- .1 Add new paragraphs 4.1.8 and 4.1.9 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 cash allowances.”

“4.1.9 Cash allowances cover the net cost to the *Contractor* of services, Products, Construction Equipment, freight, unloading, handling, storage, installation, and other authorized expenses incurred in performing any *Work* stipulated under the cash allowances but does not include any Value Added Taxes payable by the *Owner* and the *Contractor*.”

.21 GC 5.1 FINANCING INFORMATION REQUIRED OF OWNER

- .1 Delete this article entirely.

.22 GC 5.2 APPLICATIONS FOR PAYMENT

- .1 In paragraph 5.2.1 add the words:

“Subject to GC 5.4.7.2”, after the word “shall”

.23 GC 5.3 PAYMENT

.1 Add new subparagraph 5.3.1.3:

”5.3.1.3 Provided that the *Owner* complies with its obligations under the *Construction Act*, and subject to any interim determination of an adjudicator in accordance with any *Adjudication*, and where applicable, a final determination made in accordance with the dispute resolution processes prescribed by this *Contract*, the *Owner* shall be entitled to claim in a *Notice of Non-Payment* a right to deduct from or, set off against, any payment of the *Contract Price*:

- .1 any amount expended by the *Owner* in exercising the *Owner’s* rights under this *Contract* to perform any of the *Contractor’s* obligations that the *Contractor* has failed to perform;
- .2 any damages, costs or expenses (including, without limitation, reasonable legal fees and expenses) incurred by the *Owner* as a result of the failure of the *Contractor* to perform any of its obligations under the *Contract*;
- .3 any other amount owing from the *Contractor* to the *Owner* under this *Contract*.”

.24 GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK

- .1 Delete paragraph 5.4.2.
- .2 In paragraph 5.4.3 and subject to compliance with the provisions of the Ontario *Construction Act*, R.S.O. c. C 30, change the words “no later than 10 working” to “within 28” in the second line.
- .3 Delete paragraph 5.4.5 and substitute new paragraph 5.4.5 as follows:

“Subject to compliance with the Ontario *Construction Act*, where legislation permits and where, upon application by the Contractor, the Consultant has certified that the work of a Subcontractor or Supplier has been performed prior to Substantial Performance of the *Work*, the Owner may at their discretion pay the Contractor the holdback amount retained for such subcontract work, or the Products supplied by such Supplier, through the next monthly progress draw process following the expiration of the holdback period of such work stipulated in the lien legislation applicable to the Place of *Work*. The Owner may retain out

of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the Place of the *Work*, other third-party monetary claims against the Contractor which are enforceable against the Owner.”

- .4 Add new paragraph 5.4.7 as follows:

“5.4.7 Following the issuance of the certificate of Substantial Performance of the *Work*, and subject to the compliance with the provisions of Ontario *Construction Act*, R.S.O. c. C 30, the following shall apply to completing the *Work*:

- .1 The *Contractor* is to complete all of the *Work* required by the *Contract Documents* within sixty (60) calendar days, or such shorter time period as is established by the *Contractor* in consultation with the *Consultant*.
- .2 Notwithstanding GC 5.2.1, following Substantial Performance of the *Work*, the *Contractor* shall not submit any further Proper Invoice or Application for Payment until the *Work* has been totally completed and *Ready-for-Takeover* has been achieved. The *Contractor* shall only submit an invoice and be paid for the *Work* upon achieving total completion and *Ready-for-Takeover* of the *Work*.
- .3 The Owner reserves the right to contract out any or all unfinished *Work* if it has not been completed within sixty (60) days of Substantial Performance of the *Work* without prejudice to any other right or remedy and without affecting the warranty period. The cost of completing the *Work* shall be deducted from the Contract Price.”

