



# BRAMPTON

## Flower City

The Corporation of the City of Brampton

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Cover Page

## BID DOCUMENT

BID CALL NO. T2021-173

CONSTRUCTION OF FIRE STATION 201 AT 25 RUTHERFORD ROAD SOUTH

**CLOSING DATE: THURSDAY OCTOBER 21, 2021**

**CLOSING TIME: NOT LATER THAN 2:00:00 o'clock p.m. LOCAL TIME IN BRAMPTON, ONTARIO**

**BIDS RECEIVED AFTER THE CLOSING DATE AND TIME WILL BE REJECTED.**

**A non-mandatory pre-bid meeting is scheduled for Friday October 8, 2021 at 11 a.m. at Fire Station 201, 25 Rutherford Road South, Brampton. Bidders are to gather in front of the main entrance of Fire Station 201.**

**Prior to attending the non-mandatory pre-bid meeting, Bidders must review and adhere to the Appendix A "COVID-19 Instructions for Pre-Bid Site Visit".**

Questions related to the Bid Call are required to be submitted to the Purchasing Representative through the Bidding System using the Submit Question button.

**Purchasing Representative**

Santosh Mishra  
Senior Buyer  
Email: santosh.mishra@brampton.ca  
Phone: 905-874-3482

**ELECTRONIC BIDS ONLY**

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## CHECKLIST FOR SUBMITTING A BID

### Note

This checklist is provided solely for the convenience of Bidders and is part of the Bid Document. It will not be considered in evaluating Bids, but is intended to assist Bidders to submit compliant Bids. Bidders should be aware the checklist may not include all bidding requirements. Please review the requirements of the Bid Document and the items below for compliance before submitting your Bid.

- Bid Document read and understood, and any questions have been submitted to the Purchasing Representative and answered.
- Bid is completed in the Bidder's full legal name.
- Bid Deposit submitted with the Bid, if required (refer to Section 13 of Instructions to Bidders).
- Mandatory pre-bid meeting attended, if required by the Bid Document.
- All addenda received and acknowledged.
- Bid received by the Owner's Bidding System on or before the Closing Time on the Closing Date.
- Bid conforms to all other requirements of the Bid Document.

## **INTERPRETATION - Glossary**

In the Bid Document,

“Addenda” or “Addendum” means a document containing additional information or changes to the requirements of the Bid Document issued by the Owner which is part of the Bid Document;

“Bid” means an offer to supply goods, services or construction in a Bid Call;

“Bid Call” means an invitation from the Owner to Vendors to submit a Bid;

“Bid Call Process” means the process in this Bid Call which begins when the Bid Call is advertised or solicited and ends when (i) the Owner signs an agreement and/or issues a purchase order with a Bidder, or (ii) when the Bid Call is cancelled;

“Bid Closing” means the Closing Date and Closing Time set forth in the Instructions to Bidders;

“Bid Deposit” means the deposit specified in the Instructions to Bidders;

“Bid Document” means the documents listed in the Index, issued by the Owner to the Bidder under the Bid Call, and includes any Addenda;

“Bid Validity Period” means the period during which Bids are valid, irrevocable and open for acceptance by the Owner without adjustment;

“Bidder” means any proponent, respondent or other person or entity who has obtained official procurement documents for the purpose of submitting, or who has submitted, a Bid in response to the Bid Call;

“Bidding System” means the electronic system used by the Owner for its public tenders, bids and request for proposals at the following website <https://brampton.bidsandtenders.ca>, which Bidding System is required to be used for all dissemination of information by or on behalf of the Owner and all submissions from Bidders for this Bid Call.

“Closing Date” means the date on which Bid Closing takes place;

“Closing Time” means the time at which Bid Closing takes place;

“Constating Documents” means the articles of incorporation, articles of amalgamation or articles of continuation, or similar government issued documentation, setting out in the complete and current legal name of the Bidder.

“Contract” means a formal legal agreement between two or more parties with binding legal and moral implications whereby goods and/or services are exchanged for money or other consideration;

“Contract Documents” means the documents making up the Contract;

“Purchasing Representative” means the person named as the Purchasing Representative on the Bid Document Cover Page;

“Irregularity” means a variation in a Bid from the requirements of the Bid Call;

“Material Irregularity” means an Irregularity substantial and material to an award, which could give a Bidder an unfair advantage over others who have submitted a Bid;

“Owner” means The Corporation of the City of Brampton;

“Personal Information” means any information about an identifiable individual which is required to be protected pursuant to MFIPPA or any other laws (including regulations and common law) pertaining to the protection of personal, healthcare or insurance information;

“Plan Taker” means a Bidder who has registered in the Bidding System to participate in the Bid Call Process;

“Project” means the project described in paragraph 2.1 of this Part A Information for Bidders, Instructions to Bidders.

“Purchasing Representative” means the person named as the Purchasing Representative on the Bid Document Cover Page;

“Successful Bidder” means the Bidder to whom the Contract is awarded;

“Vendor” means a Vendor as defined in the Purchasing By-law 19-2018, or one of a restricted group of Vendors under the terms of the Bid Call;

Except as the context may otherwise require, the words “City” and “City of Brampton” used in the Bid Document mean The Corporation of the City of Brampton.

Except as otherwise defined in this Bid Document, the capitalized words used in the Bid Document shall be given the meaning ascribed to them in the City’s Purchasing By-law 19-2018.

## 1. INTRODUCTION

- 1.1. The City of Brampton's objective is to conduct a fair, open and transparent Bid Call Process providing for equitable treatment of Bidders, while maintaining the highest standards of integrity in the process.
- 1.2. The Bid Call shall be governed by the City's Purchasing By-law 19-2018 and related policies and procedures which are available on the City's website at [www.brampton.ca](http://www.brampton.ca).
- 1.3. This procurement is subject to the *Canadian Free Trade Agreement (CFTA)*, the *Comprehensive Economic and Trade Agreement (CETA)* and the *Ontario-Quebec Trade and Cooperation Agreement (OQTCA)*.

## 2. PROJECT

- 2.1. The Bid Call is for a Project consisting of the work and requirements as described in this Bid Document.

## 3. INVITATION TO BID

- 3.1. The invitation to bid is made by The Corporation of the City of Brampton, 2 Wellington Street West, Brampton, Ontario, L6Y 4R2.

## 4. SUBMISSION AND RECEIPT OF BIDS

- 4.1. The Corporation of the City of Brampton (Owner) will **only** accept **electronic Bids** submitted through the Owner's Bidding System. Bids submitted and/or received by any other method will be rejected, unless the Owner has instructed otherwise by published Addenda in respect of a Bid. Bids submitted in any other manner will be disqualified. Hard copy Bids shall **NOT** be accepted.
- 4.2. Bids must be submitted electronically through the Owner's Bidding System, and received by the Owner not later than 2:00:00 p.m., local time in Brampton, Ontario as established by the Research Council of Canada, on the specified Closing Date of:

**Thursday October 21, 2021**

- 4.3. The Closing Date and Time shall be determined by the Owner's Bidding System website clock.
- 4.4. Late Bids will not be accepted by the Owner's Bidding System.
- 4.5. The receipt of Bids can be delayed due to factors such as "internet traffic", file transfer size, transmission speed, and any other causes for delay. Bidders should allow sufficient time to upload their Bid, including any attachments.

- 4.6. A Bid will only be considered to have been submitted once it has been **RECEIVED** by the Owner in its Bidding System, regardless of when the Bid was submitted by the Bidder.
- 4.7. Bidders will be sent a confirmation email from the Owner's Bidding System to the email address provided by the Bidder when it registers as a Plan Taker in the Bidding System for the Bid Call advising that their Bid was submitted successfully. Bidders should **not** consider their Bid to have been submitted until they have received the confirmation email.
- 4.8. Bidders are solely responsible for the delivery of their Bids in the manner and by the date and time prescribed. Each Bidder is responsible for the actual delivery of its Bid prior to the Closing Time on the Closing Date.
- 4.9. The Owner is not responsible for any incomplete or misdirected Bids due to electronic technical problems arising out of the Bidder's use of the Owner's Bidding System.

## 5. VENDOR ACCOUNT

- 5.1. This Bid Document is available only through the Owner's Bidding System at <https://brampton.bidsandtenders.ca>. A Bidder who has not obtained this Bid Document through the Owner's Bidding System may be ineligible for further consideration unless a third party has requested this Bid Document from the Owner's Bidding System on the Bidder's behalf and that Bidder has identified the third party in the Bid as being authorized to do so.
- 5.2. All Bidders must have a Bidding System Vendor account and be registered as a Plan Taker for this Bid Call opportunity, to enable the Bidder to download the Bid Document, to receive Addenda email notifications, download Addenda and to submit their Bid electronically through the Bidding System.
- 5.3. To ensure receipt of the latest information and updates via email regarding this Bid or if a Bidder has obtained this Bid Document from a third party, the onus is on the Bidder to create a Bidding System Vendor account and register as a Plan Taker for the Bid Call at <https://brampton.bidsandtenders.ca>.

## 6. BID DOCUMENT

- 6.1. (a) The information provided in this Bid Document or otherwise by the Owner in any connection with this Bid Call, is provided on an "as is" basis, with no representations, warranties or covenants, implied or express, concerning the nature or the quality of such information, including without limitation its completeness, accuracy, currency, reliability, authenticity or the Owner's rights to disclose any such information.  
  
(b) All information provided in this Bid Document is based on the Owner's knowledge and intent as of the date this Bid Call is issued and may change during the course of the

Bid Call. The Bidder accepts and acknowledges its duty to investigate and conduct due diligence enquiries into the subject matter and circumstances of this Bid Call.

(c) The Owner and its officers, employees, agents, consultants and advisors shall not be liable or responsible in respect of any aspect of this Bid Call, or for any oral or written information, or any advice, or any incompleteness, errors or omissions in this Bid Document or information disclosed or otherwise provided to the Bidder under this Bid Call and all of the foregoing, in respect of which Bidders shall assume all risk.

## 7. REQUESTS FOR CLARIFICATION AND ADDENDA DURING BIDDING PERIOD

- 7.1. Questions related to the Bid Call are required to be submitted to the Purchasing Representative through the Bidding System by using the Submit Question button.
- 7.2. Questions are required to be received **no later than one week prior to Bid Closing**. The Owner reserves the right not to accept, consider or respond to any questions received after the date specified.
- 7.3. Responses to questions which, in the sole judgment of the Purchasing Agent, require an addition to, deletion from or alteration to the requirements of the Bid Document will be provided to Bidders in writing as Addenda. Addenda will be posted to, and available from, the Bidding System.
- 7.4. Addenda shall be part of the Bid Document. Bidders shall include the cost implications of all Addenda in the Bid.
- 7.5. The Bidder shall consider the requirements of all Addenda issued during the bidding period for submitting Bids in the preparation of the Bid.
- 7.6. The Owner will notify Bidders of the issuance of Addenda via email generated by the Bidding System and sent to registered Plan Takers for a Bid Call; however, it is the Bidder's responsibility to ensure that it has received and downloaded all Addenda prior to submitting its Bid. The Owner shall not be liable for any misdirected notices of Addenda resulting from a Bidder's failure to update its contact information in the Bidding System and/or Bidders failing to check for Addenda prior to submitting their Bid.
- 7.7. In the event that an Addendum is issued after a Bidder has submitted its Bid, the Owner's Bidding System shall withdraw the Bid and change the status of the Bid to "incomplete" and the Bidder will be required to acknowledge the addendum and resubmit its Bid prior to Bid Closing. The Bidder is solely responsible to:
  - (a) make any required adjustments to their Bid;
  - (b) acknowledge the Addenda; **and**

- (c) ensure the re-submitted Bid is RECEIVED by the Bidding System no later than 2:00:00 p.m. local time in Brampton, Ontario, on the Bid Closing Date.
- 7.8. The onus is on the Bidder to ensure the Bidder receives all Addenda issued prior to submission of the Bid, whether they have received notification from the **City of Brampton** Bid Opportunities website or not. Bidders must acknowledge receipt of all Addenda when submitting their Bid through the Bidding System. Failure to acknowledge Addenda will result in the Bid being deemed “incomplete” and will not be accepted in the Bidding System.
- 7.9. Bidders shall not rely on oral instructions, clarifications, comments or statements of any kind. Neither the Owner nor any of the Owner’s consultants will be responsible for, or bound by, oral instructions, clarifications, comments or statements of any kind. Clarifications will only be issued in the form of written Addenda and only where the Owner deems it necessary.
- 7.10. Should a Bidder find discrepancies, ambiguities or omissions in the Bid Document, or have questions about the meaning or intent of anything in the Bid Document, prior to the Bid Closing, the Bidder is required to notify the Purchasing Representative in writing, as soon as possible.
- 7.11. The Owner’s intent in this Bid Call is to permit competition. It shall be the Bidder’s responsibility to advise the Purchasing Representative in writing of any language, requirement, specification or any combination thereof in the Bid Document, which restricts or limits competition. Such notification is required to be received by the Purchasing Representative **no later than one week prior to the Bid Closing**.

## 8. COMMUNICATION

- 8.1. During the Bid Call Process, Bidders are not permitted to contact, directly or indirectly, any employee, elected official, officer, agent, consultant, advisor or other representative of the Owner, concerning the Bid Call, other than the Purchasing Representative named in the Bid Document Cover Page or his or her delegate. Any communication by a Bidder with anyone other than the Purchasing Representative named in the Bid Document Cover Page or delegate may result in the disqualification of the Bid from the Bid Call, and disqualification of the Bidder from participating in future Bid Calls.

## 9. REVIEW OF SITE CONDITIONS

- 9.1. Bidders are responsible for carefully examining the site of every Project and to inform themselves fully as to the existing conditions, limitations, access, surrounding site conditions and all other conditions, and shall consider in the preparation of the Bid, the complete cost of every Project contemplated by the Bid Document. Failure of Bidders to

familiarize themselves with site conditions will not be an allowable reason for an increase in Contract costs.

## 10. PRE-BID MEETINGS

- 10.1. Where a pre-bid meeting is scheduled, the purpose of the meeting will be to review the terms, conditions and specifications of the Bid Document and receive any questions. Any answers to questions will be issued by Addenda in writing, where the Owner deems it necessary.
- 10.2. Bidders will be required to sign an attendance sheet confirming their attendance prior to the start of the pre-bid meeting. Bidders who arrive after the pre-bid meeting has started will not be permitted to sign the attendance sheet. It is the Bidder's sole responsibility to ensure timely attendance and sign-in at the meeting.
- 10.3. Bidders must observe all health and safety and security requirements during the pre-bid meeting. Bidders acknowledge that the Bidder, its employees, and representatives attend pre-bid meetings at their own risk.
- 10.4. Where applicable, Bidders must comply with Occupational Health and Safety Act regarding personal protective equipment (PPE), which consists of hard hats and safety boots. Safety vests may also be required.
- 10.5. Where a pre-bid meeting is scheduled, the Owner, at its sole discretion, (i) reserves the right not to proceed with the pre-bid meeting, (ii) may extend, delay, or change the date of the pre-bid meeting, (iii) may schedule more than one pre-bid meeting, and/or (iv) cancel the Bid Call.

## 11. BID REQUIREMENTS

- 11.1. The Bid is required to conform to the bid requirements in this Part A Information for Bidders, and Bids failing to do so may be disqualified.
- 11.2. The Bid must be legibly completed.
- 11.3. Any documents of a Bid being uploaded must:
  - (a) be in Adobe pdf format; and
  - (b) **NOT** have a security password.
- 11.4. It is the Bidder's sole responsibility to ensure that any uploaded documents of a Bid:
  - (a) are not defective, corrupted or blank; and
  - (b) can be opened and viewed by the Owner.

- 11.5. The Owner may disqualify or reject a Bid that contains documents that cannot be opened and verified by the Owner.
- 11.6. The Bid is required not to be restricted by a statement added to the Bid or a covering letter or alterations to the Bid Document provided by the Owner unless otherwise specified by the Owner. Other forms or agreements may not be considered.
- 11.7. All costs and expenses incurred by a Bidder in the preparation and submission of a Bid, or in providing any additional information in connection with a Bid, shall be borne solely by the Bidder, without reimbursement by the Owner.
- 11.8. The Total Stipulated Price shall include all labour, equipment and materials and utility and transportation services necessary to perform and complete all work required under the Contract, including all miscellaneous work, whether specifically included in the Bid Document or not. It is the intention of the specifications and drawings to provide finished work. Any items omitted which are clearly necessary for the completion of the work shall be considered part of the work, though not directly specified in the Bid Document and considered in the preparation of the Bid.
- 11.9. Each item in the Price Schedule shall be reasonably priced for such item. Bids that contain prices which appear to be unbalanced as to affect adversely the interest of the Owner, may be rejected. All prices must be quoted in Canadian dollars.
- 11.10. The Owner is required to inventory assets in accordance with the Public Sector Accounting Board – Tangible Capital Assets (PSAB 3150). The attached “PSAB Inventory Management Form” shows each component that is specific to the Project. Bidders shall include in their Bid, all costs associated to invoice in the prescribed method. The Successful Bidder shall be required to break down the total amount of each invoice (to include, all costs, but not limited to design, labour, materials, installation, delivery) for components checked off on the “PSAB Inventory Management Form”.
- 11.11. (a) The Bid is required to be executed in the full legal name of the Bidder. Where the Bidder is a corporation, the Bidder’s name should be identical in all aspects to that on its Constatting Documents.
- (b) The Bid is required to be submitted by an authorized person with authority to submit the Bid on behalf of the Bidder and with authority to bind the Bidder.
- (c) Where a Bid is submitted by more than one legal entity as Bidder, the full legal name of each of them shall be specified.
- 11.12. The Bidder must disclose to the Owner any potential conflict of interest that might compromise performance of the work. If such conflict of interest does exist, the Owner may, at its sole discretion, refuse to consider the Bid.

- 11.13. In accordance with Purchasing By-law 19-2018, Section 10 Code of Conduct and Conflict of Interest, the Bidder must also disclose whether it is aware of any employee of the Owner, Council member or member of an Owner's agency, board or commission or employee thereof having a financial interest in the Bidder and the nature of that interest,. If such an interest exists or arises prior to the award of a Contract, the Purchasing Agent may, at its sole discretion, refuse to consider the Bid or withhold the awarding of any contract to the Bidder until the matter is resolved to the Purchasing Agent's sole satisfaction.
- 11.14. Bidders are cautioned that the acceptance of their Bid may preclude them from participating as a Bidder in subsequent projects where a conflict of interest may arise. The Successful Bidder for this Project may participate in subsequent/other Owner projects provided the Successful Bidder has satisfied pre-qualification requirements of the Owner, if any, and in the opinion of the Owner, no conflict of interest would adversely affect the performance and successful completion of a contract by the Successful Bidder.
- 11.15. The Owner reserves the right at its sole discretion to disqualify a Bid or terminate any ensuing Contract, if at any time the Owner discovers evidence of an undeclared connection of any members of City Council or officials or employees of the Owner with the Contract, or any conflict of interest, or collusion or fraud.
- 11.16. All Bids submitted to the Owner become the property of the Owner. All information in a Bid will be subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and this Bid Document.
- 11.17. The Bidder will comply with any laws (including regulations and common law) pertaining to the privacy and protection of Personal Information to which Bidder is subject.
- 11.18. The Bidder will provide the Owner with information, cooperation and assistance, as requested by the Owner from time to time, in order to enable the Owner to comply with any and all requirements to which the Owner is subject under any laws (including MFIPPA, regulations and common law) pertaining to the privacy and protection of Personal Information.
- 11.19. This Bid Call, and any resulting Contract, shall be governed by the laws of the Province of Ontario, Canada.

## 12. IRREGULARITIES

- 12.1. The Purchasing Agent will reject Bids containing any Material Irregularity. The Purchasing Representative will notify Bidders whose Bids are rejected due to a Material Irregularity prior to award.

