



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

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.

SC 1. AGREEMENT BETWEEN OWNER AND CONTRACTOR

SC 1.1 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 arbitration, adjudication 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 Courts of Justice Act (Ontario).”

SC 2. DEFINITIONS

2.1.1 Amend the following Definition:

(a) 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 Add the following new Definitions:

(a) **Act**

“*Act* means the Construction Act (Ontario), as amended.”

(b) **As-Built Drawings**

“*As-Built Drawings* are 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, *As-Built Drawings* shall be in computer-aided design (CAD) format approved by the *Owner*, as well as in paper and PDF formats.”

(c) **Deficiency Rectification Security**

“*Deficiency Rectification Security* means the amount and the form of security to be delivered by the *Contractor* pursuant to GC 5.4A – DEFICIENCY RECTIFICATION SECURITY.”

(d) **OHSA**

“*OHSA* means the Occupational Health and Safety Act (Ontario), as amended, and all rules and regulations passed under it.”

(e) **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.”

(f) **Submittals**

“*Submittals* are documents or items required by the *Contract Documents* to be provided by the *Contractor*, such as:

- *Shop Drawings*, samples, models, manuals, 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*.”

(g) **WSIB**

“*WSIB* means the Ontario Workplace Safety & Insurance Board.”



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

SC 3. GENERAL CONDITIONS

SC 3.1 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* shall be considered a portion of the *Work* and included in the scope of *Work* to be performed under this *Contract*.”

3.1.2 Amend paragraph 1.1.5 as follows:

(a) amend paragraph 1.1.5.1 by changing the order of the first four bullet points so that, as reordered, the bullet points read as follows:

“1.1.5.1 the order of priority of documents, from highest to lowest, shall be

- Supplementary Conditions,
- the Agreement between *Owner* and the *Contractor*,
- the Definitions,
- the General Conditions”

(b) amend paragraph 1.1.5 by adding the following after paragraph 1.1.5.5:

“Notwithstanding the foregoing, if there is a conflict or discrepancy between *Drawings* or between *Drawings* and *Specifications* or any other *Contract Documents* in relation to the *Products* to be supplied or the amount of labour or materials required to complete a particular item of *Work*, the *Contractor* shall supply and shall include in the *Work* the *Products*, labour and materials which would provide the greatest benefit to the *Owner*, as determined by the *Owner*.”

3.1.3 Amend paragraph 1.1.9 by adding new paragraphs 1.1.9.1 and 1.1.9.2 as follows:

“1.1.9.1 The *Specifications* shall be read as a whole and are the minimum construction requirements. Neither the organization nor the division of the *Specifications* nor anything else contained in the *Contract Documents* will be construed to place responsibility on the *Consultant* to settle disputes among the *Subcontractors* and *Suppliers* in respect to such organization or division.

1.1.9.2 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 satisfy itself as to the conditions of the pre-grade elevations and the locations, arrangement and sizes of fixtures, equipment, outlets, utilities and underground services from study and coordination of the *Drawings*, including *Shop Drawings*, and shall satisfy itself and become familiar with conditions and spaces affecting these matters before proceeding with the *Work*. Where site conditions require reasonable minor changes to 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* at no additional cost to the *Owner*. The *Contractor* shall arrange and install fixtures and equipment in such a way as to conserve as much headroom and space as possible.”

3.1.4 Amend paragraph 1.1.11 by deleting the words “at the *Owner’s* expense”.

3.1.5 Add new paragraphs 1.1.12 to 1.1.15 as follows

“1.1.12 The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* any error, inconsistency or omission the *Contractor* may discover. Except for the obligation to make such review and report the result, the *Contractor* does not assume any



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

responsibility to the *Owner* or the *Consultant* for the accuracy of the *Contract Documents*. Provided it has exercised the degree of care and skill described in paragraph 3.11.1 of GC 3.11 – STANDARD OF CARE, the *Contractor* shall not be liable for damages or costs resulting from such errors, inconsistencies or omissions in the *Contract Documents* which the *Contractor* did not discover.

- 1.1.13 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 *Consultant*, who will provide written instructions or explanations. Neither the *Owner* nor the *Consultant* will be responsible for oral instructions.
- 1.1.14 Notwithstanding paragraphs 1.1.12 and 1.1.13, errors, inconsistencies and/or omissions shall not include lack of reference on the *Drawings* or in the *Specifications* to labour and/or *Products* that are normally required or normally recognized within respective trade practices as being necessary for the complete execution of the *Work*.
- 1.1.15 The *Contractor* shall keep one copy of the current *Contract Documents*, *Supplemental Instructions*, proposed or contemplated change notices, *Change Orders*, *Change Directives*, record drawings marked up with any changes to be included in *As-Built Drawings*, cash allowance disbursement authorizations, reports, records of meetings, and reviewed *Shop Drawings* at the *Place of the Work*, in good order and available to the *Owner* and *Consultant*.”

SC 3.2 GC 1.3 RIGHTS AND REMEDIES

3.2.1 Add a new paragraph 1.3.3 as follows:

- “1.3.3 To be effective, a party’s waiver of a right, remedy, duty or obligation under this *Contract* must be expressly written by an authorized representative of the party. For greater certainty, actions of the *Owner* which shall not constitute a waiver include, but are not limited to, the following:
- .1 making partial payments to the *Contractor*;
 - .2 any partial or entire use or occupancy of the *Project* by the *Owner*;
 - .3 final acceptance of the *Work* by the *Owner*;
 - .4 failure of the *Owner* or its representatives to object to known defects;
 - .5 specifying a list of defects will not be held a waiver of defects not listed.”

SC 3.3 GC 1.4 ASSIGNMENT

3.3.1 Delete paragraph 1.4.1 and replace it with the following:

- “1.4.1 The *Owner* may assign the *Contract* or a portion thereof without the consent of the *Contractor* where such assignment is to an entity undertaking the *Project* for the use of the *Owner*. The *Contractor* shall not assign the *Contract* or any portion thereof or its interest therein without the written consent of the *Owner*, which consent may be unreasonably and arbitrarily withheld. In the event of an assignment of the *Contract* by the *Contractor*, such assignment shall not relieve the *Contractor* from its obligations and liabilities under this *Contract*.”

SC 3.4 GC 1.5 CONFIDENTIALITY

3.4.1 Add a new GC 1.5 as follows:

“GC 1.5 CONFIDENTIALITY

- 1.5.1 The *Owner* and the *Contractor* shall keep confidential all matters respecting technical and commercial issues relating to or arising from the performance of the *Contract* and shall not, without the prior written consent of the other party, disclose any such matters, except in strict confidence, to their respective professional advisors provided that the *Owner* is entitled to make such disclosure as may be required by government authorities or applicable law.”

SC 3.5 GC 2.2 ROLE OF THE CONSULTANT

3.5.1 Amend paragraph 2.2.13 by adding the following to the end:

- “If, in the opinion of the *Contractor*, a *Supplemental Instruction* involves an adjustment to the *Contract Price* or the *Contract Time*, the *Contractor* shall, within five (5) *Working Days* of receipt of the



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

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*."

SC 3.6 GC 2.4 DEFECTIVE WORK

3.6.1 Amend paragraph 2.4.1 by inserting the words ", at the *Contractor's* sole cost and expense," after the words "The *Contractor* shall" in the first line.

3.6.2 Add new paragraphs 2.4.4 and 2.4.5 as follows:

"2.4.4 The *Contractor* shall rectify, in a manner acceptable to the *Owner* and the *Consultant* and without cost or expense to the *Owner*, all defective *Work* and deficiencies throughout the *Work*, whether or not they are specifically identified by the *Consultant*

2.4.5 The *Contractor* shall give priority to the correction of any defective work or deficiencies identified as priorities by the *Owner* or the *Consultant*."