.25 **GC 5.5 FINAL PAYMENT**

- .1 Add to the end of paragraph 5.5.2 the following:

“The *Work*, subject to compliance with the provisions of Ontario *Construction Act*, R.S.O. c. C 30, shall be deemed not to be completed until all of the documents listed in the *Contract Documents* have been delivered and confirmed as being satisfactory. The Owner may withhold payment in respect of the delivery of any documents in an amount determined by the *Consultant* in accordance with the provisions of GC 5.3.3.”

- .2 Delete from the second line of paragraph 5.5.4 the words, “5 calendar days after the issuance” and substitute the words within “28 calendar days after receipt of”.

.26 **GC 6.1 OWNER’S RIGHT TO MAKE CHANGES**

- .1 Add new paragraphs 6.1.3 and 6.1.4 as follows:

“6.1.3 The Contractor agrees that changes resulting from construction coordination, including but not limited to, site surface conditions, site coordination, and Subcontractor and Supplier coordination are included in the Contract Price and the Contractor shall be precluded from making any claim for a change in the Contract Price as a result of such changes.

“6.1.4 Labour costs shall be actual, prevailing rates at the Place of the *Work* paid to workers, plus statutory charges on labour including WSIB, unemployment insurance, Canada pension, vacation pay, hospitalization and medical insurance. The Contractor shall provide proof of these rates, when requested by the Consultant or Owner, for review and/or agreement.”

.27 GC 6.2 CHANGE ORDER

- .1 Add to para. 6.2.1, sub-para ".1: If a change in the *Work* results in a new increase in the Contract Price, the charge to the *Owner* shall be the cost of the *Work* plus:
- .1 a maximum charge of 15% covering overhead and profit for work done by the Contractor's own forces.
 - .2 a maximum charge of 10% covering overhead and profit for work done by the Subcontractors. Subcontractors shall be permitted a maximum percentage of 15% covering overhead and profit for work done by the Subcontractor's own forces, and a maximum charge of 10% covering overhead and profit for sub-Subcontractors' work".
- .2 Add to para. 6.2.1, sub-para ".2: If a change in the *Work* results in a new decrease in the Contract Price, the amount of the credit shall be the net cost, without deduction for overhead or profit. When both additions and deletions covering related work or substitutions are involved in a change in the *Work*, the allowance for overhead and profit shall be calculated on the basis of the net increase, if any, with respect to that change in the *Work*."
- .3 Add to para. 6.2.1, sub-para ".3: The rates enumerated in sub-para. 6.2.1.1 and 6.2.1.2, shall apply to charges resulting in addition to or deductions from the Contract not exceeding \$ 10,000.00. The portion of charges which involve additions to or deletions from the Contract Price in excess of \$10,000.00 shall carry an overhead and profit percentage of half those called for above."
- .4 Add to para. 6.2.1, sub-para. "4: Labour costs shall be the actual rates paid to the workers plus a documented mark-up (not exceeding 60% of actual wage rates) to cover contributions, assessments, or taxes incurred for such items as unemployment and other insurance, provincial health insurance, Workers'

Compensation, Canada or Quebec Pension Plan, Holiday & Vacation Pay, Welfare, Union, Industry Training and Pension Funds, rest periods, down time, personal hygiene, personal protection, small tools and the like. Travel time to and from site shall be at no charge to the Owner."

