UNIVERSITY OF TORONTO
AMENDMENTS TO CCDC2-2008
SUPPLEMENTARY CONDITIONS
AGREEMENT, DEFINITIONS AND
SUPPLEMENTARY CONDITIONS

APRIL 1ST, 2008

REVISION 1 – OCTOBER 20th, 2009
See: New Definition “Base Bid”
See: New Introductory Clause for GC11.1

REVISION 2 – FEBRUARY 2010
See: Revised Definition “Environmental Programs”
See: Amendments to GC9.2.10 and a New Paragraph 9.2.11

REVISION 3 – OCTOBER 2010
See: Amendments to GC5.4.4

REVISION 4 – APRIL 2011
See: Amendment to GC5.4.4.2

REVISION 5 – JANUARY 2012
See: Amendment to Definition 34, 36, GC3.8.6, GC13.1

REVISION 6 – MARCH 2013
See: Amendment to GC8.2.9 – GC8.2.15
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The Standard Construction Document for a Stipulated Price Contract, English version, consisting of the Agreement between the Owner and the Contractor, Definitions and General Conditions of the Stipulated Price Contract, Parts 1 to 12 inclusive, governing the same is made part of these Contract Documents, with the following amendments, additions and modifications:

1. AGREEMENT BETWEEN OWNER AND CONTRACTOR

1.1 ARTICLE A-5 – PAYMENT

1.1.1. Amend paragraph 5.1, line 3, by inserting “ten” in the first blank in that line. Further amend paragraph 5.1, line 3, by inserting “10” in the second blank in that line.

1.1.2. Amend paragraph 5.1.3, in the first line, by deleting the words “…the issuance of the…” and replacing them with “…receipt of the Consultant’s…”.

1.1.3. Delete paragraph 5.3.1 and replace it with the following:

“Should either party fail to make payments as they become due under the terms of the Contract or in an award by arbitration or court, interest shall also become due and payable on such unpaid amounts at 2% above the prime rate. Such interest shall be compounded on a monthly basis. The prime rate shall be the rate of interest quoted by [name of chartered lending institution] for prime business loans as it may change from time to time.”

1.2 ARTICLE A-6 – RECEIPT OF AND Addresses FOR NOTICES IN WRITING

1.2.1. Delete the text of ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING (retaining the provision for the addresses of the Owner, Contractor and Consultant) and replace it with the following:

“6.1 Notices in Writing between the parties or between them and the Consultant shall be considered to have been received by the addressee on the date of receipt if delivered by hand or by commercial courier or if sent during normal business hours by fax and addressed as set out below. Such Notices in Writing will be deemed to be received by the addressee on the next business day if sent by fax after normal business hours or if sent by overnight commercial courier. Such Notices in Writing will be deemed to be received by the addressee on the fifth Working Day following the date of mailing, if sent by pre-paid registered post, when addressed as set out below. An address for a party may be changed by Notice in Writing to the other party setting out the new address in accordance with this article.”
The Owner at:
255 McCaul Street
4th Floor
TORONTO ON M5T 1W7
Fax No:
Phone No:
Attention:

The Contractor at:

The Consultant at:
Fax No:
Attention:
2. DEFINITIONS

2.1.1. Amend Definition 4 by adding the following to the end of that Definition:

“For purposes of the Contract, the terms “Consultant”, “Architect” and “Engineer” shall be considered synonymous.”

2.1.2. Amend Definition 12 by adding the following to the end of that Definition:

“For purposes of the Contract, the terms “Owner”, “University of Toronto” and the “University” shall be considered synonymous. For the Project, the Owner’s representative is [name of representative].”

2.1.3. Amend Definition 16, Provide, as follows:

“Provide’ means to supply and install. Provide has this meaning whether or not the first letter is capitalized.”

2.1.4. Add a new Definition 27, Act, as follows:

“Act’ means the Construction Lien Act (Ontario).”

2.1.5. Add a new Definition 28, Base Bid, as follows:

“Base Bid’ means the price bid for the Work by the Contractor, at tender close. For greater certainty, Base Bid excludes Value Added Taxes and the value of any alternative price or prices solicited from the Contractor by the bid documents.”

2.1.6. Add a new Definition 29, by others, as follows:

“The words ‘By Others’ when used in the Specifications or on the Drawings means a person performing part of the Work, other than the Contractor. For greater certainty, the only means by which work or services shown or specified shall be indicated as not being in the Contract is by use of the initials ‘N/C’ or the words ‘Not In Contract’ or the words ‘by Owner’.”

2.1.7. Add a new Definition 30, Construction Schedule, as follows:

“Construction Schedule’ means the schedule for the performance of the Work provided by the Contractor pursuant to GC3.5, including any amendments to the Construction Schedule made pursuant to the Contract Documents.”

2.1.8. Add a new Definition 31, Environmental Programs, as follows:

“Environmental Programs” means all of the Owner’s requirements found in the “Manual for Proponents and Bidders Respecting Designated Substances, Health and Safety, Biohazards and Other Hazards” prepared and maintained by the Owner and found at www.ehs.utoronto.ca/services/biosafety/contractors.htm. The Environmental Programs
include the Owner’s Asbestos Control Program, its mould program and a program for controlling and handling designated substances.”

2.1.9. Add a new Definition 32, Exposed, as follows:

“Exposed’ means visible by the Owner at the completion of the Work, unless otherwise indicated in the Contract Documents. Exposed items include all items on roof areas, mechanical and service rooms, inside of cupboards, cabinets and similar items.”

2.1.10. Add a new Definition 33, Force Majeure, as follows:

“Force Majeure’ means any cause, beyond the Contractor’s control, other than bankruptcy or insolvency, which prevents the performance by the Contractor of any of its obligations under the Contract and the event of Force Majeure was not caused by the Contractor’s default or active commission or omission and could not be avoided or mitigated by the exercise of reasonable effort or foresight by the Contractor. Force Majeure includes Labour Disputes, fire, unusual delay by common carriers or unavoidable casualties, civil disturbance, acts, orders, legislation, regulations or directives of any government or other public authority, acts of a public enemy, war, riot, sabotage, blockage embargo, shortage of materials and supplies, lightning, earthquake, abnormally adverse weather conditions or acts of God.”

2.1.11. Add a new Definition 34, General Labour Conditions, as follows:

“General Labour Conditions” means the requirements for the use of union labour by the Contractor and Subcontractors as more particularly set out in GC13.1 – GENERAL LABOUR CONDITIONS.”

2.1.12. Add a new Definition 35, Install, as follows:

“Install’ means install and connect. Install has this meaning whether or not the first letter is capitalized.”

2.1.13. Add a new Definition 36, Labour Dispute, as follows:

“Labour Dispute’ means any lawful or unlawful labour problems, work stoppage, labour disruption, strike (including lockouts decreed or recommended for its members by a recognized contractor’s association of which the Contractor is a member or to which the Contractor is otherwise bound), job action, slow down, picketing, refusal to work or continue to work, refusal to supply materials, cessation or work or other labour controversy, whether caused by a failure of the Contractor to comply with the General Labour Conditions or not, which does, or might, affect the Work.”

2.1.14. Add a new Definition 37, OHSA, as follows:

“OHSA’ means the Occupational Health and Safety Act (Ontario)”

2.1.15. Add a new Definition 38, Request for Information, as follows:
“Request for Information’ or ‘RFI’ means written documentation sent by the Contractor to the Owner or to the Owner’s representative or to the Consultant requesting written clarification(s) and/or interpretation(s) of the Drawings and/or Specifications, Contract requirements and/or other pertinent information required to complete the Work of the Contract without applying for a change or changes to the Work.”

2.1.16. Add a new Definition 39, Submittals, as follows:

“Submittals’ means documents or items required by the Contract Documents to be provided by the Contractor such as:

- Shop Drawings, samples, models, mock-ups to indicate details or characteristics, before the portion of the Work that they represent can be incorporated into the Work; and,

- Record drawings and manuals to provide instructions to the operation and maintenance of the Work.”

2.1.17. Add a new Definition 40, reviewed, instructed, required, directed, permitted, inspected, ordered, as follows:

“Wherever the words ‘reviewed’, ‘instructed’, ‘required’, ‘directed’, ‘permitted’, ‘inspected’, ‘ordered’ or similar words are used they shall mean, unless the context provides otherwise, ‘reviewed by the Consultant’, ‘instructed by the Consultant’, ‘required by the Consultant’, ‘directed by the Consultant’, ‘permitted by the Consultant’ and ‘ordered by the Consultant’.”

2.1.18. Add a new Definition 41, satisfactory, as follows:

“Wherever the word ‘satisfactory’ or similar words or phrases are used in the Contract Documents, it means, unless the context provides otherwise, ‘satisfactory to the Owner and the Consultant.’”
3. AMENDMENTS TO THE GENERAL CONDITIONS OF THE STIPULATED PRICE CONTRACT

3.1 GC 1.1 CONTRACT DOCUMENTS

3.1.1. Amend paragraph 1.1.1 by adding the following between the first and second sentences:

"In many cases, the language of the Contract Documents is written in the imperative for the sake of brevity. Clauses containing instructions or directions are intended for the Contractor and such sentences are deemed to include the words, ..."the Contractor shall"." 

