**[NTD: FOR INSURANCE REASONS, THESE SUPPLEMENTARY CONDITIONS ARE NOT TO BE USED FOR PROJECTS WITH ROOF ASSEMBLIES INVOLVING ANY FORM OF “HOT ROOFING”.]**

**SUPPLEMENTARY CONDITIONS TO**

**STIPULATED PRICE CONTRACT**

**(CCDC 2 - 2020)**

These Supplementary Conditions are made as of the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ between **UNIVERSITY OF VICTORIA** (the “**Owner**”) and [**CONTRACTOR]** (the “**Contractor**”). Other than the Supplementary Conditions contained herein, the Stipulated Price Contract (CCDC 2 - 2020) between the *Owner* and the *Contractor* remains in full force and effect (the “**Contract**”). The *Owner* and the *Contractor* hereby agree to supplement and amend the Articles, Definitions and General Conditions of the *Contract* as set out herein. Notwithstanding General Condition 1.1.5, where there is anything in the *Contract* which is inconsistent with these Supplementary Conditions, the provisions of these Supplementary Conditions shall govern. Throughout the *Contract Documents*, reference to the Articles, Definitions and General Conditions or a paragraph of the General Conditions shall include these Supplementary Conditions unless the context requires otherwise. Where an Article, Definition General Condition or paragraph of the General Conditions is deleted by these Supplementary Conditions, the number of the remaining General conditions or paragraphs shall remain unchanged, unless stated otherwise herein, and the number of the deleted item will be retained but be unused.

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| **SC #** | **GC #** | **Supplementary Conditions** |
| **ARTICLES** | | |
|  | Article A-1 | Insert the following new paragraphs following paragraph 1.3: |
|  | “1.4 | At least seven (7) days prior to the commencement of the *Work*, the *Contractor* shall deliver to the *Owner* the following:  .1 proof of all necessary permits, licenses, certificates and other authorizations required by all municipal, provincial or federal authorities, for the *Work* and proof of payment of all applicable fees;  .2 certificates of insurance for all insurance policies required by this *Contract*;  .3 the performance and labour and material payment bonds required by the *Contract*;  .4 a construction schedule satisfactory to the *Owner* as required by paragraph 3.4, including in graphic form the proposed dates;  .5 a schedule of values of the various parts of the *Work* as required by paragraph 5.2.4; and  .6 proof that the *Contractor* has obtained WorkSafe BC or Workers Compensation Board registration and clearance. |
|  | 1.5 | The *Contractor* shall give the *Owner* a minimum of forty-five (45) days’ written notice that the *Contractor* will meet (or not meet) the date set in out in Article A-1 paragraph 1.3 for *Ready-for-Takeover*.” |
|  | Article A-4 | In paragraph 4.1 of Article A-4 – CONTRACT PRICE, the *Owner* and the *Contractor* acknowledge and agree that notwithstanding the phrase “which excludes *Value Added Taxes*” that appears in the first line, British Columbia Provincial Sales Tax (if applicable) is included in the *Contract Price*.  In paragraph 4.2 of Article A-4 – CONTRACT PRICE, the *Owner* and the *Contractor* acknowledge and agree that the amount shown for *Value Added Taxes* consists only of Goods and Services Tax (GST) and does not include British Columbia Provincial Sales Tax (which is included in the *Contract Price*). |
|  | Article A-5 | In paragraph 5.1.3 of ARTICLE A-5 – PAYMENT, delete the phrase “the issuance of the” in the first line and substitute the phrase “receipt of the *Consultant’s*”. |
|  | Article A-8 | In paragraph 8.1 of Article A-8 – SUCCESSION, immediately before the word “assigns” in the second line, insert the word “permitted”. |
| **DEFINITIONS** | | |
|  | Definitions: | Insert the following new definitions: |
|  |  | **Applicable Law**  *Applicable Law* means all public laws, statutes, ordinances, codes, acts, orders, by-laws, rules, regulations, *Governmental Consents*, binding policies and guidelines, and requirements of all *Governmental Authorities*, which now or hereafter, may be applicable to and enforceable against the *Owner*, the *Contractor* or the *Work*, or any part thereof, including those relating to employment, zoning, building, safety, environment and health. |
|  |  | **As-Built Drawings**  *As-Built Drawings* shall have the meaning given in paragraph 3.9.2 – DOCUMENTS AT THE SITE. |
|  |  | **Deficiency Retention**  Deficiency Retention shall have the meaning given in paragraph 5.4.11 – SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK. |
|  |  | **Environmental Law**  *Environmental Law* means all *Applicable Law* relating to the environment, health, occupational health and safety, product liability or transportation of dangerous goods, including but not limited to any laws relating to the storage, generation, use, handling, manufacture, processing, labeling, advertising, sale, display, transportation, treatment, reuse, recycling, or release of *Hazardous Substances*. |
|  |  | **Force Majeure**  *Force Majeure* means any of the following events or circumstances (or combination of events and circumstances):  (i) any strikes, lockouts, or labour disputes affecting the construction industry generally in the *Place of the Work* (and not only the *Contractor,* its *Subcontractors* or *Suppliers*) **provided that** such strike, lockout or labour dispute is not initiated by the *Contractor*, its *Subcontractors or Suppliers* or their respective employees; or  (ii) enemy or hostile actions, sabotage, war, blockades, insurrections, riots, epidemics, pandemics, nuclear and radiation activity or fall-out, civil disturbances, explosions, fire and acts of God (**provided that** adverse weather conditions shall not be considered acts of God, even if such conditions are unusually adverse), in each case which:  (a) are beyond the control of the party affected by that event or circumstance or both;  (b) cause delay in, or prevent performance by, the affected party of any of its obligations under this *Contract*; and  (c) cannot be prevented, overcome or remedied by the exercise by the affected party of a reasonable standard of care and diligence. |
|  |  | **Governmental Authority**  *Governmental Authority* means any federal, provincial, territorial, regional, municipal or local government authority, quasi-governmental authority, court, government or self-regulatory organization, commission, board, tribunal, organization, or any regulatory, administrative or other agency or any political or other subdivision, department, or branch of any foregoing having legal jurisdiction in any way over the *Owner*, any aspect of the performance of the *Contract*, in each case to the extent it has or performs legislative, judicial, regulatory, administrative or other functions within its jurisdiction. |
|  |  | **Governmental Consent**  *Governmental Consent* means any license, right, permit, franchise, privilege, registration, direction, decree, consent, order, permission, approval, or authority to be issued or provided by, a *Governmental Authority*. |
|  |  | **Hazardous Substance**  *Hazardous Substance* means any hazardous product or waste, contaminant, pollutant, toxic substance, deleterious substance, dangerous good or reportable substance that is identified or described in or defined by any *Environmental Law* and any other substance the storage, generation, use, handling, manufacture, processing, labeling, advertising, sale, display, transportation, treatment, reuse, recycling, or release of which is prohibited, controlled, regulated or licensed by any *Governmental Authority*. |
|  |  | **Indirect Loss**  *Indirect Loss* means any:  (i) loss of revenue, loss of profits, loss of use, loss of contract, loss of goodwill, loss of business or loss of business opportunity;  (ii) exemplary or punitive damages; or  (iii) indirect or consequential loss of any nature (except to the extent included in a third party claim),  claimed or suffered by a party. |
|  |  | **Owner Confidential Information**  *Owner Confidential Information* means all information relating to the *Work* and any process, technology or system relating thereto, the design, construction, operation, maintenance or any other aspect of the *Place of the Work*, or relating to the nature of the *Owner’s* business and affairs, including this *Contract*, which the *Contractor* directly or indirectly receives or acquires from the *Owner* or the *Owner’s* representative or anyone on behalf of the *Owner* or the *Owner’s* representative either in writing or verbally, or through observation of the *Place of the Work* or the *Work*. |
|  |  | **Person**  *Person* includes any individual, company, corporation, partnership, firm, trust, sole proprietorship, government or government agency, authority or entity howsoever designated or constituted. |
|  |  | **Qualified Environmental Professional**  *Qualified Environmental Professional* means an independent expert registered and in good standing with an appropriate professional organisation constituted under *Applicable Law*, licenced and qualified to provide advice and assistance in relation to the storage, use, handling, transportation, removal, treatment, remediation or disposal of *Hazardous Substances*. |
|  |  | **Recovery Schedule**  *Recovery Schedule* refers to documentation and information produced, prepared and provided by the *Contractor* to the *Consultant* and *Owner* to establish to the satisfaction of the *Consultant* and *Owner* how the progress of the *Work* or any aspect of the *Work* will be expedited to ensure that the construction schedule, and specific milestone dates from time to time designated by the *Owner* acting reasonably, will be met. The *Recovery Schedule* will provide full and sufficient detail to enable the *Consultant* and *Owner* to be satisfied as to the precise steps that the *Contractor* will take to expedite progress, including but not limited to detailing any proposed increase in manpower, any proposed overtime work, any proposed re-sequencing of *Work* and any proposed expediting of deliveries of *Product* or *Construction Equipment*. |
|  | Definitions: | Delete the definitions of “**Change Directive**”, “**Change Order**”, “**Consultant**”, “**Contractor**”, “**Owner**”, “**Subcontractor**” and “**Supplier**” replace with the following:  **Change Directive**  A *Change Directive* is a written instruction prepared by the *Consultant* or the *Owner* and signed by the *Owner* directing the *Contractor* to proceed with a change in the *Work* prior to the *Owner* and the *Contractor* agreeing upon adjustments (if any) in the *Contract Price* and/or the *Contract Time*.  **Change Order**  A *Change Order* is a written amendment to this *Contract* prepared by the *Consultant* or the *Owne*r and signed by the *Owner* and the *Contractor* stating their agreement upon:  - a change in the *Work*;  - the method of adjustment or the amount of the adjustment in the *Contract Price*, if any; and  - the extent of the adjustment in the *Contract Time*, if any.  **Consultant**  The *Consultant* is the person or entity engaged by the *Owner* and identified as such in the *Agreement*. The *Consultant* is the Architect, the Engineer or entity licensed to practise in the province or territory of the *Place of the Work*. The term *Consultant* means the *Consultant* or the *Consultant’s* authorized representative.  **Contractor**  The *Contractor* is the person or entity identified as such in the *Agreement*. The term Contractor means the Contractor or the Contractor's authorized representative as designated to the Owner in writing.  **Owner**  The *Owner* is the person or entity identified as such in the *Agreement*. The term *Owner* means the *Owner* or the *Owner’s* authorized agent or representative as designated to the *Contractor* in writing, but does not include the *Consultant*. For the purposes of this *Contract,* the terms “Owner”, “University of Victoria”, “UVic” and “University” shall be considered synonymous.  **Subcontractor**  *Subcontractor* means any "subcontractor" as defined under the *Builders Lien Act* (British Columbia), in respect of any part or parts of the *Work*.  **Supplier**  *Supplier* means any "material supplier" as defined under the *Builders Lien Act* (British Columbia), in respect of any *Products* forming part of the *Work*. |
| **GENERAL CONDITIONS** | | |
|  | GC 1.1.2 | Delete paragraph 1.1.2 in its entirety and substitute the following: |
| “1.1.2 | The *Contract Documents* are complementary, and what is required by one shall be as binding as if required by all. The *Contract*, including the *Contract Documents*, constitutes the entire agreement between the *Owner* and the *Contractor* with respect to the *Work*.” |
|  |  | Delete paragraphs 1.1.3 and 1.1.4 in their entirety and substitute the following: |
|  | “1.1.3 | The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* and the *Owner* any error, inconsistency or omission the *Contractor* may discover. The *Contractor* shall promptly request clarifications upon discovery of errors, inconsistencies or omissions in the *Contract Documents*. Additional work made necessary because of a failure by the *Contractor* to request clarification promptly following the discovery of such errors, inconsistencies or omissions by the *Contractor* in the *Contract Documents* shall be carried out and completed at the *Contractor’s* sole expense. **Provided that** the *Contractor* has exercised the degree of care and skill required pursuant to GC 3.14 – CONTRACTOR STANDARD OF CARE, the *Contractor* shall not be responsible for damage resulting from such errors, inconsistencies or omissions in the *Contract Documents* which the *Contractor* did not reasonably discover. If the *Contractor* does discover any error, inconsistency or omission in the *Contract Documents*, the *Contractor* shall promptly report the matter to the *Owner* and *Consultant*, and the *Contractor* shall not proceed with the portion of the *Work* affected until the *Contractor* has received corrected or missing information from the *Owner* or *Consultant*, as required. |
|  | 1.1.4 | Intentionally blank.” |
|  | GC 1.1.5 | Insert the following paragraph at the end of paragraph 1.1.5: |
|  |  | “.6 architectural *Drawings* shall have precedence over structural, plumbing, mechanical, electrical and landscape *Drawings* insofar as outlining, determining and interpreting conflicts over the required design intent of all architectural layouts and architectural elements of construction, it being understood that the integrity and installation of systems designed by the *Consultant* are to remain with each of the applicable drawing disciplines. Subject to the foregoing, if any *Drawings* or *Specifications* conflict with any other *Drawings* or *Specifications*, then the more stringent requirements shall govern.” |
|  | GC 1.1.9 | Insert the following at the end of paragraph 1.1.9:  “The *Specifications* are divided into divisions and sections for convenience but shall be read as a whole and neither such divisions nor anything else contained in the *Contract Documents* will be construed to place responsibility on the *Consultant* to settle disputes among the *Subcontractors* and *Suppliers* in respect of such divisions. The *Drawings* are, in part, diagrammatic and intended to convey the scope of the *Work* and indicate general and appropriate location, arrangement and sizes of fixtures, equipment and outlets. The *Contractor* shall obtain more accurate information about the locations, arrangements and sizes from study and coordination of the *Drawings*, including *Shop Drawings*, and shall become familiar with conditions and spaces affecting these matters before proceeding with the *Work*. Where site conditions require reasonable minor changes in indicated locations and arrangements, the *Contractor* shall make such changes at no additional cost to the *Owner*. Similarly, where known conditions or existing conditions interfere with new installation and require relocation, the *Contractor* shall include such relocation in the *Work*, unless otherwise indicated on the *Drawings* or *Specifications*. The *Contractor* shall arrange and install fixtures and equipment in such a way as to conserve as much headroom and space as possible.” |
|  | GC 1.1.10 | Delete paragraph 1.1.10 in its entirety and substitute the following: |
|  | “1.1.10 | *Specifications, Drawings,* models, and copies thereof furnished by the *Consultant* are and shall remain the *Consultant’s* property, with the exception of the signed *Contract* sets, which shall belong to each party to this *Contract* **provided that** the *Owner* shall be permitted to use all of the *Drawings*, *Specifications*, copies thereof and models for the purpose of completing the *Work* in the event of termination of the *Contract* or for the purposes of future additions or alterations to the *Project.*  All *Specifications, Drawings*, and models furnished by the *Consultant* are to be used only with respect to the *Work* and are not to be used on other work. These *Specifications, Drawings* and models are not to be copied or altered in any manner without the written authorization of the *Consultant*.” |
|  | GC 1.1.11 | Insert the following new paragraphs following paragraph 1.1.11: |
|  | “1.1.12 | The *Specifications* and *Drawings* are integral and any work necessary and described in (or reasonably inferred from) the *Specifications* but not shown on the *Drawings*, or necessary and shown on (or reasonably inferred from) the *Drawings* but not described in the Specifications, shall be deemed to be part of the *Work* and carried out as part of the *Contract*. |
|  | 1.1.13 | Notwithstanding paragraph 1.1.5, where the *Contract Documents* contain inconsistent provisions dealing with the same matter, or if there is any inconsistency in the *Drawings* or any conflict between the *Drawings* and the *Specifications*, the *Contractor* shall provide the better quality or greater quantity of *Work* or materials, as applicable, unless the Owner or Consultant otherwise directs in writing. |
|  | 1.1.14 | Wherever the words “approved”, “satisfactory”, “selected”, “directed”, “permitted”, “inspected”, “instructed”, “required”, “submit”, “ordered” are used in the *Contract Documents*, it shall be understood that the words “by the *Owner*” follow, unless the context provides otherwise.” |
|  | GC 1.4.1 | Delete paragraph 1.4.1 in its entirety and substitute the following: |
|  | “1.4.1 | The *Owner* may assign the *Contract* or a portion thereof without the consent of the Contractor. The *Contractor* will not assign the *Contract* or any portion thereof without the prior written consent of the *Owner* (which consent shall be in the *Owner’s* absolute discretion and may be arbitrarily withheld).” |
|  | GC 1.4.1 | Insert the following new paragraph following paragraph 1.4.1: |
|  | “1.4.2 | The *Contractor* hereby consents to the assignment of the *Contract* by the *Owner* as security for any financing arranged by the *Owner* relating to the *Project*, and the *Contractor* agrees to execute any consent document reasonably requested by the *Owner* or its lenders in relation thereto.” |
|  | GC 1.5 | Insert the following new General Condition following GC 1.4: |
|  | “**GC 1.5** | **CONFIDENTIALITY AND ADVERTISING** |
|  | 1.5.1 | The *Contractor* shall keep confidential all *Owner Confidential Information* and shall not, without the prior written consent of the *Owner*, use such *Owner Confidential Information* other than for the purposes of performing the *Work,* or disclose such *Owner Confidential Information*, except to its professional advisors, to the *Consultant* or to *Subcontractors* or *Suppliers* who need to know such matters for purposes of the *Work* and are bound by confidentiality restrictions no less stringent than those in this GC 1.5 - CONFIDENTIALITY AND ADVERTISING. |
|  | 1.5.2 | The matters that are subject to the confidentiality requirements of this GC 1.5 - CONFIDENTIALITY AND ADVERTISING shall not include information that: (i) has become generally available to the public other than as a result of a disclosure by the *Contractor*, *Subcontractors* or *Suppliers* or any of their respective representatives in breach of paragraph 1.5.1, (ii) was available to the other party or its representatives on a non-confidential basis before the date of the *Contract*, or (iii) becomes available to a party or any of their respective representatives on a non-confidential basis from a *Person* other than the first-mentioned party or any of its representatives who is not, to the knowledge of such other party or its representatives, otherwise bound by confidentiality obligations to such first-mentioned party in respect of such information or otherwise prohibited from transmitting the information to such first-mentioned party or its representatives. |
|  | 1.5.3 | The *Contractor* shall obtain the *Owner*’s prior written approval of any public advertising, promotion, press release or any other general publicity matter in which the name or trademarks of the *Owner* or any details of the *Project* are used, or in which words are used from which any connection with the *Owner’s* name or trademarks may be inferred. The *Contractor* shall not allow or permit any public ceremony in connection with the *Work*, without the prior, written permission of the *Owner*.The *Contractor* shall not erect or permit the erection of any signage or advertising at the *Place of the Work* without the prior written approval of the *Owner*.” |