- .5 Add para. 6.2.1, sub-para. ".5: The percentage for office overhead and profit shall also cover financing, bonding and insurance costs, project management, estimating, and all site and off-site overheads such as superintendence, site facilities, safety, clean-up and items of small plant, equipment and tools and the like."
- .6 Add to para 6.2.1, sub-para. ".6: Complete breakdown of all costs submitted for consideration due to changes in the *Work* shall be furnished to the Consultant for both Contractor's work and Subcontractors' work."
- .7 Add to para. 6.2.1, sub-para. ".7: Breakdown shall show areas and quantities on which costs are based, unit costs for labour and material, wage burdens and other direct costs, and all information necessary for a complete understanding of the costs submitted. In the case of changes involving Subcontractors' quotations shall be provided in support of each claim for extra or credit offered. Subcontractors' quotations shall be broken down as specified above."
- .8 Add to para. 6.2.1 ".8" Should the Contractor proceed with any change in the method of construction, volume or location of the *Work* which has not been both ordered and valued as set out above, or as a Change Directive, it shall be conclusively presumed that the parties were in agreement that such change should be made at no additional cost to the Owner."
- .9 Add to para. 6.2.1, sub-para. ".9: A change order signed by the Contractor indicates his complete agreement therewith, including the adjustment if any, in the Contract Price and the Contract Time. Contractor agrees that in no event shall he make any subsequent claim relating to the items covered by such change order, either regarding the Contract Price, or the Contract Time. Except as permitted in GC 6.3.5, the Contractor shall not bill for changes in the *Work* until after a Change Order has been executed by the Contractor, Consultant, and Owner."

.28 GC 6.3 CHANGE DIRECTIVE

- .1 In the first paragraph of subparagraph 6.3.7.1, insert the following: "provided they are directly engaged in the *Work* attributable to the change" after the words "Quebec Pension Plan for".
- .2 Delete the period at the end of paragraph 6.3.9, and add the following:

“... within 30 days of completion of the *Work* attributable to the change, or as otherwise directed by the *Consultant*.”

.29 GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- .1 Add new subparagraph 6.4.5 as follows:

“6.4.5 The *Contractor* confirms that, prior to bidding the *Project*, it carefully investigated the *Place of the Work* and applied to that investigation the degree of care and skill described in paragraph GC3.14.1. The *Contractor* is not entitled to compensation or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such careful investigation undertaken prior to the submission of the bid”

- .2 Add new paragraph 6.4.6 as follows:

“Having regard to paragraph 6.4.5, if the *Contractor* believes that the conditions of the *Place of the Work* differ materially from those indicated in the *Contract Documents*, from those reasonably anticipated, or conditions which were reasonably concealed from discovery notwithstanding the conduct of the investigation described in paragraph 6.4.5, it shall provide the *Owner* and the *Consultant* with *Notice in Writing* no later than five (5) *Working Days* after the first observation of such conditions.” If the *Contractor* does not provide *Notice in Writing* within five (5) *Working Days*, it will be understood by the *Owner* and *Contractor* that the conditions at the *Place of the Work* are as per *Contract Drawings and Specifications*.”

.30 GC 6.5 DELAYS

- .1 Delete the period at the end of paragraph 6.5.1, and substitute the following:

“, but excluding any consequential, indirect or special damages.”

- .2 Delete the period at the end of paragraph 6.5.2, and substitute the following:
“, but excluding any consequential, indirect or special damages.”

- .3 Delete paragraph 6.5.3 in its entirety and substitute with the following:

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

.31 GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE

- .1 Delete paragraph 6.6.5. in its entirety and substitute new paragraph 6.6.5 as follows:

“6.6.5. The *Consultant’s* findings, with respect to a claim made by either party will be given by *Notice in Writing* by the *Consultant* to both parties within reasonable time after receipt of the claim information noted in paragraph 6.6.3.”

- .2 Add new paragraph 6.6.7

“6.6.7 The Owner shall be reimbursed for all costs incurred for additional services provided by the *Consultant* resulting from the *Contractor’s* failure to reasonably perform the *Work* in accordance with the terms and conditions of the Contract, including the *Contractor’s* issuance of unnecessary Requests for Information. The *Consultant* will notify the *Owner* and *Contractor* where it has been determined by the *Consultant* that additional services will be required or have been provided in order not to cause a delay. The *Owner* shall make claims based on the *Consultant’s* invoices.”

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

- .1 Add a new subparagraph 7.1.3.4 as follows:

“7.1.3.4 An “acceptable schedule” as referred to in subparagraph 7.1.3.2. means a schedule approved by the *Consultant* and the *Owner* wherein the default can be corrected within the balance of the Contract Time and shall not cause delay to any other aspect of the *Work* or the *Work* of other contractors, and in no event shall it be deemed to give a right to extend the Contract Time.”