12.2. The following Irregularities shall be deemed to be a Material Irregularity:

1. **Late Bid**
  - (a) The Bid is not received by the Owner's Bidding System on or before the Closing Time on the Closing Date;
2. **Price**
  - (a) Prices are not complete and specified as required;
3. **Authority to Bind the Bidder**
  - (a) The Bid is not submitted by a representative of the Bidder with authority to submit a Bid on behalf of the Bidder and with authority to bind the Bidder;
4. **Bid Deposit**
  - (a) The Bid Deposit is not submitted with the Bid when required;
  - (b) The Bid Deposit is not properly executed or not in the form specified as per Section 13 of the Bid Document;
  - (c) The amount of the Bid Deposit is not equal to or greater than the amount required;
  - (d) The Bid Deposit is not in the name of the Bidder;
5. **Mandatory Pre-Bid Meetings**

Failure of Bidder to attend a mandatory pre-bid meeting.

### 13. BID DEPOSIT

- 13.1. The Bid shall be accompanied by a Bid Deposit in the form of a digital bid bond ("Bid Bond") in the amount equal to or greater than ten percent (10%) of the Total Stipulated Price specified in the Price Schedule for the execution and delivery of the Contract and the provision of the requisite bonds, insurance and all other documents required to be delivered to the Owner upon notice of award.
- 13.2. The Bid Bond shall be in the form included in Part C Forms of this Bid Document, issued by a recognized Canadian surety company licensed to conduct the business of a surety in the Province of Ontario. The CCDC 220 or other surety form substantially in the form included in Part C is acceptable, as determined by the Purchasing Agent.
- 13.3. The Bid Deposit must be in the name of the Bidder. Failure to meet the Owner's bid deposit requirements shall result in rejection of the Bid.
- 13.4. Bidders shall up-load the Bid Bond with the Bid including instruction details for verification.

13.5. For a Bid Bond to be an acceptable digital bid bond it must meet all of the following requirements:

- **Include a method of authentication that confirms 'Integrity of Content'** – the bond must include assurances that the document received is the true document executed and the content has not been changed or altered. All instructions for accessing authentication shall be included with the uploaded Bid Bond.
- **Be verifiable/enforceable** – the bond must include assurances that the document was duly executed by the parties identified and that it is enforceable in law. This requires the use of a third party digital service provider.
- **Be digitally executed** – the bond must contain digital signatures and digital seals. A scanned copy of a paper bond is **not** an acceptable digital bond.

13.6. The Bidder and its surety company should refer to the e-bonding information on Surety Association of Canada's website which includes:

- A list of third parties that provide online surety digital bond services. The Owner does not endorse or promote any third party electronic surety bond service provider.
- A Checklist of Industry Requirements for e-bonding solutions which sets out the requirements for electronic surety/digital bonds.

13.7. Bid Bonds must be irrevocable and open for acceptance for at least sixty (60) days from the Bid Closing.

13.8. **The Bid Deposit for the Bid Call must be equal to or greater than ten percent (10%) of the Total Stipulated Price.**

13.9. Where the Bidder is a corporation, the Bidder's name should be identical in all aspects to that on the corporation's Constatting Documents.

13.10. Failure to meet the Owner's bonding requirements shall result in the rejection of the Bid.

## 14. SECURITIES

14.1. The Successful Bidder shall arrange, pay for and execute with an insurer licensed under the *Insurance Act*, R.S.O. 1990, c. I.8 write surety and fidelity insurance, the following:

- a Performance Bond of at least 50% of the awarded contract price for an extended term covering the warranty period in the form prescribed by Ontario

Regulation 303/18 of the *Construction Act* and attached at Schedule 1 of the Bid Document.

- a Labour and Material Payment Bond of at least 50% of the awarded contract price for an extended term covering the warranty period in the form prescribed by Ontario Regulation 303/18 of the *Construction Act* and attached at Schedule 2 of the Bid Document.

14.2. Where the Bidder is a corporation, the Bidder's name should be identical in all aspects to that on the corporation's Constatng Documents.

## 15. WITHDRAWAL AND EDIT OF BIDS

15.1. A Bidder who has submitted a Bid may edit or withdraw the Bid prior to Bid Closing.

15.2. A Bidder who wishes to edit its Bid after it has been submitted must withdraw its Bid, make the necessary changes, and resubmit its Bid prior to Bid Closing.

15.3. The Bidder is solely responsible to ensure the re-submitted bid is **RECEIVED** by the Owner's Bidding System no later than 2:00:00 p.m. local time in Brampton, Ontario, on the Bid Closing Date.

## 16. CHECKING OF BIDS

16.1. Bids will be opened and checked by the Purchasing Representative or delegate to ensure compliance with the requirements of the Bid Document. . Unofficial Bid results may be available after 2:30 p.m. on the Bid Closing Date on the Owner's Bids and Tenders website at

<https://brampton.bidsandtenders.ca>.

16.2. The Owner reserves the right for the Purchasing Agent, at the Purchasing Agent's sole discretion, not to proceed with the opening of the Bids and to delay / change the Closing Date and / or Closing Time and / or cancel the Bid Call as the Purchasing Agent may deem appropriate, in the Purchasing Agent's sole discretion.

16.3. All Bids received are unofficial until they have been reviewed by the Owner for compliance, which may alter the ranking of the lowest Bidder. A decision to accept or reject a Bid due to Irregularities will not be made until a review has been conducted.

16.4. In the event of an inconsistency or mathematical error between a unit price and an extended price based on estimated quantity, the unit price shall be deemed to be correct and the extended price shall be corrected accordingly. In the event of an inconsistency or mathematical error such that the Total Stipulated Price is not the sum of amounts bid

for the individual items, the amounts bid for the individual items shall be deemed to be correct and the Total Stipulated Price shall be corrected accordingly.

16.5. The intent of the Bidder as shown in the Bid should be considered and the Bid adjusted accordingly.

## 17. RIGHTS RESERVED TO OWNER

17.1. In addition to any other rights reserved to the Owner, the Owner reserves the right, privilege, entitlement and absolute discretion, for any reason whatsoever, to:

- (a) accept a Bid which is not the lowest Bid;
- (b) reject a Bid which is the lowest Bid, even if it is the only Bid received;
- (c) cancel the Bid Call at any time, either before or after the Closing Date;
- (d) accept or reject any and all Bids, whether in whole or in part;
- (e) except in the case of an Irregularity which requires a Bid to be disqualified, accept a Bid that contains Irregularities;
- (f) award any part of any Bid; and
- (g) accept or reject any unbalanced Bid.

17.2. Without in any way limiting the Owner's rights, and notwithstanding that Bidders may have been pre-qualified, the Owner may accept a Bid which is not the lowest Bid where the Purchasing Agent, in the Purchasing Agent's sole and absolute discretion, considers the Bid to be most advantageous to the interests of the Owner or that may provide the greatest value advantage and benefit to the Owner, based upon the Bidder's:

- (a) price;
- (b) ability to perform;
- (c) proposed schedule;
- (d) ability to complete within the time required by the Owner;
- (e) quality;
- (f) level of service;
- (g) proposed personnel and subcontractors;
- (h) past experience;
- (i) past performance;
- (j) qualifications; and
- (k) such other matters as could reasonably be anticipated to be of concern to the Owner.

17.3. The Owner further reserves the right, in its sole and absolute discretion, to accept or reject a Bid which, in the Purchasing Agent's sole opinion, is incomplete, obscure, irregular, conditional or qualified, or which has erasures, alterations or corrections, or otherwise does not fully comply with the requirements of the Bid Document if, in so

doing, the best interests of the Owner will be served, provided that in the sole opinion of the Purchasing Agent the Irregularity is not a Material Irregularity.

- 17.4. The Owner reserves the right to request supplementary or additional information from one or more Bidders after Bid Closing, without affecting the validity of the Bids submitted, as may be required to clarify a Bid and facilitate the Owner's decision to award a Contract, if any. Such requested information will not alter the Bid or constitute negotiation with the Bidder, and the Owner is not obligated to seek clarification from a Bidder, or with respect to any Bid which is deficient or not acceptable.
- 17.5. The Owner may, in its absolute discretion, but is not required to, independently verify any information in any Bid. The Owner reserves the right to disqualify any Bidder whose Bid contains any false or misleading information in the opinion of the Owner acting through the Purchasing Agent in the Purchasing Agent's absolute discretion.
- 17.6. The Owner reserves the right to award by item, or part thereof, groups of items, or parts thereof, or all items of the Bid Call, and to award contracts to one or more Bidders.
- 17.7. The Owner reserves the right to proceed in its sole and absolute discretion it determines, at any time following receipt of the Bids, including, without limitation, to proceed with issuing a second or more, or a modified Bid Document for subject of the Bid Call or entering into Contract negotiations with any Bidder or Bidders.
- 17.8. Without limiting the generality of the foregoing, in the event the Total Stipulated Price of each Bid exceeds the Owner's approved budget amount, the Owner may, in its sole and absolute discretion, elect to negotiate with the Bidder who submitted the lowest compliant Bid to an amount that is within budget. If negotiations for a Contract with the lowest compliant Bidder fail, the Owner reserves the right to negotiate with the next lowest compliant Bidder, and so on as necessary, until successful negotiations are concluded or the Bid Call is terminated.
- 17.9. The Owner, shall have the right in its absolute discretion, to disqualify or reject a Bid, if the Bidder is disqualified from participating in procurements of the Owner under a Vendor suspension administrative directive and in accordance with such other policies, standard operating procedures or protocols as may be in effect.
- 17.10. The Owner shall not be responsible for any liabilities, costs, expenses, loss or damage incurred, sustained or suffered by any Bidder by reason of the acceptance or the non-acceptance or delay in awarding the Contract.
- 17.11. The Owner reserves the right for the Purchasing Agent in the Purchasing Agent's sole discretion to remove from the Owner's Official Vendor File, for a period, the name of any Bidder for failure to enter into a contract as awarded, or for unsatisfactory

performance of Contract pursuant to any applicable Vendor suspension administrative directive.

- 17.12. Without in any way limiting the Owner's other rights respecting Bid evaluation, the Owner may, when determining the amount Bid by any or all Bidders, consider any or all alternate prices, and/or separate prices, and/or itemized prices, and/or unit prices submitted in compliance with the Bid Document.

## **18. BID VALIDITY PERIOD**

- 18.1. All Bids shall be valid, irrevocable and open for acceptance by the Owner and no adjustment shall be made to the Bids for a period of sixty (60) days from the date of Bid Closing.
- 18.2. All prices shall remain firm for the duration of the Contract and are subject to acceptance within sixty (60) days from the Closing Date specified in the Bid Document.

## **19. INSURANCE – ALL IN ACCORDANCE WITH PART B CONTRACT EXECUTION PACKAGE – INSURANCE REQUIREMENTS**

## **20. AWARD OF CONTRACT**

- 20.1. Acceptance of the Bid and award of the Contract will be by written Notice of Award by the Owner to the Successful Bidder.
- 20.2. (a) After award and before the Owner executes the Contract, the Successful Bidder shall provide a valid Workplace Safety and Insurance Board Clearance Certificate from the Ontario Workplace Safety and Insurance Board.
- (b) If the Successful Bidder does not require Workplace Safety and Insurance Board Insurance, the Successful Bidder shall provide proof to the Owner from the Workplace Safety and Insurance Board of such status before the Owner executes the Contract.
- 20.3. The Bidder to whom this Contract is awarded shall execute and return the Contract Documents within five (5) days from the date of mailing the Notice of Award by the Owner the following items.
1. CCDC 2 – 2008 Stipulated Price Contract as amended by Supplementary Conditions and Project Specific Supplementary Conditions (Two (2) original copies signed and sealed as required)
  2. Performance Bond.
  3. Labour and Material Payment Bond.
  4. Certificate of Insurance.

5. WSIB Clearance Certificate.
- 20.4. The Owner may require the Contract to be executed by the Bidder in the name in which the Bid was submitted. In the event of a difference between the name of the Bidder and the name under which it is proposed to enter the Contract,
- (a) the Owner may disqualify the Bid or treat the Bidder as refusing to enter into the Contract as awarded; or
  - (b) the Owner may, but shall not be obliged to, require that the Bidder provide evidence that the party proposing to enter into the Contract is one and the same entity as the Bidder. Such evidence may include a Corporate Status Certificate or Certificate of Compliance or any other documentation acceptable to the Owner. Acceptable documentation shall be dated no more than six (6) months from the date of request.
- 20.5. The Successful Bidder may be required to submit a preliminary project schedule showing the various components of the work, from receipt of purchase order through to Total Performance of the Work in which event the Successful Bidder shall submit the preliminary project schedule to the Owner within ten (10) days after Notice of Award.
- 20.6. The Successful Bidder shall not commence work until receipt of a Purchase Order from the Owner.
- 20.7. The Owner is required to pay the Harmonized Sales Tax (HST) on all goods, materials, labour, services and equipment. This tax must be shown separately and shall not be included in the unit prices.

## 21. DEBRIEFING

- 21.1. Bidders may request a debriefing after award of Contract. Requests in writing must be made to the Purchasing Representative within sixty (60) days of award of Contract. The intent of debriefing is to assist Bidders in presenting better Bids in subsequent procurement opportunities. Debriefing is not for the purpose of providing an opportunity to challenge the procurement process. Debriefing will not alter an award decision.

## 22. DEFAULT

- 22.1. In the event of default or failure of the Bidder to execute and return the Contract Documents within the time required to do so, or if the Bidder, for any reason, fails or defaults in respect of any other matter or thing which is an obligation of the Bidder under the terms of the Bid Call before execution of the Contract by the Bidder and the Owner, in addition to any other rights of the Owner, the Owner shall be at liberty to do any one or more of the following:

- i) retain the money deposited by the Bidder to the use of the Owner, and deal with the requirements of the Bid Call in any way the Owner deems best;
- ii) disqualify the Bid from the Bid Call;
- iii) require the Bidder to pay to the Owner the difference between this Bid and any greater sum which the Owner may expend or incur by reason of such default or failure, including the cost of any new procurement; and the Bidder shall indemnify and save harmless the Owner and its officers from all loss, damage, cost, charges and expense which the Owner may suffer or be put to by reason of any such default or failure; and
- iv) disqualify the Bidder from competing in future Bid Calls issued by the Owner for a period pursuant to any applicable Vendor suspension administrative directive.

Where Special Provisions to Instructions to Bidders are contained herein, it should be noted that these Special Provisions to Instructions to Bidders shall govern in the case of inconsistency or conflict with the Instructions to Bidders.

SP1. Part A Information for Bidders, Instructions to Bidders, Section 6 Bid Document

Add new paragraph 6.2 as follows:

6.2 The Bid Document, which includes any Addenda will be issued to, and Bids will only be accepted from, the **pre-qualified Bidders/Contractors of RFPQ2021-059**, listed below:

1. Acquicon Construction Co. Ltd.
2. M.J. Dixon Construction Limited
3. Walsh Canada (WCC Construction Canada, ULC)

SP.2 Request for alternates are not permitted during the Bidding process.

The Agreement to be executed shall be the CCDC 2 - 2008 Stipulated Price Contract as amended by the Owner's Supplementary Conditions.

**SUPPLEMENTARY ARTICLES (revision April 2020)**

The Articles of the Stipulated Price Contract, CCDC-2 2008 are hereby amended as follows:

**SA1 ARTICLE A-1 THE WORK**

**SA1.1 Paragraph 1.3:**

Add the words “, and attain *Total Performance of the Work* within 30 day of attaining *Substantial Performance of the Work*” after the words “in the year \_\_\_” in the third line of paragraph 1.3.

**SA2 ARTICLE A-3 CONTRACT DOCUMENTS**

**SA2.1 Paragraph 3.1:**

Add the words

These Supplementary Conditions to CCDC 2 – 2008 include the following:

- Supplementary Articles of the Contract
- Supplementary Definitions of the Contract
- Supplementary Conditions of the Contract
- Proper Invoice Checklist

to the list of *Contract Documents* in paragraph 3.1.

**SA3 ARTICLE A-5 – PAYMENT**

**SA3.1 Paragraph 5.3.1:**

Delete subparagraphs 5.3.1(1) and 5.3.1(2) and replace with:

(1) 0 % (zero per cent) per annum above the prime rate.

**SA3.2 Paragraph 5.4**

Add the following new paragraph 5.4 to ARTICLE A-5 – PAYMENT:

- 5.4 The *Owner* is entitled to set off against any amounts otherwise due to *Contractor* pursuant to the terms of this *Contract*, any amounts which are due or owed to *Owner* from or by *Contractor* pursuant to the terms of the *Contract*, or being disputed in accordance with the terms of the *Contract*.

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**SA4 ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING**

**SA4.1 Paragraph 6.1:**

Delete the words “or other form of electronic communication” from the second and seventh lines of paragraph 6.1.

Delete the words “email address” from the signature lines for the *Owner*, *Contractor* and *Consultant* in paragraph 6.1.

**SA5 ARTICLE A-9 – CONFLICT OF INTEREST**

**SA5.1 Add new Article A-9 – Conflict of Interest as follows:**

**ARTICLE A-9 CONFLICT OF INTEREST**

- 9.1 The *Contractor*, all of the *Subcontractors*, and any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall not engage in any activity or provide any services where such activity or the provision of such services creates a conflict of interest (actually or potentially, in the sole opinion of the *Owner*) with the provision of the *Work* pursuant to the *Contract*.
- 9.2 The *Contractor* shall disclose to the *Owner*, in writing, without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest, including the retention of any *Subcontractor* or *Supplier* that is directly or indirectly affiliated with or related to the *Contractor*.
- 9.3 A breach of this Article by the *Contractor*, any of the *Subcontractors*, or any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall entitle the *Owner* to terminate the *Contract*, in addition to any other rights and remedies that the *Owner* has in the *Contract*, in law, or in equity.

**SA6 ARTICLE A-10 SEVERABILITY**

**SA6.1 Add new Article A-10 SEVERABILITY as follows:**

**ARTICLE A-10 SEVERABILITY**

10.1 - If any provision of this *Contract* is found to be invalid or unenforceable in any circumstances, the remainder of this *Contract*, and the application of such provision in any other circumstances, shall not be affected.

**SA7      ARTICLE A-11 TIME OF ESSENCE**

**SA7.1**      Add new Article A-11 TIME OF ESSENCE as follows:

**ARTICLE A-11 TIME OF ESSENCE**

11.1 Time shall be of the essence of the *Contract* and under all *Contract Documents*.

**SUPPLEMENTARY DEFINITIONS**

The Definitions of the Stipulated Price Contract CCDC – 2008 are hereby amended as follows:

**SD1 Paragraph 6 – Contract Documents**

Add the words “in writing” after the word “upon” in the second line of paragraph 6.

**SD2 Paragraph 27 – As-Built Drawings**

Add new paragraph 27 – As-Built Drawings as follows:

27. *As-Built Drawings* means drawings prepared by the *Contractor* by marking on a copy of the Drawings the changes from the Drawings which occur during construction including, but are not limited to the exact location of major building components that were shown generally on the Drawings.

**SD3 Paragraph 28 – Submittals**

Add new paragraph 28 – Submittals as follows:

28. *Submittals* are documents or items required by the *Contract Documents* to be provided by the *Contractor*, such as:
- *Shop Drawings*, samples, models, mock-ups to indicate details or characteristics, before the portion of the *Work* that they represent can be incorporated into the *Work*; and
  - Record drawings and manuals that provide instructions for the operation and maintenance of the *Work*.

**SD4 Paragraph 29 – Warranty Reserve**

Add new paragraph 29 – Warranty Reserve as follows:

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

**SD5 Paragraph 30 – Total Performance of the Work**

Add new Paragraph 30 – Total Performance of the Work as follows:

### **30. Total Performance of the Work**

*Total Performance of the Work* means when the entire *Work*, except for those items arising from GC 12.3 – WARRANTY, has been performed in accordance with the requirements of the *Contract Documents* and is so certified by the *Consultant*.

