



**First Report of
KSV Kofman Inc. as Trustee,
Receiver and Manager of certain
property of Station Point Developments
Ltd.**

September 11, 2019

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COURT FILE NO: 1903-08169

COURT: QUEENS BENCH OF ALBERTA

JUDICIAL CENTRE: EDMONTON

PLAINTIFF: FORTIS LGS STRUCTURES INC.

DEFENDANTS: STATION POINT DEVELOPMENTS LTD. AND
BCM DEVELOPMENTS LTD.

DOCUMENT: FIRST REPORT OF KSV KOFMAN INC. AS
TRUSTEE AND RECEIVER AND MANAGER OF
CERTAIN PROPERTY OF
STATION POINT DEVELOPMENTS LTD.

DATE: SEPTEMBER 11, 2019

**ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT**

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1.0 Introduction

1. This report (“Report”) is filed by KSV Kofman Inc. (“KSV”) in its capacity as trustee pursuant to the *Builders’ Lien Act* and receiver and manager pursuant to the *Judicature Act* and the *Bankruptcy and Insolvency Act* (in such capacities, the “Receiver”) of the real property municipally described as 403 Belvedere Gate NW, Edmonton (the “Real Property”) owned by Station Point Developments Ltd. (the “Company”) and the assets, undertaking and property relating to the Real Property (together with the Real Property, the “Property”).
2. Pursuant to an application by KingSett Mortgage Corporation (“KingSett”), the Court of Queen’s Bench of Alberta (the “Court”) issued an order on June 18, 2019 (the “Order”) appointing KSV as Receiver.
3. KingSett provided secured project financing to the Company to develop and construct on the Real Property a 112 unit rental residential apartment building, together with ground floor retail space (the “Project”). The Receiver understands that the Project is approximately 78% complete. The principal purpose of the receivership is to complete the Project so that recoveries can be maximized for the Company’s stakeholders.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company and these proceedings;
 - b) summarize the process carried out by the Receiver to solicit proposals from construction managers (collectively, the “Proponents”) to complete the Project;
 - c) summarize the terms of the standard form CCDC 5B Construction Management Contract – for Services and Construction (2010), as amended pursuant to its Supplementary Conditions, dated September 11, 2019 (the “Contract”) between the Receiver and RMS Developments Inc. (“RMS”), a real estate developer based in Edmonton, pursuant to which RMS would act as construction manager to complete the Project; and
 - d) recommend that the Court issue an order, among other things:
 - i. approving the Contract;
 - ii. directing the Receiver to execute the Contract and any ancillary documents necessary to give effect to the Contract; and
 - iii. sealing the confidential appendix to the Report.

1.2 Currency

1. All currency references in this Report are to Canadian dollars.

1.3 Restrictions

1. In preparing this Report, the Receiver has relied upon the Company’s books and records and discussions with its representatives and advisors. The Receiver has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.
2. The Receiver expresses no opinion or other form of assurance with respect to the financial and other information presented in this Report or relied upon by the Receiver in preparing this Report. The Receiver expresses no opinion or other form of assurance with respect to the financial and other information presented in this Report.

2.0 Background

1. In or around 2012, BCM Developments Ltd. (“BCM”) entered into negotiations with the City of Edmonton (the “City”) to acquire the Real Property, which was owned by the City, and to develop and construct the Project on the Real Property. The Project is to be comprised of affordable multi-unit apartments and a ground floor retail development.
2. BCM entered into an agreement of purchase and sale with the City to purchase the Real Property for a purchase price of \$3.64 million (the “APS”), and the transaction closed on or about January 11, 2015. Prior to closing, the APS was assigned by BCM to the Company. The City provided the Company with a vendor-take-back mortgage in the amount of approximately \$2.54 million in connection with the Company’s acquisition of the Real Property. There is approximately \$2.4 million owing on the City’s mortgage. Interest and costs continue to accrue.
3. In 2016, the Company obtained a construction loan from KingSett in the maximum amount of \$17 million to construct the Project. Construction of the Project commenced in 2016 and was expected to be completed in 2018. According to Tuner & Townsend CM2R Inc., a quantity surveyor engaged by KingSett, the Project is approximately 78% complete. As set out below, approximately \$12.1 million was owing to KingSett at the commencement of these proceedings.
4. The Project has been delayed for several reasons, including cost overruns, the registration of builders’ liens against title to the Real Property and a dispute between the Company and Fortis LGS Structures Inc. (“Fortis”), the Project’s prior general contractor.

3.0 Secured Creditors

1. According to a land title search, there are three mortgagees with mortgages registered on title to the Real Property, together with the amounts owing under each mortgage as at the commencement of these proceedings¹, as follows:
 - a) a mortgage in favour of KingSett in the amount of approximately \$12.1 million;
 - b) a mortgage in favour of HMT Holding Ltd. in the amount of approximately \$1.2 million; and
 - c) a mortgage in favour of the City in the amount of approximately \$2.4 million.
2. The KingSett mortgage is guaranteed by Beniamino Raimondi (“Raimondi”), the principal of the Company, BCM and Fortis. The principal of Fortis is the son of Raimondi.
3. The land title search also reflects nine (9) liens totalling \$3,112,877 registered against the Real Property. A summary of the liens is attached as Appendix “A”.

¹ Interest and costs continue to accrue on the mortgages.

4.0 RFP Process

1. The Receiver solicited proposals from five (5) Proponents to be the construction manager to complete the Project, including BCM. The Receiver requested that each Proponent provide an overview of its qualifications, a work plan, a construction schedule, and a fee structure. A copy of the Request for Proposals is attached as Appendix “B”.
2. The Receiver provided each Proponent with access to an electronic data room after it executed a confidentiality agreement.
3. The deadline to submit proposals was July 4, 2019. Four Proponents submitted proposals. The Receiver corresponded with the Proponents to clarify their proposals. A summary of the proposals (the “Proposal Summary”) is provided in Confidential Appendix “1”. The rationale for seeking a sealing order for the Proposal Summary is provided in Section 4.1 below.
4. The Receiver invited the two Proponents with the best proposals to submit a further proposal. Second-round proposals were due on July 12, 2019. RMS improved its second-round proposal, while the other party left its proposal unchanged.
5. The Receiver selected the RMS proposal because:
 - a) RMS is a local and experienced contractor;
 - b) RMS’s fees were similar or lower than the other Proponents (other than BCM, as discussed in paragraph 6 below);
 - c) RMS appeared more familiar with the Project than the other Proponents (other than BCM) as a result of the due diligence that it had performed;
 - d) RMS has experience completing projects in the context of insolvency proceedings; and
 - e) KingSett, a primary economic stakeholder in these proceedings and the party funding the Receiver to fund the construction costs during the receivership, has advised the Receiver that it consents to the retention of RMS and the terms of the Contract.
6. The proposal submitted by BCM included a lower construction management fee than the proposals submitted by the other Proponents. However, the construction management fee is a small portion of the total cost of the Project. In the opinion of the Receiver, the more material critical factors to control the Project costs are completing the Project on schedule and the experience of the construction manager. Given the significant delays, deficiencies and the cost over-runs that the Project has experienced to-date, the Receiver is of the view that the retention of BCM presents more issues than the retention of RMS.

7. The Receiver and RMS have been working on the terms of a construction management agreement since mid-July. The negotiations have taken considerable time due to the changes required to the standard form construction contract to make them appropriate for a receivership proceeding. On September 11, 2019, the Receiver and RMS executed the Contract, which is only subject to Court approval. The Contract remains subject to the finalization of an agreed budget, which is discussed below.

4.1 Confidentiality

1. The Receiver is of the view that the Proposal Summary should be filed with the Court on a confidential basis and be sealed subject to a further order of the Court (the "Sealing Order"). If the Court does not approve the Contract, the Receiver may need to solicit additional proposals. If future proponents have access to the Proposal Summary, it could unfairly influence a further solicitation process. The Receiver is not aware of any party that will be prejudiced if the information is sealed. Accordingly, the Receiver believes the proposed Sealing Order is appropriate in the circumstances.

5.0 Contract

1. The Contract is attached as Appendix "C". A summary of the Contract is as follows:
 - a) **Construction Manager:** RMS
 - b) **Services/Work to be provided:** the Contract covers two discrete types of work/services to be provided by the construction manager: (i) pre-construction/construction advisory services (the "Services") and (ii) the construction work necessary to complete the Project (the "Work").
 - c) **Services:** The Services are broken down into the pre-construction phase (including pre-design, schematic design, design development, construction development and construction procurement phases), the construction phase (including general services and cost control/accounting) and post-construction phase (which is limited). Each phase has a separate list of services to be provided; however, several of the Services under the Pre-Construction Phase have already been completed and therefore will not be required under the Contract.
 - d) **Budget Approval:** RMS has submitted a draft of the estimated amount of the cost of Work to complete the Project, which is attached as Schedule E to the Contract (the "Budget"). It is a condition of the Contract that both the Receiver and KingSett approve the Budget. However, the Receiver and KingSett wish to conduct a walkthrough of the work site prior to approving the Budget. The parties have scheduled a walkthrough on September 19, 2019. Upon the Receiver and KingSett approving the Budget, the Receiver intends to file a certificate with the Court confirming same and serving the certificate on the Service List in this proceeding. The Receiver also intends to serve the final contract (including the Budget) on the Service List.

- e) **Compensation:**
- Services: RMS shall only be reimbursed for the actual expenses that it incurs performing the Services, plus an administrative charge of 3.75% added to the cost of such expenses;
 - Work: RMS' compensation is payable by way of a "cost plus" construction fee model, pursuant to which RMS shall be reimbursed by the Receiver for the actual cost incurred by RMS to perform the Work plus a mark-up rate of 3.75% of such costs.
- f) **Schedule:** the schedule requires RMS to complete the Work by mid-May 2020.
- g) **Payments to Subcontractors:** the Receiver is responsible for paying subcontractors.
- h) **Receiver's Right to Termination:** the Receiver may terminate the Contract at any time. Upon such termination, RMS will be entitled to: (i) payment for its Work performed up to the date of termination, (ii) compensation for any reasonably incurred demobilization costs, and (iii) a break fee of \$50,000. The Receiver may also terminate the Contract if RMS is in default (e.g. RMS fails to perform the Work or to otherwise comply with the Contract) or becomes insolvent. Upon such termination, RMS will only be entitled to payment for its Work performed up to the date of termination.
- i) **RMS' Right to Terminate:** RMS may terminate the Contract if, *inter alia*, the Work is suspended by Court order for more than 45 business days, the Receiver fails to pay RMS or the Receiver substantially violates any other requirements under the Contract. Upon termination, RMS shall be entitled to payment for its Work performed up to the date of termination and certain losses and damages sustained by RMS as a result of the termination of the Contract.
- j) **Insurance:** the Project requires specified insurance coverage. The Receiver has solicited an insurance proposal, which is to be put in place by RMS prior to the commencement of construction.
- k) **Indemnification:** RMS and the Receiver have agreed that: (i) RMS shall indemnify the Receiver for claims arising from the negligent acts or omissions or breach of contract by RMS or its subcontractors, subject to certain liability limits; (ii) the parties shall indemnify each other for all claims resulting from toxic and hazardous substances or mould (RMS is only liable for toxic and hazardous substances or mould that it or a party it is responsible for brings to, or caused the presence of, at the work site, as applicable. The Receiver is liable for all other toxic and hazardous substances or mould at the work site); and (iii) the Receiver shall indemnify RMS for all claims related to patent fees and defects in title to the Real Property. RMS also acknowledges and agrees that KSV is entering into the Contract solely in its capacity as Receiver and that notwithstanding any provision in the Contract, KSV will have absolutely no personal or corporate liability under or as a result of the Contract.

- l) **Health and Safety:** RMS is solely responsible for ensuring that the Work is completed in compliance with all applicable laws relating to health and safety.
- m) **Warranty Period:** the warranty period for the Work shall commence on the date that the Receiver and RMS execute the Contract and expires on the date that is one year after substantial performance of the Work.

5.1 Recommendation re Retention of the Construction Manager and Approval of the Contract

1. For the following reasons, the Receiver recommends that the Court issue an order approving the retention of the Construction Manager, approving the Contract and directing the Receiver to execute the Contract:
 - a) the Receiver sought proposals from five Proponents. The terms of RMS' proposal were superior to the other proposals received;
 - b) the Contract is the result of almost two months of negotiations. If the Contract is not approved, the Receiver would be required to negotiate with another party, which would delay the re-commencement of construction and result in additional professional fees and other carrying costs (interest alone accrues at approximately \$85,000 per month);
 - c) RMS is an experienced construction manager;
 - d) RMS has advised the Receiver that it has been retained in other insolvency situations;
 - e) completing the Project is intended to create value for the Company's stakeholders;
 - f) completing the contemplated Project would provide affordable apartments in the City; and
 - g) KingSett has consented to the Contract, including the retention of RMS.

6.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make order granting the relief detailed in section 1.1(1)(d) of this Report.

* * *

All of which is respectfully submitted,



KSV KOFMAN INC.

IN ITS CAPACITY AS TRUSTEE AND COURT-APPOINTED RECEIVER AND MANAGER OF CERTAIN ASSETS, UNDERTAKINGS AND PROPERTIES OF STATION POINT DEVELOPMENTS LTD., AND NOT IN ITS PERSONAL CAPACITY

Appendix “A”

Schedule "A" – Summary of Builder's Liens

Date	Lienor	Amount
January 31, 2019	Fortis L.G.S. Structures Inc.	\$2,672,255
April 1, 2019	Fenceline Rentals Ltd.	\$9,411
April 24, 2019	Vipond Inc.	\$107,590
June 25, 2019	Hagen Surveys (1982) Ltd.	\$4,767
July 9, 2019	Durabuilt Windows & Doors Inc.	\$90,464
July 10, 2019	Met-Ex Construction Ltd.	\$114,752
July 23, 2019	City Disposal Containers Inc.	\$8,245
July 30, 2019	Live Wire Electric Inc.	\$97,524
July 30, 2019	Fancy Doors & Mouldings Ltd.	\$7,869

Appendix “B”

**Request for Proposals for
CONSTRUCTION MANAGEMENT SERVICES
Re: Station Point, Edmonton, Alberta (the “Project”)**

A. Background

- The Project is an apartment building with 112 units and 19,000 square feet of ground floor retail space currently being constructed on 3.32 acre site located at 403 Belvedere Gate NW, Edmonton (the “Real Property”);
- The Project is owned, and was being developed by, Station Point Developments Ltd (the “Company”).
- Pursuant to an order of the Court of Queen’s Bench of Alberta made on June 18, 2019 (the “Order”), KSV Kofman Inc. was appointed as trustee pursuant to the *Builders’ Lien Act* and receiver and manager pursuant to the *Judicature Act* and the *Bankruptcy and Insolvency Act* (in such capacities, the “Receiver”) of the Company’s real property (“Real Property”) and the undertakings, properties and assets situated upon or relating to the Real Property.
- We request that you provide a proposal to act as construction manager to complete the Project. It is possible that the Receiver may convert the role from construction manager to a general contractor during the course of the Project.
- Proponents that sign a confidentiality agreement (“CA”) will be provided with access to a virtual data room containing information regarding the Project, including Quantity Surveyor Reports, architectural drawings and other available relevant data. A copy of the CA is attached as Appendix “A”.
- The duties and responsibilities required of the selected Construction Management firm will be based on the Canadian Standard Construction Management Contract Form (Standard Construction Documents CCDC No. 5B – 2010, with supplementary conditions from the Receiver) between the Receiver and the Construction Manager. The Receiver will consider the option to convert the construction management contract to a guaranteed maximum price or to a stipulated price contract.
- By submitting a proposal, the proponent acknowledges the Receiver’s ability to exercise its discretion to accept or reject any or all proposals at its sole discretion, and shall not constitute a breach of contract or in tort of any duty imposed by statute or common law and owed by the Receiver to the Proponent.
- The Proposal Call represents a definition of specific requirements only. It is not to be, nor should it be construed as an offer to contract. The Receiver will consider each submitted proposal, but assumes no obligation to act on any proposal. The project is subject to final approval by the Receiver. Only the execution of a written contract will obligate the Receiver in accordance with the terms and conditions of that contract.

- Proponents shall prepare and submit the following parts of the CCDC 5B agreement with their proposal: Articles A-1, A-5, A-6, A-7, A-9, Applicable portions of Schedules A1, A2 & B, a schedule of rental rates for tools and equipment that will be provided by the Construction Manager on site and a schedule of general conditions.

B. Proposal Submission Deadline

- Proposals are to be submitted to the Receiver to the attention of Noah Goldstein by 5:00 p.m. (Edmonton time) on July 4, 2019;
- Proposals should be irrevocable until July 31, 2019;

C. Site Visit

- The Receiver or its representative, Rod Wolansky from Pro 3 Management Ltd., intends to conduct separate site visits during the week ending June 28, 2019 for each proponent. Please contact Mr. Goldstein to arrange a site visit.

D. Proposal Content

The proposal must contain the following:

1. Qualifications
 - a) a description of the contractor, including number of full-time employees and experience on multi-family residential projects;
 - b) resume for the proposed Project team lead;
 - c) number of years acting as a construction manager and/or project manager;
 - d) references for two recent construction projects completed in the last 5 years;
2. Work plan: the proponent will provide a detailed description of services to be provided, including safety and security measures. The proponent shall describe its quality control process to ensure the Project is completed to the highest standard;
3. Costing: the proponent must provide a cost schedule for its services;
4. Construction Schedule: the proponent must provide a detailed timeline to complete the Project and evidence that it can meet the timeline;
5. Proponents' Liability Insurance: a copy of the proponents' liability insurance certificate should be included with the proposal, including a current clearance certificate from the Workers Compensation Board – Alberta;

E. Proposal Consideration

Proposals shall be evaluated based on the following criteria:

- the proponent's experience;
- the experience of the team lead;
- cost;
- compliance with the Request for Proposal document.

The lowest cost proposal will not necessarily be selected. The Receiver reserves the right to reject any or all proposals. The Receiver may seek Court approval of the agreement retaining the selected proponent.

