

## Supplementary Conditions

Rev. Feb. 2/10

- 1.0 General  
The following supplements shall modify, delete and/or add to the “General Conditions of the Stipulated Price Contract” of the Standard Construction Document – CCDC#2 – 1994. The Supplementary Conditions shall apply to all Work and shall be read in conjunction with the General Conditions of the Contract.
- 1.1 Article A-5 Payment  
.1 Article 5.3.1; modify as follows:  
...an award by arbitration or court, interest at one percent (1%) per annum above the bank rate...
- 1.2 Article A-6 Receipt of and Addresses for Notices  
.1 Article 6.1; modify as follows:  
.....or to an officer of the corporation for whom they are intended by hand, by registered post, by facsimile or by email; or if sent by.....
- 1.3 Definitions  
.1 Add the following definitions:  
21. Completion of the Contract  
The Contract shall be deemed to be completed when the price of completion or correction of known defects is not more than the lesser of:  
1% of Contract Price, or  
\$1,000.00.  
22. Total Net Value of Work  
Total Net Value of Work is used in Change Orders to determine the mark-up for overhead and profit on the change. Total Net Value of Work means the cost of additional work by the Contactor and all Sub-contractors minus the cost of deducted work, without any mark-ups by Contractors or Sub-contractors.
- 1.4 GC 1.1 Contract Documents  
.1 Article 1.1.9.1; modify as follows:  
.....shall be
- Supplementary Conditions
  - The Agreement between the Owner and the Contractor
  - The Definitions
  - The General Conditions.....
- .2 Article 1.1.9.5; new paragraph as follows:  
If detailed standards in the specifications conflict with the specifications, the specifications shall govern. If specifications conflict with specifications, the more stringent specifications shall govern. If drawings conflict with drawings, the more stringent drawings shall govern.
- .3 Article 1.1.10; delete and insert the following:  
The Owner shall provide the Contractor up to 12 sets of the Contract Documents to perform the Work. Additional sets may be purchased from the Consultant, at cost plus mark-up.
- 1.5 GC 2.2 Role of the Consultant  
.1 Article 2.2.15; new paragraph as follows:

The Consultant will chair and record the minutes of meetings between the Contractor, the Owner and the Consultant. The Owner and the Consultant reserve the right to make audio tape recordings of the meetings to be used for any future purpose.

1.6 GC 2.3 Review and Inspection of Work

.1 Article 2.3.2; modify as follows:

Delete the phrase "reasonable notice" and replace with "5 Working days notice".

.2 Article 2.3.6; new paragraph as follows:

The Owner shall be permitted temporary or trial use of all equipment supplied under the Contract before Substantial Performance of the Work. The Contractor shall supply all labour and materials required for the temporary or trial use. Any damage or breakdown due to faulty materials or Workmanship shall be made good by the Contractor.

1.7 GC 3.1 Control of the Work

.1 Article 3.1.3; new paragraph as follows:

Upon award of the Contract by either a letter of intent, a purchase order or the signed Contract, whichever comes first, the Contractor shall submit proper bonding, insurance and WSIB clearance prior to entering the site. Within ten (10) working days of award of the Contract the Contractor shall conduct a preconstruction survey of any existing structures with the Consultant and the Owner. It is at the Contractor's discretion to perform any intrusive tests and excavations deemed necessary to confirm the condition of such structures and their foundations. The Contractor shall pay for all costs associated with performing such work, and costs for making good any damage associated with such work. Within ten (10) working days of the survey the Contractor and Consultant shall submit a joint report to the Owner summarizing the results. Issues identified in the report not indicated in the Contract Documents that have cost implications, other than minor imperfections and all construction safety issues, devices or systems, will be dealt with as a change to the Contract. The date the report is submitted the Contractor assumes full responsibility for the site and all existing structures and their foundations, including but not limited to all safety, as per GC 3.6 Construction Safety, and maintenance issues, excluding any unforeseen soil conditions. Any temporary services that are in place are the responsibility of the Contractor in all respects whether shown on the drawings or not. If there is any negligence upon the part of the Contractor in maintaining the site, the Contractor will pay for any costs associated with making good the site and any other matters arising out of such negligence.

