

CCDC 2 – 2020 – STIPULATED PRICE CONTRACT
SUPPLEMENTARY CONDITIONS July 5, 2023

Name of Project : Request for Quotation - Canmore Cemetery Phase 1 Construction & Columbarium installation

The following amendments are incorporated as Supplementary Conditions to the Agreement made the ___ day of _____, 2023.

Where an Article, Definition or General Condition or paragraph thereof of the Agreement is completely deleted by these Supplementary Conditions, the numbering of the remaining General Conditions or paragraphs shall remain unchanged, and the numbering of the deleted item will be retained, unused.

ARTICLE A-9 – CONFIDENTIALITY

Add new Article A-9 – Confidentiality:

A9.1 The *Contractor* agrees to ensure that it shall, both during or following the term of the *Contract*, maintain the confidentiality and security of all *Confidential Information* and *Personal Information*, and that it shall not directly or indirectly disclose, destroy, exploit, or use any *Confidential Information* or *Personal Information*, except where required by law, without first obtaining the written consent of the *Owner*. The *Contractor* may disclose any portion of the *Contract Documents* or any other information provided to the *Contractor* by the *Owner* to any *Subcontractor* or *Supplier* if the *Contractor* discloses only such information as is necessary to fulfill the purposes of the *Contract* and the *Contractor* has included a commensurate confidentiality provision in its contract with the *Subcontractor* or *Supplier*. The *Contractor* acknowledges that it will comply with all requirements of the *Personal Information Protection Protection Act*, sa 2003, c P-6.5, as amended. The *Contractor* acknowledges that the *Owner* is bound by the provisions of the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c f-25, as amended (“*FOIPPA*”). The *Contractor* further acknowledges that the *Owner* may be required to disclose any or all of the *Confidential Information* or *Personal Information* in the event that it is compelled to do so by law, through a request under *FOIPPA* or by the rules of any applicable regulatory authority.

DEFINITIONS

Add the following definitions:

Confidential Information

Confidential Information means all the information or material of the *Owner* that is of a proprietary or confidential nature, whether it is identified as proprietary or confidential or not, including but not limited to information and material of every kind and description (such as drawings and move-lists) which is communicated to or comes into the possession or control of the *Contractor* at any time.

Confidential Information shall not include information that:

- .1 is or becomes generally available to the public without fault or breach on the part of the *Contractor*, including without limitation breach of any duty of confidentiality owed by the *Contractor* to the *Owner* or to any third party, but only after that information becomes generally available to the public;
- .2 the *Contractor* can demonstrate to have been rightfully obtained by the *Contractor* from a third party who had the right to transfer or disclose it to the *Contractor* free of any obligation of confidence;
- .3 the *Contractor* can demonstrate to have been rightfully known to or in the possession of the *Contractor* at the time of disclosure, free of any obligation of confidence; or
- .4 is independently developed by the *Contractor* without use of any *Confidential Information*.

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Personal Information

Personal Information means personal information as that term is defined in the *Freedom of Information and Protection of Privacy Act*, and any and all personal health information of an individual, whether recorded in printed form, on film, by electronic means, or otherwise.

Proper Invoice

Proper Invoice for the purpose of this agreement means an invoice that complies with applicable *Payment Legislation* and which includes the following:

- .1 a breakdown of the invoice amount by trade or division as required by the specifications,
- .2 an updated schedule in a form and level of detail acceptable to the *Owner* showing the percentage complete on each task,
- .3 Worker's Compensation Board clearances showing current coverage,
- .4 a Statutory Declaration in the form of CCDC 9A 2018 for every invoice after the first invoice,
- .5 the *Owner's* and *Contractor's* full legal names,
- .6 the purchase order number, tax registration number and project number applicable to the *Work*,
- .7 the aggregate amount of holdbacks retained by the *Owner* under the *Contract* including the amount retained under the *Proper Invoice* and separately the amount of the holdbacks retained under and applicable to the *Proper Invoice*; and
- .9 No other invoice may be combined with the *Proper Invoice*.

