

SUPPLEMENTARY CONDITIONS – CCDC 2 – 2020

AGREEMENT

SC 1 ARTICLE A-1 THE WORK

- 1.1 ADD the following as new paragraph 1.4: “1.4 provide all the labour, materials, equipment, machinery, Products and work including, all commissioning services required by the Contract Documents in order to fully complete and construct the Work and in accordance with, and satisfaction of, all applicable federal, provincial, municipal and local laws, regulations, rules, by-laws, guidelines, standards, permits, statutes, ordinances, and codes including, those relating to occupational health and safety and any and all obligations, responsibilities and duties required by or set out in any site plan agreement or approval, attributable to the Place of the Work and/or the proposed development therein, and furnish efficient business and construction administration and superintendence consistent with the interests of the Owner.”

SC 2 ARTICLE A-3 CONTRACT DOCUMENTS

- 2.1 ADD the words “- Supplementary Conditions.”

SC 3 ARTICLE A-4 CONTRACT PRICE

- 3.1 ADD new paragraph 4.6 as follows: “4.6 The parties agree that the Contract Price shall be the complete price for the Work and includes all contingency amounts that the Contractor believes are necessary to complete the Work in accordance with the Contract Documents. For certainty, the Contractor acknowledges and agrees that the Contract Price includes, the co-ordination of all documentation with the Consultant, all Supplemental Instructions, contract and estimate proposals and all contingency amounts.”.

SC 4 ARTICLE A-5 PAYMENT

- 4.1 DELETE paragraph 5.2 in its entirety and REPLACE with the following: “5.2 The Contractor shall, in accordance with the terms of its agreements with any Subcontractors, Suppliers and workers, pay all of its Subcontractors, Suppliers and workers in full on account of work properly performed or Products properly supplied, as applicable, less any holdback monies retained in compliance with the Payment Legislation.”

SC 5 DEFINITIONS

- 5.1 **Contract Documents** - ADD at the end of the sentence the words “in writing”.
- 5.2 **Completion** - ADD new definition as follows: “Completion means when all of the following have occurred: (a) Substantial Performance of the Work has been achieved; and (b) the Contract is completed and is so certified by the Consultant.”.
- 5.3 **Standard of Care** - ADD new definition as follows: “Standard of Care means the degree of care, skill and diligence of a prudent, knowledgeable, and experienced construction manager or contractor, supplying similar services or work for a project which is similar in size, magnitude and complexity to the Project.”
- 5.4 **Substantial Performance of the Work** - DELETE the entire definition and REPLACE with the following: “Substantial Performance of the Work means when all of the following have occurred: (a) the Contract is deemed to have been substantially performed within the meaning of the

applicable lien legislation and is so certified by the Consultant; and (b) Ready-for-Takeover has been attained.”.

GENERAL CONDITIONS

SC 6 GC 1.1 – CONTRACT DOCUMENTS

6.1 DELETE paragraph 1.1.4 in its entirety and replace with the following:

“1.1.4 Review of Contract Documents

- .1 The Contractor represents and warrants that it has reviewed, or shall review, the Contract Documents (other than any Contractor Documents) or any other information or documents provided by or on behalf of Owner using the Standard of Care. If the Contractor finds any error, inconsistency or omission in such information and documents or has any doubt as to the meaning or intent of any part thereof, the Contractor shall immediately notify the Owner for resolution of the issue. The Owner shall provide corrected or missing information, instructions or explanations from the Consultant in writing and shall not be responsible to the Contractor for oral instructions. The Contractor shall comply with such information, instructions or explanations. The Contractor shall not proceed with the Work affected until the Contractor has received such information, instructions or explanations. In dealing with such error, inconsistency or omission the Contractor shall co-operate with the Owner to resolve such error, inconsistency or omission so as to avoid any increase in the Contract Price or delay in the progress of the Work.
- .2 Except as set out in this paragraph 1.1.4, the Contractor does not assume any responsibility to the Owner for the accuracy of the Contract Documents (other than any Contractor Documents) or any other information or documents provided by or on behalf of Owner. The Contractor shall not be liable for damages or costs resulting from errors, inconsistencies or omissions in such information and documents that the Contractor did not discover, provided that the Contractor acted in accordance with the Standard of Care. The Contractor shall be liable and responsible for damage or costs (and without extension of the Contract Time) resulting from errors, inconsistencies or omissions in such information and documents if it recognizes, or ought to have recognized if it had acted in accordance with the Standard of Care, such errors, inconsistencies or omissions, yet fails to raise such errors, inconsistencies or omissions to the Owner’s attention prior to performing the affected Work.
- .3 For clarity, the Contractor assumes all responsibility to the Owner for the accuracy and completeness of all Contractor Documents and the Contractor shall be liable for damage or costs resulting from any errors, inconsistencies, or omissions in the Contractor Documents whether or not the Contractor has acted in accordance with the Standard of Care in the preparation of such documents.”