|  | GC 2.2.6 | Delete paragraph 2.2.6 in its entirety, and substitute the following |
|  | “2.2.6 | Where required pursuant to an agreement between the *Owner* and the *Consultant*, the *Consultant* will be, in the first instance, the interpreter of the requirements of the *Work*.” |
|  | GC 2.2.12 | Insert the following at the end of paragraph 2.2.12:  “If in the opinion of the *Contractor*, the *Supplemental Instructions* require an adjustment in the *Contract Price* or in the *Contract Time*, the *Contractor* shall within ten (10) *Working Days* of receipt of a *Supplemental Instruction* provide the *Consultant* with a written notice to that effect. In the event that the *Contractor* needs additional information to determine whether a *Supplemental Instruction* requires an adjustment in the *Contract Price* or in the *Contract Time*, it may issue a written request to the *Consultant* seeking such additional information. Following receipt of such information, the *Contractor* shall, within ten (10) *Working Days* of receipt of such additional information provide the *Consultant* with the written notice prescribed in the first sentence of this paragraph 2.2.12. Failure to provide written notification within the time stipulated in this paragraph 2.2.12 shall be deemed an acceptance of the *Supplemental Instruction* by the *Contractor* without adjustment in the *Contract Price* or the *Contract Time*.” |
|  | GC 2.2.18 | Insert the following new paragraphs after paragraph 2.2.18: |
|  | “2.2.19 | In any written or printed notice to the *Contractor* in respect of any general, special or other repairs, or of any work of any nature required to be done under any of the provisions of the *Contract*, or of any other matter, it shall not be obligatory upon the *Consultant* or the *Owner* to specify minutely or in detail everything required, nor to specify by measurement the exact extent thereof, or the precise spot or spots where the work or material may be defective or faulty or where any of the requirements of the *Specifications* have not been observed; but a reference in such notice to the clause or clauses bearing upon the matter, and a description of the locality in general terms, and sufficiently clear, in the opinion of the *Consultant* or the *Owner*, to indicate where the defect or trouble exists and such notice shall be deemed to be sufficient notice. |
|  | 2.2.20 | The *Consultant* shall be the “payment certifier” for the purposes of the *Builders Lien Act* (British Columbia) in respect of amounts due to the *Contractor* under the *Contract,* including all lien holdback funds. The *Contractor* acting alone shall be the “payment certifier” for the purposes of the *Builders Lien Act* (British Columbia) in respect of amounts due to any “subcontractor” as defined under the *Builders Lien Act* (British Columbia). Certification by the *Contractor* in respect of amounts due to any “subcontractor” as defined under the *Builders Lien Act* (British Columbia) or in respect of completion of a subcontract, and release of holdback monies by the *Owner* in respect of amounts due to any such “subcontractor” in connection with such certification by the *Contractor*, shall not be taken as acceptance or approval by the *Owner* of any of the *Work* of such “subcontractor”. |
|  | 2.2.21 | The *Consultant’s* services will be performed solely for the benefit of the *Owner* and no *Contractor*, *Subcontractor*, *Supplier* or other third party shall have any claim against the *Consultant* as a result of the performance or non-performance of the *Consultant’s* services. The *Contractor* shall include this provision in any contracts it makes with its *Subcontractors*, *Suppliers* and others and shall require such *Subcontractors*, *Suppliers* and others to include the same term in their contract with sub-subcontractors, sub-suppliers and others.” |
|  | GC 2.3.2-2.3.3 | Delete paragraphs 2.3.2 and 2.3.3 in their entirety and substitute the following: |
|  | “2.3.2 | If *Work* is designated for review, tests, inspections or approvals in the *Contract Documents*, or by the *Consultant’s* or the *Owner’s* instructions, or by the laws or ordinances of the *Place of the Work*, the *Contractor* shall give the *Consultant* and the *Owner* reasonable notification within no less than 24 hours of when the *Work* will be ready for review and inspection. The *Contractor* shall arrange for and shall give the *Consultant* and the *Owner* reasonable notification within no less than 24 hours of the date and time of inspections by other authorities. |
|  | 2.3.3 | The *Contractor* shall furnish promptly to the *Consultant* and the *Owner* two copies of certificates and inspection reports relating to the *Work.*” |
|  | GC 2.3.4 | In the first and second line of paragraph 2.3.4, delete “special” and substitute “review,”.  In the third line of paragraph 2.3.4, insert “review,” before “inspections”. |
|  | GC 2.3.5 | Delete paragraph 2.3.5 in its entirety and substitute the following: |
|  | “2.3.5 | The *Consultant* or the *Owner* may order any portion or portions of the *Work* to be examined to confirm that such work is in accordance with the requirements of the *Contract Documents*. If the *Work* is not in accordance with the requirements of the *Contract Documents*, the *Contractor* shall correct the *Work* and pay the cost of examination and correction at the *Contractor’s* expense. If the *Work* is in accordance with the requirements of the *Contract Documents*, the *Owner* shall pay the cost of examination and restoration.” |
|  | GC 2.3.7 | Insert the following new paragraphs after paragraph 2.3.7: |
|  | “2.3.8 | In addition to the specific tests and inspections contemplated in the *Contract Documents*, general review during construction by the *Owner* or *Consultant* may be undertaken so that the *Owner* can be informed as to the quality of the *Contractor’s* performance. The review does not relieve the *Contractor* of the responsibility to carry out its own quality control and to make the *Work* conform to the *Contract* requirements. The *Contractor* is solely responsible for the quality of the *Work* and shall undertake any quality control activities specified in the *Contract Documents* or, if none is specified, as may be reasonably required to ensure such quality. The *Contractor* shall provide copies of applicable quality control checklists within ten (10) *Working Days* of the award of this *Contract*. |
|  | 2.3.9 | If, in the reasonable opinion of the *Owner* or *Consultant*, the rate of progress or quality of the *Work* is unsatisfactory or unnecessary interruptions occur in the continuous performance of the *Work*, the cost for additional inspections by the *Owner* or *Consultant* shall be deducted by the *Owner* from the *Contract* *Price*. The *Owner*’s or *Consultant*’s decision as to the extent and cost of additional inspection necessary because of unsatisfactory or tardy performance of the *Contract* shall be final. |
|  | 2.3.10 | If the *Consultant* is required to make more than one review of rejected work or if the *Consultant* performs additional reviews due to failure of the *Work* to comply with the application for status of completion made by the *Contractor*, the *Contractor* will compensate the *Owner* for such additional *Consultant* services including expenses incurred. Adjustment for such compensation will be made as outlined under Part 6 of the General Conditions – CHANGES IN THE WORK.” |
|  | GC 2.4.1 | Insert “or the *Owner*” in the first sentence after the words “by the *Consultant*”.  Insert the following at the end of paragraph 2.4.1:  “The *Contractor* shall prioritize and expedite the correction of any defective work which in the sole determination of the *Owner*, adversely affects the day to day operation of the *Owner*.” |
|  | GC 2.4.3 | Insert “or the *Owner*” in the first sentence after the words “opinion of the *Consultant*”. |
|  | GC 3.1.2 | Insert the following new paragraphs after paragraph 3.1.2: |
|  | “3.1.3 | Prior to commencing any 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 and complete fabrication, assembly and installation of the *Work* and shall further carefully compare such field measurements and conditions with the requirements of the *Contract Documents*. Where dimensions are not included or contradictions exist, or exact locations are not apparent, the *Contractor* shall immediately notify the *Consultant* and the *Owner* in writing and obtain written instructions from the *Owner* before proceeding with any part of the affected *Work*. |
|  | 3.1.4 | Subject to the other provisions of GC 3.1 – CONTROL OF THE WORK, the *Contractor* agrees that, it shall fully comply with any policies or procedures of the *Owner* which are relevant to any activities of the *Contractor* to be performed under the *Contract*. The *Contractor* further agrees that it will use reasonable efforts to inquire from the *Owner* if such policies or procedures exist for any activity of the *Contractor* to be performed under the *Contract*. The *Owner* agrees that it will use reasonable efforts to communicate to the *Contractor* policies or procedures it may have relevant to such activities. The *Owner* will provide copies of policies relevant to the *Contractor’s* activities upon request. The policies include:  .1 Discrimination and Harassment Policy  .2 Sexualized Violence Prevention and Response Policy  .3 Parking Policy  .4 Occupational Health & Safety Policy  .5 At Risk Behaviour Policy  .6 University Smoking Policy  .7 Traffic and Parking Regulations  .8 Sustainability Policy  .9 University Signage Policy  .10 Building and Grounds Usage Policy  .11 Furnishings, Fittings, Finishes and Artwork Policy.” |
|  | GC 3.2.2 | Delete paragraph 3.2.2.1 in its entirety and insert “Intentionally blank”. |
|  | GC 3.2.3 | Delete the word “and” from the end of paragraph 3.2.3.3.  Insert 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 defects or deficiencies in the work of *Other Contractors* or *Owner’s* own forces except those deficiencies not then reasonably discoverable; and” |
|  | GC 3.2.3 | Insert the following new paragraph following paragraph 3.2.3.4: |
|  |  | “.5 subject to GC 9.4 – CONSTRUCTION SAFETY and where paragraph 3.2.3.2 of GC 3.2 – CONSTRUCTION BY THE OWNER OR OTHER CONTRACTORS applies, 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* performing work identified in the *Contract Documents*, including all of the responsibilities of the “prime contractor” as that terms is defined in the *Workers Compensation Act* (British Columbia).” |
|  | GC 3.2.6 | Delete paragraph 3.2.6 in its entirety and insert “Intentionally blank”. |
|  | GC 3.2.6 | Insert the following new paragraphs after paragraph 3.2.6: |
|  | “3.2.7 | Entry by the *Owner*’s own forces or by *Other Contractors* does not constitute acceptance of the *Work* and does not relieve the *Contractor* of its responsibilities to complete the *Contract*. |
|  | 3.2.8 | The placing, installation and connection of work by the *Owner*’s own forces or by *Other Contractors* on and to the *Work* does not relieve the *Contractor* of its responsibility under any warranties set out in the *Contract*.” |
|  | GC 3.3.2 | Replace the word “law” with the words “*Applicable Law*” in paragraph 3.3.2. |
|  | GC 3.4.1 | Delete paragraph 3.4.1 in its entirety and replace with the following: |
|  | “3.4.1 | The *Contractor* shall:  .1 within seven (7) calendar days prior to site mobilization, 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 the *Work* will be performed in conformity with the *Contract Time* and in accordance with the *Contract Documents.* The construction schedule shall comply with the requirements specified in the *Specifications* in relation to the construction schedule. The *Contractor* shall provide the construction schedule and any successor or revised schedules to the *Owner* in electronic format and paper copy. Once accepted by the *Owner* and the *Consultant*, the construction schedule submitted by the *Contractor* shall become the baseline construction schedule, and the *Contractor* shall not amend the accepted construction schedule without the prior written consent of the *Owner*;  .2 at all times perform the *Work* required hereunder as diligently and expeditiously as is consistent with the highest professional standards and the orderly progress of the *Work*, within the *Contract Time* and in accordance with the construction schedule and any revisions thereto, in order to maintain the desired development and construction schedule for the *Project*, and in order not to delay the *Work* or any aspect of the construction of the *Project*;  .3 monitor and report on 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 GC 3.4 – CONSTRUCTION SCHEDULE, update the schedule on a monthly basis and provide *Notice in Writing* to the *Consultant* and the *Owner* of any variation from the baseline or slippage in the schedule;  .4 at all times provide sufficient personnel to accomplish its services within the *Contract Time* and in accordance with the construction schedule and any revisions thereto;  .5 provide the expertise and resources, such resources including sufficient manpower and equipment, as are necessary to maintain progress under the accepted baseline construction schedule or revised schedule accepted by the *Owner* pursuant to GC 3.4 – CONSTRUCTION SCHEDULE;  .6 provide overtime work without change to the *Contract Price* if such work is deemed necessary by the *Contractor* to meet the construction schedule; and  .7 ensure that the *Contract Price* includes all costs required to phase or stage the *Work*.” |
|  | GC 3.4.1 | Insert the following new paragraphs following paragraph 3.4.1: |
|  | “3.4.2 | The *Contractor* is responsible for performing the *Work* within the *Contract Time*. Any schedule submissions revised from the accepted baseline construction schedule or revised schedule accepted by the *Owner* during construction are not deemed to be approved extensions to the *Contract Time*. All extensions to the *Contract Time* must be made in accordance with the *Contract Documents*. |
|  | 3.4.3 | If, at any time, it should appear to the *Owner* or the *Consultant* 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 3.4.1.3, 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 Schedule* demonstrating how the *Contractor* will achieve the recovery of the construction schedule. If the *Contractor* intends to apply for a change in the *Contract Price* in relation to a *Recovery Schedule*, then the *Contractor* shall proceed in accordance with General Condition 6.5 – DELAYS. |
|  | 3.4.4 | The construction schedule must show and correspond to the breakdown of work shown on the schedule of values required by paragraph 5.2.4 and on the monthly progress claims so as to facilitate evaluation of applications for payment. |
|  | 3.4.5 | The *Owner* assumes the construction schedule to have monetary value. |
|  | 3.4.6 | Time shall in all respects be of the essence of this *Contract.* |
|  | 3.4.7 | The *Contractor* acknowledges and agrees that the *Contractor* may be required to proceed with the *Work* simultaneously with *Other Contractors* at the *Place of the Work* and agrees that it will not be entitled to nor will claim any additional compensation by reason of the fact that the *Contractor* is required to coordinate its work and share the facilities and construction area with *Other Contractors*.” |
|  | GC 3.5.1 | Delete the second sentence in its entirety and substitute the following:  “The representative initially appointed by the *Contractor* must be satisfactory to the *Owner*. The *Contractor’s* appointed representative shall not be changed except for a valid reason. The *Contractor’s* appointed representative shall not be changed without consultation with and written acceptance by the *Owner* (such acceptance not to be unreasonably withheld).” |
|  | GC 3.5.2 | Delete paragraph 3.5.2 in its entirety and substitute the following: |
|  | “3.5.2 | Instructions given to the *Contractor’s* appointed representative shall be deemed to have been given to the *Contractor*, and the *Contractor’s* appointed representative shall have full authority to act on behalf of the *Contractor* and to bind the *Contractor* in matters related to this *Contract*.” |
|  | GC 3.5.2 | Insert the following new paragraph after paragraph 3.5.2: |
|  | “3.5.3 | The *Owner* may, for reasonable cause request that *Contractor* remove from the *Projec*t any supervisor, representative or employee of the *Contractor* or *Subcontractors*, or *Suppliers*, and the *Contractor* shall forthwith designate replacements who are acceptable to the *Owner.*” |
|  | GC 3.6.1 | Delete paragraph 3.6.1 in its entirety and substitute the following: |
|  | “3.6.1 | The *Contractor* shall preserve and protect the rights of the parties under the *Contract* with respect to work to be performed under subcontract, and shall:  .1 enter into written contracts or written agreements with *Subcontractors* and *Suppliers* to require them to perform their work as provided in the *Contract Documents*;  .2 incorporate the applicable terms and conditions of the *Contract Documents* into all written contracts or agreements with *Subcontractors* and *Suppliers*;  .3 be as fully responsible to the *Owner* for acts and omissions of *Subcontractors, Suppliers* and any persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Contractor*; and  .4 for greater certainty, and further to paragraph 3.6.1.1 hereof, the *Contractor* (i) shall maintain a listing of all written contracts or written agreements with *Subcontractors* and *Suppliers* and (ii) shall, on the request of the *Owner* provide all particulars in respect of *Subcontractors* and *Suppliers*, including, if requested, a copy of any or all fully executed written contracts or written agreements with the *Subcontractors* and *Suppliers*.” |
|  | GC 3.6.2 | Insert the following at the end of paragraph 3.6.2:  “The *Contractor* agrees not to change *Subcontractors* or *Suppliers* without the prior written consent of the *Owner*.” |
|  | GC 3.7.1 | In paragraph 3.7.1, insert the words “and its agents, *Subcontractors* and *Suppliers* and their employees” after the word “employees”. |
|  | GC 3.7.3 | Delete paragraph 3.7.3 in its entirety and substitute the following: |
|  | “3.7.3 | Unless otherwise specified in the *Contract Documents*, *Products* provided shall be new and shall conform to all current applicable specifications of the Canadian Standards Association, Canadian Standards Board or General Standards Board, ASTM, National Building Code, BC Building Code, National Fire Prevention Association and all governmental and regulatory authorities having jurisdiction at the *Place of the Work*. *Products* which are not specified shall be of a quality consistent with those specified, and their use acceptable to the *Consultant* and the *Owner*. *Products* brought on to the *Place of the Work* by the *Contractor* shall be deemed to be the property of the *Owner*, but the *Owner* shall be under no liability for loss thereof or damage thereto arising from any cause whatsoever. Such *Products* shall be at the sole risk of the Contractor.” |
|  | GC 3.7.3 | Insert the following new paragraphs after paragraph 3.7.3: |
|  | “3.7.4 | The *Contractor* represents and warrants that the *Products* provided in accordance with the *Contract* are not subject to any conditional sales contract or 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*. |
|  | 3.7.5 | The *Contractor* shall be 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*. |
|  | 3.7.6 | The *Contractor* shall provide and pay for all labour, materials, tools, construction machinery and equipment, transportation and any other facilities necessary to carry out the *Work* in accordance with the *Contract Documents*. |
|  | 3.7.7 | The *Contractor* will, at the request of the *Owner* or *Consultant*, remove from the *Place of the Work* any *Person* employed on the *Work* who, in the opinion of the *Consultant* or the *Owner*, is incompetent or has been conducting himself improperly and the *Contractor* shall not permit a *Person* so removed to remain on the *Place of the Work* or return to the *Place of the Work*.” |
|  | GC 3.8.2 | Insert the following at the end of paragraph 3.8.2:  “The *Contractor* shall submit all *Shop Drawings* in triplicate and in reproducible form.” |
|  | GC 3.8.3 | Delete the word “applicable” before “field measurements” in paragraph 3.8.3.1. |
|  | GC 3.8.7 | Insert the following new paragraphs after paragraph 3.8.7: |
|  | “3.8.8 | The *Contractor* shall prepare a *Shop Drawing* schedule acceptable to the *Owner* and *Consultant* prior to the first application for payment. The *Contractor* shall submit a draft of the proposed *Shop Drawing* schedule to the *Consultant* and the *Owner* for approval. The draft *Shop Drawing* schedule shall clearly indicate the phasing of the *Shop Drawing* submissions. On approval of the *Shop Drawing* schedule, the *Consultant* and the *Contractor* shall jointly prepare a schedule of dates for the review and return of the *Shop Drawings*. The *Consultant* will review and return *Shop Drawings* and submittals in accordance with the schedule agreed to in this paragraph 3.8.8, or, in absence of such schedule, with reasonable promptness. If, for any reason, the *Consultant* cannot process the *Shop Drawings* and/or submittals 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. |