3.1.2. Amend paragraph 1.1.6 by adding the following to the end of that paragraph:

"The Specifications are divided into divisions and sections for convenience but shall be read as a whole and neither such division nor anything else contained in the Contract Documents will be construed to place responsibility on the Consultant to settle disputes among the Subcontractors and Suppliers in respect to such divisions. The Drawings are, in part, diagrammatic and are intended to convey the scope of the Work and indicate general and appropriate locations, arrangement and sizes of fixtures, equipment and outlets. The Contractor shall obtain more accurate information about the locations, arrangement 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. The Contractor shall arrange and install fixtures and equipment in such a way as to conserve as much headroom and space as possible. The schedules are that portion of the Contract Documents wherever located and whenever issued, compiling information of similar content and may consist of drawings, tables and/or lists." 

3.1.3. Amend paragraph 1.1.7 by adding subparagraphs 1.1.7.5, 1.1.7.6, 1.1.7.7, 1.1.7.8, and 1.1.7.9 as follows:

".5 Annotations on the Drawings shall govern over the graphic representation of the Drawings.

.6 Finishes in the room finish schedules shall govern over those shown on the Drawings.

.7 Schedules of Division 01 – General Requirements of the Specifications shall form part of and be read in conjunction with the technical specification section as listed in the table of contents of the Specifications.

.8 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 the systems designed by the Consultant or its sub-
Consultants are to remain with each of the applicable drawing disciplines.

.9 Fixturing drawing provided by the Owner shall have precedence over architectural drawings insofar as outlining, determining and interpreting conflicts over the required design intent of all architectural layouts."

3.1.4. Delete paragraph 1.1.8 in its entirety and substitute new paragraph 1.1.8:

“1.1.8 The Contractor may obtain, at its own cost, copies of the Contract Documents from the electronic plans room at the Toronto Construction Association.”

3.1.5. Add a new paragraph 1.1.11 as follows:

“1.1.11 One set of signed and sealed Contract Documents shall be retained by each of the Owner and the Contractor.”

3.2 GC2.2 ROLE OF THE CONSULTANT

3.2.1. Amend paragraph 2.2.7 in the second and third lines by deleting the words: “…except with respect to GC5.1 —FINANCING INFORMATION REQUIRED OF THE OWNER”.

3.2.2. Amend paragraph 2.2.13 by adding the following to the end of that paragraph:

“If, in the opinion of the Contractor, the Supplemental Instruction involves an adjustment in the Contract Price or in the Contract Time, it 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 involves an adjustment of 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 described in the first sentence of this paragraph 2.2.13. Failure to provide written notification within the time stipulated in this paragraph 2.2.13 shall be deemed an acceptance of the Supplemental Instruction by the Contractor without adjustment in the Contract Price or Contract Time.”

3.2.3. Add new paragraphs 2.2.19 and 2.2.20 as follows:

“2.2.19 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 contracts with sub-Subcontractors, sub-Suppliers and others.
2.2.20 The Specifications are divided into divisions and sections for convenience but shall be read as a whole and neither such division nor anything else contained in the Contract Documents will be construed to place responsibility on the Consultant to settle disputes among Subcontractors and Suppliers in respect to such divisions."

3.2.4. Add a new paragraph 2.4.1.1 as follows:

"2.4.1.1 The Contractor shall prioritize the correction of any defective Work which, in the sole discretion of the Owner, adversely affects the day to day operation of the Owner."

3.2.5. Add a new paragraph 3.1.3 as follows:

3.1.3 Prior to commencing individual procurement, fabrication and construction activities, the Contractor shall verify, at the Place of the Work, all relevant measurements and levels necessary for 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 exact locations are not apparent, the Contractor shall immediately notify the Consultant in writing and obtain written instructions from the Consultant before proceeding with any part of the affected Work.

3.3 GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

3.3.1. Delete subparagraphs 3.2.2.1 and 3.2.2.2 in their entirety and substitute "intentionally left blank".

3.3.2. Delete paragraph 3.2.3.2 and replace it with the following:

"3.2.3.2 Co-ordinate and schedule the activities and work of other contractors and Owner’s own forces with the Work of the Contractor and connect as specified or shown in the Contract Documents;"

3.3.3. Add a new paragraph 3.2.3.4 as follows:

"3.2.3.4 Subject to GC9.4 CONSTRUCTION SAFETY, for the Owner’s own forces and for other contractors, assume overall responsibility for compliance with all aspects of the applicable Health and Safety legislation of the Place of the Work, including all the responsibilities of the “constructor” under OHSA."

3.4 GC3.4 DOCUMENT REVIEW

3.4.1. Delete the second sentence of paragraph 3.4.1 and replace it with the following two sentences:

"Such review by the Contractor shall meet the standard of care described in paragraph 3.15.1 of this Contract. Except for the 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.”

3.4.2. Amend paragraph 3.4.1 in the fourth line, at the beginning of the third sentence, by adding the words, “Provided it has exercised the degree of care and skill described in this paragraph 3.4.1, the Contractor...”.

3.4.3. Add new paragraphs 3.4.2 and 3.4.3 as follows:

“3.4.2 Errors, inconsistencies and/or omissions in the Drawings and/or Specifications which do not allow completion of the Work of the Contract shall be brought to the Consultant’s attention prior to the execution of the Contract by means of an RFI.

3.4.3. Notwithstanding the foregoing, errors, inconsistencies, discrepancies and/or omissions shall not include lack of reference on the Drawings or in the Specifications to labour and/or Products that are required or normally recognized within respective trade practices as being necessary for the complete execution of the Work. The Contractor shall not use subsequent RFIs, issued during execution of the Work, to establish a change and/or changes in the Work pursuant to Part 6 – CHANGES IN THE WORK.”

3.5 GC3.5 CONSTRUCTION SCHEDULE

3.5.1. Delete paragraph 3.5.1.1 and replace it with the following:

“3.5.1.1 prior to site mobilization, submit to the Owner and the Consultant for their approval a baseline schedule indicating the critical path for the Project, including all predecessor activities and including manpower loading expressed in man hours. Employ a scheduling program which is the most current version of MS Project or Primavera, demonstrating that the Work will be performed in conformity with the Contract Time. The Contractor shall provide the schedule information required by this paragraph 3.5.1.1 in both electronic format and hard copy and such submission shall be accompanied by a letter from a senior officer of the Contractor certifying that the baseline schedule was prepared in collaboration with, and is supported by, the Subcontractors and Suppliers whose activities affect the critical path.”

3.5.2. Further amend paragraph 3.5.1 by adding a new subparagraph 3.5.1.2 as follows:

“3.5.1.2 provide the expertise and resources, such resources including manpower and equipment, as are necessary to maintain progress under the construction schedule referred to in paragraph 3.5.1.1 or any successor or revised schedule approved by the Owner pursuant to this GC3.5.”

3.5.3. Delete existing paragraph 3.5.1.2 and replace it with a new paragraph which is numbered 3.5.1.3 and reads as follows:
3.5.1.3 continuously monitor the progress of the Work and provide a monthly progress schedule covering all of the baseline activities and including the actual start, actual finish and percentage completion of those activities. Each month, the Contractor shall submit, for the Owner’s approval, any changes made to the baseline logic and activity durations.”

3.5.4. Delete existing paragraph 3.5.1.3 and replace it with a new paragraph which is numbered 3.5.1.4 and reads as follows:

“3.5.1.4 if after applying the expertise and resources required under paragraph 3.5.1.2, the Contractor forms the opinion that the slippage in schedule reported in paragraph 3.5.1.3 cannot be recovered by the Contractor, it shall, in the same notice provided under paragraph 3.5.1.3, indicate to the Consultant if the Contractor intends to apply for an extension of Contract Time as provided in PART 6 —CHANGES IN THE WORK.”

3.5.5. Add a new paragraph 3.5.2 as follows:

“3.5.2 Without limiting the other obligations of the Contractor under GC3.5, the Contractor shall not amend the baseline schedule described in paragraph 3.5.1.1 without the prior written consent of the Owner. In addition, at each site construction meeting, the Contractor shall provide to the Owner and the Consultant a two (2) week look-ahead schedule indicating the major activities to be undertaken or constructed in such two (2) week period.”

3.6 GC 3.6 SUPERVISION

3.6.1. Delete paragraph 3.6.2 in its entirety and replace it with the following:

“3.6.2 The supervisor, and any project manager appointed by the Contractor, shall represent the Contractor at the Place of Work and shall have full authority to act on written instructions given by the Consultant and/or the Owner and the Owner’s representative. Instructions given to the supervisor or the project manager shall be deemed to have been given to the Contractor and both the supervisor and any project manager shall have full authority to act on behalf of the Contractor and bind the Contractor in matters related to this Contract.”

3.6.2. Add a new paragraph 3.6.3 as follows:

“3.6.3 The Owner, acting reasonably, shall have the right to order the Contractor to remove from the Project any representative or employee of the Contractor, Subcontractors or Suppliers who, in the opinion of the Owner, are a detriment to the Project.”

3.7 GC 3.7 SUBCONTRACTORS AND SUPPLIERS

3.7.1. Add a new paragraph 3.7.7 as follows:
“3.7.7 Where provided in the Contract, the Owner may assign to the Contractor, and the Contractor agrees to accept, any contract procured by the Owner for Work or services required on the Project that has been pre-tendered or pre-negotiated by the Owner.”