6.2 ADD the following to the end of paragraph 1.1.8: “The words “including”, “includes” or “include” shall mean “including, without limitation”.”

6.3 ADD new paragraph 1.1.12 as follows: “1.1.12 The Contractor acknowledges and agrees that all construction documents, as-built drawings and specifications and any other plan, sketch, graphic representation, design, drawing, specification or document (collectively, the “**Contractor**

Documents”) prepared by or on behalf of the Contractor in connection with the Work shall become the property of the Owner as they are prepared and paid for by the Owner in accordance with the Contract. The Contractor shall keep the Owner advised and updated on the status and specific location of all Contractor Documents. The Contractor grants to the Owner a perpetual, irrevocable, non-exclusive, cost-free and royalty-free license to use the Contractor Documents for any reason or purpose of the Work and the Project.”

SC 7 GC 1.5 – EXAMINATION OF PLACE OF THE WORK

7.1 ADD new GC 1.5 EXAMINATION OF PLACE OF THE WORK as follows:

“1.5.1 The Contractor represents and warrants that, using the Standard of Care, it has examined the Place of the Work and surrounding area and it has satisfied itself as to the scope and character of the Work, all conditions and information affecting the Work (including the nature and location of the Work, access to the site and weather conditions). Contractor acknowledges and agrees that it has had adequate time and opportunity to conduct sufficient investigations at the Place of the Work and has satisfied itself as to the scope and character of the Work and all conditions and information affecting the Work, to determine accurate scope, pricing, and scheduling for the Project. As a result, the Contractor has assumed and does hereby assume all risk of conditions now existing or arising in the course of the Work that might or could make the Work more expensive or more onerous to fulfil and which a contractor or construction manager using the Standard of Care would have discovered. The costs, expenses and time of all conditions referred to in this paragraph 1.6.1 form part of the Contract Price and the Contract Time and shall not be the basis for an increase in the Contract Price or an extension in the Contract Time.”

SC 8 GC 1.6 – CONFIDENTIALITY

8.1 ADD new GC 1.6 – CONFIDENTIALITY as follows:

“1.6.1 Except as provided for in GC 1.6.4, the Contractor shall not divulge the Confidential Information communicated to or acquired by it in the course of carrying out the Work or in connection with the Project and shall maintain the Confidential Information in its possession or control confidential and secure. The Contractor shall not have any proprietary rights to or interest in the Confidential Information, nor shall the Contractor have any right to license such information to any Subcontractor, Supplier or third party. The term “**Confidential Information**” as used herein shall mean all confidential and proprietary information which the Contractor receives, whether before or after the date of the Agreement, either directly or indirectly, from the Owner or from any other Project participant or on account of any previous involvement in design or construction for the Owner including financial information, tendering information, marketing information, business opportunities, leasing information, prospective tenant information, designs, know-how, compilations of information, samples and copies thereof in oral, written, graphic, machine readable or physical form.

1.6.2 The Contractor shall use the Confidential Information only to perform the Work and, for greater certainty, shall not use the Confidential Information on any other project or for any other work or services, without the prior written consent of the Owner, which consent may be unreasonably withheld. The Contractor acknowledges that the Confidential Information is and at all times shall remain the exclusive property of the Owner and upon request from Owner or upon termination of the Work, the Contractor shall return all Confidential Information to the Owner.

1.6.3 The Contractor may disclose the Confidential Information to those of its employees, Subcontractors or Suppliers to whom disclosure is required for the performance of the Work but only after the Contractor informs each such employee, Subcontractors or Suppliers as to the

nature of such information and each such employee, Subcontractors or Suppliers has properly assumed confidentiality obligations identical in principle with those herein. The Contractor acknowledges and agrees that any breach of the covenants contained in this GC 1.6 will cause irreparable harm and damage to the Owner which could not be completely compensated by monetary damages. The Owner shall be entitled to apply for injunctive relief for any breach of the covenants in this GC 1.6.