#### **SD6 Paragraph 31 – Proper Invoice**

Add new paragraph 31– Proper Invoice as follows:

##### **31. Proper Invoice**

*Proper Invoice* means an invoice submitted by the *Contractor* that includes all information required by GC 5.2.1, which includes the information required for a “Proper Invoice” in Section 6.1 of the *Construction Act*, and which is submitted in accordance with GC 5.2.10 and GC 5.2.14.

#### **SD7 Paragraph 32 – Construction Act Document**

Add new paragraph 32– Construction Act Document as follows:

##### **32. Construction Act Document**

*Construction Act Document* means a Notice of Non-Payment, a notice of adjudication given pursuant to Section 13.7 of Part II.1 of the *Construction Act* or any documents or responses to adjudication to be given or provided pursuant to Part II.1 of the *Construction Act*.

#### **SD8 Paragraph 33 – Notice of Non-Payment**

Add new paragraph 33– Notice of Non-Payment as follows:

##### **33. Notice of Non-Payment**

A *Notice of Non-Payment* is a notice delivered pursuant to Section 6.4(2) of Part I.1 of the *Construction Act* in the manner and form prescribed in the *Construction Act*.

**SUPPLEMENTARY CONDITIONS**

The General Conditions of the Stipulated Price Contract CCDC 2 – 2008 are hereby amended as follows:

Where a General Condition or paragraph of the General Conditions of the Stipulated Price Contract is deleted by these Supplementary Conditions, the numbering of the remaining General Conditions or paragraphs shall remain unchanged, and the numbering of the deleted item will be retained, unused.

**SC 1            CONTRACT DOCUMENTS**

**Paragraph 1.1.6:**

**SC1.1**        Add new sentence to the end of paragraph 1.1.6:

The *Specifications* are divided into divisions and sections for convenience but shall be read as a whole and neither such division nor anything else contained in the *Contract Documents* will be construed to place responsibility on the *Consultant* to settle disputes among the *Subcontractors* and *Suppliers* or as between them and the *Contractor* with respect to such divisions.

**SC1.2        Paragraph 1.1.7.1:**

Add the words “- Supplementary Articles” at the beginning of the order of priority of documents in subparagraph 1.1.7.1.

Add the words “- Supplementary Definitions” above the words “the Definitions” in the order of priority of documents in subparagraph 1.1.7.1.

**SC1.3        Paragraph 1.1.7.5:**

Add new subparagraph 1.1.7.5 as follows:

1.1.7.5 - In case of discrepancies, noted materials and annotations shall take precedence over graphic indications in the *Contract Documents*

**SC1.4        Paragraph 1.1.8:**

Delete paragraph 1.1.8 in its entirety and substitute new paragraph 1.1.8 as follows:

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1.1.8 - The *Owner* shall provide the *Contractor*, without charge, 6 copies of the *Contract Documents*. At the request of the *Contractor* the *Owner* will provide additional copies at the *Contractor's* expense.

**SC2 GC 1.3 RIGHTS AND REMEDIES**

**SC2.1 Paragraph 1.3.2:**

Delete the word "No" from the beginning of paragraph 1.3.2 and substitute the following words:

"Except with respect to the notice requirements set out in paragraphs 6.4.1, 6.5.4, and 6.6.1, no".

**SC2.2 Paragraph 1.3.3**

Add new paragraph 1.3.3 as follows:

1.3.3 – Notwithstanding paragraph 1.3.1, the *Owner* shall not be liable, whether in contract, tort, or any other theory of law or statute, for any claim arising from any prior negotiation, representation, or agreement, whether written or oral, which is superseded by the *Contract* under Article A-2 of the Agreement- AGREEMENTS AND AMENDMENTS.

**SC3 GC 1.4 ASSIGNMENT**

**SC3.1 Paragraph 1.4.1:**

Add the following sentence to the end of paragraph 1.4.1:

In the event of an assignment of the *Contract* by the *Contractor*, such assignment shall not relieve the *Contractor* from its obligations and liabilities hereunder.

**SC4 GC 2.2 ROLE OF THE CONSULTANT**

**SC4.1 Paragraph 2.2.5:**

Add the following to the end of paragraph 2.2.5:

In the event that the certificate for payment is for an amount less than the full amount stated on the application for payment, the *Owner* will issue a *Notice of Non-Payment* in respect of the disputed amount.

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**SC4.2 Paragraph 2.2.7:**

Delete the words “Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, the” and substitute the word “The” at the beginning of paragraph 2.2.7.

**SC4.3 Paragraph 2.2.13:**

Add the following to the end of paragraph 2.2.13:

If, in the opinion of the *Contractor*, performance of the *Supplemental Instruction* will result in an increase in the *Contract Price* or to the *Contract Time*, the *Contractor* shall, within 10 *Working Days* of receipt of the *Supplemental Instruction*, provide the *Consultant* with *Notice in Writing* of the cause and duration of the delay and of any increase in *Contract Price*. Failure to provide the *Notice in Writing* shall be a deemed acceptance of the *Supplemental Instruction* by the *Contractor* without adjustment in the *Contract Price* or *Contract Time*.

**Paragraph 2.2.14:**

Delete the word “submittals,” and substitute the words “*Submittals* which are provided” after the word “*Contractor’s*” in the first line of paragraph 2.2.14.

**SC4.4 Paragraph 2.2.19:**

Add new paragraph 2.2.19 as follows:

2.2.19 – The *Consultant* will conduct reviews of the *Work* to determine the date of *Total Performance of the Work* as provided in paragraph 5.7.1.

**SC5 GC 2.3 REVIEW AND INSPECTION OF THE WORK**

**SC5.1 Paragraphs 2.3.8, 2.3.9 and 2.3.10:**

Add new paragraphs 2.3.8, 2.3.9 and 2.3.10 as follows:

2.3.8 The *Contractor* shall immediately inform the *Owner* and the *Consultant* of any notices, warnings or asserted violations issued by any regulatory or government agencies having jurisdiction relating to the *Work*.

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2.3.9 No review of the *Work* by the *Owner* or the *Consultant* shall relieve the *Contractor* from its responsibility to perform the *Work* in accordance with the *Contract Documents*.

2.3.10 Where standards of performance are specified in the *Contract Documents* and the *Work* does not comply with the performance specified, such deficiency shall be corrected as directed by the *Consultant*. Any testing of work identified as defective in accordance with GC 2.4, including retesting required by the *Owner* to verify performance, shall be done at the *Contractor's* expense.

**SC6 GC 2.4 DEFECTIVE WORK**

**SC6.1 Paragraph 2.4.1.1:**

Add new subparagraph 2.4.1.1 as follows:

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

**SC6.2 Paragraph 2.4.3:**

Delete the words “the difference in value between the work as performed and that called for by” and substitute the words “the value of such work as is necessary to correct any non-compliance with” in the second and third lines of paragraph 2.4.3.

**SC6.3 Paragraph 2.4.4:**

Add new paragraph 2.4.4 as follows:

2.4.4 The *Contractor* shall prioritize the correction of any defective work which, in the sole discretion of the *Owner*, adversely affects the day-to-day operations of the *Owner*.

**SC7 GC 3.1 CONTROL OF THE WORK**

**SC7.1 Paragraph 3.1.2:**

Add the word “schedules” after the word “techniques” in the first line of paragraph 3.1.2.

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**SC7.2 Paragraph 3.1.3:**

Add new paragraph 3.1.3 as follows:

3.1.3 Prior to commencing the *Work* and individual procurement, fabrication and construction activities, the *Contractor* shall verify, at the *Place of the Work*, all relevant measurements and levels necessary for the proper fabrication, assembly, installation and completion 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 obtain *Supplemental Instructions* from the *Consultant* before proceeding with any part of the affected work.

**SC8 GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS**

**SC8.1 Paragraph 3.2.2.1:**

Delete subparagraph 3.2.2.1 in its entirety.

**SC8.2 Paragraph 3.2.2.2:**

Delete subparagraph 3.2.2.2 in its entirety and substitute the words “require other contractors and the Owner’s own forces to comply with the requirements and instructions of the *Contractor* with respect to construction safety at the *Place of the Work*.”

**SC8.3 Paragraph 3.2.3.4:**

Add new subparagraph 3.2.3.4 as follows:

3.2.3.4 Subject to General Condition 9.4 - CONSTRUCTION SAFETY, assume overall responsibility for compliance with all aspects of the applicable health and safety legislation in the *Place of the Work* for the *Owner’s* own forces and for other contractors, including all of the responsibilities of the contractor, constructor, prime contractor or principal contractor as may apply in accordance with the applicable health and safety legislation of the *Place of the Work* as defined in the *Occupational Health and Safety Act*.

**SC8.4 Paragraph 3.2.3.5:**

Add new subparagraph 3.2.3.5 as follows:

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3.2.3.5 Take all reasonable, practical and prudent steps to provide for the coordination of the activities and work of other contractors and *Owner's* own forces with the *Work* of the *Contract*.

**SC9 GC 3.4 DOCUMENT REVIEW**

**SC9.1 Paragraph 3.4.1:**

Delete paragraph 3.4.1 in its entirety and substitute new paragraph 3.4.1 as follows:

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

**SC9.2 Paragraph 3.4.2:**

Add new paragraph 3.4.2 as follows:

3.4.2 The lack of reference on a drawing or in a specification to labour or products that are required or normally recognized within the applicable trade practice as being necessary for the complete execution of the *Work* shall not constitute an error, inconsistency or omission.

**SC9.3 Paragraph 3.4.3:**

Add new paragraph 3.4.3 as follows:

3.4.3 The issuance of Requests for Information by the *Contractor* shall not entitle the *Contractor* to any increases to the Contract Price or Contract Time.

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**SC9.4 Paragraph 3.4.4:**

Add new paragraph 3.4.4 as follows:

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

**SC10 GC 3.5 CONSTRUCTION SCHEDULE**

**SC10.1 Paragraph 3.5.1:**

Delete paragraph 3.5.1 in its entirety and substitute new paragraph 3.5.1 as follows:

3.5.1 - The *Contractor* shall,

- .1 within 10 *Working Days* following the notice of award of the *Contract*, prepare and submit to the *Owner* and the *Consultant* for their review and acceptance, a construction schedule that indicates the timing of the activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate that the *Work* will be performed in conformity with the *Contract Time* and in accordance with the *Contract Documents*. Unless otherwise agreed to in writing, in advance by the *Owner* and the *Contractor*, when required by the *Specifications* to employ construction scheduling software, the *Contractor* shall employ the software Microsoft Project in generating the construction schedule, which permits the progress of the *Work* to be monitored in relation to the critical path established in the schedule. The *Contractor* shall provide the construction schedule and any successor or revised schedules to the *Owner* in electronic format and paper copy. When required by the *Specifications* to employ construction scheduling software, the *Contractor* shall provide the construction schedule to the *Owner* in editable format, together with a record version in PDF format. Once accepted by the *Owner* and the *Consultant*, the construction schedule submitted by the *Contractor* shall become the baseline construction schedule. If the construction schedule submitted by the *Contractor* is not accepted by the *Owner* and the *Consultant*, the *Contractor* shall

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make revisions to the construction schedule until it is accepted by the *Owner* and the *Consultant*. Notwithstanding any other terms of this *Contact*, the *Contractor* shall not be entitled to receive any payment from the *Owner* until a construction schedule has been submitted by the *Contractor* and accepted by the *Owner* and the *Consultant*.

- .2 provide the expertise and resources, such resources including manpower and equipment, as are necessary to maintain progress under the accepted baseline construction schedule or any successor or revised schedule accepted by the *Owner* pursuant to General Condition 3.5 – CONSTRUCTION SCHEDULE;
- .3 monitor the progress of the *Work* on a weekly basis relative to the baseline construction schedule, or any successor or revised schedule accepted by the *Owner* pursuant to General Condition 3.5 – CONSTRUCTION SCHEDULE, update the schedule on a bi-weekly basis and advise the *Consultant* and the *Owner* in writing of any variation from the baseline or slippage in the schedule; and
- .4 if, after applying the expertise and resources required under subparagraph 3.5.1.2, the *Contractor* forms the opinion that the variation or slippage in schedule reported pursuant to subparagraph 3.5.1.3 cannot be recovered by the *Contractor*, it shall, in the same notice, indicate to the *Consultant* and the *Owner* if the *Contractor* intends to apply for an extension of *Contract Time* or to claim compensation for delay as provided in PART 6 of the General Conditions - CHANGES IN THE WORK.

**SC10.2 Paragraph 3.5.2:**

Add new paragraph 3.5.2 as follows:

3.5.2 If, at any time, the *Owner* or the *Consultant* advise the *Contractor* that it appears that the actual progress of the *Work* is behind schedule or is likely to become behind schedule, or if the *Contractor* has given notice of such to the *Owner* or the *Consultant* pursuant to subparagraph 3.5.1.3, the *Contractor* shall take appropriate steps to cause the actual progress of the *Work* to conform to the schedule or minimize the resulting delay and shall produce and present to the *Owner* and the *Consultant* a recovery plan demonstrating how the *Contractor* will achieve the recovery of the schedule. If the *Contractor* intends to apply for a change in the *Contract Price* or claim compensation for delay in relation to a schedule recovery plan, then the

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*Contractor* shall proceed in accordance with General Condition 6.5 – DELAYS.

**SC11 GC 3.6 SUPERVISION**

**SC11.1 Paragraph 3.6.1:**

Add the words “and upon the *Contractor* obtaining the *Owner’s* written consent, which consent will not be unreasonably withheld” after the word “reason” at the end of paragraph 3.6.1.

**SC11.2 Paragraph 3.6.3:**

Add new paragraph 3.6.3 as follows:

3.6.3 The *Owner* may, at any time, for reasonable cause, object to the representative referred to in paragraph 3.6.1 and require the *Contractor* to dismiss and replace the said representative.

**SC12 GC 3.8 LABOUR AND PRODUCTS**

**SC12.1 Paragraph 3.8.2:**

Delete paragraph 3.8.2 and replace with new paragraph 3.8.2 as follows:

3.8.2 Unless otherwise specified in the *Contract Documents*, *Products* provided shall be new and as specified. The *Contractor* shall not provide substitutions for specified *Products* without the express written consent of the *Consultant* and the *Owner*.

**SC12.2 Paragraph 3.8.4:**

Add new paragraphs 3.8.4 and 3.8.5 as follows:

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

3.8.5 The *Contractor* represents and warrants that the *Products* provided for in accordance with the *Contract* are not subject to any conditional sales

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contract and are not subject to any security rights obtained by any third party which may subject any of the Products to seizure and/or removal from the *Place of the Work*.

**SC13 GC 3.10 SHOP DRAWINGS**

**SC13.1** Add the words "AND OTHER SUBMITTALS" to the Title after "SHOP DRAWINGS".

**SC13.2** **Paragraph 3.10.1, 3.10.2, 3.10.4, 3.10.7, 3.10.8, 3.10.8.2, 3.10.9, 3.10.10 and 3.10.11:**

Add the words "and *Submittals*" after the words "*Shop Drawings*" in clauses 3.10.1, 3.10.2, 3.10.4, 3.10.7, 3.10.8, 3.10.8.2, 3.10.9, 3.10.10 and 3.10.11.

**SC13.3** **Paragraph 3.10.3:**

Delete paragraph 3.10.3 in its entirety and substitute new paragraph 3.10.3 as follows:

3.10.3 Prior to the first application for payment, the *Contractor* and the *Consultant* shall jointly prepare a schedule of the dates for submission and return of *Shop Drawings* and any *Submittals*.

**SC13.4** **Paragraph 3.10.12:**

Delete paragraph 3.10.12 in its entirety and substitute new paragraph 3.10.12 as follows:

3.10.12 The *Consultant* will review and return *Shop Drawings* and *Submittals* in accordance with the schedule agreed upon in 3.10.3, or, in the absence of such schedule, with reasonable promptness. If, for any reason, the *Consultant* cannot process them within the agreed-upon schedule or with reasonable promptness, the *Consultant* shall notify the *Contractor* and they shall meet to review and arrive at an acceptable revised schedule for processing. The *Contractor* shall update the *Shop Drawings* and *Submittals* Schedule to correspond to changes in the construction schedule. Changes in the *Contract Price* or *Contract Time* may be made only as otherwise provided in the *Contract*.

**SC14 GC3.14 PERFORMANCE BY CONTRACTOR**

**SC14.1** Add a new GC3.14 PERFORMANCE BY CONTRACTOR as follows:

**GC 3.14 PERFORMANCE BY CONTRACTOR**

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

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

- .1 the personnel it assigns to the *Project* are appropriately experienced;
- .2 it has a sufficient staff of qualified and competent personnel to replace any of its appointed representatives, subject to the *Owner's* approval, in the event of death, 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 its work under the *Contract*.

**SC 15 GC 3.15 INTERFERENCE**

**SC15.1** Add new GC 3.15 INTERFERENCE as follows:

**GC 3.15 INTERFERENCE**

3.15.1 If the *Work*, in whole or in part, involves the renovation of, or addition to, existing and occupied premises:

- .1 the *Contractor* shall maintain normal business operations and traffic flow, with a minimum of inconvenience to the tenants and occupants of the *Place of the Work*;
- .2 subject to the provisions of the *Contract Documents*, the *Contractor* shall ensure that no essential services such as electric power, water supply or other public utilities are interrupted;

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- .3 in every case where an interruption to existing services or utilities is to occur during execution of the *Work*, the *Contractor* shall give the *Owner* five *Working Days* prior written notice. The *Contractor* shall reschedule any such interruption, at no additional cost to the *Owner*, if requested to do so in writing by the *Owner*; and
- .4 subject to work restrictions set out elsewhere in the *Contract Documents*, any work that generates excessive noise shall be carried out by the *Contractor* between the hours of 5:00 p.m. and 8:00 a.m. or on weekends and holidays as may be agreed upon between the *Contractor* and the *Owner*, subject to applicable by-laws.

**SC16 GC 3.16 RIGHT OF ENTRY**

**SC16.1** Add new GC 3.16 RIGHT OF ENTRY as follows:

**GC 3.16 RIGHT OF ENTRY**

3.16.1 The *Owner* shall have the right to enter or occupy the *Place of the Work* in whole or in part for the purpose of placing materials, fittings and equipment or for other uses at any time before *Substantial Performance of the Work*, if, in the reasonable opinion of the *Consultant*, such entry or occupation does not prevent or substantially interfere with the *Contractor's* completion of the *Contract* or achieving *Substantial Performance of the Work* within the *Contract Time*. Such entry or occupation or use of equipment or systems shall not be considered as acceptance of the *Work* in whole or in part, or in any way relieve the *Contractor* from its responsibility to complete the *Contract*.

**SC17 GC 4.1 CASH ALLOWANCES**

**SC17.1 Paragraph 4.1.4:**

Delete paragraph 4.1.4 in its entirety and substitute new paragraph 4.1.4 as follows:

4.1.4 Where the actual cost of the *Work* under any cash allowance exceeds the amount of the allowance, any unexpended amounts from other cash allowances shall be reallocated, at the *Consultant's* direction, to cover the shortfall, and, in that case, there shall be no additional amount added to the *Contract Price* for overhead and profit. Only where the actual cost of the *Work* under all cash allowances exceeds the total amount of all cash allowances shall the *Contractor* be compensated for the excess incurred

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and substantiated, plus an amount for overhead and profit on the excess only, as set out in the *Contract Documents*.

**SC17.2 Paragraph 4.1.5:**

Delete paragraph 4.1.5 in its entirety and substitute new paragraph 4.1.5 as follows:

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

**SC17.3 Paragraph 4.1.8:**

Add 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.

**SC18 GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER**

**SC18.1** Revise the heading, “**GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER**” to read, “**GC 5.1 FINANCING INFORMATION REQUIRED**”.

**SC18.2 Paragraph 5.1.1:**

Delete paragraph 5.1.1 in its entirety and substitute new paragraph 5.1.1 as follows:

5.1.1 The *Owner* and *Contractor* shall provide each other with timely *Notice in Writing* of any material change in their financial ability to fulfil their respective obligations under the *Contract*.