GC 1.1 CONTRACT DOCUMENTS

Delete paragraph 1.1.3 in its entirety and substitute new paragraph 1.1.3:

- 1.1.3 The Contractor shall review the Contract Documents and shall report promptly to the Consultant any error, inconsistency or omission the Contractor may discover.
- .1 Such review by the *Contractor* shall be undertaken with the standard of care described in paragraph 3.9.1 of the *Contract*. Except for its obligation to make such review and report the result, the *Contractor* does not assume any responsibility to the *Owner* or to the *Consultant* for the accuracy of the *Contract Documents*. The *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* could not reasonably have discovered through the exercise of the required standard of care. If the *Contractor* does discover any error, inconsistency, or omission in the *Contract Documents*, the *Contractor* shall not proceed with the work affected until the *Contractor* has received corrected or missing information from the *Consultant*.
 - .2 If, at any time, the *Contractor* finds errors, omissions, or inconsistencies in the *Contract Documents* or has any doubt as to the meaning or intent of any part thereof, the *Contractor* shall immediately notify the *Consultant*, and request a *Supplemental Instruction, Change Order, or Change Directive*, as the case may require.
 - .3 Neither the *Owner* nor the *Consultant* will be responsible for the consequences of any action of the *Contractor* based on oral instructions.

Add new sentence to the end of paragraph 1.1.9:

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

GC 1.3 RIGHTS AND REMEDIES

Delete the word “No” from the beginning of paragraph 1.3.2 and substitute the words:

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

GC 1.4 ASSIGNMENT

Delete paragraph 1.4.1 in its entirety and substitute new paragraph 1.4.1:

1.4.1 The *Contractor* may not assign the *Contract* or a portion thereof without the consent of the *Owner*, and the granting of such consent shall be in the *Owner's* absolute discretion.

GC 2.4 DEFECTIVE WORK

Add new subparagraphs 2.4.1.1 and 2.4.1.2:

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

2.4.1.2 When applicable, the *Contractor* shall give priority to the correction of any defective work or deficiencies which the *Owner* determines adversely affect its day-to-day operations.

GC 3.1 CONTROL OF THE WORK

Add new paragraph 3.1.3 and 3.1.4:

3.1.3 Prior to commencing the *Work*, the *Contractor* shall verify, at the *Place of the Work*, all relevant measurements and levels necessary for the proper completion of the *Work* and shall further carefully compare such field measurements and conditions with the requirements of the *Contract Documents*. Where dimensions are not included or exact locations are not apparent in the *Contract Documents*, the *Contractor* shall immediately notify the *Consultant* in writing and obtain *Supplemental Instructions* from the *Consultant* before proceeding with any part of the affected *Work*.

3.1.4 The *Contractor* shall at all times perform the services required hereunder as diligently and expeditiously as is consistent with the highest professional standards and the orderly progress of the *Work*, and in accordance with the *Contract Time* 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 project. The *Contractor* shall at all times provide sufficient personnel to accomplish its services within the time limits required by the *Owner*.

GC 3.4 CONSTRUCTION SCHEDULE

Add the following to paragraph 3.4.1.1 after the words “a construction schedule:
“as stipulated by the *Contract Documents*,”

Add the following subparagraph 3.4.1.4:

“provide the expertise, resources, labour and equipment, as are necessary to maintain progress under the current construction schedule accepted by the *Owner*, ”

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Add new paragraphs 3.4.2 and 3.4.3:

- 3.4.2 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 plan demonstrating how the *Contractor* will achieve the recovery of the schedule. If the *Contractor* intends to apply for a change in the *Contract Price* in relation to a schedule recovery plan, then the *Contractor* shall proceed in accordance with General Condition 6.5 – DELAYS.
- 3.4.3 The *Contractor* shall make allowance in the *Construction Schedule* for the implementation of the *Owner's* tenant improvements; the staged installation of the *Owner's* furniture, fixtures, and equipment; and the *Owner's* sequential occupancy, all in accordance with the *Owner's* Master Project Schedule.

GC 3.5 SUPERVISION

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

- 3.5.1 The *Contractor* shall provide all necessary supervision and appoint competent representatives who shall be in attendance at the *Place of the Work* while work is being performed. The appointed representatives shall not be changed except for valid reasons, and upon the *Contractor* obtaining the *Owner's* written consent, which consent will not be unreasonably withheld.

Add new paragraph 3.5.3:

- 3.5.3 The *Owner* may, at any time during the course of the *Work*, request the replacement of the appointed representative(s), where the grounds for the request involve conduct which jeopardizes the safety and security of the site or the *Owner's* operations. Immediately upon receipt of the request, the *Contractor* shall make arrangements to appoint an acceptable replacement.

GC 3.6 SUBCONTRACTORS AND SUPPLIERS

Delete paragraph 3.6.3 in its entirety and substitute new paragraph 3.6.3:

- 3.6.3 The *Contractor* agrees not to change Subcontractors without the prior written approval of the *Owner*, which approval will not be unreasonably withheld.

