

THESE SUPPLEMENTAL CONDITIONS are agreed to on the _____ day of _____ in the year _____ the “Effective Date”

BY AND BETWEEN (AND DULY EXECUTED BY):

CMN – CANADIAN MUSEUM OF NATURE,
hereinafter called “the Owner”

Signature: _____

Name: _____

Title: _____

I have authority to bind the corporation.

AND

(CONTRACTOR), hereinafter called the “Contractor”

(CONTRACTOR)

Signature: _____

Name: _____

Title: _____

I have authority to bind the corporation.

GENERAL

These amendments shall modify, supplement, amend, delete, void, or supersede the Agreement between the Owner and the Contractor, the Definitions and the General Conditions of the stipulated Price Contract Document CCDC 2 – 2008.

- 1.1 Where any article, paragraph or subparagraph in the Agreement, the Definitions and/or the General Conditions is modified, supplemented, amended, deleted, voided, or superseded by any of the following, the provisions of such article, paragraph or subparagraph not so modified, supplemented, amended, deleted, voided or superseded, shall remain in effect.
- 1.2 The Contract may be signed in counterparts and each such counterpart shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. The Contract may be executed and delivered by facsimile or electronic (including pdf) transmission and each of the parties hereto may rely on such facsimile or electronic signature as though such facsimile or electronic signature were an original signature.

Amendment to Agreement

Add the following Recitals above Article A-1:

It is a term of this contract:

- A. This is a Contract for the performance of a service and the Contractor is engaged under this Contract as an independent contractor for the sole purpose of providing a service. Neither the Contractor nor any of the Contractor's personnel is engaged under this contract as an employee, servant or agent of the Owner or of Her Majesty. The Contractor shall be solely responsible for any and all payments and/or deductions required to be made including those required for Canada or Quebec Pension Plans, Unemployment Insurance, Workmen's Compensation or Income Tax.

- B. The Contractor warrants that the Contractor is competent to perform the work required under this Contract in that the Contractor has the necessary qualifications including the knowledge, skill and ability to perform the work. The Contractor warrants that the Contractor shall provide under this Contract a quality of service at least equal to that which contractors generally would expect of a competent contractor in a like situation.
- C. No member of the House of Commons shall be admitted to any share or part of this Contract or to any benefit to arise herefrom.

ARTICLE A-1: THE WORK

Add new paragraph 1.4:

- 1.4 The Contractor shall perform the Work as requested and authorized by the Owner, from time to time, in accordance with terms and conditions of the Contract. The Owner may request and authorize the Work from time to time by means of a Work Order issued by the Owner.

ARTICLE A-2: AGREEMENTS AND AMENDMENTS

Delete 2.1 and 2.2 in their entirety and replace with:

ARTICLE A-2 TERM

- 2.1 The Contract shall commence on the Effective Date and end on XXXXXX 2014 unless otherwise terminated in accordance with the Contract.
- 2.2 If the Work continues past the end date of the Contract, the Contractor shall complete the Work and the Contract shall continue in full force and effect until the completion of the Work.
- 2.3 The terms of the Contract and any applicable Work Order, and the protection afforded the Owner therein shall survive any termination or breach of the Contract and shall remain in effect so long as the parties are entitled to protection of their rights under the applicable law.

- 2.4 The Contract supersedes all prior negotiations, representations, or agreements, either written or oral, relating in any manner to the Work.
- 2.5 The Contract may be amended only as provided in the Contract Documents.

ARTICLE A-3: CONTRACT DOCUMENTS

3.1 Add as new bullet points:

- The Bid Documents
- General Instructions
- Addenda

ARTICLE A-5: PAYMENT

5.1 Insert in the spaces provided: “ten” and “10”.

5.1.2 Delete 5.1.2 in its entirety and replace with:

upon Substantial Performance of the Work, as certified by the Consultant, forty six days after the publication of the certificate of substantial performance and there being no claims for lien registered against the Project, and the conditions of GC 5.4.5 have been satisfied, and subject to G.C. 5.5 pay to the Contractor the unpaid balance of the holdback amount when due together with such Value Added Taxes as may be applicable to such.

5.3.1 Insert in the space provided: “National Bank of Canada”.

Add new paragraphs 5.4 and 5.5:

5.4 Notwithstanding any other provision of this Contract, no payment shall be made by the Owner or Her Majesty to the Contractor in respect of the costs incurred by the contractor in remedying errors and omissions in the performance of the service that are attributable to the Contractor, the contractor’s servants or agents, or persons for whom the Contractor has assumed responsibility.

5.5 Notwithstanding any other provision of the Contract and in accordance with Section 33 of the Financial Administration Act, payment under this Contract is

subject to there being an appropriation for the particular service for the fiscal year in which any commitment hereunder would come in course of payment.

ARTICLE A-9: SURVIVAL

Add new ARTICLE A-9:

- 9.1.1 All of the Contractor's obligations of confidentiality and all of the Contractor's warranty obligations set out in the Contract, indemnity obligations against third party claims, royalties and infringement, intellectual property rights and accounts and audit responsibilities, shall survive the expiry of the Contract or the termination of the Contract for default, or for convenience, as shall any other provision of the Contract which, by the nature of the rights or obligations set out therein, might reasonably be expected to be intended to survive.