**SC18.3** Delete paragraph 5.1.2 in its entirety.

**SC19 GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT**

**SC19.1 Paragraph 5.2.1:**

Add the following to the end of paragraph 5.2.1:

Each application for payment shall include the information required for a “Proper Invoice” in Section 6.1 of the *Construction Act* and the following information:

- .1 a confirmation that a draft application for payment was submitted at least five Working Days prior to the date of submission of the application for payment in accordance with GC 5.2.8;
- .2 a confirmation that the amounts claimed in such application for payment correspond to the schedule of values submitted in accordance with GC 5.2.4 and supporting documentation to support this confirmation including timesheets, packing slips for materials delivered, equipment rental costs, testing and inspection reports, permits and as-built drawings, as applicable, supporting documentation with respect to cash allowance expenditures and any other supporting documentation as the Consultant may direct in accordance with GC 5.2.7 and GC 5.2.8;
- .3 separate line items setting out (i) the amount of the Warranty Reserve to be withheld from the payment calculated in accordance with GC 5.2.12; (ii) the amount of the required holdbacks under the *Construction Act*; and (iii) the amount the Owner has indicated it intends to set off from the payment in accordance with GC 5.2.13;
- .4 a statutory declaration as required by GC 5.2.9;
- .5 a Workplace Safety & Insurance Board Clearance Certificate;
- .6 a construction schedule or revised construction schedule that meets the requirements of GC 3.5.1;
- .7 any approved *Change Orders* and *Change Directives* related to the portion of the *Work* that is the subject of the application for payment;
- .8 the information set out in the Proper Invoice Checklist;
- .9 any insurance renewal certificates as required by GC 11.1.2;
- .10 a confirmation that current red line *As-Built Drawings* are available on site for review in accordance with GC 5.2.11; and
- .11 any other information required by the *Contract Documents* or as the *Consultant* may direct.

If an application for payment does not include all information required by this GC 5.2.1, if any of the required confirmations made by the *Contractor* in its application for payment are untrue or if the *Contractor* is otherwise in breach of this *Contract*, it shall not be considered a “Proper Invoice” for the purposes of the *Construction Act* or this *Contract*. If the *Owner* or the *Consultant* determine that an application for payment does not constitute a Proper Invoice, the application for payment shall be rejected through a

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*Notice of Non-Payment* and the *Contractor* shall resubmit the application for payment with all required information. For clarity, the *Owner* shall have no obligation to make a payment and the time periods set out in this GC 5.2 and in Section 6.4 of the *Construction Act* shall not apply until the *Contractor* has submitted an application for payment that constitutes a Proper Invoice.

**SC19.3 Paragraph 5.2.7:**

Add the following to the end of paragraph 5.2.7:

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 General Condition 13.1 - OWNERSHIP OF MATERIALS.

**SC19.4 Paragraphs 5.2.8, 5.2.9, 5.2.10, 5.2.11, 5.2.12, 5.2.13, 5.2.14, 5.2.15, 5.2.16 and 5.2.17:**

Add new paragraphs 5.2.8, 5.2.9, 5.2.10, 5.2.11, 5.2.12, 5.2.13, 5.2.14, 5.2.15, 5.2.16 and 5.2.17 as follows:

5.2.8 No later than five *Working Days* prior to the date of an application for payment, the *Contractor* shall submit to the *Consultant* a draft application for payment containing all information and drafts of all submittals required by GC 5.2.1. If the *Consultant* requires further evidence or supporting documentation, it shall direct the *Contractor* to include such information in its application for payment no later than three *Working Days* after receipt of a draft application for payment.

5.2.9 The *Contractor* shall submit, with each application for progress payment after the first, a Statutory Declaration, on either an original form of CCDC Document 9A-2001 Statutory Declaration of Progress Payment Distribution by Contractor or a form provided by the *Owner*, stating that payments in connection with the *Work*, as noted in the Statutory Declaration, have been made to the end of the period immediately preceding that covered by the current application and, if requested by the *Owner*, a Statutory Declaration from any *Subcontractor*, as may be identified by the *Owner*, on an original form of CCDC Document 9B-2001 Statutory Declaration of Progress Payment Distribution by Subcontractor. The Statutory Declarations shall be dated the same date as the *Contractor's* application for payment.

5.2.10 Where the *Contractor* is required to perform start-up testing and/or commissioning activities in respect of a portion of the *Work*, an application for payment in respect of such portion of the *Work* may only be submitted once such testing and/or commissioning has been successfully completed by the *Contractor* as determined by the *Consultant*, including the submission of any related documentation. For clarity, an application for payment submitted prior to successful completion of required testing and/or commissioning shall not be considered a Proper Invoice and the *Consultant* shall not issue a certificate of payment in respect of such application for payment.

5.2.11 The *Contractor* shall prepare *As-Built Drawings* during the course of the *Work*, which shall be updated as required. Current red line *As-Built Drawings* shall be maintained by the *Contractor* on site and made available to the *Consultant* for review with each application for progress payment. For clarity, if the *Contractor* submits an application for payment when current red line *As-Built Drawings* are not available on site for review at the time of submission, such application for payment shall not be considered a Proper Invoice and the *Consultant* shall not issue a certificate of payment in respect of such application for payment.

5.2.12 The *Owner* shall be entitled to deduct and withhold from each progress payment an amount as specified below to an aggregate maximum amount of the *Contract Price* as specified below to be held and administered by the *Owner* separately from the statutory holdback under the *Construction Act*.

The *Contract Price* shall provide the basis for the following *Warranty Reserve* as follows:

Contract Price	Warranty Reserve (withheld from each progress payment)	Warranty Reserve Aggregate Maximum Amount
\$0 to \$4,999,999.99	2.5 %	2.5%
\$5,000,000.00 to \$9,999,999.99	2%	2%
Greater than \$10,000,000.00	1.5%	1.5%

The *Warranty Reserve*, net of claims by the *Owner* and others, as provided in the *Contract Documents*, shall be paid to the *Contractor* at the time of *Total Performance of the Work*, but not before the expiration of the one (1) year warranty period set out in GC 12.3 WARRANTY, whichever comes

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later. The *Warranty Reserve* shall be in addition to the required holdbacks under the *Construction Act*.

5.2.13 If the *Owner* intends to exercise its right of set off pursuant to GC 5.4 against a future payment, the *Owner* shall provide notice to the *Contractor*. Provided the *Contractor* receives such notice at least 5 Business Days prior to its submission of an application for payment, it shall include a separate line item setting out the amount the *Owner* has indicated it intends to set off from the payment.

5.2.14 Applications for payment shall be submitted to the *Owner's* online invoice submittal portal in accordance with the instructions provided by the *Owner*. The date of the application for payment shall be the date it is received in the online portal. For clarity, an application for payment submitted by any other means shall not be considered a "Proper Invoice" for the purposes of the *Construction Act* or this *Contract* and the *Consultant* shall not issue a certificate of payment in respect of such application for payment.

5.2.15 No later than 10 calendar days following the date of this *Contract*, the *Contractor* shall submit to the *Consultant*, for its review and approval, a sample application for payment that meets the requirements set out in GC 5.2.1.

**SC20 GC 5.3 PROGRESS PAYMENT**

**SC20.1 Paragraph 5.3.1.2:**

Delete subparagraph 5.3.1.2 in its entirety and substitute new subparagraph 5.3.1.2 as follows:

5.3.1.2 If the *Owner* intends to issue payment for an amount less than the full amount stated on the application for payment, the *Owner* will issue a *Notice of Non-Payment* in respect of the disputed amount no later than 14 calendar days after the receipt of the application for payment.

**SC20.2 Paragraph 5.3.1.3:**

Delete subparagraph 5.3.1.3 in its entirety and substitute new subparagraph 5.3.1.3 as follows:

5.3.1.3 The *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the *Agreement* - PAYMENT in the amount equal

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to the undisputed amount of the application for payment on or before the day that is 28 calendar days following receipt of the application for payment.

**SC20.3 Paragraph 5.3.2:**

Add new paragraph 5.3.2 as follows:

5.3.2 Certificates for payment may provide for retention of amounts as determined by the *Consultant* to ensure correction of deficient work done or unacceptable *Products* provided.

**SC21 GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK**

**SC21.1 Paragraph 5.4.3:**

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

5.4.3 The *Contractor*, shall attain *Total Performance of the Work*, including the rectification of all deficiencies, within 30 working days of attaining *Substantial Performance of the Work*.

**SC21.2 Paragraphs 5.4.4, 5.4.5, 5.4.6 and 5.4.7:**

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

5.4.4 Within 7 calendar days of receiving a copy of the certificate of *Substantial Performance of the Work* signed by the *Consultant*, the *Contractor* shall publish a copy of the certificate in a construction trade newspaper (as that term is defined in the *Construction Act*) and shall provide to the *Consultant* and the *Owner* the date of publication and the name of the construction trade newspaper in which the publication occurred. If the *Contractor* fails to comply with this provision, the *Owner* may publish a copy of the certificate and charge the *Contractor* with the costs so incurred.

5.4.5 Prior to submitting its written application for *Substantial Performance of the Work*, the *Contractor* shall submit to the *Consultant* all:

- .1 guarantees;
- .2 warranties;
- .3 certificates;

- .4 testing and balancing reports;
- .5 distribution system diagrams;
- .6 spare parts;
- .7 maintenance manuals;
- .8 samples;
- .9 existing reports and correspondence from authorities having jurisdiction in the Place of the Work;
- .10 a copy of all shop drawings that were processed under GC 3.10 showing all notations and amendments made by the *Contractor* and the *Consultant*;
- .11 all start-up and commissioning reports;

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

5.4.6 Where the *Contractor* is unable to deliver the documents and materials described in paragraph 5.4.5, then, provided that none of the missing documents and materials interferes with the use and occupancy of the *Project* in a material way, the failure to deliver shall not be grounds for the *Consultant* to refuse to certify *Substantial Performance of the Work*. Any documents or materials not delivered in accordance with paragraph 5.4.5 shall be delivered as provided in GC 5.7, paragraph 5.7.1.

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

- .1 identify the parties involved;
- .2 identify the amount in dispute;

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

The *Contractor* expressly acknowledges that the submission of the aforesaid complete statutory declaration is a condition precedent to the *Contractor* receiving payment from the *Owner* of any amount pertaining to any claim or dispute referred to in this paragraph, and that the *Contractor* shall not be entitled to recover from the *Owner* any amount pertaining to any claim or dispute referred to in this paragraph, if the provisions of this paragraph have not been fully complied with. For greater certainty, the *Contractor* is not obliged to make the aforementioned disclosure with respect to any dispute or claim that is not related to or does not touch upon any unresolved dispute or claim between the *Contractor* and the *Owner*.

**SC22 GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK**

**SC22.1 Paragraph 5.5.1.2:**

Add the words “and, if requested by the *Owner*, a Statutory Declaration from any *Subcontractor*, as may be identified by the *Owner*, on an original form of CCDC Document 9B – 2001 Statutory Declaration of Progress Payment Distribution by Subcontractor.” to the end of subparagraph 5.5.1.2.

**SC22.2 Paragraph 5.5.2:**

Delete from line 1 of paragraph 5.5.2, the words, “the statement” and substitute the words “the documents”.

**SC22.3 Paragraph 5.5.3:**

Delete paragraph 5.5.3 in its entirety.

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**SC23 GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK**

**SC23.1 Paragraph 5.6.4:**

Add new paragraph 5.6.4 as follows:

5.6.4 For early release of holdback on the work of a *Subcontractor* or *Supplier* which is 100% complete, the *Contractor* shall make application by written request to the *Consultant* for a review to determine the date of completion of the subcontract and shall submit such supporting material as the *Consultant* may in its discretion require, which may include statutory declarations from such persons and dealing with such matters as the *Consultant* requires. Such material shall in any event include:

- .1 Description of the scope of work included in the subcontract;
- .2 Declaration of Last Supply by the *Subcontractor* as prescribed in subsection 31(5) of the *Construction Act* (Form 5);
- .3 Certificate of Completion of Subcontract completed by the *Consultant* as prescribed in subsection 33(1) of the *Act* (Form 7);
- .4 Workplace Safety and Insurance Board clearance certificate for the *Contractor*, and the *Subcontractor* concerned;
- .5 Statutory Declaration by an officer of the *Subcontractor* on an original form of CCDC Document 9B – 2001 Statutory Declaration of Progress Payment Distribution by Subcontractor and setting out the date when the subcontract was totally performed;
- .6 *Contractor's* written acknowledgement to the *Owner* that the requirements of the *Contract Documents* will not be altered by early release of the holdback of the completed subcontracts.

**SC24 GC 5.7 FINAL PAYMENT**

**SC24.1 Paragraph 5.7.1:**

Delete paragraph 5.7.1 in its entirety and substitute new paragraph 5.7.1 as follows:

5.7.1 When the *Contractor* considers that the *Work* has been totally performed, the *Contractor* shall submit a written application for review by the *Consultant* to establish *Total Performance of the Work* which shall be accompanied by any documents or materials not yet delivered pursuant to

paragraph 5.4.5 together with complete *As-Built Drawings*. Should the *Contractor* fail to deliver any of the foregoing documents with such application, the *Owner* shall be at liberty to withhold from amounts otherwise payable to the *Contractor* the amount specified in the following *Scale of Holdback* as security for the obligation of the *Contractor* to deliver the undelivered documents. The *Contractor* shall have no right to receive payment of the amount so withheld until such time as all required documents and materials referenced in paragraph 5.4.5 have been delivered. The *Owner* shall notify the *Contractor* of the amount of the holdback it intends to withhold in accordance with this GC 5.7.1.

**Scale of Holdback:**

- where the *Contract Price* is less than \$100,000 the amount to be retained is \$5,000
- where the *Contract Price* is greater than \$100,000 but less than \$500,000, the amount to be retained is 5% of the *Contract Price*
- where the *Contract Price* is greater than \$500,000 but less than \$5,000,000, the amount to be retained is 3% of the *Contract Price*
- where the *Contract Price* is greater than \$5,000,000, the amount to be retained is 2% of the *Contract Price*.

**SC24.2 Paragraph 5.7.2:**

Delete paragraph 5.7.2 in its entirety and substitute new paragraph 5.7.2 as follows:

No earlier than 20 Working Days following submission of the *Contractor's* application to establish *Total Performance of the Work* in accordance with GC 5.7.1, the *Contractor* shall submit an application for final payment. The *Contractor's* application for final payment shall include all requirements for an application for payment as set out in GC 5.2.1 and shall include a separate line item setting out the amount of the amount of the holdback to be retained by the City pursuant to GC 5.7.1.

**SC24.3 Paragraph 5.7.3:**

Delete paragraph 5.7.3 in its entirety and substitute new paragraph 5.7.3 as follows:

The *Consultant* will issue to the *Owner* with a copy to the *Contractor*, no later than 5 Working Days after the receipt of the application for final

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payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due and will state the date of *Total Performance of the Work* in a certificate. If the *Consultant* issues a certificate for payment for an amount less than the full amount stated on the application for final payment or does not issue a certificate for payment, the *Owner* will issue a *Notice of Non-Payment* in respect of the disputed amount.

**SC24.4 Paragraph 5.7.4:**

Delete paragraph 5.7.4 in its entirety and substitute new paragraph 5.7.4 as follows:

Subject to the provision of paragraph 10.4.1 of GC 10.4 - WORKERS' COMPENSATION, and any lien legislation applicable to the *Place of the Work*, the *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement - PAYMENT in the amount set out in the certificate for payment on or before the day that is 28 calendar days following receipt of the application for final payment

**SC24.5 Paragraph 5.7.5:**

Add a new paragraph 5.7.5 as follows:

5.7.5 Prior to the release of the finishing holdback provided for under the *Construction Act*, the *Contractor* shall submit:

- .1 *Contractor's* written request for release of the finishing holdback, including a statement that no written notices of lien have been received by it;
- .2 a Statutory Declaration on either an original form of CCDC Document 9A-2001 Statutory Declaration and CCDC Document 9B-2001 Statutory Declaration or a form provided by the *Owner* stating that payments in connection with the *Work*, as noted in the Statutory Declaration, have been made in full up to the end of the period immediately preceding that covered by the application for release of the finishing holdback;
- .3 a final Workplace Safety & Insurance Board Clearance Certificate.

**SC24.6** Add a new paragraph 5.7.6 as follows:

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

**SC25 GC 5.10 RIGHT TO DISPUTE AMOUNTS**

**SC25.1** Add a new GC 5.10 RIGHT TO DISPUTE AMOUNTS and a new paragraph 5.10.1 as follows:

5.10.1 The *Owner* may, in its sole discretion, pay amounts to the *Contractor* that have not been certified by the *Consultant* for any reason. Any payment by the *Owner* shall not constitute acceptance by the *Owner* of any amounts set out in an application for payment. The *Owner* reserves the right to dispute any amounts set out in an application for payment at any time during the *Contract Time*, whether or not it has previously made a payment in respect of such amounts.

**SC26 GC 6.1 OWNER'S RIGHT TO MAKE CHANGES**

**SC26.1** **Paragraphs 6.1.3, 6.1.4 and 6.1.5:**

Add a new paragraph 6.1.3, 6.1.4 and 6.1.5 as follows:

6.1.3 No changes in the *Work* shall proceed without a written *Change Order* or *Change Directive* signed by the *Owner* and no claim for any change in the *Contract Price* or for any extension or alteration of the *Contract Time* shall be valid except as shown on the *Change Order* or *Change Directive*, as the case may be. No course of conduct or dealing between the parties, no express or implied acceptance of alterations or additions to the *Work* and no claim that the *Owner* has been unjustly enriched by any alteration or addition to the *Work*, whether in fact there is any such unjust enrichment or not, shall be the basis of a claim for payment under this *Contract* or any extension of the *Contract Time* without a *Change Order* or *Change Directive*. For greater certainty, the *Owner* shall not be required to make any payment to the *Contractor* in respect of changes in the *Work* that are not the subject of a written *Change Order* or *Change Directive* signed by the *Owner*.

6.1.4 For the purpose of valuing expenditures under cash allowances pursuant to paragraph 4.1.4, expenditures under the contingency allowance pursuant to paragraph 4.2.2, changes which result in an increase in the *Contract Price*, and any other items under the *Contract Documents* which provide for payment to the *Contractor* of overhead and profit, allowances

for overhead and profit shall be included in the percentages set out in subparagraph 6.2.3.3(3).

6.1.5 The *Contractor's* percentage fee mark-up on changes is intended to cover all general expenses and overhead costs incurred by the *Contractor* in relation to the change. For greater certainty, the following items of cost to the *Contractor* in relation to any changes are covered by and included in the *Contractor's* overhead and profit percentage fee mark-up on changes:

- .1 project management costs;
- .2 estimating, site supervision, safety, preparation of *As-built Drawings*, coordination and administration costs;
- .3 warranty costs;
- .4 bonding and insurance costs;
- .5 general clean-up and disposal costs.

**SC27 GC 6.2 CHANGE ORDER**

**SC27.1 Paragraph 6.2.3:**

Add new paragraph 6.2.3 as follows:

6.2.3 The method of adjustment of the *Contract Price* presented by the *Contractor* may be:

.1 by quotation and acceptance of a lump sum. All quotations must contain an itemized and complete breakdown of costs, including hours and hourly rates of labour, payroll burden, itemized costs of materials, quantity of materials, *Products*, and all other costs to perform the change in the *Work*, including the *Contractor's* mark-up fee set out in the table below, such that the quotations are capable of being evaluated by the *Consultant*. The *Contractor* shall require *Subcontractors* and *Suppliers* to supply similar information to the *Consultant*.

.2 by unit prices set out in the Schedule of Prices listed in Article A-3 – CONTRACT DOCUMENTS or subsequently agreed upon in writing by the parties. Unit prices shall include materials, labour, equipment, delivery, freight, handling, disposal, statutory charges, supervisions, testing, all applicable duties, brokerage charges, import charges, taxes, bonding, overhead, profit and all relative charges and expenses including, but not

limited to, office administration charges such as disbursements, travel costs, printing and incidentals to the *Contractor*, and shall be the total cost to the *Owner*. Adjustment to the *Contract Price* shall be based on a net quantity difference from the original quantity.