.2 Article 3.1.4; new paragraph as follows:

As time is of the essence the Contractor is responsible to carry out all functions in a timely manner to ensure the Work does not incur any unnecessary delays and is performed within the Contract Time.

1.8 GC 3.4 Document Review

.1 Article 3.4.1; modify as follows:

The Contractor shall review the Contract Documents within 10 working days after the date of the Owner's Letter of Intent, or the date of the Purchase Order, and shall report promptly to the Consultant any error, inconsistency, or omission the Contractor may discover.....The Contractor shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the Contract Documents, which the Contractor did not discover within this 10 working day period noted above.

.2 Article 3.4.2; new paragraph as follows:

The Contractor may submit to the Consultant requests for information, clarification or changes to the Contract. Any requests for information, clarification, or changes to the Contract that are already clearly shown, detailed and/or specified in the Contract Documents, according to the Consultant, will be subject to a charge for the Consultants time at their regular hourly rates plus mark-up payable by the Contractor through a credit to the Contract Price. The Contractor may not submit more than three (3) requests for information per day unless agreed to by the Consultant.

1.9 GC 3.5 Construction Schedule

.1 Article 3.5.1.1; modify as follows:

.....prior to the first application for payment, a critical path construction schedule that indicates manpower loading and timing of the activities of the Work and provides.....

.2 Article 3.5.1.2; modify as follows:

.....and update the schedule on a monthly basis indicating progress of each scheduled line item, changes in manpower loading and any changes required to perform the Work in conformity with the Contract Time; and

.3 Article 3.5.2; new paragraph as follows:

Failure to submit an appropriate critical path schedule, or failure to submit an appropriate updated schedule on a monthly basis may result in the withholding of all progress payments which may be due.

1.10 GC 3.6 Construction Safety

.1 Article 3.6.2; new paragraph as follows:

Any repetitive or flagrant breach of safety legislation will be considered failure to comply with the requirements of the Contract to a substantial degree.

.2 Article 3.6.3; new paragraph as follows:

If the Owner performs work or awards separate contracts for performing work on the site during the Work of the Contract, then the Contractor agrees to become the constructor for the Owner's workers or contractor(s). The Owner agrees to pay a fee, including mark-up, of \$300 per week for up to ten (10) of the Owner's workers or contracted workers, or \$500 per week for over ten (10) of the Owner's workers or contracted workers. The Owner's contractor(s) will provide copies of insurance, WSIB, safety policy, Canadian Construction Association form 1000, WHMIS training, and fall arrest training to the Contractor.

1.11 GC 3.7 Supervisor

.1 Article 3.7.1; modify the second sentence as follows:

The supervisor shall not be changed except for valid reason and as approved by the Consultant and the Owner.

.2 Article 3.7.3; new paragraph as follows:

The Contractor shall replace the supervisor with an equivalent or more competent person, if requested by the Consultant, within 10 working days of the request.

1.12 GC 3.9 Labour and Products

.1 Article 3.9.1; add the following sentence:

The Contractor shall not be entitled to a change in the Contract Price due to any increase in the cost of labour, materials or equipment regardless if the Contract Time is extended or not.

.2 Article 3.9.2; add the following sentences:

All Products which are specified by their proprietary names, part number, or catalogue number are to form the basis for the Tenders. No substitutions allowed. The Contractor may include with his submission alternative prices on a separate sheet of paper from the Tender submission, indicating any effect that the substitution may have on the Contract Price. The Contractor will use all Products in strict accordance with the manufacturer's directions except when specified otherwise.

.3 Article 3.9.4; new paragraph as follows:

Unless submitted in writing with the Tender, no consideration will be given by the Owner to claims by the Contractor of the unsuitability of any Products, nor to the Contractor's unwillingness to use any Products, nor to any relaxation of the requirement to provide good workmanship, nor to the relaxation of the applicable warranties.

1.13 GC 3.11 Shop Drawings

.1 Article 3.11.3; add the following sentence:

When manufacturer's literature is submitted in lieu of scaled shop drawings, clearly mark the item(s) to be reviewed.