Appendix "A"

CONFIDENTIALITY AGREEMENT

Pursuant to the terms of this Confidentiality Agreement, _____, and all related persons and entities, as well as all of its legal, financial and other advisors (collectively "CM"), agree to keep confidential all Information (as defined below) regarding the business operating as Station Point Development Ltd. (the "Company") provided to it by the Company or KSV Kofman Inc., in its capacity as trustee pursuant to the *Builders' Lien Act* and receiver and manager pursuant to the *Judicature Act* and the *Bankruptcy and Insolvency Act* (in such capacity, the "Receiver") of the Company's real property ("Real Property") and the undertakings, properties and assets situated upon or relating to the Real Property, or any of their respective representatives or advisors. The CM and the Receiver are referred to herein as the "Parties".

The CM requires access to Information in order to prepare and provide a proposal to the Receiver to act construction manager for the Project (as defined below). As a condition to the Receiver furnishing Information to the CM, and in consideration of the receipt of such Information and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CM and the Receiver hereby agree as set forth below.

1. **Non-Disclosure and Restricted Use** – the CM hereby agrees that the Information will be kept confidential and will not, without the prior written consent of the Receiver, or as expressly provided in this agreement, be disclosed by CM in any manner whatsoever, in whole or in part, and will not be used by CM, directly or indirectly, for any purpose whatsoever other than evaluating and completing a review of the Real Property development project, including its current progress status, financial position, and remaining work to be completed (the "Project"), and will not be used in any way to the detriment of the Company and the Project (the "Purpose"). CM shall also keep confidential any transaction involving the Company and/or the Project, unless i) disclosure is required pursuant to an order issued by a court of competent jurisdiction; or ii) the Receiver consents to such disclosure. The CM shall take commercially reasonable precautions or measures to prevent: (a) improper access to the Information; (b) improper use of the Information; or (c) unpermitted disclosure of the Information, in each case, by the CM or its Representatives.
2. **Information** - The term "Information" includes (a) any information of whatever nature and kind relating to the Project, the Company and related entities, representatives, customers, clients, suppliers, borrowers, lenders, service providers or otherwise, regardless of how or through which means the Information was communicated, including but not limited to orally, in writing or by electronic transmission; and (b) any instruments, documents, summaries, notes, analyses, compilations, studies or other records that relay, contain or otherwise reflect or have been generated or derived, wholly or partly, from such Information. The term "Information" shall not include such portions of the Information which (a) are, or prior to the time of disclosure or utilization become, generally available to the public other than as a result of a disclosure by the CM or its Representatives (as defined below) in breach of this agreement, or (b) are received from an independent third party who, to the knowledge of CM after due inquiry, had obtained the Information lawfully and was under no obligation of secrecy or duty of confidentiality with respect to such Information, or (c) CM can show were in its lawful possession before it received such Information from the Company or the Receiver, or (d) CM can show were independently developed by it or on its behalf by personnel having no access to the Information at the time of its independent development.

3. **Storage and Records** – CM shall store the Information properly and securely and ensure that appropriate physical, technological and organizational measures are in place to protect the Information against unauthorized or unintended access, use or disclosure. Upon the request of the Receiver or the Company, CM agrees to promptly return or destroy, at its option, all Information, or copies thereof, received hereunder, whether in electronic or written form and to confirm compliance with this agreement to the Receiver and the Company. CM shall be entitled to retain any routine copies made in system backups.
4. **Access Limited to Representatives** – CM may reveal or permit access to the Information only to its directors, officers and employees (each a “Representative”) who need to know the Information for the Purpose, who are informed of the confidential nature of the Information, and who are directed and agree to hold the Information in accordance with the terms and conditions of this agreement. CM will be responsible and liable for any breach of this agreement by any of its Representatives.
5. **Proprietary Rights** – CM acknowledges that any Information received by it is a proprietary asset of the Company. CM agrees to be responsible for any breach of this Agreement (it being understood that such responsibility shall be in addition to and not by way of limitation of any right or remedy the Receiver, the Company and/or other beneficiaries of this Agreement may have against CM with respect to any such breach).
6. **No Reps or Warranties** - The CM acknowledges and agrees that:
 - (a) neither the Receiver nor the Company is making any representation or warranty, express or implied, as to the accuracy or completeness of any Information disclosed to the CM or any of the CM's Representatives;
 - (b) the Information may include assumptions, statements, estimates and projections;
 - (c) neither the Receiver nor the Company makes any representation or warranty as to the accuracy or reasonableness of such assumptions, statements, estimates or projections; and
 - (d) neither the Receiver nor the Company will have any liability to the CM or any of the CM's Representatives in any way pertaining to the provision of the Information, including without limitation any reliance upon or use of any of the Information by or on behalf of the CM.

The Receiver, on behalf of itself and the Company, expressly disclaims any liability to any person, including the CM and the CM's Representatives, resulting from any reliance upon or use of any of the Information by the CM or any CM's Representatives, which disclaimer is hereby acknowledged and accepted by the CM.

7. **Governing Law** -- This agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable in the Province of Alberta. Each Party hereby irrevocably (a) submits to the exclusive jurisdiction of the courts of competent jurisdiction in the Province of Alberta in respect of any actions or proceedings (“Proceedings”) relating in any way to this agreement (and each Party agrees not to commence any Proceeding relating thereto except in such courts); and (b) waives any objection to the venue of any Proceeding relating to this agreement or the review contemplated hereby in the courts of competent jurisdiction in the Province of Alberta, including the objection that any such Proceeding has been brought in an inconvenient forum.

8. **Non-Waiver** - No failure or delay by either Party in exercising any right, power or privilege under this agreement will operate as a waiver thereof, nor will any single or partial exercise preclude any other or further exercise of any right, power or privilege under this agreement.
9. **Amendment** - No amendment, supplement, modification or waiver or termination of this agreement and, unless otherwise specified, no consent or approval by either Party, shall be binding unless executed in writing by the Party to be bound thereby.
10. **Term** - The confidentiality and non-use obligations described in this agreement shall terminate twenty-four (24) months from the date hereof.
11. **Facsimile** - This agreement may be executed and delivered by facsimile or other form of electronic transmission such as email or pdf. and such signature shall have the same legal effect as a manual signature. This agreement may be validly executed in any number of counterparts, all of which taken together shall constitute one and the same agreement and each of which shall constitute an original.
12. **No Assignment** - The CM may not assign this agreement or any of its rights or obligations hereunder, without the prior written consent of the Receiver. This agreement shall benefit and be binding upon the Parties and their respective successors.
13. **No Obligation to Provide Information** - It is understood and agreed that this agreement does not create any obligations on the part of the Receiver, including any obligation to provide any Information to the CM or any of the CM's Representatives.

IN WITNESS WHEREOF the Parties have entered into this agreement as of this ____ day of June, 2019.

**KSV KOFMAN INC., SOLELY IN ITS
CAPACITY AS TRUSTEE AND RECEIVER
AND MANAGER OF CERTAIN
PROPERTY, ASSETS AND
UNDERTAKINGS OF STATION POINT
DEVELOPMENT LTD., AND NOT IN ITS
PERSONAL CAPACITY**

**ON BEHALF OF HIMSELF AND ALL RELATED
PARTIES AND ENTITIES**

Authorized Officer

Authorized Officer

Appendix “C”

CCDC 5B

Construction Management Contract
– for Services and Construction

2 0 1 0

Station Pointe Buildings 1 & 2
403 Belvedere Gate NW, Edmonton, AB

Apply a CCDC 5B copyright seal here. The application of the seal demonstrates the intention of the party proposing the use of this document that it be an accurate and unamended form of CCDC 5B – 2010 except to the extent that any alterations, additions or modifications are set forth in supplementary conditions.

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18.	Drawings	GC 7.1	Owner's Right to Perform the Work or Terminate the Contract
19.	Guaranteed Maximum Price	GC 7.2	Construction Manager's Right to Suspend the Work or Terminate the Contract
20.	Notice in Writing	PART 8 DISPUTE RESOLUTION	
21.	Owner	GC 8.1	Authority of the Consultant
22.	Place of the Work	GC 8.2	Negotiation, Mediation and Arbitration
23.	Price of the Services	GC 8.3	Retention of Rights
24.	Price of the Work	PART 9 PROTECTION OF PERSONS AND PROPERTY	
25.	Product	GC 9.1	Protection of Work and Property
26.	Project	GC 9.2	Toxic and Hazardous Substances
27.	Services	GC 9.3	Artifacts and Fossils
28.	Shop Drawings	GC 9.4	Construction Safety
29.	Specifications	GC 9.5	Mould
30.	Subcontractor	PART 10 GOVERNING REGULATIONS	
31.	Substantial Performance of the Work	GC 10.1	Taxes and Duties
32.	Supplemental Instruction	GC 10.2	Laws, Notices, Permits, and Fees
33.	Supplier	GC 10.3	Patent Fees
34.	Temporary Work	GC 10.4	Workers' Compensation
35.	Value Added Taxes	PART 11 INSURANCE — CONTRACT SECURITY	
36.	Work	GC 11.1	Insurance
37.	Working Day	GC 11.2	Contract Security
GENERAL CONDITIONS		PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY	
PART 1 GENERAL PROVISIONS		GC 12.1	Indemnification
GC 1.1	Contract Documents	GC 12.2	Waiver of Claims
GC 1.2	Law of the Contract	GC 12.3	Warranty
GC 1.3	Rights and Remedies	APPENDIX STIPULATED PRICE OPTION	
GC 1.4	Assignment		
GC 1.5	Performance of the Services		
GC 1.6	Project Representatives		
PART 2 ADMINISTRATION OF THE CONTRACT			
GC 2.1	Owner's Responsibilities		
GC 2.2	Authority of the Consultant		
GC 2.3	Consultant's Responsibilities		
GC 2.4	Review and Inspection of the Work		
GC 2.5	Defective Work		

**AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER
– FOR SERVICES AND CONSTRUCTION**

This agreement made on the _____ day of _____ September _____ in the year 2019
by and between

KSV Kofman Inc., solely in its capacity as Trustee and Receiver and Manager of certain assets,
undertakings and properties of Station Point Developments Ltd., and not in its personal capacity

hereinafter called the “*Owner*”
and

RMS Building Inc., a corporation existing under the laws of the Province of Alberta

hereinafter called the “*Construction Manager*”

The *Owner* and *Construction Manager* agree as follows:

ARTICLE A-1 THE SERVICES AND THE WORK

The *Construction Manager* shall

1.1 perform the *Services* and the *Work* for

Station Pointe Buildings 1 & 2
403 Belvedere Gate NW, Edmonton, AB

insert above the title of the Project

located at

403 Belvedere Gate NW, Edmonton, AB

insert above the Place of the Work

and as further described in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT, for which the
Agreement has been signed by the parties, and for which

EFG Architects Inc.

insert above the name of the Consultant

is acting as and is hereinafter called the “*Consultant*”, and

1.2 do and fulfill everything indicated by the *Contract Documents*, and

1.3 commence the *Services* and the *Work* by the _____ day of _____ in the year _____ and
continue in accordance with any schedule provided in Article A-3 of the Agreement – DESCRIPTION OF THE
PROJECT. The *Construction Manager*’s obligation to provide *Services* shall end no later than one year after the date of
Substantial Performance of the Work.

ARTICLE A-2 AGREEMENTS AND AMENDMENTS

2.1 This *Contract* supersedes all prior negotiations, representations or agreements, either written or oral, relating in any
manner to the *Project*.

2.2 This *Contract* may be amended only as provided in the *Contract Documents*.

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version of CCDC 5B – 2010 except to the extent that any alterations, additions or modifications are set forth in supplementary conditions.

ARTICLE A-3 DESCRIPTION OF THE PROJECT

- 3.1 The following is a description of the *Project* including intended use, scope, budget, schedule, phases if applicable, and the anticipated date of *Substantial Performance of the Work*, and any other information which further generally describes the nature of the *Project* and the *Work*:

Project: The Construction Manager will proceed with completing the construction of the project known as Station Pointe Phase 1 and 2, which the construction of such project had originally been started by Station Point Developments Ltd., consisting of two 5 story steel framed apartment buildings, each with 1 level of underground parking, containing 112 rental residential apartment units and ground floor retail units, located at 403 Belvedere Gate NW, Edmonton, AB.

Project Schedule:

- Substantial Performance of the Work with respect to Building 2 of the Project is expected to be achieved on April 22, 2020.
- Substantial Performance of the Work with respect to Building 1 of the Project is expected to be achieved on May 5, 2020.

The Work is anticipated to commence in late September 2019. A copy of the Work Schedule is attached as Schedule D.

The above schedules dates are contingent on the assumption that no unforeseen re-work is required to Pre-Existing Work.

Payment and Financing:

Subject to payment certification and the terms of this Agreement, the Owner shall progressively release the holdback as the Construction Manager or its Subcontractors attain substantial completion of the Work, as permitted under the Builders Lien Act of Alberta.

The Owner acknowledges that the Construction Manager's Standard Form Subcontract Agreement contains a clause that only entitles (i) its Subcontractors for payment for Work performed by such Subcontractors or (ii) its Suppliers for Products supplied by such Suppliers, if the Construction Manager has received payment for such Work or Products, as applicable. The Owner acknowledges and agrees that the payment provision outlined herein may result in the rejection of the lowest price Subcontractor/Supplier, if said Subcontractor or Supplier does not agree to sign the Construction Managers Subcontract Agreement.

A copy of the estimated budget for the Project is attached as Schedule E - Cost of Work Estimate.

ARTICLE A-4 CONTRACT DOCUMENTS

4.1 The following are the *Contract Documents* referred to in Article A-1 of the Agreement – THE SERVICES AND THE WORK:

- the Agreement Between *Owner* and *Construction Manager* (including the Schedules to the Agreement)
- the Appendix – STIPULATED PRICE OPTION
- the Definitions
- the General Conditions
- the *Construction Documents*

*

Schedules to the Agreement:

- Schedule A1 – Services and Compensation
- Schedule A2 – Reimbursable Expenses Applicable to Schedule A1
- Schedule B – Time-Based Rates for Personnel Employed by the Construction Manager
- Schedule C – RMS Leasing Inc. Equipment Rate Schedule
- Schedule D – Work Schedule
- Schedule E – Cost of Work Estimate

The Owner has supplied the following to the Construction Manager:

- Geotechnical Assessment prepared by Levelton dated February 27, 2013
- Preliminary Architectural concept drawings prepared by GMH Architects Ltd. (28 pages)
- Landscape Details
- The following drawings:

- | | |
|-----------------------------|--------------------------|
| - Site Plan | - Roof Plan Building 4 |
| - Aerial View | - Elevations Building 4 |
| - Signage and Canopy Detail | - Elevations Building 4 |
| - Parkade Plan | - Floor Plans Building 5 |
| - Floor Plans - Building 1 | - Floor Plans Building 5 |
| - Floor Plans - Building 2 | - Floor Plans Building 5 |
| - Roof Plan Building 1&2 | - Floor Plans Building 5 |
| - Elevations Building 1&2 | - Social Building |
| - Floor Plans Building 3 | - Sun Study |
| - Roof Plan Building 3 | - Landscape |
| - Elevations Building 3 | - Landscape Building 3 |
| - Floor Plans Building 4 | - Landscape Building 4 |
| - Floor Plans Building 4 | - Landscape Building 5 |

The Owner shall supply to the Construction Manager such further Construction Documents that are in the Owner's possession and control and are required to complete construction of the Project, including but not limited to the following:

- (a) Architectural, Structural, Mechanical, Electrical, Civil, and Landscape drawings and specifications.
- (b) Copies of all executed Subcontractor subcontracts engaged on the Project that the Owner wishes to retain to complete that specific trade scope of work, if any.
- (c) Consultant field inspection reports issued to date as are available.
- (d) All additional Construction Documents required by the Construction Manager to complete the project in a timely fashion.

* (Insert here, attaching additional pages if required, a list identifying all other Contract Documents)

ARTICLE A-5 CONSTRUCTION MANAGER'S FEE

5.1 The *Construction Manager's Fee* shall be equal to the sum of the fee for the *Services* as specified in paragraph 5.2 and the fee for the *Work* as described in paragraph 5.3.

5.2 The *Construction Manager's Fee* for the *Services* is comprised of one or more of the following:

- ~~.1~~ A fixed amount of _____; and
- ~~.2~~ A percentage amount of _____ percent (____%) of the *Construction Cost Estimate*. Final reconciliation payments shall be adjusted based on *Class A Construction Cost Estimate*; and
- ~~.3~~ An amount based on the time based rates for personnel employed by the *Construction Manager* as described in Schedule D to the Agreement and engaged in performing the *Services* to the level of effort agreed prior to the commencement of the *Services*. The *Owner* may by written request require the *Construction Manager* to provide prior to commencement of the *Services* an estimate of the total fee for *Services* to be performed based on the time based rates for evaluation and verification purposes.

* Strike out inapplicable paragraph(s).

5.3 The *Construction Manager's Fee* for the *Work* is comprised of one or more of the following:

- ~~.1~~ A percentage fee of three point seven five percent (3.75 %) of the *Cost of the Work* earned as the *Cost of the Work* accrues. In the event the *Owner* furnishes labour or material below market cost or materials are re-used beyond that anticipated in the original scope of the *Work*, the *Cost of the Work* for purposes of establishing the *Construction Manager's Fee* for the *Work* is the cost of all materials and labour necessary to complete the *Project* as if all materials had been new and as if all labour had been paid for at market prices at the time of construction or, in the event that the construction does not proceed, at existing market prices at the anticipated time of construction; and
- ~~.2~~ A fixed fee of _____ earned as follows:

Delete inapplicable paragraph.

5.4 The *Construction Manager's Fee* shall be subject to adjustment as may be required in accordance with the provisions of the *Contract Documents* listed in Article A-4 of the Agreement – CONTRACT DOCUMENTS.

5.5 All amounts are in Canadian funds.

ARTICLE A-6 REIMBURSABLE EXPENSES FOR THE SERVICES

6.1 The reimbursable expenses are the actual expenses, supported by receipts or invoices, that the *Construction Manager* incurred in performing the *Services*, and as identified in Schedule A2 to the Agreement plus the administrative charge of three point seven five percent (3.75 %). If there are no receipts or invoices, the expenses shall be at rates prevailing in the area of the *Place of the Work* and supported with suitable documentation.