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

- (1) by a *Subcontractor* applying its labour charge out rates, together with the actual costs, without mark-up, of materials, *Construction Equipment* and *Products* utilized in the change, plus the *Subcontractor's* mark-up fee set out in the table below, which shall be applied to material and *Product* costs only;
- (2) by the *Contractor* applying its labour charge out rates, together with the actual costs, without contractor's mark-up, of materials, *Construction Equipment* and *Products* plus the mark-up fee set out in the table below which shall be applied to material, *Construction Equipment* and *Product* costs only;
- (3) the *Contractor* shall be entitled to the *Contractor* mark-up fee in the table below on the value of *Subcontractor* work even where the *Subcontractor* is not entitled to a mark-up fee on its labour charge out rates pursuant to paragraph 6.2.3.3(1).

Value of Change Order	<i>Subcontractor</i> and <i>Contractor's</i> Own Forces Mark-Up Fee (%) (includes overhead and profit)	<i>Contractor</i> Mark-up Fee (%) on <i>Subcontractor's</i> work (includes overhead and profit)
\$0 - \$49,999.99	5	5
Over \$50,000.00	5	3

.4 the aforesaid *Subcontractor* and *Contractor's* percentage fee mark-ups include all necessary supervision, general account items, general clean-up, small tools, as-built drawings and job safety necessary to perform the change.

**SC28 GC 6.3 CHANGE DIRECTIVE**

**SC28.1 Paragraph 6.3.6.3:**

Delete the words "the *Contract Documents* or as otherwise agreed by the parties" and substitute the words "paragraph 6.2.3" in paragraph 6.3.6.3.

**SC28.2 Paragraph 6.3.7.1 (1):**

Delete subparagraph 6.3.7.1(1) and substitute the following:

“(1) carrying out the work, including necessary supervisory services;”

**SC28.3 Paragraph 6.3.7.1(2):**

Delete subparagraph 6.3.7.1(2) in its entirety.

**SC28.4 Paragraph 6.3.7.1(3):**

Delete subparagraph 6.3.7.1(3) in its entirety and substitute the following:

“(3) engaged in the preparation of *Shop Drawings*, fabrication drawings, coordination drawings and *As-Built Drawings*: or...”

**SC29 GC 6.4 CONCEALED OR UNKNOWN CONDITIONS**

**SC29.1 Paragraphs 6.4.5, 6.4.6 and 6.4.7:**

Add new paragraphs 6.4.5, 6.4.6 and 6.4.7 as follows:

6.4.5 If the *Contractor* was given access to the *Place of the Work* prior to the submission of the bid on which the *Contract* was awarded, then the *Contractor* confirms that it carefully investigated the character of the *Work*, the *Place of the Work* and all local conditions which might affect its obligations and that it has satisfied itself as to the nature and extent of the *Work*, the *Contract Documents* and the *Contract* and as to the facilities and difficulties in attending and completing the execution of the *Work*. The *Contractor* confirms that it has applied to its investigation the degree of care and skill required by paragraph 3.14.1. In those circumstances, notwithstanding the provisions of paragraph 6.4.2, the *Contractor* is not entitled to an adjustment to the *Contract Price* or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such careful investigation, or which could have been reasonably inferred from the material provided with the *Contract Documents*. In those circumstances, should a claim arise, the *Contractor* will have the burden of establishing that it could not have discovered the materially different conditions from a careful investigation, because of restrictions placed on its access or inferred the existence of the conditions from the material provided with the *Contract Documents*.

6.4.6 To the extent the *Contractor* has not investigated as referenced in paragraph 6.4.5, the *Contractor* willingly assumes responsibility for all losses, damages, costs, expenses (including all legal costs on a full indemnity basis), liabilities, claims, actions, and demands, whether arising under statute, contract or at common law, which such investigations might have avoided or reduced and shall indemnify and save harmless the *Owner* from all risk which might make it more onerous and more expensive to fulfill or perform the *Work* than was contemplated or known when the *Contract* was signed, and for any and all liability, responsibility and obligations which the *Owner* may have to any third parties resulting from any failure to investigate.

6.4.7 If the finding made pursuant to paragraph 6.4.2 is that the subsurface or otherwise concealed physical conditions differ materially and this would cause an increase or decrease in the *Contractor's* cost or time to perform the *Work*, and if the said conditions were otherwise discoverable by the *Contractor* in the proper performance of its duties and obligations under the *Contract*, all costs and expenses resulting from any delay (excluding, for clarity, the direct cost of remediating the said conditions) in the completion of the *Work* that is caused, or contributed to, as a result of the said conditions, will be borne by the *Contractor*.

**SC30 GC 6.5 DELAYS**

**SC30.1 Paragraph 6.5.1:**

Delete the period at the end of paragraph 6.5.1, and substitute the following words:

“, but excluding any consequential, incidental, indirect or special damages including, without limitation, loss of profits, loss of opportunity or loss of productivity resulting from such delay.”

**SC30.2 Paragraph 6.5.2:**

Delete the period at the end of paragraph 6.5.2, and substitute the following words:

“, but excluding any consequential, incidental indirect or special damages including, without limitation, loss of profit, loss of opportunity or loss of productivity resulting from such delay.”

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**SC30.3 Paragraph 6.5.4:**

Add the words “compensation for delay shall be paid to the *Contractor*, and no” after the word “No” at the beginning of paragraph 6.5.4.

**SC30.4 Paragraph 6.5.6:**

Add new paragraph 6.5.6 as follows:

Notwithstanding the above, the Contractor and Owner agree that effective March 17, 2020 the Province of Ontario issued a State of Emergency to address the ongoing COVID-19 pandemic for all non-essential businesses within Ontario. Subsequently on March 24th, the Province outlined which services were essential. On April 3<sup>rd</sup>, further amendments were made to the essential services list. Municipal government and the services provided were considered essential. Further, suppliers which support such essential services were also deemed essential. The parties agree that they will, despite these circumstances, work together in good faith to perform the Work using their best commercial efforts. In the event the Contractor is unable to perform the Contract as a result of COVID-19, upon notice to the Owner and subject to mutual agreement, Work may cease with no additional claim for costs by either party and only additional time being permitted. As other circumstances change, the parties will communicate with one another to ensure a joint solution will be met which ensures the safety and health for all those which participate in the Work.

**SC.30.5 Paragraph 6.5.7**

Add new paragraph 6.5.7 as follows:

6.5.7 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor*, any *Subcontractor* or *Supplier*, or anyone employed or engaged by them, directly or indirectly, or by any cause within the *Contractor's* control, the *Contractor* shall devote such additional resources and take all steps necessary, all at the *Contractor's* own cost and expense, to ensure that the dates for attaining *Substantial Performance of the Work* and *Total Performance of the Work* under the *Contract* as may have been amended in accordance with the provisions of Part 6 of the General Conditions – CHANGES IN THE WORK, are met. If the *Contractor* fails to attain *Substantial Performance of the Work* or *Total Performance of the Work* as aforesaid, the *Owner* shall be reimbursed by the *Contractor* for all reasonable costs, damages and expenses incurred by the *Owner* as the result of any such failure, including, but not limited to, the cost of all

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additional services required by the *Owner* from the *Consultant* or any subconsultants, project managers, or others employed or engaged by the *Owner*.

**SC31 GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT**

**SC31.1** Add the words "**SUSPEND OR**" after the word "**WORK**," in the first line of the heading for GC 7.1.

**SC31.2 Paragraph 7.1.2:**

Delete the words "to a substantial degree" in paragraph 7.1.2 and substitute the words "in a material way".

**SC31.3 Paragraphs 7.1.7, 7.1.8, 7.1.9, 7.1.10, 7.1.11, 7.1.12, 7.1.13 and 7.1.14:**

Add new paragraphs 7.1.7, 7.1.8, 7.1.9, 7.1.10, 7.1.11, 7.1.12, 7.1.13 and 7.1.14 as follows:

7.1.7 The *Owner* may, if conditions arise which make it necessary for reasons other than as provided in paragraphs 7.1.1 and 7.1.4, suspend performance of the *Work*, terminate the *Contractor's* right to continue with the *Work* or terminate the *Contract*, in whole or in part, by giving *Notice in Writing* to that effect to the *Contractor*. Such suspension or termination shall be effective in the manner specified in said notice and shall be without prejudice to any claims which either party may have against the other. The *Owner's* entitlement to so terminate or suspend shall be absolute and unconditional and exercisable by the *Owner* in its sole discretion.

7.1.8 The *Contractor* upon receiving notice of suspension or termination from the *Owner* shall suspend all operations as soon as reasonably possible except for work which, in the *Contractor's* opinion, is necessary for the safety of personnel and for the care and preservation of the *Work*, the materials and plant. Subject to any directions in the notice of suspension or termination, the *Contractor* shall discontinue ordering materials, facilities, and supplies and make every reasonable effort to delay delivery of existing orders and, in the event of termination, to cancel existing orders on the best terms available.

7.1.9 During any period of suspension, the *Contractor* shall not remove from the site any part of the *Work*, or any *Product* or materials without the consent of the *Owner*.

7.1.10 If the *Work* should be suspended for a period of 60 consecutive calendar days or less, the *Contractor*, upon the expiration of the period of suspension, shall resume the performance of the *Work* in accordance with the *Contract Documents*. If the suspension was not due to an act or omission of the *Contractor*, the *Contract Price* and *Contract Time* shall be adjusted as provided in paragraph 6.5.1 of GC 6.5 DELAYS.

7.1.11 If after 60 consecutive calendar days from the date of notice of suspension of the *Work*, the *Owner* and the *Contractor* agree to continue with and complete the *Work*, the *Contractor* shall resume operations and complete the *Work* in accordance with any terms and conditions agreed upon by the *Owner* and the *Contractor*. Failing such an agreement, the provisions of paragraph 7.2.2 shall become applicable.

7.1.12 If the *Owner* terminates the *Contract* pursuant to paragraph 7.1.7, the *Contractor* shall only be entitled to receive payment for all work performed up to the date of termination as certified by the *Consultant* and the direct costs associated with the termination incurred by the *Contractor*, including the costs of the demobilization, losses sustained on *Products* and *Construction Equipment* and *Subcontractor* and sub-subcontractor cancellation costs (which costs shall not include loss of profit claims) reasonably incurred by the *Contractor*. The *Contractor* shall not be entitled to any additional reimbursement on account of the termination including, without limitation, indirect, incidental, special, consequential or other damages, including loss of profits, notwithstanding any other provision of the *Contract Documents*.

7.1.13 In the case of either a termination of the *Contract* or a suspension of the *Work* under General Condition 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT or General Condition 7.2 - CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* shall use its best commercial efforts to mitigate the financial consequences to the *Owner* arising out of the termination or suspension, as the case may be.

7.1.14 Upon the resumption of the *Work* following a suspension under General Condition 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT or General Condition 7.2 - CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* will endeavour

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to minimize the delay and financial consequences arising out of the suspension.

**SC32 GC7.2 CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT**

**SC32.1 Paragraph 7.2.2:**

Delete the words "20 Working Days" and substitute the words "60 consecutive calendar days" in the first line of paragraph 7.2.2.

**SC32.2 Paragraph 7.2.3.1:**

Delete subparagraph 7.2.3.1 in its entirety.

**SC32.3 Paragraph 7.2.3.3:**

Delete subparagraph 7.2.3.3 in its entirety and substitute new subparagraph 7.2.3.3 as follows:

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, except where the *Owner* has a bona fide claim for set off, or

**SC32.4 Paragraph 7.2.3.4:**

Delete from subparagraph 7.2.3.4, the words:

", except for General Condition 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER,"

**SC32.5 Paragraph 7.2.5:**

Delete paragraph 7.2.5 in its entirety and substitute the following:

7.2.5 If the *Contractor* terminates the *Contract* under the conditions set out above, the *Contractor* shall be entitled to be paid for all work performed to the date of termination. The *Contractor* shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization, and losses sustained on *Products* and *Construction Equipment*. The *Contractor* shall not be entitled to any additional reimbursement on account of any such termination including, without limitation, indirect, incidental, special, consequential or other damages,

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including loss of profits, notwithstanding any other provision of the *Contract Documents*.

**SC32.6 Paragraph 7.2.6:**

Add new paragraph 7.2.6 as follows:

7.2.6 The *Owner's* withholding of a progress payment, holdback payment or final payment due to the *Contractor's* failure to pay a *Subcontractor* or *Supplier*, to protect the *Owner's* interest in the event of the preservation of a lien or receipt of notice of lien, or otherwise pursuant to the terms of the *Contract*, shall not constitute a default under paragraph 7.2.3 which would permit the *Contractor* to stop the *Work* or terminate the *Contract*. In such circumstances, the *Contractor* shall continue with the *Work*.

**SC32.7 Paragraph 7.2.7:**

Add new paragraph 7.2.7 as follows:

7.2.7 If the *Contractor* stops the *Work* or terminates the *Contract* in accordance with this GC 7.2 – CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* shall leave the *Place of the Work* and the *Work* in a secure condition.

**SC33 GC 7.3 ASSIGNMENT OF SUBCONTRACTS ON TERMINATION**

**SC33.1 Add new GC 7.3 ASSIGNMENT OF SUBCONTRACTS ON TERMINATION as follows:**

**GC 7.3 ASSIGNMENT OF SUBCONTRACTS ON TERMINATION**

7.3 The *Owner* shall not be deemed by virtue of the *Contract* or for any other reason to have any contractual relationship with or obligation to any *Subcontractor* or *Supplier* but the *Contractor* hereby agrees that in the event that this *Contract* is terminated or the right of the *Contractor* to continue the *Work* is terminated, as provided in GC 7.1.1, 7.1.4 or 7.1.7, at the option of the *Owner*, any or all subcontracts as may be selected by the *Owner* shall, upon notice to the *Contractor* and the affected *Subcontractors* and *Suppliers* from the *Owner*, be assigned to the *Owner*, without any action being necessary from the *Contractor* and in order to ensure the rights of the *Owner*, the *Contractor* shall:

- .1 contractually obligate each of its *Subcontractors* and *Suppliers* to agree that each such subcontract shall be

assignable, at the option of the *Owner*, to the *Owner*, upon delivery of the notice described above, in the event that:

a) this *Contract* is terminated; or

b) the right of the *Contractor* to continue the *Work* is terminated;

as provided in GC 7.1.1, 7.1.4 or 7.1.7; and

.2 add the following wording to all subcontracts:

“The *Subcontractor* or *Supplier* acknowledges, and consents to the fact, that the *Contractor* has agreed that this subcontract shall be assigned to the *Owner* or its permitted successors or assigns under the *Contract* in the event that the *Contract* between the *Owner* and the *Contractor* is terminated or the right of the *Contractor* right to continue the *Work* under the *Contract* is terminated and the *Owner* gives notice to the *Contractor* and the *Subcontractor* or *Supplier* that it wishes to take an assignment of this subcontract *Notice of Assignment*. The *Subcontractor* or *Supplier* agrees with the *Contractor* and the *Owner* that:

a) until *Notice of Assignment* is received, the *Contractor* is the person entitled to receive the property, services and work to be delivered and performed under the subcontract and to exercise and enforce all of the rights, entitlements and benefits which may arise under the subcontract;

b) following receipt of a *Notice of Assignment*, the *Owner*, or its permitted successors or assigns under the *Contract*, shall be the person entitled to receive, enjoy and deal with the property, services and work to be delivered and provided under the subcontract and to enjoy, exercise and enforce all of the rights, entitlements, benefits, advantages, authorities, discretions, powers and remedies arising under the subcontract; and

c) the *Owner*, or its permitted successors or assigns under the *Contract*, shall only be responsible for obligations which accrue under the subcontract after the date of receipt of notice of assignment.”

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**SC34 GC 8.1 AUTHORITY OF THE CONSULTANT**

**SC34.1 Paragraph 8.1.1:**

Add the words “Unless either party has referred a matter to adjudication pursuant to Section 13.5 of the *Construction Act*” to the beginning of paragraph 8.1.1.

**SC34.2 Paragraph 8.1.2:**

Delete paragraph 8.1.2 in its entirety and substitute new paragraph 8.1.2 as follows:

If a dispute arises under the *Contract* in respect of a matter in which the *Consultant* has no authority under the *Contract* to make a finding, and provided that neither party has referred a matter to adjudication pursuant to Section 13.5 of the *Construction Act*, the procedures set out in paragraph 8.1.3 and paragraphs 8.2.3 to 8.2.8 of GC 8.2 - NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.3 - RETENTION OF RIGHTS apply to that dispute with the necessary changes to detail as may be required.

**SC34.3 Paragraph 8.1.3:**

Delete last sentence of 8.1.3 and substitute the following sentence:

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

**SC34.4 Paragraph 8.1.4:**

Add a new paragraph 8.1.4 as follows:

Either party may refer a matter set out in Section 13.5(1) of the *Construction Act* to adjudication pursuant to Part II.1 of the *Construction Act*. The parties agree that no other matter may be referred to adjudication unless the parties agree in writing.

**SC34.5 Paragraph 8.1.5:**

Add a new paragraph 8.1.5 as follows:

The parties agree and consent that any *Construction Act Document* may be sent to the other party(s) and any adjudicator via electronic mail and that service of such *Construction Act Documents* will be effective at the time and date of sending, except that where an electronic mail message is sent after 4:00 p.m. Eastern Time, service of such *Construction Act Documents* will be deemed to be effective the following day. The e-mail message to which a *Construction Act Document* is attached shall include the sender's name, address, telephone number and the name and telephone number of a person to contact in the event of a transmission problem. Any *Construction Act Documents* shall be served in accordance with this section unless the parties subsequently agree otherwise in writing or an adjudicator directs otherwise.

**SC35 GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION**

**SC35.1 Paragraph 8.2.1:**

Add the words "(the "Rules")", subject to amendments, if any, required by virtue of the applicability of the *Municipal Arbitration Act*, R.S.O. 1990, c. M.48," after the words "CCDC 40" in the first line of paragraph 8.2.1.

**SC35.2 Paragraph 8.2.4:**

Add the words "subject to any amendments to the Rules made as described in paragraph 8.2.1", after the words "CCDC 40" in the last line of paragraph 8.2.4.

**SC35.3 Paragraph 8.2.6:**

Delete paragraph 8.2.6 in its entirety and substitute the following:

8.2.6 By giving notice in writing to the other party, not later than 20 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.2.5, either party may refer the dispute to be finally resolved by arbitration under the latest edition of the Rules, subject to any amendments to the Rules made as described in paragraph 8.2.1. The arbitration shall be conducted pursuant to the *Municipal Arbitration Act*, R.S.O. 1990, c. M.48, as amended. Unless either party gives the notice contemplated by this paragraph 8.2.6, there shall be no arbitration of any such dispute.

**SC35.4 Paragraph 8.2.7:**

Amend paragraph 8.2.7 by changing the number "10" in line 1 to "20".

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**SC35.5 Paragraph 8.2.9:**

Add a new paragraph 8.2.9 as follows:

8.2.9 - Within five *Working Days* of receipt of a *Notice of Arbitration* given pursuant to paragraph 8.2.6, the *Owner* shall give the *Consultant* a written notice containing:

- a) a copy of *Notice of Arbitration*;
- b) a copy of Supplementary Condition 8.2.9 of this *Contract*;
- c) any claims or issues which the *Contractor* or the *Owner*, as the case may be, wishes to raise in relation to the *Consultant* arising out of the issues in dispute in the arbitration.

**SC35.6 Paragraph 8.2.10:**

Add a new paragraph 8.2.10 as follows:

8.2.10 For purposes of the Rules for Mediation and Arbitration of Construction Disputes CCDC 40, the term “neutral appointing authority”, as used in the Rules for Mediation of CCDC2 Construction Disputes shall mean the head of the construction section of the ADR Institute of Ontario, Inc. presiding at the time notice of the dispute is given pursuant to the Contract.