SC 3.7 GC 3.1 CONTROL OF THE WORK

3.7.1 Amend paragraph 3.1.2 by adding the word "schedules," after the word "techniques,".

3.7.2 Add new paragraphs 3.1.3 through 3.1.6 as follows:

"3.1.3 The *Contractor* is solely responsible for the quality of the *Work* and shall undertake any quality control activities specified in the *Contract Documents* or, if none are specified, as may be reasonably required to ensure such quality. The *Contractor* shall perform the *Work* in accordance with modern practice and in accordance with applicable laws, ordinances, rules, regulations or codes relating to the performance of the *Work*. Without limiting the generality of the foregoing, the *Contractor* is responsible for coordinating the *Work* so that no part shall be left in an unfinished or incomplete condition.

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

3.1.5 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 any structures at 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*.

The *Contractor* shall not permit any worker or *Subcontractors* or *Suppliers* to use any existing facilities including, without limitation, elevators, lavatories, toilets, entrances, and parking areas other than those designated by the *Owner*.

3.1.6 Prior to commencing the *Work* the *Contractor* shall verify, at the *Place of the Work*, all relevant measurements and levels necessary for proper and complete fabrication, assembly and installation of the *Work* and shall further carefully compare such field measurements and conditions with the requirements of the *Contract Documents*. Where dimensions are not included or exact locations are not apparent in the *Contract Documents*, the *Contractor* shall immediately notify the *Consultant* in writing and shall obtain written instructions before proceeding with any part of the affected *Work*. Failure to do so shall be at the sole risk and cost of the *Contractor*."



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

SC 3.8 GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

- 3.8.1 Amend paragraph 3.2.2 by deleting the word “*Owner*” in the second line and replacing it with the word “*Contractor*”.
- 3.8.2 Delete paragraphs 3.2.2.2 and 3.2.2.3.
- 3.8.3 Amend paragraph 3.2.3.4 by adding the following to the end:
“Failure by the *Contractor* to so report shall invalidate any claims against the *Owner* by reason of the deficiencies in the work of *Other Contractors* or *Owner’s* own forces except for those deficiencies not then reasonably discoverable; and”
- 3.8.4 Add a new paragraph 3.2.3.5 as follows:
“3.2.3.5 assume overall responsibility for compliance with all aspects of the applicable health and construction safety legislation at the *Place of the Work*, including all of the responsibilities of the “constructor” under the *OHSA*.”
- 3.8.5 Add new paragraphs 3.2.7 and 3.2.8 as follows:
“3.2.7 Entry by the *Owner’s* own forces and by *Other Contractors* shall not constitute acceptance of the *Work* and shall not relieve the *Contractor* of its responsibility to complete the *Work*.
3.2.8 The placement, installation, application and connection of work by the *Owner’s* own forces or by *Other Contractors* on and to the *Work* shall not relieve the *Contractor* of its responsibility to provide and maintain the warranties specified in this *Contract*. If the *Contractor* is of the view that the work of *Other Contractors* or the work of the *Owner’s* own forces will compromise, void or nullify any of the warranties to be provided pursuant to this *Contract*, the *Contractor* shall immediately give *Notice in Writing* to the *Owner* and shall include in such notice the reasons why, in the *Contractor’s* view, any warranties will be compromised, voided or nullified, together with the *Contractor’s* recommendations for avoiding such result.”

SC 3.9 GC 3.4 CONSTRUCTION SCHEDULE

- 3.9.1 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* and the *Consultant*, for the *Owner’s* approval, a construction schedule that indicates the timing of major activities and critical milestone dates for the *Work*, demonstrating that the *Work* will be performed in conformity with the *Contract Time*. Such schedule:
(a) shall be prepared using a scheduling software approved in writing by the *Owner*, and
(b) shall be provided in both a native editable electronic format that includes and shows all logic links between activities, and in paper format, and
(c) shall be prepared in collaboration with, and supported by, the *Subcontractors* and *Suppliers* whose activities affect the critical path of the *Work*, and
(d) shall include and make provision for statutory holidays, weather conditions that are normally experienced at the *Place of the Work*, and the rectification of defects and deficiencies, and
(e) shall provide sufficient detail of the critical events and their inter-relationship and shall include a baseline schedule indicating the critical path for the *Project*; and
.2 provide the expertise and resources, including manpower and *Construction Equipment*, as are necessary to maintain progress under the construction schedule; and
.3 monitor the progress of the *Work* on a weekly basis relative to the construction schedule, update the schedule on a monthly basis, and immediately advise the *Owner* and the *Consultant* in writing of any variation from the baseline or slippage in the schedule; and
.4 at each site meeting, provide to the *Owner* and the *Consultant* a look-ahead schedule indicating the major activities to be undertaken in the next month.



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

- 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 *Owner* and the *Consultant*, 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 *Owner's* approval, a recovery plan demonstrating how the *Contractor* will achieve the recovery of the construction schedule.
- 3.4.3 If after applying the expertise and resources required under paragraphs 3.4.1.2 and 3.4.2 the *Contractor* forms the opinion that the slippage in the construction schedule cannot be recovered, the *Contractor* shall advise the *Owner* and the *Consultant* of any revisions required to the schedule.
- 3.4.4 The *Contractor* shall not change the scheduled *Ready-for-Takeover* date.”

SC 3.10 GC 3.4A CONTRACTOR'S MONTHLY REPORTS

3.10.1 Add a new GC 3.4A as follows:

“GC 3.4A CONTRACTOR'S MONTHLY REPORTS

- 3.4A.1 The *Contractor* shall prepare and deliver a monthly written report to the *Owner* and the *Consultant* on the status of the *Project*. Such monthly report shall include:
- .1 an overview of the state and progress of the *Work*;
 - .2 an update of the construction schedule, including written confirmation that the *Work* is on schedule or, if the schedule has suffered slippage, include a recovery plan demonstrating how the *Contractor* will achieve recovery of the construction schedule;
 - .3 a list of critical issues of which the *Contractor* is aware and which require resolution, including dates by which decisions are required and by whom;
 - .4 proposed or anticipated changes of which the *Contractor* is aware, and their expected impacts on the *Project*, including the schedule;
 - .5 claims or anticipated claims of which the *Contractor* is aware, including claims against the *Contractor*, the *Owner*, or the *Project*;
 - .6 the *Contractor's* proposed plan and schedule for repairing, correcting or reworking of any defective work.
- 3.4A.2 The *Contractor's* monthly report shall be included with its monthly application for progress payment.”

SC 3.11 GC 3.5 SUPERVISION

3.11.1 Amend paragraph 3.5.1 by adding the following to the end:

“, and upon the *Contractor* obtaining the *Owner's* prior written consent, which consent will not be unreasonably withheld.”

SC 3.12 GC 3.6 SUBCONTRACTORS AND SUPPLIERS

3.12.1 Amend paragraph 3.6.2 as follows:

- (a) by deleting the words “before signing the *Contract*” in the third line; and
- (b) by adding the following to the end:

“If the *Contractor* wishes to change any *Subcontractors* or *Suppliers*, the *Contractor* shall advise the *Owner* in writing and give the reasons for the proposed change. The *Contractor* shall not change *Subcontractors* or *Suppliers* without the *Owner's* prior written approval, which approval will not be unreasonably withheld.”

3.12.2 Amend paragraph 3.6.3 by deleting the words “before the *Owner* has signed the *Contract*,” in the first line.

3.12.3 Add a new paragraph 3.6.7 as follows:



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

“3.6.7 Notwithstanding paragraph 3.6.5, the *Owner* may assign to the *Contractor*, and the *Contractor* shall accept the assignment of, any contract procured by the *Owner* for *Work* or *Products* required on the *Project* that has been pre-tendered or pre-negotiated by the *Owner*. In such event the *Contract Price* shall be increased by the balance of the price remaining under such assigned contract.”

SC 3.13 GC 3.7 LABOUR AND PRODUCTS

3.13.1 Amend paragraph 3.7.1 as follows:

- (a) insert the words “agents, *Subcontractors* and *Suppliers*” after the word “employees” in the first line; and
- (b) add the following to the end:

“Without in any way limiting the generality of the foregoing, the *Contractor* shall prepare and implement the job site rules more particularly described in the *Contract Documents*. If no job site rules are described in the *Contract Documents*, the *Contractor* shall draft job site rules for the review and approval of the *Consultant* and the *Owner*. Any such job site rules prepared by the *Contractor* shall be consistent with the *Contractor's* duties and obligations under *OHSA* and shall also include provisions making smoking, vaping and the consumption of alcohol or non-prescription drugs on the *Project* site the subject of discipline proceedings and/or termination of employment.”