ARTICLE A-10: CONFLICT OF INTEREST

Add new ARTICLE A-10:

- 10.1 No former public office holder who is not in compliance with the post-employment provisions of the Conflict of Interest and Post- Employment Code for Public Office Holders shall derive a direct benefit from this Contract; and
- 10.2 During the term of the Contract, any persons engaged in the course of carrying out this Contract shall conduct themselves in compliance with the principles of the Conflict of Interest and Post-Employment Code for Public Office Holders. Should an interest be acquired during the life of the Contract that would cause a conflict of interest or seem to cause a departure from the principles, the Contractor shall declare it immediately to the Owner.
- 10.3 The Contractor, any of the Subcontractors and any of their respective advisors, partners, directors, officers, employees, agents and volunteers shall not engage in any activity or provide any services to the Owner where such activity or the provision of such services, create a potential or actual conflict of interest with the provision of the Work pursuant to the Contract.

- 10.4 The Contractor shall disclose to the Owner, without delay, any actual or potential situation which may be reasonable interpreted as either a conflict of interest or a potential conflict of interest.
- 10.5 The Contractor represents and covenants that no bribe, gift, benefit, or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of the Owner or to a member of the family of such a person, with a view to influencing the entry into the Contract or the administration of the Contract.
- 10.6 A breach of this requirement shall entitle the Owner to terminate the Contract, immediately, in addition to any other remedies that the Owner has in the Contract, in law or in equity.

ARTICLE A-11: TIME OF THE ESSENCE

Add new ARTICLE A-11:

- 11.1 It is agreed that one of the reasons why the Contractor was selected for the Work is the Contractor's representation and warranty that it will attain Substantial Performance of the Work by the date set out in Article A-1, paragraph 1.3 and the Contractor acknowledges that it has been advised by the Owner that it is critical to the Owner that Substantial Performance of the Work be achieved by the prescribed date and that time is of the essence of this Contract.

ARTICLE A-12: AUDIT

Add new ARTICLE A-12:

- 12.1 The Contractor shall keep proper accounts and records of the cost of the Work and of all expenditures or commitments made by the Contractor including the invoices, receipts and vouchers, which shall at all reasonable times be open to audit and inspection by the authorized representatives of the Owner who may make copies and take extracts therefrom.
- 12.2 The Contractor shall afford facilities for audit and inspection and shall furnish the authorized representatives of the Owner with such information as the

Owner may from time to time require with reference to the documents referred to herein.

- 12.3 The Contractor shall not dispose of the documents referred to herein without the written consent of the Owner, but shall preserve and keep them available for audit and inspection for such period of time as may be specified elsewhere in the contract or, in the absence of such specification, for a period of two years following completion of the work.”

ARTICLE A-13: ERRORS AND OMISSIONS

Add new ARTICLE A-13:

- 13.1 Notwithstanding any other provision of this Contract, no payment shall be made by the Owner or Her Majesty to the Contractor in respect of the costs incurred by the contractor in remedying errors and omissions in the performance of the service that are attributable to the Contractor, the Contractor’s servants or agents, or persons for whom the Contractor has assumed responsibility.

ARTICLE A-14: CONFIDENTIALITY

Add new ARTICLE A-14:

- 14.1 The Contractor agrees to ensure that it shall, both during or following the term of the Contract, maintain the confidentiality and security of all Confidential Information and Personal Information, and that it shall not directly or indirectly disclose, destroy, exploit, or use any Confidential Information or Personal Information, except where required by law, without first obtaining the written consent of the Owner. The Contractor may disclose any portion of the Contract Documents or any other information provided to the Contractor by the Owner to any Subcontractor or Supplier if the Contractor discloses only such information as is necessary to fulfill the purposes of the Contract and the Contractor has included a commensurate confidentiality provision in its contract with the Subcontractor or Supplier. The Contractor acknowledges that it will comply with all requirements of the Personal Information Protection and Electronic Documents Act. The Contractor acknowledges that the Owner

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is bound by the provisions of the Freedom of Information and Protection of Privacy Act (“FIPPA”). The Contractor further acknowledges that the Owner may be required to disclose any or all of the Confidential Information and Personal Information in the event that it is compelled to do so by law, through a request under FIPPA, or by the rules of any applicable regulatory authority.

- 14.2 The Contractor shall keep confidential all information provided to the Contractor by the Owner in connection with the Work, including any information that is confidential or proprietary to third parties, and all information conceived, developed or produced by the Contractor’s as part of the Work where copyright or any other intellectual property rights in such information, except a license, vest in the Owner. The Contractor shall not disclose any such information to any person without the written permission of the Owner, except that the Contractor may disclose to a Subcontractor authorized in accordance with GC 3.7 – SUBCONTRACTORS AND SUPPLIERS, information necessary to the performance of the subcontract on the condition that the Subcontractor agrees that it will be used solely for the purposes of such subcontract. Information provided to the Contractor by the Owner shall be used solely for the purpose of the Contract and shall remain the property of the Owner or the third party, as the case may be. Unless the Contract otherwise expressly provides, the Contractor shall deliver to the Owner all such information upon completion or termination of the Contract or at such earlier time as the Owner may require.
- 14.3 The obligations of the Contractor, and the Subcontractors, as set out in paragraph C1, do not apply to any information where the same information:
- .1 is publicly available from a source other than the Contractor; or
 - .2 is or becomes known to the Contractor from a source other than the Owner, except any source that is known to the Contractor to be under an obligation to the Owner not to disclose the information.
- 14.4 The provisions of paragraph C1 shall not apply in the event the Contractor is required by applicable law, regulation or legal process to disclose any information referred to in paragraph C1. In the event that the Contractor is

requested pursuant to, or required by, applicable law, regulation or legal process to disclose any information referred to in paragraph C1, the Contractor agrees that it will provide the Owner with written notice of such request or requirement and hereby acknowledges that the Owner shall be permitted to seek such protective or similar orders as they deem appropriate.