.2 Article 3.11.4; delete the second sentence and insert the following:

The Contractor shall prepare a schedule of the dates for submission of all shop drawings no later than 10 Working days after the date of the Owner's Letter of Intent, or the date of the Purchase Order.

.3 Article 3.11.4; add the following sentence:

Failure to submit the shop drawing schedule within the specified period, or failure to submit shop drawings according to the shop drawing schedule may result in the withholding of all progress payments which may be due.

1.14 GC 3.12 Use of the Work

.1 Article 3.12.3; add the following sentences:

The Owner shall have the right to enter and occupy the building in whole or in part for the purpose of placing Products and equipment, or for other use or for other work before completion of the Contract provided that, in the opinion of the Consultant, such entry, occupation or work will not prevent or interfere with the Contractor in the performance of the completion of the Contract. Such entry or occupation will not be considered as acceptance of the Work, or in any way relieve the Contractor from his responsibility to complete the Contract on schedule.

1.15 GC 4.1 Cash Allowance

.1 Article 4.1.4; modify as follows:

Where the total cost for all cash allowance items exceeds the total amount of all cash allowances, the Contractor shall be compensated for any excess incurred and substantiated.....

.2 Article 4.1.5; modify as follows:

The Contract Price shall be adjusted by Change Order to provide for any difference between the total actual cost and the total cash allowance.

1.16 GC 5.1 Financing Information Required of the Owner

Delete this Section in its entirety and all references thereto.

1.17 GC 5.2 Applications for Progress Payment

.1 Article 5.2.6; modify as follows:

.....supported by invoices indicating the quantity, description, and value of the Products. If the Products are not incorporated into the Work, then a copy of the Suppliers invoice showing "Paid in Full", must be attached to the progress claim otherwise the value of these Products may be deducted. Products delivered to the Place of Work are the Contractor's responsibility until built-in.

.2 Article 5.2.7; new paragraph as follows:

The Contractor shall submit with each application for progress payment a Certificate of Clearance from the Workers Safety Insurance Board. In addition, after the first and with each subsequent application for payment, submit a Statutory Declaration that all accounts for labour, subcontracts, Products and services have been paid to the end of the period covered by the preceding applications, and that none of the material on site has been purchased under a conditional sale or any type of hire-purchase agreement.

.3 Article 5.2.8; new paragraph as follows:

Where the specifications indicate a LEED design, a LEED's assessment review will accompany each request for progress payment, and if there are any deficiencies noted by the Consultant, an appropriate amount, as determined by the Consultant, will be deducted from the progress payment and held until the deficiency is corrected. If the deficiency is not corrected on subsequent payments a larger amount maybe deducted and held. If the deficiency cannot be corrected, then the deficiency amount may not be returned, but deducted from the Contract Price.

#### 1.18 GC 5.3 Progress Payment

.1 Article 5.3.2; modify as follows:

Delete the phrase "5 days", and replace with "30 days".

#### 1.19 GC 5.4 Substantial Performance of the Work

.1 Article 5.4.3; add the following sentences:

If any defects are corrected after Substantial Performance of the Work the Warranty for the Work, with reference to Products and Workmanship in accordance with GC 12.3 Warranty, will start from the date when such defects are corrected. If a designated portion of the Work is Substantially Performed, the Warranty of that portion of the Work will start from the same date when all defects are corrected.

#### 1.20 GC 5.5 Payment of Holdback Upon Substantial Performance of the Work

.1 Article 5.5.1.3: new paragraph as follows:

submit evidence of compliance with the Construction Lien Act, 1990, regarding advertisements, indicating date of and name of publication etc., with the application for payment of holdback

.2 Article 5.5.1.4: new paragraph as follows:

submit all specified written guarantees, bonds, maintenance manuals, as-built record drawings, certificates, etc., with the application for payment of holdback

.3 Article 5.5.1.5: new paragraph as follows:

submit a Certificate of Clearance from the Workers Safety Insurance Board, with the application for payment of holdback

.4 Article 5.5.3; delete this article and all references thereto.