3.13.2 Amend paragraph 3.7.3 by adding the following to the end:

“The *Contractor* represents and warrants that the *Products* supplied under this *Contract* 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 through 3.7.8 as follows:

- “3.7.4 The *Contractor* shall ensure that all materials and *Products* are delivered to the *Project* site in original containers and packages with labels and seals intact and that they are protected from the elements and visible for inspection by the *Owner* and/or the *Consultant*.
- 3.7.5 The *Contractor* is responsible for the safe on-site storage of *Products* and their protection (including *Products* supplied by the *Owner* and *Other Contractors*) in such ways as to avoid dangerous conditions, deterioration, damage or contamination to the *Products*, persons, or property and in locations at the *Place of the Work* to the satisfaction of the *Owner* and the *Consultant*.
- 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 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 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*.
- 3.7.7 The *Contractor* shall not, and shall ensure that its *Subcontractors* and *Suppliers* do not, employ any person on the *Project* whose labour affiliation or lack thereof is incompatible with other labour employed on the *Project*. All costs arising from labour disputes arising from the *Contractor's* failure to comply with this paragraph shall be at the sole expense of the *Contractor*.
- 3.7.8 The *Contractor* shall cooperate with the *Owner*, the *Consultant* and their representatives and shall take all reasonable and necessary actions to maintain stable and harmonious labour relations at the *Place of the Work*, including cooperation to attempt to avoid *Work* stoppages, trade union jurisdictional disputes, and other labour disputes.”



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

SC 3.14 GC 3.8 SHOP DRAWINGS AND OTHER SUBMITTALS

3.14.1 Amend the title of GC 3.8 by adding the words “AND OTHER SUBMITTALS” after “SHOP DRAWINGS”.

3.14.2 Amend paragraphs 3.8.1, 3.8.2, 3.8.3, 3.8.5, 3.8.6 and 3.8.7 by adding the words “and *Submittals*” after the words “*Shop Drawings*” wherever they appear in those paragraphs; and amend paragraphs 3.8.3.2 and 3.8.5 by adding the words “and *Submittal*” after the words “*Shop Drawing*” wherever they appear in those paragraphs.

3.14.3 Further amend paragraph 3.8.1 by adding the following to the end:

“Prior to the first application for payment, the *Contractor* shall prepare a schedule for the dates of submission, review and return of *Shop Drawings* and *Submittals* and submit it to the *Consultant* and *Owner* for review and approval. The draft *Shop Drawings* and *Submittals* schedule shall clearly indicate the phasing of *Shop Drawings* and *Submittals* submissions.”

3.14.4 Add new paragraphs 3.8.8 to 3.8.11 as follows:

“3.8.8 Reviewed *Shop Drawings* and *Submittals* shall not authorize a change in the *Contract Price* or the *Contract Time* unless there is a scope of work or design change initiated by the *Owner*.

3.8.9 The *Contractor* shall not use the term “by others” on *Shop Drawings* or *Submittals*, but shall identify the responsible trade, *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 *Shop Drawings* and *Submittals* will be for general detail and arrangement only. The *Consultant's* review shall not relieve the *Contractor* from its responsibility for deviations from the *Contract Documents*, unless the *Contractor* in writing has notified the *Consultant* of such deviations at the time of submission of the *Shop Drawings* and *Submittals* and the *Consultant* has given written approval to the specific deviations. The *Consultant's* review shall not relieve the *Contractor* from responsibility for defective *Work* resulting from errors or omissions of any kind on the reviewed *Shop Drawings* and *Submittals* 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.”

SC 3.15 GC 3.9 USE OF THE WORK

3.15.1 Add a new GC 3.9 as follows:

“GC 3.9 USE OF THE WORK

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

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

SC 3.16 GC 3.10 CLEANUP

3.16.1 Add a new GC 3.10 as follows:

“GC 3.10 CLEANUP

3.10.1 The *Contractor* shall:



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

- .1 maintain the *Place of the Work* in a safe and tidy condition and free from the accumulation of waste products and debris;
 - .2 ensure the *Place of the Work* is cleaned and left in a tidy condition on a daily basis. In the event that the *Contractor* fails to remove waste and debris as provided in this GC 3.10, then, the *Owner* or *Consultant* may give the *Contractor* twenty-four (24) hours' written notice to meet its obligations respecting cleanup. Should the *Contractor* fail to meet its obligations pursuant to this GC 3.10 within the twenty-four (24) hour period next following delivery of the notice, the *Owner* may remove such waste and debris and deduct from payments otherwise due to the *Contractor* the costs of doing so.
- 3.10.2 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*."

SC 3.17 GC 3.11 STANDARD OF CARE

3.17.1 Add a new GC 3.11 as follows:

"GC 3.11 STANDARD OF CARE

- 3.11.1 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*.
- 3.11.2 The *Contractor* represents, covenants and warrants to the *Owner* that:
 - .1 The *Contractor's* personnel assigned to the *Project* are appropriately experienced and trained;
 - .2 It has sufficient qualified and competent personnel to replace its designated supervisor, superintendent and project manager, subject to the *Owner's* approval, in the event of incapacity, removal or resignation; and
 - .3 There are no pending, threatened or anticipated claims that would have a material effect on the financial ability of the *Contractor* to perform this *Contract*."

SC 3.18 GC 3.12 CONTRACTOR'S USE OF PERMANENT EQUIPMENT OR SYSTEMS

3.18.1 Add a new GC 3.12 as follows:

"GC 3.12 CONTRACTOR'S USE OF PERMANENT EQUIPMENT OR SYSTEMS

- 3.12.1 The *Contractor* shall not make use of elements of the mechanical and electrical systems or equipment comprising a permanent part of the *Work*, including the HVAC system and elevators, without the *Owner's* prior express written consent obtained in accordance with this GC 3.12.
- 3.12.2 If the *Contractor* wishes to make use of such systems or equipment the *Contractor* shall:
 - .1 obtain the manufacturer's instructions regarding any preventative maintenance services to be performed on such systems and equipment; and
 - .2 submit a written request to the *Owner* for consent to use such systems or equipment, which report shall include all of the information received from the manufacturer of such systems or equipment.
- 3.12.3 If the *Owner* consents to the *Contractor's* use of elements of the mechanical and electrical systems or equipment comprising a permanent part of the *Work*, the *Contractor* shall:
 - .1 operate and maintain such systems and equipment in strict compliance with the requirements set out in the *Specifications* and any instructions received from the manufacturers of such systems and equipment; and

- .2 perform all preventative maintenance services on such systems and equipment in accordance with the *Specifications* and any instructions received from the manufacturers of such systems and equipment; and
- .3 before applying for *Ready-for-Takeover*, clean and make good, to the satisfaction of the *Owner*, all such systems and equipment as it had been permitted to use; and
- .4 pay any and all costs associated with such use, operation, preventative maintenance services, cleaning and making good at no cost or charge to the *Owner*.”

SC 3.19 GC 4.1 CASH ALLOWANCES

3.19.1 Delete paragraphs 4.1.4 and 4.1.5 and replace them with the following:

“4.1.4 Where the actual cost of the *Work* under any cash allowance exceeds or is expected to exceed the amount of the allowance, the *Contractor* shall notify the *Owner* and the *Consultant* in writing indicating the amount of additional funds required and, in such case, the *Contractor* shall not proceed with the cash allowance *Work* until the *Contractor* receives written instructions from the *Consultant*. Unexpended amounts from other cash allowances may be reallocated at the *Owner*’s direction to cover the shortfall and, in that case, the *Contractor* is not entitled to any amount for overhead and profit. Where no such direction is given, or where the actual cost exceeds the allowance even after reallocation of unexpended amounts from other cash allowances, the *Contractor* shall be compensated for the excess incurred and substantiated, plus an amount for overhead and profit as set out in paragraph 6.2.3.3 of GC 6.2 – CHANGE ORDER, but on the excess only.

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* without any adjustment for the *Contractor*’s overhead and profit on such amount.”