- 14.5 As a security precaution, it is required that all personnel and employees of the Contractor, and all tier Subcontractors engaged in the Work attending at the Place of the Work, be readily identifiable.
- 14.6 The disclosure of information received relevant to the issue of bid solicitations or the award of this Contract shall only be made by the appropriate Canadian Museum of Nature officers in accordance with the provisions of the *Access to Information Act*, the *Privacy Act*, edicts/acts related to this subject issued by the Crown, and as amended.

ARTICLE A-15: CONTRACTOR EXPERIENCE

Add new ARTICLE A-15:

- 15.1 This is a Contract for the performance of a service and the Contractor is engaged under this Contract as an independent contractor for the sole purpose of providing a service. Neither the Contractor nor any of the Contractor's personnel is engaged under this contract as an employee, servant or agent of the Owner or of Her Majesty. The Contractor shall be solely responsible for any and all payments and/or deductions required to be made including those required for Canada or Quebec Pension Plans, Unemployment Insurance, Workmen's Compensation or Income Tax.
- 15.2 The Contractor warrants that the Contractor is competent to perform the work required under this Contract in that the Contractor has the necessary qualifications including the knowledge, skill and ability to perform the work. The Contractor warrants that the Contractor shall provide under this Contract a quality of service at least equal to that which contractors generally would expect of a competent contractor in a like situation.
- 15.3 The Contractor represents, covenants and warrants to the Owner that:

- it has the necessary high degree of experience and expertise required to perform the Work and it will in the performance of the Work exercise a standard of care, skill and diligence that would normally be provided by an experienced and prudent Contractor providing similar services for projects of a similar nature;
- the personnel it assigns to the Project are experienced and it has a sufficient staff of qualified and competent personnel to replace its designated Contract personnel referred to in GC 3.6, subject to the Owner's approval, in the event of death, incapacity, termination or resignation;
- there are no pending, threatened or anticipated claims or litigation involving the Contractor that would have a material adverse effect on the financial ability of the Contractor to perform the Work; and
- it will achieve Substantial Performance of the Work by the date set out in Article A-1, paragraph 1.3.

ARTICLE A-16 SECURITY

Add new ARTICLE A-16:

16.1 Security clearances by the Owner are required prior to building access. The Contractor is to apply for security clearance by submitting to the Owner the names of all its employees and those of his sub-contractors who will require access to the site at least five (5) working days before they are permitted to work at the Museum. Should the Museum process fail to confirm that the individual has no prior record, all costs associated with further investigations shall be borne by the Contractor. This may include, but is not limited to, the costs for obtaining a criminal record verification from the municipal police force. The Contractor agrees to pay for a security officer when non-security cleared employees are working in the Museum Building.

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- 16.2 The Contractor shall provide the Owner with the name and telephone number of a contact person who can be contacted at any given time throughout the course of the project for emergency purposes only.
- 16.3 The Contractor shall provide to the Owner a working schedule reflecting hours of work of his staff including sub-contractors and will provide 48 hours' notice of any change in work schedule, i.e., regular hours, weekends, and silent hours

DEFINITIONS

Add or Replace the following definitions:

As Built Drawings

As-Built Drawings means the Drawings and Specifications revised by the Contractor during the Work, showing any and all changes or variations to the Work from the requirements of the Drawings and Specifications.

Bid Documents

The Bid Documents consists of: the Project tender documents issued by the Owner and the Contractor's tender submittal.

Confidential Information

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

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

4. is independently developed by the Contractor without use of any Confidential Information.

Consultant

The Consultant is the person or entity, if any, identified as such by the Owner in the Bid Documents to act for the Owner. The term Consultant means the Consultant or the Consultant's authorized representative, to act for the parties in relation to the Work. Where no third party is identified as the Consultant, the responsibilities of the Consultant shall be performed by the Owner.

Final Performance of the Work

Final Performance of the Work is the date when all of the Work, including all commissioning, has been performed to the requirements of the Contract Documents, and the Consultant has issued a final certificate for payment.

Work

The Work means the total construction and related services specified in the Bid Documents, any Work Order and as required by the Contract Documents.

Work Order

Work Order means a specific Work authorization issued by the Owner.

Amend the following definitions:

Contract

Add to the end of the definition the words "When the Contract is referred to herein as the "Agreement" or the "Term Contract", it shall mean Contract".

Contract Documents

Replace the word "Agreement" with the word "Contract" and add to the end of the definition the words "in writing".