GC 3.7 LABOUR AND PRODUCTS

Delete paragraph 3.7.3 and substitute with new paragraph 3.7.3:

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

Add new paragraph 3.7.4:

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

GC 3.9 PERFORMANCE BY THE CONTRACTOR

Add new General Condition 3.9:

GC 3.9 PERFORMANCE BY CONTRACTOR

- 3.9.1 In performing its services and obligations under the *Contract*, the *Contractor* shall exercise the standard of care, skill, and diligence that would normally be provided by an experienced and prudent contractor supplying similar services for similar projects. The *Contractor* acknowledges and agrees that throughout the *Contract*, the performance of the *Contractor's* obligations, duties, and responsibilities shall be judged against this standard. The *Contractor* shall exercise the same standard of care, skill, and diligence in respect of any *Products*, personnel, or procedures which it may recommend to the *Owner*.
- 3.9.2 The *Contractor* further represents, covenants and warrants to the *Owner* that:
- .1 the personnel it assigns to the *Project* are appropriately experienced;
 - .2 it has a sufficient staff of qualified and competent personnel to replace any of its appointed representatives, subject to the *Owner's* approval, in the event of death, incapacity, removal or resignation; and
 - .3 there are no pending, threatened or anticipated claims that would have a material effect on the financial ability of the *Contractor* to perform its work under the *Contract*.

GC 3.10 RIGHT OF ENTRY

Add new General Conditions 3.10:

GC 3.10 RIGHT OF ENTRY

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

GC 4.1 CASH ALLOWANCES

Add new paragraph 4.1.8:

- 4.1.8 The *Owner* reserves the right to call, or to have the *Contractor* call, for competitive bids for portions of the *Work*, to be paid for from cash allowances

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

Revise the heading, "GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER" to read:
"GC 5.1 FINANCING INFORMATION REQUIRED".

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

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

Delete paragraph 5.1.2 in its entirety.

GC 5.2 APPLICATIONS FOR PAYMENT

Add to the end of paragraph 5.2.8 the following new sentence:

“Any *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall remain at the risk of the *Contractor* notwithstanding that title has passed to the *Owner* pursuant to General Condition 14.1 - OWNERSHIP OF MATERIALS.”

GC 5.3 PAYMENT

Add new paragraph 5.3.2:

5.3.2 The *Owner* may retain a reasonable amount from any progress payment for the value of deliverables that are required under the *Contract* but have not been delivered as of the invoice date.

Add new paragraph 5.3.3:

5.3.3 The *Owner* may retain an amount equal to Ten (10%) from each amount claimed under General Condition 5.2 pending confirmation from the *Consultant* of there being no deficiencies with the deliverables received by the *Owner* in relation to the *Contractor's* claim for payment.

Add new paragraph 5.3.4:

5.3.4 The holdback for undelivered *Work* in GC 5.3.2 and the holdback for deficiencies provided in GC 5.3.3 shall be separate from any holdback for the purpose of lien legislation or Payment Legislation provided by GC 5.4.

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT HOLDBACK

Add new paragraph 5.4.7:

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

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

The disclosure requirements detailed herein are of a continuing nature and survive completion of the *Work*. Accordingly, the *Contractor* shall supplement the information provided with the original statutory declaration with additional materials pertaining to new or existing disputes or claims, as they become available.

GC 5.5 FINAL PAYMENT

Delete from the first line of paragraph 5.5.2 the words, “calendar days” and substitute the words:
“Working Days”.

Delete from paragraph 5.5.4 the words, “calendar days” and substitute the words:
“Working Days”.

Add new paragraph 5.5.5:

5.5.5 Notwithstanding 5.5.4, the *Owner* shall retain a lien holdback on the finishing work in accordance with the lien legislation applicable to the *Place of the Work*, which shall become due in accordance with 5.4.3 and the *Contractor* shall submit an application for payment of the lien holdback amount for the finishing work in accordance with 5.4.4.

GC 6.1 OWNER’S RIGHT TO MAKE CHANGES

Add the following to paragraph 6.1.2:

“All such changes require approval by a representative of the *Owner* with proper signing authority.”