6.2 The *Owner* may by written request require the *Construction Manager* to:

- .1 provide prior to commencement of the *Services* an estimate of the total reimbursable expenses incurred by the *Construction Manager* in performing the *Services* for evaluation and verification purposes; and
- .2 inform the *Owner* in writing prior to incurring reimbursable expenses relating to the *Services*.

ARTICLE A-7 COST OF THE WORK

- 7.1 The *Cost of the Work* is the actual cost incurred by the *Construction Manager* in performing the *Work* and is limited to the actual cost of the following:
- .1 salaries, wages and benefits paid to personnel in the direct employ of the *Construction Manager* under a salary or wage schedule agreed upon by the *Owner* and the *Construction Manager*, or in the absence of such a schedule, actual salaries, wages and benefits paid under applicable bargaining agreement, and in the absence of a salary or wage schedule and bargaining agreement, actual salaries, wages and benefits paid by the *Construction Manager*, for personnel
 - (1) stationed at the *Place of the Work*, in whatever capacity employed;
 - (2) engaged in expediting the production or transportation of material or equipment, at shops or on the road;
 - (3) engaged in the preparation or review of *Shop Drawings*, fabrication drawings and coordination drawings; or
 - (4) engaged in the processing of changes in the *Work*.
 - .2 contributions, assessments or taxes incurred for such items as employment insurance, provincial or territorial health insurance, workers' compensation, and Canada or Quebec Pension Plan, insofar as such cost is based on wages, salaries or other remuneration paid to employees of the *Construction Manager* and included in the cost of the *Work* as provided in paragraph 7.1.1;
 - .3 travel and subsistence expenses of the *Construction Manager's* personnel described in paragraph 7.1.1;
 - .4 all *Products* including cost of transportation thereof;
 - .5 materials, supplies, *Construction Equipment*, *Temporary Work*, and hand tools not owned by the workers, including transportation and maintenance thereof, which are consumed in the performance of the *Work*; and cost less salvage value on such items used but not consumed, which remain the property of the *Construction Manager*;
 - .6 all tools and *Construction Equipment*, exclusive of hand tools used in the performance of the *Work*, whether rented from or provided by the *Construction Manager* or others, including installation, minor repairs and replacements, dismantling, removal, transportation, and delivery cost thereof;
 - .7 the *Construction Manager's* field office;
 - .8 deposits lost provided that they are not caused by negligent acts or omissions of the *Construction Manager* and the *Services* are performed in accordance with this *Contract*;
 - .9 the amounts of all contracts or written agreements with *Subcontractors* and *Suppliers* and the unrecoverable costs to the *Construction Manager* that result from any *Subcontractor's* or *Supplier's* default, insolvency or abandonment; termination of any *Subcontractor's* or *Supplier's* right to perform due to default by the *Subcontractor* or *Supplier*; or termination of any *Subcontractor's* or *Supplier's* contract due to default by the *Subcontractor* or *Supplier*;
 - .10 quality assurance such as independent inspection and testing services;
 - .11 charges levied by authorities having jurisdiction at the *Place of the Work*;
 - .12 royalties, patent license fees and damages for infringement of patents and cost of defending suits therefor subject always to the *Construction Manager's* obligations to indemnify the *Owner* as provided in paragraph 10.3.1 of GC 10.3 – PATENT FEES;
 - .13 premiums for all contract securities and insurance that the *Construction Manager* is required, by the *Contract Documents*, to purchase and maintain;
 - .14 taxes, other than *Value Added Taxes*, and duties relating to the *Work* for which the *Construction Manager* is liable;
 - .15 charges for long distance communications, courier services, expressage, printing, and reproduction incurred in relation to the performance of the *Work*;
 - .16 removal and disposal of waste products and debris;
 - .17 the cost of safety measures and requirements;
 - .18 legal costs, incurred by the *Construction Manager* in relation to the performance of the *Work* provided that they are not caused by negligent acts or omissions of the *Construction Manager* and the *Work* is performed in accordance with this *Contract*;
 - .19 the cost of financing the *Work* in accordance with the method determined by the parties and identified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT;

- .20 the cost of auditing when requested by the *Owner*;
- .21 the cost of project-specific information technology and usage in accordance with the method determined by the parties in writing;
- .22 the cost of removal or containment of toxic or hazardous substances pursuant to GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES;
- .23 other costs incurred in the performance of the *Work* as listed below:

- 7.2 The *Cost of the Work* excludes *Value Added Taxes* and shall be at rates prevailing in the locality of the *Place of the Work*, except with the prior consent of the *Owner*.
- 7.3 Any costs incurred by the *Construction Manager* due to failure on the part of the *Construction Manager* to exercise reasonable care and diligence in the *Construction Manager's* attention to the *Work* shall be borne by the *Construction Manager*.
- 7.4 All cash discounts shall accrue to the *Construction Manager* unless the *Owner* deposits funds with the *Construction Manager* with which to make payments, or where the *Owner* pays the costs of financing the *Work*, in which case the cash discounts shall accrue to the *Owner*.
- 7.5 All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment applicable to the *Work* shall accrue to the *Owner*, and the *Construction Manager* shall make provisions so that they can be secured.
- 7.6 The *Owner* may by written request require the *Construction Manager* to:
 - .1 provide prior to commencement of the *Work* an estimate of the total *Cost of the Work* for evaluation and verification purposes; and
 - .2 inform the *Owner* in writing prior to incurring reimbursable expenses relating to the *Cost of the Work*.

ARTICLE A-8 OPTIONS

8.1 The *Owner* and the *Construction Manager* may agree to exercise the options described in paragraph 8.2, 8.3 or 8.4 at the time of signing of this *Contract* or any time during the term of the *Contract*. Any agreement to exercise any of the following options after the signing of this *Contract* shall be recorded by a *Change Order*.

8.2 GUARANTEED MAXIMUM PRICE (GMP) OPTION

The sum of the *Price of the Services* and the *Price of the Work* are guaranteed by the *Construction Manager* not to exceed N/A /100 dollars (\$ _____), subject to the adjustment as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE. Any amount, consisting of the sum of the *Price of the Services* and the *Price of the Work*, in excess of this *Guaranteed Maximum Price* will be paid by the *Construction Manager* without reimbursement by the *Owner*.

8.3 GUARANTEED MAXIMUM PRICE PLUS % COST SAVINGS OPTION

The *Price of the Services* and the *Price of the Work* are guaranteed by the *Construction Manager* not to exceed N/A /100 dollars (\$ _____), subject to the adjustment as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.

At the conclusion of the *Project*,

- .1 any amount, consisting of the sum of the *Price of the Services* and the *Price of the Work*, in excess of this *Guaranteed Maximum Price* will be paid by the *Construction Manager* without reimbursement by the *Owner*.
- .2 if the sum of the *Price of the Services* and the *Price of the Work* is less than this *Guaranteed Maximum Price*, the difference will be disbursed as follows:
 - (1) retained by the *Owner*: N/A %
 - (2) paid to the *Construction Manager*: N/A %

8.4 STIPULATED PRICE OPTION

The *Owner* and the *Construction Manager* may agree to change this *Contract* to a stipulated price contract, in accordance with the amendments as provided in the Appendix – STIPULATED PRICE OPTION.

ARTICLE A-9 PAYMENT

- 9.1 Where required by provincial or territorial legislation, payments shall be subject to the lien legislation applicable to the *Place of the Work*. The *Owner* shall pay the *Construction Manager*:
 - .1 payments on account of the *Construction Manager's Fee* for the *Services* earned as described in Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE together with such *Value Added Taxes* as may be applicable to such payments, and
 - .2 payments on account of the reimbursable expenses for the *Services* earned as described in Article A-6 of the Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES together with such *Value Added Taxes* as may be applicable to such payments,
 - .3 payments on account of the *Price of the Work* when due in the amount certified by the *Consultant* together with such *Value Added Taxes* as may be applicable to such payments,
 - .4 upon *Substantial Performance of the Work*, the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, and
 - .5 upon the issuance of the final certificate for payment, the unpaid balance of the *Construction Manager's Fee* for the *Services*, the reimbursable expenses for the *Services*, and the *Price of the Work* when due together with such *Value Added Taxes* as may be applicable to such payment.
- 9.2 In the event of loss or damage occurring where payment becomes due under the property and boiler insurance policies, payments shall be made to the *Construction Manager* in accordance with the provisions of GC 11.1 – INSURANCE.
- 9.3 Interest
 - .1 Should either party fail to make payments as they become due under the terms of this *Contract* or in an award by arbitration or court, interest at the following rates on such unpaid amounts shall also become due and payable until payment:
 - (1) 2% per annum above the prime rate for the first 60 days.
 - (2) 4% per annum above the prime rate after the first 60 days.Such interest shall be compounded on a monthly basis. The prime rate shall be the rate of interest quoted by

The ATB Financial at its Main Branch in Edmonton, AB

(Insert name of chartered lending institution whose prime rate is to be used)
for prime business loans as it may change from time to time.

- .2 Interest shall apply at the rate and in the manner prescribed by paragraph 9.3.1 of this Article on the settlement amount of any claim in dispute that is resolved either pursuant to Part 8 of the General Conditions – DISPUTE RESOLUTION or otherwise, from the date the amount would have been due and payable under the *Contract*, had it not been in dispute, until the date it is paid.

ARTICLE A-10 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING

- 10.1 *Notices in Writing* will be addressed to the recipient at the address set out below.
- 10.2 The delivery of a *Notice in Writing* will be by hand, by courier, by prepaid first class mail, or by facsimile or other form of electronic communication during the transmission of which no indication of failure of receipt is communicated to the sender.
- 10.3 A *Notice in Writing* delivered by one party in accordance with this *Contract* will be deemed to have been received by the other party on the date of delivery if delivered by hand or courier, or if sent by mail it shall be deemed to have been received 5 calendar days after the date on which it was mailed, provided that if either such day is not a *Working Day*, then the *Notice in Writing* shall be deemed to have been received on the *Working Day* next following such day.
- 10.4 A *Notice in Writing* sent by facsimile or other form of electronic communication shall be deemed to have been received on the date of its transmission provided that if such day is not a *Working Day* or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first *Working Day* next following the transmission thereof.
- 10.5 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.

Owner

KSV Kofman Inc., solely in its capacity as Trustee and Receiver and Manager of certain assets, undertakings and properties of Station Point Developments Ltd., and not in its personal capacity

name of Owner*

150 King Street West, Suite 2308, Box 42, Toronto, ON, M5H 1J9

address

(416) 932-6266

facsimile number

ngoldstein@ksvadvisory.com

email address

Construction Manager

RMS Building Inc., a corporation existing under the laws of the Province of Alberta

name of Construction Manager*

#220 9303 34 Avenue NW, Edmonton, AB T6E 5W8

address

(780) 462-0209

facsimile number

hbakir@rms-group.ca

email address

Consultant

EFG Architects Inc.

name of Consultant*

9834 105 Street, Edmonton, Alberta, T5K 1A6

address

(780) 425-0535

facsimile number

email address

* If it is intended that the notice must be received by a specific individual, that individual's name shall be indicated.

8

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ARTICLE A-11 LANGUAGE OF THE CONTRACT

11.1 When the *Contract Documents* are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English/~~French~~ language shall prevail.

#Complete this statement by striking out inapplicable term.

11.2 This Agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.

ARTICLE A-12 SUCCESSION

12.1 The *Contract* shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and assigns.

In witness whereof the parties hereto have executed this Agreement by their respective hands or the hands of their duly authorized representatives.

SIGNED AND DELIVERED
in the presence of:

WITNESS

signature

name of person signing

signature

name of person signing

WITNESS

signature

name of person signing

signature

name of person signing

OWNER

KSV Kofman Inc., solely in its capacity as Trustee and Receiver and Manager of certain assets, undertakings and properties of Station Point Developments Ltd., and not in its personal capacity

name of Owner

signature

name and title of person signing

signature

name and title of person signing

CONSTRUCTION MANAGER

RMS Building Inc., a corporation existing under the laws of the Province of Alberta

name of Construction Manager

PER: Curtis [Signature]
CURTIS

signature

name and title of person signing

signature

name and title of person signing



N.B. Where legal jurisdiction, local practice or Owner or Construction Manager requirement calls for:
(a) proof of authority to execute this document, attach such proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Agreement for and on behalf of the corporation or partnership; or
(b) the affixing of a corporate seal, this Agreement should be properly sealed.

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SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION

<p>1. PRECONSTRUCTION</p> <p>(*Note: F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 CONSTRUCTION MANAGER'S FEE. F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 CONSTRUCTION MANAGER'S FEE. F3 Fee to the Construction Manager based on time-based rates as described in paragraph 5.2.3 of Article A-5 CONSTRUCTION MANAGER'S FEE.)</p>	<p>Performed by the Owner or someone other than the Construction Manager</p>	<p>Performed by the Construction Manager (F1, F2, F3)</p>	<p>Not Applicable</p>
<p>1.1 General Services</p> <p>1 Attend regular Project meetings with the Owner and the Consultant.</p> <p>2 Provide advice to the Owner and the Consultant with respect to construction and market conditions.</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p>		<p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>
<p>1.2 Predisign</p> <p>1 Estimating:</p> <p>(1) Confirm or prepare a Class D Construction Cost Estimate.</p> <p>(2) Advise the Owner if it appears that the Construction Cost Estimate may exceed the Project budget, and make recommendation for corrective action.</p> <p>2 Scheduling: Prepare a preliminary overall Project schedule.</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p>		<p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>
<p>1.3 Schematic Design Phase</p> <p>1 Constructability: Provide advice on site use and possible improvements, selection of materials, assembly systems, and equipment and provide recommendations on construction feasibility, availability of materials and labour, time requirements for installation and construction, and factors related to alternative designs and possible economies.</p> <p>2 Estimating:</p> <p>(1) Prepare a Class C Construction Cost Estimate at the end of the Schematic Design Phase.</p> <p>(2) Advise the Owner if it appears that the Construction Cost Estimate may exceed the Project budget, and make recommendation for corrective action.</p> <p>3 Scheduling: Prepare, in consultation with the Consultant and the Owner, a preliminary Project schedule for the Owner's review; such Project schedule shall take into consideration the sequence and timing of the required basic program decisions, including anticipated design time, approval period, preparation of documentation, bid calls and subsequent evaluations, trade contract awards, on-site construction activities, and the anticipated date of Substantial Performance of the Work.</p> <p>4 Other Services: Assist in providing liaison and coordination among government authorities, utility companies, and other authorities having jurisdiction over the Place of the Work.</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>		<p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>
<p>1.4 Design Development Phase</p> <p>1 Constructability:</p> <p>(1) Provide updates as necessary regarding the availability of materials and labour, building systems, and possible economies.</p> <p>(2) Make recommendations to the Owner and the Consultant regarding the scope of Work packages and Work to be performed by the Construction Manager's own forces to help facilitate the subsequent bidding and awarding of Subcontractor and Supplier contracts.</p> <p>(3) Review the Specifications and Drawings and, at the end of the Design Development Phase, make recommendations to the Owner and the Consultant as to constructability and coordination among the Subcontractors.</p> <p>2 Estimating and Cost Control:</p> <p>(1) Prepare a Class B Construction Cost Estimate at the end of the Design Development Phase.</p> <p>(2) Advise the Owner if it appears that the Construction Cost Estimate may exceed the Project budget, and make recommendations for corrective action.</p> <p>(3) Establish a cost control program and prepare a cash flow forecast for the Project.</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p>		<p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>

SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION

<p>1. PRECONSTRUCTION</p> <p>(*Note: F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5—CONSTRUCTION MANAGER'S FEE. F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5—CONSTRUCTION MANAGER'S FEE. F3 Fee to the Construction Manager based on time-based rates as described in paragraph 5.2.3 of Article A-5—CONSTRUCTION MANAGER'S FEE.)</p>	<p>Performed by the Owner or someone other than the Construction Manager</p>	<p>Performed by the Construction Manager (*F1/F2/F3)</p>	<p>Not Applicable</p>
<p>3 Scheduling:</p> <p>(1) Review and update the <i>Project</i> schedule with appropriate details.</p> <p>(2) Advise the <i>Owner</i> if it appears that the <i>Project</i> schedule may vary from that specified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT or otherwise agreed with the <i>Owner</i>, and make recommendations for corrective action.</p> <p>(3) Make recommendations to the <i>Owner</i> regarding any equipment or materials which should be pre-ordered to meet the <i>Project</i> schedule.</p>	<p><input type="checkbox"/></p>		<p><input checked="" type="checkbox"/></p>
<p>1.5 Construction Document Phase</p> <p>.1 Constructability:</p> <p>(1) Provide updates as necessary regarding the availability of materials and labour, building systems, and possible economies.</p> <p>(2) Review the <i>Specifications</i> and <i>Drawings</i> and make recommendations to the <i>Owner</i> and the <i>Consultant</i> as to clarity, consistency, constructability, and coordination among the <i>Subcontractors</i>.</p> <p>(3) Assist the <i>Owner</i> and the <i>Consultant</i> in preparing bid documents for <i>Subcontractors</i>.</p> <p>(4) Assist the <i>Owner</i> in determining the contract security requirements of <i>Subcontractors</i>.</p> <p>.2 Estimating and Cost Control:</p> <p>(1) Update the <i>Class B Construction Cost Estimate</i> at defined intervals of <i>Construction Documents</i> completion.</p> <p>(2) Prepare a <i>Class A Construction Cost Estimate</i> at the end of the Construction Document Phase.</p> <p>(3) Update the cash flow forecasts for the <i>Project</i>.</p> <p>(4) Advise the <i>Owner</i> if it appears that the <i>Construction Cost Estimate</i> may exceed the <i>Project</i> budget, and make recommendations for corrective action.</p> <p>.3 Scheduling:</p> <p>(1) Review and update the <i>Project</i> schedule with appropriate details.</p> <p>(2) Advise the <i>Owner</i> if it appears that the <i>Project</i> schedule may vary from that specified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT or otherwise agreed with the <i>Owner</i>, and make recommendations for corrective action, including changes to <i>Project</i> scope, schedule or budget.</p> <p>.4 Other Services:</p> <p>(1) Make recommendations to the <i>Owner</i> regarding any equipment or materials which should be pre-ordered to meet the <i>Project</i> objective.</p>		<p>F2</p> <p>F2</p> <p>F2</p> <p>F2</p>	
<p>1.6 Construction Procurement Phase</p> <p>.1 Scheduling:</p> <p>(1) Review and update the <i>Project</i> schedule with appropriate details.</p> <p>.2 Contracting:</p> <p>(1) Develop methods of solicitation for <i>Subcontractors</i> and the distribution of addenda.</p> <p>(2) Prepare the prequalification criteria for <i>Subcontractors</i> and <i>Suppliers</i> as required by the <i>Owner</i>.</p> <p>(3) Review for completeness and coordinate all bid documents for the solicitation of competitive bids for the <i>Work</i> to be performed by <i>Subcontractors</i>.</p> <p>.3 Other Service:</p> <p>(1) Update the cash flow forecasts for the <i>Project</i>.</p>		<p>F1</p> <p>F2</p> <p>F2</p>	

SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION

2. CONSTRUCTION (*Note: F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 – CONSTRUCTION MANAGER’S FEE. F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 – CONSTRUCTION MANAGER’S FEE. F3 Fee to the Construction Manager based on time-based rates as described in paragraph 5.2.3 of Article A-5 – CONSTRUCTION MANAGER’S FEE.)	Performed by the Owner or someone other than the Construction Manager	Performed by the Construction Manager (*F1/F2/F3)	Not Applicable
2.1 General Service .1 Chair and minute regular <i>Project</i> meetings with the <i>Owner</i> and the <i>Consultant</i> .		F2	
2.2 Cost Control and Accounting .1 Prepare and update the <i>Construction Cost</i> and cash flow forecasts in accordance with the <i>Project</i> budget as specified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT or otherwise agreed with the <i>Owner</i> . .2 Develop, implement and maintain a system of <i>Project</i> cost control and accounting. .3 Advise the <i>Owner</i> and the <i>Consultant</i> on the variances between actual cost and <i>Construction Cost Estimate</i> . .4 Provide reasonable assistance and information to permit recovery of all tax rebates where applicable. .5 Provide recommendations to the <i>Owner</i> for necessary changes to maintain the <i>Project</i> budget and <i>Project</i> schedule.		F2 F2 F2 F2	
3. POST-CONSTRUCTION			
3.1 General Service .1 Prepare final <i>Construction Cost</i> report.		F2	
3.2 Occupancy Review .1 Assist the <i>Owner</i> in conducting post-construction occupancy review.		F2	

SCHEDULE A2 – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE A1

Unless otherwise agreed to by the parties or as indicated in the following table, all expense items relating to *Services* are included in the *Construction Manager's Fee* for the *Services* as described in paragraph 5.2 of Article of the Agreement A-5 – CONSTRUCTION MANAGER'S FEE.

	Costs Included in the Construction Manager's Fee (A-5.2)	Reimbursable Expenses (A-6)
1. Travel and subsistence expenses of the <i>Construction Manager's</i> personnel outside a radius of 50km from the <i>Place of the Work</i> .	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Charges for long distance telephone and facsimile communications, courier services, reproduction of <i>Contract Documents</i> incurred in relation to the performance of this Contract.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. The cost of <i>Project</i> specific information technology support in accordance with the method determined by the parties.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Deposits lost provided that they are not caused by negligent acts or omissions of the <i>Construction Manager</i> and the <i>Services</i> are performed in accordance with this <i>Contract</i> .		<input checked="" type="checkbox"/>
5. The costs to the <i>Construction Manager</i> that result from any <i>Subcontractor's</i> insolvency or failure to perform.		<input checked="" type="checkbox"/>
6. Charges levied by authorities having jurisdiction at the <i>Place of the Work</i> .		<input checked="" type="checkbox"/>
7. Royalties, patent licence fees and damages for infringement of patents and cost of defending suits therefore.		<input checked="" type="checkbox"/>
8. Any adjustment in taxes and duties directly related to the <i>Project</i> for which the <i>Construction Manager</i> is liable.		<input checked="" type="checkbox"/>
9. Losses and expenses sustained by the <i>Construction Manager</i> for matters which are the subject of the insurance coverages obtained pursuant to GC 11.1 – INSURANCE when such losses and expenses are not recoverable because the amounts are in excess of collectible amounts, within the deductible amounts or are not insurable.		<input checked="" type="checkbox"/>
10. The costs incurred due to emergencies affecting the safety of persons or property.		<input checked="" type="checkbox"/>
11. Legal costs, incurred by the <i>Construction Manager</i> in relation to the performance of the <i>Services</i> provided that they are not caused by negligent acts or omissions of the <i>Construction Manager</i> and the <i>Services</i> are performed in accordance with this <i>Contract</i> .		<input checked="" type="checkbox"/>
12. Such other costs directly incurred by the <i>Construction Manager</i> in the performance of this <i>Contract</i> as follows: <div style="border: 1px solid black; height: 150px; width: 100%;"></div>		<input checked="" type="checkbox"/>

EXHIBIT 1 TO SCHEDULE B – TIME-BASED RATES FOR PERSONNEL EMPLOYED BY THE CONSTRUCTION MANAGER

Personnel employed by the <i>Construction Manager</i> in the performance of the <i>Services and Work</i>.	Unit	Rate
Senior Project Manager	Hourly	\$120.00
Project Manager	Hourly	\$90.00
Project Coordinator	Hourly	\$48.00
Site Superintendent	Monthly	\$13,000.00
Site Foreman	Hourly	\$55.00
Heavy Equipment Operator	Hourly	\$52.25
Light Equipment Operator	Hourly	\$46.00
Carpenter	Hourly	\$46.00
Carpenter (4th year)	Hourly	\$40.00
Carpenter (3rd year)	Hourly	\$38.00
Carpenter (2nd year)	Hourly	\$34.50
Carpenter (1st year)	Hourly	\$30.25
Skilled Labourer	Hourly	\$34.50
General Labourer	Hourly	\$30.25

SCHEDULE C – RMS LEASING INC. EQUIPMENT RATE SCHEDULE

[See attached]

RMS Leasing Inc.



CCDC Schedule C - Equipment Rental List

RMS Owned Equipment Rental 2019			RMS Rate (75% of Market Rate)	
	Equipment	Unit #	Week	Month
1	2003 Ford Dually 16' Flat Deck	100	\$600.00	\$1,200.00
2	2011 Ford F350 Crew Cab - White	102	\$600.00	\$1,200.00
3	26' Flat Deck Trailer - Tripple Axle(Bluesky)	103	\$450.00	\$1,080.00
4	24' Office Trailer (s/n: E82424)	105	\$0.00	\$847.50
5	60' Office Trailer (s/n: 14032-1260-OS-08N01)	106	\$0.00	\$1,567.50
6	32' Office Trailer (s/n: ST060576) - Sentag	107	\$0.00	\$967.50
7	32' Office Trailer (s/n: ST060616) - Sentag	108	\$0.00	\$933.75
8	32' Office Trailer (s/n: ST060665) - Sentag	109	\$0.00	\$933.75
9	2008 G70 58 KW Generator w/Trailer (s/n: 5772818)	110	\$1,171.50	\$3,279.75
10	2008 G70 58 KW Generator w/Trailer (s/n: 5794603)	111	\$1,171.50	\$3,279.75
11	2010 G50 38 KW Generator w/Trailer (s/n: 5914876)	112	\$855.00	\$2,430.75
12	40' Seacan #1 (s/n: 218760)	n/a	\$195.00	\$390.00
13	40' Seacan #2 (s/n: 248889)	n/a	\$195.00	\$390.00
14	40' Seacan #3 (s/n: DSZU4002078)	n/a	\$195.00	\$390.00
15	40' SeaCan #5 (s/n: DSZU4001024)	n/a	\$195.00	\$390.00
16	40' SeaCan #6 (s/n: SHCU4002758)	n/a	\$195.00	\$390.00
17	40' SeaCan #7 (s/n: SHCU4002679)	n/a	\$195.00	\$390.00
18	20' Seacan (s/n: CBHU0696014)	n/a	\$195.00	\$390.00
19	20' SeaCan #4 (s/n: 20N-00948)	n/a	\$195.00	\$390.00
20	20' Seacan (s/n: OOL1338833)	n/a	\$195.00	\$390.00
21	Small Tools - Sea Cans	n/a	\$562.50	\$2,250.00
22	9' SeaCan#8 (s/n: VSLU901494)	n/a	\$142.50	\$285.00
23	6 KW Magnum Light Tower (s/n: 0832183)	113	\$380.25	\$1,137.75
24	6 KW Magnum Light Tower (s/n: 0832186)	114	\$380.25	\$1,137.75
25	IR 185 CFM Diesel Compressor (s/n: 362787UJPB02)	115	\$393.75	\$1,140.75
26	60 lb Jack Hammer	n/a	\$98.25	\$290.25
27	17 lb Jack Hammer	n/a	\$87.00	\$213.75
28	SAKAI Smooth Drum Roller - 36"	116	\$845.25	\$2,486.25
29	Carelift Forklift 8040 Telehandler (s/n: B804023499C)	117	\$1,361.03	\$4,533.00
30	Forklift 9' Fork Extension	n/a	\$98.25	\$240.00
31	JCB Loadall Telehandler (s/n: SLP5AMKG6E.1186584)	118	\$1,876.50	\$5,521.50
32	Caterpillar Telehandler (s/n: TBM00304)	119	\$1,876.50	\$5,521.50
33	Forklift Cage - RMS Mfgr 2007	n/a	\$0.00	\$0.00
34	Forklift Cage - RMS Mfgr 2013	n/a	\$0.00	\$0.00
35	John Deere Excavator 330LC (s/n: FF0330X080654)	120	\$3,625.50	\$10,875.00

RMS Leasing Inc.



CCDC Schedule C - Equipment Rental List

RMS Owned Equipment Rental 2019		Unit #	RMS Rate (75% of Market Rate)	
Equipment	Week		Month	
36	John Deere Excavator Frost Tooth	n/a	\$0.00	\$0.00
37	John Deere Excavator Smooth Bucket	n/a	\$0.00	\$0.00
38	John Deere Excaator Tooth Bucket	n/a	\$0.00	\$0.00
39	Hitachi 270LC Excavator (s/n: FF00ASR820026)	121	\$3,250.50	\$9,750.00
40	Hitachi 270LC Excavator Smooth Bucket	n/a	\$0.00	\$0.00
41	Hitachi 270LC Excavator Tooth Bucket	n/a	\$0.00	\$0.00
42	Komatsu Front End Loader WA320 (s/n: A30327)	122	\$2,250.00	\$6,750.00
43	Komatsu Front End Loader Bucket	n/a	\$0.00	\$0.00
44	Komatsu Front End Loader Forks	n/a	\$0.00	\$0.00
45	Skidsteer Bobcat S770 (s/n: A3P413112)	123	\$1,118.25	\$3,150.75
46	Skidsteer Bobcat S770 Smoth Bucket	n/a	\$98.25	\$194.25
47	Skidsteer Bobcat S770 Tooth Bucket	n/a	\$98.25	\$194.25
48	Skidsteer Forks (Universal)	n/a	\$126.00	\$339.00
49	Skidsteer Snow Bucket	n/a	\$126.00	\$393.75
50	Skidsteer Bobcat 873 (s/n: 514150766)	124	\$1,117.50	\$3,150.75
51	Skidsteer Bobcat 873 Smooth Bucket	n/a	\$98.25	\$194.25
52	Skidsteer Bobcat 873 Tooth Bucket	n/a	\$98.25	\$194.25
53	Skidsteer Forks (Universal)	n/a	\$126.00	\$339.00
54	Skidsteer Case 435 Loader (s/n: N6M400610)	125	\$769.50	\$2,193.00
55	Skidsteer Case 435 Smooth Bucket	n/a	\$98.25	\$194.25
56	Skidsteer Case 435 Tooth Bucket	n/a	\$98.25	\$194.25
57	Skidsteer Forks (Universal)	n/a	\$126.00	\$339.00
58	Skidstter Auger (Universal)	n/a	\$269.25	\$697.50
59	Case Backhoe 580 SM (s/n: N5C384488)	126	\$1,625.25	\$4,875.00
60	Case Backhoe Excavation Bucket	n/a	\$0.00	\$0.00
61	Case Backhoe Clean Up Bucket - 30'	n/a	\$0.00	\$0.00
62	Padfoot Roller - IR 66" (s/n: 189996)	127	\$1,550.25	\$4,392.75
63	Jumping Jack Tamper	128	\$215.25	\$579.00
64	Plate Tamper	129	\$178.50	\$483.00
65	2005 Wacker G70 Generator w/ Trailer (s/n: 5581207)	130	\$1,171.50	\$3,279.75
66	2007 Wacker G70 Gen Set Skid (s/n: 5751759)	131	\$1,171.50	\$3,279.75
67	2005 Wacker G70 Gen Set Skid (s/n: 5624575)	132	\$1,171.50	\$3,279.75
68	2011 Multiquip 56 KW Gen Set w/ Trailer (s/n:8801762)	133	\$1,171.50	\$3,279.75
69	Jumping Jack Tamper - Bomag (s/n: 101541311948)	134	\$215.25	\$579.00
70	2013 Ford F350 Crew Cab White	135	\$600.00	\$1,200.00

RMS Leasing Inc.



CCDC Schedule C - Equipment Rental List

RMS Owned Equipment Rental 2019		Unit #	RMS Rate (75% of Market Rate)	
			Week	Month
71	2013 John Deere 326D Skid Steer s/n 1T0326DKHCG236785	136	\$1,118.25	\$3,150.75
72	John Deere universal Forks	n/a	\$0.00	\$0.00
73	John Deere Tooth Bucket	n/a	\$0.00	\$0.00
74	2008 Gehl Telehandler (s/n: DL1155LJZ0545504)	137	\$1,876.50	\$5,521.50
75	2008 Gehl Telehandler (s/n: DL1155LJZ0745547)	138	\$1,876.50	\$5,521.50
76	CAT Excavator 336EL (s/n: CAT0336ETYEQ00236)	139	\$4,920.00	\$14,775.00
77	CAT Tooth Bucket	n/a	\$0.00	\$0.00
78	CAT Clean-Up Bucket	n/a	\$0.00	\$0.00
79	IX 800 Sureflame Heater (s/n: 558)	140	\$630.00	\$2,100.00
80	25' Insulated Duct (20")	n/a	\$90.00	\$157.50
81	50' Insulated Duct (16")	n/a	\$234.00	\$390.00
82	125' Regular Duct (16")	n/a	\$360.00	\$600.00
83	175' Perforated Duct (16")	n/a	\$283.50	\$472.50
84	IX 800 Sureflame Heater (s/n: 556)	141	\$630.00	\$2,100.00
85	75' Gas Line	n/a	\$90.00	\$180.00
86	25' Insulated Duct (20")	n/a	\$90.00	\$157.50
87	50' Insulated Duct (16")	n/a	\$234.00	\$390.00
88	125' Regular Duct (16")	n/a	\$360.00	\$600.00
89	175' Perforated Duct (16")	n/a	\$283.50	\$472.50
90	STIHL Cut Quick (14")	142	\$90.00	\$210.00
91	Dunrite Concrete Vibrator (s/n AE4128675)	143	\$180.00	\$600.00
92	Dunrite Concrete Vibrator (s/n AF2135883)	143A	\$180.00	\$600.00
93	Sweepster Sweeper	144	\$600.00	\$1,575.00
94	STIHL Cut Quick (14")	145	\$146.25	\$315.00
95	Stihl Chop Saw (s/n: 177696849)	n/a	\$146.25	\$315.00
96	2010 Wacker Plate Compactor s/n2187363	146	\$607.50	\$1,822.50
97	2011 Magnum Light tower s/n 5AJLS1619BB015391	147	\$380.25	\$1,137.75
98	2011 Magnum Light Tower s/n 5AJLS1610BB015389	148	\$380.25	\$1,137.75
99	Magnum Light Tower s/n 5AJLS1616B007927	149	\$380.25	\$1,137.75
100	Magnum Light Tower s/n 5AJLS1610AB008120	150	\$380.25	\$1,137.75
101	Magnum Light Tower s/n 5AJLS1613AB008077	151	\$380.25	\$1,137.75
102	2011 Wacker HI750G 750000BTU Heater (s/n 20070128)	152	\$675.00	\$1,350.00
103	2012 Wacker HI750G 750000BTU Heater (s/n 20132734)	153	\$675.00	\$1,350.00

RMS Leasing Inc.