3.19.2 Add a new paragraph 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 cash allowances.”

SC 3.20 GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

3.20.1 Delete GC 5.1.

SC 3.21 GC 5.1A PROPER INVOICE

3.21.1 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* monthly by e-mail sent to “.com” and is sent concurrently to the *Consultant* or as the *Owner* may otherwise direct; and
- .2 includes all of the following:
 - .1 the *Contractor*’s name and address and HST registration number;
 - .2 the date of the application for payment and the period during which the services or materials were supplied;
 - .3 information identifying the authority, whether in the *Contract* or otherwise, under which the services or materials were supplied, including the applicable RFT or purchase order number;
 - .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, and the payment terms. Ensure the amounts align with the *Contractor*’s pricing form;
 - .6 the name, title, telephone number and mailing address of the person to whom payment is to be sent;



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

- .7 copies of all *Change Orders* and *Change Directives* for which the *Contractor* is claiming payment together with all backup documentation;
- .8 a statement based on the schedule of values for the *Work*,
- .9 for all applications for payment except the final payment, the monthly report required by GC 3.4A – CONTRACTOR'S MONTHLY REPORTS, including an updated construction schedule which complies with the requirements of paragraph 3.4.1.1 of GC 3.4 – CONSTRUCTION SCHEDULE;
- .10 a current valid clearance certificate issued by the *WSIB*;
- .11 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."

SC 3.22 GC 5.2 APPLICATIONS FOR PAYMENT

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

- "5.2.1 Subject to paragraph 5.2.2, *Proper Invoices* for progress payment shall be given monthly as the *Work* progresses on a day of the month agreed to by the parties.
- 5.2.2 The *Contractor* shall not give a *Proper Invoice* for progress payment between the date certified as the date of *Substantial Performance of the Work* and the date that the *Contract* is completed."

3.22.2 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."

3.22.3 Delete paragraph 5.2.4 and replace it with the following:

- "5.2.4 The *Contractor* shall, within 15 *Working Days* after signing this *Contract*, submit to the *Consultant*, for the *Consultant's* approval, 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. Such schedule of values:
 - .1 shall include a detailed breakdown of the *Work*; and
 - .2 shall include a line item which assigns an appropriate portion of the *Contract Price* for quality control and closeout of the *Work*."

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

", as modified by paragraph 5.1A.1.2 of GC 5.1A – PROPER INVOICE."

3.22.5 Delete paragraph 5.2.7.

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

"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."

SC 3.23 GC 5.3 PAYMENT

3.23.1 Delete paragraph 5.3.1 and replace it with the following:

- "5.3.1 The *Consultant* will issue to the *Owner* and copy to the *Contractor* a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due.

5.3.2 Subject to the *Owner's* right to give notice of non-payment in accordance with the *Act*, and subject to the holdback provisions of the *Act*, the *Owner* will pay the amount payable under a *Proper Invoice* no later than 28 days after the date the *Owner* receives the *Proper Invoice*. Provided that:

- .1 the *Contractor* shall not submit a *Proper Invoice* on any day specified in paragraph 5.2.2 of GC 5.2 – APPLICATIONS FOR PAYMENT; and
- .2 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 payment where:

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

SC 3.24 GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK

3.24.1 Delete paragraphs 5.4.2 through 5.4.6 and replace them with the following:

“5.4.2 Immediately after the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor*:

- .1 shall, in consultation with the *Owner* and the *Consultant*, establish reasonable dates for finishing the *Work* and correcting deficient *Work*; and
- .2 shall cause the certificate to be published in the manner prescribed by the *Act* and shall immediately thereafter deliver a copy of the published certificate to the *Owner*.

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

- .1 a written request for the release of the holdback amount;
- .2 a declaration that no written notices of lien have been received by the *Contractor*;
- .3 a copy of the published certificate of *Substantial Performance of the Work*;
- .4 a current valid clearance certificate issued by the *WSIB*; and
- .5 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.

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 provisions of 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*.”

SC 3.25 GC 5.4A DEFICIENCY RECTIFICATION SECURITY

3.25.1 Add a new GC 5.4A as follows:

“GC 5.4A DEFICIENCY RECTIFICATION SECURITY

5.4A.1 The *Contractor* shall, within 25 days after the date of *Substantial Performance of the Work*, deliver to the *Owner* the following *Deficiency Rectification Security*:

- .1 an irrevocable standby letter of credit in a form satisfactory to the *Owner*; or
- .2 a certified cheque payable to the *Owner*,



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

in the amount of 5% of the aggregate of the *Contract Price* and the *Value Added Taxes*.

- 5.4A.2 If the *Contractor* fails to deliver the *Deficiency Rectification Security* in the amount and form and by the date specified in paragraph 5.4A.1, the *Owner* may deduct and retain the *Deficiency Rectification Security* amount from any amount owing to the *Contractor*, and such retained amount shall take the place of and shall become the *Deficiency Rectification Security*.
- 5.4A.3 The *Owner* will use the *Deficiency Rectification Security* to cover the costs of correcting defects, deficiencies or non-compliant items of *Work* which appear prior to and during the warranty period described in paragraph 12.3.1 of GC 12.3 – WARRANTY.”

SC 3.26 GC 5.5 FINAL PAYMENT

3.26.1 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 a *Proper Invoice* for final payment.”

3.26.2 Amend paragraph 5.5.2 by adding the following to the end:

“Without limiting the generality of the foregoing, the application for final payment will not be considered valid until *Products* installed are tested and conform to the requirements specified in the *Contract Documents* and all documentation required by the *Contract Documents* including but not limited to the documents and materials listed in paragraphs 5.4.0A and 5.4.3 of GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK have been received and accepted by the *Consultant*.”

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

“5.5.3 Subject to the *Owner's* right to give notice of non-payment in accordance with the *Act*, the *Owner* will pay the amount payable under a *Proper Invoice* for final payment no later than 28 days after the date the *Owner* receives the *Proper Invoice*. 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 certified for payment by the *Consultant* in the certificate for payment issued pursuant to paragraph 5.5.2.”

SC 3.27 GC 5.8 WITHHOLDING OF PAYMENT

3.27.1 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 overpayment 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 or damage, including as a result of:

- .1 the *Contractor's* failure to perform any of its material obligations or where the *Contractor* is otherwise in default under the *Contract Documents*;
- .2 defective portions of the *Work* not remedied;
- .3 damage done by the *Contractor* to work performed by *Other Contractors* or by the *Owner's* own forces;

SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

- .4 the *Contractor's* failure to make prompt payments to its *Subcontractors* and *Suppliers* respecting *Work* for which the *Owner* has made payment to the *Contractor*;
- .5 claims or reasonable evidence indicating possible commencement of claims for which the *Contractor* may be responsible to indemnify the *Owner*;
- .6 the *Contractor's* failure to remove any liens arising from the *Work* or otherwise to satisfy its obligations under GC 14.2 – LIENS AND ACTIONS;
- .7 reasonable evidence the *Work* will not achieve *Ready-for-Takeover* in accordance with the construction schedule or within the *Contract Time*;
- .8 any claim for which the *Owner* is entitled to indemnification from the *Contractor* pursuant to the *Contract Documents*.

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 amount 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.”

SC 3.28 GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

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

“All such changes require approval by a representative of the *Owner* with proper signing authority. The requirement that the *Contractor* obtain a *Change Order* or a *Change Directive* is of the essence and it is the express intention of the parties that any claims by the *Contractor* for a change in the *Contract Price* and/or *Contract Time* shall be barred unless there is strict compliance with PART 6 – CHANGES IN THE WORK. No course of conduct or dealings between the parties, no express or implied acceptance of alterations or additions to the *Contract* or the *Work*, and no claims that the *Owner* has been unjustly enriched by any alteration or addition to the *Work*, whether or not there is any such unjust enrichment, shall be the basis of a claim for damages or for a change in the *Contract Price* or *Contract Time*. Without limiting the generality of the foregoing, under circumstances of expediency the *Contractor* shall proceed with a change in the *Work* without first obtaining a *Change Order* or a *Change Directive* where it has received from the *Owner* or the *Owner's* authorized representative 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*.”