3.8 GC 3.8 LABOUR AND PRODUCTS

3.8.1. Amend paragraph 3.8.1 by adding the following sentence at the end of that paragraph:

“The Contractor represents and warrants that the Products provided for in accordance with the Contract are not subject to any conditional sales contract and are not subject to any security rights obtained by any third party which may subject any of the Products to seizure and/or removal from the Place of the Work.”

3.8.2. Delete paragraph 3.8.2 and replace it with the following:

“3.8.2 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, Ontario Building Code, National Fire Prevention Association, the Technical Standards and Safety Authority (also known as TSSA) and all governmental authorities having jurisdiction at the Place of the Work, unless otherwise specified. Products which are not specified shall be of a quality consistent with those specified and their use acceptable to the Consultant. 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. The said Product shall be at the sole risk of the Contractor.”

3.8.3. Amend paragraph 3.8.3 by adding the words, “…, agents, Subcontractors and Suppliers…” after the “employees” toward the end of line one.

3.8.4. Also with respect to paragraph 3.8.3, add three new sentences to the end of this paragraph which read as follows:

“Without in any way limiting the generality of the foregoing, the Contractor shall prepare and implement the job site rules more particularly described in the tender documents. If no job site rules are described in the tender documents, the Contractor shall draft job site rules for the review and approval of the Owner. Any such job site rules prepared by the Contractor shall be consistent with the Contractor’s duties and obligations under the OHSA and shall also include provisions making smoking and the consumption of alcohol or non-prescription drugs on the Project site the subject of discipline proceedings and/or termination of employment.”

3.8.5. Add new paragraphs 3.8.4, 3.8.5 and 3.8.6 as follows:

“3.8.4 Upon receipt of a written notice from the Consultant, the Contractor shall dismiss from the Place of the Work tradesmen and labourers whose Work is
unsatisfactory to the Consultant or who are considered by the Consultant to be unskilled or otherwise objectionable.

3.8.5 The Contractor shall not employ any persons on the Work whose labour affiliation, or lack thereof, is incompatible with other labour employed in connection with the Work. Any costs arising from Labour Disputes, as a result of the employ of any such person by the Contractor, its Subcontractor or Suppliers shall be the sole expense of the Contractor.

3.8.6 The Contractor shall comply with the General Labour Conditions and shall also cooperate with the Owner and its representatives and shall take all reasonable and necessary actions to maintain stable and harmonious labour relations with respect to the Work at the Place of the Work, including cooperation to attempt to avoid Work stoppages, trade union jurisdictional disputes and other Labour Disputes.”

3.9 GC 3.9 DOCUMENTS AT THE SITE

3.9.1. Delete paragraph 3.9.1 in its entirety and replace it with the following:

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.

3.10 GC 3.10 SHOP DRAWINGS

3.10.1. Add new paragraphs 3.10.13, 3.10.14, 3.10.15, 3.10.16, 3.10.17 and 3.10.18 as follows:

“3.10.13 Reviewed Shop Drawings shall not authorize a change in the Contract Price and/or the Contract Time.

3.10.14 The Contractor shall prepare a Shop Drawings schedule acceptable to the Owner and the Consultant prior to the first application for payment. A draft of the proposed Shop Drawings schedule shall be submitted by the Contractor to the Consultant and the Owner for approval. The draft Shop Drawings schedule shall clearly indicate the phasing of Shop Drawings submissions.

3.10.15 Except where the parties have agreed to a different Shop Drawings schedule pursuant to paragraph 3.10.3, the Contractor shall comply with the requirements for Shop Drawings submissions stated in the Specifications, Section 01300, Submittals.

3.10.16 The Contractor shall not use the term “by others” on Shop Drawings or other Submittals. The related trade, Subcontractor or Supplier shall be stated.

3.10.17 Certain Specifications sections require the Shop Drawings to bear the seal and signature of a professional engineer. Such professional engineer must be
registered in the jurisdiction of the Place of the Work and shall have expertise in the area of practice reflected in the Shop Drawings.

3.10.18 The Consultant will review and return Shop Drawings and Submittals in accordance with the Schedule agreed upon in 3.10.3, or, in the absence of such a 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 for processing. The Contractor shall update the Shop Drawings and Submittals schedule to correspondence to changes in the construction schedule. Changes in the Contract Price or Contract Time may be made only as provided in the Contract.

3.11 GC 3.13 CLEANUP

3.11.1. Add new paragraph 3.13.4 and 3.13.5 as follows:

“3.13.4 Clean up during construction and the final cleaning of the Place of the Work is further specified in the Specifications, Section 01700, Execution Requirements.

3.13.5 In the event that the Contractor fails to remove waste and debris as provided in this GC 3.13, then the Owner or the Consultant, may give the Contractor twenty-four (24) hours’ written notice to meet its obligations respecting clean up. Should the Contractor fail to meet its obligations pursuant to this GC 3.13 within the twenty-four (24) hour period next following delivery of the notice, the Owner may remove such waste and debris and deduct from payments otherwise due to the Contractor, the Owner’s costs for such clean up, including a reasonable markup for administration.”

3.12 GC 3.14 OCCUPANCY OF THE WORK

3.12.1. Add a new General Condition 3.14 as follows:

“3.14 OCCUPANCY OF THE WORK

3.14.1 The Owner reserves the right to take possession of and use for any intended purpose any portion or all of the undelivered portion of the Project even though the Work may not have reached Substantial Performance of the Work, provided that such taking possession and use will not interfere, in any material way, with the progress of the Work. The taking of possession or use of any such portion of the Project shall not be deemed to be the Owner’s acknowledgement or acceptance of the Work or Project nor shall it relieve the Contractor of any of its obligations under the Contract.

3.14.2 Whether 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 where the Project involves Work that is adjacent to a structure which is in use or is occupied, the Contractor, without in any way limiting its responsibilities under this Contract, shall take all reasonable steps to avoid interference with fire exits, building
access and egress, continuity of electric 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 safety
and comfort of the users and occupants of such structures or adjacent
structures.”

3.13 GC 3.15 CONTRACTOR STANDARD OF CARE

3.13.1. Add a new General Condition 3.15 as follows:

“3.15 CONTRACTOR STANDARD OF CARE

3.15.1 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 services for similar projects in a first class
and expeditious manner. 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 or procedures which it may recommend to the Owner or employ on the
Project.”

3.14 GC 3.16 CONTRACTOR USE OF PERMANENT EQUIPMENT OR
SYSTEMS

3.14.1. Add a new General Condition 3.16 as follows:

“3.16 CONTRACTOR USE OF PERMANENT EQUIPMENT OR SYSTEMS

3.16.1 With the prior written approval of the Owner, the Contractor may make use of
elements of the mechanical and electrical systems or equipment comprising a
permanent part of the Work for the purpose of providing heat or power to the
Project during the final stages of construction. In such event, and before the
issuance of the certificate of Substantial Performance of the Work, the Contractor
shall clean and make good, to the satisfaction of the Consultant, such systems
and equipment as it had been permitted to use. The Contractor shall pay any and
all costs associated with such use, cleaning and making good.”

3.15 GC 3.17 ENVIRONMENTAL PROGRAMS

3.15.1. Add a new General Condition 3.17 as follows:

“3.17 ENVIRONMENTAL PROGRAMS

3.17.1 In carrying out the Work under this Contract, the Contractor shall comply with all
the requirements of the Environmental Programs.”
3.16 **GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER**

3.16.1. Delete GC5.1 in its entirety and replace it with “Intentionally left blank.”

3.17 **GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT**

3.17.1. Amend paragraph 5.2.3 by adding the following to the end of that paragraph:

“No amount claimed shall include Products delivered to the Place of the Work unless the Products are free and clear of all security interest, liens, and other claims of third parties.”

3.17.2. Amend paragraph 5.2.4 by adding the following to the end of that paragraph:

“Such statement of values shall subdivide the Contractor’s allocation for “general conditions” to identify a separate line item labeled “allocation for baseline schedule required by GC3.5.” The allocation to such line item shall be calculated as follows:

1. where the Contract Price is $2,000,000 or less, the greater of $5,000 and 5% of the total amount allocated by the Contractor to “general conditions;

2. where the Contract Price is greater than $2,000,000, the sum of $12,000.

In addition, the statement of values shall identify a separate line item labeled “allocation for warranty obligations described in GC12.3”. The allocation to such line item shall be $______________.”

3.17.3. Amend paragraph 5.2.7 by adding the following new sentence at the end of that paragraph:

“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 the title has passed to the Owner pursuant to GC13.1 OWNERSHIP OF MATERIALS.”

3.17.4. Add new paragraphs 5.2.8, 5.2.9 and 5.2.10 as follows:

“5.2.8 The Contractor shall submit, with each application for progress payment after the first, a Statutory Declaration, on an original form of CCDC Document 9A-2001, stating that all accounts for labour, subcontracts, Products, Construction Equipment and other indebtedness which may have been incurred by the Contractor and for which the Owner might in any way be held responsible have been paid in full up to the previous invoice, except for amounts properly retained as a holdback or as an identified amount in dispute.

5.2.9 The Contractor shall submit Workplace Safety & Insurance Board Clearance Certificate, with each application for progress payment.