|  | 3.8.9 | The *Contractor* shall provide *Shop Drawings* in the form specified, or if not specified, as directed by the *Consultant*. |
|  | 3.8.10 | *Shop Drawings* which require approval of any legally constituted authority having jurisdiction shall be provided to such authority by the *Contractor* for approval. |
|  | 3.8.11 | The *Contractor* shall provide revised *Shop Drawings* to correct those which the *Consultant* rejects as inconsistent with the *Contract Documents*, unless otherwise directed by the *Consultant*. The *Contractor* shall notify the *Consultant* in writing of any revisions to the *Shop Drawings* other than those requested by the *Consultant*. |
|  | 3.8.12 | Reviewed *Shop Drawings* shall not authorize a change in the *Contract Price* and/or the *Contract Time.*” |
|  | GC 3.9 | Insert a new General Condition 3.9, General Condition 3.10, General Condition 3.11, General Condition 3.12, General Condition 3.13, General Condition 3.14 and General Condition 3.15: |
|  | “**GC 3.9** | **DOCUMENTS AT THE SITE** |
|  | 3.9.1 | The *Contractor* shall keep one copy of the current *Contract Documents*, *Supplemental Instructions,* contemplated *Change Orders, Change Orders, Change Directives,* cash allowance disbursement authorizations, reviewed *Shop Drawings,* submittals, reports and records of meetings at the *Place of the Work*, in good order and available to the *Owner* and *Consultant* and their respective representatives. The *Contractor* shall keep a daily record of the *Work* for review by the *Consultant* and the *Owner*, and the record shall include the number of workers, the delivery of *Products* and the amount and location of *Products* incorporated in the *Work*, the daily weather and temperature range, incidents, damage, intrusions, losses, and other pertinent details relevant to the daily progress of the *Work*. |
|  | 3.9.2 | The *Contractor* shall maintain a set of *Drawings* on which the *Contractor* shall make any changes to the *Work* at the end of each week (such drawings, the “**As-Built Drawings**”). *As-Built Drawings* shall be kept in good order and shall be available to the *Consultant*, the *Owner* and their representatives for review at the *Place of the Work*. The *Contractor* shall record on the *As-Built Drawings* the changes in the *Work* as such changes occur. Changes in the *Work* shall be indicated on the *As-Built Drawings* by the use of coloured lines and suitable notations.” |
|  | **GC 3.10** | **USE OF THE WORK** |
|  | 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* 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*. |
|  | 3.10.3 | The *Owner* and its representatives and *Other Contractors* shall have the right to enter and occupy the *Project*, in whole or in part, before the completion of the *Work* if, in the opinion of the *Consultant*, acting reasonably and following consultation with the *Contractor*, such entry or occupancy will not prevent or unreasonably interfere with the *Contractor* in the completion of the *Work*. If the *Owner* enters or occupies part of the *Project* then the *Owner* shall occupy that part of the *Project* in a manner which does not interfere with the *Contractor’s* performance of the remaining *Work*. |
|  | 3.10.4 | If work or storage areas in addition to areas provided by the premises are required, the *Contractor* shall be responsible for making arrangements to obtain the additional areas, whether adjacent to the premises or not, and for making permit and rental payments that may be required. |
|  | 3.10.5 | In carrying out the *Work*, the *Contractor* must minimize damage or injury to any adjacent property and, except as otherwise provided in this *Contract*, if injury or damage is done, it must make good the same, at its own expense, in the manner directed by, and to the satisfaction of, the *Consultant* and the *Owner*. The *Contractor* shall be responsible for any and all damages, or claims for damages for injury or accidents done or caused by it or its employees or agents, or resulting from the prosecution of the *Work*, or any of its operations, or caused by reason of the existence or location or condition of the *Work*, or of any materials, plant or machinery used thereon or therein, or which may happen by reason thereof, or arising from any act of commission or omission on its part, or on the part of any of its agents or employees, in connection with the *Contract*, and covenants and agrees to hold the *Owner* harmless and indemnified from all such damages and claims for damage, and in case of *Contractor’s* failure, neglect or omission to observe and perform faithfully and strictly, all the provisions of the *Contract*, the *Owner* may, either with or without notice (except where in this *Contract*, notice is specifically provided for, and then upon giving the notice therein provided for), take such steps, procure such material, plant, trucks and personnel, and do such work or things as it may deem advisable toward carrying out and enforcing the same, and any and all expenses so incurred may be deducted or collected by the *Owner*, and any such action by the *Owner* as it is herein empowered to take, shall not in any way relieve the *Contractor* or its surety from any liability under the *Contract*. |
|  | 3.10.6 | If the *Contractor* enters into the lands or buildings of the Province or of any municipality or of any person or enters into any highway or road under the jurisdiction and control of any public authority for the purpose of making any survey, examination, investigation, inspection or other arrangement or lays any pipes or appurtenances in, upon, through, over or under any highway or road under the jurisdiction and control of any public authority and in so doing disturbs any such lands, buildings, highways or roads, such lands, buildings, highways or roads shall be restored to their original condition without unnecessary delay. |
|  | 3.10.7 | The *Contractor* must (if it is practicable in the opinion of the *Consultant*) keep the roadway open for travel for the use of the public, for such width as the *Consultant* may direct. Where, in the opinion of the *Consultant*, it is not practicable to keep a roadway open for the full flow of traffic, it may permit the *Contractor* to close or partially close such roadway and to provide for a detour of the traffic or a part thereof. In each such case and before putting into effect the closure or detour, the *Contractor* shall present its proposal for closure or detour to any *Governmental Authority* having jurisdiction over any of the roadways which will be affected by the proposed closure of the said authority or authorities. The *Contractor* must provide a sufficient number of “NO THOROUGHFARE”, “DETOUR” or other proper notices, which it must cause to be placed and maintained in good order in conspicuous places wherever any roadway, sidewalk, or thoroughfare is torn up or dangerous, and so long as it remains unsafe or unfinished. When any *Work* is carried on at night, the *Contractor* must supply, at its own expense, a sufficient number of electric or other approved and efficient lights, to enable the same to be done in an efficient and satisfactory manner, and the *Consultant* shall have the power to order additional lights to be put on at the *Contractor’s* expense if in the opinion of the *Consultant*, they are, or may be, required. |
|  | 3.10.8 | The method of use and the character of all explosives shall be subject to the approval of the *Consultant*. The *Contractor* shall ensure that the charges of explosives used by the *Contractor* and the time at which they are exploded shall be such as not to cause damage to person or property or to cause unreasonable inconvenience. Explosives shall be properly housed and protected as provided by *Applicable Law*, and no explosives known to have deteriorated shall be used. Approved methods of handling and thawing of frozen explosives shall be followed, and the greatest care shall be exercised at all times by the *Contractor* in blasting operations. |
|  | **GC 3.11** | **CUTTING AND REMEDIAL WORK** |
|  | 3.11.1 | The *Contractor* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly. |
|  | 3.11.2 | The *Contractor* shall co-ordinate the *Work* to ensure that the cutting and remedial work is kept to a minimum. |
|  | 3.11.3 | Should the *Owner*, the *Consultant*, *Other Contractors*, or anyone employed by them directly or indirectly be responsible for ill-timed work necessitating cutting or remedial work to be performed, the cost of such cutting or remedial work shall be valued as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE. |
|  | 3.11.4 | Cutting and remedial work shall be performed by specialists familiar with the *Products* affected and shall be performed in a manner to neither damage nor endanger the Work. |
|  | **GC 3.12** | **CLEANUP** |
|  | 3.12.1 | The *Contractor* shall maintain the *Work* in a safe and tidy condition and free from the accumulation of waste products, debris, snow and ice, other than that caused by the *Owner*, other contractors or their employees. |
| 3.12.2 | Before applying for *Substantial Performance of the Work* as provided in GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK, the *Contractor* shall remove waste products and debris, other than that resulting from the work of the *Owner*, *Other Contractors* or their employees, and shall leave the *Place of the Work* clean and suitable for use or occupancy by the *Owner*. The *Contractor* shall remove products, tools, *Construction Equipment*, and *Temporary Work* not required for the performance of the remaining work. |
| 3.12.2 | Prior to application for the final payment, the *Contractor* shall remove any remaining products, tools, *Construction Equipment*, *Temporary Work*, and waste products and debris, other than those resulting from the work of the *Owner*, *Other Contractors* or their employees. |
|  | 3.12.3 | In the event that the *Contractor* fails to comply with its obligations in this General Condition 3.12, then the *Owner* or the *Consultant* may give the *Contractor* twenty-four (24) hours’ written notice to meet its obligations. Should the *Contractor* fail to meet its obligations pursuant to this General Condition 3.12 within the twenty-hour (24) hour period immediately following the delivery of such notice, the *Owner* may remove such waste, debris, snow and/or ice and deduct from payments otherwise due to the *Contractor*, the *Owner’s* costs for such cleanup, including a reasonable mark-up for administration. |
|  | **GC 3.13** | **OCCUPANCY NEAR THE WORK** |
|  | 3.13.1 | If either (i) the *Project* contemplates *Work* by way of renovations in buildings which will be in use or be occupied during the course of the *Work* or (ii) the *Project* involves *Work* that is adjacent to a structure which is in use or is occupied, then the *Contractor* shall, without in any way limiting its responsibilities under this *Contract*, take all reasonable steps to avoid interference with fire exits, building access and egress, continuity of electrical power and all other utilities, to suppress dust and noise and to avoid conditions likely to propagate mould or fungus of any kind and all other steps reasonably necessary to promote and maintain the safe and comfortable usability of such structures or adjacent structures by their users and occupants. |
|  | **GC 3.14** | **CONTRACTOR STANDARD OF CARE** |
|  | 3.14.1 | In performing this *Contract*, the *Contractor* shall exercise the degree of care, skill and diligence that would normally be exercised by an experienced, skilled and prudent contractor supplying similar construction services on similar projects. The *Contractor* acknowledges and agrees that throughout this *Contract*, the *Contractor’s* obligations, duties and responsibilities shall be judged, evaluated and interpreted in accordance with this standard. The *Contractor* shall exercise the same standard of care in respect of any *Products*, personnel (including any *Subcontractors* or *Suppliers*) or procedures which it may recommend to the *Owner* or employ on the *Project*. |
|  | **GC 3.15** | **USE OF PERMANENT EQUIPMENT OR SYSTEMS** |
|  | 3.15.1 | In the sole discretion of the *Owner (*with prior satisfactory arrangements to, and with the prior written approval of the *Owner)*, the *Contractor* may be permitted to use elements of the *Project* systems including the elevator, mechanical and electrical systems or equipment comprising a permanent part of the *Work*, for the purpose of providing conveyance, heat or power to *Project* during the final stages of construction. In such event, and before the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor* shall clean, rehabilitate and make good as new condition to the satisfaction of the *Owner* and *Consultant*, such systems and equipment as it had been permitted to use. The *Contractor* shall pay any and all costs associated with such cleaning, rehabilitation and making good, including the cost of any *Owner* provided utilities. |
|  | **GC 3.16** | **SUPPLIER CODE OF CONDUCT** |
|  | 3.16.1 | The University of Victoria Supplier Code of Conduct (“**SCoC**”), which is available at https://www.uvic.ca/purchasing/assets/docs/uvicsuppliercodeofconduct.pdf or upon request from the *Owner*, is hereby incorporated by reference and forms part of these General Conditions. The *Contractor* agrees that it shall fully comply with the SCoC. If the *Contractor* is not in compliance with the SCoC, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Contractor Notice in Writing*, containing particulars of the default including references to applicable provisions of the *Contract*. The *Contractor* will have the time specified in the foregoing *Notice in Writing* to propose a remediation plan for approval by the *Owner*, which remediation plan will include the time required by the *Contractor* to become compliant with the SCoC. Notwithstanding any other provisions contained in this *Contract*, if (i) no remediation plan is submitted as required, (ii) the *Owner* does not approve a remediation plan within 14 days of receipt of the *Contractor’s* initial proposed remediation plan or (iii) the *Contractor* fails to achieve the *Contractor’s* remediation plan, then the *Owner* may immediately terminate this *Contract* on *Notice in Writing* to the *Contractor*.” |
|  | GC 4.1.2 | Insert the following at the end of paragraph 4.1.2: |
|  |  | “Unless expressly specified, none of the *Work* included in the *Drawings* and *Specifications* is intended to be paid for by the cash allowances. The cash allowances are for the *Owner’s* use and at the *Owner’s* sole discretion.” |
|  | GC 4.1.8 | Insert the following new paragraph after paragraph 4.1.7: |
|  | “4.1.8 | The *Owner* may direct the *Contractor* to conduct a competitive procurement process for any work, materials or *Products* for which payment is to be made from a cash allowance.” |
|  | GC 4.2.1 | Insert the following at the end of paragraph 4.2.1:  “The contingency allowance is for the *Owner’s* use and at the *Owner’s* sole discretion.” |
|  | GC 5.1 | Delete GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER in its entirety and substitute “Intentionally blank”. |
|  | GC 5.2.2 | In paragraph 5.2.2 delete “which is the last day of the month” and substitute with “which is the twenty-fifth (25th) day of the month”. |
|  | GC 5.2.4 | Insert the following at the end of paragraph 5.2.4: |
|  |  | “The schedule of values shall be prepared in such a manner that each major item of *Work* and each subcontracted item of *Work* is shown as a separate line item and, in the case of each subcontract, shall accurately represent the subcontract price, and the *Consultant* and the *Owner* shall be entitled to rely on same. Separate amounts shall be shown for mobilization and start-up, continuing expenses and project close-out. The *Contractor* acknowledges that no application for payment will be deemed to be received by the *Consultant* or the *Owner* under paragraph 5.3.1 until the schedule of values is accepted and approved in writing by the *Owner*.” |
|  | GC 5.2.7 | Delete 5.2.7 in its entirety and substitute the following new paragraph: |
|  | “5.2.7 | Applications for payment shall be submitted to the *Consultant*, together with the applicable statutory declaration(s) (to be on the latest version of the CCDC 9A or CCDC 9B forms, as applicable) and such other documents as are requested by the *Consultant* or the *Owner*. Applications for payment for changes in the *Work* shall not be valid or become due and payable without a written *Change Order* and/or *Change Directive* issued by the Consultant (and signed by the *Owner*). If the application for payment is received after this date or not in the required format, it will not be processed for payment until the subsequent month.” |
|  | GC 5.2.8 | Delete 5.2.8 in its entirety and substitute the following new paragraphs: |
|  | “5.2.8 | Before the *Contractor* submits each application for payment, the *Contractor* shall document the progress of the *Work* on site to establish the value of the *Work* performed. The *Consultant* or the *Owner* may attend at the site to verify the progress of the *Work* and the value of the *Work* performed as documented by the *Contractor*. |
|  | 5.2.9 | Each *Contractor’s* application for payment shall be accompanied by the following information:  .1 a statement based on the schedule of values;  .2 supporting documentation related to the schedule of values including invoices, receipts, payrolls and equipment rental schedules;  .3 a sworn statutory declaration (or declarations) as specified in paragraph 5.2.7;  .4 if requested:  (1) the names of *Subcontractors* and *Suppliers* to be paid by the *Contractor* and the amount to be paid to each;  (2) a sworn statutory declaration from *Subcontractors* and *Suppliers*, in form and substance satisfactory to the *Consultant* and the *Owner*;  (3) a release and waiver applicable *Subcontractors* and *Suppliers*, in form and substance satisfactory to the *Consultant* and the *Owner*;  .5 the total amount of expenditures to date and the total estimated expenditures to be made for the remaining balance of the *Work*;  .6 a letter of good standing with Workers Compensation Board / WorkSafe BC;  .7 evidence as the Consultant may direct in accordance with paragraph 5.2.12; and  .8 any additional supporting information as the *Owner* or *Consultant* may direct. |
|  | 5.2.10 | Upon receipt of a written request from the *Owner* or *Consultant*, the *Contractor* shall also make available to the *Owner* or *Consultant* the *Contractor’s* files setting forth the addresses of all *Subcontractors*, labourers and *Products Suppliers* and the names of all labourers involved in the *Work*, and *Consultant* and *Owner* shall have the right to make and retain copies of the same. |
|  | 5.2.11 | The Contractor acknowledges and agrees that no application for payment shall be considered complete or received for the purposes of the *Contract* until all required supporting documentation is submitted, as determined by the *Consultant*. |
|  | 5.2.12 | No payment shall be claimed for *Products* delivered to the *Place of the Work*, or elsewhere, prior to their incorporation into the *Work* without the *Consultant’s* (or the *Owner’s*) prior consent to the delivery and such evidence as the *Consultant* may reasonably require to establish the value and delivery of such *Products*.” |
|  | GC 5.3.1 | Delete paragraph 5.3.1 in its entirety and substitute the following: |
|  | “5.3.1 | After receipt by the *Consultant* and the *Owner* of a completed application for payment submitted by the *Contractor* in accordance with GC 5.2 – APPLICATIONS FOR PAYMENT:  .1 subject to paragraph 5.3.2, the *Consultant* will issue to the *Owner* and copy the *Contractor*, no later than 10 calendar days after the receipt of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due. If the *Consultant* certifies a different amount, or rejects the application or part thereof, the Owner shall promptly issue a written notice to the *Contractor* giving reasons for the revision or rejection, such written notice to be in compliance with Payment Legislation; and  .2 the *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement – PAYMENT on or before 28 calendar days following the receipt by the Owner and the *Consultant* of the completed application for payment and in any event, in compliance with *Payment Legislation*. |
|  | 5.3.2 | Subject to the requirements of any *Payment Legislation*, the *Consultant* or the *Owner* may decline to approve an application for payment and may withhold a certificate for payment in whole or in part, if in the *Consultant’s* reasonable opinion, the *Work* has not progressed to the point indicated or the quality of the *Work* is not in accordance with the *Contract Documents.* Subject to the requirements of any *Payment Legislation,* the *Consultant* or the *Owner* may also decline to approve any application for payment or, because of subsequently discovered evidence, testing or subsequent inspections, the *Consultant* or the *Owner* may provide for a withholding of funds to offset a previous payment made pursuant to any certificate for payment previously issued or the *Owner* may refuse to make payment, to such extent as may be necessary in its opinion to protect the *Owner* from loss because of:  .1 defective work not remedied;  .2 third party claims filed or reasonable evidence indicating possible filing of such claims;  .3 failure of the *Contractor* to make payments promptly to *Subcontractors, Suppliers* or for labour, *Products* or equipment;  .4 damage to work of *Other Contractors* or property adjacent to the *Place of the Work*; or  .5 unsatisfactory prosecution of the *Work* by the *Contractor,* any *Subcontractor* or *Supplier*. |