CCDC Schedule C - Equipment Rental List

RMS Owned Equipment Rental 2019		Unit #	RMS Rate (75% of Market Rate)	
Equipment	Week		Month	
104	2011 Wacker Roller 24"-33" Walk behind Pad	154	\$901.50	\$2,468.25
105	2010 Magnum Light Tower VIN: 5AJLS1618AB005837	155	\$380.25	\$1,137.75
106	2013 Magnum Light Tower	156	\$380.25	\$1,137.75
107	2012 Magnum Light Tower VIN: 5AJLS1419CB217202	157	\$380.25	\$1,137.75
108	G70 Wacker Generator s/n: 20179302	158	\$1,171.50	\$3,279.75
109	2006 Case 430 Skid Steer	159	\$769.50	\$2,193.00
110	Case Skid Steer Smooth Bucket	n/a	\$98.25	\$194.25
111	Case skid Steer Tooth Bucket	n/a	\$98.25	\$194.25
112	Universal Forks	n/a	\$126.00	\$339.00
113	2010 GMC 3500 DRW Diesel Flat Deck	161	\$600.00	\$1,200.00
114	2014 HK300 Ground thaw unit w/generator	162	\$2,662.50	\$9,187.50
115	STIHL Blower BR600 s/n 513205205	n/a	\$180.00	\$435.00
116	STHIL Blower BR600 s/n 513580591	n/a	\$180.00	\$435.00
117	STHIL Blower BR600 s/n 513580592	n/a	\$180.00	\$435.00
118	GENERAC Generator model: 0066750 / s/n: 92462334	n/a	\$181.50	\$580.50
119	STHIL Blower BR600 s/n 513580648	n/a	\$180.00	\$435.00
120	Tarp, Insulated 12' x 24' x 1/4"	n/a	\$24.00	\$49.50
121	BOSCH 1 7/8" Hammer Drill (s/n:706000012)	n/a	\$195.00	\$371.25
122	TMG 72" Skid SteerBroom (s/n30053)	163	\$600.00	\$1,575.00
123	Transcube w/pump 200L (s/n 50621/D-68028)	164	\$516.75	\$1,272.00
124	Bobcat Sweeper Pickup Broom (783732812)	165	\$600.00	\$1,575.00
125	2014 MultiQuip 56 KVA (9970135)	166	\$1,171.50	\$3,279.75
126	2014 MultiQuip 56 KVA (9970145)	167	\$1,171.50	\$3,279.75
127	2014 MultiQuip 36 KVA (9960026)	168	\$855.00	\$2,430.75
128	2012 MultiQuip 36 KVA (8202549)	169	\$855.00	\$2,430.75
129	1000l DBL wall fuel tank	n/a	\$238.50	\$636.00
130	2250L Fuel Cube	n/a	\$516.75	\$1,272.00
131	Fill Rite 20gpm Fuel Pump (s/n: cc-326678)	n/a	\$97.50	\$247.50
132	Westeel 500gal. Fuel Tank (s/n: 671400639)	n/a	\$450.00	\$1,350.00
133	Tidy T 500L c/w Electric Pump	n/a	\$89.25	\$213.75
134	Tidy T 500L c/w Hand Pump	n/a	\$89.25	\$213.75
135	Tidy T 500L c/w Electric Pump	n/a	\$89.25	\$213.75
136	Tidy T 800L c/w Electric Pump	n/a	\$89.25	\$213.75

CCDC Schedule C - Equipment Rental List

RMS Owned Equipment Rental 2019			RMS Rate (75% of Market Rate)	
	Equipment	Unit #	Week	Month
137	Trench Box 8' x 20' c/w Pin 5 & sling	n/a	\$220.50	\$2,486.25
138	Trench Box 4' x 20' c/w Pin 5 & Sling	n/a	\$537.00	\$1,404.00
139	Spreader Bar 8" x 3'	n/a	\$37.13	\$81.00
140	Spreader Bar 8' x 4'	n/a	\$37.13	\$81.00
141	Dehumidifier 2400 (s/n: 05993)	n/a	\$153.75	\$386.25
142	Dehumidifier 2400 (s/n: 05997)	n/a	\$153.75	\$386.25
143	Dehumidifier 2400 (s/n: 05811)	n/a	\$153.75	\$386.25
144	Dehumidifier 2800 (s/n: 12D60GB5)	n/a	\$153.75	\$386.25
145	Dehumidifier 2800 (s/n: 12061ZC2)	n/a	\$153.75	\$386.25
146	Sure Fire Fan	n/a	\$58.50	\$120.00
147	Bosch 1" Hammer Drill (s/n: 302000851) N/C	n/a	\$162.00	\$358.50
148	Bosch 1" Hammer Drill (s/n: 302000261) N/C	n/a	\$162.00	\$358.50
149	Bosch 1" Hammer Drill (s/n: 302000507) N/C	n/a	\$162.00	\$358.50
150	Bosch 1" Hammer Drill (s/n: 307000627) N/C	n/a	\$162.00	\$358.50
151	Bosch 1" Hammer Drill (s/n: 307000708) N/C	n/a	\$162.00	\$358.50
152	Bosch 1" Hammer Drill (s/n: 410222166) N/C	n/a	\$162.00	\$358.50
153	Bosch 1 7/8" Hammer Drill (s/n: 308000006) N/C	n/a	\$195.00	\$371.25
154	Bosch 1 7/8" Hammer Drill (s/n: 309000055) N/C	n/a	\$195.00	\$371.25
155	Bosch 1 3/4" Hammer Drill (s/n: 403000066) N/C	n/a	\$195.00	\$371.25
156	Bosch Laser Level (s/n: 210000019)	n/a	\$171.75	\$511.50
157	Bosch Laser Level (s/n: 308000006)	n/a	\$296.25	\$870.00
158	Bosch Laser Level w/Receiver (s/n: 504000181 / 503000332)	n/a	\$296.25	\$870.00
159	Bosch Laser Level w/receiver (s/n: 4100000747 / 410000100)	n/a	\$296.25	\$870.00
160	Transit Level (No.27531) Calibrated 4/17/2015	n/a	\$221.25	\$652.50
161	Trimble Laser Level UL633 (s/n: 12040232)	n/a	\$221.25	\$502.50
162	Champion Yellow Generator (s/n: 0712C1301305)	n/a	\$181.50	\$580.50
163	Champion Yellow Generator (s/n: 111C1503447)	n/a	\$181.50	\$580.50
164	Champion Yellow Generator (s/n: 70CT0805116)	n/a	\$181.50	\$580.50
165	Champion Yellow Generator (s/n: 68900383)	n/a	\$181.50	\$580.50
166	Red Powertech Generator (s/n: LT6500CL)	n/a	\$181.50	\$580.50
167	Main Power Panel	n/a	\$127.50	\$315.00
168	Electrical Sub Panel	n/a	\$69.00	\$161.25
169	Cab-tire Electrical Cable - 100ft	n/a	\$27.00	\$67.50
170	Cab-tire Electrical Cable - 50ft	n/a	\$19.50	\$48.75

CCDC Schedule C - Equipment Rental List

	RMS Owned Equipment Rental 2019	Unit #	RMS Rate (75% of Market Rate)	
			Week	Month
			Equipment	
171	Spider Boxes	n/a	\$69.00	\$159.00
172	Trash Pump (s/n: 070624424)	n/a	\$198.00	\$463.50
173	Trash Pump 3" (s/n: A1311007774)	n/a	\$198.00	\$463.50
174	Trash Pump 3" (s/n: A1311007872)	n/a	\$198.00	\$463.50
175	Propane Pig - 420lbs.	n/a	\$25.50	\$51.00
176	110 V 5200BTU Electric Heater	n/a	\$22.50	\$41.25
177	Drywall Panel Lift	n/a	\$144.00	\$384.00
178	LB White 80K BTU N/G Heater (AB142513)	n/a	\$99.75	\$207.00
179	LB White 80K BTU N/G Heater (AB142516)	n/a	\$99.75	\$207.00
180	LB White 80K BTU N/G Heater (Z120730)	n/a	\$99.75	\$207.00
181	LB White 80K BTU N/G Heater (AA114082)	n/a	\$99.75	\$207.00
182	LB White 80K BTU N/G Heater (AC143707)	n/a	\$99.75	\$207.00
183	LB White 80K BTU N/G Heater (AC143722)	n/a	\$99.75	\$207.00
184	LB White 80K BTU N/G Heater (AB142493)	n/a	\$99.75	\$207.00
185	LB White 80K BTU N/G Heater (Z120734)	n/a	\$99.75	\$207.00
186	LB White 80K BTU N/G Heater (AA114070)	n/a	\$99.75	\$207.00
187	LB White 80K BTU N/G Heater (AC143710)	n/a	\$99.75	\$207.00
188	LB White 1700K BTU N/G Heater (AA122666)	n/a	\$113.25	\$237.75
189	LB White 1700K BTU N/G Heater (AA122642)	n/a	\$113.25	\$237.75
190	LB White 1700K BTU N/G Heater (AA113749)	n/a	\$113.25	\$237.75
191	LB White 1700K BTU N/G Heater (AA113765)	n/a	\$113.25	\$237.75
192	LB White 1700K BTU N/G Heater (AA122662)	n/a	\$113.25	\$237.75
193	LB White 1700K BTU N/G Heater (AA122636)	n/a	\$113.25	\$237.75
194	Heater Hose 3/4" x 25'	n/a	\$17.55	\$70.20
195	Heater Hose 3/4" x 50'	n/a	\$35.10	\$140.40
196	LB White 1700K BTU N/G Heater (Z122009)	n/a	\$113.25	\$237.75
197	LB White 1700K BTU N/G Heater (Z133559)	n/a	\$113.25	\$237.75
198	LB White 1700K BTU N/G Heater (Z122007)	n/a	\$113.25	\$237.75
199	LB White 1700K BTU N/G Heater (Z133558)	n/a	\$113.25	\$237.75
200	LB White 1700K BTU N/G Heater (AA122664)	n/a	\$113.25	\$237.75
201	LB White 1700K BTU N/G Heater (AA122626)	n/a	\$113.25	\$237.75
202	LB White 1700K BTU N/G Heater (AA113767)	n/a	\$113.25	\$237.75
203	LB White 1700K BTU N/G Heater (AA122635)	n/a	\$113.25	\$237.75
204	LB White 80K BTU N/G Heater (AB142470)	n/a	99.75	207

CCDC Schedule C - Equipment Rental List

	RMS Owned Equipment Rental 2019	Unit #	RMS Rate (75% of Market Rate)	
			Week	Month
			Equipment	
205	LB White 80K BTU N/G Heater (AB142514)	n/a	\$99.75	\$207.00
206	LB White 80K BTU N/G Heater (AB142511)	n/a	\$99.75	\$207.00
207	LB White 80K BTU N/G Heater (AB142551)	n/a	\$99.75	\$207.00
208	LB White 80K BTU N/G Heater (AB142414)	n/a	\$99.75	\$207.00
209	LB White 80K BTU N/G Heater (AB142504)	n/a	\$99.75	\$207.00
210	LB White 80K BTU N/G Heater (AB142492)	n/a	\$99.75	\$207.00
211	LB White 80K BTU N/G Heater (AB142502)	n/a	\$99.75	\$207.00
212	LB White 80K BTU N/G Heater (AC143697)	n/a	\$99.75	\$207.00
213	LB White 80K BTU N/G Heater (AC143699)	n/a	\$99.75	\$207.00
214	LB White 80K BTU N/G Heater (AC143700)	n/a	\$99.75	\$207.00
215	LB White 80K BTU N/G Heater (AC143704)	n/a	\$99.75	\$207.00
216	Floor Air Fan and Blower (L1818617)	n/a	\$58.50	\$120.00
217	Floor Air Fan and Blower (D1820747)	n/a	\$58.50	\$120.00
218	Floor Air Fan and Blower (L1818507)	n/a	\$58.50	\$120.00
219	Floor Air Fan and Blower (L1818614)	n/a	\$58.50	\$120.00
220	Floor Air Fan and Blower (D1820740)	n/a	\$58.50	\$120.00
221	Floor Air Fan and Blower (M1831870)	n/a	\$58.50	\$120.00
222	Floor Air Fan and Blower (M1831872)	n/a	\$58.50	\$120.00
223	Floor Air Fan and Blower (air movers)	n/a	\$58.50	\$120.00
224	Floor Air Fan and Blower (air movers)	n/a	\$58.50	\$120.00
225	Floor Air Fan and Blower (air movers)	n/a	\$58.50	\$120.00
226	Floor Air Fan and Blower (air movers)	n/a	\$58.50	\$120.00
227	Floor Air Fan and Blower (air movers)	n/a	\$58.50	\$120.00
228	Axial Fan X-47ATR (s/n 1003049)	n/a	\$58.50	\$120.00
229	Axial Fan X-47ATR (s/n 1003018)	n/a	\$58.50	\$120.00
230	Axial Fan X-47ATR (s/n 1002217)	n/a	\$58.50	\$120.00
231	Axial Fan X-47ATR (s/n 1003252)	n/a	\$58.50	\$120.00
232	Axial Fan X-47ATR (s/n 1002288)	n/a	\$58.50	\$120.00
233	Axial Fan X-47ATR (s/n 1003294)	n/a	\$58.50	\$120.00
234	Axial Fan X-47ATR (s/n 1003255)	n/a	\$58.50	\$120.00
235	Axial Fan X-47ATR (s/n 1002280)	n/a	\$58.50	\$120.00
236	Axial Fan X-47ATR (s/n 1002995)	n/a	\$58.50	\$120.00
237	Axial Fan X-47ATR (s/n 1003043)	n/a	\$58.50	\$120.00
238	Axial Fan X-47ATR (s/n 1002064)	n/a	\$58.50	\$120.00

RMS Leasing Inc.

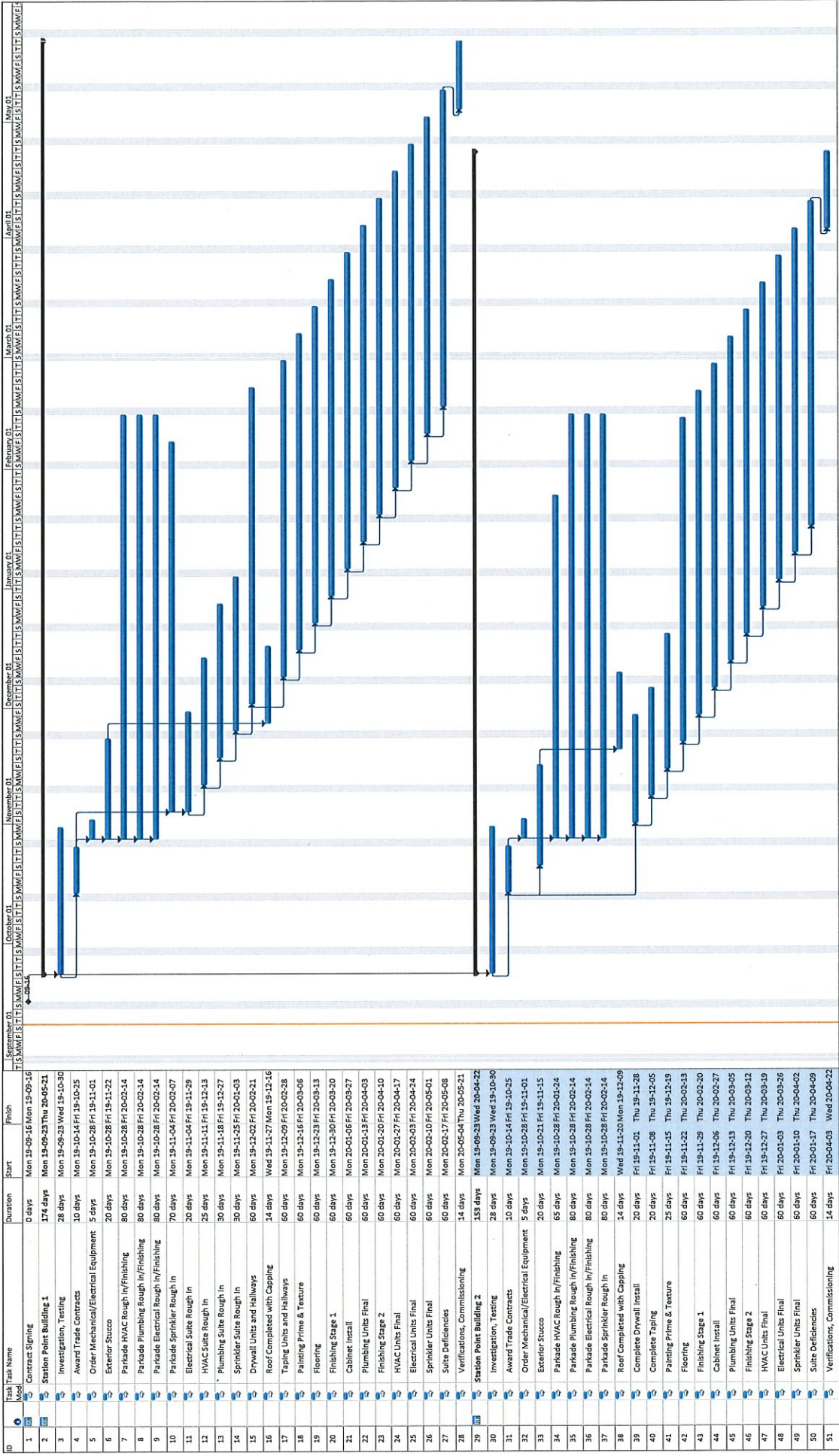


CCDC Schedule C - Equipment Rental List

RMS Owned Equipment Rental 2019		Unit #	RMS Rate (75% of Market Rate)	
Equipment			Week	Month
239	Axial Fan X-47ATR (s/n 1002139)	n/a	\$58.50	\$120.00
240	Axial Fan X-47ATR (s/n 1002277)	n/a	\$58.50	\$120.00
241	Axial Fan X-47ATR (s/n 1002137)	n/a	\$58.50	\$120.00
242	Axial Fan X-47ATR (s/n 100)2299	n/a	\$58.50	\$120.00

SCHEDULE D – WORK SCHEDULE

[See attached]