**SC35.7 Paragraph 8.2.11:**

Add a new paragraph 8.2.11 as follows:

8.2.11 Notwithstanding any other provision of this *Contract*, the provisions set out in paragraphs 8.2.1 and 8.2.3 to 8.2.10 shall only apply if the parties agree in writing to submit a dispute to all, or any part of, those alternate dispute resolution procedures. If the parties do not agree as aforesaid, the Courts shall have exclusive jurisdiction to determine any dispute relating to the *Work* or to the *Contract*.

**SC36 GC 8.3 RETENTION OF RIGHTS**

**SC36.1 Paragraph 8.3.3:**

Add a new paragraph 8.3.3 as follows:

8.3.3 If the *Owner* gives the notice in writing described in paragraph 8.2.6 to have a dispute resolved by arbitration, the *Contractor* agrees that this

paragraph 8.3.3 shall be construed as a formal consent to the stay of any lien proceedings until an award is rendered in the arbitration or such dispute as otherwise resolved between the parties. In no event shall the *Contractor* be deprived of its right to enforce its lien against the *Project* should the *Owner* fail to satisfy any arbitral award against it in full on the dispute in respect of which the lien proceedings were commenced. Nothing in this subparagraph 8.3.2.2 shall prevent the *Contractor* from taking the steps required by the *Construction Act* to preserve, perfect or otherwise prevent the expiry of a lien to which it may be entitled.

**SC37 GC 9.1 PROTECTION OF WORK AND PROPERTY**

**SC37.1 Paragraph 9.1.1.1:**

Delete subparagraph 9.1.1.1 in its entirety and substitute new subparagraph 9.1.1.1 as follows:

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

**SC37.2 Paragraph 9.1.2:**

Delete paragraph 9.1.2 in its entirety and substitute new paragraph 9.1.2 as follows:

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

**SC37.3 Paragraph 9.1.5:**

Add new paragraph 9.1.5 as follows:

9.1.5 With respect to any damage to which paragraph 9.1.4 applies, the *Contractor* shall neither undertake to repair or replace any damage whatsoever to the work of other contractors, or to adjoining property, nor acknowledge that the same was caused or occasioned by the *Contractor*, without first consulting the *Owner* and receiving written instructions as to the course of action to be followed from either the *Owner* or the *Consultant*.

**SC37.4 Paragraph 9.1.6:**

Add new paragraph 9.1.6 as follows:

9.1.6 The *Contractor* shall be responsible for securing the *Place of the Work* at all times and shall take all reasonable precautions necessary to protect the *Place of the Work*, its contents, materials (including *Owner-supplied materials*) and the public from loss or damage during and after working hours.

**SC38 GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES**

**SC38.1 Paragraph 9.2.5.5:**

Add new subparagraph 9.2.5.5 as follows:

9.2.5.5 Take all reasonable steps to mitigate the impact on *Contract Time* and *Contract Price* and any further steps it deems necessary to mitigate or stabilize any conditions resulting from encountering toxic or hazardous substances or materials.

**SC38.2 Paragraph 9.2.8.3:**

Add the words "and as a result of the delay" before the semicolon at the end of subparagraph 9.2.8.3:

**SC39 GC 9.4 CONSTRUCTION SAFETY**

**SC39.1 Paragraph 9.4.1:**

Delete the words "Subject to paragraph 3.2.2.2 of GC 3.2 – CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, the" and substitute the word "The" at the beginning of paragraph 9.4.1.

**SC39.2 Paragraphs 9.4.2, 9.4.3, 9.4.4, 9.4.5, 9.4.6, 9.4.7 and 9.4.8:**

Add new paragraphs 9.4.2, 9.4.3, 9.4.4, 9.4.5, 9.4.6, 9.4.7 and 9.4.8 as follows:

9.4.2 The *Contractor* shall assume the role of contractor, constructor, prime contractor, or principal contractor as may apply in accordance with applicable Occupational Health and Safety Legislation at the *Place of the Work* and provide to the *Owner* copies of the related Health and Safety notices and documents.

9.4.3 The *Contractor* represents and warrants that it is familiar with the obligations imposed on an “employer” as defined in the *Occupational Health and Safety Act (Ontario)*, and that it has in place a health and safety program to ensure the health and safety of all workers for which it has responsibility under the said *Act*.

9.4.4 The *Contractor* shall comply in all respects with the requirements of the *Occupational Health and Safety Act (Ontario)* and its own health and safety program to take all steps reasonable in the circumstances to ensure the health and safety of all workers for which it has responsibility under the said *Act*. The *Contractor* shall maintain and strictly enforce its health and safety program. The *Contractor* shall also provide such information within such timeframes as may be required in order to allow the *Owner* to fulfill its obligations pursuant to the *Occupational Health and Safety Act (Ontario)*, including, without limitation, the obligation to notify the Director under such *Act* in the event of an accident causing personal injury.

9.4.5 Prior to the commencement of the *Work*, the *Contractor* shall submit to the *Owner*:

- .1 copies of the *Contractor’s* insurance policies having application to the *Project* or certificates of insurance, at the option of the *Owner*;
- .2 documentation setting out the *Contractor’s* in-house safety programs;
- .3 a copy of the Notice of Project filed with the Ministry of Labour naming itself as “constructor” under the *Occupational Health and Safety Act*.

9.4.6 The *Contractor* shall indemnify and save harmless the *Owner*, its agents, officers, directors, employees, consultants, successors, appointees, and assigns from and against the consequences of any and all safety infractions committed by the *Contractor* or any of its *Subcontractors* under the *Occupational Health and Safety Act*, including the payment of legal fees and disbursements on a solicitor and client basis. Such indemnity shall apply to the extent to which the *Owner* is not covered by insurance, provided that the indemnity contained in this paragraph shall be limited to costs and damages resulting directly from such infractions and shall not extend to any consequential, indirect, or special or other damages.

9.4.7 In the event of an emergency threatening health, life or property, the *Contractor* shall take such action as may be necessary to save lives and protect persons from injury, and done to protect and preserve the property.

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The *Contractor* shall notify the *Owner* and the *Consultant* of such emergency as promptly as is practical under the circumstances.

9.4.8 The *Owner* undertakes to include in its contracts with other contractors and in its instructions to its own forces the requirement that the other contractor or its own forces, as the case may be, comply with the policies and procedures of and the directions and instructions from the *Contractor* with respect to occupational health and safety and related matters.

**SC40 GC 9.5 MOULD**

**SC40.1 Paragraph 9.5.2.3:**

Add the words "and as a result of the delay" before the period at the end of subparagraph 9.5.2.3.

**SC41 GC 10.1 TAXES AND DUTIES**

**SC41.1 Paragraph 10.1.3:**

Add new paragraph 10.1.3 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.

**SC41.2 Paragraph 10.1.4:**

Add new paragraph 10.1.4 as follows:

10.1.4 The *Contractor* shall maintain accurate records tabulating equipment, material and component costs reflecting the taxes, customs duties, excise taxes and *Value Added Taxes* paid.

**SC41.3 Paragraph 10.1.5:**

Add new paragraph 10.1.5 as follows:

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*.

**SC41.4 Paragraph 10.1.6:**

Add new paragraph 10.1.6 as follows:

10.1.6 The *Contractor* agrees to cooperate with the *Owner* and to obtain from all *Subcontractors* and *Suppliers* cooperation with the *Owner* in the application for any rebates, incentives or refund or exemption of any taxes, which cooperation shall include, but not be limited to, making or concurring in the making of an application for any such rebates, incentives, 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. All such rebates, incentives or 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.

**SC41.5 Paragraph 10.1.7:**

Add new paragraph 10.1.7 as follows:

10.1.7 Customs duties, 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 GC10.1.

**SC42 GC 10.2 LAWS, NOTICES, PERMITS, AND FEES**

**SC42.1 Paragraph 10.2.4:**

Delete the words “or codes” and substitute the words “codes, and industry best practices and guidelines” after the word “regulations,” in the first line of paragraph 10.2.4.

Add the words “to the environment,” after the words “relate to the *Work*,” in the second line of paragraph 10.2.4.

Add the words “The *Contractor* shall provide the *Owner* with copies of all such required notices and related health and safety documents.” at the end of paragraph 10.2.4.

Add the following to the end of paragraph 10.2.4:

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

**SC42.2 Paragraph 10.2.5:**

Delete the word “The” from the first line of paragraph 10.2.5, and substitute the words “Subject to paragraph 3.4.1, the”.

Add the following before the period at the end of the second sentence of paragraph 10.2.5:

and no further work on the affected components of the *Contract* shall proceed until these changes to the *Contract Documents* have been obtained by the *Contractor* from the *Consultant*.

**SC43 GC 10.4 WORKERS’ COMPENSATION**

**SC43.1** Add the words "again with each application for progress payment, and" after the word “*Work*”, in the first line of subparagraph 10.4.1.

**SC43.2 Paragraph 10.4.2:**

Add the following to the beginning of paragraph 10.4.2:

The *Contractor* shall ensure that each *Subcontractor* complies with the workers' compensation legislation at the *Place of the Work*.

**SC43.3 Paragraph 10.4.3:**

Add new paragraph 10.4.3 as follows:

10.4.3 Where a *Subcontractor* is not required to participate in the insurance plan provided for under the workers’ compensation legislation, the *Contractor* shall require the *Subcontractor* to provide a sworn declaration of its exemption as a condition of the *Subcontractor’s* admission to the *Place of Work*. When requested by the *Owner*, the *Contractor* shall require the *Subcontractor* to provide a letter of exemption under the workers’ compensation legislation.

**SC44 GC 11.1 INSURANCE**

**SC44.1 Paragraph 11.1.1.4:**

Add the words "All Risk" ahead of the words "property insurance" in the first sentence and in the third sentence of subparagraph 11.1.1.4.

**SC44.2 Paragraph 11.1.1.6(4):**

Add new subparagraph 11.1.1.6(4) as follows:

11.1.1.6.(4) If any loss occurs involving damage to property in an amount greater than \$25,000, bodily injury to any person, or damage to any existing structure, the *Contractor* shall, in addition to the other requirements set out herein, immediately provide a detailed written report to the *Owner*.

**SC44.3 Paragraph 11.1.2:**

Delete paragraph 11.1.2 in its entirety and substitute new paragraph 11.1.2 as follows:

11.1.2 General liability insurance as required in 11.1.1.1 shall include, but not be limited to, contractual liability, non-owned automobile liability, owner's and contractor's protective coverage, employer's liability, severability of interest and cross liability provisions, and each of the policies of insurance shall also contain a provision requiring not less than 30 calendar days' written notice to the *Owner* by registered mail prior to cancellation or any change that would reduce coverage. At least 10 calendar days prior to commencement of the *Work* and upon any renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the *Work*.

**SC44.4 Paragraph 11.1.5:**

Add the following to the end of paragraph 11.1.5:

All policies of insurance shall be primary and shall not act as co-insurance or as excess coverage to any policies obtained by the *Owner* for its sole protection. The *Owner*, where it is an additional insured, will only accept insurance policies and/or certificates from issuing institutions that have the following minimum ratings:

Standard & Poor's minimum rating of BBB  
Moody's minimum rating of Baa  
A. M. Best minimum rating of B+

**SC44.5 Paragraph 11.1.9:**

Add new paragraph 11.1.9 as follows:

11.1.9 The parenthetical reference in CCDC 41 - INSURANCE REQUIREMENTS, paragraph 4 which reads: "(excluding flood and earthquake)" is deleted and replaced with the following: "including flood and earthquake endorsements or their equivalent replacement, and including coverage for boiler and machinery testing and commissioning; property and off-site coverage, with limits acceptable to the *Owner*."

**SC44.6 Paragraph 11.1.10:**

Add new subparagraph 11.1.10 as follows:

11.1.10 The words "All Risk" are added before the words "property insurance" in CCDC 41 - INSURANCE REQUIREMENTS, paragraph 4.

**SC45 GC 11.2 CONTRACT SECURITY**

**SC45.1 Paragraph 11.2.1:**

Delete paragraph 11.2.1 in its entirety and substitute new paragraph 11.2.1 as follows:

11.2.1 - The *Contractor* shall, prior to commencement of the *Work*, provide to the *Owner*:

.1 a performance bond, in the form and the amount set out in the bid documents, covering the performance of the Contract, including the *Contractor's* requirements with respect to the correction of deficiencies and the fulfillment of all warranties; and

.2 a labour and material payment bond, in the form and the amount set out in the bid documents, covering payment for labour, Products, or both.

**SC45.2 Paragraph 11.2.2:**

Delete paragraph 11.2.2 in its entirety and substitute new paragraph 11.2.2:

11.2.2 - The Performance bonds referred to in paragraph 11.2.1 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*.

**SC45.3 Paragraph 11.2.3:**

Add new paragraph 11.2.3:

11.2.3 - If approved changes pursuant to the *Contract* result in approved increase or cumulative increases to the *Contract Price* the *Contractor* shall, if requested in writing to do so by the *Owner*, promptly acquire additional Performance bonding at the *Owner's* expense. Where additional Performance bonding premiums are paid by the *Owner*, the *Contractor* shall promptly submit written confirmation that the premiums were paid to the surety and promptly provide the *Owner* with the original revised Performance bond(s).

**SC46 GC 12.1 INDEMNIFICATION**

**SC46.1 Paragraph 12.1.2.4:**

Add a new subparagraph 12.1.2.4 as follows:

12.1.2.4 - The *Contractor* agrees that the *Owner* shall not be liable for any injury, death or damage to any employees, officers or agents of the *Contractor* unless the injury, death or damage is caused by the negligence or wilful misconduct of an officer or employee of the *Owner* while acting within the scope of their employment.

**SC46.2 Paragraphs 12.1.7, 12.1.8 and 12.1.9:**

Add new paragraphs 12.1.7, 12.1.8 and 12.1.9 as follows:

12.1.7 - Notwithstanding any other term or condition of this *Contract*, the *Contractor* shall indemnify and hold harmless the *Owner* from and against all claims, demands, actions, suits or proceedings by any of the employees of the *Contractor*, or *Subcontractors* or sub-subcontractors arising from the *Contractor's* failure to maintain worker's compensation insurance required by the *Contract Documents*. This indemnity shall survive the completion of the *Work* or the termination for any reason of the *Contract*.

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12.1.8 - Notwithstanding anything contained in the *Contract Documents* to the contrary, the *Owner* shall have the right to set-off the amount of any claims for which *Notice in Writing* has been given by the *Owner* to the *Contractor* in accordance with GC 6.6 CLAIMS FOR A CHANGE TO CONTRACT PRICE or GC 12.1 INDEMNIFICATION against any amounts which may be otherwise owing or payable to the *Contractor* pursuant to the terms of the *Contract*.

12.1.9 - Notwithstanding anything contained in the *Contract Documents* to the contrary, except to the extent such loss is paid by insurance, neither party shall be liable for any consequential, indirect, special or incidental damages of any kind or nature no matter how arising, including in contract, tort (including negligence), warranty, strict liability or any other theory of liability at law or in equity.

**SC47 GC 12.2 WAIVER OF CLAIMS**

**SC47.1 Paragraph 12.2.2:**

Delete the reference to "395 calendar days" in the last line of paragraph 12.2.2 and substitute "120 calendar days".

**SC47.2 Paragraph 12.2.3.4:**

Delete the last sentence of subparagraph 12.2.3.4 and substitute the following:

"Substantial defects or deficiencies" mean those defects or deficiencies in the *Work* where the reasonable cost of repair of such defects or deficiencies exceeds:

- .1 if the *Contract Price* is \$2 million or less, the sum of \$50,000, before *Value Added Taxes*;
- .2 if the *Contract Price* exceeds \$2 million, the sum of \$100,000, before *Value Added Taxes*;

but, in any event, a defect or deficiency in the *Work* which affects the *Work* to such an extent or in such a manner that a significant part or the whole of the *Work* is unfit for the purpose intended by the *Contract Documents* shall be deemed to be a "substantial defect or deficiency" regardless of the cost of repair.

**SC47.3 Paragraph 12.2.5:**

Add the words ",12.2.3.4" immediately after the reference to paragraph 12.2.3.3 in paragraph 12.2.5.

**SC48 GC 12.3 WARRANTY**

**SC48.1 Paragraph 12.3.1:**

Add the following to the end of paragraph 12.3.1:

Where the *Contractor* has been permitted to make use of permanent equipment or systems, as provided in GC 13.5, prior to the issuance of the Certificate of Substantial Performance of the *Work*, such permanent equipment or system shall be subject to the same warranty as described in this GC12.3 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 the date of *Substantial Performance of the Work*.

**SC48.2 Paragraph 12.3.2:**

Delete the word "The" from the first line of paragraph 12.3.2 and substitute the words: "Subject to paragraph 3.4.1, the...".

**C48.3 Paragraph 12.3.5:**

Add the following to the end of paragraph 12.3.5:

The carrying out of the replacement work and making good of defects shall be executed at such times as are convenient with the *Owner* which may entail overtime work on the part of the *Contractor*. Additional charges for overtime work in this regard shall be borne by the *Contractor*.

**SC48.4 Paragraph 12.3.7:**

Add a new paragraph 12.3.7 as follows:

12.3.7 The *Contractor* shall assign to the *Owner* all warranties, guarantees or other obligations for work, services or *Products* performed or supplied by any *Subcontractor*, *Supplier* or other person in connection with the *Work* and such assignment shall be with the consent of the assigning party where required by law or by the terms of that party's contract. Such assignment

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shall be in addition to, and shall in no way limit, the warranty rights of the *Owner* under the *Contract Documents*. Until the expiry of the relevant warranty periods enforceable against the *Contractor*, the *Owner* shall have in its custody all warranties, guarantees and other obligations to third parties respecting the *Work*.”

**SC49 PART 13 OTHER PROVISIONS**

**SC49.1** Add new PART 13 OTHER PROVISIONS as follows:

**PART 13 OTHER PROVISIONS**

**GC 13.1 OWNERSHIP OF MATERIALS**

13.1.1 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 when notified in writing to do so by the *Consultant*.

**GC 13.2 CONSTRUCTION LIENS**

13.2.1 The *Contractor* shall cause any and all construction liens and certificates of action relating to the *Work* registered or preserved by any *Subcontractor*, sub-subcontractor, *Supplier*, *Contractor’s* employees, or any other party to whom the *Contractor* is or may be responsible at law, to be discharged or vacated by the *Contractor* with seven *Working Days* of the date of registration or preservation, by the posting of security or otherwise, all at the *Contractor’s* sole expense. The *Contractor* shall not be entitled to receive any payment from the *Owner* until all such claims for lien and certificates of action have been vacated or discharged.

13.2.2 The *Contractor* shall cause any and all written notices of lien relating to the *Work* given to any person, including, but not limited to, the *Owner* by any *Subcontractor*, sub-subcontractor, *Supplier*, *Contractor’s* employees, or any party to whom the *Contractor* is or may be responsible at law, to be withdrawn in writing, and the *Contractor* shall do so within seven *Working Days* of the written notice of lien having been given, all at the *Contractor’s* sole expense.

13.2.3 If the *Contractor* fails to discharge or vacate any such lien or certificate of action, or to have any such written notice of lien withdrawn, in accordance with GC 13.2.1 or GC 13.2.2, then the *Owner* may, at its sole option, fulfil those requirements without notice to the *Contractor* and the *Contractor* shall reimburse the *Owner* on demand for all costs and

associated expenses incurred by the *Owner* in fulfilling those requirements and defending any related action, including without limitation, the costs of borrowing the appropriate cash, letter of credit or bond as security, and legal fees and disbursements on a full indemnity basis. If the *Contractor* fails to pay such reimbursement the *Owner* shall have the right, if it so elects, and without prejudice to any other rights or remedies, to set off and deduct all such costs and expenses from any amount owing to the *Contractor*.