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

- .1 Delete paragraph 7.2.2, in its entirety.
- .2 Delete subparagraphs 7.2.3.1, 7.2.3.2 and 7.2.3.3 in their entirety.
- .3 In subparagraph 7.2.3.4, delete the words “except for GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER”.
- .4 Renumber paragraph 7.2.5 as paragraph 7.2.6. Add a new paragraph 7.2.5 as follows:

“7.2.5 If the default cannot be corrected within the 5 Working Days specified in paragraph 7.2.4, the Owner shall be deemed to have cured the default if it:

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

- .5 Delete paragraph 7.2.6 (previous 7.2.5) entirely and substitute with the following:

“7.2.6 If the Contractor terminates the Contract under the conditions described in GC 7.2 – CONTRACTOR’S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the Contractor shall be entitled to be paid for all *Work* performed to the date of termination, as determined by the Consultant. The Contractor shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization and losses sustained on Products and Construction Equipment. The Contractor shall not be entitled to any recovery for any special, indirect or consequential losses, including loss of profit.”

- .6 Add new paragraph 7.2.7 as follows:

“7.2.7 The Contractor shall not be entitled to give Notice in Writing of the Owner’s default or terminate the Contract in the event the Owner withholds certificates or payment or both in accordance with the Contract because of:

- .1 the Contractor’s failure to pay all legitimate claims promptly, or
- .2 the Contractor’s failure to correct deficiencies and incomplete *Work* in accordance with timelines set out elsewhere in the Contract Documents, or
- .3 the failure of the Contractor to discharge construction liens which are registered against the title to the Place of the *Work*.”

.34 **GC 7.3 FORCE MAJEURE**

- .1 Add new GC 7.3 as follows:

“FORCE MAJEURE”

7.3.1 In the event that the performance of the *Contract* is made impossible for Force Majeure, then either party shall promptly notify the other in writing and the *Owner* shall either: terminate the *Contract* forthwith and without any further payments being made, or authorize the *Contractor* to continue the performance of the *Contract* with such adjustments as are required by the existence of the Force Majeure and agreed upon by both parties. In the event that the parties

cannot agree upon the aforementioned adjustments, it is agreed by the parties that the *Contract* shall be terminated.

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

7.3.3 In the event Force Majeure occurs, the party who is delayed or fails to perform shall take all reasonable steps to eliminate the cause.

7.3.4 Should the Force Majeure event last longer than thirty (30) days, the *Owner* may terminate this agreement by notice to the *Contractor* without further liability, expense or cost of any kind.

.35 **GC 8.3 NEGOTIATION, MEDIATION AND ARBITRATION**

- .1 Subject to compliance with the provisions of Ontario *Construction Act*, R.S.O. c. C 30, delete GC's 8.3.1, 8.3.4, 8.3.5, 8.3.6, 8.3.7, and 8.3.8.

.36 **GC 9.1 PROTECTION OF WORK AND PROPERTY**

- .1 Delete subparagraph 9.1.1.1 in its entirety and substitute new subparagraph 9.1.1.1:
- “9.1.1.1 errors in the *Contract Documents* which the *Contractor* could not have discovered applying the standard of care described in paragraph 3.14.1.”
- .2 Delete paragraph 9.1.2 in its entirety and substitute the following new paragraph 9.1.2:
- “9.1.2 Before commencing any *Work*, the *Contractor* shall determine the locations of all underground utilities and structures indicated in or reasonably determinable from the *Contract Documents*, or that are reasonably determinable from an inspection of the *Place of the Work* exercising the degree of care and skill described in paragraph 3.14.1.”

.37 **GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES**

- .1 Add to paragraph 9.2.6 after the word “responsible”, the following:
- “or whether any toxic or hazardous substances or materials already at the *Place*

of the Work (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the *Contractor* or anyone for whom the *Contractor* is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damage to the property of the Owner or others.”