1.6.4 The Owner and Contractor hereto mutually agree that the covenants contained in this GC 1.6 shall survive the termination or completion of this Contract and extend indefinitely following the date of such termination or completion.”

SC 9 GC 2.4 – DEFECTIVE WORK

- 9.1 ADD the words “or the Owner” immediately following the words “the Consultant” in paragraph 2.4.1.
- 9.2 DELETE paragraph 2.4.3 in its entirety and REPLACE it with the following: “2.4.3 If in the opinion of the Consultant it is not expedient to correct defective work or work not performed as provided in the Contract Documents, the Owner may deduct from the amount otherwise due to the Contractor the greater of (i) the difference in value between the work as performed and that called for by the Contract Documents and (ii) the cost to rectify the defective or substandard work. If the Owner and the Contractor do not agree on the difference in value or the cost to rectify the work, they shall refer the matter to the Consultant for a finding.”.

SC 10 GC 3.2 – CONSTRUCTION BY THE OWNER OR OTHER CONTRACTORS

- 10.1 ADD the following at the end of paragraph 3.2.3.4: “Failure by the Contractor to so report shall invalidate any claims against the Owner by reason of the deficiencies in the work of Other Contractors or the Owner’s own forces or any way arising from the affect of such work on the Work.”.

SC 11 GC 3.3 – TEMPORARY WORK

- 11.1 ADD new paragraph 3.3.4 as follows: “3.3.4 GC 3.8 – SHOP DRAWINGS also applies to the Temporary Work.”

SC 12 GC 3.5 – SUPERVISION

- 12.1 ADD new paragraph 3.5.3 as follows: “3.5.3 Without limiting the generality of any other provision in the Contract Documents, the Contractor agrees to commit to the Project until Completion, the following key personnel (“**Key Personnel**”): ●. *[NTD: Insert details of Key Personnel.]* The Key Personnel may not be changed without the Owner’s prior written acceptance. If any of the Key Personnel become unavailable to perform services, then the Contractor, subject to the prior written acceptance of the Owner, shall promptly appoint a replacement. The Contractor shall replace Key Personnel, at any time or times, as instructed by the Owner, within 5 Working Days of receiving such instruction, with a replacement acceptable to the Owner. The Contractor shall provide the Owner with the telephone numbers of the Key Personnel.”

SC 13 GC 3.7 – LABOUR AND PRODUCTS

- 13.1 ADD the following new paragraphs after paragraph 3.7.3:

“3.7.4 The cost for overtime work (including overtime rates) that the Contractor elects to perform without the Owner requesting it (including work beyond the normal working day to complete individual construction operations of a continuous nature, such as pouring or finishing of concrete or similar work), shall not be chargeable to the Owner and shall be at the expense of the Contractor and without adjustment in the Contract Price.

3.7.5 Title to the Products (and each portion thereof) shall pass to the Owner immediately upon payment therefor (subject to applicable holdback that is not then due) or upon incorporation thereof as part of the Work, whichever first occurs, free and clear of all liens, charges and encumbrances. Notwithstanding the foregoing, the Contractor shall continue to bear the risk of loss or damage with respect to the Work (including Products delivered to the Place of the Work but not yet installed) until the date of written acceptance of the Work by the Owner.

3.7.6 The Contractor covenants and agrees that the Work, including all Products and components thereof, shall conform to the Contract Documents in all respects and shall be of merchantable quality as described in the Contract Documents and free of defects in materials and workmanship. This paragraph 3.7.6 shall be in addition to, and without prejudice of, any other provision in this Contract. The Contractor shall not employ any person on the Project whose labour affiliation (or lack thereof) is incompatible with other labour employed in connection with this Project or at the Place of the Work.

3.7.7 The Contractor shall maintain at the Place of the Work at all times a sufficient, competent, skilled, reliable, and honest workforce to carry out its obligations in an efficient and timely manner in accordance with the requirements of the Contract.”