3.28.2 Add a new paragraph 6.1.3 as follows:

“6.1.3 The *Contractor* agrees that changes resulting from construction 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*.”

SC 3.29 GC 6.2 CHANGE ORDER

3.29.1 Add new paragraphs 6.2.3 to 6.2.6 as follows:

“6.2.3 The value of a change shall be determined in one or more of the following methods as directed by the *Owner*:

- .1 by estimate and acceptance of a lump sum. The lump sum shall include overhead, profit and other reasonable charges and mark-ups and shall be the total cost to the *Owner*; or
- .2 by unit prices established in the *Contract Documents* or subsequently agreed upon. Unit prices shall include all costs related to *Products*, labour, equipment, delivery and handling, statutory charges, overhead and profit, other related charges, and shall include all applicable duties (excluding HST), and shall be the total cost to the *Owner*. Adjustment to the *Contract Price* shall be based on a net quantity difference from the original quantity; or
- .3 by actual credits and cost to the *Owner*. The cost to the *Owner* shall be the actual cost plus the following percentage fee for overhead and profit after all credits included in the change have been deducted. For certainty, no mark-up or other charges shall be permitted for overhead and profit where the change results in a net decrease (credit) to the *Contract Price*:
 - (a) on *Work* performed by the *Contractor's* own forces, the *Contractor* may charge a maximum mark-up of 5% as a combined percentage fee for overhead and profit;

SUPPLEMENTARY CONDITIONS AMENDMENTS TO CCDC 2 – 2020 STIPULATED PRICE CONTRACT

- (b) on *Work* performed by *Subcontractors*, the *Subcontractors* may charge a maximum mark-up of 5% as a combined percentage fee for overhead and profit, and the *Contractor* may charge a maximum mark-up of 5% as a combined percentage fee for overhead and profit on the aggregate of the *Work* performed by *Subcontractors* (excluding the *Subcontractors'* fee mark-up).
- 6.2.4 The mark-ups referred to in paragraph 6.2.3.3 shall constitute the only compensation the *Contractor* shall be entitled to for any and all overhead, profit, general expenses, incidental and administrative costs whatsoever related to a change including, but not limited to, costs relating to superintendence and supervision, general cleanup, *Shop Drawing* production, estimating, site office and head office expenses and personnel, administration costs, workers' tools, temporary facilities and controls, record drawings, *As-Built Drawings*, warranty, insurance, bonding, job safety costs, and coordination of any and all *Work*-related activities.
- 6.2.5 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*.
- 6.2.6 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*."

SC 3.30 GC 6.3 CHANGE DIRECTIVE

3.30.1 Amend paragraph 6.3.7 by inserting the words "Subject to paragraph 6.3.14," at the beginning.

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

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

3.30.3 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 clean-up, except where the performance of the work attributed to the *Change Directive* causes specific additional clean-up 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 by the *Consultant*;
- .6 costs or expenses attributable to the negligence, improper work, deficiencies, or breaches of contract by the *Contractor*;
- .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*; and
- .8 the costs of the items listed in paragraph 6.2.4 of GC 6.2 – CHANGE ORDER."

SC 3.31 GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

3.31.1 Add a new paragraph 6.4.0 as follows:



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

“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 has satisfied itself as to the conditions, circumstances, limitations and requirements necessary for the *Contractor* to perform the *Work* in accordance with the *Contract Documents*. 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 before the signing of this *Contract*.”

3.31.2 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.”

SC 3.32 GC 6.5 DELAYS

3.32.1 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*. Provided that this paragraph 6.5.1 shall not apply to delays arising from a direction issued pursuant to paragraph 6.5.6.”

3.32.2 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.”

3.32.3 Amend paragraph 6.5.3 as follows:

(a) add 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,”

(b) add a new subparagraph 6.5.3.5 as follows:

“6.5.3.5 demonstrations and protests including, but not limited to, native protests, sit-ins, blockages, riots, insurrections and uprisings,”

(c) delete the last sentence of paragraph 6.5.3 and replace it with the following:

“The *Contractor* shall not be entitled to payment for costs incurred by such delays.”

3.32.4 Amend paragraph 6.5.4 by adding the following to the end:

“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 affects the critical path of the *Work* and that reasonable mitigation efforts have been attempted to reduce the delay and the costs associated therewith, 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



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

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.”

3.32.5 Add new paragraphs 6.5.6 and 6.5.7 as follows:

“6.5.6 Without limiting the other obligations of the *Contractor*, the *Owner* may, by *Notice in Writing*, direct the *Contractor* to stop the *Work* as a result of the occurrence of an epidemic or pandemic or in order to comply with 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. In such case the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. The *Contractor* shall not be entitled to payment for costs incurred by such delays.

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, 6.5.3 and 6.5.6 and shall be reimbursed by the *Owner* for the reasonable direct costs incurred by the *Contractor* for such care, maintenance and protection, but excluding the *Contractor’s* head office personnel and overhead costs.”

SC 3.33 GC 7.1 OWNER’S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR’S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT

3.33.1 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 the *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 5 *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.”

3.33.2 Add a new paragraph 7.1.5A as follows:

“7.1.5A 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 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*.”

3.33.3 Add a new paragraph 7.1.7 as follows:

“7.1.7 The *Owner* may terminate this *Contract* for convenience 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 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 for any other claims, costs or damages whatsoever arising from such termination of this *Contract*.”

SC 3.34 GC 7.2 CONTRACTOR’S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

3.34.1 Amend paragraph 7.2.2 by deleting “20 *Working Days*” in the first line and replacing it with “40 *Working Days*.”



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

3.34.2 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* violates the requirements of the *Contract* to a substantial degree, and the *Consultant* gives a written statement to the *Owner* and the *Contractor* that provides detail of such violation and confirms to the *Contractor* and the *Owner* that sufficient cause exists to justify the *Contractor's* action.”

3.34.3 Amend paragraph 7.2.4 by deleting “5” in the second line and replacing it with “10”.

3.34.4 Delete paragraph 7.2.5 and replace it with the following:

“7.2.5 If the default cannot be corrected within the 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 an acceptable 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, the *Contractor* shall also 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*. Such payment is further subject to the *Owner's* right to claim damages or set-off for any costs or any loss or damages suffered or which will be suffered by the *Owner*. The *Owner* shall not be liable to the *Contractor* for any other claims, costs or damages whatsoever arising from such termination of the *Contract*.”

SC 3.35 GC 9.1 PROTECTION OF WORK AND PROPERTY

3.35.1 Delete paragraph 9.1.1.1 and replace it with the following:

“9.1.1.1 errors or omissions in the *Contract Documents* which the *Contractor* could not reasonably have discovered applying the degree of care and skill described in this *Contract*; or”

3.35.2 Amend paragraph 9.1.2 by deleting the words “reasonably apparent in” and replacing them with “reasonably discoverable from” in the second line.

3.35.3 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 any replacement cost of the grass, sod, trees or other plantings damaged, including the cost of any arborist or other consultant, and such costs may be deducted by the *Owner* from amounts otherwise 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 of the said costs.”



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

SC 3.36 GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

3.36.1 Amend paragraph 9.2.3 by deleting the words “The *Owner*” in the first line and replacing them with “The *Contractor*”.

3.36.2 Add new paragraphs 9.2.5.5 and 9.2.5.6 as follows:

9.2.5.5 take all reasonable steps necessary to mitigate or stabilize any conditions resulting from encountering toxic or hazardous substances, and

9.2.5.6 take all necessary steps to mitigate the impact on *Contract Time* and *Contract Price*.”

3.36.3 Amend paragraph 9.2.7.3 by adding the following after the words “as a result of the delay” at the end:

“, 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*”

3.36.4 Delete paragraph 9.2.7.4.

3.36.5 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,”

3.36.6 Add new paragraphs 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 manager, officers, directors, employees, agents and elected officials 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* and its manager, officers, directors, employees, agents and elected officials 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* or *Suppliers*.”

SC 3.37 GC 9.4 CONSTRUCTION SAFETY

3.37.1 Add new paragraphs 9.4.6 to 9.4.11 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 “constructor” under *OHSA* and shall file the “Notice of Project” with the appropriate government agency naming the *Contractor* as the “constructor” for the *Project*.