|  | 5.3.3 | No payment made by the *Owner* under this *Contract* nor any partial or entire use or occupancy of the *Work* by the *Owner* shall constitute either (a) an acceptance of any portion of the *Work* or any *Products* which are not in accordance with the requirements of the *Contract Documents*, or (b) a waiver of any claim the *Owner* may have against the *Contractor*. |
|  | 5.3.4 | Subject to the requirements of any *Payment Legislation*, if the *Consultant* (or the *Owner)* has reasonable grounds for believing that any amount included in previous applications for payment of the *Contractor* or paid to the *Contractor* by the *Owner* has not been paid to *Subcontractors, Suppliers* or other third parties to whom such amounts are due, then the *Consultant* (or the *Owner)* may withhold payment in respect of such amount from any future payments until satisfactory evidence of payment is provided to the *Consultant* (and the *Owner)* by the *Contractor*.” |
|  | GC 5.4 | Delete General Condition 5.4 in its entirety and substitute the following: |
|  | “**GC 5.4** | **SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK** |
|  | 5.4.1 | When the *Contractor* considers that the *Work* is substantially performed, the *Contractor* shall deliver to the *Consultant* and to the *Owner* a comprehensive list of items to be completed or corrected, together with a written application for review. Failure to include an item on the list does not alter the responsibility of the *Contractor* to complete the *Contract*. |
|  | 5.4.2 | The *Consultant* will review the *Work* to certify or verify the validity of the application for *Substantial Performance of the Work* and will promptly, and in any event, no later than 10 calendar days after receipt of the *Contractors* application:  .1 advise the *Contractor* in writing that the Work or the designated portion of the Work is not substantially performed and give reasons why, or  .2 state the date of *Substantial Performance of the Work* or a designated portion of the *Work* in a certificate and issue a copy of that certificate to each of the *Owner* and the *Contractor*. |
|  | 5.4.3 | Immediately following the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor*, in consultation with the *Consultant*, shall establish a reasonable date for finishing the *Work* and correcting any deficient *Work*, as applicable. |
|  | 5.4.4 | The *Contractor* shall give to the *Owner* a minimum of 45 calendar days advance *Notice in Writing* that it will request or apply for the certificate of *Substantial Performance of the Work.* |
|  | 5.4.5 | Subject to paragraph 5.4.6 of GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK, prior to making application for *Substantial Performance of the Work*, the *Contractor* shall, subject to paragraph 5.4.7, submit to the *Consultant* the following:  .1 letters of assurance for professional design and review from those professionals engaged by the *Contractor* under the provisions of the *Contract*, including applicable sealed *Shop Drawings*;  .2 all required manufacturer’s inspections, certifications, guarantees, warranties as specified in the *Contract Documents*;  .3 all maintenance manuals, operating instructions, maintenance and operating tools, replacement parts, samples or materials as specified in the *Contract Documents*;  .4 certificates and correspondence issued by all permit issuing authorities indicating approval of all installations, work and improvements requiring permits;  .5 certificates issued by all testing, commissioning, cleaning, inspection authorities and associations as applicable or specified in the *Contract Documents*; and  .6 all required record *Drawings* and *As-Built* *Drawings* and as-installed documents in the form specified in the *Contract Documents*. |
|  | 5.4.6 | If the *Contractor* could not have, with all requisite diligence and attention, practicably obtained one or more of the items listed in paragraph 5.4.5 for the time of *Substantial Performance of the Work*, then delivery of such items may be deferred until the date that is 30 days following *Substantial Performance of the Work*. |
|  | 5.4.7 | Together with its request or application for the certificate of *Substantial Performance of the Work,* the Contractor shall provide to the *Owner* and the *Consultant* the following:  .1 a current clearance letter from Workers' Compensation Board confirming that the *Contractor* is in good standing with and that all required remittances and assessments have been made to the Workers' Compensation Board;  .2 if requested by the *Owner* or the *Consultant*, confirmation from any or all of the *Subcontractors* and *Suppliers* that they have been paid in full except for holdbacks properly retained;  .3 a properly executed *Contractor's* release in the format prescribed by the Owner or the *Consultant*, releasing all claims except those for which *Notice in Writing* has been given to the *Owner* as contemplated in paragraph 13.2.1.1;  .4 a statement compiling and reconciling all *Change Orders* and *Change Directives*;  .5 a list of all claims and demands for changes and delay, or otherwise for adjustment or reimbursement or any other claims whatsoever, under or in connection with the *Contract*; and  .6 any other documents to be submitted by the *Contractor* as specified in the *Contract* or reasonably required by the *Owner* or the *Consultant* **provided that** in relation to record or *As-Built Drawings*, the *Contractor* shall submit full and complete record of *As-Built Drawings* to the *Consultant* within forty-five (45) days of the issuance of the certificate of *Substantial Performance of the Work*. |
|  | 5.4.8 | Prior to the *Owner* making the payment otherwise due to the *Contractor* at the time of *Substantial Performance of the Work,* the *Owner* may require that:  .1 the *Contractor* acknowledges and agrees (in the certificate of *Substantial Performance of the Work*, or in a separate document, as the *Owner* prescribes) that the *Contractor* does not have and will not make any claim for additional compensation for extras, changes or delays or any other claims whatsoever against the *Owner* in connection with the *Contract* or the *Project* or the *Work*, and that the *Contractor* agrees that the payment made by the *Owner* shall be received by the *Contractor* in full and final settlement of the balance due to the *Contractor* under the *Contract* and of any and all claims of the *Contractor* in connection with the *Contract* (except only for the *Contractor’s* claim for any amount expressly held back by the *Owner* for the list of deficiencies, uncompleted *Work* or otherwise). Despite any provision in the *Contract* to the contrary, the time for the *Owner* to make any payment otherwise due at the time of *Substantial Performance of the Work* shall be extended until any and all such claims have been settled or resolved; and  .2 the *Contractor* undertakes and agrees (in the certificate of *Substantial Performance of the Work*, or in a separate document, as the *Owner* prescribes) to carry out the deficient or defective and incomplete *Work* within the specific dates set out and agreed upon by the *Contractor* and the *Owner*, or reasonably prescribed by the *Owner*. |
|  | 5.4.9 | Without limiting the *Contractor’s* obligations pursuant to paragraphs 5.4.7.3 and 5.4.8.1, the *Contractor* acknowledges and agrees that acceptance by the *Contractor* of the certificate of *Substantial Performance of the Work*, or the acceptance of a certificate by a *Subcontractor* or for any payment due thereunder shall constitute a waiver by either the *Contractor*, or the *Subcontractor*, as the case may be, of all claims whatsoever against the *Owner* under this *Contract* or any trade contract whether for a change in the *Contract Price*, extension of *Contract Time,* or otherwise, except those made in writing prior to the *Contractor’s* application for payment upon *Substantial Performance of the Work* and still unsettled. |
|  | 5.4.10 | The *Contractor* shall conform to all requirements of *Applicable Law* in force in the jurisdiction of the *Place of the Work* with respect to providing notice of and publishing a copy of the certificate of *Substantial Performance of the Work*. Without limiting the foregoing, within seven (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 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. |
|  | 5.4.11 | **Deficiency Retention**  Notwithstanding any provisions contained in the *Contract Documents* concerning certification and release of monies to the *Contractor*, the *Owner* reserves the right to establish a deficiency retention at the time of the review for *Substantial Performance of the Work*, based on a 200% dollar value of (a) the deficiencies to be corrected, and (b) work to be completed (including the delivery of *As-Built Drawings* and three (3) copies of the Project maintenance manuals), in each case, as listed by the *Consultant* (the “**Deficiency Retention**”). If the *Consultant* determines, at the time the *Consultant* issues a final certificate for payment as set out in GC 5.5 – FINAL PAYMENT, that there are still outstanding deficiencies or incomplete work, then the *Owner* may retain some or all of the Deficiency Retention as required for the *Owner* to correct the deficiencies or complete the *Work*. The Deficiency Retention is separate from and in addition to the lien holdback referred to in this *Contract*. |
|  | 5.4.12 | After the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor* shall:  .1 submit an application for payment of the holdback amount,  .2 submit CCDC 9A ‘Statutory Declaration’ to state that all accounts for labour, subcontracts, *Products*, *Construction Equipment*, and other indebtedness which may have been incurred by the Contractor in the *Substantial Performance of the Work* and for which the *Owner* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute,  .3 when applying for release of a holdback amount, submit a statutory declaration and waiver from each applicable *Subcontractor* and *Supplier* (in form and substance satisfactory to the *Owner* and *Consultant* and a Workers Compensation Board letter of good standing).” |
|  | 5.4.13 | After the receipt of an application for payment from the *Contractor* and the documents as provided in paragraph 5.4.12, the *Consultant* will issue a certificate for payment of the holdback amount. |
|  | 5.4.14 | Subject to the requirements of any *Payment Legislation*, the lien holdback amount authorized by the certificate for payment of the lien holdback amount is due and payable no later than 10 *Working Days* following the expiration of the lien holdback period stipulated in the lien legislation applicable to the *Place of the Work*, **provided that** no liens have been registered or claimed and no proceedings have been commenced to enforce a lien against the lien holdback amount. The *Owner* may retain out of the lien holdback amount any sums required by *Applicable Law* to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Contractor* which are enforceable against the *Owner*. Prior to applying for the release of lien holdback funds, the *Contractor* shall have submitted the following documents, each in a form satisfactory to the *Consultant* and the *Owner* and dated after the expiration of the applicable lien period from the issuance date of the certificate of *Substantial Performance of the Work* issued by the *Consultant*:  .1 a declaration from the *Contractor* to the *Owner*, in a form satisfactory to the *Owner*, to the effect that:  (1) no lien associated with the *Work* exists against the *Owner’s* property and the *Work*; and  (2) no action has been commenced in connection with any holdback funds related to the *Work*;  .2 statutory declarations in the forms satisfactory to the *Owner*, verifying that all liabilities incurred by the *Contractor* and its *Subcontractors* and *Suppliers*in carrying out the *Work* have been paid and there are no outstanding liens, garnishes, attachments, or claims relating to the *Work*;  .3 a certificate of clearance certifying the *Contractor’s* compliance with the requirements of the *Workers Compensation Act* (British Columbia) including any payments due thereunder;  .4 all warranties required under the provision of this *Contract*, whether originating from the *Contractor, Subcontractors* or *Suppliers*; and  .5 a release stating that the *Contractor* has no further claims against the *Owner* in respect to the *Contract*. |
|  | 5.4.15 | Where, upon application by the *Contractor*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall, subject to the requirements of any *Payment Legislation*, pay the *Contractor* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, no later than 10 *Working Days* following the expiration of the holdback period for such work stipulated in the lien legislation applicable to the *Place of the Work*. The *Owner* may retain out of the holdback amount any sums required by *Applicable Law* to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Contractor* which are enforceable against the *Owner*. Notwithstanding the foregoing, and notwithstanding the wording of such certificates, the *Contractor* shall ensure that such subcontract work or *Products* are protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when such certificates were issued. |
|  | 5.4.16 | For release of the holdback on *Work* performed by a *Subcontractor* pursuant to a subcontract which is 100% complete, after the expiry of the holdback period defined in the lien legislation applicable to the *Place of the Work*, the *Contractor* shall make an application prior to final payment by written request for a review to determine the date of completion of such subcontract and shall submit such supporting material as the *Consultant* may in his discretion require, and may include statutory declarations from such persons and dealing with such matters as the *Consultant* requires. Such material shall in any event include:  .1 a description of the scope of the *Work*;  .2 Workplace Safety & Compensation Board clearance certificate for the *Contractor*, the *Subcontractor* concerned, and any other *Subcontractors* and *Suppliers* who have provided any services to the Sub*contractor*;  .3 a statutory declaration and waiver by an officer of the *Subcontractor,* in form and substance satisfactory to the *Owner*;  *.*4 *the Contractor*’s written acknowledgement to the *Owner* that the requirements of the *Contract Documents* will not be altered by early release of the holdback in respect of such completed subcontract; and  .5 confirmation by the bonding company that it has been notified of the intent to claim early release of holdback and does not object.  An application for progressive release of holdback will not be considered complete until all related documentation required for the *Consultant’s* review is received, including those requirements in GC 5.2.9.” |
|  | GC 5.5.1 | Delete paragraph 5.5.1 in its entirety and substitute the following: |
|  | “5.5.1 | When the *Contractor* considers that the *Work* is completed, as defined in the lien legislation applicable to the *Place of the Work* or if such definition does not exist, in accordance with other *Applicable Law*, industry practice or provisions which may be agreed to between the parties, the *Contractor* shall submit an application for final payment. The *Contractor’s* application for final payment shall be accompanied by any documents or materials not yet delivered pursuant to paragraph 5.4.6 of GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK, together with:  .1 complete and final *As-Built Drawings;*  .2 the *Contractor’s* written request for release of the Deficiency Retention,including a statement that no written notices of lien have been received by it;  .3 a sworn statutory declaration (to be on the latest version of CCDC 9A or CCDC 9B forms, as applicable);  .4 a written statement that the *Work* has been performed to the requirements of the *Contract Documents*, and itemizing approved changes in the *Work* and the *Consultant’s* written instructions and modifications indicated by the *Governmental Authorities* having jurisdiction;  .5 the evidence of workers’ compensation compliance required by paragraph 10.4.1 of GC 10.4 – WORKERS’ COMPENSATION;  .6 a certificate of publication in accordance with paragraph 5.4.10 of GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK;  .7 such other materials or documentation as may be required to be submitted under the *Contract Documents*; and  .8 any other requirement for an application for payment set out in GC 5.2 – APPLICATION FOR PAYMENT.  The *Work* shall be deemed not to be completed until all of the aforementioned documents have been delivered.” |
|  | GC 5.5.4 | In paragraph 5.5.4 delete “5 calendar days” and insert “28 calendar days”. |
|  | GC 5.5.4 | Insert the following new paragraphs following paragraph 5.5.4: |
|  | “5.5.5 | Subject to the requirements of any *Payment Legislation*:  .1 no partial or progressive payments of the Deficiency Retention amounts will be considered; and  .2 no application for payment for final payment will be accepted,  until all incomplete and deficient work has been completed to the satisfaction of the Owner and the Consultant. |
|  | 5.5.6 | If the defective or incomplete work is not corrected or completed by the *Contractor* within the reasonable time established pursuant to paragraph 5.4.3, then the *Owner* may have all or a portion of the deficient or defective work corrected or completed by whatever means may be expedient and the *Owner* may deduct and set off all associated costs against amounts otherwise owed or payable to the *Contractor*. |
|  | 5.5.7 | The issuance of a final certificate for payment or the payment of lien holdback and Deficiency Retention amounts shall not relieve the *Contractor's* responsibility for correction of any other deficiencies or incomplete items, at no additional cost to the *Owner,* that may not have been included in the list of deficient items or which may not have been apparent during the review carried out pursuant to GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK.” |
|  | GC 5.6.1 | Insert the following as a new paragraph after paragraph 5.6.1: |
|  | “5.6.2 | Without restricting any right of set-off given or implied by *Applicable Law*, the *Owner* may set-off against any amounts payable under the *Contract Documents* to the *Contractor* any amount, including without limitation expenses and damages, owing by the *Contractor* to the *Owner*.” |
|  | GC 5.8 | Insert the following new General Condition GC 5.8 – LIENS: |
|  | “**GC 5.8** | **LIENS** |
|  | 5.8.1 | The *Contractor* shall promptly give the *Owner* notice (in writing) of any encumbrance or lien of any kind or nature placed upon or obtained against the property of the *Owner*, the *Place of the Work* or the *Project* in, or as a result of, any act or omission of the *Contractor*, its *Subcontractors*, *Suppliers,* or any servant(s), agent(s) or employee(s) of the *Contractor* or any of its *Subcontractors* or *Suppliers*. |
|  | 5.8.2 | If an encumbrance or lien is registered against the property of the *Owner*, the *Place of the Work* or the *Project* in, as a result of, any act or omission of the *Contractor*, its *Subcontractors* or *Suppliers*, or any servant(s), agent(s) or employee(s) of the *Contractor* or any of its *Subcontractors* or *Suppliers*, then the *Contractor* shall, at its own expense:  .1 within 10 calendar days, ensure that any and all encumbrances or liens and certificates of pending litigation or actions are discharged, released, dismissed or vacated by the posting of security or otherwise; and  .2 in the case of written notices of encumbrances or lien, ensure that such notices are withdrawn, in writing. |
|  | 5.8.3 | In the event that the *Contractor* fails to comply with the requirements of paragraph 5.8.2, the *Owner* may (but shall not be obliged to) discharge, release or vacate such encumbrance or lien without notice to the *Contractor* and shall be entitled to set-off and deduct from any amount owing to the *Contractor*, all costs and expenses, including the costs of posting security and all legal fees and disbursements associated with discharging, releasing, dismissing or vacating the encumbrance or lien, or certificate of pending litigation or action, and defending any action relating to such encumbrance or lien. If there is no amount owing by the *Owner* to the *Contractor* or to the extent the *Owner’s* costs and expenses exceed the amount owed by the *Owner* to the Contractor, then the *Contractor* shall reimburse the *Owner* for all of the said costs and associated expenses.” |
|  | GC 6.1.2 | Delete paragraph 6.1.2 in its entirety and substitute the following: |
|  | “6.1.2 | 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*.  This requirement is of the essence and it is the express intention of the parties that any claims by the *Contractor* for a change in the *Contract Price* and/or *Contract Time* shall be barred unless there has been strict compliance with PART 6 - CHANGES IN THE WORK. |