GENERAL CONDITIONS

GC 1.1 CONTRACT DOCUMENTS

1.1.6 Add to the end of the 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 or as between them and the Contractor with respect to such divisions.”

1.1.7 Delete 1.1.7.1 in its entirety and replace with:

The order of priority of documents, from highest to lowest, shall be:

- the Agreement between the Owner and the Contractor;
- the Addenda;
- the definitions;
- the Supplementary Conditions to CCDC 2- 2008
- the Instruction to Bidders;
- the Drawing an specifications;
- the Tender Form;
- the General Conditions of CCDC-2.

Add new sub-paragraph 1.1.7.5:

.5 Noted materials and annotations shall take precedence over graphic indications.

1.1.8 Delete in its entirety and replace with:

The Contractor will be provided with an electronic copy, in Portable Document Format (PDF), of the Contract Documents without charge. The Contractor is responsible for arranging and paying for printing, and for the distribution of sets for construction purposes, including those required for building permits application, if required.”

The design information furnished to the Contractor as part of the Contract Documents, including the Drawings and Specifications, are the property of the Owner and/or the Consultant, and are to be used by the Contractor only for the purposes of performing the Work. The Contractor shall not copy, alter or utilize the aforesaid design information for any purpose unrelated to the Work without written authorization from the Owner and the Consultant.

GC 2.2 - ROLE OF THE CONSULTANT

2.2.6 In the last sentence add the words “deficiencies in the work and/or” prior to the phrase “...the acts or omissions...”.

2.2.7 Delete the words “except with respect to GC 5.1 – Financing Information Required of the Owner.”

GC 2.3 REVIEW AND INSPECTION OF THE WORK

Add new paragraph 2.3.8:

2.3.8 When tests or inspections by a designated testing organization, and/or field reviews by the Consultant, reveal work not in accordance with the Contract requirements, the Contractor shall pay costs for additional tests and inspections by the testing organization, and/or by the Consultant, as the Consultant may require to verify acceptability of corrected work.

GC 2.4 DEFECTIVE WORK

2.4.1 Add to the end of paragraph:

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

Add new paragraphs 2.4.4, 2.4.5 and 2.4.6:

2.4.4 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.

- 2.4.5 Upon notification of a defect in the Work, the Contractor shall, within five working days, promptly provide a written statement outlining the proposed remedial measures and a schedule for implementation. Once approved by the Consultant, the Contractor shall proceed with the remedial measures without adversely affecting the construction schedule.
- 2.4.6 Notwithstanding any rejection of the Work by the Consultant or deduction of an amount otherwise due to the Contractor by the Owner as a result of defective work, the Contractor is required to continue the Work in accordance with the Contract Documents.

GC 3.2 CONSTRUCTION BY THE OWNER OR OTHER CONTRACTORS

3.2.3 Add new subparagraphs 3.2.3.4, 3.2.3.5 and 3.2.3.6:

- .4 be required to assume overall responsibility for compliance with the applicable health and construction safety legislation at the Place of Work.
- .5 maintain free and unencumbered access to service doors and other entrances as required at all times during the completion of the Work.
- .6 entry by the Owner's forces and by other contractors does not indicate acceptance of the Work and does not relieve the Contractor of any responsibility under the Contract including the responsibility to complete the Work

GC 3.4 DOCUMENT REVIEW

3.4.1 Delete last sentence in paragraph 3.4.1 and replace with:

If the Contractor finds any error, inconsistency or omission in the Contract Document, the Contractor shall not proceed with the work affected until the Contractor has received direction from the Consultant.

GC 3.5 CONSTRUCTION SCHEDULE

3.5.2 Add new paragraphs 3.5.2 and 3.5.3

The Contractor shall submit a schedule showing timelines for major work activities within five days following the reception of the letter of intent by the Contractor or the execution of the Contract Agreement by the Contractor in the case that a letter of intent is not issued.

- 3.5.3 If, at any time, it appear to the Owner or the Consultant that the actual progress of the Work is behind schedule or is likely to become behind schedule, or if the Contractor has given notice of such to the Owner or the Consultant pursuant to subparagraph 3.5.1.3, the Contractor shall take appropriate steps to cause the actual progress of the Work to conform to the schedule or minimize the resulting delay and shall produce and present to the Owner and the Consultant a recovery plan demonstrating how the Contractor will achieve the recovery of the schedule. If the Contractor intends to apply for a change in the Contract Price in relation to a schedule recovery plan, then the Contractor shall proceed in accordance with General Condition 6.5 – DELAYS.

GC 3.6 SUPERVISION

- 3.6.1 Delete in its entirety and replace with:

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

- 3.6.3 Add new paragraphs 3.6.3:

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

GC 3.8 - LABOUR AND PRODUCTS

3.8.4 Add new paragraph 3.8.4:

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

GC 3.11 - USE OF WORK

3.11.3 Add new paragraph 3.11.3:

The Contractor shall abide by and enforce directives and policies regarding signs, advertisements, fires and smoking at the Place of the Work as directed by the Owner.