SC 14 GC 3.9 – DOCUMENTS AT THE SITE

14.1 ADD new GC 3.9 – DOCUMENTS AT THE SITE as follows:

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

3.9.2 During the progress of the Work, the Contractor shall maintain, on a set of Drawings and Specifications, an up-to-date record of all changes, additions or deletions to the Work occurring during the construction as a result of Change Orders, Change Directives, Supplemental Instructions or otherwise. Such as-built Drawings and Specifications shall include the location of hidden or buried services and other as-built conditions of the Work. The Contractor shall keep such as-built Drawings and Specifications at the Place of the Work and shall keep them available to the Owner and the Consultant to enable them to verify that such as-built Drawings and Specifications are being maintained in a complete and up-to-date manner and that they reflect the Work to the extent such work has been constructed at the date of inspection. The Contractor shall deliver such as-built Drawings and Specifications to the Owner on or before Ready-for-Takeover for that aspect of the Work dealt with in such as-built Drawings and Specifications.”

SC 15 GC 3.10 – USE OF THE WORK

15.1 ADD new GC 3.10 – USE OF THE WORK as follows:

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

3.10.2 The Contractor shall not load or permit to be loaded any part of the Work with a weight or force that will endanger the safety of the Work or integrity of the Work or any part of the Place of the Work, individuals and the area adjacent to the Place of the Work. The Contractor shall provide drainage and erect temporary structures and other measures as necessary to protect the Work and Products from loss or damage.

3.10.3 All Products shall be stored under suitable conditions to prevent damage, deterioration and contamination. The Contractor shall not store Products at the Place of the Work or on the Project structure where such storage could damage the structure or otherwise affect the safety of the Project.

3.10.4 The Contractor shall be solely responsible for the security of the Place of the Work and shall ensure that the Place of the Work is protected and secure at all times until the issuance of the certificate of Completion, including in accordance with, and in compliance with, the Owner's policies and procedures."

SC 16 3.11 – CUTTING AND REMEDIAL WORK

- 16.1 ADD new GC 3.11 – CUTTING AND REMEDIAL WORK as follows: "3.11.1 The Contractor shall perform the cutting, fitting, patching, and remedial work including excavation and fill, required to make the affected parts of the Work come together properly and complete the Work. The Contractor shall co-ordinate and perform the Work to ensure that the cutting, fitting, patching, and remedial work is kept to a minimum. Cutting, fitting, patching, and remedial work shall be performed using competent and qualified specialists familiar with the Products affected, in a manner to neither damage nor endanger the Work."

SC 17 GC 3.12 – CLEANUP

- 17.1 ADD new GC 3.12 – CLEANUP as follows:

"3.12.1 The Contractor shall maintain the Work in a safe and tidy condition and free from the accumulation of waste materials and construction debris, other than that caused by the Owner, Other Contractors or their employees. Without limiting the generality of the foregoing, the Contractor shall remove, and dispose of, all waste products, debris and flammable materials daily. Stock piling on site is prohibited, unless in compliance with the applicable laws, orders, rules, regulations or guidelines of the Place of the Work. Without limitation to or waiver of the Owner's other rights and remedies, the Owner shall have the right to back charge cleaning to the Contractor if not done by the Contractor within 2 Working Days of notice to clean.

3.12.2 Prior to application for Ready-for-Takeover, the Contractor shall leave the Place of the Work in a clean and finished state; remove all equipment and materials; remove all paint, stains, labels, dirt, etc. from the Work; remove any remaining surplus products, tools, Construction Equipment, Temporary Work, and waste materials and construction debris; and touch up all damaged painted areas."

SC 18 GC 3.14 – COMMISSIONING

- 18.1 Add new GC 3.14 – COMMISSIONING as follows: "3.14.1 The Contractor shall commission the Work in accordance with the requirements of the Contract and the Owner. Without limiting the generality of any other provision in the Contract, the Contractor shall provide the Owner with prior written notice of when the commissioning of the Work will take place and the Contractor shall allow the Owner to witness the commissioning of the Work."

SC 19 GC 4.1 – CASH ALLOWANCES

- 19.1 DELETE paragraph 4.1.7 in its entirety and replace with: “At the commencement of the Work, the Contractor shall prepare for the review and acceptance of the Owner and the Consultant, a schedule indicating the times, within the construction schedule referred to in GC 3.4, that items called for under cash allowances and items that are specified to be Owner purchased and Contractor installed or hooked up are required at the site to avoid delaying the progress of the Work.”
- 19.2 ADD new paragraph 4.1.8: “The Owner reserves the right to call, or to have the Contractor call, for competitive bids for portions of the Work, to be paid for from cash allowances.”