ID	Task Name	Start	Finish	Duration	Summary
1	Contract Signing	Mon 19-09-16	Mon 19-09-16	0 days	Summary
2	Station Point Building 1	Mon 19-09-23	Thu 20-05-21	174 days	Project Summary
3	Investigation, Testing	Mon 19-09-23	Wed 19-10-30	28 days	Manual Task
4	Award Trade Contracts	Mon 19-10-14	Fri 19-10-25	10 days	Manual Task
5	Order Mechanical/Electrical Equipment	Mon 19-10-28	Fri 19-11-01	5 days	Manual Task
6	Exterior Stucco	Mon 19-10-28	Fri 19-11-22	20 days	Manual Task
7	Parkade HVAC Rough In/Finishing	Mon 19-10-28	Fri 20-02-14	80 days	Manual Task
8	Parkade Plumbing Rough In/Finishing	Mon 19-10-28	Fri 20-02-14	80 days	Manual Task
9	Parkade Electrical Rough In/Finishing	Mon 19-11-04	Fri 20-02-07	70 days	Manual Task
10	Parkade Sprinkler Rough In	Mon 19-11-04	Fri 19-11-29	20 days	Manual Task
11	Electrical Suite Rough In	Mon 19-11-11	Fri 19-12-13	25 days	Manual Task
12	HVAC Suite Rough In	Mon 19-11-18	Fri 19-12-27	30 days	Manual Task
13	Plumbing Suite Rough In	Mon 19-11-25	Fri 20-01-03	30 days	Manual Task
14	Sprinkler Suite Rough In	Mon 19-12-02	Fri 20-02-21	60 days	Manual Task
15	Drywall Units and Hallways	Wed 19-11-27	Mon 19-12-16	14 days	Manual Task
16	Roof Completed with Capping	Mon 19-12-09	Fri 20-02-28	60 days	Manual Task
17	Taping Units and Hallways	Mon 19-12-23	Fri 20-03-06	60 days	Manual Task
18	Painting Prime & Texture	Mon 19-12-30	Fri 20-03-20	60 days	Manual Task
19	Flooring	Mon 20-01-06	Fri 20-03-27	60 days	Manual Task
20	Finishing Stage 1	Mon 20-01-13	Fri 20-04-03	60 days	Manual Task
21	Cabinet Install	Mon 20-01-20	Fri 20-04-10	60 days	Manual Task
22	Plumbing Units Final	Mon 20-01-27	Fri 20-04-17	60 days	Manual Task
23	Finishing Stage 2	Mon 20-02-03	Fri 20-04-24	60 days	Manual Task
24	Electrical Units Final	Mon 20-02-10	Fri 20-05-01	60 days	Manual Task
25	HVAC Units Final	Mon 20-02-17	Fri 20-05-08	60 days	Manual Task
26	Sprinkler Units Final	Mon 20-02-24	Fri 20-05-15	60 days	Manual Task
27	Suite Deficiencies	Mon 20-03-01	Fri 20-05-21	60 days	Manual Task
28	Verifications, Commissioning	Mon 20-03-08	Wed 20-05-21	14 days	Manual Task
29	Station Point Building 2	Mon 19-09-23	Wed 20-04-22	153 days	Summary
30	Investigation, Testing	Mon 19-09-23	Wed 19-10-30	28 days	Manual Task
31	Award Trade Contracts	Mon 19-10-14	Fri 19-10-25	10 days	Manual Task
32	Order Mechanical/Electrical Equipment	Mon 19-10-28	Fri 19-11-01	5 days	Manual Task
33	Exterior Stucco	Mon 19-10-28	Fri 19-11-15	20 days	Manual Task
34	Parkade HVAC Rough In/Finishing	Mon 19-10-28	Fri 20-01-24	65 days	Manual Task
35	Parkade Plumbing Rough In/Finishing	Mon 19-10-28	Fri 20-02-14	80 days	Manual Task
36	Parkade Electrical Rough In/Finishing	Mon 19-10-28	Fri 20-02-14	80 days	Manual Task
37	Parkade Sprinkler Rough In	Mon 19-11-04	Mon 19-11-29	20 days	Manual Task
38	Roof Completed with Capping	Wed 19-11-20	Mon 19-12-09	14 days	Manual Task
39	Complete Drywall Install	Fri 19-11-01	Thu 19-11-28	20 days	Manual Task
40	Complete Taping	Fri 19-11-08	Thu 19-12-05	20 days	Manual Task
41	Painting Prime & Texture	Fri 19-11-25	Thu 19-12-19	25 days	Manual Task
42	Flooring	Fri 19-11-22	Thu 20-02-13	60 days	Manual Task
43	Finishing Stage 1	Fri 19-11-29	Thu 20-02-20	60 days	Manual Task
44	Cabinet Install	Fri 19-12-06	Thu 20-02-27	60 days	Manual Task
45	Plumbing Units Final	Fri 19-12-13	Thu 20-03-05	60 days	Manual Task
46	Finishing Stage 2	Fri 19-12-20	Thu 20-03-12	60 days	Manual Task
47	HVAC Units Final	Fri 19-12-27	Thu 20-03-19	60 days	Manual Task
48	Electrical Units Final	Fri 20-01-03	Thu 20-03-26	60 days	Manual Task
49	Sprinkler Units Final	Fri 20-01-10	Thu 20-04-02	60 days	Manual Task
50	Suite Deficiencies	Fri 20-01-17	Thu 20-04-09	60 days	Manual Task
51	Verifications, Commissioning	Fri 20-04-03	Wed 20-04-22	14 days	Manual Task

SCHEDULE E – COST OF WORK ESTIMATE

[See attached]



RMS Building Inc.

#220, 9303 34 Ave, NW
 Edmonton, AB T6E 5W8
 Phone: 780-414-0330
 Fax: 780-462-0209
 E-mail: office@rmsbuilders.ca

**Station Point
 Edmonton, AB**

Construction Budget Summary

September 2, 2019

Div. 1 - General Requirements		Cost to Complete	Extraordinary Costs/Repairs	Footnote	Ref.
General Conditions					
	Superintendent, Truck, & Fuel	\$128,700.00			
	Blue Print, Courier/Delivery, Photos, Manuals, As-Builts	\$7,800.00			
	Zoom Boom, Bobcat, Rentals, C-Can, Crane & Tools	\$170,652.00			
	Mobilization / Demobilization, Construction Survey, Legal Survey	\$17,000.00			
	Temporary Power and Lighting	\$101,500.00			
	Temporary Heating & Hoarding	\$167,280.00			
	Site Office, Office Supply, Phone, Safety Consultant & Supplies, Fencing, Signage	\$42,496.00			
	Site Security	\$84,000.00			
	Garbage Bins, Cleaning, Sanitary Facilities, Snow Removal & Pumping	\$136,946.40			
	Insurance (COC & Wrap-Up Only)	\$47,500.00			
	Labour c/w Overtime (incl WCB, EI, etc.)	\$493,228.00	189,058		1
	Subtotal	1,397,102	189,058		
Div. 2 - Sitework					
	Backfill	40,000			
	Landscaping	60,000			
	Commercial Crossings (2 each)	60,000			
	Subtotal	160,000	0		
Div. 3 - Concrete					
	Rebar, Concrete Supply	225,000	75,000		2
Q	Gypcrete	46,578			
	Subtotal	271,578	75,000		
Div. 4 - Masonry					
Q	Brick Veneer	346,366			
	Subtotal	346,366	0		
Div. 5 - Metals					
Q	Steel and Aluminum Railings	132,865			
Q	Steel Framing, Deck, Patios	115,590	56,000		3,15
	Subtotal	248,455	56,000		
Div. 6 - Wood and Plastics					
	Rough Carpentry	22,400			
Q	Wood and Metal Doors, Hardware	228,000			
Q	Cabinetry and vanities	501,128			
	Subtotal	751,528	0		
Div. 7 - Thermal and Moisture Protection					
Q	Waterproof, Traffic Coat, Insulation	411,800	100,144		4
Q	Membrane Roofing	30,000			
Q	Patio Membrane	104,000	52,000		5
	Firestop, Fire Proofing, Caulking	50,400	25,200		6
	Soffits & Fascia	185,193			
Q	EIFS	150,977	79,660		7,15
	Subtotal	932,370	257,004		
Div. 8 - Doors and Windows					
	PVC Windows & Patio Doors	68,440	68,440		8,15
	Overhead Doors	20,000			
	Shower Doors	46,800			
	Aluminum Storefront	10,000	10,000		9
	Subtotal	145,240	78,440		
Div. 9 - Finishes					
Q	Drywall	1,196,000	169,775		10
Q	Painting	175,610	20,000		11
	Flooring	270,968			
	Subtotal	1,642,578	189,775		

Div. 10 - Specialities					
	Interior Signage		7,500		
	Mailboxes		10,000		
		Subtotal	17,500	0	
Div. 11 - Equipment					
Q	Appliances		397,040	44,800	12
		Subtotal	397,040	44,800	
Div. 12 - Furnishings					
	Blinds		30,800		
		Subtotal	30,800	0	
Div. 13 - Construction Specialities					
	Security Access and Surveillance		50,000		
		Subtotal	50,000	0	
Div. 14 - Conveying Systems					
Q	Elevators		132,000		
		Subtotal	132,000	0	
Div. 15 - Mechanical					
Q	Mechanical Including Coring & Sprinkler		1,881,250	96,250	13,16
		Subtotal	1,881,250	96,250	
Div. 16 - Electrical					
Q	Including Fire Alarm		780,000	85,000	14,16
		Subtotal	780,000	85,000	
Management Fee					
	Construction Management Fee		343,736		
		Subtotal	343,736	0	
Total - Construction			9,527,543	1,071,327	17

Footnotes

1	Exploratory/investigations & Repair labour = \$189,058 (Additional labour has been included in some subtrade categories)
2	Remove and replace parkade ramp slab = \$75,000
3	Structural Repairs = \$56,000
4	Second floor membrane replacement = \$50,000 Shotblast = \$12,350 Membrane inspection and minor replacement = \$2,500 Temporary membrane to parkade roof = \$19,694 Parapet wall membrane = \$15,600
5	Patio membrane replacement due to out of sequence install (Building 2) = \$52,000
6	Firestopping to suite bathroom ballon framing = \$25,200
7	Cut back stucco at patios to allow proper patio membrane install and re-install EIFS = \$46,860 No other EIFS repairs included
8	Remove film and clean PVC windows = \$23,440 Relocate patio door on South elevation Building 2 = \$45,000
9	Repair aluminum storefront windows and doors = \$10,000
10	Replace commercial exterior densglass - \$30,000 Remove and replace elevator shaft drywall - \$17,500 Firerating to Demising Walls - \$15,000 Remove, install V.B. and replace 5th floor ceilings including texture - \$51,275 Repair damages to interior finishes - \$56,000
11	Painting repairs at drywall patches = \$20,000
12	Change to ventless dryers (no dryer venting installed) = \$44,800
13	Exploratory, testing and investigation = \$25,000 Core and install missing drains in concrete decks = \$11,250 Ramp snow melt system = \$25,000 Replacing painted sprinkler heads = \$5,000 Mechanical Coring = \$30,000
14	Exploratory, testing and investigation = \$20,000 Locating buried electrical switches, lights, patch and repair = \$40,000 Security and Camera System Rough-ins = \$25,000
15	RMS does not guarantee/warranty the existing Fortis Building System, including structure, EIFS membrane, and building envelope
16	Mechanical and Electrical exploratory/testing only. No re-work or alteration of existing M&E work included
17	Extraordinary costs/repairs that are included in this budget are estimated costs and include only items that were visible to RMS and were carried out without destructive investigation
Q	One or more quotations received for this scope of work

DEFINITIONS

The following Definitions apply to this *Contract Documents*. References in the definition to the singular shall be considered to include the plural as the context requires.

Class A Construction Cost Estimate

The *Class A Construction Cost Estimate* is an estimate of the *Construction Cost* based on the completed *Contract Documents*. *Class A Construction Cost Estimate* is the final estimate before the bid or proposal call. *Class A Construction Cost Estimate* shall be presented in elemental format and include labour and material costs, allowance for all costs resulting from the *Project* schedule, all actual associated costs, including cash allowances, contingencies, allowances for design, escalation, market conditions and anticipated amendment amounts as applicable.

Class B Construction Cost Estimate

The *Class B Construction Cost Estimate* is an estimate of the *Construction Cost* with a level of precision that is based on the degree of completion of the *Contract Documents* at the time of preparation of the estimate. The *Class B Construction Cost Estimate* is typically prepared when all site or installation investigations are completed and the design of the major systems and sub-systems of the *Project* (including outline specifications and preliminary drawings and models) are well underway. *Class B Construction Cost Estimate* shall be presented in elemental format and include labour and material costs, allowance for all costs resulting from the *Project* schedule, all actual associated costs, including cash allowances, contingencies, allowances for design, escalation, market conditions and anticipated amendment amounts as applicable.

Class C Construction Cost Estimate

The *Class C Construction Cost Estimate* is an estimate of the *Construction Cost* based on updated *Owner* requirements, general description of the *Project*, preliminary site information and existing conditions, and takes into consideration market conditions as well as basic implementation logistics. *Class C Construction Cost Estimate* shall include labour and material costs and the *Owner's* construction contingencies and allowances.

Class D Construction Cost Estimate

The *Class D Construction Cost Estimate* is an estimate of the *Construction Cost* based on the *Owner's* functional requirements to the degree known at the time. The *Class D Construction Cost Estimate* shall as a minimum be based on historical cost data for similar projects, suitably adjusted for such factors as inflation, location, risk, quality, size, and time. All related factors affecting cost are considered to the extent possible. The *Class D Construction Cost Estimate* provides the *Owner* an indication of the order of magnitude of the *Construction Cost* for a project completed within the estimated completion date, and shall include labour and material costs and the *Owner's* construction contingencies and allowances.

Change Directive

A *Change Directive* is a written instruction prepared by the *Consultant* and signed by the *Owner* directing the *Construction Manager* to proceed with a change in the *Work* within the general scope of this *Contract* prior to the *Owner* and the *Construction Manager* agreeing upon an adjustment in any or all of the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and the *Contract Time*.

Change Order

A *Change Order* is a written amendment to this *Contract* prepared by the *Consultant* and signed by the *Owner* and the *Construction Manager* stating their agreement upon:

- a change in the *Services*;
- a change in the *Work*;
- the method of adjustment or the amount of the adjustment in the *Construction Manager's Fee*, if any;
- the method of adjustment or the amount of the adjustment in the *Guaranteed Maximum Price*, if any;
- the extent of the adjustment in the *Contract Time*, if any; and
- the options described in Article A-8 of the Agreement – OPTIONS.

Construction Cost

Construction Cost means the actual cost of all elements of the *Project* including all applicable taxes but excluding the applicable value added taxes, whether recoverable or not. *Construction Cost* does not include the *Construction Manager's Fee*, the reimbursable expenses for the *Services* as described in Article A-6 of the Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES and the compensation of the *Consultant*.

Construction Cost Estimate

Construction Cost Estimate is either a *Class A Construction Cost Estimate*, a *Class B Construction Cost Estimate*, a *Class C Construction Cost Estimate*, or a *Class D Construction Cost Estimate*, as the context shall require and is prepared with a level of precision commensurate with the level of detail of information available at the time.

Construction Documents

The *Construction Documents* consist of the *Specifications* and *Drawings* that are consistent with the *Contract Documents* and are prepared by the *Consultant* and accepted by the *Owner* after execution of the Agreement for the performance of the *Project*.

Construction Equipment

Construction Equipment means all machinery and equipment, either operated or not operated, that is required for preparing, fabricating, conveying, erecting, or otherwise performing the *Work* but is not incorporated into the *Work*.

Construction Manager

The *Construction Manager* is the person or entity identified as such in the Agreement.

Construction Manager's Fee

The *Construction Manager's Fee* is the *Construction Manager's* fee for performing the *Services* and the *Work* and the amount is as stipulated in Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE.

Consultant

The *Consultant* is the person or entity engaged by the *Owner* and identified as such in the Agreement. The *Consultant* is the Architect, the Engineer or entity licensed to practise in the province or territory of the *Place of the Work*.

Contract

The *Contract* is the undertaking by the parties to perform their respective duties, responsibilities and obligations as prescribed in the *Contract Documents* and represents the entire agreement between the parties.

Contract Documents

The *Contract Documents* consist of those documents listed in Article A-4 of the Agreement – CONTRACT DOCUMENTS and amendments agreed upon between the parties.

Contract Time

The *Contract Time* is the time stipulated in paragraph 1.3 of Article A-1 of the Agreement – THE SERVICES AND THE WORK.

Cost of the Work

The *Cost of the Work* is the amount stipulated in Article A-7 of the Agreement – COST OF THE WORK which excludes *Value Added Taxes*.

Drawings

The *Drawings* are the graphic and pictorial portions of the *Contract Documents*, wherever located and whenever issued, showing the design, location and dimensions of the *Work*, generally including plans, elevations, sections, details, and diagrams.

Guaranteed Maximum Price

The *Guaranteed Maximum Price* is the amount, if any, stipulated in paragraphs 8.2 or 8.3 of Article A-8 of the Agreement – OPTIONS which excludes *Value Added Taxes*. In the event that no amount is stipulated in paragraphs 8.2 or 8.3 of Article A-8 of the Agreement – OPTIONS, the provisions pertinent to the *Guaranteed Maximum Price*, wherever they appear in this *Contract*, shall be individually inoperative and considered as deleted from this agreement.

Notice in Writing

A *Notice in Writing*, where identified in this *Contract*, is a written communication between the parties or between them and the *Consultant* that is transmitted in accordance with the provisions of Article A-10 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

Owner

The *Owner* is the person or entity identified as such in the Agreement.

Place of the Work

The *Place of the Work* is the designated site or location of the *Work* identified in the Agreement.

Price of the Services

The *Price of the Services*, which excludes *Value Added Taxes*, is the sum of the *Construction Manager's Fee* for the *Services* as stipulated in paragraph 5.2 of Article A-5 – CONSTRUCTION MANAGER'S FEE and the reimbursable expenses for the *Services* as stipulated in paragraph 6.1 of Article A-6 of the Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES.

Price of the Work

The *Price of the Work*, which excludes *Value Added Taxes*, is the sum of the *Construction Manager's Fee* for the *Work* as stipulated in paragraph 5.3 of Article A-5 – CONSTRUCTION MANAGER'S FEE and the *Cost of the Work*.

Product

Product means material, machinery, equipment, and fixtures incorporated into the *Work*, but does not include *Construction Equipment*.

Project

The *Project* means the total construction as described in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT contemplated by the *Owner* of which the *Work* may be the whole or a part.

Services

The *Services* means all services described in Schedule A1 to the Agreement – SERVICES AND COMPENSATION to be performed by the *Construction Manager* under this *Contract*.

Shop Drawings

Shop Drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures, *Product* data, and other data which the *Construction Manager* provides to illustrate details of portions of the *Work*.

Specifications

The *Specifications* are that portion of the *Contract Documents*, wherever located and whenever issued, consisting of the written requirements and standards for *Products*, systems, workmanship, quality, and the services necessary for the performance of the *Work*.

Subcontractor

A *Subcontractor* is a person or entity having a direct contract with the *Construction Manager* to perform a part or parts of the *Work* at the *Place of the Work*.