GC 3.14 - RIGHT OF ENTRY

Add new GC 3.14:

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

3.14.2 The use or occupancy of the Work or any part thereof by the Owner shall not be taken in any manner as an acceptance by the Owner of any work or any other part or parts of the Work or Products not in accordance with the Contract Documents or to relieve the Contractor or his surety from liability in respect of the observance or performance of the Contract save to the extent that loss or damage is caused during such use or occupancy by the Owner or by

persons for whom the Owner is responsible. In particular, without limiting the generality of the foregoing, the use or occupancy of the Work or any part thereof by the Owner shall not release the Contractor from liability, or waive or impair any rights of the Owner.

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

5.1 Delete in its entirety GC 5.1, and show as “Deleted”.

GC 5.2 - APPLICATIONS FOR PROGRESS PAYMENT

Add new paragraphs 5.2.8, 5.2.9, 5.2.10 and 5.2.11:

- 5.2.8 The Contractor shall submit with his second and all subsequent applications for progress payment, a Statutory Declaration Statutory Declaration using CCDC form 9A and a Contractor’s Workplace Safety and Insurance Board (Ontario) or CSST (Québec) Certificate of Clearance, or similar certificate pursuant to applicable construction health and safety legislation for the Place of the Work.
- 5.2.9 The Contractor shall prepare current As-Built Drawings during the course of the Work, which current As-Built Drawings shall be maintained by the Contractor and made available to the Consultant for review with each application for progress payment. The Consultant shall retain a reasonable amount from any progress payment for the value of the As-Built Drawings not presented for review.”
- 5.2.10. The Contractor shall submit an application for payment to the Consultant prior to send the invoice to the Owner. The application for payment shall be made no later than the 25th day of each month. If the application of payment is amended by the Consultant, the Contractor shall make all necessary correction to the application and send the original invoice to:

Accounts Payable (Construction)
ATT: Marc Chrétien
Canadian Museum of Nature

P.O. Box 3443, Station 'D'
Ottawa, ON K1P 6P4

A copy of the invoice shall also be transmitted to the Consultant.

5.2.11 Payments shall be made following submission of invoices which have been certified as to services rendered by the Corporate Representative, to whose complete satisfaction all services shall be performed. The appropriate HST is to be included and shown separately on all invoices and progress claims for taxable goods supplied or work performed. The Corporation agrees to pay this amount to the Contractor who, in turn, agrees to remit the HST to Revenue Canada - Customs and Excise.

GC 5.3 PROGRESS PAYMENT

5.3.1.3 Delete in its entirety and replace with:

The Owner shall make payments to the Contractor on account as provided in Article A-5 of the Agreement – PAYMENT 30 days after the date of a certificate for payment issued by the Consultant.

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

5.4.3 Delete the words “finishing the Work” and replace with the words “attaining Final Performance of the Work”.

Add new paragraphs 5.4.4, 5.4.5 and 5.4.6

5.4.4 Prior to submitting its written application for Substantial Performance of the Work, the Contractor shall submit to the Consultant all:

- .1 As Built Drawing;
- .2 guarantees;
- .3 warranties;
- .4 certificates;
- .5 existing reports and correspondence from authorities having jurisdiction in the Place of Work;

- .6 and other materials or documentation required to be submitted under the Contract, together with written proof acceptable to the Owner and the Consultant that the Work has been substantially performed in conformance with the requirements of municipal, governmental, and utility authorities having jurisdiction in the Place of Work.
- 5.4.5 Where the Contractor fails to deliver the documents and material described in paragraph 5.4.4, then, provided that none of the missing documents and materials interfere with the Project in a material way, the failure to deliver such documents or materials shall not be grounds for the Consultant to refuse to certify Substantial Performance of the Work. However, if the Contractor fails to deliver any of the documents and materials required in paragraph 5.4.4, the Consultant shall assign a value or where applicable, assign the value specified in the Specifications. Where such value is assigned by the Consultant, the application for Substantial Performance of the Work shall be revised by the Contractor and resubmitted accordingly for certification.
- 5.4.6 Should the documents or materials not be delivered in accordance with paragraph 5.4.4 by the earlier of 60 days following publication of the certificate of Substantial Performance of the Work and the submission of the Contractor's application for final payment under paragraph 5.7.1 of General Condition 5.7 – FINAL PAYMENT, then the Contractor's Contract shall be reduced according to the Consultant's value assigned in accordance with 5.4.5 above.

GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

5.5.3 Delete in its entirety and show as "Deleted".

GC 5.7 FINAL PAYMENT

5.7.1 Delete paragraph 5.7.1 and replace with:

When the Contractor considers the Work is completed, the Contractor shall submit an application for the Consultant to establish Final Performance of the Work and for final payment. The Contractor's application shall include the following documentation:

- .1 Contractor’s written request for release of finishing holdback, including a declaration that no lines or written notices of lien have been received by it.
- .2 Contractor’s sworn Statutory Declaration, using CCDC form 9A.
- .3 Contractor’s Workplace Safety and Insurance Board Certificate of Clearance, or similar certificate pursuant to applicable construction health and safety legislation for the Place of the Work.

5.7.3 Add to the end of the paragraph:

The date of the final certificate for payment shall be the date of Final Performance of the Work.

5.7.4 Delete “5 days” and replace with “20 days”.

Add to the end of the paragraph “, subject to the Owner’s right to withhold payment, including pursuant to GC 5.8”.