|  | 6.1.3 | If any change or deviation in, or omission from the *Work* is made by which the amount of *Work* to be done is decreased, or if the whole or a portion of the *Work* is dispensed with, no compensation is claimable by the *Contractor* or any *Subcontractor* for any *Indirect Loss*. |
|  | 6.1.4 | The *Contractor* agrees that changes resulting from construction coordination including but not limited to site surface conditions, site coordination, *Subcontractor* and *Supplier* coordination are included in the *Contract Price* and shall not entitle the Contractor to claim additional amounts in excess of the *Contract Price*.” |
|  | GC 6.2.2 | Insert the following new paragraphs after paragraph 6.2.2: |
|  | “6.2.3 | With respect to the evaluation of changes in the *Work*, the paragraph 6.2.4 description of mark-ups for all office and site related overhead (including all necessary management, estimating, administration, supervision, insurance, bonding, financing, warranty, general account items, continuing expense, unloading, unpacking, disposing of packing materials, cleaning, hoisting, clean-up, small tools, as-built drawings, job safety and all other related indirect work) and profit shall apply. |
|  | 6.2.4 | For each change in the *Work*, the *Contract Price* shall be increased by the net cost of that change in the *Work*, plus the following permitted mark-ups for all overhead and profit:  .1 the *Contractor’s* mark-up for *Work* performed by the *Contractor’s* own forces: 15% of the net cost of such *Work* performed by the *Contractor’s* own forces;  .2 the *Contractor’s* mark-up for *Work* performed by *Subcontractors* or *Suppliers*: 10% of the net cost of such *Work* performed by the *Subcontractors* or *Suppliers*; and  .3 a *Subcontractor’s* or *Suppliers* mark-up for *Work* performed by a *Subcontractor’s* or *Suppliers*own forces: 10% of the net cost of such *Work* performed by the *Subcontractor’s* or *Supplier’s*own forces.  For greater certainty, a *Subcontractor* or *Supplier* (the “**First Tier Contractor**”) (i) will only be entitled to charge a mark-up for Work performed by the First Tier Contractor’s own forces, and (ii) will not be entitled to charge a markup-up on Work performed by a *Subcontractor* or *Supplier* of the First Tier Contractor.” |
|  | GC 6.3 | Delete GC 6.3 – CHANGE DIRECTIVE in its entirety and substitute the following: |
|  | “**GC 6.3** | **CHANGE DIRECTIVE** |
|  | 6.3.1 | When a change in the *Work* is proposed or required, the *Consultant* will provide the *Contractor* with a written description of the proposed change to the *Work.* If, in the *Contractor’s* estimate, the proposed work is of a time sensitive nature and in order to mitigate unnecessary charges which may occur should the change to the *Work* not be approved immediately and/or to avoid any delay in the schedule, the *Contractor* shall immediately notify the *Consultant*. If the *Consultant* agrees with the *Contractor’s* assessment, the *Consultan*t will immediately notify the *Owner* and include all relevant information surrounding the request for a C*hange Directive*. If the *Owner* agrees, the *Consultant* will immediately issue a *Change Directive.* All work to be done on a *Change Directive* will be done on a time and materials basis. The *Contractor* will provide to the *Consultant* daily time sheets listing the hours spent by each sub-trade assigned to the task(s) and will also provide invoices for any materials procured specifically for this work and/ or incorporated into the *Work*. If requested by the *Owner*, the *Contractor* will, as soon as practicable after commencing the work contemplated by the *Change Directive*, provide a fixed price quotation for the change in accordance with paragraph 6.2.1 which, when recommended by the *Consultant* and accepted by the *Owner*, shall be deemed the total cost of the change in the *Work*. |
|  | 6.3.2 | Submission of quotations, including markups, on any work requested via *Change Directive* shall be in accordance with GC 6.2 – CHANGE ORDER.” |
|  | GC 6.4.1 | Delete paragraph 6.4.1 in its entirety and substitute the following: |
|  | “6.4.1 | The *Contractor*:  .1 confirms that, prior to submitting its bid proposal in relation to the *Project*, it carefully investigated the *Place of the Work* using the degree of care and skill described in paragraph 3.14.1 in relation to such investigation.  .2 hereby acknowledges and agrees that it will not be entitled to make any claim in connection with conditions which could reasonably have been ascertained by such investigation undertaken prior to the award of the *Contract*.” |
|  | GC 6.4.2 | At the beginning of paragraph 6.4.2, insert the following as a new first sentence: |
|  |  | “Subject to paragraph 6.4.1, if the *Contractor* considers that the conditions of the *Place of the Work* either (i) differ materially from those reasonably anticipated, (ii) differ materially from those indicated in the *Contract Documents,* or (iii) were concealed from discovery notwithstanding the conduct of the investigation described in paragraph 6.4.1, then the *Contractor* shall provide the *Owner* and the *Consultant Notice in Writing* no later than five (5) *Working Days* after becoming aware of such condition.” |
|  | GC 6.4.3 | Delete paragraph 6.4.3 in its entirety and substitute the following: |
|  | “6.4.3 | If the *Consultant* makes a finding pursuant to paragraph 6.4.2 that no change in the *Contract Price* or the *Contract Time* is justified, the *Consultant* shall report in writing the reasons for this finding to the *Owner* and the *Contractor*.” |
|  | GC 6.4.4 | Delete paragraph 6.4.4 in its entirety and substitute the following: |
|  | “6.4.4 | If such concealed or unknown conditions relate to *Hazardous Substances* and materials, artifacts and fossils, or mould, the parties will be governed by the provisions of GC 9.2 - HAZARDOUS SUBSTANCES, GC 9.3 – ARTIFACTS AND FOSSILS and GC 9.5 — MOULD.” |
|  | GC 6.5.1 | Delete paragraph 6.5.1 in its entirety and substitute the following: |
|  | “6.5.1 | If (i) the *Contractor* is delayed in the performance of the *Work* by an action or omission of the *Owner* or *Consultant* or anyone employed or engaged by them directly or indirectly (other than the *Contractor*, the *Subcontractors, Suppliers* or anyone employed or engaged by them directly or indirectly) contrary to the provisions of the *Contract Documents,* and (ii) the *Contractor* has given the *Owner* and *Consultant* a *Notice in Writing* in a timely fashion of the action or omission that has given rise to such delay, then (1) the *Contract Time* shall be extended for such reasonable time as the *Consultant* determines, and (2) the *Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Contractor* as the result of such delay (excluding any *Indirect Costs*). In the event of a dispute as to the amount of such costs such dispute shall be resolved in accordance with Part 8 of the General Conditions - DISPUTE RESOLUTION.” |
|  | GC 6.5.2 | Revise paragraph 6.5.2 by, (a) deleting the words “in consultation with the *Contractor*” at the end of the first sentence; and (b) deleting the last sentence and replacing it with the following:  “The *Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the Contractor as the result of such delay (excluding any *Indirect Costs*) **provided that** such delay did not result from the act or omission of the *Contractor* or anyone employed or engaged by *Contractor* directly or indirectly. In the event of a dispute as to the amount of such costs such dispute shall be resolved in accordance with Part 8 of the General Conditions - DISPUTE RESOLUTION.” |
|  | GC 6.5.3 | Delete paragraph 6.5.3 in its entirety and substitute the following: |
|  | “6.5.3 | If the *Contractor* is delayed in the performance of the *Work* as a result of *Force Majeure*, then Contract Time shall be extended for such reasonable time as the Consultant may recommend. The *Contractor* shall not be entitled to any additional compensation as a result of such *Force Majeure* event or the delay occasioned thereby and shall not be compensated for any additional costs, directly or indirectly arising as a result of such *Force Majeure* event or the delay occasioned thereby (including, without limiting the generality of the foregoing, any additional costs arising out of winter construction). No controversy or dispute between in relation to such delayshall constitute a cause for stoppage of the performance of the *Contractor’s* obligations or services or for a delay or extension.” |
|  | GC 6.5.4 | Delete paragraph 6.5.4 in its entirety and substitute the following: |
|  | “6.5.4 | No extension shall be made for delay unless *Notice in Writing* of the cause of the delay is given to the *Consultant* and the *Owner* not later than 10 *Working Days* after the commencement of the delay. In the case of a continuing cause of delay only one *Notice in Writing* shall be necessary. A notice of claim with respect to any delay shall indicate the reasons for such delay and the best estimate of the *Contractor* as to its duration and the effect upon the *Contract Time*, and such other supporting documentation as may be required by the *Consultant* and the *Owner* (in their discretion). Upon termination of the circumstances giving rise to the delay, the *Contractor* shall give to the *Owner* and *Consultant* a *Notice in Writing* of the termination of the delay.” |
|  | GC 6.5.5 | Insert the following new paragraphs after paragraph 6.5.5: |
|  | “6.5.6 | No extension shall be made for delay arising from strikes, lock outs and other industrial disturbances that is decreed for its members by a recognized contractor’s association of which the *Contractor* is a member or to which the *Contractor* is otherwise bound if the *Contractor*, before entering into this *Contract* or commencing the *Work*, had or should have had knowledge that or reasonable grounds for believing that the *Work* would be delayed by such a labour dispute and did not so inform the *Owner* and *Consultant* in writing. |
|  | 6.5.7 | If there is a delay in the performance of any portion of the *Work*, the *Contractor* shall take commercially reasonable efforts to mitigate the consequences of such delay including the rescheduling of the *Work* and the *Contractor’s* failure to mitigate shall be taken into account any extension to the *Contract Time*. |
|  | 6.5.8 | Subject to *Applicable Law*, the *Owner* or *Consultant* may order the *Work* to proceed on a two or three eight-hour shift basis if it deems this necessary to speed up the *Work*, or it may order any *Work* to be carried out in whole or in part at night. No *Work*, however, shall be undertaken at night without the consent in writing of the *Owner* or *Consultant.* If, at the time of such order:  .1 the progress of the *Work* has been delayed and the *Contractor* is not compliant with the *Time Schedule*, then the *Contractor* shall have no claim for extra compensation in respect thereof;  .2 the progress of the *Work* has not been delayed and the *Contractor* is compliant with the *Time Schedule*, then the additional net cost of such additional time (less any savings realized by the *Contractor* through the earlier completion of the *Work*) shall be chargeable to the *Owner*. |
|  | 6.5.9 | Any adjustment to the *Contract Time* required as a result of GC 6.5 - DELAYS shall be made as provided in GC 6.1 - OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE. |
|  | 6.5.10 | If the *Consultant* determines that the *Contractor* is delayed in the performance of the *Work*, or any part thereof, by an action or omission of the *Contractor* (or anyone employed or engaged by the *Contractor* directly or indirectly) or by any cause within the *Contractor’s* control (including, without limitation, by a stop work order issued by a court or other *Governmental Authority* as a result of an act or fault of the *Contractor* (or anyone employed or engaged by the *Contractor* directly or indirectly)) and the *Contract Time* is affected, then:  .1 the *Consultant* will promptly give *Notice in Writing* of such determination to the *Owner* and the *Contractor*;  .2 the *Contractor* shall accelerate the *Work* as required to meet the *Contract Time*;  .3 the *Contractor* shall then promptly give the *Owner* and the *Consultant Notice in Writing* of specific changes to the construction scheduling and construction processes the *Contractor* will implement to accelerate the *Work*;  .4 the *Contractor* shall not be entitled to payment for costs to accelerate the *Work* to meet the *Contract Time*; and  .5 the *Owner* shall be reimbursed by the *Contractor* for reasonable costs incurred by the *Owner* as the result of such delay. |
|  | 6.5.11 | If the *Consultant* determines that the *Work* has not been sufficiently accelerated to mitigate the delay, then the *Contract Time* may be extended for such reasonable time as the *Consultant* may determine. The *Owner* shall be reimbursed by the *Contractor* for all reasonable costs incurred by the *Owner* as the result of such delay, including all services required by the *Owner* from the *Consultant* as a result of such delay by the *Contractor* and, in particular, the cost of the *Consultant’s* services during the period between the date of *Substantial Performance of the Work* stated in Article A-1 herein as the same may be extended through the provision of these General Conditions and any later actual or date of *Substantial Performance of the Work* achieved by the *Contractor*. In the event of a dispute as to extension of time or the amount of such costs such dispute shall be resolved in accordance with Part 8 of the General Conditions - DISPUTE RESOLUTION. |
|  | 6.5.12 | During any delays in the performance of the *Work* as set out in GC 6.5 – DELAYS, the *Contractor* shall maintain adequate surveillance of the *Work* and undertake such maintenance and protection of the *Work* as may be reasonable to maintain safety and when possible to protect *Products* already installed in the *Work* or delivered to the *Place of the Work*.” |
|  | GC 6.6.1 | In paragraph 6.6.1, insert the following after the word “*Consultant*”:  “in no case more than 10 *Working Days* from the event or series of events giving rise to the claim.” |
|  | GC 7.1.1 | In paragraph 7.1.1, add the words “commits an act of bankruptcy,” after the word “bankrupt,”.  In paragraph 7.1.1, add the words “or a proposal” after the word “assignment” in paragraph 7.1.1. |
|  | GC 7.1.5 | Delete paragraph 7.1.5 in its entirety and substitute the following: |
|  | “7.1.5 | If the *Owner* terminates the *Contractor’s* right to continue with the *Work* in whole or in part or terminates the *Contract*, as provided in paragraphs 7.1.1, 7.1.4 or elsewhere in the *Contract*, the *Owner* shall be entitled to:  .1 take possession of the *Work* and *Products* at the *Place of the Work*; subject to the rights of third parties, utilize the *Construction Equipment* at the *Place of the Work*; finish the *Work* by whatever method the *Owner* may consider expedient, but without undue delay or expense, and  .2 withhold further payment to the *Contractor* until a final certificate for payment is issued, and  .3 charge the *Contractor* an amount equal to the cost of finishing the *Work* as certified by the *Consultant*, including compensation to the *Consultant* for the *Consultant’s* additional services and a reasonable allowance as determined by the *Consultant* to cover the cost of corrections to work performed by the *Contractor* that may be required under GC – 12.3 WARRANTY, and  .4 on expiry of the warranty period, charge the *Contractor* the amount by which the cost of corrections to the *Contractor’s* work under GC 12.3 - WARRANTY exceeds the allowance provided for such corrections.” |
|  | GC 7.1.6 | Insert the following new paragraphs after paragraph 7.1.6: |
|  | “7.1.7 | For greater certainty, but without intending to limit the circumstances in which notice of default might be given, the *Owner* will be entitled to give the *Contractor Notice in Writing* that the *Contractor* is in default pursuant to paragraph 7.1.2, and to instruct the *Contractor* to correct the default as set out therein, upon the happening of any of the following:  .1 if the *Contractor* fails to make prompt payment to its *Subcontractors* and *Suppliers*;  .2 if *Work* of the *Contractor* is rejected and the *Contractor* fails to promptly correct same;  .3 if the *Contractor* has made an assignment of the *Contract* without the required consent of the *Owner*;  .4 if the *Contractor* abandons the *Work*;  .5 if the *Contractor* fails to provide or maintain the bonds or contract security required;  .6 if the *Contractor* fails to carry and maintain required insurance;  .7 if the *Contractor* fails to discharge builders liens when required to do so;  .8 if in the reasonable determination of the *Consultant* the *Contractor* does not have sufficient workforce, *Products* or *Construction Equipment* at the *Place of the Work* or otherwise is not meeting or will not meet the requirements of the construction schedule, including the requirement to meet important milestone dates from time to time designated by the *Owner* acting reasonably; and  .9 if the *Contractor* fails to take steps satisfactory to the *Consultant*or*Owner* to expedite the performance of the *Work* or fails to provide a *Recovery Schedule* acceptable in form and content to the *Consultant* or*Owner*, or fails to provide documents requested by the *Consultant* or*Owner* to confirm adherence to a *Recovery Schedule*. |
|  | “7.1.8 | **Suspension**  .1 The *Owner* may instruct the *Contractor* to suspend the performance of the *Work* (or any part thereof) for either a specified or unspecified period by issuing the *Contractor* with a written notice (“**Notice of Suspension**”).  .2 On receipt of a *Notice of Suspension* the *Contractor* shall cease all operations in performance of the *Work* or identified part thereof except such *Work* as may be necessary for the protection or safety of *Work* completed at the time of suspension as directed by the *Consultant*.  .3 During the period of suspension, the *Contractor* shall remain responsible for the *Work* then in place, the materials and plant, in each case, to the same extent as if no suspension had occurred. No costs shall be invoiced to the *Owner* during the period of the suspension. The *Owner* will compensate the *Contractor* for reasonable costs and expenses sustained by the *Contractor* as a result of the suspension **provided that** the *Owner* shall not be liable for any *Indirect Loss*. The *Contractor* shall make every effort to mitigate these costs and expenses to the *Owner*.  .4 If the suspension is sixty (60) days or less, the *Contractor* shall resume the performance of the *Work* within five (5) days following receipt of notification to resume by the *Owner*. If the suspension exceeds sixty (60) days, no *Work* will be resumed prior to the *Contractor* and the *Owner* having agreed upon the resumption terms and conditions.  .5 The *Contractor* shall not, during the period of suspension, remove from the *Place of the Work* any part of the *Work* or any materials, plant or products without the written consent of the *Owner*. |
|  | 7.1.9 | **Termination by Owner for Convenience**  .1 At any time, the *Owner* may, for convenience and without cause, terminate the Contract or terminate the Contractor’s right to continue with the *Work* (or portions thereof) by giving a written notice (such notice, a “**Notice of Termination**”) to the *Contractor*.  .2 On receipt of a *Notice of Termination* the *Contractor* will cease all operations in performance of the *Work* except such work as may be necessary for the protection or safety of *Work* completed at the time of termination as directed by the *Consultant*.  .3 The *Owner* will pay the *Contractor* and the *Contractor* will accept in full and final settlement of all monies owing under the *Contract* an amount based on the *Work* satisfactorily completed and materials (including any *Products*) delivered to the *Place of the Work* but not incorporated into the *Work*, together with any other unavoidable direct costs incurred by the *Contractor* as a result of such termination **provided that** the *Owner* shall not be liable for any *Indirect Loss*. The *Contractor* shall make every effort to mitigate these costs and expenses to the *Owner*.  .4 Title to any materials (including any *Products*) delivered to the *Place of the Work* shall transfer to the *Owner* and the *Contractor* shall take all steps reasonably required, including the execution of any documents, to protect the *Owner’s* title and interest in such materials (including any *Products*).” |
|  | GC 7.2.2 | In paragraph 7.2.2, delete “20 *Working Days*” and replace with “90 days”. |
|  | GC 7.2.3 | Delete paragraph 7.2.3 in its entirety and substitute the following: |
|  | “7.2.3 | The *Contractor* may give *Notice in Writing* to the *Owner*, with a copy to the *Consultant*, that the *Owner* is in default of the *Owner*’s contractual obligations if:  .1 Intentionally blank;  .2 the *Consultant* fails to issue a certificate as provided in GC 5.3 – PAYMENT;  .3 the *Owner* fails to pay the *Contractor* when due the amounts certified by the *Consultant* or awarded by arbitration or court, except where the *Owner* has a bona fide claim for set off; or  .4 the *Owner* violates its obligations to the *Contractor* pursuant to the *Contract* to a substantial degree and the *Consultant* confirms by written statement to the *Contractor* that sufficient cause exists.” |
|  | GC 8.1.2 | Delete paragraph 8.1.2 in its entirety and substitute the following: |