Substantial Performance of the Work

Substantial Performance of the Work is as defined in the lien legislation applicable to the *Place of the Work*. If such legislation is not in force or does not contain such definition, or if the *Work* is governed by the Civil Code of Quebec, *Substantial Performance of the Work* shall have been reached when the *Work* is ready for use or is being used for the purpose intended and is so certified by the *Consultant*.

Supplemental Instruction

A *Supplemental Instruction* is an instruction, not involving adjustment in the *Price of the Work* or *Contract Time*, in the form of *Specifications*, *Drawings*, schedules, samples, models or written instructions, consistent with the intent of the *Contract Documents*. It is to be issued by the *Consultant* to supplement the *Contract Documents*, as required for the performance of the *Work*.

Supplier

A *Supplier* is a person or entity having a direct contract with the *Construction Manager* to supply *Products*.

Temporary Work

Temporary Work means temporary supports, structures, facilities, services, and other temporary items, excluding *Construction Equipment*, required for the execution of the *Work* but not incorporated into the *Work*.

Value Added Taxes

Value Added Taxes means such sums as shall be levied upon the *Owner's* payment to the *Construction Manager* by the Federal or any Provincial or Territorial government and is computed as a percentage of such payment and includes the Goods and Services Tax, the Quebec Sales Tax, the Harmonized Sales Tax, and any other similar tax, the collection and payment of which have been imposed on the *Construction Manager* by the tax legislation.

Work

The *Work* means the total construction and related services to be performed by the *Construction Manager* as required by the *Contract Documents* but does not include *Services*.

Working Day

Working Day means a day other than a Saturday, Sunday, statutory holiday or statutory vacation day that is observed by the construction industry in the area of the *Place of the Work*.

GENERAL CONDITIONS

PART 1 GENERAL PROVISIONS

GC 1.1 CONTRACT DOCUMENTS

- 1.1.1 The intent of the *Contract Documents* is to include the labour, *Products* and services necessary for the performance of the *Work* by the *Construction Manager* in accordance with these documents. It is not intended, however, that the *Construction Manager* shall supply products or perform services or work not consistent with, not covered by, or not properly inferable from the *Contract Documents*.
- 1.1.2 Nothing contained in the *Contract Documents* shall create any contractual relationship between:
- .1 the *Owner* and a *Subcontractor*, a *Supplier*, or their agent, employee, or other person performing any of the *Work*.
 - .2 the *Consultant* and the *Construction Manager*, a *Subcontractor*, a *Supplier*, or their agent, employee or other person performing any of the *Work*.
- 1.1.3 The components of the *Contract Documents* are complementary, and what is required by any one shall be as binding as if required by all.
- 1.1.4 Words and abbreviations which have well known technical or trade meanings are used in the *Contract Documents* in accordance with such recognized meanings.
- 1.1.5 Neither the organization of the *Specifications* nor the arrangement of *Drawings* shall control the *Construction Manager* in dividing the work among *Subcontractors* and *Suppliers*.
- 1.1.6 If there is a conflict within the *Contract Documents*:
- .1 the order of priority of documents, from highest to lowest, shall be:
 - the Agreement between the *Owner* and the *Construction Manager* (including the Schedules to the Agreement),
 - the Definitions,
 - Supplementary Conditions, if any
 - the General Conditions,
 - the *Construction Documents*
 - Division 1 of the *Specifications*,
 - technical *Specifications*,
 - material and finishing schedules,
 - the *Drawings*.
 - .2 *Drawings* of larger scale shall govern over those of smaller scale of the same date.
 - .3 dimensions shown on *Drawings* shall govern over dimensions scaled from *Drawings*.
 - .4 later dated documents shall govern over earlier documents of the same type.
 - .5 noted materials and annotations shall govern over graphic indications.
- 1.1.7 The *Owner* shall provide the *Construction Manager*, without charge, sufficient copies of the *Construction Documents* to perform the *Work*.
- 1.1.8 *Specifications*, *Drawings*, models, and copies thereof furnished by the *Consultant* are and shall remain the *Consultant's* property, with the exception of the signed *Contract* sets, which shall belong to each party to this *Contract*. All *Specifications*, *Drawings*, and models furnished by the *Consultant* are to be used only with respect to the *Work* and are not to be used on other work. These *Specifications*, *Drawings* and models are not to be copied or altered in any manner without the written authorization of the *Consultant*.
- 1.1.9 Models furnished by the *Construction Manager* at the *Owner's* expense are the property of the *Owner*.

GC 1.2 LAW OF THE CONTRACT

- 1.2.1 The law of the *Place of the Work* shall govern the interpretation of the *Contract*.

GC 1.3 RIGHTS AND REMEDIES

- 1.3.1 Except as expressly provided in the *Contract Documents*, the duties and obligations imposed by the *Contract Documents* and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

- 1.3.2 No action or failure to act by the *Owner*, *Consultant* or *Construction Manager* shall constitute a waiver of any right or duty afforded either of the parties to this *Contract*, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

GC 1.4 ASSIGNMENT

- 1.4.1 Neither party to the *Contract* shall assign the *Contract* or a portion thereof without the prior written consent of the other, which consent shall not be unreasonably withheld.

GC 1.5 PERFORMANCE OF THE SERVICES

- 1.5.1 Architectural or engineering aspects of the *Project* shall not be the responsibility of the *Construction Manager*. In providing *Services*, the *Construction Manager* assumes no responsibility for the performance of the *Consultant* nor offers any professional design advice.
- 1.5.2 Notwithstanding any other provisions of this *Contract*, the *Construction Manager* shall be deemed not to assume any duties nor responsibilities as agent of the *Owner*.

GC 1.6 PROJECT REPRESENTATIVES

- 1.6.1 The *Owner*, *Construction Manager* and *Consultant* may appoint one or more project representatives to assist in carrying out their responsibilities under this *Contract*. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in writing.

PART 2 ADMINISTRATION OF THE CONTRACT

GC 2.1 OWNER'S RESPONSIBILITIES

2.1.1 The *Owner* shall:

- .1 provide full and timely information and approvals regarding the requirements of the *Project* for the orderly progress of the *Services* and the *Work*;
- .2 review documents submitted by the *Construction Manager* and give the *Construction Manager* timely decisions for the orderly progress of the *Services* and the *Work*;
- .3 furnish promptly to the *Construction Manager* all information that is available or requested by the *Construction Manager* regarding the *Place of the Work* including surveys as to the physical characteristics of the site, soils reports, subsurface investigations, legal limitations, utility locations, and legal description. Subject to paragraph 9.1.2 of GC 9.1 – PROTECTION OF WORK AND PROPERTY, the *Construction Manager* shall be entitled to rely on such information;
- .4 designate in writing a representative who shall be fully acquainted with the *Work*; and shall have the authority to act on the *Owner's* behalf in relation to all duties and responsibilities of the *Owner* under this *Contract*;
- .5 retain the *Consultant* who shall be responsible for the design and design related services required for the *Work*;
- .6 inform the *Construction Manager* of the scope and terms of the *Consultant's* services;
- .7 inform the *Consultant* of the scope and terms of the *Services* and the *Work*;
- .8 immediately notify the *Construction Manager* if the *Owner* observes or otherwise becomes aware of any fault or defect in the *Project* or any non-conformity with the requirements of the *Contract*; and
- .9 coordinate and facilitate the *Services* of the *Construction Manager* and the *Consultant's* services.

GC 2.2 AUTHORITY OF THE CONSULTANT

- 2.2.1 The *Consultant* will have authority to act on behalf of the *Owner* only to the extent provided in the *Contract Documents*, unless otherwise modified by written agreement as provided in paragraph 2.2.2.
- 2.2.2 The duties, responsibilities and limitations of authority of the *Consultant* as set forth in the *Contract Documents* may be modified or extended only with the written consent of the *Construction Manager* following consultation with the *Consultant*.
- 2.2.3 If the *Consultant's* employment is terminated, the *Owner* shall immediately appoint or reappoint a *Consultant* against whom the *Construction Manager* makes no reasonable objection and whose duties, responsibilities and limitations of authority under the *Contract Documents* will be that of the former *Consultant*.

GC 2.3 CONSULTANT'S RESPONSIBILITIES

- 2.3.1 The *Consultant* will provide administration of the *Work* as described in the *Contract Documents*.
- 2.3.2 The *Consultant* will visit the *Place of the Work* at intervals appropriate to the progress of construction to become familiar with the progress and quality of the *Work* and to determine if the *Work* is proceeding in general conformity with the *Contract Documents*.
- 2.3.3 If the *Owner* and the *Consultant* agree, the *Consultant* will provide at the *Place of the Work*, one or more project representatives to assist in carrying out the *Consultant's* responsibilities. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in writing to the *Construction Manager*.
- 2.3.4 The *Consultant* will promptly inform the *Owner* of the date of receipt of the *Construction Manager's* applications for payment for the *Work* performed as provided in paragraph 5.4.7.1 of GC 5.4 – PROGRESS PAYMENT FOR THE WORK.
- 2.3.5 Based on the *Consultant's* observations and evaluation of the *Construction Manager's* applications for payment for the *Work* performed, the *Consultant* will determine the amounts owing to the *Construction Manager* for the *Price of the Work* and will issue certificates for payment as provided in Article A-9 of the Agreement – PAYMENT, GC 5.4 – PROGRESS PAYMENT FOR THE WORK and GC 5.8 – FINAL PAYMENT FOR THE WORK.
- 2.3.6 The *Consultant* will not be responsible for and will not have control, charge or supervision of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs required in connection with the *Work* in accordance with the applicable construction safety legislation, other regulations or general construction practice. The *Consultant* will not be responsible for the *Construction Manager's* failure to carry out the *Work* in accordance with the *Contract Documents*. The *Consultant* will not have control over, charge of or be responsible for the acts or omissions of the *Construction Manager, Subcontractors, Suppliers*, or their agents, employees, or any other persons performing portions of the *Work*.
- 2.3.7 Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, the *Consultant* will be, in the first instance, the interpreter of the requirements of the *Work*.
- 2.3.8 Matters in question relating to the performance of the *Work* or the interpretation of the *Contract Documents*, except with respect to the scope, fee and reimbursable expenses of the *Services*, shall be initially referred in writing to the *Consultant* by the party raising the question for interpretations and findings and copied to the other party.
- 2.3.9 Interpretations and findings of the *Consultant* shall be consistent with the intent of the *Contract Documents* as they relate to the *Work*. In making such interpretations and findings the *Consultant* will not show partiality to either the *Owner* or the *Construction Manager*.
- 2.3.10 The *Consultant's* interpretations and findings will be given in writing to the parties within a reasonable time.
- 2.3.11 With respect to claims for a change in *Price of the Work*, the *Consultant* will make findings as set out in GC 6.6 – CLAIMS FOR A CHANGE IN CONSTRUCTION MANAGER'S FEE FOR THE SERVICES, THE PRICE OF THE WORK OR THE GUARANTEED MAXIMUM PRICE.
- 2.3.12 The *Consultant* will have authority to reject work which in the *Consultant's* opinion does not conform to the requirements of the *Contract Documents*. Whenever the *Consultant* considers it necessary or advisable, the *Consultant* will have authority to require inspection or testing of work, whether or not such work is fabricated, installed or completed. However, neither the authority of the *Consultant* to act nor any decision either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the *Consultant* to the *Construction Manager, Subcontractor, Suppliers*, or their agents, employees, or other persons performing any of the *Work*.
- 2.3.13 During the progress of the *Work* the *Consultant* will furnish *Supplemental Instructions* to the *Construction Manager* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Consultant* and the *Construction Manager*.
- 2.3.14 The *Consultant* will review and take appropriate action upon *Shop Drawings*, samples and other *Construction Manager's* submittals which are provided in accordance with the *Construction Documents*.
- 2.3.15 The *Consultant* will prepare *Change Orders* and *Change Directives* as provided in GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 2.3.16 The *Consultant* will conduct reviews of the *Work* to determine the date of *Substantial Performance of the Work* as provided in GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK.

- 2.3.17 All certificates issued by the *Consultant* will be to the best of the *Consultant's* knowledge, information and belief. By issuing any certificate, the *Consultant* does not guarantee the *Work* is correct or complete.
- 2.3.18 The *Consultant* will receive and review written warranties and related documents required by the *Contract* and provided by the *Construction Manager* and will forward such warranties and documents to the *Owner* for the *Owner's* acceptance.

GC 2.4 REVIEW AND INSPECTION OF THE WORK

- 2.4.1 The *Construction Manager* shall provide the *Owner* and the *Consultant* access to the *Work* at all times. The *Construction Manager* shall provide sufficient, safe and proper facilities at all times for the review of the *Work* by the *Consultant* and the inspection of the *Work* by authorized agencies. If parts of the *Work* are in preparation at locations other than the *Place of the Work*, the *Owner* and the *Consultant* shall be given access to such work whenever it is in progress.
- 2.4.2 If work is designated for tests, inspections or approvals in the *Contract Documents*, or by the *Consultant's* instructions, or by the laws or ordinances of the *Place of the Work*, the *Construction Manager* shall give the *Consultant* reasonable notification of when the work will be ready for review and inspection. The *Construction Manager* shall arrange for and shall give the *Consultant* reasonable notification of the date and time of inspections by other authorities.
- 2.4.3 The *Construction Manager* shall furnish promptly to the *Consultant* two copies of certificates and inspection reports relating to the *Work*.
- 2.4.4 If the *Construction Manager* covers, or permits to be covered, work that has been designated for special tests, inspections or approvals before such special tests, inspections or approvals are made, given or completed, the *Construction Manager* shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good covering work at the *Construction Manager's* expense.
- 2.4.5 The *Consultant* may order any portion or portions of the *Work* to be examined to confirm that such work is in accordance with the requirements of the *Contract Documents*. If the work is not in accordance with the requirements of the *Contract Documents*, the *Construction Manager* shall correct the work and pay the cost of examination and correction at the *Construction Manager's* expense. If the work is in accordance with the requirements of the *Contract Documents*, the *Owner* shall pay the cost of examination and restoration.

GC 2.5 DEFECTIVE WORK

- 2.5.1 The *Construction Manager* shall promptly correct defective work that has been rejected by the *Consultant* as failing to conform to the *Contract Documents* whether or not the defective work has been incorporated in the *Work* and whether or not the defect is the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the *Construction Manager*. Subject to paragraph 7.1.9 of Article A-7 of the Agreement – COST OF THE WORK, the correction of defective work shall be at the *Construction Manager's* expense.
- 2.5.2 The *Construction Manager* shall promptly make good other contractors' work destroyed or damaged by such removals or replacements. Subject to paragraph 7.1.9 of Article A-7 of the Agreement – COST OF THE WORK, the correction of destroyed or damaged work shall be at the *Construction Manager's* expense.
- 2.5.3 If in the opinion of the *Consultant* it is not expedient to correct defective work or work not performed as provided in the *Contract Documents*, the *Owner* may deduct from the amount otherwise due to the *Construction Manager* the difference in value between the work as performed and that called for by the *Contract Documents*. If the *Owner* and the *Construction Manager* do not agree on the difference in value, they shall refer the matter to the *Consultant* for a finding.

PART 3 PERFORMANCE OF THE SERVICES AND EXECUTION OF THE WORK

GC 3.1 CONTROL OF THE WORK

- 3.1.1 The *Construction Manager* shall have total control of the *Work* and shall effectively direct and supervise the *Work* so as to ensure conformity with the *Contract Documents*.
- 3.1.2 The *Construction Manager* shall be solely responsible for construction means, methods, techniques, sequences, and procedures and for co-ordinating the various parts of the *Work* under the *Contract*.

GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

- 3.2.1 The *Owner* reserves the right to award separate contracts in connection with other parts of the *Project* to other contractors and to perform work with own forces.
- 3.2.2 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Owner* shall:
- .1 provide for the co-ordination of the activities and work of other contractors and *Owner's* own forces with the *Work*;
 - .2 assume overall responsibility for compliance with the applicable health and construction safety legislation at the *Place of the Work*;
 - .3 enter into separate contracts with other contractors under conditions of contract which are compatible with the conditions of the *Contract*;
 - .4 ensure that insurance coverage is provided to the same requirements as are called for in GC 11.1 – INSURANCE and co-ordinate such insurance with the insurance coverage of the *Construction Manager* as it affects the *Work*; and
 - .5 take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors or the *Owner's* own forces.
- 3.2.3 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Construction Manager* shall:
- .1 afford the *Owner* and other contractors reasonable opportunity to store their products and execute their work;
 - .2 cooperate with other contractors and the *Owner* in reviewing their construction schedules; and
 - .3 promptly report to the *Consultant* in writing any apparent deficiencies in the work of other contractors or of the *Owner's* own forces, where such work affects the proper execution of any portion of the *Work*, prior to proceeding with that portion of the *Work*.
- 3.2.4 Where the *Contract Documents* identify work to be performed by other contractors or the *Owner's* own forces, the *Construction Manager* shall co-ordinate and schedule the *Work* with the work of other contractors and the *Owner's* own forces as specified in the *Contract Documents*.
- 3.2.5 Where a change in the *Work* is required as a result of the co-ordination and integration of the work of other contractors or *Owner's* own forces with the *Work*, the changes shall be authorized and valued as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 3.2.6 Disputes and other matters in question between the *Construction Manager* and other contractors shall be dealt with as provided in Part 8 of the General Conditions – DISPUTE RESOLUTION provided the other contractors have reciprocal obligations. The *Construction Manager* shall be deemed to have consented to arbitration of any dispute with any contractor whose contract with the *Owner* contains a similar agreement to arbitrate.

GC 3.3 TEMPORARY WORK

- 3.3.1 The *Construction Manager* shall have the sole responsibility for the design, erection, operation, maintenance, and removal of *Temporary Work*.
- 3.3.2 The *Construction Manager* shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform those functions referred to in paragraph 3.3.1 where required by law or by the *Contract Documents* and in all cases where such *Temporary Work* is of such a nature that professional engineering skill is required to produce safe and satisfactory results.
- 3.3.3 Notwithstanding the provisions of GC 3.1 – CONTROL OF THE WORK, paragraph 3.3.1 and paragraph 3.3.2 or provisions to the contrary elsewhere in the *Contract Documents* where such *Contract Documents* include designs for *Temporary Work* or specify a method of construction in whole or in part, such designs or methods of construction shall be considered to be part of the design of the *Work* and the *Construction Manager* shall not be held responsible for that part of the design or the specified method of construction. The *Construction Manager* shall, however, be responsible for the execution of such design or specified method of construction in the same manner as for the execution of the *Work*.