5.2.10 The Contractor shall prepare and maintain current as-built Drawings which shall consist of the Drawings and Specifications revised by the Contractor during the Work, showing changes to the Drawings and Specifications, which current as-
3.18 GC 5.3 PROGRESS PAYMENTS

3.18.1. Amend paragraph 5.3.1.3, in the second line, by removing “20” and replacing it with fifteen (15) Working Days”.

3.18.2. Add new paragraph 5.3.2 as follows:

“5.3.2 If the Contractor fails to provide a statutory declaration as required by paragraph 5.2.8 or the clearance certificate required by paragraph 5.2.1, the Owner shall be entitled to deduct from amounts otherwise payable to the Contractor an amount sufficient to cover any liability which it might incur as a result of the Contractor’s failure.”

3.19 GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

3.19.1. Amend paragraph 5.4.3 by adding the following sentence at the end of the paragraph:

“Immediately following the issuance of a certificate of Substantial Performance of the Work, the Contractor shall publish the Certificate in the manner provided in the Act failing which publication, the Owner shall be at liberty to publish and back charge the Contractor for its reasonable costs for doing so.”

3.19.2. Add a new paragraph 5.4.4 as follows:

“5.4.4 The Contractor acknowledges that the Submittals described in this paragraph 5.4.4 are critical to the Owner’s use, occupancy and maintenance of the Project and agrees to make such Submittals to the Owner, before or after applying for the payment described in paragraph 5.4.1, as follows:

.1 submit to the Consultant, with its application for payment, all written guarantees, warranties, certificates, testing and balancing reports, distribution system diagrams, Shop Drawings, maintenance and operating instructions, spare parts, maintenance manuals and materials and any other materials or documentation required by the Contract, except for record drawings;

.2 with respect to record or as built drawings, the Contractor shall submit full and complete record or as-built drawings to the Consultant within forty-five (45) days of the issuance of the certificate of Substantial Performance of the Work and the Owner shall be at liberty to withhold from amounts otherwise payable to the Contractor an amount which is equal to 1% of the Contract Price, provided that such amount shall in no case be less than Five Thousand Dollars ($5,000) or more than Twenty-
Five Thousand Dollars ($25,000), such amount to serve as security for the obligation of the Contractor to deliver such record or as built drawings within the time described in this paragraph 5.4.4. Should the Contractor fail to deliver the record or as-built drawings within such forty-five (45) day period, the Owner shall be at liberty to employ the funds withheld to retain a third party to prepare such record or as-built drawings."

3.20 GC 5.5 PAYMENT OF HOLD BACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

3.20.1. Amend paragraph 5.5.2 by adding the following sentence to the end of that paragraph:

“A reserve fund may be retained by the Owner to secure the correction of deficiencies, the amount of such reserve fund to be based on the Consultant’s reasonable estimate of the cost of correcting deficient items.”

3.20.2. Delete paragraph 5.5.3 in its entirety and substitute “Intentionally left blank”.

3.21 GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK

3.21.1. Add a new paragraph 5.6.4 as follows:

“5.6.4 For release of holdback on subcontract Work which is 100% complete, prior to final payment, the Contractor shall make application by written request for a review to determine the date of completion of the 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 Description of the scope of Work included in the subcontract.

.2 Declaration of Last Supply by the Subcontractor as prescribed in subsection 31(5) of the Act (Form 5).

.3 Certificate of Completion of Subcontract as prescribed in subsection 33(1) of the Act (Form 7).

.4 Workplace Safety & Insurance Board clearance certificate for the Contractor, the Subcontractor concerned, and any other Subcontractors and Suppliers who have provided any services to the Subcontractor.

.5 Statutory declaration by an officer of the Subcontractor in the form CCDC Document 9B - 2001.

.6 Contractor’s written acknowledgement to the Owner that the requirements of the Contract Documents will not be altered by early release of the holdback of the completed subcontracts.”
.7 Confirmation by the bonding company that it has been notified of the intent to claim early release of holdback and does not object.

3.22 GC 5.7 FINAL PAYMENT

3.22.1. Amend paragraph 5.7.4, in line 2, by removing “5” by replacing it with “15 Working Days”.

3.23 GC 6.1 CHANGES

3.23.1. Amend paragraph 6.1.2 by adding the following to the end of that paragraph:

“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 VI CHANGES IN THE WORK. No course of conduct or dealing between the parties, no express or implied acceptance of alterations or additions to the Work and no claims 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 additional payment under this Contract or a claim for any extension of the Contract Time.”

3.23.2. Add a new paragraph 6.1.3 as follows:

“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 in addition to the Contract Price in relation to coordination.”

3.24 GC 6.2 CHANGE ORDER

3.24.1. Add new paragraph 6.2.3 as follows:

“6.2.3 The value of a change shall be determined in one or more of the following methods as directed by the Owner:

.1 by estimate and acceptance of a lump sum.

.2 by unit prices established in the Contract or subsequently agreed upon. Unit Prices shall include overhead, profit, and other reasonable charges of the Contractor and shall be the total cost to the Owner. Adjustment to the Contract Price shall be based on a net quantity difference from the original quantity.

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

(1) by a Subcontractor applying the labour charge out rates set out in the wage schedule in the Contract Documents together with the actual costs, without mark-up of materials and Products
utilized in the change, plus the Subcontractor’s mark-up disclosed in the table below which applies to material and Product costs only;

(2) by the Contractor applying the labour charge out rates set out in the wage schedule in the Contract Documents together with the actual costs, without mark-up, of materials and products plus the mark-up disclosed in the table below which applies to material and Product costs only;

(3) the Contractor shall be entitled to the Contractor mark-up in the table below on the value of Subcontractor Work even where the Subcontractor is not entitled to a mark-up on its labour charge out rates pursuant to paragraph 6.2.3.3(1).

<table>
<thead>
<tr>
<th>Change in the Contract Price</th>
<th>Subcontractor Mark-Up (%) (includes overhead and profit)</th>
<th>Contractor Mark-Up (%) On Subcontractor Work (includes overhead and profit)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to no more than $25,000</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>$0 to no more than $50,000</td>
<td>10</td>
<td>7.5</td>
</tr>
<tr>
<td>$0 to in excess of $50,000</td>
<td>5</td>
<td>5</td>
</tr>
</tbody>
</table>

Interpretive Note: The mark-ups disclosed in the above table are flat not graduated. For example, a Subcontractor performed change valued at $35,000 attracts a mark-up of 10% for the Subcontractor and 7.5% for the Contractor. The table is not intended to provide one set of mark-ups for the first $25,000 of the change and a lower set of mark-ups for the balance.

.4 where the Contractor self performs a change pursuant to paragraph 6.2.3.3(2), it shall be entitled to the mark-ups described in the “Subcontractor Mark-Up (%)” column above, subject to the limitation on the mark-up of labour costs described in paragraph 6.2.3.3(2).

.5 the mark-ups described in paragraph 6.2.3.3 include all necessary supervision, general account items, general clean-up, small tools, as-built drawings and job safety necessary to perform the change. Additional bonding cost is excluded from the mark-ups but may be included as a cost, using the value declared for bonding by the Contractor in its bid to the Owner, unless otherwise agreed by the parties."
3.25  GC 6.3 CHANGE DIRECTIVE

3.25.1. Further amend paragraph 6.3.6.3 by adding the following to the end of that paragraph:

“Such allowance for overhead and profit shall be as described in paragraphs 6.2.3.3 and 6.2.3.4.”

3.25.2. Delete paragraph 6.3.7.1 the introductory language and replace it with the following:

1 salaries, wages and benefits paid to personnel in the direct employ of the Contractor, applying the labour rates set out in the wage schedule in the Contract Documents or as otherwise agreed between the Owner and Contractor for personnel…”

3.25.3. Delete paragraphs 6.3.7.1(1), (2), (3) and (4) and replace them with the following:

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

(2) intentionally left blank;

(3) engaged in the preparation of Shop Drawings, fabrication drawings, coordination drawings and project record drawings: or…

(4) including clerical staff engaged in processing changes in the Work.”

3.25.4. Add new paragraph 6.3.14 as follows:

“6.3.14 Without limitation, the cost of performing the Work attributable to the Change Directive does not include:

1 head office salaries and benefits and all other overhead or general expenses, except only for the salaries, wages and benefits of personnel described in paragraph 6.3.4.2 and the contributions, assessments or taxes referred to in paragraphs 6.3.4.3;

2 capital expenses and interest on capital;

3 general clean-up, except where the performance of the Work in the Change Directive causes specific additional clean-up requirements;

4 wages paid for field supervision of Subcontractors;

5 wages, salaries, rentals, or other expenses that exceed the rates that are standard in the locality of the Place of the Work that are otherwise deemed unreasonable by the Consultant;
.6 any costs or expenses attributable to the negligence, improper Work, deficiencies, or breaches of contract by the Contractor or Subcontractor; and

.7 any cost of quality assurance, such as inspection and testing services, charges levied by authorities, and any legal fees unless any such costs or fees are pre-approved in writing by the Owner.”

3.26 GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

3.26.1 Delete paragraph 6.4.1 and replace it with the following:

“6.4.1.1 The Contractor confirms that, prior to tendering the Project, it carefully investigated the Place of the Work and applied to that investigation the degree of care and skill described in paragraph 3.15.1, given the amount of time provided between the issue of tender documents and the actual closing of tenders.

6.4.1.2 If the Contractor has not conducted such careful investigation, it is deemed to assume all risk of conditions or circumstances now existing or arising in the course of the Work which could make the Work more expensive or more difficult to perform than was contemplated at the time the Contract was executed. No claim by the Contractor will be entertained in connection with conditions which could reasonably have been ascertained by such investigation or other due diligence undertaken prior to the execution of the Contract.”