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

“or that any toxic or hazardous substances or materials already at the *Place of the Work* (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.”

.38 **GC 9.4 CONSTRUCTION SAFETY**

- .1 Add to the end of paragraph 9.4.1:

“The *Contractor* shall be solely responsible, in the performance of the *Contract* and progression of the work thereunder, for compliance with, and the cost of compliance with, all safety standards established by law or Upper Canada District School Board policy prior to, at the time of, or subsequent to tender, including but not limited to the common law, statutory enactments, and the regulations of the Ontario *Health & Safety Act* and with safety standards established by industry associations where applicable. The *Contractor* shall also ensure that all electrical/mechanical components supplied comply with the Canadian Standards Association/Underwriters Laboratory Canada and/or Hydro One or respective local utility provider. All natural gas equipment provided must conform to the standard of the TSSA (Technical Standards & Safety Authority). Breach of these conditions will be a fundamental breach of contract.

The *Contractor* shall also be responsible for ensuring the same compliance by its suppliers and subcontractors.

The regulations of the *Occupational Health and Safety Act* will govern all operation, as well as handling, labelling, and usage of chemicals. The *Contractor* will be fully responsible to ensure the safety of all workers, students, staff and the general public. Only competent and skilled personnel will be provided by the *Contractor* under this contract. The *Contractor* will be responsible to monitor adherence to safety standards and provide supervision and instruction to staff. The Upper Canada District School Board reserves the right to cancel this contract without notice for non-compliance with the regulations of the *Occupational*

Health & Safety Act and this provision.”

.39 GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- .1 In paragraph 10.2.3 delete the words “and customarily obtained by contractors in the jurisdiction of the Place of *Work*”.
- .2 Delete from the first line of paragraph 10.2.5 the word, “The” and substitute the words: “Subject to paragraph 3.9.1, the”.
- .3 Add the following sentence to 10.2.7:

 “This paragraph is subject to the obligation of the *Contractor* to bear the costs of compliance with all safety standards and any changes to those standards occurring at any time, as set forth in 9.4.1 above.”
- .4 Add new paragraph 10.2.8 as follows:

 “10.2.8 “The *Contractor* shall furnish all certificates that are required or given by the appropriate governmental authorities as evidence that the *Work* as installed conforms with the laws and regulations of authorities having jurisdiction, including certificates of compliance for the *Owner*’s occupancy or partial occupancy. The certificates are to be final certificates giving complete clearance of the *Work*, in the event that such governmental authorities furnish such certificates.”

.40 GC 10.4 WORKERS’ COMPENSATION

- .1 Revise paragraph 10.4.1 to read as follows:

 “10.4.1 Prior to commencing the *Work*, and with each and every application for payment thereafter, including the Contractor’s application for payment of the holdback amount following Substantial Performance of the *Work* and again with the Contractor’s application for final payment, the Contractor shall provide evidence of compliance with workers’ compensation legislation in force at the Place of the *Work*, including payments due thereunder.”
- .2 Add paragraph 10.4.2 to read as follows:

 “10.4.2. At any time during the term of the *Contract*, when requested by the *Owner*, the *Contractor* shall provide such evidence of compliance by the *Contractor* and *Subcontractors*.

.41 GC 11.1 INSURANCE

- .1 Provide and maintain all insurance coverages and endorsements as specified within paragraph 5.9 of the Tender, in addition to the coverages outlined in Part 11 of the CCDC 2 2020, as amended herein. To the extent there is any conflict between the coverages and liability limits contained within the Tender and those coverages and liability limits contained within the CCDC 2-2020, CCDC 41, and Supplementary Conditions, the coverage and liability limits specified by the Tender shall prevail.
- .2 The General Liability Insurance Policy must also include the following:
 - .1 premises and operations;
 - .2 owner's and contractor's protective liability;
 - .3 broad form products and completed operations liability;
 - .4 cross liability;
 - .5 blanket written and oral contractual liability;
 - .6 all risks tenant's legal liability;
 - .7 hoist liability;
 - .8 firefighting and forest fire fighting expense liability;
 - .9 employer's liability and voluntary compensation;
 - .10 non-owned automobile liability;
 - .11 shoring, blasting, excavating, under-pinning, demolition, pile driving and caisson work, work below and above ground surface, work below and above water, tunneling and grading, and similar operations associated with the construction work, as applicable;
- .3 Replace paragraph 11.1.1.8 with the following:

“Pollution Event Liabilities Insurance, with a limit of not less than \$5,000,000.00 per occurrence, providing third-party coverage for bodily injury, property damage, defence, clean up and related defence costs, arising from a “Sudden Pollution Event” which is a pollution condition that is detected within 120 hours of commencement and reported within 120 hours of detection. The policy shall be maintained for the full duration of the *Contract* period and for a Completed Operations period of one (1) year from achievement of *Ready-for-Takeover*. The CEL Insurance shall include UCDSB as an additional insured, along with any other person or entity who UCDSB may reasonably require to be added as additional insureds.”

.42 GC 11.2 CONTRACT SECURITY

- .1 Add a new GC 11.2 as follows:

“GC 11.2 CONTRACT SECURITY

11.2.1 The *Contractor* shall, prior to commencement of the *Work* or within the

specified time, provide to the *Owner* any *Contract* security specified in the *Contract Documents*.”

.43 GC 12.1 READY-FOR-TAKEOVER

.1 Delete GC 12.1.1 in its entirety and replace it with the following:

“12.1.1 *Ready-for-Takeover* shall be achieved when all of the following has occurred, as verified and approved by the *Owner*:

- .1 *Substantial Performance of the Work* has been achieved, as certified by the *Consultant*;
- .2 a permit for occupancy of the *Place of the Work* has been obtained from the authorities having jurisdiction;
- .3 the *Work* to be performed under the *Contract* has satisfied the requirements for deemed completion in accordance with Section 2(3) of the *Construction Act*,
- .4 final cleaning and waste removal, as required by the *Contract Documents*;
- .5 the Contractor has delivered to the *Consultant* and the *Owner* all inspection certificates from authorities having jurisdiction with respect to any component of the *Work* which has been completed;
- .6 subject only to GC 12.1.2, the entire *Work* has been completed to the requirements of the *Contract Documents*, including completion of all items on the punch list prepared at the time of *Substantial Performance of the Work* and the *Work* is being used for its intended purpose, and is so certified by the *Consultant*;
- .7 subject only to GC 12.1.2, the *Contractor* has submitted to the *Owner* and the *Consultant* in a collated and organized matter, all *Close-Out Documentation* and any other materials or documentation required by the *Contract Documents*;
- .8 subject only to GC 12.1.2, all *Products*, systems and components of the *Project* have been commissioned and certified for operation and accepted by the *Owner* and *Consultant*, and
- .9 subject only to GC 12.1.2, the *Contractor* has submitted to the *Owner* and the *Consultant* full and complete as-built drawings and *Specifications* revised by the *Contractor* to reflect the as-built state of the

Work, clearly showing changes to the *Drawings* and *Specifications* from the original *Contract Documents*, all of which have been approved by the *Owner* acting reasonably.”

- .2 Delete GC 12.1.2 in its entirety and replace it with the following:

“12.1.2 The Owner may, in its sole, absolute, and unfettered discretion, waive compliance with a requirement, or a part thereof, for achieving *Ready-for-Takeover* set out in GC 12.1.1.6 to 12.1.1.9 (inclusive). Where the *Owner* exercises the discretion afforded under this GC 12.1.2, the *Contractor* shall be required to comply with GC 5.5.1.2 as part of its application for final payment and the *Owner* and the *Contractor*, in consultation with the *Consultant*, shall establish a reasonable date for completing the *Work*.”