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 *OHSA* and all other applicable construction health and safety requirements, regulations, industry standards and guidelines, including COVID-19 protocols for construction sites. 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*,



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

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 "constructor" or its responsibility for construction safety on the *Project*.

- 9.4.8 The *Contractor* shall indemnify and save harmless the *Owner* and its manager, officers, directors, employees, agents and elected officials, as well as the *Owner's* 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.
- 9.4.9 The *Contractor* shall ensure that every person entering the *Place of the Work* is fully vaccinated against COVID-19. The *Contractor* shall maintain records at its head office confirming that it has verified proof of vaccination for each person entering the *Place of the Work* and shall, upon request by the *Owner*, provide evidence of compliance with this paragraph.
- 9.4.10 Without limiting the generality of paragraph 9.4.7, any employee of the *Contractor* or any *Subcontractor* or *Supplier* who is not fully vaccinated against COVID-19 presents an immediate risk to *Owner* personnel at the *Place of the Work* and, in addition to any other rights it may have under this *Contract*, the *Owner* may require that the *Contractor*, without any cost or expense to the *Owner*, replace such employee or restrict access to the *Place of the Work* to such employee and the *Contractor* shall find or cause the *Subcontractor* or *Supplier* to find substitute employees to perform the *Work* so as not to jeopardize the safety of *Owner* personnel or cause delay to the *Work*.
- 9.4.11 "Fully vaccinated", as used in this GC 9.4, means it has been at least 14 days since receiving the final dose of any COVID-19 vaccine approved by Health Canada."

SC 3.38 GC 9.5 MOULD

- 3.38.1 Amend paragraph 9.5.2.3 by adding the words "and for any delay" immediately before the comma near the end.
- 3.38.2 Amend paragraph 9.5.3.3 by adding the following after the words "as a result of the delay" at the end:
- " , 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*, and"

SC 3.39 GC 10.1 TAXES AND DUTIES

- 3.39.1 Amend paragraph 10.1.2 by adding the following to the end:
- "For greater certainty, the *Contractor* shall not be entitled to any mark-up for overhead or profit on any increase in such taxes and duties."
- 3.39.2 Add new paragraphs 10.1.3 to 10.1.6 as follows:
- "10.1.3 Where the *Owner* is entitled to an exemption or a recovery of sales taxes, customs duties, excise taxes or *Value Added Taxes* applicable to the *Contract*, the *Contractor* shall, at the request of the *Owner*, assist with application for any exemption, recovery or refund of all such taxes and duties and all amounts recovered or exemptions obtained shall be for the sole benefit of the *Owner*. The *Contractor* agrees to endorse over to the *Owner* any cheques received from the federal or provincial governments, or any other taxing authority, as may be required to give effect to this paragraph.
- 10.1.4 The *Contractor* shall maintain accurate records of equipment, material and component costs reflecting the sales taxes, customs duties, excise taxes and *Value Added Taxes* paid.
- 10.1.5 Any refund of taxes including, without limitation, any government sales tax, customs duty, excise tax or *Value Added Tax*, whether or not paid, which is found to be inapplicable or for which exemption may be obtained, is the sole and exclusive property of the *Owner*. The



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

Contractor agrees to cooperate with the *Owner* and to cause all *Subcontractors* and *Suppliers* to cooperate with the *Owner* in the application for any refund of any taxes, which cooperation shall include, but not be limited to, making or concurring in the making of an application for any such refund or exemption and providing to the *Owner* copies, or where required, originals of records, invoices, purchase orders and other documentation necessary to support such applications or exemptions or refunds. All such refunds shall either be paid to the *Owner* or shall be a credit to the *Owner* against the *Contract Price*, in the *Owner's* discretion.

- 10.1.6 Customs duties and penalties or any other penalty, fine or assessment levied against the *Contractor* shall not be treated as a tax or customs duty for purposes of this GC 10.1."

SC 3.40 GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 3.40.1 Amend paragraph 10.2.4 by adding the following to the end:

"The *Contractor* shall notify the *Consultant* and the chief building official or the registered code agency where applicable, of the readiness, substantial completion, and completion of the stages of construction set out in the Ontario Building Code. The *Contractor* shall be present at each site inspection by an inspector or registered code agency. If any laws, ordinances, rules, regulations, or codes conflict, the more stringent shall govern."

- 3.40.2 Amend paragraph 10.2.5 by deleting the word "The" in the first line and replacing it with the words "Subject to paragraph 1.1.12 of GC 1.1 – CONTRACT DOCUMENTS, the".

- 3.40.3 Amend paragraph 10.2.6 as follows:

- (a) delete the words "performs work knowing it to be" and replace them with "performs work when it knew or ought to have known that such work is"; and
- (b) delete the words "bear the" in the third line and replace them with "indemnify and save the *Owner* harmless against all".

- 3.40.4 Amend paragraph 10.2.7 by adding the following to the end:

", provided that any claims arising from any delays due to such changes will be dealt with in accordance with GC 6.5 – DELAYS."

SC 3.41 GC 11.1 INSURANCE

- 3.41.1 Delete GC 11.1 in its entirety and replace it with the following:

"GC 11.1 INSURANCE

11.1.1 The *Contractor* shall obtain, maintain, pay for and provide to the *Owner* evidence of the insurance coverage required under this *Contract*. Any deductible and/ or self-insured retention are the responsibility of the *Contractor* and shall not constitute a *Project* expense chargeable back to the *Owner* in any way.

.1 Commercial General Liability Insurance

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*, as set out in the certificate of *Ready-for-Takeover*, on an ongoing basis for a period of 6 years following *Ready-for-Takeover*

Commercial General Liability, underwritten by an insurer licensed to conduct business in the Province of Ontario, for a limit of not less than \$5,000,000 per occurrence, an aggregate limit of not less than \$10,000,000, within any policy year with respect to completed operations and a deductible of not more than \$50,000. The insurance coverage shall not be less than the insurance provided by IBC Form 2100 and IBC Form 2320. The policy shall include an extension for a standard provincial and territorial form of non-owned automobile liability policy. This policy shall include but not be limited to:

- .1 Name the *Owner* as an additional insured;

SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020 STIPULATED PRICE CONTRACT

- .2 Cross-liability and severability of interest;
- .3 Blanket Contractual;
- .4 Products and Completed Operations;
- .5 Premises and Operations Liability;
- .6 Personal Injury Liability;
- .7 Contingent Employers Liability;
- .8 Owners and Contractors Protective;
- .9 Broad Form Property Damage;
- .10 Firefighting Expenses;
- .11 Elevator and Hoist Liability;
- .12 Attached Machinery – while loading and unloading

The following also applies:

- a) If applicable to the *Project*, coverage shall include shoring, blasting, excavation, underpinning, demolition, pile driving, caisson work and work below ground surface including tunneling and grading.
- b) If the *Work* involves asbestos removal, the policy shall provide coverage for this exposure.
- c) If the *Work* involves the use or operation of an owned or non-owned manned aircraft or watercraft, the policy shall provide coverage for this exposure.
- d) To achieve the desired limits, umbrella or excess liability insurance may be used.
- e) The *Owner* reserves the right to request in addition to Commercial General Liability Insurance coverage Wrap-up Liability. The Wrap-up shall be in the names of the *Owner, Contractor, all Subcontractors, the Consultant* and all other architects, engineers, consultants, planners and project managers. Limits and coverages shall comply with the requirements outlined above.

.2 Automobile Insurance

Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than \$5,000,000 per occurrence for third party liability, in respect of the use or operation of vehicles owned, operated or leased by the *Contractor*.

.3 Builders Risk Insurance

Broad Form Builders' Risk Insurance written in the joint names of the *Contractor, Owner, Subcontractors*, and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy shall have limits of not less than 1.1 times the *Contract Price*. Should the *Owner* provide any property to be incorporated into the *Project*, the policy must be endorsed to include the *Owner's* property. Coverage shall be maintained during the term of the *Contract* and until 10 calendar days after the date of *Ready-for-Takeover*.