#### 1.21 GC 5.7 Final Payment

.1 Article 5.7.1; delete and replace with the following:

When the Contractor considers that he has reached the completion of the Work, the Contractor shall submit an application for final payment. In consideration of the completion of the Work, deficiencies or defects will be valued as follows:

.1 Approved as-built drawings and maintenance manuals (with warranties, extended warranties, sign-off permits including Hydro Inspection Certificate.)

The greater of 0.25% of the Contract Price or \$10,000.

.2 Keys	\$2,000
.3 Clean-up	The greater of 0.1% of the Contract Price or \$5,000
.4 Other deficiencies or defects	Value as per Consultant

If the Contractor, directly or indirectly, has the Consultant visit the site to inspect for completion of deficiencies more than two times, then all associated costs for any further deficiency review visits required by the Consultant will be deducted from the Contract Price for payment to the Consultant.

.2 Article 5.7.4; modify as follows:

Delete the phrase "5 days", and replace with "30 days".

1.22 GC 5.8 Withholding of Payment

.1 Article 5.8.2; new paragraph as follows:

The Owner may withhold partial payments to cover the cost of any deficiencies as determined by the Consultant. Notwithstanding GC 5.3 Progress Payment, the Owner may withhold all payments as per GC 3.5 Construction Schedule, GC 3.11 Shop Drawings, and GC 6.2 Change Orders.

1.23 GC 6.1 Changes

.1 Article 6.1.3; new paragraph as follows:

The Contractor will inform the Bonding Companies of any changes to the Contract so that the Performance Bond still covers the Contract as specified. If any change to the Contract requires adjustments to the Bond, the Contractor is to initiate and pay for the adjustments. Provide proof to the Consultant as requested of the validity of coverage.

1.24 GC 6.2 Change Order

.1 Article 6.2.1; add the following sentences:

If the proposed change in the Work will affect the Contract Price or the Contract Time, then the Contractor will provide all quotations detailing the hours of labour, labour rates, payroll burden, itemized materials including quantities and costs, equipment, supervision, overhead & profit. Subcontractors will provide similar information. Mark-ups for overhead and profit (OH&P) will be as per the table below and will be on the *Total Net Value of Work* for the Contractor and all Subcontractors. [Example: Contractor – additional work \$6,000, deduction in work \$2,000, net \$4,000; Subcontractor – additional work \$100,000, deduction in work \$40,000, net \$60,000; *Total Net Value of Work* - \$64,000; Contractor OH&P 7.5% of \$4,000 and 5% of \$60,000; Subcontractor OH&P 7.5% of \$60,000]. The mark-up for overhead shall include, but not be limited to, office space and all associated costs, copying, printing, phones, fax, utilities, toilets, safety costs and flagmen, project management team members, Contractor supervision, benefits, taxes other than Value Added Taxes, all insurance types, bonding, transportation, temporary space and services, hand tools, delivery costs, and permits, fees and licenses. If the change will affect the critical path schedule to extend the date of Substantial Performance as substantiated by Contractor documentation, then the Contractor may add site supervision costs in addition to OH&P. Once a Change Order is signed, no further claims may be made for Contract Price or Contract Time as it relates to that change.

<i>Total Net Value of Work</i>	<b>Contractor</b> mark-up on own work	<b>Subcontractor</b> mark-up on own work	<b>Contractor</b> mark-up on Subcontractor work	<b>Subcontractor</b> mark-up on Subcontractor work
< \$5,000	15%	15%	10%	10%
\$5,000 < \$50,000	10%	10%	5%	5%
\$50,000 and	7.5%	7.5%	5%	3%

over				
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.2 Article 6.2.3; new paragraph as follows:

As time is of the essence, the Contractor must submit a price for a pending Change in a reasonable amount of time as determined by the Consultant, but in no case more than ten (10) working days from the date of receipt. The submission must be complete in all respects as outlined in 6.2.1. If the Consultant requests re-pricing of a Change, the re-pricing must be submitted within two (2) working days. Failure to comply with these requirements may result in withholding all progress payments.

1.25 GC 6.3 Change Directive

.1 Article 6.3.1; modify as follows:

.....Contractor agreeing upon the adjustment in Contract Price and Contract Time, or if the Owner requires a change to be expedited for any reason, the Owner, through the Consultant, shall issue a Change Directive.