GC 6.2 CHANGE ORDER

Delete paragraph 6.2.1 in its entirety and substitute new paragraph 6.2.1:

- 6.2.1 When a change in the *Work* is proposed or required, the *Consultant* shall provide the *Contractor* with written description of the proposed change in the *Work*. The *Contractor* shall promptly present, in a form acceptable to the *Consultant*, a method of adjustment or an amount of adjustment for the *Contract Price*, if any, and the adjustment in the *Contract Time*, if any, for the proposed change in the *Work*. The *Contractor* shall also provide the following:
- .1 The method of adjustment or an amount of adjustment for the *Contract Price*, if any, and the adjustment in the *Contract Time*, from the *Subcontractors* on the *Subcontractors’* letterhead.
 - .2 Quotations submitted by the *Subcontractors* and the *Contractor* shall have a complete breakdown for all items of material, a total number of hours for labour, and a dollar rate applied against individual material items and labour quantities.”

Delete from line 1 of Paragraph 6.2.2 “or to the method to be used to determine the adjustments”.

Add the following paragraphs:

- 6.2.3 Unit prices included in the *Contract*, or prices pro rata thereto, will be used in the first instance in pricing changes.
- 6.2.4 Where work is added pursuant to GC 6.2 *Change Order* or GC 6.3 *Change Directive*, the *Contract Price* shall be increased only by the net actual value of the work added including taxes, but excluding *Value Added Taxes*, plus the following, identified and applied separately:
- .1 *Contractor’s* mark-up on work by its own forces:
 - Overhead: 7%
 - Profit: 5%
 - .2 *Contractor’s* mark-up on *Subcontractor’s* work:
 - Overhead: 5%
 - Profit: 5%

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.3 *Subcontractor's* mark-up on its own work:

Overhead: 7%

Profit: 5%

- 6.2.5 The *Contractor's* overhead includes without limitation all site and head office costs including head office personnel, insurance and bonding (except where additional bonding is at the *Owner's* expense pursuant to paragraph 11.2.3), traveling costs, financing costs including those related to holdback; the salaries, premiums for overtime or shift time unless otherwise approved by the *Owner* in writing prior to the *Work* being performed, and other miscellaneous employee benefits of superintendents and sub-trade superintendence, engineers, timekeepers, accountants, clerks, watch persons and security, office administration; processing correspondence, changes, shop drawings, engineering, *As-Built Drawings*, maintenance manuals and all other documents required to be provided prior to certification of *Substantial Performance* of the *Work*, costing and accounting, payroll, technical staff, and all other site supervision staff above foreperson employed directly on the *Work*; coordination with other trades affected, use of temporary offices, plant, tools and equipment including operators, sheds, storage compounds and other general temporary site support facilities and all utilities used therein; first aid, safety and protection measures, including training; licences and permits; scheduling; temporary protection; daily clean up; disposal; garbage chute; scaffolding; hoisting and unloading; commissioning; cutting and patching, and shall be applied to both extras and credits equally.
- 6.2.6 Labour costs shall be the actual, prevailing rates at the *Place of Work* paid to the workers, plus payroll burdens, where payroll burdens are limited to payments in respect of the employer contribution to workers compensation payments, vacation pay, employment insurance premiums, sickness and accident insurance and pension fund contributions.
- 6.2.7 Quotations for changes to the *Work* shall be accompanied by itemized breakdowns together with detailed, substantiating quotations or cost vouchers from *Subcontractors* and *Suppliers*.
- 6.2.8 Unit and alternative prices included in the *Contract* include supply, installation, *Products*, equipment, services, materials, labour, Overhead, profit and taxes, but exclude Value Added Taxes.
- 6.2.9 The *Owner*, through the *Consultant*, reserves the right to authorize payment for changes in the *Work* by means of cash allowance disbursement authorizations.
- 6.2.10 When both additions and deletions covering related work or substitutions are involved in a change to the *Work*, payment, including overhead and profit, shall be calculated on the basis of the net difference, if any, with respect to that change in the *Work*.
- 6.2.11 If any change or deviation in, or omission from the *Work* is made by which the amount of *Work* to be performed is decreased, or if the whole or a portion of the *Work* is dispensed with, no compensation is claimable by the *Contractor* for any loss of anticipated profit in respect thereof.

GC 6.3 CHANGE DIRECTIVE

Amend paragraph 6.3.6 by deleting subparagraphs 6.3.6.1 to 6.3.6.3 inclusive and amending the preamble so that it reads:

"The adjustment to the *Contract Price* for a change carried out by way of *Change Directive* shall be determined on the basis of the net costs of the *Contractor's* actual expenditures and savings attributable to the *Change Directive* valued in accordance with paragraph 6.3.7 and paragraph 6.1.4"

Add the following to 6.3.7.1(2):

"...and carrying out the change in the *Work*, including necessary supervisory services;"

Delete subparagraph 6.3.7.1(3) and replace it with:

"(3) intentionally left blank."