GC 5.8 WITHHOLDING OF PAYMENT

5.8.2 Add new paragraph 5.8.2

Notwithstanding any other provision of the Contract, including, but not limited to GC 5.3 - PROGRESS PAYMENT, GC 5.5 – PAYMENT HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK and GC 5.7 – FINAL PAYMENT, the Owner may withhold any payment, including payment holdback and any other payment of the Contract price, or for the price of changes to the Contract Price, in whole or in part, to the extent necessary to protect the Owner, against any damage, cost or loss, including legal or other expenses, whatsoever, arising from the Contractor’s performance of the Work and, without limiting this right, as may be required to offset any previous payment made to the Contractor and to such extent as may be necessary to protect the Owner from any loss, claim or damage.

5.8.3 Add new paragraph 5.8.3:

Without restricting right of set off given or implied by law, the Owner may, where it has withheld payment of any portion of the Contract price, set off

against any amount otherwise payable to the Contractor under the Contract and apply such portion of the Contract price withheld toward the costs of any required remedial work, or for damages, or as indemnification with respect to any third party claims, legal or other expenses, or any other loss arising under the contract.

GC 5.10 MATERIALS ON SITE

Add new GC 5.10:

- 5.10.1 All materials used or provided by the Contractor for the work shall from the time of being so acquired, used, provided or brought onto the site become the property of the Owner for the purposes of the work and they shall continue to be the property of the Owner until incorporated in the work or until the Owner indicates that it is satisfied that they will not be required for the work. Material that is the property of the Owner by virtue of this Article shall not be taken away from the site of work or used or disposed of except for the purposes of the work without the consent in writing by the Owner.
- 5.10.2 The Owner is not liable for loss or damage to material that is the property of the Owner by virtue of this Article and the Contractor is liable for such loss or damage notwithstanding that the material is the property of the Owner.

GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

Add new 6.1.3:

With respect to the valuation of any adjustment in the Contract Price, subject to any different or additional requirements contained in the Specifications, the following shall apply:

If applicable, unit prices included in the Contract, or prices pro rata thereto, will be used to value changes;

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Proposed methods of adjustment should contain itemized breakdowns describing the net actual value of the Work (excluding Value Added Taxes), the Contractor's mark-up for overhead and profit, the mark-up for overhead and profit of Subcontractors, and where appropriate, detailed quotations or cost vouchers from Subcontractors and Suppliers;

All overhead costs are deemed to include both site and head office overhead costs, as well as any applicable insurance and bonding costs;

Labour costs shall be the actual labour costs based upon rates prevailing at the Place of the Work and payable to workers, plus applicable statutory charges such as WSIB, Employment Insurance, Canada Pension, vacation pay, and hospitalization and medical insurance;

If a change involves both additions and deletions to the Work, the value of the change will be determined based upon the net difference to the Work occasioned by the change. For greater certainty, the Contractor's mark-up for overhead and profit only will be applied to the net value of the change.

Add new paragraph 6.1.4:

The Owner, through the Consultant, reserves the right to authorize payment for a change in the Work by means of Cash Allowance. For greater certainty, the Contractor is not entitled to any mark-up for overhead and profit on such amounts.

Add new paragraph 6.1.5:

In the event that any change to the Work results in a reduction in the Contract Price, the Contractor shall not be entitled to claim for any lost revenue, lost profit or loss of anticipated profit related thereto.

Add new 6.2.3:

If a change in the Work, not covered by unit prices or by estimate and acceptance in a lump sum, results in a new increase in the Contract Price, the charge to the Owner shall be the cost of the work plus:

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Contractor's mark-up on its own work:

Overhead	Profit	Change Value
10%	10%	Between \$0 to \$999.00
10%	7%	Between \$1,000.00 to \$4,999.99
10%	5%	Over \$5,000.00

Contractors Mark-up on each individual Subcontractor's work:

Overhead	Profit	Change Value
5%	10%	Between \$0 to \$999.00
5%	7%	Between \$1,000.00 to \$4,999.99
5%	5%	Over \$5,000.00

Subcontractor's mark-up on its own work

Overhead: 10%

Profit: 5%

Subcontractor's mark-up on Subcontractor's work:

Overhead: 5%

Profit: 5%

If Subcontractor's retains another subcontractor ("sub-subcontractor"), no additional mark-up shall be charged to the Owner for the sub-subcontractor

GC 6.2 CHANGE ORDER

6.2.1 Delete in its entirety and replace with

When a change in the Work is proposed or required, the Consultant shall provide a notice describing the proposed change in the Work to the Contractor. The Contractor shall provide the following:

Quotations from the Subcontractors on the Subcontractor's letterhead and with Subcontractor's signature.

Quotations from the Subcontractors and the Contractor shall have a complete breakdown for all items of material, a total number of hours for labour, and a dollar rate applied against individual material items and labour quantities.

Quotation shall stipulate any adjustment in the Contract Time, if any, for the proposed change in the Work.

Quotation shall indicate percentage values for overhead and profit by the Contractor and the Subcontractors.

Quotation shall include any proposed compensation for as a result of delay in performance of the Work

Ensure all mathematical calculations are complete.

Quotations submitted with any of the above items missing or incorrect will be returned for revision.