.2 Article 6.3.4.2; delete this article and all references thereto.

.3 Article 6.3.4.3; delete this article and all references thereto.

.4 Article 6.3.4.4; delete this article and all references thereto.

.5 Article 6.3.4.8; add the following statement:  
provided they are not due to the negligence of the Contractor.

.6 Article 6.3.4.12; delete this article and all references thereto.

.7 Article 6.3.4.15; delete this article and all references thereto.

.8 Article 6.3.5; add the following sentences:

The final amount of any Change Directive can be adjusted based on the determination of the Consultant. If there is agreement on the adjustment to the Contract Price for the change in the Work, then the value of the Change Directive to perform the work shall be as per the agreed to price.

1.26 GC 6.4 Concealed or Unknown Conditions

.1 Article 6.4.2; add the following sentence:

Fractured bedrock, clay or broken shale is not considered materially different than granular soils.

1.27 GC 6.5 Delays

.1 Article 6.5.3; add the following sentence:

The Contractor shall not be entitled to payment for costs incurred from the settlement of a labour dispute, strike, or lock-out.

.2 Article 6.5.4; add the following sentences:

The notice of delay, notice of potential delay, impact notice or the like, must be accompanied with complete documentation indicating exactly how the critical path schedule will be affected, otherwise no claim for delay will be allowed. The Consultant has 10 Working Days after receipt of the notice to respond before there is consideration for a change to the Contract, however this time may be extended if the Contractor has not complied with Article 3.4.2.

1.28 GC 7.2 Contractor's Right to Stop Work or Terminate the Contract

.1 Article 7.2.3.1; delete this article and all references thereto.

.2 Article 7.2.5; modify as follows:

.....including reasonable profit to the date of termination. The Contractor's entitlement shall be determined on the basis of an evaluation of the Work performed and Products supplied under the Contract in relation to the Contract Price plus any Change Orders or Change Directives, for loss sustained upon Products and construction machinery and equipment, and such other damages as the Contractor may have sustained as a result of the termination of the Contract, all as determined by the Consultant.

## 1.29 GC 8.2 Negotiation, Mediation, and Arbitration

.1 Article 8.2.9; new paragraph as follows:

Within five days receipt of the notice of arbitration by the responding party under paragraph 8.2.6 the Owner and/or the Contractor may give the Consultant a written notice containing:

- .1 a copy of the notice of arbitration;
- .2 a copy of supplementary conditions 8.29 to 8.2.15 of this Contract, and;
- .3 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.

.2 Article 8.2.10; new paragraph as follows:

The Owner and the Contractor agree that the Consultant may elect, within ten days of receipt of the notice under paragraph 8.2.9, to become a full party to the arbitration under paragraph 8.2.6 if the Consultant:

- .1 has a vested or contingent financial interest in the outcome of the arbitration;
- .2 give the election of notice to the Owner and the Contractor before the arbitrator is appointed;
- .3 agrees to be a party to the arbitration within the meaning of the rules referred to in paragraph 8.2.6, and;
- .4 agrees to be bound by the arbitral award made in the arbitration.

.3 Article 8.2.11; new paragraph as follows:

If the Consultant is not given the written notice required under paragraph 8.2.9, both the Owner and the Contractor are estopped from pursuing an action, counter claim or other proceeding or making an application against the Consultant arising out of the issues in dispute in the arbitration between the Owner and the Contractor under paragraph 8.2.6.

.4 Article 8.2.12; new paragraph as follows:

If an election is made under paragraph 8.2.10, the Consultant may participate in the appointment of the arbitrator and notwithstanding the rules referred to in paragraph 8.2.6, the time period for reaching agreement on the appointment of the arbitrator shall begin to run from the date the Owner issues or receives a copy of the notice of arbitration.

.5 Article 8.2.13; new paragraph as follows:

The arbitrator in the arbitration in which the Consultant has elected under paragraph 8.2.10 to become a full party may:

- .1 on the application of the Owner or the Contractor, determine whether the Consultant has satisfied the requirements of paragraph 8.2.10, and;
- .2 make any procedural order considered necessary to facilitate the addition of the Consultant as a party to the arbitration.