- .3 Delete GC 12.1.3 in its entirety and replace it with the following:

“12.1.3 When the *Contractor* considers the *Work Ready-for-Takeover*, it shall submit a written application to the *Owner* and the *Consultant* for review.”

- .4 In GC 12.1.4, delete the words “list and” from the second line.

- .5 Delete GC 12.1.5 in its entirety and replace it with the following:

“12.1.5 Following the confirmation of the date of *Ready-for-Takeover* by the *Consultant* and as confirmed by the *Owner*, the *Contractor* may submit a final application for payment in accordance with GC 5.5 – FINAL PAYMENT.”

- .6 Delete GC 12.1.6 in its entirety.

.44 GC 12.3 WARRANTY

- .1 Delete from the first line of paragraph 12.3.2 the word, “The” and substitute the words:

“Subject to paragraph 3.14.1, the...”

- .2 Add new paragraphs 12.3.7 to 12.3.10 as follows:

“12.3.7 The *Contractor* shall provide fully and properly completed and signed copies of all warranties and guarantees required by the *Contract Documents*, containing:

- .1 the proper name of the *Owner*;
- .2 the proper name and address of the *Project*;
- .3 the date the warranty commences, which shall be at the “date of *Ready-*

- .4 *for-Takeover*” unless otherwise directed by the *Consultant* in writing.
a clear definition of what is being warranted and/or guaranteed as
required by the *Contract Documents*; and
- .5 the signature and seal (if required by the governing law of the *Contract*)
of the company issuing the warranty, countersigned by the *Contractor*.

12.3.8 The *Contractor* shall ensure that its Subcontractors are bound to the requirements of GC 12.3 – WARRANTY for the Subcontractor’s portion of the *Work*.

12.3.9 Should any *Work* be repaired or replaced during the time period for which it is covered by the specified warranty, a new warranty shall be provided under the same conditions and for the same period as specified herein before. The new warranty shall commence at the completion of the repair or replacement.

12.3.10 The *Contractor* shall ensure that its *Subcontractors* are bound to the requirements of GC 12.3 – WARRANTY for the *Subcontractor’s* portion of the *Work*.”

.45 **GC 13.1 INDEMNIFICATION**

- .1 Substitute the words “Owner and the Contractor” with the words “Owner, the Contractor and the Consultant” in paragraphs 13.1.1, 13.1.2.1, 13.1.2.2, 13.1.4 and 13.1.6.
- .2 Add new paragraph 13.1.7 as follows:

“13.1.7 The provisions of GC 13.1 - INDEMNIFICATION shall survive the termination of the Contract, howsoever caused and no payment or partial payment, no issuance of a final certificate of payment and no occupancy in whole or in part of the *Work* shall constitute a waiver or release of any of the provisions of GC 13.1.”

.46 **GC 14.1 CONSTRUCTION LIENS**

- .1 Add new GC 14.1 as follows:

“CONSTRUCTION LIENS

14.1.1 Notwithstanding any other provision in the *Contract*, the *Consultant* shall not be obligated to issue a certificate, and the *Owner* shall not be obligated to make payment, subject to the *Owner’s* requirement to issue a *Notice of Non-Payment* (Form 1.1) to the *Contractor*, if at the time such certificate or payment was otherwise due:

- .1 a claim for lien has been registered against the *Project* lands by a *Subcontractor* or a *Supplier* that has not been vacated or discharged by the *Contractor* in accordance with the requirements of this *Contract*, or
- .2 if the *Owner* or a mortgagee of the *Project* lands has received a written notice of a lien that has not been resolved by the *Contractor* through the posting of security or otherwise.