The Builders' Risk shall:

- .1 Be endorsed to grant permission to occupy prior to the completion or acceptance of the entire *Work*.
- .2 Not be less than the insurance coverage provided by IBC Forms 4042 and 4047 or their equivalent replacement.
- .3 Include the installation, testing, commissioning and subsequent use of any machinery and equipment including boilers, pressure vessels or vessels under vacuum.
- .4 Apply to all *Products*, labour, equipment and supplies of every nature, the property of the *Owner* or *Contractor* or for which the *Owner* or *Contractor* may have assumed responsibility (whether on site or in transit), that is to be used in or pertaining to site preparation, erection, fabrication, construction or reconstruction of the structure.
- .5 Be subject to a waiver of coinsurance.



SUPPLEMENTARY CONDITIONS AMENDMENTS TO CCDC 2 – 2020 STIPULATED PRICE CONTRACT

- .6 Include coverage for materials while in transit, awaiting installation or stored at off-site locations. Coverage shall be in an amount equal to the value of the material.
- .7 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. The *Contractor* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurer. 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 a reasonable extension of *Contract Time*.
- .4 Boiler and Machinery Insurance
- The Boiler and Machinery Policy shall be written in the joint names of the *Contractor*, *Owner* and *Subcontractors* and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy limit shall equal the replacement value of all permanent or temporary boilers and pressure vessels and other insurable objects forming part of the *Work*. The *Contractor* may elect to carry the testing, commissioning and subsequent use of these objects under the Boiler and Machinery Policy.
- .5 Contractor's Equipment Floater
- The *Contractor* shall provide and maintain coverage for all equipment used on the *Project* during the term of this *Contract*. Coverage will be provided, on a broad form basis, for construction machinery, equipment, tools and stock that will be used by the *Contractor* in the performance of the *Work*. The coverage will also include rental expense. Coverage is to be carried from the date of commencement of the *Work* until one year after the date of *Ready-for-Takeover*.
- .6 Contractor's Pollution Liability
- The *Contractor* shall carry a Contractor's Pollution Liability Policy, underwritten by an insurer licensed to conduct business in the Province of Ontario for a limit of not less than \$2,000,000. Coverage shall include bodily injury, property damage, clean-up and remediation costs.
- .7 Proof of Insurance
- .1 The *Contractor* shall provide the *Owner* with an executed certificate of insurance and a renewal replacement as may be necessary, stating any pertinent exclusions as applicable contained in the policies which may affect coverage as outlined in this *Contract*. The certificate will be delivered prior to the commencement by the *Contractor* of the *Work* or upon renewal of the policy. The *Contractor's* insurance carriers and the insurance policy provisions must be acceptable to the *Owner*. All lines of coverage required by this *Contract* must be shown on the certificate of insurance. The *Contractor* will make available complete certified copies of all applicable insurance policies for examination if required by the *Owner*.
- .2 The *Contractor* shall ensure that each *Subcontractor* requires adequate insurance in accordance with the work being performed under the terms of their engagement. It is the *Contractor's* responsibility to ensure this exposure is insured adequately and at no time will costs associated with this exposure be transferred to the *Owner*.
- .3 Delivery to and examination or approval by the *Owner* of any certificates of insurance or policies of insurance or other evidence of insurance shall not relieve the *Contractor* of any of its indemnification or insurance obligations under this *Contract*. The *Owner* shall be under no duty to either ascertain the existence of or to examine such certificate of insurance or policies of insurance or to advise the *Contractor* in the event that such insurance coverage is not in compliance with the requirements set out in this *Contract*. The *Contractor* is responsible for ensuring such compliance.
- .4 All policies of insurance shall:
- .1 Be recorded as being a primary policy and shall be in a form and issued by an insurance company satisfactory to the *Owner* and that is licensed to carry on business in Ontario;



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

- .2 Be maintained continuously during the course of the *Work* or for such period of time as may be required after completion of the *Work* as may be deemed necessary by the *Owner*;
- .3 The *Contractor* shall ensure that any self-insured and deductible limits are prudent and responsible for the type of work being undertaken under the *Contract*. Any and all claim costs are borne by the *Contractor* including, but not limited to, deductibles, adjusting fees, legal costs, disbursements, and settlements;
- .4 Ensure that, except in the case of automobile liability insurance, non-owned automobile liability insurance, the *Owner* is to be added to the policy as an additional insured and/or loss payee;
- .5 Contain a cross-liability and severability of interest provisions, as may be applicable;
- .6 Provide that at least thirty (30) days prior written notice, fifteen (15) days in the case of automobile liability insurance, and ten (10) days in the event of non-payment of premiums, shall be given to the *Owner* by the insurer before the insurer or the *Contractor* takes any steps to cancel, terminate, fail to renew, amend or otherwise change or modify the insurance or any part thereof.
- .7 Necessary notification to insurers is required to ensure continuous coverage is in place at all times. This will include, but is not limited to, transfer of coverage from one policy to another (i.e. completion of a building constructed under a Builder's Risk Policy being transferred to a Property policy once *Ready-for-Takeover* has been achieved)."

SC 3.42 GC 12.1 READY-FOR-TAKEOVER

3.42.1 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, distribution system diagrams, *Shop Drawings*, maintenance and operating manuals, instructions, samples, existing reports and correspondence from authorities having jurisdiction, and all other close-out materials or documents specified in the *Contract*.

12.1.1.5 The delivery to the *Owner* of the final *As-Built Drawings*."

3.42.2 Add a new paragraph 12.1.1.9 as follows:

"12.1.1.9 Confirmation by the *Consultant* that the aggregate cost of completing the remaining *Work* and correcting known defects and deficiencies is the lesser of \$5,000 and 1% of the *Contract Price*."

3.42.3 Delete paragraph 12.1.2 and replace it with the following:

"12.1.2 If any prerequisites set forth in paragraphs 12.1.1.3 to 12.1.1.6 are deferred by agreement between the *Owner* and the *Contractor*, *Ready-for-Takeover* shall not be delayed."

3.42.4 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*."

3.42.5 Delete paragraph 12.1.6.

SC 3.43 GC 12.2 EARLY OCCUPANCY BY THE OWNER

3.43.1 Delete paragraphs 12.2.1 through 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 and take possession of any portion or all of the undelivered portion of the *Project*, even though *Ready-for-Takeover* may not have been attained, provided that such entry, occupation, taking of possession or use will not interfere, in any material way, with the progress of the *Work*. The



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

entry, occupation, taking of possession or use of any such portion of the *Project* or *Work* 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*.

- 12.2.2 The *Contractor* shall, as directed by the *Consultant*, give priority to certain parts of the *Work* and bring such parts to a "ready for use" status. Such instructions may require installation of temporary stairs and exits and temporary services, all of which shall be provided and subsequently removed.
- 12.2.3 The *Contractor* shall maintain full access to the *Work* for the *Owner's* use, as required. The *Contractor* shall maintain or restore heat and power to areas when necessary or as scheduled and keep existing utilities and services functional.
- 12.2.4 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 "constructor" under *OHSA* and the *Contractor's* obligations respecting construction health and safety, and all of the *Contractor's* obligations, rules, regulations and practices shall continue to apply notwithstanding such entry, occupation, taking of possession or use."

SC 3.44 GC 12.3 WARRANTY

3.44.1 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 year from the date that such item of *Work* has been completed and accepted in writing by the *Owner*."

3.44.2 Add a new paragraph 12.3.1A as follows:

"12.3.1A If the *Contractor* has been permitted to make use of permanent equipment or systems, as provided in GC 3.12 – CONTRACTOR'S USE OF PERMANENT EQUIPMENT OR SYSTEMS, such permanent equipment or system shall be subject to the same warranty as described in this GC 12.3 and shall be judged, for purposes of assessing compliance with the warranty, as though the equipment or system was new, clean and unused by the *Contractor*, except for normal commissioning and start-up activities, prior to *Ready-for-Takeover*."

3.44.3 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. Except for any extended warranties provided for in the *Contract Documents*, the warranty period for any corrective work performed by the *Contractor* pursuant to GC 12.3 – WARRANTY shall commence on the date that such corrective *Work* was completed."