SC 20 GC 4.2 – CONTINGENCY ALLOWANCE

- 20.1 DELETE GC 4.2 in its entirety.

SC 21 GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER

- 21.1 DELETE GC 5.1 in its entirety and replace with “Intentionally Deleted”.

SC 22 GC 5.2 – APPLICATIONS FOR PAYMENT

- 22.1 ADD the following at the end of paragraph 5.2.8: “The Contractor shall not be entitled to payment for Products not at the Place of the Work.”
- 22.2 ADD new paragraph 5.2.9 as follows: “5.2.9 Payment to the Contractor shall be subject to a right of setoff by the Owner for charges, expenses, prosecutions, fines, penalties and legal defence costs incurred by the Owner and arising out of the Contractor’s and/or a Subcontractor’s violations and non-compliance with construction health and safety legislation or regulations.”

SC 23 GC 6.4 – CONCEALED OR UNKNOWN CONDITIONS

- 23.1 AMEND paragraph 6.4.2 as follows: add “subject to GC 1.5 – EXAMINATION OF PLACE OF THE WORK,” after “differ materially and”.

SC 24 GC 7.1 – OWNER’S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR’S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT

- 24.1 AMEND paragraph 7.1.1 by replacing the words “terminate the Contractor’s right to continue with the Work” with “terminate the Contract or terminate the Contractor’s right to continue with the Work”.
- 24.2 AMEND paragraph 7.1.5 by replacing the words “terminates the Contractor’s right to continue with the Work” with “terminates the Contract or terminates the Contractor’s right to continue with the Work”.
- 24.3 DELETE the period at the end of paragraph 7.1.5.4 and REPLACE it with “; and” and ADD the following as new paragraph 7.1.5.5: “.5 give notice to all Suppliers and Subcontractors under subcontracts that have been assigned to the Owner in accordance with paragraph 3.6.7 that the Owner is exercising its right to assume all of the rights and to perform all of the obligations of the Contractor under such subcontracts and directing the Subcontractors and Suppliers to disregard

any notices or instructions from the Contractor from and after the date of such notice from the Owner.”.

- 24.4 ADD new paragraph 7.1.7 as follows: “7.1.7 The Owner has the authority to stop the progress of the Work whenever, in the Owner’s opinion, acting reasonably, if there is a danger to safety, life or property or to the neighbouring property or to the Work. If the progress of the Work is stopped by the Owner, the Owner shall within 2 Working Days provide written confirmation to the Contractor and the Consultant of the reason for such stoppage and of the corrective measures to be taken.”.

SC 25 GC 9.1 – PROTECTION OF WORK AND PROPERTY

- 25.1 Delete subparagraph 9.1.1.1 in its entirety and substitute new subparagraph 9.1.1.1: “9.1.1.1 errors in the Contract Documents which the Contractor could not have discovered applying the Standard of Care.”.
- 25.2 ADD at the end of paragraph 9.1.3 the words “or for paying the cost of making good such damage if such damage is made good by another contractor as a result of the Contractor’s failure to make good such damage”.

SC 26 GC 9.4 – CONSTRUCTION SAFETY

- 26.1 DELETE paragraph 9.4.1 in its entirety and replace with the following: “9.4.1 The Contractor shall assume overall responsibility for, and shall be solely responsible for, construction health and safety at the Project and the Place of the Work and for compliance with the rules, regulations, and practices required by, and other requirements of, the *Occupational Health and Safety Act* (Ontario) (“OHSA”).

- 26.2 DELETE paragraph 9.4.5 in its entirety and replace with the following: “Intentionally Deleted.”

- 26.3 ADD new paragraphs 9.4.6, 9.4.7, 9.4.8, 9.4.9 and 9.4.10 as follows:

“9.4.6 Without limiting the generality of paragraph 9.4.1,

- .1 the Contractor acknowledges that in respect of the Project and the Place of the Work, it is, and shall carry out and fulfil, the duties and responsibilities of the “constructor” and the “employer” within the meaning of the OHSA, including filing the notice of project or equivalent documentation, from the date of commencement of the Work until Completion; and
- .2 the Contractor shall be responsible for establishing, initiating, maintaining, and supervising all safety precautions and programs with respect to the Project and for compliance with such precautions and programs (including by the Subcontractors, Suppliers and Sub-subcontractors).