|  | “8.1.2 | If a dispute arises under the *Contract* in respect of a matter in which the *Consultant* has no authority under the *Contract* to make a finding, the procedures set out in paragraph 8.1.3 and paragraphs 8.3.2 to 8.3.4 of GC 8.3 – NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.4 – RETENTION OF RIGHTS apply to that dispute with the necessary changes to detail as may be required.” |
|  | GC 8.3 | Delete GC 8.3 – NEGOTIATION, MEDIATION AND ARBITRATION in its entirety and substitute the following: |
|  | “**GC 8.3** | **NEGOTIATION, MEDIATION AND ARBITRATION** |
|  | 8.3.1 | A party shall be conclusively deemed to have accepted a finding of the *Consultant* under GC 2.2 – ROLE OF THE CONSULTANT and to have expressly waived and released the other party from any claims in respect of the particular matter dealt with in that finding unless, within 15 *Working Days* after receipt of that finding, the party sends a *Notice in Writing* of dispute to the other party and to the *Consultant*, which contains the particulars of the matter in dispute and the relevant provisions of the *Contract Documents*. The responding party shall send a *Notice in Writing* of reply to the dispute within 10 *Working Days* after receipt of such *Notice in Writing* setting out particulars of this response and any relevant provisions of the *Contract Documents*. |
|  | 8.3.2 | The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid, and timely disclosure of relevant facts, information and documents to facilitate these negotiations. |
|  | 8.3.3 | No later than 10 *Working Days* following receipt of a responding party’s *Notice in Writing* of reply under paragraph 8.3.1, the parties shall meet to attempt to reach agreement on any unresolved dispute. |
|  | 8.3.4 | If the dispute has not been resolved within 10 *Working Days* after receipt of a responding party’s *Notice in Writing* of reply under paragraph 8.3.1 or within such further period agreed by the parties, then subject to the *Owner’s* consent to arbitration in its sole discretion, either party may by the giving of *Notice in Writing* to the other party, refer the dispute to be finally resolved by arbitration under the latest edition of the CCDC-40 Rules for Mediation and Arbitration of Construction Disputes, as may be amended by agreement between the parties. Such arbitration shall be conducted in the jurisdiction of the *Place of the Work*.” |
|  | GC 8.4.2 | Delete paragraph 8.4.2 in its entirety and substitute the following: |
|  | “8.4.2 | Nothing in Part 8 of the General Conditions – DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the *Place of the Work* and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that the parties have under paragraph 8.3.4 of GC 8.3 – NEGOTIATION, MEDIATION AND ARBITRATION to agree to refer the dispute to arbitration to adjudicate the merits of the claim upon which such a lien is based.” |
|  | GC 9.1 | Delete paragraph 9.1.2 in its entirety and substitute the following paragraph: |
|  | “9.1.2 | Before commencing any *Work*, the *Contractor* shall determine the location of all underground utilities and structures indicated in the *Contract Documents*, or that are discoverable by applying to an inspection of the *Place of the Work* the standard of skill and care described in GC 3.14 – CONTRACTOR STANDARD OF CARE.” |
|  | GC 9.1 | Insert the following as a new paragraph after paragraph 9.1.4: |
|  | “9.1.5 | The *Contractor* shall be responsible for keeping the *Place of the Work* free from trespassers and for protection of the *Work* and the public from any loss or injury from commencement to completion and acceptance of the *Work* by the *Owner*. The *Contractor* shall provide all required barriers, fences, warning signs, lights and watching for the protection of persons and property on and adjacent to the *Place of the Work*.” |
|  | GC 9.2 | Delete GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES in its entirety and substitute the following: |
|  | “**GC 9.2** | **HAZARDOUS SUBSTANCES** |
|  | 9.2.1 | The *Owner* shall be responsible for *Hazardous Substances* and materials present at the *Place of the Work* at the commencement of the *Work*. The *Contractor* shall be responsible *Hazardous Substances* brought onto the *Place of the Work* after commencement of the *Work*. |
|  | 9.2.2 | If the *Contractor*:  .1 encounters *Hazardous Substances* at the *Place of the Work*, or  .2 has reasonable grounds to believe that *Hazardous Substances* are present at the *Place of the Work*,  in each case, which were not identified in the *Contract Documents* then the *Contractor* shall:  .1 take all reasonable steps, including stopping the *Work* if necessary, to ensure that no individual’s exposure to any *Hazardous Substances* exceeds the exposure permitted by *Environment Law*;  .2 to ensure all *Environmental Laws* are complied with; and  .3 immediately report the circumstances in writing to the *Consultant* and the *Owner* in writing. |
|  | 9.2.3 | The *Owner*, in consultation with the *Contractor*, will retain a *Qualified Environmental Professional* to investigate and provide an opinion on:  .1 the necessary steps required by *Environmental Law* to remove and dispose of any *Hazardous Substances* at the *Place of the Work* that must be moved in order to proceed with the *Work*; and  .2 whether such *Hazardous Substances* were present prior at the *Place of the Work* prior to the commencement of the *Work*, or whether they were brought to the *Place of the Work* by the *Contractor*. |
|  | 9.2.4 | If the *Owner* and *Contractor* agree, or if the *Qualified Environmental Professional* referred to in paragraph 9.2.3 determines, that the *Hazardous Substances* were not brought onto the *Place of the Work* by the *Contractor* or anyone for whom the *Contractor* is responsible:  .1 the *Owner* may engage the services of a *Qualified Environmental Professional* to arrange for the expeditious removal from the *Place of the Work* and disposal of the *Hazardous Substances* materials, the cost of which shall be to the account of the *Owner*, or the *Owner* may request that the *Contractor* shall within 10 *Working Days* prepare and deliver to the *Owner*, with a copy to the *Consultant*, a plan for the safe removal from the *Place of the Work* and disposal of the *Hazardous Substances* and the *Owner* shall, within 5 *Working Days* of receipt of such plan, approve the plan or provide reasons to the *Contractor* why the *Owner* did not approve the plan;  .2 if having received approval from the *Owner*, the *Contractor* shall promptly take all necessary steps, in accordance with *Environmental Law* in force at *the Place of the Work*, to safely remove and dispose of the *Hazardous Substances* in accordance with the approved plan;  .3 the *Contractor* shall make good any damage to the *Work*, the *Owner’s* property or property adjacent to the *Place of the Work* as provided in GC 9.1.3 of GC 9.1 — PROTECTION OF WORK AND PROPERTY;  .4 the *Owner* shall reimburse the *Contractor* for the costs of all steps taken pursuant to GC 9.2.2 and 9.2.4, except in all cases where the *Owner* has retained and directly paid for the services of a *Qualified Environmental Professional*;  .5 the *Owner* shall extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and the *Qualified Environmental Professional* referred to in GC 9.2.3 and reimburse the *Contractor* for reasonable costs incurred as a result of the delay; and  .6 the *Owner* shall indemnify the *Contractor* as required by GC 13.1 — INDEMNIFICATION. |
|  | 9.2.5 | If the *Owner* and *Contractor* agree, or if the *Qualified Environmental Professional* referred to in paragraph 9.2.3 determines, that the *Hazardous Substances* were brought onto the *Place of the Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, then the *Contractor* shall:  .1 within 10 *Working Days* prepare and deliver to the *Owner*, with a copy to the *Consultant*, a plan for the safe removal from the *Place of the Work* and disposal of the *Hazardous Substances* and the *Owner* shall, within 5 *Working Days* of receipt of such plan, approve the plan or provide reasons to the *Contractor* why the *Owner* did not approve the plan;  .2 having received approval from the *Owner*, promptly take all necessary steps, in accordance with *Environmental Law*, to safely remove and dispose of the *Hazardous Substances* in accordance with the approved plan;  .3 make good any damage to the *Work*, the *Owner’s* property or property adjacent to the *Place of the Work* as provided in paragraph 9.1.3 of GC 9.1 — PROTECTION OF WORK AND PROPERTY;  .4 reimburse the *Owner* for reasonable expenses costs incurred with regard to the *Qualified Environmental Professional* under paragraph 9.2.3; and  .5 indemnify the *Owner* as required by GC 13.1 — INDEMNIFICATION.” |
|  | GC 9.3.2 | In paragraph 9.3.2, insert the following after the words “*Contractor* shall” in the first line:  “comply with the provisions of the *Heritage Conservation Act* (British Columbia) and”. |
|  | GC 9.4.1 | Delete GC 9.4 – CONSTRUCTION SAFETY in its entirety and substitute the following: |
|  | “**GC 9.4** | **CONSTRUCTION SAFETY** |
|  | 9.4.1 | The *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations and practices required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Work. The *Contractor* shall assume overall responsibility, carry out and discharge all duties and obligations of, and be designated or registered as the “prime contractor” or equivalent role with respect to the health and construction safety legislation applicable to the *Place of the Work* and the *Project*. The *Contractor* shall be responsible for and ensure the safety not only of the workers, *Subcontractors*, tradesmen and *Suppliers* and their plant and equipment but also of all other persons who enter the *Place of the Work* (including the *Owner* and the *Other Contractors* and own forces) whether during working hours or not and for that purpose shall erect such hoardings and signs and shall employ such safety measures as may be necessary to ensure the safety of such persons. In order to effectively exercise that responsibility, the *Owner* authorizes the *Contractor* to supervise the *Owner's* own forces at the *Place of the Work* with respect to applicable health and construction safety matters and, where reasonably necessary due to health or construction safety considerations, deny the *Owner's* own forces or its *Other Contractors* access to the *Place of the Work.* |
|  | 9.4.2 | Either of the *Owner* or the *Consultant* shall have authority in an emergency to stop the progress of the *Work* whenever in its opinion such stoppage may be necessary to ensure the safety of life, or of the *Work* or neighbouring property. This includes authority to make changes in the *Work*, and to order, assess and award the cost of such work, extra to the *Contract* or otherwise, as may in its opinion be necessary. The *Owner* or the *Consultant* shall within two (2) *Working Days* confirm in writing any such instructions **provided that** where the Consultant has authorized changes to the *Work*, such confirmation in writing shall also be confirmed by the *Owner*. |
|  | 9.4.3 | Prior to commencement of the *Work,* and (where applicable) during the performance of the *Work*, the *Contractor* shall:  .1 deliver to the *Owner* a current clearance certificate issued by the Workers’ Compensation Board of British Columbia (“**WorkSafeBC**”) and confirmation from *WorkSafeBC* of the *Contractor’s* current experience;  .2 deliver to the *Owner* certificates of evidencing the *Contractor’s* insurance coverage that has application to the *Project*;  .3 deliver to the *Owner* documentation of the *Contractor’s* in-house safety-related programs;  .4 deliver to the *Owner* documentation of the *Contractor’s* Health and Safety plan specific to the *Place of the Work*;  .5 procure that a copy of the Notice of Project is filed with *WorkSafeBC* naming itself as “prime contractor” under the occupational health and safety legislation applicable to the Place of the Work (“**OHSA**”), if required, or a copy of any provincially prescribed “Notice of Project” and all necessary permits, notifications and related health and safety documents;  .6 ensure that each work space is properly delineated and protected by the necessary safety measures required by such legislation;  .7 notify the *Owner* of any infraction or non-compliance with the *Contractor’s* health and safety directions, instructions, plans or policies by any of the *Owner’s* own forces or the *Other Contractors* and takes immediate action to ensure no further infractions or non-compliance; and  .8 ensure that all *Other Contractors*, labour, *Consultant,* *Subcontractors, Suppliers,* personnel and site staff are fully familiar with the safety policy and procedure set down for the *Project* and shall aware that the *Contractor* is responsible for ensuring such procedure in accordance with the rules, regulations and law of the work place. |
|  | 9.4.4 | The *Contractor* hereby represents and warrants to the *Owner* that appropriate health and safety instruction and training have been provided and will be provided to the *Contractor’s* employees, *Subcontractors* and *Suppliers*, before the *Work* is commenced and agrees to provide the *Owner*, if requested, proof of such instruction and training. |
|  | 9.4.5 | The *Contractor* shall indemnify and save harmless the *Owner,* its board of governors, authorized representatives, agents, officers, directors, employees, consultants, successors and assigns from and against the consequences of any and all safety infractions committed by the *Contractor* under *OHSA* or applicable health and safety legislation in the *Place of the Work*, including the payment of legal fees and disbursements on a solicitor and client basis.” |
|  | GC 10.1.2 | Insert the following at the end of paragraph 10.1.2: |
|  |  | “For greater certainty, the *Contractor* shall not be entitled to any mark up for overhead or profit on any increase in such taxes and duties and the *Owner* shall not be entitled to any credit related to mark up for overhead or profit on any decrease in such taxes.” |
|  | GC 10.1.2 | Insert the following new paragraphs after paragraph 10.1.2: |
|  | “10.1.3 | Where an exemption or recovery of sales taxes, customs duties, excise taxes or *Value Added Taxes* is applicable to the *Contract*, the *Contractor* shall, at the request of the *Owner* or the *Owner’s* representative, assist, join in, or make 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 funds received from the federal or provincial governments, or any other taxing authority, as may be required to give effect to this paragraph 10.1.3. |
|  | 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. |
|  | 10.1.5 | Any refund of taxes, including without limitation, any government sales tax, customs duty, excise tax or *Value Added Tax*, whether or not paid, which is found to be inapplicable or for which exemption may be obtained, is the sole and exclusive property of the *Owner.* The *Contractor* agrees to cooperate with the *Owner* and obtain from all *Subcontractors* and *Suppliers* cooperation with the *Owner* in the application of any refund of any taxes, which cooperation shall include, but not limited to, making or concurring in the making of an application for any such refund or exemption and providing to the *Owner* copies, or where required, originals of records, invoices, purchase orders, and other documentation necessary to support such applications or exemptions or refunds. All such refunds shall either be paid to the *Owner*, or shall be a credit to the *Owner* against the *Contract* *Price*, in the *Owner’s* discretion. |
|  | 10.1.6 | Customs duties penalties, or any other penalty, fine or assessment levied against the *Contractor* shall not be treated as a tax or customs duty for purposes of this GC 10.1.” |
|  | GC 10.2.2 | Delete paragraphs 10.2.2 and 10.2.3 in their entirety and substitute the following: |
|  | “10.2.2 | The *Owner* shall obtain and pay for development approvals, building permits, permanent easements and rights of servitude necessary for the performance of the *Work*. |
|  | 10.2.3 | The *Contractor* shall be responsible for the procurement of all permits, licenses, inspections, and certificates, which are necessary for the performance of the *Work* other than those that are the responsibility of the *Owner* pursuant to paragraph 10.2.2. All necessary permits, licenses and certificates shall include the approval of *Drawings* and *Specifications* required by applicable provincial labour legislation. The *Contract Price* includes the cost of these permits, licenses, inspections, and certificates, and their procurement.” |
|  | GC 10.2.5 | Delete paragraphs 10.2.5 to 10.2.7 in their entirety and substitute the following: |
|  | “10.2.5 | The *Contractor* shall, to the extent only of the *Contractor’s* expertise, experience and knowledge, be responsible for verifying that the *Contract Documents* are in compliance with *Applicable Laws*, ordinances, rules, regulations, or codes relating to the *Work*. If the *Contract Documents* are at variance therewith, or if, subsequent to the time of bid closing, changes are made to *Applicable Laws*, ordinances, rules, regulations, or codes which require modification to the *Contract Documents*, the *Contractor* shall advise the *Consultant* in writing requesting direction immediately upon such variance or change becoming known, 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*. The *Consultant* will make the changes required to the *Contract Documents* as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE. |
|  | 10.2.6 | If the *Contractor* fails to advise the *Consultant* in writing or fails to obtain direction as required in paragraph 10.2.5, and performs work that is contrary to any *Applicable Laws*, ordinances, rules, regulations or codes, then:  .1 the *Contractor* shall be responsible for and shall correct the violations thereof and shall bear the costs, expenses and damages attributable to the failure to comply with the provisions of such *Applicable Laws*, ordinances, rules, regulations, or codes; and  .2 if the *Owner* suffers loss or damage as a result of the *Contractor’s* failure to comply with paragraph 10.2.5, and notwithstanding any limitations described in paragraph 13.1.1, the *Contractor* agrees to indemnify and hold harmless the *Owner* and the *Consultant* from and against any claims, demands, losses, costs, damages, actions, suits or proceedings resulting from such failure by the *Contractor*. |
|  | 10.2.7 | 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 BC Building Code or authorities having jurisdiction as applicable. The *Contractor* shall be present at each site inspection made by an inspector or registered code agency as applicable under the BC Building Code, or authorities having jurisdiction as applicable. |
|  | 10.2.8 | The *Contractor* shall provide to the *Consultant* copies of all inspection reports from the various authorities having jurisdiction within two (2) *Working Days* of their receipt.” |
|  | GC 10.4 | Delete GC 10.4 – WORKERS’ COMPENSATION in its entirety and substitute the following: |
|  | “**GC 10.4** | **WORKERS’ COMPENSATION** |
|  | 10.4.1 | Prior to commencing the *Work*, and with each application for payment thereafter, the *Contractor* shall provide a Certificate of Clearance from the Workers Compensation Board of BC/WorkSafe BC. Application for payment of the holdback amount following *Substantial Performance of the Work* and again at the *Contractor’s* application for final payment, the *Contractor* shall provide evidence of compliance by the *Contractor,* *Subcontractors* and *Suppliers* with the workers compensation legislation at the *Place of the Work*, including payments due thereunder. |
|  | 10.4.2 | At any time during the term of the *Contract*, when requested by the *Owner*, the *Contractor* shall provide such evidence of compliance by the *Contractor,* *Subcontractors* and *Suppliers.* |