13.2.4 Notwithstanding any other provision in the *Contract*, the *Contractor* shall not be entitled to submit an application for payment and the *Owner* shall not be obligated to make payment to the *Contractor* if:

- .1 a claim for lien has been served and/or registered against the *Project* lands;
- .2 if the *Owner* or mortgagee of the *Project* lands has received written notice of a lien; or
- .3 the *Owner* or *Consultant* reasonably believe that any party has purported to retain title to *Products* or materials in respect of which an application for payment has been made.

13.2.5 Notwithstanding GC 13.2.4, the *Owner* may, in its sole discretion, provide notice to the *Contractor* that the *Contractor* may submit an application for payment notwithstanding the existence of a claim for lien or receipt of a written notice of lien, provided the amount of the lien is withheld from the payment. If the *Contractor* receives notice from the *Owner* permitting it to submit an application for payment, it shall include in such application for payment the following:

- .1 a description of the lien and the following certification: "There are no notices or claims for lien against the *Owner* or the *Place of the Work* (as defined in the *Contract*) and I am not aware of any grounds supporting any other claim for lien against the *Owner* other than those described in this application for payment";
- .2 a separate line item in the application for payment setting out the amount of the lien to be withheld from the payment; and
- .3 a copy of the notice provided by the *Owner* allowing the submission of such application for payment notwithstanding GC 13.2.4.

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If the application for payment does not include all information required by GC 5.2.1 and this GC 13.2.5, if any of the required confirmations made by the Contractor in its application for payment are untrue, if the notice provided by the Owner is not in respect of the application for payment submitted by the Contractor or if the Contractor is otherwise in breach of this Contract, it shall not be considered a "Proper Invoice" for the purposes of the Construction Act or this Contract.

13.2.6 Without limiting the foregoing, the Contractor shall, if requested by the Owner, defend, indemnify and save the Owner harmless from the amount of all such claims and the costs of defending any and all actions commenced against the Owner pursuant to the Construction Act, including the legal costs of the Owner, unless the lien was a direct result of a breach of the Contract by the Owner.

13.2.7 GC 13.2 – CONSTRUCTION LIENS does not apply to construction liens claimed by the Contractor.

### **GC 13.3 PROJECT RECORDS**

13.3.1 The Contractor shall maintain and keep accurate Project records (which means all tangible records, daily reports, daily logs, documents, computer printouts, electronic information, books, plans, Drawings, Specifications, accounts or other information relating to the Work) in its office in Ontario in accordance with requirements of law, but in any event for not less than 6 years from Substantial Performance of the Work or until all claims have been settled. The records shall include detailed records of all actions taken by the Contractor related to security and health and safety legislation in the Place of the Work. During this time, the Contractor shall allow the Owner access to the Project records during normal business hours upon the giving of reasonable notice. The Contractor shall ensure that equivalent provisions to those provided herein are made in each subcontract and shall require the Subcontractors and Suppliers to incorporate them into every level of contract thereunder for any part of the Work.

### **GC 13.5 CONTRACTOR USE OF PERMANENT EQUIPMENT OR SYSTEMS**

13.5.1 With the prior written approval of the Owner, the Contractor may make use of elements of the mechanical and electrical systems or equipment comprising a permanent part of the Work for the purpose of providing heat or power to the Project during the final stages of construction.

In such event, before making its written application for *Substantial Performance of the Work*, and again, immediately prior to final takeover by the *Owner* of such systems and equipment, the *Contractor* shall clean and make good, to the satisfaction of the *Consultant*, such systems and equipment as it had been permitted to use. The *Contractor* shall pay any and all costs associated with such use, cleaning and making good.

### **GC 13.6 EXECUTION BY COUNTERPARTS**

13.6.1 For the convenience of the Parties, this Agreement may be executed in any number of counterparts with the same force and effect as if all Parties had executed the same document. Each counterpart shall be deemed to be an original document. All of the counterparts shall be construed together and shall be deemed, for all purposes, to constitute one and the same agreement, binding on all Parties, despite that all Parties did not execute the same counterpart. It shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Any amendment to or modification of this Agreement provided for herein may be executed in counterpart form.

### **GC 13.7 ELECTRONIC SIGNATURES**

For the purposes of this Section, “Electronic Signature” means electronic information that a person creates or adopts in order to sign a document and that is in, attached to or associated with this Agreement.

Both Parties explicitly agree to communicate through electronic means, and that includes allowing for Electronic Signature on any agreement between the Parties.

### **END OF SUPPLEMENTARY CONDITIONS**

## **PROJECT SPECIFIC SUPPLEMENTARY CONDITIONS**

Where Project Specific Supplementary Conditions are contained herein, it should be noted that these Project Specific Supplementary Conditions shall govern in the case of inconsistency or conflict with the Supplementary Conditions and General Conditions.

### **PSSC 1 Inclusive Customer Service**

1.1 The *Contractor* shall comply with the requirements of O. Reg. 429/07 under the *Accessibility for Ontarians with Disabilities Act, 2005*, and the *Owner's* Inclusive Customer Service Policy which affirms the principles therein and which outlines the *Owner's* commitment to inclusive customer service by providing barrier-free access to all goods, services, information and resources.

1.2 The *Contractor* shall be responsible for carrying out each service interaction in a manner that positively reinforces customer service excellence by treating each customer with dignity and respect, and by exercising care and attention to individual needs.

1.3 The *Contractor* shall comply with the requirements of O. Reg. 429/07 and the *Owner* Inclusive Customer Service Policy, and shall ensure that training, record keeping and reporting take place as required, including:

- (a) providing training to all personnel who will be delivering goods or services to the *Owner*, at a minimum, by providing a copy of the "Inclusive Customer Service resource manual for Vendors" as provided by the *Owner* on its Website at <http://www.brampton.ca/en/City-Hall/Accessibility/Pages/Vendors.aspx>, to all such personnel and requiring them to review the same before commencing any work for the *Owner*;
- (b) maintaining a record of all training provided;
- (c) furnishing to the *Owner* upon request, within ten business days, information regarding the method of training provided, the date on which training was provided, and the number of personnel trained; and
- (d) providing further training as may be required from time to time should the *Owner's* Inclusive Customer Service Policy be amended.

### **PSSC 2 Indemnification**

2.1 The *Contractor* agrees that the *Owner* shall not be liable for any injury or damage (including death) to any employees, officer or agent of the *Contractor*, unless the injury loss or damage is caused by the negligence of an officer or employee of the *Owner* while acting within the scope of his or her employment.

2.2 The *Contractor* agrees that the *Contractor* shall, at all times, indemnify and save harmless the *Owner*, each of its elected officials, officers, employees and agents from and against all claims, demands, losses, costs, damages, action, suits or other proceedings made, sustained, brought or made upon the *Owner* in respect of any costs, expenses, loss, damage or injury, including death, and reasonable legal fees, arising out of any cause, whether direct or indirect, by reason of or in connection with negligent acts or omissions of the *Contractor* or any of its officers, directors, employees or agents in connection with the services performed, purportedly performed or required to be performed by the *Contractor* under the *Contract*.

**PSSC 3 Automatic Payment**

3.1 The *Owner's* method of payment is by electronic payment only. The *Contractor* shall be required to complete the Accounts Payable Direct Deposit Set-Up Form.

3.2 All payments will be made within 28 calendar days from receipt of an approved invoice. All invoices must be approved by the *Owner*.

3.3 Invoices shall be submitted to the *Owner's* online invoice submittal portal in accordance with the *Owner's* instructions. The date of the invoice shall be the date it is received in the online portal.

**PSSC 4 Right to Audit**

4.1 The *Contractor* shall maintain complete, true and correct records, together with such supporting or underlying documents and materials, for the duration of this *Contract*. All such records shall be in an organized and accessible manner to the *Owner* and its authorized representatives. The *Contractor* will retain these records for a period which is the greatest of (i) seven (7) years following the completion, expiry or termination of this *Contract*, including any and all renewals thereof; or (ii) such period that any such records are required to be retained under any applicable laws and regulations; and (iii) in the case of any matter which is the subject of dispute under the *Contract*, the date on which a final resolution of the dispute is achieved. No provision of this *Contract* will be construed so as to give the *Owner* any control whatsoever over the *Contractor's* records.

4.2 The *Owner* and its authorized representatives shall have the right to audit, to examine and make copies of or extracts from all financial and related records relating to or pertaining to the *Contract* kept by or under the control of the *Contractor*, including, but not limited to those kept by the *Contractor*, its employees, agents, assigns, successors, and

subcontractors. Such records shall include, but are not limited to, accounting records; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); related payroll documents (timesheets, etc.); bank statements and journals. Costs of any audits conducted under the authority of this section and not addressed elsewhere will be borne by the *Owner* unless the audit identifies or discloses overpricing or overcharges (of any nature) by the *Contractor* to the *Owner* in excess of 0.5 percent (.5%) of the total Contract billings. In this case, in addition to the *Contractor* making prompt adjustments for the overcharges, the *Contractor* shall also promptly reimburse the *Owner* for the actual cost of the *Owner's* audit.

4.3 During the Term and for seven (7) years following the expiry or termination of this *Contract*, the *Owner* or any authorized representative of the *Owner* will be entitled, upon at least five (5) business days' prior notice to *Contractor*, to review or audit any of these records. When requested by the *Owner*, the *Contractor* will provide the *Owner* and any authorized representatives referred to in this section with access to and copies of these records as well as any further information that may be required with reference to these records. The *Owner* and its authorized representatives referred to in this section will have the right to remove all such documents for the purpose of making copies and will return them to the place from which they were removed.

4.4 The *Contractor* shall ensure the *Owner* has these audit rights with the *Contractor's* employees, agents, assigns, successors and subcontractors and the obligations of these rights shall be explicitly included in any subcontract or agreement formed between the *Contractor* and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the *Contractor's* obligations to the *Owner*.

4.5 This right to audit shall not be construed to limit, revoke, or abridge any other rights, powers, remedies or obligations relating to audit which the *Owner* may have by municipal, provincial, or federal statute, ordinance or regulation, whether those rights, remedies powers, or obligations are express or implied.

4.6 This right to audit section shall survive the completion, expiry or termination of this *Contract*.

**PSSC 5 Contractor Evaluation**

5.1 The *Contractor's* performance will be evaluated using the Performance Scorecard included in Part C Forms of this Bid Document in accordance with the *Owner's* Vendor Performance Evaluation Process as set out in the Vendor Performance Standard Operating Procedure. The performance evaluation will be used to provide feedback to the *Contractor*, to provide the *Contractor* with the opportunity to implement performance improvements during the duration of the *Contract*, and, where it is in the *Owner's* best interests as the result of a poor performance rating, suspend the *Contractor* from participating in the *Owner's* procurement process, in accordance with the Vendor Suspension Administrative Directive.

**PSSC 6 Personal Information**

6.1 The *Contractor* will comply with any laws pertaining to Privacy Protection to which the *Owner* is subject (including MFIPPA, regulations and common law). In addition, the *Contractor* will provide the *Owner* with information, cooperation and assistance, as requested by the *Owner* from time to time, in order to enable the *Owner* to comply with any and all requirements to which the *Owner* is subject under any laws pertaining to the Privacy Protection (including MFIPPA, regulations and common law).

**PSSC 7 GC 12.3 Warranty**

Paragraphs 12.3.1, 12.3.3, 12.3.4, and 12.3.6:

Delete the words "one year" in paragraphs 12.3.1, 12.3.3, 12.3.4, and 12.3.6 and substitute the words: "two years".

### PROPER INVOICE CHECKLIST

In addition to the Proper Invoice requirements in GC 5.2.1 and section 6.1 of the *Construction Act*, the following sets out the Proper Invoice Checklist requirements for this project.

The below list of project-specific requirements, together with the other Proper Invoice requirements of the *Contract*, shall be reviewed during the project “Kick Off” meeting. The meeting will minute the requirements for the Proper Invoice to be followed for this *Contract*. It shall be understood that the below list shall not be the only items required and that other items may be identified due to any changes in process or scope proposed by the *Owner* or *Contractor* during the course of the project.

- Project Name and Address*
- City Issued Purchase Order Number*
- Contract Number*
- General Contractor Name, Address and Contact Information*
- Date of the proper invoice*
- The name, title, telephone number and mailing address of the person to whom payment is to be sent*
- Progress Draw Number*
- Project Original Value, Project Current Value (including Cash Allowance) and Project Increase in Value (Change Orders)*
- Current Draw Amount and Tax Amount*
- Current and accrued Legislative Holdback*
- Current and accrued Warranty Holdback*
- Draft Invoice, due 7 days prior to submitting final invoice for review and approval*
- Statutory Declaration*
- Copy of valid Insurance Certificate(s)*
- Current WSIB Certificate*
- Updated Project Schedule (Design and Construction)*
- Schedule of Values (Construction)*
- \*Schedule of Labour (Design and Construction)*
- \*\*Schedule of Materials*
- General Progress Photos*
- Design Build Consultant Site Review Reports (Bi-weekly)*
- Sub-trade Invoices*
- Bills of Laden, Soil Import and Export Slips, Packing Slips, Supplier Invoices for all materials, equipment, fixtures and finishes – Indoor and Outdoor, etc.*
- 3<sup>rd</sup> Party Health and Safety inspection review (monthly)*

***Periodically required by the Owner:***

- Jurisdictional Reviews, as required (Inspections, ESA, MOL, TSSA, MOE etc.)*
- Permit/Jurisdictional Invoices*
- Owner Testing, Inspection and Commissioning – Deficiency Review and Corrective Measures Log with Photos*
- Compliance with CCDC14 and Construction Act for Substantial Performance and Completion*
- Prior to Substantial Performance Proper Invoice – Close out Documents:*
  - Occupancy Permit*
  - Design Build Consultant Deficiency List*
  - As-built drawings and Operation and Maintenance Manuals*
  - Start Up Reports/Commissioning Reports*
  - Warrantees, Guarantees and Certificates*
  - Shop Drawings*
  - Extra Stock and Spare Parts*
  - As-built site survey*

**END OF PROJECT SPECIFIC SUPPLEMENTARY CONDITIONS**

Part B Contract Execution Package  
Insurance Requirements

Bid Call No. T2021-173

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After award and before the Owner executes the Contract, the Successful Bidder shall deliver to the Owner evidence of insurance which the Successful Bidder shall maintain at all times during the currency of the term of this Contract including the warranty period and any extension or renewal thereof, at its own expense, as follows:

- Commercial General Liability Insurance against all claims for personal injury, including bodily injury resulting in death, and property damage with an inclusive limit of not less than Five Million (\$5,000,000.00) per occurrence. Such policy shall name the Owner as an additional insured with respect to the liability arising out of the operations of the named insured.
- Auto Liability Insurance with an inclusive third party liability limit of not less than Five Million (\$5,000,000.00) per occurrence for loss or damage resulting from bodily injury to or death of one or more persons and for loss or damage to property. This policy must cover all vehicles owned, leased or operated by or on behalf of the insured.
- **Builder's ALL RISK Property Insurance** shall be provided and maintained in the joint names of the contractor, the consultant and the City, and covering the work of all trade contractors and insuring not less than the sum of the Contract price, as stated in the Supplementary Conditions, with a deductible not exceeding twenty-five thousand dollars (\$25,000) or as reasonably excepted by the City. The form of this insurance shall be the latest edition of CCDC Form 201 or better and shall be maintained continuously until six(6) days after the date of completion on the contract work as agreed to by the contractor and the City.

Bidders are referred to Contract Documents CCDC 2-2008, Supplementary Conditions and Project Specific Supplementary Conditions for additional insurance requirements.

The City of Brampton Certificate of Insurance form is the only form that the Owner will accept. No other forms will be accepted. A sample Certificate of Insurance form is available at the City's website

[www.brampton.ca/EN/Business/insurance/Pages/welcome.aspx](http://www.brampton.ca/EN/Business/insurance/Pages/welcome.aspx).

The Successful Bidder shall be required to deliver to the Owner an executed City of Brampton Certificate of Insurance form evidencing the insurance as required in Part B Insurance Requirements.

The Owner will only accept insurance policies and/or certificates, where the Owner is named as an additional insured, from issuing institutions that have the following minimum ratings:

Standard & Poor's	-	minimum rating of BBB
Moody's	-	minimum rating of baa
A.M. Best	-	minimum rating of B+

The Certificate of Insurance shall state that if the policy is cancelled, changed or materially altered in any way that would affect the Owner, the insurer will give thirty (30) days prior written notice by registered mail to the Owner.

The Owner reserves the right to require such higher limits of insurance or other types of insurance policies appropriate to this Contract as the Owner may reasonably require from time to time.

The Contractor is responsible for ensuring that any subcontractors used in completion of the work will be insured with the same insurance coverages and limits as noted above.

THE CORPORATION OF THE CITY OF BRAMPTON

Part C Forms  
Bid Bond

Bid Call No. T2021-173

**BID BOND**

BOND NO. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS THAT \_\_\_\_\_  
as Principal, hereinafter called the Principal, and

\_\_\_\_\_ a corporation created and existing under the laws of Ontario, and duly authorized to transact the business of Suretyship in Ontario as Surety, hereinafter called the Surety, are held and firmly bound unto THE CORPORATION OF THE CITY OF BRAMPTON as Obligee, hereinafter called the Obligee, in the amount of

\_\_\_\_\_ Dollars,

(\$ \_\_\_\_\_) lawful money of Canada, for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a written Bid to the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_,

for: \_\_\_\_\_

**DESCRIPTION OF WORK**

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the aforesaid Principal shall have the Bid accepted within sixty (60) days from the Closing Date and the said Principal will, within the time required, enter into a formal contract and give the specified security to secure the performance of the terms and conditions of the Contract, then this obligation shall be null and void; otherwise the Principal and the Surety will pay unto the Obligee the difference in money between the amount of the Bid of the said Principal and the amount for which the Obligee legally contracts with another party to perform the work if the latter amount be in excess of the former.

The Principal and the Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of seven months from the date of this Bond.

IN WITNESS WHEREOF, The Principal and the Surety have signed and sealed this Bond this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

**SIGNED, SEALED AND DELIVERED**

\_\_\_\_\_  
SIGNATURE OF WITNESS  
(if not signed under corporate seal)

By \_\_\_\_\_ (Seal)  
SIGNATURE AND SEAL OF PRINCIPAL  
**I/We have the authority to bind the Corporation**

\_\_\_\_\_  
NAME OF WITNESS (PRINTED)

\_\_\_\_\_  
SURETY (Seal)

By \_\_\_\_\_  
ATTORNEY-IN-FACT

\_\_\_\_\_  
ADDRESS & PHONE NO. OF SURETY

**STATUTORY DECLARATION**

**PROGRESS PAYMENT/RELEASE OF HOLDBACK**

PROVINCE OF ONTARIO ) IN THE MATTER OF an agreement dated the \_\_\_\_\_ day of  
) \_\_\_\_\_, 20\_\_\_\_, made between The Corporation of  
) the City of Brampton and \_\_\_\_\_  
) (the "Contractor"), and identified as Bid Call No. \_\_\_\_\_  
) (the "Contract").

I, \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_  
(full name or names)  
in the County/Region of \_\_\_\_\_ do solemnly declare that;

1. I am \_\_\_\_\_ of the Contractor named in the  
(an authorized signing office, partner, sole proprietor)  
above mentioned Contract, which is applying for a second or subsequent progress payment or release of  
Holdback, and as such have personal knowledge of the facts herein declared.
2. To date all accounts for services and materials, including subcontracts, labour, products, construction  
machinery and equipment incurred directly by the Contractor in the performance of the Contractor in the  
performance of the Contract, and for which the Owner might in anyway be held responsible, have been paid  
in full, as required by the Contract, save and except only for the following;
  - a) Funds properly retained as holdback,
  - b) Payments deferred by agreement , or
  - c) Amounts withheld due to a dispute, where the other party or parties to the dispute have been notified of  
the amounts withheld,
3. The specifics of the most recent application for progress payment for which the Contractor has received  
payment are as follows;
 

None to Date  
(OR)  
No.: \_\_\_\_\_ Date: \_\_\_\_\_
4. No application for progress payment has been made for which payment is outstanding
5. The Contractor has not received notice of any claims in connection with the Contract by a third party.
6. I have authority to bind the Contractor.