6.2.2 Add to the end of paragraph:

The adjustment in the Contract Price, if any, recorded in a Change Order shall be all inclusive of the costs of the agreed change in the Work and shall include, among other things, compensation for all of the work costs as a result of delay in performance.

GC 6.3 CHANGE DIRECTIVE

6.3.7 Delete from subparagraph .1 lines beginning with (1), (2), (3) and (4) in their entirety and replace with:

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

Delete subparagraphs 6.3.7.7, 6.3.7.12, 6.3.7.15 and 6.3.7.17 in their entirety and show as “Deleted”.

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

7.2.1 Delete in its entirety and show as “Deleted”.

- 7.2.2 Delete in its entirety and show as “Deleted”.
- 7.2.3 Delete sub-paragraph 7.2.3.1 and 7.2.3.2 in its entirety and show as “Deleted”.
- 7.2.5 Delete “for loss” and add “and for proved sustained losses” and delete “upon Products and construction machinery and equipment, and such other damages as the Contractor may have sustained”.

GC 9.4 CONSTRUCTION SAFETY

Add new paragraph 9.4.2, 9.4.3, 9.4.4 and 9.4.5:

- 9.4.2 The Contractor shall comply and cause all of its Subcontractors to comply with all applicable provisions, requirements, and safety standards of the federal, provincial and local health and safety legislation and regulations applicable to the Place of Work. The Contractor shall be designated and hereby accepts the responsibilities and designation as the Project “constructor”, or similar designation under the applicable health and safety legislation and regulations, and hereby assumes all health and safety liabilities and obligations imposed by such health and safety legislation and regulations, provided that the Contractor’s obligations in this regard relate only to the Subcontractors under its control.
- 9.4.3 The Owner will contractually require other contractors retained by the Owner and the Owner’s own forces to comply with Contractor’s health and safety program, instructions and directions, and the Contractor, will have the right to remove from the Place of Work any other contractors retained by the Owner, their respective subcontractors, and the Owner’s own forces, should they not comply with the Contractor’s health and safety program, instructions and directions.
- 9.4.4 Without limiting the Contractor’s obligation pursuant to paragraph 9.4.3, the Contractor shall ensure that all Work on the Project, whether performed by the Contractor, any of its Subcontractors, other contractors or Owner’s own forces, is performed, at all times, in accordance with the requirements of the applicable health and safety legislation.

9.4.5 The Owner undertakes to include in its contracts with other contractors and in its instructions to its own forces the requirement that the other contractor or its own forces, as the case may be, comply with the policies and procedures of and the directions and instructions from the Contractor with respect to occupational health and safety related matters. Prior to admission to the Place of the Work, the Contractor may, as a condition of admission, require any other contractor or the Owner's own forces to sign a written acknowledgement in the following form:

Acknowledgement

The undersigned acknowledges that the Work it will perform on behalf of the Owner requires it to enter a Place of the Work which is under that total control of a Contractor that has a Contract with the Owner, pursuant to which the Contractor has assumed overall responsibility for compliance with all aspects of the applicable health and safety legislation, including all the responsibilities of the "constructor" under the Occupational Health and Safety Act, as well as responsibility to co-ordinate and schedule the activities of our Work with the Work of the Contractor under its Contract. The undersigned agrees to comply with the Contractor's directions and instructions with respect to health, safety, co-ordination, and scheduling and acknowledges that its failure to do so will be cause for termination of employment or of the undersigned's Contract with the Owner, as the case may be. The undersigned also agrees to have the Contractor named as an additional insured on any comprehensive liability insurance policy, where such insurance is required.

Name:

Title:

Date:

GC 11.1 INSURANCE

11.1.3 Delete in its entirety and replace with:

The Contractor shall be responsible for deductible amounts under the policies that they are responsible for obtaining except where such amounts may be excluded from their responsibility by the terms of the Contract.

GC 11.2 CONTRACT SECURITY

11.2.1 Add sub-paragraphs 11.2.1.1, 11.2.1.2, 11.2.1.3 and 11.2.1.4:

- .1 The Contractor shall on award of the Contract and prior to signing the Contract, provide and pay for a Performance Bond in the amount of 50% of the Contract Price covering the performance of the Contract including the requirements of GC 12.3 Warranty.”
- .2 The Contractor shall on award of the Contract and prior to signing the Contract, provide and pay for a Labour and Material Payment Bond in the amount of 50% of the Contract Price covering labour and material of the contract including the requirements of GC 12.3 Warranty.”
- .3 All legal, architectural and engineering fees, watchmen’s services, heat, light and power expenses, incurred by the Owner as a result of the Contractor’s default shall be covered by these bonds.”
- .4 The Contractor shall inform the bonding company of any changes to the Contract and ensure that the validity of the bond is maintained.”

GC 12.1 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY

12.1 Delete from the title the word “WAIVER OF”.

12.1 Delete GC 12.1 in its entirety and replace with:

12.1.1 The Contractor shall indemnify and save harmless the Owner, Her majesty, and the Consultant, their respective directors, officers, members, employees, representatives and any other person for whom the Owner or the Consultant is or may become responsible in law from and against any and all claims, demands, losses, costs, damages, actions, suits, or proceedings by whomsoever made, brought or prosecuted in any manner to the extent any of the foregoing are based upon, arise out of, relate to, are occasioned by or attributable to the

activities of the Contractor, the Contractor's agents, directors, officers, members, employees and representatives, Subcontractors and sub-subcontractors in the Contractor's performance of the Contract.