3.26.2 Amend paragraph 6.4.2 by adding a new first sentence which reads as follows:

“6.4.2 Having regard to paragraph 6.4.1, if the Contractor believes that the conditions of the Place of the Work differ materially from those reasonably anticipated, differ materially from those indicated in the Contract Documents or were concealed from discovery notwithstanding the conduct of the investigation described in paragraph 6.4.1, it shall notify the Owner and Consultant in writing no later than five (5) Working Days after the first observation of such conditions.”

3.26.3 Amend the existing second sentence of paragraph 6.4.2, in the second line, following the word “materially” by adding the words “or were concealed from discovery notwithstanding the conduct of the investigation described in paragraph 6.4.1.”

3.26.4 Delete paragraph 6.4.3 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.”
3.27 GC 6.5 DELAYS

3.27.1. Amend paragraphs 6.5.1 by deleting all of the words in the fifth line following the word “for” and substituting the following:

“…..reasonable direct costs directly flowing from the delay but excluding any consequential, indirect or special damages.”

3.27.2. Delete paragraph 6.5.3 and replace it with the following:

“6.5.3 If the Contractor is delayed in the performance of the Work by Force Majeure, then the Contract Time shall be extended for such reasonable time as the Consultant may recommend in consultation with the Contractor. The extension of time shall not be less than the time lost as a result of the event causing the delay, unless the Contractor agrees to a shorter extension. The Contractor shall not be entitled to payment for costs incurred by such delays unless such delays result from the actions of the Owner.”

3.27.3. Add new paragraphs 6.5.6, 6.5.7 and 6.5.8 as follows:

“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 the Contract Time shall 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 date of Substantial Performance of the Work stated in Article A-1 herein as the same may be extended through the provisions of these General Conditions and any later, actual date of Substantial Performance of the Work achieved by the Contractor.

6.5.7 The Contractor shall be responsible for the care, maintenance and protection of the Work in the event of any suspension of construction as a result of the delay described in paragraph 6.5.1, 6.5.2 or 6.5.3. In the event of such suspension, the Contractor shall be reimbursed by the Owner for the reasonable costs incurred by the Contractor for such protection, but excluding the costs of the Contractor’s head office personnel, for such care, maintenance and protection. The Contractor’s entitlement to costs pursuant to this paragraph 6.5.6, if any, shall be in addition to amounts, if any, to which the Contractor is entitled pursuant to paragraph 6.5.1, 6.5.2 or 6.5.3.

6.5.8 Without limiting the obligations of the Contractor described in GC3.2 or GC9.4, the Owner may, by notice in writing, direct the Contractor to stop the Work where the Owner determines that there is an imminent risk to the safety of persons or property at the Place of Work. In the event that the Contractor receives such notice, it shall immediately stop the Work and secure the site. The Contractor shall not be entitled to an extension of the Contract Time or to an increase in the Contract Price unless the resulting delay, if any, would entitle the Contractor to
an extension of the Contract Time or the reimbursement of the Contractor’s costs as provided in paragraph 6.5.1, 6.5.2 or 6.5.3.

3.28 GC 7.1 OWNER’S RIGHT TO PERFORM THE WORK, STOP THE WORK OR TERMINATE THE CONTRACT

3.28.1. Amend paragraph 7.1.2 by adding the words “…….fails or neglects to maintain the latest schedule provided pursuant to GC3.5…”. Immediately following the word “properly” in line one.

3.29 GC 7.2 CONTRACTOR’S RIGHT TO STOP THE WORK OR TERMINATE THE CONTRACT

3.29.1. Amend paragraph 7.2.2, in line 1, by deleting “20 Working Days” and replacing it with “45 days”.

3.29.2. Delete paragraph 7.2.3.1 and replace it with “Intentionally left blank”.

3.29.3. Delete paragraph 7.2.3.3 and replace it with the following:

“7.2.3.3 The Owner fails to pay the Contractor when due the amounts certified by the Consultant or awarded by arbitration or a Court, except where the Owner has a bona fide claim for setoff, or…”

3.29.4. Amend paragraph 7.2.3.4 by deleting the comma toward the end of the first line. Further amend paragraph 7.2.3.4 by deleting the phrase beginning with the word “except” and ending with the word “Owner”.

3.29.5. Renumber paragraph 7.2.5 as 7.2.6. Add a new paragraph 7.2.5 as follows:

“7.2.5 If the default cannot be corrected within the five Working Days specified in paragraph 7.2.4, the Owner shall be deemed to have cured the default if it:

.1 commences correction of the default within the specified time;

.2 provides the Contractor with an acceptable schedule for such correction; and

.3 completes the correction in accordance with such schedule.

3.29.6. Delete renumbered paragraph 7.2.6 in its entirety and replace it with the following:

“7.2.6 If the Contractor terminates the Contract under the conditions described in this GC7.2, the Contractor shall be entitled to be paid for all Work performed to the date of termination. The Contractor shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization, losses
sustained on *Products* and construction machinery and equipment. The *Contractor* shall not be entitled to any recovery for any special, indirect or consequential losses.”

### 3.30 GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

3.30.1. Amend paragraph 8.2.1 by adding the words “...(the “Rules”), subject to amendments to the Rules described in Appendix 2 to these Supplementary Conditions…” following the term “Construction Disputes” in line 1.

3.30.2. Amend paragraph 8.2.4 by adding the words “...subject to any amendments to the Rules made as described in paragraph 8.2.1”, following the words “Construction Disputes” in the last line.

3.30.3. Delete paragraph 8.2.6 and replace it with the following:

“8.2.6 By giving Notice in Writing to the other party, not later than 20 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.2.5, either party may refer the dispute to be finally resolved by arbitration under the latest edition of the Rules, subject to any amendments to the Rules made as described in paragraph 8.2.1. The arbitration shall be conducted pursuant to the Arbitration Act, S.O. 1991, c.17, as amended. Unless either party gives the notice contemplated by this paragraph 8.2.6, there shall be no arbitration of any such dispute.”

3.30.4. Amend paragraph 8.2.7 by changing the number “10” in line 1 to “20”.

3.30.5. Add a new paragraph 8.2.9 as follows:

“8.2.9 Within five days of receipt of a Notice in Writing given pursuant to paragraph 8.2.6, the *Owner* or the *Contractor* may give the *Consultant* a written notice containing:

.1 a copy of Notice in Writing;

.2 a copy of Supplementary Condition 8.2.9 of this Contract;

.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.”

(a) Add a new paragraph 8.2.10 as follows:

“8.2.10 The *Owner* and the *Contractor* agree that the *Consultant* may elect, within ten (10) 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 gives the notice of election 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; and,

.4 agrees to be bound by the arbitral award made in the arbitration.”

(b) Add a new paragraph 8.2.11 as follows:

“8.2.11 If an election is made under paragraph 8.2.10, the Consultant may participate in the appointment of the arbitrator and, notwithstanding the Rules, the time period for reaching agreement on the appointment of the arbitrator shall begin to run from the date the responding party receives a copy of the notice of arbitration.”

(c) Add a new paragraph 8.2.12 as follows:

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

.1 on 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.”

(d) Add a new paragraph 8.2.13 as follows:

“8.2.13 The provision to paragraph 8.2.9 shall apply mutatis mutandis to written notice to be given by the Consultant to any sub-consultant.”

(e) Add a new paragraph 8.2.14 as follows:

“8.2.14 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 8.2.10, and is deemed to be bound by the arbitration proceeding.”

(f) Add a new paragraph 8.2.15 as follows:

“8.2.15 The parties agree that the periods for notice provided in this PART 8 DISPUTE RESOLUTION only are to be construed liberally. The parties further agree that neither will take advantage of an inadvertent failure by the other to give one or more of the notices provided by the said PART 8.”

3.31 GC 8.3 RETENTION OF RIGHTS

3.31.1. Renumber paragraph 8.3.2 as paragraph 8.3.2.1 and add a new paragraph 8.3.2.2 as follows:
“8.3.2.2 If the Owner gives the notice in writing described in paragraph 8.2.6 to have a dispute resolved by arbitration, the Contractor agrees that this paragraph 8.3.2.2 shall be construed as a formal consent to the stay of any lien proceedings until an award is rendered in the arbitration or such dispute as otherwise resolved between the parties. In no event shall the Contractor be deprived of its right to enforce its lien against the Project should the Owner fail to satisfy any arbitral award against it in full on the dispute in respect of which the lien proceedings were commenced. Provided nothing in this paragraph 8.3.2.2 shall prevent the Contractor from taking the steps required by the Act to preserve and/or perfect a lien to which it may be entitled.”

3.32 GC 9.1 PROTECTION OF WORK AND PROPERTY

3.32.1. Amend paragraph 9.1.1.1 by adding the following words at the end of that subparagraph:

“…which the Contractor could not reasonably have discovered applying the standard of care described in paragraph 3.14.1;”

3.32.2. Add a new paragraph 9.1.5 as follows:

“9.1.5 Without in any way limiting the Contractor’s obligations under this GC9.1, should the Contractor or any Subcontractor or Supplier cause loss or damage to trees or other plantings, whether owned by the Owner or third parties, the Contractor shall be liable for the replacement cost of the trees or other plantings damaged, including the cost of any arborist or other Consultant, and such costs may be deducted by the Owner from amounts otherwise owing to the Contractor.”