14.1.2 In the event a construction lien arising from the performance of the Work is registered or preserved against the *Project* lands by a *Subcontractor* or a *Supplier*, or a written notice of a lien is given or a construction lien action is commenced against the *Owner* by a *Subcontractor* or a *Supplier*, then the *Contractor* shall, at its own expense:

- .1 within 10 calendar days of registration of the construction lien, vacate or discharge the lien from title to the premises (i.e. the *Place of the Work*). If the lien is merely vacated, the *Contractor* shall, if requested, undertake the *Owner's* defence of any subsequent action commenced in respect of the lien, at the *Contractor's* sole expense;
- .2 within 10 calendar days of receiving notice of a written notice of a lien, post security with the Ontario Superior Court of Justice so that the written notice of a lien no longer binds the parties upon whom it was served; and
- .3 satisfy all judgments and pay all costs arising from such construction liens and actions and fully indemnify the *Owner* against all costs and expenses arising from same, including legal costs on a full indemnity basis.

14.1.3 In the event that the *Contractor* fails or refuses to comply with its obligations pursuant to paragraph 14.1.2, the *Owner* shall, at its option, be entitled to take all steps necessary to address any such construction liens including, without limitation and in addition to the *Owner's* rights under paragraph 13.2.4, the posting of security with the Ontario Superior Court of Justice to vacate the claim for lien from title to the *Project* lands, and in so doing will be entitled to a full indemnity from the *Contractor* for all legal fees, security, disbursements and other costs incurred and will be entitled to deduct same from amounts otherwise owing to the *Contractor*.

14.1.4 In the event that any *Subcontractor* or *Supplier* registers any claim for lien with respect to all or part of the *Place of Work*, the *Owner* shall have the right to withhold, in addition to the statutory holdback, the full amount of said claim for lien plus either: (a) \$250,000 if the claim for lien is in excess of

\$1,000,000 or (b) 25% of the value of the claim for lien and to bring a motion to vacate the registration of said claim for lien and any associated certificate of action in respect of that lien, in accordance with Section 44 of the *Act*, by paying into court as security the amount withheld.

14.1.5 Nothing in this GC 14.1 serves to preclude the *Contractor* from preserving and perfecting its lien in the event of non-payment by the *Owner*.”

.47 GC15.1 COMPLIANCE WITH BOARD POLICIES AND PROCEDURES

.1 Add new GC15.1

“COMPLIANCE WITH BOARD POLICIES AND PROCEDURES

15.1.1 The Contractor must observe all Board policies and procedures, <http://www.ucdsb.on.ca>, and will become familiar with the relevant policies and procedures prior to commencing performance of the Work.

15.1.2 The Contractor shall coordinate the timing of all attendances to Board facilities, with the Project Manager, before any *Work* begins. Furthermore, when School is in session the Contractor shall also attend the School Office prior to commencing *Work* to inform the School of the Contractor’s presence, the purpose of the visit, and the Scope of *Work* to be performed by the Contractor during the School attendance. The particulars to be provided to the School Office shall include the following:

- i. The location to be repaired;
- ii. The estimated time required to complete the repair;
- iii. The type of *Work* to be completed and the location of equipment;
- iv. If needed, the prearranged movement of people before the commencement of the Work.

15.1.3 When on the job site, the Contractor must:

- i. Have proper identification
- ii. Be dressed appropriately. The following are not appropriate:
 - a. Clothing that fails to contain the anatomy when the person is carrying out normal duties;
 - b. Clothing with printed slogans, advertising or designs that are obscene or could have a double meaning.
- iii. Use appropriate language.
- iv. *Work* with dignity, courtesy and respect for self and others.
- v. Not make noise or move in corridors during morning announcements and the National Anthem.

- vi. Observe procedures during fire alarms and fire drills, and all emergency protocols.
- vii. Park in spots designated by the Principal or Owner.

15.1.4 Contracts and Contract documents may be signed in paper form, by facsimile signature or by electronic signature in accordance with section 11 of the Electronic Commerce Act, 2000 (Ontario). It may also be signed in one or more counterparts and, once signed, can be delivered personally, by facsimile or by email of the signing page in Adobe Portable Document Format (PDF®). Each counterpart shall be considered binding on the signatory thereto and when put together shall constitute a single document.