|  | 10.4.3 | **Occupational Health and Safety**  The *Contractor* shall act in the capacity of the “Prime Contractor” for the construction site and that it shall take all necessary precautions to fulfill all of its obligations, functions and duties as Prime Contractor in compliance with *Workers Compensation Act* (British Columbia) and the OHS Regulation.  .1 The *Contractor* shall, before the commencement of the Work:  (1) Designate a qualified site safety coordinator who shall be an employee of the Prime Contractor and shall be qualified (being knowledgeable of the work, the hazards involved and the means to control the hazards, by reason of education, training, experience or a combination thereof) to discharge the responsibilities of a site safety coordinator as described in the *Workers Compensation Act* (British Columbia) and the OHS Regulation; and  (2) Deliver to the *Owner’s* representative written notice of the designation of the site safety coordinator a copy of the ‘Notice of Project’ for the *Project*. Written notice confirming that the Health and Safety Program has been implemented and is readily available in accordance with the *Workers Compensation Act* (British Columbia) and the OHS Regulation.  .2 The *Contractor* shall:  (1) Observe and comply with *Workers Compensation Act* (British Columbia) and the OHS Regulation, including conducting worker safety orientations, holding health and safety meetings to coordinate activities, conduct safety inspections to ensure compliance with WorkSafeBC OSH Regulations by all workers and perform accident and incident investigations as required;  (2) Ensure that all assessment, levies, penalties, fees and fines, which may be made under any Health and Safety Laws, are punctually paid as they become due; and  (3) Establish and maintain a joint health and safety committee with terms of reference that ensure that it can fulfill its functions under the *Workers Compensation Act* (British Columbia) and the OHS Regulation, and ensure that such committee fulfills such functions.  .3 Post at the *Place of the Work*:  (1) The name of the qualified coordinator;  (2) A site drawing showing the boundaries of the construction site, with project layout, first aid location, emergency transportation provisions and the evacuation marshalling points relating to the *Place of the Work*;  (3) Ensure that a copy of the Health and Safety Program, the written construction procedures designed to protect the health and safety of workers at the construction site and a copy of the OHS Regulation are readily available at convenient locations at the *Place of the Work*;  (4) Deliver and post at the *Place of the Work* any and all required Notices of Project;  (5) When conditions or activities at any location at the *Place of the Work* affect the workers of more than one employer or where there are overlapping or adjoining work activities by two or more employers, ensure that the site safety coordinator coordinates the occupational health and safety activities throughout the *Place of the Work* and alerts all workers to all reasonably foreseeable hazards to which they are likely to be exposed;  (6) Immediately notify all employers, workers, *Suppliers* and *Subcontractors* and any other persons throughout the site of any hazard created by the construction work and/or by overlapping or adjoining work activities of two or more employers and ensure the hazards are addressed throughout the duration of such activities;  (7) Immediately deliver to the *Owner’s* representative the name of any employer who does not cooperate with, assist or comply with the requirements of the site safety coordinator regarding coordination of health and safety activities throughout the *Place of the Work*;  (8) In the event of an accident or incident that requires notification to WorkSafeBC, deliver copy of such notice to the *Owner’s* representative at the same time as to WorkSafeBC, and provide ongoing information to the *Owner’s* representative on the progress of any investigation resulting from such notice, accident or incident;  (9) Record and retain all occupational health and safety documentation in respect of the *Work*, including:  (i) Notices which the *Contractor* is required to provide to WorkSafeBC;  (ii) Monthly summaries of remedial actions taken to reduce occupational health and safety hazards within the construction site;  (iii) Directives with inspection reports issued by or through WorkSafeBC in connection with the construction site or the construction work;  (iv) Reports and investigations on incidents and accidents, which are required to be investigated by WorkSafeBC;  (v) Records, including minutes, of safety meetings and tailgate meetings;  (vi) Copies of any hazard identifications performed at the *Place of the Work*;  (vii) Evidence that instruction and health and safety orientation and training for workers at the *Place of the Work* is being conducted, and upon the request of the *Owner’s* representative, make such documentation available to the *Owner’s* representative, including by providing copies; and  (10) Employ a qualified site safety coordinator at the construction site. |
|  | 10.4.4 | **Site Safety and Security**  .1 The *Contractor* shall take such measures as are reasonably required, including fencing, hoarding, the use of delineators and signage where appropriate, to prevent the trespass and access into the *Place of the Work* of any persons not entitled to be on the site.  .2 The *Contractor* shall provide for the safety of all persons at or near the *Place of the Work* including users of the site and shall maintain the *Place of the Work* in a manner and in an orderly state that ensures the safety of such persons and that is appropriate to the safety of such persons.  .3 The *Contractor* shall remove from the *Place of the Work* any worker who engages in misconduct or is incompetent or negligent in the proper performance of any duties, or whose presence at the *Place of the Work* is otherwise undesirable. |
|  | 10.4.5 | **Health and Safety Program**  .1 Notwithstanding any limitation in the WorkSafeBC OHS Regulation regarding the number of workers in any work force, the *Contractor* shall prepare, submit to the *Owner’s* representative, and at all times implement and a written health and safety program that:  (1) is specific to controlling the hazards of the *Project* site;  (2) complies with the WorkSafeBC OHS Regulation;  (3) satisfies the requirements of Section 3.3 of Part 3 of the OHS Regulation;  (4) is designed to prevent injuries and occupational diseases;  (5) provides for the establishment and maintenance of systems and processes to ensure compliance with the WorkSafeBC OHS Regulation; and upon the request of the *Owner’s* representative from time to time, deliver to the *Owner’s* representative evidence of the implementation and maintenance of the Health and Safety Program. |
|  | 10.4.6 | **Appointment of other Prime Contractors by the Owner**  .1 The *Owner* may, from time to time during the term of *Contract*, on prior written notice from the *Owner’s* representative to the *Contractor*, appoint a person other than the *Contractor* as the Prime Contractor in connection with specified works and activities that may be undertaken and performed at any specified location or locations in the *Project* site, for the specified period of time, all as set out in such notice.  (1) Upon receipt of written notice from the *Owner’s r*epresentative, the *Contractor* agrees that it will not be the Prime Contractor for the specified location or locations and for the specified period of time.  (2) Upon receipt from the *Owner’s r*epresentative of written notice of the conclusion of the works and activities, the *Contractor* shall reassume and thereafter fulfill the responsibilities of the Prime Contractor as otherwise set out in this *Contract* at the applicable location or locations. |
|  | 10.4.7 | 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 in relation to occupational health and safety on the Project.” |
|  | GC 11.1 | Delete GC 11.1 – INSURANCE in its entirety and substitute with the following: |
|  | “**GC 11.1** | **INSURANCE** |
|  | 11.1.1 | Without restricting the generality of GC 13.1 – INDEMNIFICATION, insurance and coverage will be arranged and paid for as under-noted:   * Insurance has been bought by the *Owner*, to protect all those who have a direct participation in the construction project for claims which may arise as a result of third party liability and loss or damage during course of construction. * As coverage is designed to protect the various parties insured on the same basis as if each had bought separate policies, it is essential that each insured advise their insurance agent or broker to ensure that duplicate coverage does not occur. In general, the *Contractor*, all *Subcontractors*, *Suppliers*, architects, engineers, the *Consultant* and anyone employed by them to perform part or parts of the *Work* (but excluding *Suppliers* whose only function is to supply and/or transport *Products* to the *Project* site) shall exclude in their tender prices, insurance charges applicable to their *Project* work, as the premium is paid by the *Owner*. The value of such work shall be excluded in annual sales or audit reports given to underwriters for the purposes of fixing premiums, otherwise duplicate charges may result. The exception shall be long term “completed operations” coverage after the project is completed, and the liability insurance provided by the *Owner* has expired.   **(a) Commercial General Liability**  .1 The *Owner* shall provide, maintain, and pay for Commercial General Liability Insurance with a limit of TEN MILLION DOLLARS ($10,000,000) inclusive per occurrence, TWENTY MILLION DOLLARS ($20,000,000) general aggregate for bodily injury, death, and damage to property, including loss of use thereof. Products and completed operations liability with a limit of TEN MILLION DOLLARS ($10,000,000) Annual Aggregate. Such coverage excluding Marine & Aircraft Liability, Pollution Liability, and Professional Liability Insurance.  .2 The insurance shall cover the *Owner*, *Contractor*, *Subcontractors*, architects, engineers, *Consultants* and anyone employed by them to perform part or parts of the *Work* but excluding *Suppliers* whose only function is to supply and/or transport *Products* to the *Project* site. The insurance does not extend to any activities, works, jobs or undertakings of the insureds other than those directly related to the *Work* under this *Contract*.  .3 The insurance shall preclude subrogation claims by the insurer against anyone insured hereunder.  .4 The insurance shall include coverage for:  (1) Premises and Operations Liability;  (2) Products and Completed Operations Liability (24 months);  (3) Blanket Contractual Liability;  (4) Cross Liability;  (5) Elevator and Hoist Liability;  (6) Contingent Employer’s Liability;  (7) Personal Injury Liability;  (8) Shoring, Blasting, Excavating, Underpinning, Demolition, Piledriving and Caisson Work, Work below Ground Surface, Tunnelling and Grading (as applicable);  (9) Broad Form Property Damage;  (10) Employees as Additional Insureds;  .5 Any applicable deductible shall not exceed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[NTD: Insert amount]** ($\_\_\_\_\_\_\_\_\_\_) Except with respect to loss or damage arising from hot roofing operations, where the deductible shall not exceed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[NTD: Insert amount]**.  .6 This insurance shall be maintained continuously from the commencement of the *Work* and kept in force until the Project has reached Substantial Completion or Ready-for-Takeover of the *Work*, whichever is earliest, plus with respect to completion operations coverage a further period of twenty-four (24) months.  **(b) Property Coverage**  .1 The *Owner* shall provide, maintain and pay for Course of Construction Coverage against “All Risks” of physical loss or damage, and cover all materials, property, structures, and equipment purchased for entering into or forming part of the work whilst located anywhere within Canada and continental United States of America (excluding Alaska) during construction, erection, installation, and testing, but such coverage shall not include coverage for faulty workmanship, materials or error in design or *Contractor’s* equipment of any description. Such transit and temporary location coverage shall have a limit of ONE HUNDRED THOUSAND DOLLARS ($100,000).  .2 The insurance shall cover the *Owner*, *Contractor*, *Subcontractors*, architects, engineers, *Consultants* and anyone employed by them to perform part or parts of the *Work* but excluding *Suppliers* whose only function is to supply and/or transport *Products* to the *Project* site.  .3 There will be a maximum deductible of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[NTD: Insert amount]** ($\_\_\_\_\_\_\_\_\_\_) for each and every occurrence on projects valued at less than TEN MILLION DOLLARS ($10,000,000) and a maximum deductible of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[NTD: Insert amount]** ($\_\_\_\_\_\_\_\_\_\_) on projects valued at more than TEN MILLION DOLLARS ($10,000,000) except for the perils of flood which shall have a maximum deductible of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[NTD: Insert amount]** ($\_\_\_\_\_\_\_\_\_\_), testing and commissioning and water damage to interior buildings shall have a maximum deductible of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[NTD: Insert amount]** ($\_\_\_\_\_\_\_\_\_\_) and earthquake shall have a twenty percent (20%) maximum deductible based upon the total project value insured subject to a minimum of TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000).  .4 The coverage will contain a waiver of the *Owner’s* rights of subrogation claim against all protected entities except where a loss is deemed to have been caused by or resulting from any error in design of any other professional error or omission.  .5 The *Contractor* shall, at its own expense, take all reasonable precautions to prevent fires occurring in or about the *Work* and shall observe, and comply with all insurance policy warranties and all laws and regulations in force respecting fires.  *.*6 This insurance shall be maintained continuously from the commencement of the *Work* until *Ready-for-Takeover*.  .7 Any failure of any insurer to pay any claim will in no way absolve the *Contractor* from its responsibilities and liabilities under the *Contract*. The agreement of the *Owner* to maintain insurance under the *Contract* is not deemed to extend or affect the obligation or liability of the *Owner* to the *Contractor*.  **(c) Automobile Liability Insurance**  The *Contractor* shall provide, maintain, and pay for, and require all *Subcontractors*, and *Suppliers* to provide, maintain, and pay for Automobile Liability Insurance in respect of all owned or leased vehicles, subject to limits of not less than FIVE MILLION DOLLARS ($5,000,000) inclusive per occurrence. The insurance shall be placed with such company or companies as in such form and with such deductibles as may be acceptable to the *Owner*.  **(d)** **Products and Completed Operations Liability Insurance**  The *Contractor* shall provide, maintain, and pay for, products and completed operations liability insurance with a limit of TEN MILLION DOLLARS ($10,000,000) Annual Aggregate.  Any insurance required under this clause 11.1.1(d) must name the *Owner* as an additional insured, but only with respect to liability arising out of the *Contractor’s* or the *Subcontractor’s* performance of the work.  This insurance shall be maintained continuously from the date that the *Owner’s* completion operations coverage expires pursuant to clause 11.1.1(a).6 for a period of forty-eight (48) months.  **(e) Pollution Liability Insurance**  Where the *Contractor’s* performance or the *Subcontractor’s* performance of the *Work* is associated with hazardous materials clean up, removal and/or containment, transit, or disposal. This insurance must have a limit of liability not less than TWO MILLION DOLLARS ($2,000,000) inclusive per occurrence insuring against bodily injury, death, and damage to property including loss of use thereof.  Any insurance required under this clause 11.1.1(e) must name the Owner as an additional insured, but only with respect to liability arising out of the Contractor’s or the Subcontractor’s performance of the work.  Such insurance must include sudden and accidental, and gradual pollution events for third party liability including ongoing and completed operations and shall not be impaired by any, biological contaminants (without limitation, mould and bacteria), asbestos, or lead exclusions. Any 'insured vs. insured' exclusion shall not prejudice coverage for the *Owner* and shall not affect the *Owner's* ability to bring suit against the *Contractor* as a third party.  This insurance shall be maintained continuously from commencement of the work involving hazardous materials clean-up, removal and/or containment, transit and disposal until such work is completed and including a twenty-four (24) month extended reporting period if any such insurance is provided on a claims-made basis. |
|  | 11.1.2 | The description of the *Owner* arranged insurance described herein is provided on a summary basis only and is not a statement of the actual policy terms and conditions. The *Owner* does not represent or warrant that the Owner arranged insurance contains insurance for any and all losses. It is the *Contractor’s* responsibility to ascertain the exact nature and extent of coverage provided by the *Owner* arranged insurance, to review all policies pertaining thereto and to obtain any other insurance that it may be prudent for the *Contractor* to obtain. |
|  | 11.1.3 | The *Contractor* will ensure that all activities, procedures and conduct at the *Place of the Work*, on the *Owner’s* property or in connection with the *Work* comply with the requirements of all insurance policies applicable to the *Work* or the *Project* and all directives, instructions and riders issued by the insurers pursuant to or in conjunction with such policies. The *Contractor* will ensure that its activities and the activities of those for whom it is responsible (including each *Subcontractor* and *Supplier*) comply with all insurance requirements so that in the event of any claim, insurance coverage is not minimized or denied wholly or in part due to any such activities. |
|  | 11.1.4 | At the time of any occurrence covered, or any occurrence appearing to be covered, by any of the policies of insurance, the *Contractor* shall immediately give notice to the occurrence, in writing, to the representative of the *Owner*. |
|  | 11.1.5 | The parties shall pay their share of the deductible amounts in direct proportion to their responsibility in regards to any loss for which the above policies are required to pay, except where such amounts may be excluded by the terms of the contract. |
|  | 11.1.6 | The *Contractor* shall provide, maintain and pay for any additional insurance which the *Contractor* is required to provide by law, which the *Owner* requires, or which the *Contractor* considers necessary to cover risks not otherwise covered by insurance specified in paragraph 11.1.1. All such insurances provided and maintained by the *Contractor* will name the Owner an additional insured and will include (but not be limited to) aircraft and/or watercraft liability, and special transit risks. |
|  | 11.1.7 | The *Owner* will not be responsible for injury to the *Contractor’s* employees or for loss or damage to the *Contractor’s* “Construction Equipment”, or to the *Contractor’s* employees’ machinery, equipment, tools or supplies which may be temporarily used or stored in, on or about the project site during construction and which may, from time to time, or at the termination of this *Contract*, be removed from the project site. The *Contractor* hereby waives all rights of recourse against the *Owner* with regard to damage to the *Contractor’s* property. For greater certainty, this paragraph 11.1.7 shall in no way affect the indemnity obligations of the *Owner* and *Contractor* under GC 13.1 – INDEMNIFICATION. |
|  | 11.1.8 | If the *Contractor* or any of the *Subcontractors* fail to obtain or maintain insurance as required hereunder or if the *Owner* does not approve any insurance policy or policies submitted and the *Contractor* thereafter does not meet the requirements of the *Owner* as to terms and conditions of the insurance, the *Owner* shall have the right to place and maintain such insurance in the name of the *Contractor* and the *Owner*. The cost thereof shall be payable by the *Contractor* to the *Owner* on demand and the *Owner* may deduct the cost thereof from any monies which are due or may become due to the *Contractor*.  If coverage shall lapse, all work by the *Contractor* and *Subcontractors* shall cease until satisfactory evidence of renewal is produced. |
|  | 11.1.9 | Each insurance policy provided by the *Contractor*, *Subcontractor*, or any *Supplier* shall be endorsed as follows:  “Notice: It is hereby understood and agreed that this policy will not be cancelled, reduced, materially altered or amended without the insurer giving at least thirty (30) days’ prior written notice by registered mail to:  Facilities Management  UNIVERSITY OF VICTORIA  Saunders Building  3800 Finnerty Road, Victoria, B.C. V8W 2Y2. |
|  | 11.1.10 | Upon request, the *Contractor* and *Subcontractors* shall provide their insurance loss history for the previous five (5) years within ten (10) *Working Days,* or if the *Contractor* or *Subcontractors* have less than five (5) years of insurance loss history, all of their insurance loss history, which shall in either case include the following coverages:  .1 Builder’s Risk or Course of Construction,  .2 Commercial General Liability, and  .3 Wrap Up Liability.” |
|  | GC 11.2 | Insert the following new GC 11.2 – CONTRACT SECURITY following GC 11.1: |
|  | “**GC 11.2** | **CONTRACT SECURITY** |
|  | 11.2.1 | The *Contractor* shall, prior to the commencement of the *Work* (or, if earlier, within the time specified in the procurement documents applicable to the *Project*), furnish to the *Owner* the following:  .1 a performance bond, in an amount equal to at least fifty percent (50%) of the *Contract Price*; and  .2 a labour and material payment bond, in an amount equal to at least fifty percent (50%) of the *Contract Price,*  in each case, in a form and amount approved by the *Owner.* |
|  | 11.2.2 | Such bonds shall be issued by a duly licensed surety company authorized to transact the business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfillment of the *Contract*. The form of such bonds shall be in accordance with the latest edition of the CCDC approved bond forms. Each such bond must be in a form approved by the Insurance Bureau of Canada. |