Delete subparagraphs 6.3.7.13, 6.3.7.17, 6.3.7.18 and 6.3.7.19 and replace with 'intentionally left blank'

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

Add new paragraph 6.4.5:

- 6.4.5 If the *Contractor* was given access to the *Place of the Work* prior to the submission of the bid on which the *Contract* was awarded, then the *Contractor* confirms that it carefully investigated the *Place of the Work* and, in doing so, applied to that investigation the degree of care and skill required by paragraph 3.9.1. In those circumstances, notwithstanding the provisions of paragraph 6.4.1, the *Contractor* is not entitled to an adjustment to the *Contract Price* or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such careful investigation, or which could have been reasonably inferred from the material provided with the *Contract Documents*. In those circumstances, should a claim arise, the *Contractor* will have the burden of establishing that it could not have discovered the materially different conditions from a careful investigation because of restrictions placed on its access or inferred the existence of the conditions from the material provided with the *Contract Documents*.

GC 6.5 DELAYS

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

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

Amend the last sentence of paragraph 6.5.2 to read:

“The *Contractor* shall be reimbursed by the *Owner* for the *Contractor*’s actual, direct costs necessarily incurred by the *Contractor* as a result of the delay subject to, and in accordance with, the provisions of GC 6.5.5.”

Add the following paragraphs:

- 6.5.6 If the *Contractor* is delayed in the performance of the *Work* by an act 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, then, subject to GC 3.4.2 of GC 3.4 – CONSTRUCTION SCHEDULE, the *Contract Time* may be extended for such reasonable time as the *Consultant* may decide in consultation with the *Contractor*. 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 *Ready-For-Takeover* date stated in paragraph 1.3 of Article A-1 – THE WORK herein as the same may be extended through the provisions of these General Conditions and any later, actual *Ready-For-Takeover* date achieved by the *Contractor*.
- 6.5.7 During any suspension of the *Work* or any construction or building operations, for whatever reason, the *Contractor* shall maintain adequate surveillance of the *Work* and undertake such maintenance and protection of the *Work* as may be necessary to maintain health and safety and, when possible, to protect *Products*, materials, plant and equipment already installed in the *Work* or delivered to the *Place of the Work*. The *Contractor* shall be responsible for the security, care, maintenance and protection of the *Work* in the event of any such shut down or interruption in the performance of the *Work*.
- 6.5.8 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor* or anyone for whom the *Contractor* is responsible, then the *Contractor* shall be responsible to put in place any scheduled recovery plan to recover and prevent lost time in accordance with paragraph 3.4.2 of GC 3.4 – CONSTRUCTION SCHEDULE.

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

Delete paragraph 7.1.6 and substitute the following:

7.1.6 In addition to its right to terminate the *Contract* set out herein, the *Owner* may terminate the *Contract* at any time for any other reason or no reason and without cause upon giving the *Contractor* THIRTY (30) days notice through a *Notice in Writing* which shall include the date on which the *Contract* is terminated. In such event, the *Contractor* shall be entitled to be paid for all *Work* performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment* as a result of the termination of the *Contract*, but in no event shall the *Contractor* be entitled to be compensated for any loss of profit on unperformed portions of the *Work*, or any indirect, special, or consequential damages in relation to termination of the *Contract*.

Add the following new paragraphs:

- 7.1.7 The *Owner* may suspend *Work* under this *Contract* at any time for any reason or no reason and without cause upon providing the *Contractor* with *Notice in Writing* to that effect. In such event, the *Contractor* shall be entitled to be paid for all *Work* performed to the date of suspension and be compensated for all actual costs incurred arising from the suspension, including reasonable profit, for loss sustained upon *Products* and *Construction Equipment* as a result of the suspension of the *Work*, but in no event shall the *Contractor* be entitled to be compensated for any indirect, special, or consequential damages in relation to the suspension of the *Work*. In the event that the suspension continues for more than 180 calendar days, the *Contract* shall be deemed to be terminated and the provisions of paragraph 7.1.6 shall apply.
- 7.1.8 In the case of either a termination of the *Contract*, or a suspension of the *Work* under General Condition 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT or General Condition 7.2 - CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* shall use its best commercial efforts to mitigate the financial consequences to the *Owner* arising out of the termination or suspension, as the case may be.
- 7.1.9 Upon the resumption of the *Work* following a suspension under General Condition 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT or General Condition 7.2 - CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* will endeavour to minimize the delay and financial consequences arising out of the suspension.
- 7.1.10 The *Contractor's* obligation under the *Contract* as to quality, correction, and warranty of the *Work* performed by the *Contractor* up to the time of termination or suspension shall continue after such termination of the *Contract* or suspension of the *Work*.
- 7.1.11 Without limiting the foregoing in this section, a finding on a security check that is incompatible with ensuring the achievement of any of the following objectives is a security problem and may be justification for termination if not corrected:
- (a) the *Contractor's* ability to provide the *Work* in accordance with the *Contract*;
 - (b) the safety of the *Owner's* directors, officers, appointees, employees, agents or consultants, as well as the *Contractor's* directors, officers, employees, agents, consultants or *Subcontractors*, the *Owner's* clients and their directors, officers, appointees, employees, agents, consultants or subcontractors, as well as any *Subcontractor's* directors, officers, employees, agents, consultants or sub-subcontractors, and the public;
 - (c) the reputation of or public confidence in the *Owner*;
 - (d) the security of the *Owner's* financial assets and revenue;
 - (e) the security of any real property owned, controlled or managed by the *Owner*;
 - (f) the security of any other property owned, controlled, managed or licensed by the *Owner*;
 - (g) the security, confidentiality or integrity of the *Owner's* Confidential Information and the integrity of any other materials held by the *Owner*.