9.4.7 The Contractor shall provide evidence to the Owner upon request that the Contractor and its Subcontractors and Suppliers have in place safety programs, and that all employees of the Contractor and its Subcontractors have received training in occupational safety, all in compliance with the requirements of the OHSA. The Contractor shall incorporate into all safety precautions and programs any reasonable comments of the Owner’s insurance company providing insurance for the Project. Such review and comments shall not limit or reduce any of the Contractor’s obligations or responsibilities under this Contract.

9.4.8 The Owner has authority to stop the progress of the Work whenever in the reasonable opinion of the Owner such stoppage is necessary to ensure the safety of life, or of neighbouring property, if the Contractor has not resolved the safety or life issue within a 24-hour period following a written notice by the Owner to that effect. However, and for greater certainty, any such action by the Owner is a temporary, emergency measure which the Owner and Contractor agree, does not derogate from, limit, relieve or otherwise alter the Contractor's obligations as "constructor" for the Project.

9.4.9 Contractor shall promptly report to the Owner any accident or emergency that relates to the Work. The Contractor shall cooperate fully with the Owner with respect to dealing with any claim resulting from an accident or emergency. In the event of an accident or emergency threatening health, life or property, the Contractor, without instruction or authorization from the Consultant or Owner, shall take such action as may be necessary to save lives and protect persons from injury, and, this being done, to protect and preserve property.

9.4.10 The Contractor shall indemnify the Owner for any failure or alleged failure by the Contractor to comply with the requirements of GC 9.4 – CONSTRUCTION SAFETY and shall include fines or penalties imposed by a governmental authority, and legal fees and disbursements to defend any charges, actions or proceedings of a governmental authority, arising out of or attributable to the Owner's failure or alleged failure to comply with any duties or responsibilities it may found or alleged to have as an employer in connection with the Work."

SC 27 GC 12.1 – READY-FOR-TAKEOVER

27.1 DELETE paragraph 12.1.1.1 in its entirety.

27.2 ADD new paragraph 12.1.1.9 as follows: ".9 The Contractor has provided the Owner and the Consultant with a summary of all guarantees and warranties received or to be received by the Contractor from any Subcontractors or Suppliers and copies of such warranties and guarantees to the extent received."

27.3 AMEND paragraph 12.1.2 by replacing "12.1.1.3 to 12.1.1.6" with "12.1.1.4 and 12.1.1.5".

SC 28 GC 12.2 – EARLY OCCUPANCY BY THE OWNER

28.1 DELETE paragraph 12.2.2 in its entirety.

28.2 DELETE paragraphs 12.2.3.2 and 12.2.3.3.

28.3 DELETE paragraph 12.2.4 in its entirety.

SC 29 GC 12.3 – WARRANTY

29.1 AMEND paragraph 12.3.1 by replacing "one year from the date when Ready-for-Takeover has been attained" with "one year (except where otherwise noted for a longer period of time in the Contract Documents) from the date when Substantial Performance of the Work has been attained (the "Warranty Period")".

29.2 DELETE paragraph 12.3.2 and REPLACE it with the following: "The Contractor warrants that all Work shall be new, of good quality material, of merchantable quality, as described and specified in the Contract Documents and free of defects and deficiencies and conforms to the requirements of the Contract during the Warranty Period and any extended warranty period provided by the Contractor."