I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and  
effect as if made under oath.

Declared before me in \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_,  
(City/Town)  
20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Declarant

\_\_\_\_\_  
(A Commissioner for Oaths, Notary Public, etc.)

**PSAB Inventory Management Form**

BUILDINGS	LAND
<input type="checkbox"/> BLDG – CORPORATE	<input type="checkbox"/> LAND
<input checked="" type="checkbox"/> BLDG - FIRE	<b>LAND IMPROVEMENTS</b>
<input type="checkbox"/> BLDG – PARKS	<input type="checkbox"/> BENCHES
<input type="checkbox"/> BLDG – RECREATION CENTRES	<input type="checkbox"/> BLEACHERS
<input type="checkbox"/> BLDG – TRANSIT	<input type="checkbox"/> FLOWER BEDS
<input type="checkbox"/> BLDG – WORKS	<input type="checkbox"/> GARBAGE BINS
<input type="checkbox"/> GAZEBOS & PICNIC TABLES	<input type="checkbox"/> IRRIGATION SPRINKLER SYSTEM
	<input type="checkbox"/> OUTDOOR POOLS (INCLUDNG SPLASHPADS)
<b>BUILDING COMPONENTS</b>	<input type="checkbox"/> PARK BRIDGES & CULVERTS
<input checked="" type="checkbox"/> BUILDING ENVELOPE	<input type="checkbox"/> PARK PATHWAYS
<input checked="" type="checkbox"/> ELECTRICAL	<input type="checkbox"/> PARK SIGNAGE
<input checked="" type="checkbox"/> EXTERIOR DOORS & WINDOWS	<input type="checkbox"/> PARKING LOTS
<input checked="" type="checkbox"/> INDOOR EQUIPMENT	<input type="checkbox"/> PATHWAY LIGHTING
<input checked="" type="checkbox"/> INTERIOR FINISHES	<input type="checkbox"/> PICNIC TABLES
<input checked="" type="checkbox"/> LIFE SAFETY, SECURITY & COMMUNICATIONS	<input type="checkbox"/> PLAYGROUND EQUIPMENT
<input checked="" type="checkbox"/> MECHANICAL & PLUMBING	<input type="checkbox"/> SAFETY STATIONS
<input checked="" type="checkbox"/> SITE	<input type="checkbox"/> SPORTS FENCING
<input checked="" type="checkbox"/> STRUCTURE	<input type="checkbox"/> SPORTS FIELDS
	<input type="checkbox"/> SPORTS LIGHTING
<b>FURNITURE, COMPUTER &amp; OFFICE EQUIPMENT</b>	<input type="checkbox"/> TENNIS COURTS
<input type="checkbox"/> COMPUTER HARDWARE	
<input type="checkbox"/> COMPUTER SOFTWARE	<b>INFRASTRUCTURE</b>
<input type="checkbox"/> DESKTOPS	<input type="checkbox"/> CATCHBASINS
<input type="checkbox"/> ELECTION EQUIPMENT	<input type="checkbox"/> FENCES
<input type="checkbox"/> EMO SPECIALTY ITEMS	<input type="checkbox"/> GATEWAYS
<input type="checkbox"/> FACILITY EQUIPMENT	<input type="checkbox"/> MANHOLES
<input type="checkbox"/> FIBRE OPTIC CABLE NETWORK	<input type="checkbox"/> NOISE ATTENUATION WALLS
<input type="checkbox"/> FURNITURE	<input type="checkbox"/> RAIL SPUR
<input type="checkbox"/> PORTABLE RADIOS	<input type="checkbox"/> RETAINING WALLS
<input type="checkbox"/> POS TERMINALS	<input type="checkbox"/> ROAD BRIDGES & CULVERTS
<input type="checkbox"/> TELEPHONE EQUIPMENT	<input type="checkbox"/> ROAD MONUMENTS
	<input type="checkbox"/> ROADS – ARTERIAL
<b>VEHICLES &amp; MACHINERY</b>	<input type="checkbox"/> ROADS – COLLECTOR
<input type="checkbox"/> FIRE STATION EQUIPMENT	<input type="checkbox"/> ROADS – LOCAL
<input type="checkbox"/> FIRE TRUCKS	<input type="checkbox"/> SAFETY DEVICES
<input type="checkbox"/> HEAVY EQUIPMENT	<input type="checkbox"/> SIDEWALKS
<input type="checkbox"/> HEAVY TRUCKS	<input type="checkbox"/> STORM SYSTEM UNERGROUND PIPING

THE CORPORATION OF THE CITY OF BRAMPTON

Part C Forms  
 PSAB Inventory Management Form  
 Bid Call No. T2021-173

<input type="checkbox"/> LICENSED VEHICLES	<input type="checkbox"/> TRANSIT SHELTERS/STOPS/PADS
<input type="checkbox"/> LIGHT TRUCKS	<input type="checkbox"/> WALKWAYS
<input type="checkbox"/> MACHINERY & EQUIPMENT	
<input type="checkbox"/> MOWERS & TRIMMERS	<b>INFRASTRUCTURE (TRAFFIC EQUIPMENT)</b>
<input type="checkbox"/> TRANSIT BUSES	<input type="checkbox"/> PARKING REVENUE EQUIPMENT
	<input type="checkbox"/> STREET LIGHTING
	<input type="checkbox"/> TRAFFIC LIGHTS/CONTROL EQUIPMENT
	<input type="checkbox"/> TRAFFIC SIGNS/STREET SIGNS

**GENERAL CONTRACTOR PERFORMANCE SCORECARD**

SECTION I – SCORECARD INFORMATION				
Scorecard Type:	Select type	Prepared	Name	Department
Scorecard #:	Select #	Date:	Click here to enter a date	
SECTION II – CONTRACTOR DATA		SECTION III – PROJECT DATA		
Purchase Order #:		Bid Call #:		
Vendor’s Name:		Project Location:		Ward: #
Vendor’s Address:		Contract Start Date:	Actual Start Date:	
		Click here to enter a	Click here to enter a	
		Contract Completion	Actual Completion	
Vendor’s Phone:		Click here to enter a	Click here to enter a	
Project Manager:	Site Superintendent:	Contract Award	Final Contract Amount:	
Brief Description of Work:				

RATINGS GUIDE		
SCORE	DESCRIPTION	
<b>N/A</b>	<b>NOT APPLICABLE</b>	Deliverable or task is not applicable to this project.
<b>3</b>	<b>POOR</b>	Deliverable or task is substantially deficient. Issue identified. Not resolved. Negative impact on Budget and or Schedule and or Quality.
<b>5</b>	<b>BELOW AVERAGE</b>	Deliverable or task is somewhat deficient. Issue identified. Resolved. However, negative impact on Budget and or Schedule and or Quality.
<b>7</b>	<b>AVERAGE</b>	Deliverable or task is acceptable. Issue identified and proactively resolved. No impact on Budget and or Schedule and or Quality.
<b>9</b>	<b>ABOVE AVERAGE</b>	Deliverable or task is performed with exceptional service. No issues identified, or proactively resolved any identified issues. Resolution had a positive impact on budget and/or schedule and/or quality, or mitigated negative impacts on project outcome.

SECTION IV – NUMERICAL RATING	
<b>1. SAFETY AND COMPLIANCE</b>	<b>RATINGS</b>
a. Compliance with OHSA	
b. Maintained site safety	
c. Maintained clean site (and access roads), housekeeping	
d. Submit site specific H&S plan	
e. Immediate action for notices/incidents/safety issues	
<b>TOTAL</b>	
<b>2. QUALITY AND CONFORMANCE</b>	
a. Provision of adequate and competent site supervision	
b. Quality and workmanship in conformance to contract requirements	
c. Damage to existing facility or property	
d. Coordination between sub-trades	
e. Resolution of deficiencies identified during construction	

<b>TOTAL</b>				
<b>3. PROJECT COMMENCEMENT</b>				
a. Timely submission and execution of contract documents				
b. Submission of Schedule of Values				
c. Submission of acceptable Baseline Schedule				
d. Commencement of work by the contractually required or agreed to revised start				
e. Mobilization and Coordination of resources including sub-trades				
<b>TOTAL</b>				
<b>4. PROJECT MANAGEMENT</b>				
a. Updates to Baseline Schedule as required by contract				
b. Conducting construction meetings, issue meeting minutes				
c. Submission of invoices/progress draws accurately complete with WSIB and Stat				
d. Reasonable and competitive CO pricing in timely manner				
e. Sub-trade liens				
<b>TOTAL</b>				
<b>5. PROJECT EXECUTION</b>				
a. Prompt compliance with COs, CDs, SIs, etc.				
b. Submission of reviewed quality shop drawings				
c. Commissioning of systems				
d. Timely material on site				
e. Substantial Performance achieved as per contractual requirement or agreed				
<b>TOTAL</b>				
<b>6. POST CONSTRUCTION</b>				
a. Total completion achieved as per contract requirements				
b. Response to Warranty Action items				
c. Resolution of deficiencies during warranty period				
d. Submission of As-Built, O&M manuals				
e. Training for staff on systems and maintenance				
<b>TOTAL</b>				
<b>7. CLIENT AND PUBLIC RELATIONS</b>				
a. Conduct of contractor's staff in professional and harmonious manner				
b. Clear and concise written communications				
c. Timely communication with City staff for access, shut-downs, etc.				
d. Team player and shows initiative to resolve issues and implement solutions				
e. Responsive to project team				
f. Relevance of RFIs				
<b>TOTAL</b>				
<b>GRAND TOTAL (1-7)</b>				
<b>Overall Performance Rating:</b>	<b>POOR</b> <input type="checkbox"/> <50%	<b>BELOW AVERAGE</b> <input type="checkbox"/> 50-69%	<b>AVERAGE</b> <input type="checkbox"/> 70-79%	<b>ABOVE AVERAGE</b> <input type="checkbox"/> >%80

**SECTION V – AUTHENTICATION AND RECOMMENDATION**

I have evaluated the Vendor’s performance in accordance with the Evaluation Process and have assigned a fair and objective rating to each criterion in Section IV of this Performance Scorecard.

**Comments:**

I met with the Vendor on [Click here to enter a date](#) to discuss this Performance Scorecard and I have considered the Vendor’s comments in making the below recommendation.  
 Based on my evaluation of the Vendor’s performance in accordance with this Performance Scorecard, the following is recommended (the “Recommendation”):

- The Vendor continue participating in the City’s procurement opportunities.
- The City suspend the Vendor from participating in its procurement opportunities for a period of 1 or 3 years in accordance with the City’s Vendor Suspension Administrative Directive.

State suspension period: [Time period](#)

City Contracts Manager

Print Name	Signature	Date
Manager or Supervisor		
Print Name	Signature	Date

**TO BE COMPLETED ONLY IF THE RECOMMENDATION IS TO SUSPEND THE VENDOR:**

We confirm that we have reviewed this Performance Scorecard and discussed the ratings and recommendations with the City Contracts Manager, and have obtained the Manager’s confirmation that the Performance Scorecard accurately reflects the Vendor’s performance. We hereby approve or reject the recommendation as follows:

Director

<small>APPROVE</small>	<small>REJECT</small>			
<input type="checkbox"/>	<input type="checkbox"/>	Print Name	Signature	Date

**Comments:**

Department Head

<small>APPROVE</small>	<small>REJECT</small>			
<input type="checkbox"/>	<input type="checkbox"/>	Print Name	Signature	Date

**Comments:**

Purchasing Agent

<small>APPROVE</small>	<small>REJECT</small>			
<input type="checkbox"/>	<input type="checkbox"/>	Print Name	Signature	Date

**Comments:**

**Attachments:**

Refer to attached Specifications and Drawings.

Specifications – 1239 pages

Drawings - 101 sheets

Appendix A “Covid-19 Instruction for Pre-Bid Site Visit” – 1 page

Please find below a **preview only** of certain schedules that will need to be **completed online only** through the Bidding System by the Bidder as part of your Bid submission.

The Bidder acknowledges that the preview below is provided as a courtesy only (to assist the Bidder in determining the size and scope of the project, etc.) and shall not be relied upon in any way.

Please note that the schedules shown below are **subject to change by addenda** issued by the Owner. Following the issuance of addenda, such changes may be reflected in the electronic schedules to be completed, but will not be reflected in this document. It is the Bidder's responsibility to review all addenda and ensure that the Bid is submitted based on the current requirements.

For greater certainty, the Bidder shall submit its Bid by completing all schedules and fields in the online Bidding System. Any Bid submitted on the basis of the preview schedules below may, in the Owner's sole discretion, be disqualified and rejected on the basis of being incomplete.

# T2021-173 - Construction of Fire Station 201 at 25 Rutherford Road South

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## Schedule of Prices

The Bidder hereby Bids and offers to enter into the Contract to provide all materials, labour and equipment necessary for the Project at the quoted unit and/or lump sum prices, all in accordance with the Proposal/Bid Document.

\* Denotes a "MANDATORY" field

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

If the line item and/or table is "NON-MANDATORY" and you are not bidding on it, leave the table and/or line item blank. Do not enter a \$0.00 dollar value.

## HST Information

Line Item	Question	Respond
1	Is your Business HST registrant? (Yes/No)	
2	If yes, provide your HST number. If not, explain why your Business is not HST registered.	

## Base Price

To provide all materials, labour and equipment necessary for the Project, all in accordance with the Bid Document.

**Substantial Performance of Work shall be by January 30, 2023 and Total Performance of Work shall be attained within 30 days from Substantial Performance of Work.**

Description	Quantity	Unit of Measure	Unit Price *	Sub-Total
Base Bid	1	Lump Sum		
Subtotal:				

## Cash Allowance

Cash allowance amounts shown are only to be used for specific work and costs as approved by the Owner in writing. All unspent Cash allowance amounts shall be deducted from the Contract and belong to the Owner.

Line Item	Description	Quantity	Cash Allowance	Extended Price
1	Cash Allowance	1	\$392,500.0000	\$ 392,500.00
Subtotal:				\$ 392,500.00

## Contingency

Contingency amounts shown are only to be used for specific work and costs as approved by the Owner in writing. All unspent contingency amounts shall be deducted from the Contract and belong to the Owner.

Description	Quantity	Contingency	Total
CONTINGENCY	1	\$350,000.0000	\$ 350,000.00
Subtotal:			\$ 350,000.00

**Summary Table**

Bid Form	Amount
Base Price	
Cash Allowance	\$ 392,500.00
Contingency	\$ 350,000.00
Total Price (excluding HST):	

**Sub-Contractors**

The Bidder shall state all Subcontractor(s) and type of Work proposed to be used on this Contract for the approval of the Owner. Bidders shall not indicate "TBD" (To Be Determined) or "TBA" (To Be Announced) or similar wording. The Bidder shall state only one (1) subcontractor for each type of work. Any changes to the approved list of Subcontractors must be approved by the Owner prior to any work taking place.

**Subcontractors**

By clicking here I confirm that there are no Subcontractor(s) and the Bidder shall perform the Contract with their "OWN FORCES".

Trade	Subcontractor	Address

**Documents**

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

**BONDING UPLOAD SECTION**

Please refer to section 13 - Bid Deposit

The Bid shall be accompanied by a Bid Deposit in the form of a digital bid bond ("Bid Bond") in the amount equal to or greater than ten percent (10%) of the Total Stipulated Price.

**NOTE:** Digital Bid Bonds are to be uploaded in their original format. Scanned copies will not be accepted.

- Bid Bond (10%) \* (mandatory)

## **Bidders Declarations**

### **Bidder's Declaration**

The Bidder by submitting its Bid:

1. acknowledges that it has received all the documents making up the Bid Document listed in the Index and any and all Addenda issued in respect of the Bid Document and the Bidder has provided for compliance with the provisions of the all of the foregoing;
2. acknowledges and agrees that all issued Addenda form part of the Bid Document;
3. declares that it has carefully examined the locality and site of any proposed requirements under the Contract, as well as the Bid Document including any and all Addenda issued by the Owner;
4. acknowledges that quantities included in the Price Schedule are an estimate of the Owner's requirements and there is no guarantee that the full quantities of products or work will be required or purchased;
5. agrees it will execute whatever reductions in the work, and/or additional work as required at the unit prices quoted in its Bid, in strict conformity and in all respects with the requirements of the Bid Call, and the specifications, terms, conditions and agreements applicable to this Bid;
6. agrees to accept payment for the sums calculated in accordance with the actual measured quantities and unit prices quoted in the Price Schedule;
7. confirms that all prices submitted are in Canadian funds;
8. confirms that its prices include all taxes, duties, exchange, labour, charges, currency and freight in respect of all work to be performed under the Contract, except for HST;
9. agrees that if this Bid is accepted, and the Bidder is non-resident in Ontario or Canada, it shall obtain a GST/HST Registration Number prior to commencement of the work;
10. declares that this Bid is made without any connections, knowledge, comparison of figures or arrangements with any other person, including any partnership or corporation, making a Bid for the same requirements as stated in the Bid Call and is in all respects fair and without collusion or fraud;
11. declares that no person, including any partnership or corporation, or anyone other than the Bidder, has any interest in this Bid or in any Contract as may be awarded in respect of this Bid;
12. certifies that the Bidder is in full compliance with Section 6 of Ontario Regulation 429/07, Accessibility Standards for Customer Service, made under the Accessibility for Ontarians with Disabilities Act, 2005; and if requested, it will be able to provide written proof that all employees have been trained as required under the Act;
13. declares that it is not engaged in unresolved litigation with the Owner as of the date of submission of this Bid;
14. declares that this Bid is made in the Bidder's proper legal name and acknowledges that the Owner shall not be required to enter into a Contract awarded to the Bidder if the name of the contracting party in the Contract is different than the name of the Bidder in this Bid, but Owner may enter into a Contract in its sole and absolute discretion subject to correcting the Contract to reflect the proper legal name;
15. acknowledges and agrees that information contained in this Bid submitted to the Owner shall be subject to disclosure as may be required under the provisions of the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). Any confidentiality obligations of the Owner under the Bid Call are expressly subject to the obligations and requirements of MFIPPA now or hereafter in effect;
16. agrees that its Bid as submitted to the Owner shall become the property of the Owner;
17. the bid deposit, if required by the Bid Call, is in accordance with the requirements specified in the Bid Call and is submitted

electronically prior to or at the same time as submission of this Bid;

18. if the Bidder withdraws this Bid after Bid Closing and prior to award of the Contract in respect thereof, during the time that this Bid is open to acceptance as set out in this Bidder's Declaration, the amount of the deposit for this Bid shall be forfeited to the Owner; and

19. agrees (i) that this Bid is irrevocable after Bid Closing and shall continue to be open to acceptance after Bid Closing until the Contract is executed or until sixty (60) days after the Closing Date whichever first occurs, and the Owner may at any time within that period and without notice accept this Bid whether any other Bid has been previously accepted or not; and (ii) to enter into a contract with the Owner to perform the work described in the Bid Call, in accordance with the Bid Document and on its terms and conditions, which are expressly acknowledged and agreed to by the Bidder to be made part of the Contract, and the awarding by the Owner of the contract based on this Bid shall be an acceptance of Bid.



**By completing the information below and submitting the Proposal/Bid and this Bidder's Declaration it is understood that, on behalf of the Bidder as the Bidder's authorized officer, I have read, understood and agree to abide by the instructions, terms, conditions and specifications contained in this Bidder's Declaration and the Proposal/Bid Document and any Addenda issued in respect of the Proposal/Bid Document.**

By checking "NO" below, the Bidder declares that no actual, potential, or perceived conflict of interest exists or could arise in submitting this Proposal and declares that no member of the City Council, or any officer or employee of The Corporation of the City of Brampton is, or will become interested directly or indirectly as a contracting party or otherwise, in any Contract awarded in respect of this Proposal, or in the supplies, work or business to which any such Contract relates, or in any profits or benefit to be derived from any such Contract.

Yes  No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Proposal/Bid Document.

Please check the box in the column "**I have reviewed this addendum**" below to acknowledge each of the addenda.

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