GC 7.2 CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

Delete paragraph 7.2.2 in its entirety.

Delete subparagraph 7.2.3.1 in its entirety.

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

7.2.3.3 the *Owner* fails to pay the *Contractor* when due the amount certified by the *Consultant* or awarded by arbitration or a court, except where the *Owner* has a bona fide claim for set off, or

Delete from subparagraph 7.2.3.4, the words:

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

Delete from the end of paragraph 7.2.4 the words "or terminate the *Contract*" and substitute the words:

7.2.4 "until the default is corrected, provided, however, that in the event of such suspension, the provisions of subparagraph 7.1.10 shall apply. If the *Contractor's Notice in Writing* to the *Owner* was given pursuant to subparagraph 7.2.3.3, then, 180 days after the delivery of the *Notice in Writing*, the *Contractor* may terminate the *Contract*, provided, however, that in the event of such termination, the provisions of subparagraph 7.1.10 shall apply.

GC 8.1 AUTHORITY OF THE CONSULTANT

Delete last sentence of 8.1.3 and substitute the following sentence:

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

GC 8.3 NEGOTIATION, MEDIATION AND ARBITRATION

Delete paragraphs 8.3.6, 8.3.7 and 8.3.8 in their entirety and substitute new paragraph 8.3.6:

8.3.6 When a dispute has not been resolved through negotiation or mediation, within 10 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.3.5, either party may give a *Notice in Writing* to the other party and to the *Consultant* inviting the other party to agree to submit the dispute to be finally resolved by arbitration, pursuant to provisions of the *Arbitration Act*. If the other party wishes to accept the invitation to submit the dispute to arbitration, it shall so indicate by the delivery of a responding *Notice in Writing* within 10 *Working Days* of receipt of the invitation. If, within the required times, no invitation is made or, if made, is not accepted, either party may refer the dispute to the courts or to any other form of dispute resolution, including arbitration, which the parties may agree to use.

Add the following new paragraphs 8.3.9, 8.3.10, 8.3.11, 8.3.12., 8.3.13., and 8.3.14.

8.3.9 Within five days of receipt of the notice of arbitration by the responding party under paragraph 8.3.6, the *Owner* and the *Contractor* shall give the *Consultant* a written notice containing:

- (a) a copy of the notice of arbitration
- (b) a copy of supplementary conditions 8.3.9 to 8.3.14 of this *Contract*, and;
- (c) any claims or issues which the *Contractor* or the *Owner*, as the case may be, wishes to raise in relation to the *Consultant* arising out of the issues in dispute in the arbitration

8.3.10 The *Owner* and the *Contractor* agree that the *Consultant* may elect, within ten days of receipt of the notice under paragraph 8.3.9, to become a full party to the arbitration under paragraph 8.3.6 if the *Consultant*:

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- (a) has a vested or contingent financial interest in the outcome of the arbitration;
 - (b) gives the notice of election to the *Owner* and the *Contractor* before the arbitrator is appointed;
 - (c) agrees to be a party to the arbitration within the meaning of the rules referred to in paragraph 8.3.6, and,
 - (d) agrees to be bound by the arbitral award made in the arbitration.
- 8.3.11 If an election is made under paragraph 8.3.10, the *Consultant* may participate in the appointment of the arbitrator and, notwithstanding the rules referred to in paragraph 8.3.6, the time period for reaching agreement on the appointment of the arbitrator shall begin to run from the date the respondent receives a copy of the notice of arbitration.
- 8.3.12 The arbitrator in the arbitration in which the *Consultant* has elected under paragraph 8.3.10 to become a full party may:
- (a) on application of the *Owner* or the *Contractor*, determine whether the *Consultant* has satisfied the requirements of paragraph 8.3.10, and;
 - (b) make any procedural order considered necessary to facilitate the addition of the *Consultant* as a party to the arbitration.
- 8.3.13 The provisions of paragraph 8.3.9 shall apply mutatis mutandis to written notice to be given by the *Consultant* to any sub-consultant;
- 8.3.14 In the event of notice of arbitration given by the *Consultant* to a sub-consultant, the sub-consultant is not entitled to any election with respect to the proceeding as outlined in 8.3.10, and is deemed to be bound by the arbitration proceeding.

GC 9.1 PROTECTION OF WORK AND PROPERTY

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

"9.1.1.1 errors or omissions in the *Contract Documents* which the *Contractor* could not have discovered applying the standard of care described in paragraph 3.9.1;"

Delete paragraph 9.1.2 in its entirety and substitute the following new paragraph 9.1.2:

9.1.2 Before commencing any *Work*, the *Contractor* shall take all necessary steps to determine the locations of all underground utilities and structures. Without limitation, necessary steps shall include reference to the *Contract Documents*, making an inspection of the *Place of the Work*, reviewing land title registrations, using public and private utility locating services, and exercising the degree of care and skill described in paragraph 3.9.1. The *Owner* makes no representation or warranty as to the accuracy or correctness of utility locations in the *Contract Documents*.

Add new paragraph 9.1.5:

9.1.5 With respect to any damage to which paragraph 9.1.4 applies, the *Contractor* shall neither undertake to repair or replace any damage whatsoever to the work of other contractors, or to adjoining property, nor acknowledge that the same was caused or occasioned by the *Contractor*, without first consulting the *Owner* and receiving written instructions as to the course of action to be followed from either the *Owner* or the *Consultant*. Where, however, there is danger to life, the environment, or public safety, the *Contractor* shall take such emergency action as it deems necessary to remove the danger."

Add new paragraph 9.1.6:

9.1.6 The *Contractor* shall be responsible for securing the *Place of Work* at all times and shall take all reasonable precautions necessary to protect the *Place of Work*, its contents, materials (including *Owner*-supplied materials) and the public from loss or damage during and after working hours. Where the *Consultant* or the *Owner* deems the provision of security guard services to be necessary, the *Contractor* shall provide those services at the *Owner's* expense."

GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

Add new subparagraph 9.2.5.5

9.2.5.5 take all reasonable steps to mitigate the impact on *Contract Time* and *Contract Price*.

Add to paragraph 9.2.6 after the word "responsible", the following new words:

"or whether any toxic or hazardous substances or materials already at the *Place of the Work* (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the *Contractor* or anyone for whom the *Contractor* is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damage to the property of the *Owner* or others,"

Add to paragraph 9.2.8 after the word "responsible", the following new words:

"or that any toxic or hazardous substances or materials already at the *Place of the Work* (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the *Contractor* or anyone for whom the *Contractor* is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damage to the property of the *Owner* or others,"

GC 9.4 CONSTRUCTION SAFETY

Add new paragraphs 9.4.6:

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

GC 9.5 MOULD

Add to subparagraph 9.5.2.3 immediately before the comma, the following new words:

"and as a result of the delay"

GC 10.1 TAXES AND DUTIES

Add new paragraph 10.1.3:

10.1.3 Where the *Owner* is entitled to an exemption or a recovery of sales taxes, customs duties, excise taxes or *Value Added Taxes* applicable to the *Contract*, the *Contractor* shall, at the request of the *Owner*, assist with application for any exemption, recovery or refund of all such taxes and duties and all amounts recovered or exemptions obtained shall be for the sole benefit of the *Owner*. The *Contractor* agrees to endorse over to the *Owner* any cheques received from the federal or provincial governments, or any other taxing authority, as may be required to give effect to this paragraph.

GC 10.2 LAWS, NOTICES, PERMITS AND FEES

Delete from the first line of paragraph 10.2.5 the word, "The" and substitute the words:

"Subject to paragraph 1.1.3 and 3.9.1, the".

GC 10.4 WORKERS' COMPENSATION

Add new paragraph 10.4.2 as follows:

10.4.2 The *Contractor* shall ensure that each *Subcontractor* complies with the workers' compensation legislation at the *Place of the Work* and that all *Subcontractors* purchase worker's compensation coverage, whether or not required to do so under the applicable legislation."