3.33 GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

3.33.1. Add a new paragraph 9.2.5.5 as follows:

“.5 In addition to the steps described in subparagraph 9.2.5.3, take any further steps it deems necessary to mitigate or stabilize any conditions resulting from encountering toxic or hazardous substances or materials.”

3.33.2. Add the following to paragraph 9.2.6 after the word “responsible” in line two:

“…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,

3.33.3. Amend paragraph 9.2.8 by adding the following after the word “responsible” in line two:

“...
“...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...”

3.33.4. Add new paragraphs 9.2.10 and 9.2.11 as follows:

“9.2.10 Without limiting its other obligations under this GC9.2, the Contractor acknowledges that its obligations under the Contract include compliance with the Environmental Programs, including, but not limited to, the Asbestos Abatement Program. The Contractor acknowledges that the Owner may suffer loss and damage should the Contractor fail to comply with the Environmental Programs and agrees to indemnify and hold harmless the Owner with respect to any loss or damage to which the Owner is exposed by the Contractor's failure to comply. The Contractor expressly agrees that such loss and damage shall be included within the scope of the Contractor's indemnity described in paragraph 12.1.1 of the General Conditions. The Contractor acknowledges that should it fail to comply with the Environmental Programs, such failure will constitute a failure to comply with the Contract to a substantial degree within the meaning of paragraph 7.1.2.

9.2.11 No less than forty-eight (48) hours prior to the commencement of the Work by the Contractor or any of its Subcontractors, the Contractor shall provide to the Owner an "Asbestos Awareness Training Form", confirming that each worker at the Place of the Work, including supervisory personnel, (for purposes of this paragraph, a “Worker”) has received asbestos-carrying material awareness training to enable the Contractor to meet its obligations under the Environmental Programs, including OHSA, all as set out in the Contract. The Owner reserves the right, by Notice in Writing, to require the Workers to attend asbestos awareness training provided by the Owner. The cost of such Worker training, whether provided by the Owner or others, shall be borne by the Contractor.”

3.34  GC 9.4 CONSTRUCTION SAFETY

3.34.1. Delete paragraph 9.4.1 in its entirety and replace it with the following:

“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.”

3.34.2. Add new paragraphs 9.4.2, 9.4.3 and 9.4.4 as follows:

“9.4.2 Prior to the commencement of the Work, the Contractor shall submit to the Owner:

1 a current WSIB clearance certificate;
.2 copies of the Contractor’s insurance policies having application to the Project or certificates of insurance, at the option of the Owner;

.3 documentation of the Contractor’s in-house safety-related programs;

.4 a copy of the Notice of Project filed with the Ministry of Labour naming itself as “constructor” under OHSA.

9.4.3 The Contractor shall indemnify and save harmless the Owner, its 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, 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.

9.4.4 The Owner undertakes to include in its contracts with other contractors and/or in its instructions to its own forces the requirement that the other contractor or own forces, as the case may be, will comply with directions and instructions from the Contractor with respect to occupational health and safety and related matters. The text of such instruction is attached to these Supplementary Conditions as Appendix 1.”

3.35 GC9.5 MOULD

3.35.1. Delete paragraph 9.5.3.3 in its entirety and replace it with the following:

“9.5.3.3 Extend the Contract Time for such reasonable time as the Consultant may recommend on consultation with the Contractor and the Owner. If, in the opinion of the Consultant, the Contractor has been delayed in performing the Work and/or has incurred additional costs under paragraph 9.5.1.2, the Owner shall reimburse the Contractor for the reasonable costs incurred as a result of the delay and as a result of taking those steps, and...”.

3.36 GC 10.1 TAXES AND DUTIES

3.36.1. Amend paragraph 10.1.2 by adding the following sentence at the end of the existing paragraph:

“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 relating to mark up for overhead or profit on any decrease in such taxes.”

3.36.2. Add new paragraphs 10.1.3, 10.1.4, 10.1.5 and 10.1.6 as follows:

“10.1.3 Where an exemption or a 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 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 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 to obtain from all Subcontractors and Suppliers cooperation with the Owner in the application for any refund of any taxes, which cooperation shall include, but not be 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”.

3.37 GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

3.37.1. Amend paragraph 10.2.5 by adding the words, “Subject to paragraph 3.15.1” to the beginning of the paragraph.

3.37.2. Further amend paragraph 10.2.5 by adding the following to the end of the second sentence:

“…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.”

3.37.3. Further amend paragraph 10.2.5 by adding the following sentence to the end of the paragraph, as amended:

“The Contractor shall notify the Chief Building Official or the registered code agency where applicable, of the readiness, substantial completion, and completion of the stages of construction set out in the Ontario Building Code. The Contractor shall be present at each site inspection by an inspector or registered code agency as applicable under the Ontario Building Code.”
3.37.4. Amend paragraph 10.2.6 by adding the following sentence at the end of that paragraph:

“In the event 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 12.1.1, the Contractor agrees to indemnify and to 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.”

3.38 GC 10.4 WORKERS’ COMPENSATION

3.38.1. Amend paragraph 10.4.1 so that, as amended, it reads as follows:

“Prior to commencing the Work, and with each application for payment thereafter, the Contractor shall provide a Clearance Certificate from WSIB.”

3.39 GC 11.1 INSURANCE

3.39.1. Where the Contractor’s Base Bid is $2,000,000 or more, delete GC11.1 in its entirety and replace it with the following:

“11.1.1 Without restricting the generality of GC12.1 – INDEMNIFICATION, the Owner shall provide, maintain and pay for insurance coverage against “all risks” of physical loss or damage to the Work including materials and supplies on site but excluding machinery, equipment, tools and temporary structures or facilities used in carrying out the Work, all on a full replacement value basis and subject to normal insurance policy exclusions. Such insurance shall include the Consultant, the Contractor and all Subcontractors as additional insureds as their respective interests may appear and will be maintained in full force until the final certificate for payment.

Regardless of the actual deductible amount in the policy, all losses shall be adjusted as though such deductible were ($10,000) and the Contractor will be solely responsible for losses below this amount. The Contractor may provide at its own expense such additional insurance as it may desire to protect itself with respect to damage not otherwise covered.

11.1.2 The Owner shall provide and pay for Comprehensive General Liability insurance (known as “Wrap Up Liability”) in form and terms satisfactory to the Owner with a limit of not less than $10 million per occurrence for bodily injury, death and damage to property, including loss of use thereof. Such policy shall include provisions for blanket contractual liability, cross liability and products and completed operations liability. The policy shall be maintained continuously in full force until the date of issuance of the final certificate of payment, except for the coverage referred to above as products and completed operations liability which shall run for a further 24 months from the date of issuance of Substantial Performance of the Work. Such insurances will include the Consultant (but not with respect to professional liability), the Contractor and all Subcontractors as additional insureds and shall include a waiver of subrogation rights by the insurer against any insured.
11.1.3 The Contractor shall provide “all risks” Contractors’ equipment insurance covering construction machinery and equipment used by the Contractor for the performance of the Work, including boiler insurance on temporary boilers and pressure vessels, and such insurance shall be in a form acceptable to the Owner and shall not allow subrogation claims by the insurer against the Owner. The Policies shall be endorsed to provide the Owner with not less than fifteen (15) days’ written notice in advance of cancellation, change or amendment restricting coverage. Subject to satisfactory proof of financial capability by the Contractor for self-insurance, the Owner agrees to waive the equipment insurance requirement.

11.1.4 The Contractor will be responsible for arranging satisfactory liability insurance covering owned or non-owned licensed vehicles, aircraft or watercraft used directly or indirectly in the performance of the Work in form and limits acceptable to the Owner and shall provide satisfactory evidence of coverage to the Owner prior to commencement of the Work.

11.1.5 In the event of a loss, the Contractor shall immediately proceed to restore the Work without awaiting the determination of the amount recoverable or the payment of any monies under the policy of insurance. The Contractor shall be entitled to a reasonable extension of time for Substantial Performance of the Work to the extent that the critical path of the construction schedule is affected, but damage to the Work shall not otherwise diminish its obligations under the Contract.

11.1.6 All occurrences and claims shall be reported immediately in writing to the Owner providing at least the following particulars:

.1 date, time and location of occurrence;
.2 cause and description of circumstances;
.3 estimate of loss or damage;
.4 names and telephone numbers of persons to contact."

3.40 GC 11.2 CONTRACT SECURITY

3.40.1 Delete paragraphs 11.2.1 and 11.2.2 in their entirety and replace them with the following:

“11.2.1 Subject to paragraph 11.2.4, the Contractor shall furnish a performance bond in favour of the Owner, covering the faithful performance of the Contract, including the payment obligations arising there under, made upon the contract bond form of the Owner and issued by such surety company(ies) as the Owner may approve. The bond shall be for fifty per cent (50%) of the Contract Price or such other amount as may be specified in the Contract Documents.

11.2.2 The Contractor shall furnish a labour and material payment bond in favour of the Owner in a form satisfactory to the Owner and issued by such surety
company(ies) the Owner may approve. The bond shall be for fifty per cent (50%) of the Contract Price.

11.2.3 It is the intention of the Contract that the performance bond shall be applicable to all of the Contractor’s obligations under this Contract and, wherever a performance bond is provided with language which conflicts with this intention, it shall be deemed to be amended to comply. The Contractor represents and warrants that it has provided its surety with a copy of the Contract prior to the issuance of such bonds.