3.44.4 Add new paragraphs 12.3.5A and 12.3.5B immediately after paragraph 12.3.5 as follows:

"12.3.5A If the *Contractor* fails to perform the remedial and warranty work and/or fails to correct the defects, deficiencies or items of non-compliant *Work* or is not diligently working towards completion of the same to the satisfaction of the *Consultant*, or if the *Contractor* fails to correct or pay for damage resulting from corrections made, as required in paragraph 12.3.5, the *Owner* may engage others to perform the work necessary to complete and correct the outstanding defects, deficiencies or items of non-compliant *Work* at the risk and cost of the *Contractor*, and may deduct such costs and may pay such costs and damage from the *Deficiency Rectification Security*. If the costs of completion and correction of such defects, deficiencies and/or non-compliant *Work* exceed the amount of the *Deficiency Rectification Security*, the *Contractor* shall reimburse the *Owner* for all excess costs and damages. The



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

Owner's rights under this paragraph are in addition to any other rights the *Owner* may have pursuant to the *Contract* and/or at law.

- 12.3.5B Provided that the *Contractor* has completed all outstanding remedial and warranty work and has corrected all defects and deficiencies and has completed all items of non-compliant *Work* and has corrected or paid for all damage resulting from corrections made, all to the satisfaction of the *Consultant*, the *Owner* shall return to the *Contractor* the balance of the *Deficiency Rectification Security*, if any, without interest, 10 *Working Days* after the date that is the later of (a) the date of total completion of the *Contract*, and (b) the date on which the warranty period ends.”

SC 3.45 GC 13.1 INDEMNIFICATION

3.45.1 Delete GC 13.1 and replace it with the following:

- “13.1.1 The *Contractor* shall indemnify and shall defend and save harmless the *Owner*, its manager, officers, directors, agents, representatives, elected officials, successors, and employees harmless from and against any claims, causes of action, demands, losses, charges, fees, duties, accounts, fines, penalties, expenses and costs (including legal costs on a solicitor and client basis), or other proceedings of every kind or nature whatsoever at law or in equity brought against, suffered by, or imposed on the reason of,
- .1 the *Contractor* carrying out or failing to carry out any obligation to which it is subject including the performance of the *Work*, or exercising any right to which it is entitled, under the *Contract* except to the extent that the same are caused by the negligence or deliberate wrong-doing of the *Owner* or other person entitled to indemnification under this section, or
 - .2 any patent, trademark, copyright infringement or other breach of any intellectual property right of any person, for which the *Contractor* or any *Subcontractor* to the *Contractor* is responsible.
- 13.1.2 The *Contractor* shall indemnify and hold harmless the *Owner's* agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings by third parties that arise out of, or are attributable to, the *Contractor's* performance of the *Contract*, provided such claims are attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, and caused by negligent acts or omissions of the *Contractor* or anyone for whose acts the *Contractor* may be liable, and made in writing within a period of 6 years from the date of *Ready-for-Takeover* as set out in the certificate of *Ready-for-Takeover*, or within such shorter period as may be prescribed by any limitation statute or the province or territory of the *Place of the Work*.”

SC 3.46 PART 14 – OTHER PROVISIONS

3.46.1 Add a new “PART 14 – OTHER PROVISIONS” as follows:

PART 14 OTHER PROVISIONS

GC 14.1 LIENS AND ACTIONS

- 14.1.1 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*, 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.
- 14.1.2 If a lien action is commenced arising out of a lien described in paragraph 14.1.1, 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.
- 14.1.3 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,



SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

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 amounts incurred by the *Owner*.

GC 14.2 CONTRACTOR'S DISCHARGE OF LIABILITIES

14.2.1 In addition to the obligations assumed by the *Contractor* pursuant to GC 3.6 – SUBCONTRACTORS AND SUPPLIERS, the *Contractor* agrees to discharge all liabilities incurred by it for services, materials, *Subcontractors* and *Products*, used or reasonably required for use in the performance of the *Work*, except for amounts withheld by reason of legitimate dispute and which have been identified to the party or parties, from whom payment has been withheld.

GC 14.3 OWNERSHIP OF MATERIALS

14.3.1 Unless otherwise specified, all materials existing at the *Place of the Work* at the time of execution of the *Contract* shall remain the property of the *Owner*. All *Work* and *Products* delivered to the *Place of the Work* by the *Contractor* shall be the property of the *Owner*. The *Contractor* shall remove all surplus or rejected materials from the *Place of the Work*.

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 manpower and material resourcing on the *Project*, including the records identified in paragraph 14.4.1 and 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 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, 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 without the prior written approval of the *Owner*.

GC 14.6 AODA REQUIREMENTS

14.6.1 Pursuant to sections 7 and 80.49 of the Integrated Accessibility Standards Regulation, O. Reg. 191/11 (the "**Regulation**") under the *Accessibility for Ontarians with Disabilities Act, 2005* ("**AODA**"), the *Contractor* shall ensure that all of its employees, agents, volunteers, or others for whom it is at law responsible receive training about the provision of the goods and services contemplated herein to persons with disabilities. Such training shall be provided in accordance with sections 7 and 80.49 of the *Regulation* and shall include, without limitation, a review of the purposes of *AODA* and the requirements of the *Regulation*, as well as instruction regarding all matters set out in sections 7 and 80.49 of the *Regulation*. When requested by the *Owner*, the *Contractor* shall provide written proof that all employees have been trained as required under *AODA* as well as any documentation regarding training policies, practices and procedures.

SUPPLEMENTARY CONDITIONS

AMENDMENTS TO CCDC 2 – 2020

STIPULATED PRICE CONTRACT

GC 14.7 AMENDMENTS TO THE CONTRACT

- 14.7.1 Except for the written or e-mail direction referred to in paragraph 6.1.2 of GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, 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 representative, 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 any party.

GC 14.8 CONTRACT SECURITY

- 14.8.1 The *Contractor* shall, prior to commencement of the *Work* or within the specified time, provide to the *Owner* any *Contract* security specified in the *Act*.
- 14.8.2 Such bonds shall be issued by a duly licensed surety company authorized to transact the business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfillment of the *Contract*. The forms of such bonds shall be in accordance with the *Act*. All premiums and other costs of the bonds are included in the *Contract Price*.

GC 14.9 TIME IS OF THE ESSENCE

- 14.9.1 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 agrees that time shall be of the essence in the performance of the *Contractor's* obligations under this *Contract*."

GC 14.9 LIQUIDATED DAMAGES

- 14.9.1 If the *Contractor* fails to achieve *Ready-for-Takeover* by the date stipulated in paragraph 1.3 of Article A-1 of the Agreement – THE WORK, the *Owner* may deduct the amount of \$● plus applicable HST as liquidated damages for each *Working Day* that the *Contractor* continues not to achieve *Ready-for-Takeover*, up to a maximum aggregate amount not to exceed the greater of \$● or 5% of the *Contract Price*.
- 14.9.2 The parties agree that it would be extremely difficult to precisely determine the amount of actual damages that the *Owner* would suffer due to delay by the *Contractor*, and agree that the liquidated damages amount in paragraph 14.9.1 is fair and reasonable having regard to the damages that would be suffered by the *Owner* if the *Work* is not completed as scheduled, and that the liquidated damages amount does not constitute a penalty.
- 14.9.3 The *Owner* may invoice the *Contractor* for any amount due under this GC 14.9 or may deduct any amount due under this GC 14.9 from any monies that may be due or payable to the *Contractor* on any account whatsoever. The liquidated damages payable under this GC 14.9 are in addition to and without prejudice to any other remedy, action or other right that may be available to the *Owner*.
- 14.9.4 The parties irrevocably undertake that they will not, whether by legal proceedings or otherwise, contend that the liquidated damages provided in this GC 14.9 are not reasonable compensation, and the *Contractor* will not put the *Owner* to proof thereof, and neither party will contend that its agreement to such amounts and undertaking was arrived at by force, duress, coercion, mistake or misrepresentation on the part of the other party."

[NOTE: Use either "Time is of the Essence" OR "Liquidated Damages" BUT NOT BOTH, and delete the inapplicable section AND this note.]

END OF DOCUMENT