.6 Article 8.2.14; new paragraph as follows:

The provisions of paragraph 8.2.9 shall apply mutatis mutandis to written notice to be given by the Consultant to any sub-consultant.

.7 Article 8.2.15; new paragraph as follows:



In the event of notice of arbitration given by a Consultant to a sub-consultant, the sub-consultant is not entitled to any election with respect to the proceeding as outlined in 8.2.10, and is deemed to be bound by the arbitration proceeding.

1.30 GC 9.1 Protection of Work and Property

.1 Article 9.1.4; new paragraph as follows:

Where permanent installations or otherwise, such as roads, curbs, sidewalks, boulevards, sod, trees, hydrants, fencing, street lighting, landscaping, buildings or structures, outdoor pools, and other such installed equipment abut, front and/or adjoin the Place of Work, the Contractor shall identify the conditions of same prior to commencement of the Work and record said conditions in such a manner as directed by the Consultant, to indemnify the Owner and the Contractor against subsequent damage which may be alleged by others. Should any damage occur which is attributable to the Contractor, the Contractor shall be responsible to make good such damage at his own expense or pay all costs incurred by others in making good such damage.

1.31 GC 9.3 Toxic and Hazardous Substances and Materials

.1 Article 9.3.3; delete this article and all references thereto.

.2 Article 9.3.8; delete this article and all references thereto.

1.32 GC 10.1 Taxes and Duties

.1 Article 10.1.3; new paragraph as follows:

When prices are computed for GC 6.2 Change Order, or GC 6.3 Change Directive, the Contractor must exclude the Subcontractor's and Supplier's Value Added Taxes from the Contractor's price.

1.33 GC10.2 Laws, Notices, Permits, and Fees

.1 Article 10.2.2; modify the second sentence as follows:

The Contractor shall obtain and pay for permits, licenses, or certificates necessary for the performance of the Work which were in force at the date of bid closing.

1.34 GC 11.1 Insurance

.1 Article 11.1.1.4(3); add the following sentence:

As the Owner may be required to provide, maintain and pay for such insurance for total or partial use of the Work, the Owner may deduct all such payments from the Contract Price in the event that the Contractor was negligent in obtaining Substantial Performance within the specified Contract Time as determined by the Consultant.

1.35 GC 11.2 Bonds

.1 Article 11.2.1; modify the second sentence as follows:

The Contractor shall, prior to commencement of the Work or prior to the signing of the Contract which ever is first, provide to the Owner a Performance Bond and Labour and Material Bond in the amount of 50% of the Contract Price covering faithful performance of the Contract and the payment of all obligations arising thereunder. The premium for the required bond shall be paid by the Contractor.

.2 Article 11.2.3; new paragraph as follows:

The Performance Bond issued by the Surety agrees to repay to the Owner all expenses incurred by the Owner including but not limited to legal fees, additional Consultant fees, security services,

heat, and power as a result of its Obliges failure to faithfully perform this Contract whether resulting from the Contractor's bankruptcy or otherwise.

.3 Article 11.2.4; new paragraph as follows:

The Performance Bond shall continue as a guarantee bond for the warranty period and beyond the warranty period until all deficiencies have been completed to the satisfaction of the Consultant.

1.36 GC 12.1 Indemnification

.1 Article 12.1.1; modify the fourth line as follows:

Delete the phrase "provided such claims are:".

.2 Article 12.1.1.1; delete this article and all references thereto.

.3 Article 12.1.1.2; delete this article and all references thereto.

.4 Article 12.1.1.3; delete this article and all references thereto.

1.37 GC 12.3 Warranty

.1 Article 12.3.1; modify the second line as follows:

.....the Work, or from the date when all defects and deficiencies are corrected whichever is later, or those periods specified in the Contract Documents for certain portions of the Work or Products.

.2 Article 12.3.7; new paragraph as follows:

The Contractor shall provide properly executed and signed copies of all Guarantee Bonds, Warranties, and Guarantees containing the Owners name, the name and address of the Project, the date the Guarantee commences, what the Guarantee is covering as per the Specifications, and the signature and seal of the Company issuing the Guarantee countersigned by the Contractor.