11.2.4 Where the Contract Price, arising from the Owner’s award of the Contract, includes Subcontractor default insurance in lieu of a performance bond, the Contractor shall deliver to the Owner a certified copy of the policy of Subcontractor default insurance. Such policy shall have an aggregate loss limit of not less than 50% of the Contract Price and a claim limit of not less than 50% of such Contract Price. Such policy of insurance shall be subject to the approval of the Owner, acting reasonably, as to the terms and conditions of the Subcontractor default insurance, including those described in this paragraph 11.2.4.”

3.41 GC 12.1 INDEMNIFICATION

3.41.1 Delete paragraphs 12.1.1 through 12.1.6 in their entirety and replace them with the following:

“12.1.1 The Contractor shall indemnify and hold harmless the Owner and the Consultant, their agents, employees and assigns from and against all claims, demands, damages, losses, expenses, costs, including legal fees, actions, suits or proceedings by whomsoever made, brought or prosecuted in any manner, arising out of, resulting from or attributable to the Contractor’s or any Subcontractor’s performance or non-performance of the Contract, regardless of whether or not caused in part by a party indemnified hereunder. It is expressly understood that the Contractor will save harmless the Owner from all claims made by any party other than the Contractor itself, financial or otherwise, relating to labour and materials furnished by the Contractor or by others for the Work.

12.1.2 It is the intention of the parties that the Consultant, its officers, agents, partners, employees, directors and insurers, as well as any Subconsultants, or other Consultants retained with respect to the Project, and their officers, agents, partners, employees, directors and insurers, is to benefit from the indemnification and hold harmless provisions of paragraph 12.1.1.

12.1.3 The Owner shall indemnify and hold harmless the Contractor, his agents and employees from and against claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor’s performance of the Contract which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the Place of the Work.

12.1.4 Notwithstanding the provisions of GC1.1 - CONTRACT DOCUMENTS, paragraph 1.1.7, GC12.1 - INDEMNIFICATION shall govern over the provisions of paragraph 1.3.1 of GC1.3 – RIGHTS AND REMEDIES.”
3.42 GC 12.2 WAIVER OF CLAIMS

3.42.1. Delete paragraphs 12.2.1 through 12.2.10 and replace them with the following:

"12.2.1 As of the date of the final certificate for payment, the Owner expressly waives and releases the Contractor from all claims against the Contractor including without limitation those that might arise from negligence or breach of contract by the Contractor except for one or more of the following:

.1 those made in writing prior to the date of the final certificate for payment and still unsettled;

.2 those arising from the provisions of GC12.1 – INDEMNIFICATION or GC12.3 – WARRANTY;

.3 those arising from GC9.2 – TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS and arising from the Contractor bringing or introducing any toxic or hazardous substances and materials to the Place of the Work after the Contractor commences the Work;

.4 those made by Notice in Writing within a period of six years from the date of Substantial Performance of the Work as set out in the certificate of substantial performance, or within such shorter period as may be prescribed in any limitation statute of the province or territory of the Place of the Work and arising from any liability of the Contractor for damages resulting from the Contractor’s performance of the Contract with respect to substantial defects or deficiencies in the Work for which the Contractor is proven responsible. As used herein, “substantial defects or deficiencies” means those defects or deficiencies in the Work where the reasonable cost of repair of such defects or deficiencies exceeds:

.1 for a Contract Price of $2,000,000 or less, the sum of $50,000, before GST;

.2 for a Contract Price of $2,000,000 or more, the sum of $100,000, before GST.

12.2.2 As of the date of certificate of Substantial Performance of the Work, the Contractor expressly waives and releases the Owner from all claims which it has or reasonably ought to have knowledge of that could be advanced against the Owner including without limitation those that might arise from the negligence or breach of contract by the Owner except:

.1 those made in writing prior to the Contractor’s application for final payment and still unsettled; and

.2 those arising from the provisions of GC9.2 – TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS or GC10.3 – PATENT FEES."


3.43 GC 12.3 WARRANTY

3.43.1. Amend paragraph 12.3.1 by adding the following sentence at the end of that paragraph:

"Where the Contractor has been permitted to make use of permanent equipment or systems, as provided in GC3.16, prior to the issuance of the certificate of Substantial Performance of the Work, such permanent equipment or system shall be subject to the same warranty as described in this GC12.3 and shall be judged, for purposes of assessing compliance with the warranty, as though the equipment or system was new, clean and unused by the Contractor, except for normal commissioning and startup activities, prior to the date of Substantial Performance of the Work."

3.43.2. Amend paragraph 12.3.2 by adding the words, “Subject to paragraph 3.14.1....” at the beginning of that paragraph.

3.43.3. Add a new paragraph 12.3.7 as follows:

"12.3.7 Where required by the Contract Documents, provide a maintenance bond as security for the performance of the Contractor’s obligations as set out in GC 12.3-Warranty."

3.43.4. Add a new paragraph 12.3.7 as follows:

"12.3.8 The Contractor shall assign to the Owner all warranties, guarantees or other obligations for Work, services or Products performed or supplied by any Subcontractor, Supplier or other person in connection with the Work and such assignment shall be with the consent of the assigning party where required by law or by the terms of that party’s contract. Such assignment shall be in addition to, and shall in no way limit, the warranty rights of the Owner under the Contract Documents. Until the expiry of the relevant warranty periods enforceable against the Contractor, the Owner shall have in its custody all warranties, guarantees and other obligations to third parties respecting the Work."

3.44 “PART 13- OTHER PROVISIONS”.

3.44.1. Add GC 13.1 GENERAL LABOUR CONDITIONS as follows:

"13.1.1 Any part of the Work performed by the Contractor on behalf of the Owner that falls under the provisions of any collective agreements by which the Owner is bound, or which the Owner is contractually required to apply to the Project, shall in each case be performed by employees covered by the applicable collective agreement. Without limiting the generality of the foregoing, such collective agreements include:

.1 Where applicable, the current provincial agreement covering construction work in the industrial, commercial and institutional sector of the construction industry in the Province of Ontario between the Electrical Trade Bargaining Agency of the Electrical
Contractors’ Association of Ontario and the International Brotherhood of Electrical Workers and the IBEW Construction Council of Ontario, Local 353;

.2 Where applicable, the current provincial agreement covering construction work in the industrial, commercial and institutional sector of the construction industry in the Province of Ontario between the Mechanical Contractors Association of Ontario and the Ontario Pipe Trades Council;

.3 Where applicable, the current provincial agreement covering construction work in the industrial, commercial and institutional sector of the construction industry in the Province of Ontario between the Canadian Automatic Sprinkler Association and the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 853 and UA Local 46;

.4 Where applicable, the current provincial agreement covering construction work in the industrial, commercial and institutional sector of the construction industry in the Province of Ontario between a council of employers’ associations consisting of the Ontario Painting Contractors Association, the Acoustical Association of Ontario and the Interior Systems Contractors Association of Ontario and the International Union of Painters and Allied Trades and the Ontario Council of the International Union of Painters and Allied Trades, District Council 46, Local 557; and

.5 Where applicable, the current provincial agreement covering construction work in the industrial, commercial and institutional sector of the construction industry in the Province of Ontario between the Carpenters’ Employer Bargaining Agency and the Carpenters’ District Council of Ontario, United Brotherhood of Carpenters and Joiners of America, Local 27 and Local 675.

13.1.2 These General Labour Conditions shall apply to each Subcontractor and the Contractor shall include these General Labour Conditions, with necessary changes, in each of its contracts with Subcontractors for any part of the Project.

13.1.3 The Contractor shall indemnify and save the Client harmless from and against all loss, claim, expense or damage suffered by the Owner arising from the failure of the Contractor or any Subcontractor to comply with the requirements of these General Labour Conditions. This indemnity is in addition to, and not limited by, the indemnity of the Contractor in GC12.1 – INDEMNIFICATION.”

3.44.2. Add GC 13.2 OWNERSHIP OF MATERIALS as follows:

“13.2 Unless otherwise specified, all materials existing at the Place of the Work at the time of execution of the Contract shall remain the property of the Owner. All Work, Products and materials delivered by the Contractor which form part of the
3.44.3. Add GC13.3 CONTRACTOR DISCHARGE OF LIABILITIES as follows:

“13.3.1 In addition to the obligations assumed by the Contractor pursuant to GC3.7, 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, on the date upon which each such liability becomes due.

13.3.2 The Contractor shall cause every Subcontractor and Supplier engaged in the performance of the Work to discharge all liabilities incurred by them for labour, materials, services and Products used or reasonably required for use in the performance of the Work. Workmen employed by a Subcontractor or Supplier shall be paid in full at intervals not less frequently than required by the governing law and all liabilities of the Subcontractors and Suppliers shall be discharged on the date upon which each becomes due. At the request of the Owner, the Contractor shall furnish the Owner with satisfactory evidence that its liabilities and those of its Subcontractors and Suppliers have been discharged.”

3.44.4. Add GC 13.4 AS-BUILT OR RECORD DRAWINGS as follows:

“13.4 Unless otherwise provided in the Contract Documents, the Contractor shall prepare as-built or record drawings and provide them to the Consultant for review.”

3.44.5. Add GC 13.5 DAILY REPORTS/DAILY LOGS as follows:

“13.5.1 The Contractor shall cause its supervisor, or such competent person as he or she may delegate, to prepare a daily log or diary reporting on weather conditions, work force of the Contractor, Subcontractors, Suppliers and any other forces on site and also record the general nature of Project activities. Such log or diary shall also include any extraordinary or emergency events which may occur and also the identities of any persons who visit the site who are not part of the day-to-day work force.