Add new paragraph 10.4.3 as follows:

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

GC 11.1 INSURANCE

Add to the end of paragraph 11.1.1.2 the following new words:

11.1.1.2 "In addition, this policy shall include coverage for non-owned automobiles."

Add the following words at the end of 11.1.1.8:

" , with an aggregate limit of not less than \$5 million within any policy year, and shall be in the joint names of the *Contractor* and the *Owner*."

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

11.1.2 Each of the policies of insurance shall also contain a provision requiring not less than 30 days' written notice to each named insured prior to cancellation or any change that would reduce coverage. At least 10 calendar days prior to commencement of the *Work* and upon any renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the *Work*."

Add new section 11.1.9

11.1.9 Insurance amounts:

- (1) General Liability insurance: Reference in CCDC 41 (December 14, 2020) and the General Conditions of CCDC 2 (2020) to general liability insurance in the amount of TEN MILLION DOLLARS (\$10,000,000) per occurrence and TEN MILLION (\$10,000,000) aggregate per policy year shall be five FIVE MILLION DOLLARS (\$5,000,000) for the purpose of this Contract.
- (2) Automobile liability insurance: reference in CCDC 41 (December 14, 2020) and the General Conditions of CCDC 2 (2020) to automobile liability insurance in the amount of TEN MILLION DOLLARS (\$10,000,000) inclusive per occurrence shall be FIVE MILLION DOLLARS (\$5,000,000) for the purpose of this Contract.
- (3) Pollution liability Insurance: reference in CCDC 41 (December 14, 2020) and the General Conditions of CCDC 2 (2020) to pollution liability insurance shall not not be required for the purpose of this Contract.

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GC 12.1 READY-FOR-TAKEOVER

Add new sentence 12.1.1.9 as follows:

- .9 Provision of a schedule, acceptable to the *Consultant*, giving reasonable dates for finishing the *Work* and correcting deficiencies."

GC 12.3 WARRANTY

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

"Subject to paragraph 3.9.1, the . . ."

GC 13.2 WAIVER OF CLAIMS

Delete the reference to "395 calendar days" in paragraph 13.2.2.2 and substitute

"120 calendar days".

Delete the last sentence of subparagraph 13.2.3.4 and substitute:

"Substantial defects or deficiencies" mean those defects or deficiencies in the *Work* where the reasonable cost of repair of such defects or deficiencies exceeds Fifty Thousand DOLLARS (\$50,000) but, in any event, a defect or deficiency in the *Work* which affects the *Work* to such an extent or in such a manner that a significant part or the whole of the *Work* is unfit for the purpose intended by the *Contract Documents* shall be deemed to be a "substantial defects or deficiencies" regardless of the cost of repair.

NEW PART 14

Add new PART 14 as follows:

PART 14 OTHER PROVISIONS

Add new GC14.1 as follows:

GC 14.1 OWNERSHIP OF MATERIALS

- 14.1.1 All *Work* and *Products* delivered to the *Place of the Work* by the *Contractor* shall be the property of the *Owner*. The *Contractor* shall remove all surplus or rejected materials when notified in writing to do so by the *Consultant*.

Add new GC14.2 as follows:

GC 14.2 CONSTRUCTION LIENS

- 14.2.1 In the event that a claim for lien is registered against the *Project* by a *Subcontractor* or *Supplier*, and provided the *Owner* has paid all amounts properly owing under the *Contract*, then the *Contractor* shall, at its own expense:
- .1 within 10 calendar days, ensure that any and all claims for lien and certificates of action are discharged, released, or vacated by the posting of security or otherwise; and
 - .2 in the case of written notices of lien, ensure that such notices are withdrawn, in writing.
- 14.2.2 In the event that the *Contractor* fails to conform with the requirements of paragraph 14.2.1, the *Owner* may fulfil those requirements without *Notice in Writing* to the *Contractor* and set off and deduct from any amount owing to the *Contractor*, all costs and associated expenses, including the costs of posting security and all legal fees and disbursements associated with discharging or vacating the claim for lien or certificate of action and defending the action. If there is no amount owing by the *Owner* to the *Contractor*, then the *Contractor* shall reimburse the *Owner* for all of the said costs and associated expenses.

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Add new GC14.3 as follows:

GC 14.3 CONTRACTOR DISCHARGE OF LIABILITIES

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

END OF SUPPLEMENTARY CONDITIONS