12.1.2 For the purposes of paragraph 12.1.1, "activities" includes an act improperly carried out, an omission to carry out an act and a delay in carrying out an act.

12.1.3 The Contractor shall indemnify and save harmless the Owner, Her majesty, and the Consultant, their respective directors, officers, members, employees, representatives and any other person for whom the Owner or the Consultant is or may become responsible in law from and against any damages, costs or expenses or any claim, action, suit or other proceeding to the extent they or any of them may at any time incur or suffer as a result of or arising out of:

- (a) any injury to persons including injuries resulting in death, or loss of or damage to property of others which may be or alleged to be caused or suffered as a result of the performance of the Work or any part thereof, except to the extent that the injury, loss or damage has been caused by the Owner; and
- (b) any liens, attachments, charges or other encumbrances, or claims upon or in respect of which any payments has been made to the Contractor by the Owner.

12.1.4 The Owner shall indemnify and hold harmless the Contractor from and against all claims, demands, losses, costs and damages arising out of the Contractor's performance of the Contract which are attributable to a lack of or defect in title to the Place of the Work.

12.1.5 Each party shall give notice to the other of any claim, action, suit or proceeding referred to in paragraph 12.1.3 or 12.1.4 respectively, and the party shall, to the extent requested by the other, at the party's own expense, participate in or conduct the defence of any such claim, action, suit or proceeding and any negotiations for settlement of the same, including the payment of any settlement.

12.1.6 The maximum liability of either of the Owner and the Contractor to the other under this Contract and any Work Order issued thereunder shall be limited to the lower of the Contract price and \$250,000, exclusive of any insurance proceeds received or which should have been received had the applicable party complied with the insurance requirements under this Contract.

12.1.7 GC 12.1 – INDEMNIFICATION shall govern over the provisions of paragraph 1.3.1 of GC 1.3 – RIGHTS AND REMEDIES.

GC 12.2 WAIVER OR CLAIMS

Delete GC 12.2 in its entirety and replace with:

GC 12.2 CLAIMS

12.2.1 On the 25th calendar day after the date of Substantial Performance of the Work, the Owner waives all claims except:

- a. Claims made in writing before that date.
- b. Claims for indemnification from third party claims against the Owner, which arise from the indemnification provisions of the Contract.
- c. Claims for indemnification from the Client??? against the Owner, which arise from the indemnification provisions of the Contract.
- d. Claims that arise from the toxic and hazardous substances and mould provisions of the Contract.
- e. Claims that arise from the Contractor's negligence or breach of contract that results in substantial defects or deficiencies in the Work.
- f. Claims that arise from the warranty provisions of the Contract.
- g. Claims that arise from the Contractor's negligence or breach of Contract that occurs after Substantial Performance of the Work.

12.2.2 13 months after Substantial Performance of the Work, the Owner waives claims that arise from the exception stated in paragraph 12.2.1.g. unless such claims are made in writing before the cut-off date.

- 12.2.3 Six years after Substantial Performance of the Work, or within a shorter period if prescribed by the applicable statute of limitations in the common law provinces or the civil code in Quebec, the Owner waives claims that arise from the exception stated in paragraph 12.2.1.e, unless such claims are made in writing before the cut-off date.
- 12.2.4 On the 25th calendar day after the date of Substantial Performance of the Work, the Contractor waives all claims except:
- a. Claims made in writing before that date.
 - b. Claims for indemnification from third party claims against the Contractor, which arise from the indemnification provisions of the Contract.
 - c. Claims that arise from the toxic and hazardous substances and mould provisions of the Contract.
 - d. Claims that arise from the Owner’s negligence or breach of Contract that occurs after Substantial Performance of the Work.

GC 12.3 WARRANTY

- 12.3.1 Delete “.” At the end of the paragraph and add: “or those periods specified in the Bid Documents for certain parties of the Work or Products.”
- 12.3.4 Delete paragraph 12.3.1 and replace with:

In the eleventh month after Substantial Performance of the Work, the Owner will call for a site inspection meeting and tour the Place of the Work to review deficiencies in the Work under warranty. The Contractor, together with the Consultant, shall attend the inspection, following which, the Consultant will issue a written report on Work under warranty and the Contractor will perform all required Work under warranty, immediately, to the satisfaction of the Owner and the Consultant. The Contractor’s cost of attending such inspection meeting and performing all required Work under warranty is included in the Contract Price.

12.3.7 Add new paragraph 12.3.7:

Notwithstanding the provisions of GC 12.3 – WARRANTY, if any statute in force in the province or territory of the Place of the Work creates a more extended liability for faulty materials or workmanship, then the provisions of such statute shall apply.

12.3.8 Add new paragraph 12.3.8:

Upon Final Performance of the Work, all Products and other warranties relating to the Work, shall be transferred to the Owner to the extent transferable, including all warranties obtained or to be given by Subcontractors and Suppliers.

CCDC 41 CCDC Insurance Requirements

Amend Paragraph number 2:

Delete from line tow “\$5,000,000” and replace with “\$2,000,000”.