- 29.3 In paragraph 12.3.3 delete “, through the Consultant.” and delete “one year” and replace it with “applicable”.
- 29.4 AMEND paragraph 12.3.4 as follows:
- (a) DELETE “one year warranty period” and replace with “Warranty Period or any extended warranty period provided by the Contractor”; and
 - (b) ADD “The obligation of the Contractor to perform the corrective work in accordance with this GC 12.3 shall include the provision of all necessary labour and materials and the removal and replacement of covering materials. The Contractor, at its cost, shall correct or pay for damages resulting from corrections made under the requirements of this paragraph 12.3.4 or are caused by the defective or deficient work, including the correction of, or payment for, all damages to the Work or the property, goods or equipment of the Owner or others. The Contractor acknowledges that the timely performance of warranty work is critical to the Owner. The Contractor shall respond to the requirement of the Owner to correct defective or deficient Work within the time periods required by the Owner. The carrying out of the replacement work and making good of defects shall be commenced and completed as expeditiously as possible and shall be executed at such times as convenient to the Owner which may entail overtime work on the part of the Contractor. Additional charges for overtime work in this regard must be borne by the Contractor. If the Contractor fails to promptly correct defective or deficient work or damages, the Owner may repair the work or property and hold the Contractor responsible for all costs thereof (including the costs of labour and materials). For greater certainty, if the Contractor is notified of defects or non-conformance prior to the end of the Warranty Period or any extended warranty period provided by the Contractor, then the Contractor shall make good the defect or non-conformance as specified herein, notwithstanding that the warranty work may commence or extend beyond the end of the Warranty Period or any extended warranty period provided by the Contractor.” at the end.
- 29.5 DELETE paragraph 12.3.6 in its entirety and replace with the following: “12.3.6 Any extended warranties required beyond the Warranty Period, shall be as specified in the Contract Documents. Without limiting the Contractor’s warranty under GC 12.3 – WARRANTY, extended warranties shall be issued by the warrantor to the benefit of the Owner. The Contractor’s responsibility with respect to extended warranties (which are not being provided by the Contractor) shall be limited to obtaining any such extended warranties from the warrantor and the Contractor shall assist the Owner in the administration of such extended warranties (which are not being provided by the Contractor) to the extent reasonably required by the Owner. The obligations under such extended warranties (which are not being provided by the Contractor) are solely the responsibilities of the warrantor. For greater certainty, the Contractor’s obligation to obtain and administer extended warranties (which are not being provided by the Contractor), as described in this paragraph 12.3.6, relates to the time period beyond the Warranty Period.”
- 29.6 ADD the following new paragraphs after paragraph 12.3.6:
- “12.3.7 Within 30 calendar days after Substantial Performance of the Work, and without limiting the Contractor’s warranty under this GC 12.3, the Contractor shall assign to the Owner the benefit of all warranties and guarantees relating to the Work. The assignment shall expressly reserve the right of the Contractor to make any claims under such warranties and guarantees and such assignment shall in no way prejudice any rights of or benefits accruing to the Contractor pursuant to such warranties and guarantees.

- 12.3.8 The warranty provisions in the Contract Documents and other provisions in the Contract dealing with the Contractor's responsibility to correct defective or deficient work are in addition to, and without prejudice to, any right or remedy otherwise available to the Owner for the Contractor's failure to fulfil its responsibilities and obligations under the Contract and shall not be construed as a waiver of claims in favour of the Contractor or as a limitation on the time in which the Owner may pursue such other right or remedy. The warranties and other rights and remedies set forth in this Contract are supplemental to and do not limit or preclude the application of any of the conditions, warranties or other provisions, express or implied by law, trade usage or otherwise.
- 12.3.9 Neither the final payment of the Contractor by the Owner nor acceptance of the Work by the Owner (in whole or in part) shall relieve the Contractor from responsibility hereunder for any such defects in workmanship or materials or non-conformance with the Contract Documents.
- 12.3.10 Any Products requiring excessive servicing during the Warranty Period shall be considered defective and the warranty shall be deemed to take effect from the time that the defect has been corrected so as to cause excessive servicing to terminate."

SC 30 GC 13.1 – INDEMNIFICATION

- 30.1 DELETE paragraph 13.1.1 in its entirety and REPLACE with the following:

"13.1.1 Without restricting the generality of any other provision in the Contract, the Contractor shall indemnify the Owner and its directors, officers, employees, successors and assigns (collectively the "**Indemnified Parties**"), and save them harmless from and against any and all claims, demands, losses, costs, damages, actions, causes of action, suits or proceedings and all other liabilities, losses and expenses including bodily injury or death to any person or loss or damage to property, court costs, interest, legal fees, adjusting fees and disbursements (collectively "claims") made against or suffered or incurred by the Indemnified Parties, directly or indirectly and which arise from or are connected with:

- (i) any failure or alleged failure by the Contractor (or any Subcontractor, Supplier or anyone for whom the Contractor and/or its Subcontractors and Suppliers may be responsible) to comply with the Contract Documents including any applicable laws or regulations, including provincial workers' compensation laws and/or regulations, construction health and safety legislation and/or regulations and from any trade union pursuant to the collective agreement;
- (ii) any infringement or alleged infringement by the Contractor (or any Subcontractor, Supplier or anyone for whom the Contractor and/or its Subcontractors and Suppliers may be responsible) of any intellectual property right including any misuse, passing off or infringement or alleged infringement of trade-marks;
- (iii) any defective or potentially hazardous goods used by the Contractor (or any Subcontractor, Supplier or anyone for whom the Contractor and/or its Subcontractors and Suppliers may be responsible);
- (iv) any form of theft, fraud, or illegal activity by the Contractor (or any Subcontractor, Supplier or anyone for whom the Contractor and/or its Subcontractors and Suppliers may be responsible) or any of their respective agents, directors, officers, or employees;

- (v) any wilful act, omission or negligence of the Contractor (or any Subcontractor, Supplier or anyone for whom the Contractor and/or its Subcontractors, and Suppliers may be responsible), or any of their respective agents, directors, officers, servants, contractors or employees; and
- (vi) any negligence by the Contractor (or any Subcontractor, Supplier or anyone for whom the Contractor and/or its Subcontractors, and Suppliers may be responsible) directly or indirectly arising or contributing to or alleged to arise out of the Contractor's performance of or the failure to perform the Work, or out of the conditions of the work, the job site, adjoining land, driveways, streets or alleys used in connection with the performance of the Work under this Contract;

but shall not include any claims arising solely from the active negligence of the party asking to be defended, indemnified or saved harmless.

30.2 DELETE paragraph 13.1.2 in its entirety and REPLACE with "[Intentionally Deleted]".

SC 31 GC 13.2 – WAIVER OF CLAIMS

31.1 DELETE GC 13.2 in its entirety and REPLACE with the following: "13.2.1 Subject to any rights or remedies provided by the applicable lien legislation as of the date of the final certificate for payment, the Contractor expressly waives and releases the Owner from all claims against the Owner including, those that might arise from the negligence or breach of contract by the Owner except: (i) those made in writing in compliance with the Contract Documents prior to the Contractor's application for final payment and still unsettled; and (ii) those arising from the provisions of GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS, or GC 10.3 – PATENT FEES."

SC 32 GC 14 – OTHER CLAUSES

32.1 ADD new GC 14 – OTHER CLAUSES as follows:

"14.1 The Contractor shall perform the Work in accordance with the Standard of Care.

14.2 NO LIENS

.1 Notwithstanding any other term or condition in the Contract Documents, in the event that a lien arising from the performance of the Work, whether valid or not, is registered against the Place of the Work or written notice of a lien is provided to the Owner:

- .1 the Contractor shall, within 10 Working Days of being notified of the foregoing, at its sole expense vacate or discharge the lien or cause the withdrawal of such written notice, as applicable. If the claim for lien is merely vacated, the Contractor shall, if requested, undertake Owner's defence of any subsequent lawsuit commenced in respect of the lien at the Contractor's sole cost; and
- .2 the Owner may withhold payment from the Contractor an amount sufficient to satisfy such lien or written notice of a lien in accordance with the applicable lien legislation, as applicable, until such lien has been vacated or discharged or such written notice withdrawn, as applicable.

.2 If the Contractor fails or refuses to vacate or discharge the lien or cause the withdrawal of the written notice of a lien, as applicable, the lien within the time prescribed above, the Owner

shall, at its option, be entitled to vacate and/or discharge the lien or cause the withdrawal of the written notice of a lien, as applicable, and all costs and expenses incurred by the Owner in so doing (including all legal fees and disbursements, and the cost and the amount of the security) shall be for the account of the Contractor, and the Contractor shall immediately reimburse the Owner for all such costs. If the Contractor fails to immediately reimburse the Owner for all such costs and the lien holdback the Owner may set-off such costs in accordance with paragraph 14.15. Notwithstanding the foregoing, if the Owner vacates the lien, the Owner shall be entitled to retain all amounts it would be required to retain pursuant to lien legislation as if the lien had not been vacated.

.3 Without limiting any of the foregoing, the Contractor shall indemnify the Owner for all damages, liabilities, expenses, costs, claims, demands, losses (including legal fees and disbursements) it may suffer or incur in connection with the lien or subsequent lawsuit brought in connection with the lien, or in connection with any other claim or lawsuit brought against the Owner by any person that provided services or materials which constitute a part of the Work.

.4 This GC 14.2 does not apply to liens claimed by the Contractor or resulting from the Owner's failure to properly make payments to the Contractor as required by the terms of the Contract."