13.5.2 The Contractor shall also maintain records, either at its head office or at the job site, recording manpower and material resourcing on the Project, including records which document the activities of the Contractor in connection with GC3.5, and comparing that resourcing to the resourcing anticipated when the most recent version of the schedule was prepared pursuant to GC3.5.

13.5.3 Upon request by the Owner or the Consultant, the Contractor shall make available for inspection and copying all of the records generated pursuant to this GC13.5 along with any other routine Project records ordinarily maintained by the Contractor.”

3.44.6. Add GC 13.6 CONSTRUCTION LIENS as follows:
“13.6 In the event that any construction lien is registered against the Project by or through a Subcontractor or Supplier, and provided the Owner has paid all amounts properly due under the Contract, and has otherwise complied with its material obligations under the Contract, the Contractor shall, at its own expense, post the security necessary to vacate or discharge such lien, as the case may be. In the event that a lien action is commenced and a Statement of Claim is issued and served, the Contractor shall take all reasonable steps to remove the Owner from the main action and to indemnify it and hold it harmless in such action, except where the Statement of Claim makes substantial claims against the Owner beyond the recovery of holdback under the Act.”

3.44.7 Add GC13.7 NEUTRAL APPOINTING AUTHORITY

“13.7.1 For purposes of the Rules for Mediation and Arbitration of Construction Disputes CCDC 40, the term “neutral appointing authority”, as used in both the Rules for Mediation of CCDC2 Construction Disputes and the Rules for Arbitration of CCDC2 Construction Disputes shall mean the “Appointing Committee” at ADR Chambers presiding at the time notice of the dispute is given pursuant to the Contract.”

3.44.8 Add GC13.8 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT:

“13.8.1 Throughout the term of this Contract, and for a period of seven years thereafter, the Owner and the Contractor will protect the confidentiality of all proprietary and confidential information of the other that is disclosed to it and will protect such information with the same standard of care as such party would use to protect the confidentiality of its own proprietary and confidential information which shall be, at a minimum, a reasonable standard, and, in any event, each party shall protect the confidentiality of all such proprietary and confidential information as may be required by law, including, without limitation, as may be required under the Freedom of Information and Protection of Privacy Act.

13.8.2 Notwithstanding the obligations of the Owner described in paragraph 13.8.1, the Contractor acknowledges that the Owner is subject to the Freedom of Information and Protection of Privacy Act, as amended, and may be required to release, in whole or in part, this Contract and any other documents or information in the Owner’s possession or control that relate to this Contract.”

END OF SUPPLEMENTARY CONDITIONS
APPENDIX 1

LANGUAGE FOR U OF T PERSONNEL OR FOR THIRD PARTY CONTRACTORS ENTERING A PROJECT SITE WHERE THE Contractor HAS ASSUMED OVERALL RESPONSIBILITY – IN CONTRACT – FOR OCCUPATIONAL HEALTH AND SAFETY

“The (trade or employee) acknowledges that the work it will perform on behalf of the University of Toronto requires it to enter a job site which is under the total control of a general contractor which has a contract with the University of Toronto. The (trade or employee) acknowledges that [name of contractor] has assumed overall responsibility for compliance with all aspects of the health and safety legislation of Ontario, including all the responsibilities of the “constructor” under the Occupational Health and Safety Act (Ontario). Further, (trade or employee) acknowledges that [name of contractor] is also responsible to the University of Toronto to co-ordinate and schedule the activities of our work with the work of the general contractor.

We agree to comply with [name of contractor] directions and instructions with respect to occupational health and safety and coordination. We acknowledge that it will be cause for termination under our contract with the University of Toronto should (I/we) fail or refuse to accept the direction and instruction of the general contractor with respect to matters of occupational health and safety or matters related to coordination of work.”
APPENDIX 2

Amendment to Rules for Mediation and Arbitration of Construction Disputes (CCDC-40, 1994) (the “Rules”)

The Rules assume the use of the Standard Construction Documents CCDC 2-2008 for a Stipulated Price Contract, including the Agreement, Definitions, General Conditions and any amendments or supplementary conditions, if there are any. This Amendment supersedes, replaces or amends the Rules, as the case may be, as outlined below.

1. RULES FOR MEDIATION OF CCDC 2 CONSTRUCTION DISPUTES

1.1 Interpretation. Amend clause 1.1(a) so that it reads as follows:

“(a) The “Contract” means CCDC2-2008, where such contract document contains an agreement to refer disputes to mediation under these Rules.”

1.2 By Agreement. Delete clause 5.1 and replace it with the following:

“5.1 By Agreement. Where a party desires the appointment of a Project Mediator and gives a notice in writing to that effect, such notice shall include the names of two qualified individuals who are prepared to act as mediator, ranked in order of preference. Within five Working days of receiving such a notice, the other party shall deliver a responding notice including the names of two qualified individuals who are prepared to act as mediator, ranked in order of preference. From the names submitted by the parties, the parties shall unanimously appoint a mediator.”

1.3 Appointment of Project Mediator. Add a new clause 5.5 which reads as follows:

“5.5 Formal Agreement. When the Project Mediator has been appointed, whether pursuant to clause 5.1 or clause 5.2, the parties and the mediator shall enter into an agreement in writing pursuant to which the terms and conditions of the engagement of the Project Mediator shall be set out. Such agreement shall include an undertaking by the Project Mediator to carry out the mediation pursuant to these Rules and such agreement shall specifically set out the undertaking of the Project Mediator and the parties as to “Confidentiality” (Section 4) “Costs of the Mediation” (Section 12) and “Privileged Process” (Section 13).”

1.4 Representation. Amend clause 8.1 by deleting the last six words of that clause.

1.5 Right To Withdraw. Amend clause 11.1 by deleting the words “of GC8.2.5” toward the end of line 3.

1.6 Not Compellable. Amend clause 14.2(a) by replacing the word “contractor” with the word “Contract”.
2. RULES FOR ARBITRATION OF CCDC 2 CONSTRUCTIONS DISPUTES

2.1 **Interpretation.** Amend clause 1.1(b) so that it reads as follows:

“(b) The “Contract” means CCDC2-2008, where such contract document contains an agreement to refer disputes to mediation under these Rules.”

2.2 **Interpretation.** Amend clause 1.1(d) so that, as amended, it reads as follows:

“(d) The parties means the parties to the Contract and any other persons who may join in an arbitration involving the Owner and the Contractor or the Construction Manager and/or a Trade Contractor, as the case may be.”

2.3 **Location of Arbitration.** Add the following as a second sentence to clause 5.1:

“Failing agreement by the parties, the arbitrator may select a location for the arbitration within the jurisdiction of the Place of Work, which is convenient to both parties”.

2.4 **Appointment Of Arbitrator.** Amend clause 8.2 by replacing “$250,000” with “$500,000”.

2.5 **Appointment of Arbitrator.** Add a new clause 8.13 which reads as follows:

“8.13 Whether a single arbitrator or a panel of 3 arbitrators has been appointed, pursuant to this Section 8, the parties and the arbitrator shall enter an agreement in writing setting out, at minimum, the name of the arbitrator, the undertaking of the arbitrator and the parties to conduct the arbitration pursuant to these Rules and the terms and conditions of engagement of the arbitrator including the fees to be paid and expenses to be reimbursed and any arrangements required to provide for interim payment of fees and/or expenses to the arbitrator.”

2.6 **Procedural Meeting.** Add the following new sentence to clause 9.2:

“Such written record shall be deemed to be the procedural code for the conduct of the arbitration, subject to any further orders of the arbitrator or of the Court of competent jurisdiction.”

2.7 **Powers of the Arbitrator.** Delete clause 10.1 and substitute the following:

“Subject to these Rules and subject to the written record described in clause 9.2, the arbitrator may conduct the arbitration in such manner as the arbitrator, acting reasonably, considers appropriate provided that in all events each party shall be treated fairly and given a full opportunity to present its case and respond to the case presented by the other party.”

2.8 **Exchange of Statements.** Delete clause 11.3(a) and replace it with the following:

“(a) which are relevant to the issues in dispute, and..”.
2.9 **Disclosure.** Delete clause 12.1 and replace it with the following:

>“12.1 Production of Documents - The arbitrator may order one or both parties to prepare an affidavit, within a specified time, in which such party deposes under oath that it has made a full and complete listing of documents pursuant to clause 11.3(a) where the arbitrator has reason to believe that one or both parties may not have made full and complete disclosure of the documents relevant to the issues in the arbitration.”

2.10 Add a new clause 12.6 as follows:

>“12.6 In the event that a party provides the statement or report of an expert witness pursuant to clause 12.4, the provisions of clauses 15.3 and 15.4 shall apply, with necessary modifications.”

2.11 **Hearings and Meetings.** Amend clause 13.3 by adding the following language to that clause:

>“..unless otherwise agreed by both parties or directed by the arbitrator.”

2.12 **Arbitrator Retained Experts.** Add clause 15.3(c) as follows:

>“(c) provide the party with a written summary of any other information, beyond that described in clauses 13.2(a) and (b), upon which the expert relied in preparing the expert’s report.”

2.13 **Consolidation.** Amend clause 21.1(a) by adding the following wording to that clause:

>“...on the same Project.”