|  | 11.2.3 | The *Contractor* shall give the *Owner Notice in Writing* of any material change in any surety within 15 days of the occurrence of such change.” |
|  | 12.1.1 | Replace the words “as-built drawings completed to date on site” with the words “*As-Built Drawings*” in paragraph 12.1.1.5.  Insert the following new paragraph following paragraph 12.1.1.8: |
| “12.1.1.9 | The delivery to the *Owner* of an inventory record of the amount and location of machinery and equipment incorporated in the *Work*.” |
|  | 12.1.2 | Delete paragraph 12.1.2 in its entirety and substitute the following: |
|  | “12.1.2 | If the *Contractor* could not have, with all requisite diligence and attention, practicably obtained one or more of the items listed in paragraphs 12.1.1.3 to 12.1.1.6for the time of *Ready-for-Takeover*, then delivery of such items may be deferred until the date that is 30 days following *Ready-for-Takeover*.” |
|  | 12.1.4 | Delete sub-paragraphs 12.1.4.1 and 12.1.4.2 in their entirety and substitute the following new sub-paragraphs after paragraph 12.1.4: |
|  |  | “.1 advise the *Contractor* in writing that the *Work* or the designated portion of the *Work* is not *Ready-for-Takeover* and give reasons why, or  .2 confirm to the *Owner* and the *Contractor* in writing that the *Work* or a designated portion of the *Work* is *Ready-for-Takeover*,and the date of such confirmation shall be the *Ready-for-Takeover* date.” |
|  | 12.1.5 | In paragraph 12.1.5, insert the phrase “and correcting any deficient *Work*, as applicable” after the phrase “date for finishing the Work”. |
|  | 12.2. | Delete GC 12.2 – EARLY OCCUPANCY BY THE OWNER in its entirety and substitute the following: |
|  | “12.2 | **EARLY OCCUPANCY BY THE OWNER** |
|  | 12.2.1 | The *Owner* reserves the right to take occupancy of a part or the entirety of the *Work* before *Ready-for-Takeover* has been attained, in addition to occupancy conditions included in the *Contract* **provided that**:  .1 the portion of the *Work* is ready to be used for the purpose intended, to the satisfaction of the *Consultant* and authorities having jurisdiction; and  .2 the *Owner’s* possession and use do not interfere with the *Contractor’s* *Work*; and  .3 the *Consultant* conducts a review prior to possession by the *Owner*; and  .4 any extra costs incurred by the *Contractor* as a result of such occupancy are borne by the *Owner*, subject to the provisions of GC 6.5 - DELAYS.  This shall not relieve the Contractor’s responsibility to complete the Work in a timely manner.” |
|  | GC 12.3.1 | Delete paragraph 12.3.1 in its entirety and substitute the following: |
|  | “12.3.1 | Except as otherwise provided herein, the warranty period under this *Contract* is the longer of:  .1 one (1) year from the date *Ready-for-Takeover* has been attained;  .2 such longer periods specified in the *Contract Documents* for certain portions of the *Work* or *Products*, and  .3 in the case of *Work* done pursuant to a *Subcontract*, the longer warranty period, if any, provided for in such *Subcontract*.” |
|  | GC 12.3.3 | Delete paragraph 12.3.3 in its entirety and substitute the following: |
|  | “12.3.3 | The *Owner*, through the *Consultant*, shall promptly give the *Contractor Notice in Writing* of observed defects and deficiencies that occur during the relevant warranty period.” |
|  | 12.3.4 | Delete paragraph 12.3.4 in its entirety and substitute the following: |
|  | “12.3.4 | Subject to paragraph 12.3.2, the *Contractor* shall correct promptly, at the *Contractor’s* expense, defects or deficiencies in the *Work* which appear prior to and during the relevant warranty period. In effecting a correction of defects or deficiencies, the *Contractor* shall also bear all costs involved in removing, replacing, repairing, or restoring aspects of the *Work* that may be affected in the process of making the correction.” |
|  | 12.3.6 | Insert the following new paragraphs after paragraph 12.3.6: |
|  | “12.3.7 | The *Contractor* shall be responsible for obtaining *Product* warranties in excess of one (1) year on behalf of the *Owner* from the manufacturer. These *Product* warranties shall be issued by the manufacturer to the benefit of the *Owner*. The warranty shall include the prompt remedy of defects and/or failures in the equipment, material and installation upon written notification from the *Owner*. The warranty shall include further making good other work, components and finishes and other property damaged or disturbed in the course of remedying defects at no cost to *Owner*. The *Contractor* shall be responsible for obtaining warranties in excess of one (1) year on behalf of the *Owner* from each *Subcontractor* where the *Owner* has specified such longer warranty period. |
|  | 12.3.8 | Notwithstanding the provisions of this Article, if any statute in force in British Columbia creates a more extended liability for faulty materials or workmanship, then the provisions of such statute shall apply. Warranties shall not be deemed to restrict any liability of the *Contractor* arising out of any *Applicable Laws*. |
|  | 12.3.9 | The *Contractor* itself is contractually responsible to the *Owner* for, and will enforce, the warranty obligations of the *Subcontractors* and those of its manufacturers and Suppliers and ensure that *Subcontractors* correct promptly, at their own expense, defects or deficiencies which appear in their work during the period of one (1) year from the *Ready-for-Takeover* date (or such longer period as may be specified in a Subcontract or supply contract). Costs incurred by the *Contractor* with respect to administering this warranty and any miscellaneous costs incurred on site during the warranty period will be at the *Contractor’s* expense and shall not increase the *Contract Price*.” |
|  | GC 13.1.1 | Delete paragraph 13.1.1 in its entirety and substitute the following: |
|  | “13.1.1 | Without restricting the parties’ obligation to indemnify as described in paragraphs 13.1.4 and 13.1.5 the *Owner* and the *Contractor* shall each indemnify and hold harmless the other and their representatives, directors, governors, officers and employees and, in the case of the *Owner*, its board of governors, in each case, from and against all claims, demands, losses, costs (including without limitation reasonable legal fees), damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to their involvement as parties to this contract, to the extent that such claims are:  .1 caused or contributed to by:  (1) the wilful act or negligence of the party from whom indemnification is sought or anyone for whose wilful acts or negligence that party is responsible at law, or  (2) a failure of the party from whom indemnification is sought to fulfill its obligations under this *Contract*; and  .2 made by Notice in Writing within such periods as prescribed by the *Limitation Act* (British Columbia).” |
|  | GC 13.1.2 | Delete paragraph 13.1.2 in its entirety and insert “Intentionally blank”. |
|  | GC 13.1.4 | In line 3 of paragraph 13.1.4, delete the words, “TOXIC AND”. |
|  | GC 13.1.6 | Insert the following new paragraph following paragraph 13.1.6: |
|  | “13.1.7 | Unless expressly stated otherwise in the *Contract*, in no circumstances will the *Owner* be liable to the *Contractor* under or connection with the *Contract*, whether arising in contract, tort, strict liability, indemnity or otherwise, for any *Indirect Loss*.” |
|  | GC 13.2.1 | Delete paragraph 13.2.1 in its entirety and substitute the following: |
|  | “13.2.1 | The *Contractor’s* request or application for confirmation that *Ready-for-Takeover* has been attained shall constitute a waiver and release by the *Contractor* of any and all claims which the *Contractor* has or reasonably ought to have knowledge of that could be advanced by the *Contractor* against the *Owner* arising from the *Contractor’s* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the *Ready-for-Takeover* date, except as follows:  .1 claims arising prior to or on the *Ready-for-Takeover* date for which *Notice in Writing* of claim has been received by the *Owner* from the *Contractor* together with or prior to the *Contractor’s* request or application for confirmation that *Ready-for-Takeover* has been attained;  .2 indemnification for claims advanced against the *Contractor* by third parties for which a right of indemnification may be asserted by the *Contractor* against the *Owner* pursuant to the provisions of this *Contract*;  .3 claims for which a right of indemnity could be asserted by the *Contractor* pursuant to the provisions of paragraphs 13.1.4 or 13.1.5 of GC 13.1 – INDEMNIFICATION; and  .4 claims resulting from acts or omissions which occur after the *Ready-for-Takeover* date.” |
|  | GC 13.2.3 | Delete paragraph 13.2.3 in its entirety and substitute the following: |
|  | “13.2.3 | Confirmation of *Ready-for-Takeover* shall constitute a waiver and release by the *Owner* of any and all claims which the *Owner* has or reasonably ought to have knowledge of that could be advanced by the *Owner* against the *Contractor* arising from the *Owner’s* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the *Ready-for-Takeover* date, except as follows:  .1 claims arising prior to or on the *Ready-for-Takeover date* for which *Notice in Writing* of claim has been received by the *Contractor* from the *Owner* together with or prior to confirmation of *Ready-for-Takeover*;  .2 indemnification for claims advanced against the *Owner* by third parties for which a right of indemnification may be asserted by the *Owner* against the *Contractor* pursuant to the provisions of this *Contract*;  .3 claims arising from a breach of *Applicable Law* by the *Contractor*;  .4 claims for which a right of indemnity could be asserted by the *Owner* against the *Contractor* pursuant to the provisions of GC 13.1 – INDEMNIFICATION, GC 9.2 – HAZARDOUS SUBSTANCES, GC 9.5 – MOULD, or any other provision of this *Contract* pursuant to which the *Contractor* has indemnified the *Owner*;  .5 damages arising from the *Contractor’s* actions which result in substantial defects or deficiencies in the *Work*. “Substantial defects or deficiencies” mean those defects or deficiencies in the *Work* which affect the *Work* to such an extent or in such a manner that a significant part or the whole of the *Work* is unfit for the purpose intended by the *Contract Documents* or for which the aggregate cost of repair or remedying the defects or deficiencies would be greater than $500,000 or would be greater than 10% of the original *Contract Price*;  .6 claims arising pursuant to GC 12.3 - WARRANTY; and  .7 claims arising from acts or omissions which occur after the *Ready-for-Takeover* date*.*” |
|  | GC 13.2.4 | Delete paragraph 13.2.4 in its entirety and substitute the following: |
|  | “13.2.4 | The *Owner* waives and releases the *Contractor* from all claims referred to in paragraph 13.2.3.5 except claims for which *Notice in Writing* of claim has been received by the *Contractor* from the *Owner* within a period of six years fromthe *Ready-for-Takeover* dateor, as to any defect or deficiency or other claim of which the *Owner* is not aware at the end of the said period of six years, a period of one year after the *Owner* has become aware.” |
|  | GC 13.2.9 | In paragraph 13.2.9, insert immediately before the words “further interim” and again immediately before the words “submit a final account”, the following: “, upon request,”.  Insert the following at the end of paragraph 13.2.9:  “For greater certainty, in paragraphs 13.2.1, 13.2.2, 13.2.3 and 13.2.5, “claims” includes claims based on changes and delay - e.g. under Part 6 of the General Conditions – CHANGES IN THE WORK.” |
|  | GC 14.1 | Insert the following new General Condition GC 14 – CONTRACTOR REPRESENTATIONS: |
|  | “**PART 14** | **CONTRACTOR REPRESENTATIONS** |
|  | **GC 14.1** | **CONTRACTOR REPRESENTATIONS** |
|  | 14.1.1 | The *Contractor* represents and warrants to the *Owner* as follows:  .1 it has the corporate power and authority, and has obtained all necessary corporate approvals, to enter into and to perform all of its obligations under the *Contract*, and the *Contract* has been validly executed and delivered by the *Contractor* and constitutes a legal, valid and binding obligation of the *Contractor* enforceable in accordance with its terms;  .2 subject to paragraph 6.4.1 of GC 6.4 – CONCEALED OR UNKNOWN CONDITIONS, it has or shall carefully examine all such information applicable to the *Work* and the *Place of the Work*, and is familiar with the physical condition of the *Place of the Work* and surrounding terrain and has or shall become fully informed as to all existing conditions and limitations;  .3 it is qualified and has the necessary experience, skill, capacity and resources to perform the *Work* in accordance with the *Contract* within the *Contract Time*;  .4 it is properly licensed, equipped, organized and financed to perform all its obligations under the *Contract* and that there are no agreements in existence that would affect *Contractor’s* ability to perform its obligations under the *Contract* in a timely and satisfactory manner;  .5 the *Work* shall be performed in accordance with the terms of the *Contract Documents* and all *Applicable Laws*; and  .6 the *Work* and any deliverables to be provided by the *Contractor* under the *Contract* will not contravene any copyright, patent, trade secret or other intellectual property right of any other *Person* and good title to such deliverables will pass to the *Owner* free and clear of any such claims, liens, charges or other encumbrances of any kind.” |
|  | GC 14 | Insert the following new General Condition GC 15 – FREEDOM OF INFORMATION AND PRIVACY: |
|  | “**PART 15** | **FREEDOM OF INFORMATION AND PRIVACY** |
|  | **GC 15.1** | **FREEDOM OF INFORMATION AND PRIVACY** |
|  | 15.1.1 | The *Owner* is subject to the *Freedom of Information and Protection of Privacy Act* R.S.B.C. 1996 c.165 (“**FIPPA**”). Disclosure or release of information may be required under this legislation. |
|  | 15.1.2 | The *Owner* may choose, in the interest of public accountability, or may be required by *FIPPA*, to make public or disclose this contract and associated records and information, in whole or in part. The *Contractor* agrees that the *Owner* shall be entitled to do so and consents thereto (except only for any specific information isolated and identified by the *Contractor* as confidential, and for which, where required by the *Owner* in response to an access request under *FIPPA*, the *Contractor* establishes that disclosure is excluded under *FIPPA*). |
|  | 15.1.3 | If the *Contractor* falls within the meaning of "service provider" as that term is defined under *FIPPA*, then the *Contractor* shall comply with applicable requirements of *FIPPA* relative to personal information.” |
|  | GC 16 | Insert the following new General Condition GC 16 – MISCELLANEOUS: |
|  | “**PART 16** | **MISCELLANEOUS** |
|  | **GC 16.1** | **SEVERABILITY** |
|  | 16.1.1 | Any provision of the *Contract* which is found to be illegal, invalid, void, prohibited or unenforceable shall be separate and severable from the remainder of the *Contract* and ineffective to the extent of such illegality, invalidity, avoidance, prohibition or unenforceability, without affecting any of the other provisions of the *Contract*, all of which shall remain in force and be binding upon the parties. |
|  | **GC 16.2** | **LABOUR** |
|  | 16.2.1 | The *Owner* reserves the right to award separate contracts in connection with other parts of the *Project* to *Other Contractors* and to perform work with the *Owner's* own forces which other contractor or own forces or both are or may become unionized or non-unionized. |
|  | 16.2.2 | Any disruptions or delays caused by industrial relations disputes including jurisdictional disputes involving union, non-union workers or both on or related to the *Place of the Work* shall be the responsibility of the *Contractor*, and any costs arising out of any such disputes shall be deemed to be included in the *Contract Price*. |
|  | 16.2.3 | If the *Contractor* or any *Subcontractor* or *Supplier* is involved in a labour dispute including without limitation, strike, lockout, work stoppage, whether legal or illegal, which in any way materially detrimentally affects the *Project*, the *Contractor* agrees to defend, indemnify and save harmless the *Owner* and the *Consultant* from and against claims, demands, losses, costs, damages, actions, suits or proceedings whatsoever that arise out of or in connection with such labour dispute, and, notwithstanding any other provisions contained in the *Contract Documents* to the contrary, in such event the *Contractor* agrees that the *Owner* may terminate the *Contractor's* right to continue with the *Work* in whole or in part or terminate the *Contract* upon five (5) *Working Days Notice in Writing* to the *Contractor* and the provisions of paragraphs 7.1.5 and 7.1.6 of GC 7.1 shall apply. |
|  | **GC 16.3** | **CONFLICT OF INTEREST** |
|  | 16.3.1 | 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*. The *Contractor* acknowledges and agrees that a conflict of interest includes the use of *Owner Confidential Information* where the *Owner* has not specifically authorized such use. |
|  | 16.3.2 | 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.* |
|  | 16.3.3 | The *Contractor* covenants and agrees that it will not hire or retain the services of any employee or previous employee of the *Owner* where to do so constitutes a breach by such employee or previous employee of the employee or previous employee’s employment contract or the previous employer’s conflict of interest policy, as it may be amended from time to time. |
|  | 16.3.4 | A breach of this General Condition 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. |
|  | **GC 16.4** | **RELATIONSHIP BETWEEN THE PARTIES** |
|  | 16.4.1 | The *Contractor* acknowledges and agrees that it is acting strictly as an independent contractor under *Applicable Law*, and not as an employee of the Owner. Nothing in this *Contract* will be deemed or construed to create a joint venture, partnership, or agency relationship between the parties for any purpose. Neither the *Contractor*, nor any employee, *Subcontractor, Supplier* or agent of the *Contractor*, shall hold themselves out as being or shall be construed to be employees or agents of the *Owner*. |
|  | **GC 16.5** | **AUDIT** |
|  | 16.5.1 | For seven (7) years following the expiry or termination of this *Contract*, the *Contractor* shall maintain and retain complete and accurate records and documents pertaining to this *Contract* and the furnishing of the *Work* including all necessary records to substantiate all charges and payments under this *Contract* and that the *Work* was completed in accordance with the *Contract* and with *Applicable Law.* |
|  | 16.5.2 | During the term of this *Contract* and for seven (7) years after the term, the *Contractor* shall permit and assist the *Owner* in conducting audits of the operations of the *Contractor* to verify all charges and payments under this *Contract* and that the *Work* was completed in accordance with the *Contract* and with *Applicable Law.* The *Owner* shall provide the *Contractor* with at least ten (10) *Working Days’* prior notice of its requirement for such an audit. If any such audit or inspection, (i) reveals the payments paid by the *Owner* to be incorrect, so that such error resulted in an overpayment by the *Owner* equal to or greater than the lesser of $25,000 or 2.5% of *Contract Price* required to be paid by the *Owner* in accordance with this *Contract*, or (ii) reveals any breach, violation or non-performance by the *Contractor* of any term, condition, representation, warranty or covenant contained in this *Contract*, then in each case, the *Contractor* shall (in addition to forthwith reimbursing the *Owner* for any overpayment) pay all costs incurred by the *Owner* with respect to any audit(s) and/or inspection(s) that uncovered such error, including the costs of any internal and external auditors, accountants and associates of the *Owner* directly involved with such process. |
|  | **GC 16.6** | **SCOPE OF WAIVER, RELEASE AND INDEMNITIES IN OWNER’S FAVOUR** |
|  | 16.6.1 | In all provisions of the *Contract* containing a release or disclaimer or waiver or exculpatory language in favour of the *Owner* or an indemnity in favour of the *Owner*, references to the *Owner* include (whether or not expressly stated) the University of Victoria Board of Governors and each member thereof, and all directors, officers, agents and employees of the *Owner*, and the *Consultant* and the directors, officers, agents and employees of the *Consultant*, it being understood and agreed that, for this clause and all such provisions of the *Contract,* the *Owner* is deemed to be acting as agent and trustee on behalf of them and for their benefit to the extent necessary for them to receive and be entitled to the benefits of this clause and such provisions. The *Contractor* will, upon the request from time to time of the *Owner*, execute and deliver, under seal as a deed if so requested by the *Owner*, an affirmation and covenant in favour of any one or more of the said persons, as may be nominated from time to time by the *Owner*, in form and content reasonably prescribed by the *Owner*, to give effect or further effect, if deemed necessary by the *Owner* in its sole determination, to the provisions of this clause. |

**END OF SUPPLEMENTARY CONDITIONS**