GC 3.4 REVIEW OF DRAWINGS, SPECIFICATIONS AND MATERIAL AND FINISH SCHEDULES

- 3.4.1 The *Construction Manager* shall review the *Drawings, Specifications* and material and finish schedules and shall report promptly to the *Consultant* any error, inconsistency or omission the *Construction Manager* may discover. If the *Construction Manager* does discover any error, inconsistency or omission in the *Drawings, Specifications* and material and finish schedules, the *Construction Manager* shall not proceed with the work affected until the *Construction Manager* has received corrected or missing information from the *Consultant*.
- 3.4.2 The review of *Drawings, Specifications* and material and finish schedules under paragraph 3.4.1 shall be to the best of the *Construction Manager's* knowledge, information and belief. In making such review the *Construction Manager* assumes no responsibility for the accuracy of the review. The *Construction Manager* shall not be liable for any damage or costs resulting from errors, inconsistencies or omissions, which the *Construction Manager* did not discover.

GC 3.5 CONSTRUCTION SCHEDULE

- 3.5.1 The *Construction Manager* shall:
- .1 prepare and submit to the *Owner* and the *Consultant* prior to the first application for payment, a construction schedule that indicates the timing of the major activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate that the *Work* will be performed in conformity with the *Contract Time*;
 - .2 monitor the progress of the *Work* relative to the construction schedule and update the construction schedule on a monthly basis or as stipulated by the *Contract Documents*; and
 - .3 advise the *Consultant* of any revisions required to the construction schedule as the result of extensions of the *Contract Time* as provided in Part 6 of the General Conditions – CHANGES.

GC 3.6 SUPERVISION

- 3.6.1 The *Construction Manager* shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the *Place of the Work* while work is being performed. The *Construction Manager* may appoint a new representative for a valid reason and to whom the *Owner* makes no reasonable objection.
- 3.6.2 The appointed representative shall represent the *Construction Manager* at the *Place of the Work*. Information and instructions provided by the *Consultant* to the *Construction Manager's* appointed representative shall be deemed to have been received by the *Construction Manager*, except with respect to Article A-10 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

GC 3.7 SUBCONTRACTORS AND SUPPLIERS

- 3.7.1 The *Construction Manager* shall preserve and protect the rights of the parties under the *Contract* with respect to work to be performed under subcontract, and shall:
- .1 enter into contracts or written agreements with *Subcontractors* and *Suppliers* to require them to perform their work as provided in the *Contract Documents*;
 - .2 incorporate the terms and conditions of the *Contract Documents* into all contracts or written agreements with *Subcontractors* and *Suppliers*; and
 - .3 subject to paragraph 7.1.9 of Article A-7 of the Agreement – COST OF THE WORK, be as fully responsible to the *Owner* for acts and omissions of *Subcontractors, Suppliers* and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Construction Manager*.
- 3.7.2 The *Construction Manager* shall, before entering into contracts or written agreements with *Subcontractors* and *Suppliers*, submit to the *Owner* all bids received for the various parts of the *Work* to be subcontracted and obtain the *Owner's* acceptance of the *Subcontractors* and *Suppliers* selected.
- 3.7.3 The *Construction Manager* shall cause to be obtained contract security from *Subcontractors* to the extent and for the amounts approved by the *Owner*.
- 3.7.4 The *Construction Manager* shall not be required to employ as a *Subcontractor* or *Supplier*, a person or firm to which the *Construction Manager* may reasonably object.
- 3.7.5 The *Owner*, through the *Consultant*, may provide to a *Subcontractor* or *Supplier* information as to the percentage of the *Subcontractor's* or *Supplier's* work which has been certified for payment.

GC 3.8 LABOUR AND PRODUCTS

- 3.8.1 The *Construction Manager* shall maintain good order and discipline among the *Construction Manager's* employees engaged on the *Work* and shall not employ on the *Work* anyone not skilled in the tasks assigned.
- 3.8.2 Unless otherwise specified in the *Contract Documents*, *Products* provided shall be new. *Products* which are not specified shall be of a quality consistent with those specified and their use acceptable to the *Consultant*.

GC 3.9 DOCUMENTS AT THE SITE

- 3.9.1 The *Construction Manager* shall keep one copy of current *Construction Documents*, submittals, reports, and records of meetings at the *Place of the Work*, in good order and available to the *Owner* and the *Consultant*.

GC 3.10 SHOP DRAWINGS

- 3.10.1 The *Construction Manager* shall provide *Shop Drawings* as required in the *Construction Documents*.
- 3.10.2 The *Construction Manager* shall provide *Shop Drawings* to the *Consultant* to review in orderly sequence and sufficiently in advance so as to cause no delay in the *Work* or in the work of other contractors.
- 3.10.3 Upon request of the *Construction Manager* or the *Consultant*, they shall jointly prepare a schedule of the dates for provision, review and return of *Shop Drawings*.
- 3.10.4 The *Construction Manager* shall provide *Shop Drawings* in the form specified, or if not specified, as directed by the *Consultant*.
- 3.10.5 *Shop Drawings* provided by the *Construction Manager* to the *Consultant* shall indicate by stamp, date and signature of the person responsible for the review that the *Construction Manager* has reviewed each one of them.
- 3.10.6 The *Consultant's* review is for conformity to the design concept and for general arrangement only.
- 3.10.7 *Shop Drawings* which require approval of any legally constituted authority having jurisdiction shall be provided to such authority by the *Construction Manager* for approval.
- 3.10.8 The *Construction Manager* shall review all *Shop Drawings* before providing them to the *Consultant*. The *Construction Manager* represents by this review that:
- .1 the *Construction Manager* has determined and verified all applicable field measurements, field construction conditions, *Product* requirements, catalogue numbers and similar data, or will do so, and
 - .2 the *Construction Manager* has checked and co-ordinated each *Shop Drawing* with the requirements of the *Work* and of the *Construction Documents*.
- 3.10.9 At the time of providing *Shop Drawings*, the *Construction Manager* shall expressly advise the *Consultant* in writing of any deviations in a *Shop Drawing* from the requirements of the *Construction Documents*. The *Consultant* shall indicate the acceptance or rejection of such deviation expressly in writing.
- 3.10.10 The *Consultant's* review shall not relieve the *Construction Manager* of responsibility for errors or omissions in the *Shop Drawings* or for meeting all requirements of the *Construction Documents*.
- 3.10.11 The *Construction Manager* shall provide revised *Shop Drawings* to correct those which the *Consultant* rejects as inconsistent with the *Construction Documents*, unless otherwise directed by the *Consultant*. The *Construction Manager* shall notify the *Consultant* in writing of any revisions to the *Shop Drawings* other than those requested by the *Consultant*.
- 3.10.12 The *Consultant* will review and return *Shop Drawings* in accordance with the schedule agreed upon, or, in the absence of such schedule, with reasonable promptness so as to cause no delay in the performance of the *Work*.

GC 3.11 USE OF THE WORK

- 3.11.1 The *Construction Manager* shall confine *Construction Equipment*, *Temporary Work*, storage of *Products*, waste products and debris, and operations of employees and *Subcontractors* to limits indicated by laws, ordinances, permits, or the *Contract Documents* and shall not unreasonably encumber the *Place of the Work*.
- 3.11.2 The *Construction Manager* shall not load or permit to be loaded any part of the *Work* with a weight or force that will endanger the safety of the *Work*.

GC 3.12 CUTTING AND REMEDIAL WORK

- 3.12.1 The *Construction Manager* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly.
- 3.12.2 The *Construction Manager* shall co-ordinate the *Work* to ensure that the cutting and remedial work is kept to a minimum.
- 3.12.3 Should the *Owner*, the *Consultant*, other contractors or anyone employed by them be responsible for poorly timed work necessitating cutting or remedial work to be performed, the cost of such cutting or remedial work shall be valued as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 3.12.4 Cutting and remedial work shall be performed by specialists familiar with the *Products* affected and shall be performed in a manner to neither damage nor endanger the *Work*.

GC 3.13 CLEANUP

- 3.13.1 The *Construction Manager* shall maintain the *Work* in a safe and tidy condition and free from the accumulation of waste products and debris, other than that caused by the *Owner*, other contractors or their employees.
- 3.13.2 Before applying for *Substantial Performance of the Work* as provided in GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK, the *Construction Manager* shall remove waste products and debris, other than that resulting from the work of the *Owner*, other contractors or their employees, and shall leave the *Place of the Work* clean and suitable for use or occupancy by the *Owner*. The *Construction Manager* shall remove products, tools, *Construction Equipment*, and *Temporary Work* not required for the performance of the remaining work.
- 3.13.3 Prior to application for the final payment, the *Construction Manager* shall remove any remaining products, tools, *Construction Equipment*, and *Temporary Work*, and waste products and debris, other than that resulting from the work of the *Owner*, other contractors or their employees.

PART 4 ALLOWANCE

GC 4.1 CASH ALLOWANCES

- 4.1.1 Cash allowances may be stated in this *Contract* if the *Guaranteed Maximum Price* is stipulated in paragraphs 8.2 or 8.3 of Article A-8 of the Agreement – OPTIONS.
- 4.1.2 The *Price of the Work* includes the cash allowances, if any, stated in this *Contract*. The scope of work or costs included in such cash allowances shall be as described in this *Contract*.
- 4.1.3 Expenditures under cash allowances shall be authorized by the *Owner* through the *Consultant*.
- 4.1.4 Where costs under any cash allowance exceed the amount of the allowance specified in this *Contract*, the *Construction Manager’s Fee* for the *Work* and the *Guaranteed Maximum Price* shall be adjusted by *Change Order* to compensate the *Construction Manager* for any excess incurred and substantiated. Where costs under any cash allowance are less than the amount of the allowance, the *Owner* shall be credited for the unexpended portion of the cash allowance, but not for the *Construction Manager’s* overhead and profit on such amount. Multiple cash allowances shall not be combined for the purpose of calculating the foregoing.
- 4.1.5 The *Construction Manager’s* overhead and profit in connection with such cash allowances is eligible to be included in progress payments on account of the *Construction Manager’s Fee* for the *Work*.
- 4.1.6 The value of the *Work* performed under a cash allowance is eligible to be included in progress payments on account of the *Cost of the Work*.
- 4.1.7 The *Construction Manager* and the *Consultant* shall jointly prepare a schedule that shows when the *Consultant* and the *Owner* must authorize ordering of items called for under cash allowances to avoid delaying the progress of the *Work*.

PART 5 PAYMENT

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

- 5.1.1 The *Owner* shall, at the request of the *Construction Manager*, before signing the *Contract*, and promptly from time to time thereafter, furnish to the *Construction Manager* reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*.
- 5.1.2 The *Owner* shall give the *Construction Manager Notice in Writing* of any material change in the *Owner's* financial arrangements to fulfill the *Owner's* obligations under the *Contract* during the performance of the *Contract*.

GC 5.2 ACCOUNTING AND AUDIT

- 5.2.1 The *Construction Manager* shall keep full and detailed accounts and records necessary for the documentation of the *Cost of the Work*.
- 5.2.2 For 60 calendar days after the application for final payment or for such other period specified in the *Contract*, the *Owner* shall be afforded reasonable access to all of the *Construction Manager's* books, records, correspondence, instructions, drawings, receipt vouchers, *Subcontractor* and *Supplier* invoices, and memoranda relating to the *Cost of the Work*, and for this purpose the *Construction Manager* shall preserve all such records.

GC 5.3 PROGRESS PAYMENT FOR THE SERVICES

- 5.3.1 The *Owner* shall make payment for the *Construction Manager's Fee* for the *Services* as described in paragraph of 5.2 of Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE and on account of the reimbursable expenses for the *Services* as described in Article A-6 of the Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES no later than 20 calendar days after receipt of an application for payment for the *Services* submitted by the *Construction Manager*.
- 5.3.2 The application for payment for the reimbursable expenses for the *Services* shall include items of cost as defined in Schedule A2 to the Agreement – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE A1 and other support documents required by the *Owner* in accordance with the *Contract Documents*.

GC 5.4 PROGRESS PAYMENT FOR THE WORK

- 5.4.1 Applications for payment on account as provided in Article A-9 of the Agreement – PAYMENT may be made monthly as the *Work* progresses.
- 5.4.2 Applications for payment shall be dated the last day of each payment period, which is the last day of the month or an alternative day of the month agreed in writing by the parties.
- 5.4.3 The amount applied for shall be the cost of the *Work* performed and *Products* delivered to the *Place of the Work* or other locations designated by the *Owner* in accordance with the provisions of Article A-7 of the Agreement – COST OF THE WORK, as of the last day of the month or an alternative day of the month agreed in writing by the parties plus the *Construction Manager's Fee* for the *Work* earned in accordance with the provisions of Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE.
- 5.4.4 The application for payment for the *Work* shall include items of cost as defined in Article A-7 of the Agreement – COST OF THE WORK and other support documents required by the *Owner* as in accordance with the *Contract Documents*.
- 5.4.5 When submitting the second and succeeding applications for payment, the *Construction Manager* shall furnish receipted vouchers or other satisfactory evidence of payment for all items included in the preceding applications. If the *Owner* has reasonable grounds for believing that any amount included in preceding applications has not been paid the *Owner* may withhold payment in respect of such amount from the current application until satisfactory evidence of payment is given by the *Construction Manager*.
- 5.4.6 Applications for payment for *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall be supported by such evidence as the *Consultant* may reasonably require to establish the value and delivery of the *Products*.

- 5.4.7 After receipt by the *Consultant* of an application for payment for the *Work* submitted by the *Construction Manager* in accordance with paragraphs 5.4.1 to 5.4.6:
- .1 the *Consultant* will promptly inform the *Owner* of the date of receipt of the *Construction Manager's* application for payment;
 - .2 the *Consultant* will issue to the *Owner* and copy to the *Construction Manager*, no later than 10 calendar days after the receipt of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due. If the *Consultant* amends the application, the *Consultant* will promptly advise the *Construction Manager* in writing giving reasons for the amendment; and
 - .3 the *Owner* shall make payment to the *Construction Manager* on account as provided in Article A-9 of the Agreement – PAYMENT on or before 20 calendar days after the later of:
 - receipt by the *Consultant* of the application for payment, or
 - the last day of the monthly payment period for which the application for payment is made.

GC 5.5 SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.5.1 When the *Construction Manager* considers that the *Work* is substantially performed, or if permitted by the lien legislation applicable to the *Place of the Work* a designated portion thereof which the *Owner* agrees to accept separately is substantially performed, the *Construction Manager* shall, within 1 *Working Day*, deliver to the *Consultant* and to the *Owner* a comprehensive list of items to be completed or corrected, together with a written application for a review by the *Consultant* to establish *Substantial Performance of the Work* or of the designated portion of the *Work*. Failure to include an item on the list does not alter the responsibility of the *Construction Manager* to complete the *Contract*.
- 5.5.2 The *Consultant* will review the *Work* to verify the validity of the application and shall promptly, and in any event, no later than 20 calendar days after receipt of the *Construction Manager's* list and application:
- .1 advise the *Construction Manager* in writing that the *Work* or the designated portion of the *Work* is not substantially performed and give reasons why, or
 - .2 state the date of *Substantial Performance of the Work* or a designated portion of the *Work* in a certificate and issue a copy of that certificate to each of the *Owner* and the *Construction Manager*.
- 5.5.3 Immediately following the issuance of the certificate of *Substantial Performance of the Work* or a designated portion of the *Work*, the *Construction Manager*, in consultation with the *Consultant*, shall establish a reasonable date for finishing the *Work*.

GC 5.6 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.6.1 After the issuance of the certificate of *Substantial Performance of the Work*, the *Construction Manager* shall:
- .1 submit an application for payment of the holdback amount,
 - .2 submit CCDC 9A 'Statutory Declaration' to state that all accounts for labour, subcontracts, *Products*, *Construction Equipment*, and other indebtedness which may have been incurred by the *Construction Manager* in the *Substantial Performance of the Work* and for which the *Owner* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute.
- 5.6.2 After the receipt of an application for payment from the *Construction Manager* and the statement as provided in paragraph 5.6.1, the *Consultant* will issue a certificate for payment of the holdback amount.
- 5.6.3 Where the holdback amount required by the applicable lien legislation has not been placed in a separate holdback account, the *Owner* shall, 10 calendar days prior to the expiry of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*, place the holdback amount in a bank account in the joint names of the *Owner* and the *Construction Manager*.
- 5.6.4 In the common law jurisdictions, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable on the first calendar day following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice or provisions which may be agreed to between the parties. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Construction Manager* which are enforceable against the *Owner*.
- 5.6.5 In the Province of Quebec, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable 30 calendar days after the issuance of the certificate. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Construction Manager* which are enforceable against the *Owner*.

GC 5.7 PROGRESSIVE RELEASE OF HOLDBACK FOR THE WORK

- 5.7.1 In the common law jurisdictions, where legislation permits and where, upon application by the *Construction Manager*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Construction Manager* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, on the first calendar day following the expiration of the holdback period for such work stipulated in the lien legislation applicable to the *Place of the Work*. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Construction Manager* which are enforceable against the *Owner*.
- 5.7.2 In the Province of Quebec, where, upon application by the *Construction Manager*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Construction Manager* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, no later than 30 calendar days after such certification by the *Consultant*. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Construction Manager* which are enforceable against the *Owner*.
- 5.7.3 Notwithstanding the provisions of the preceding paragraphs, and notwithstanding the wording of such certificates, the *Construction Manager* shall ensure that such subcontract work or *Products* are protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when such certificates were issued.

GC 5.8 FINAL PAYMENT FOR THE WORK

- 5.8.1 When the *Construction Manager* considers that the *Work* is completed, the *Construction Manager* shall submit an application for final payment.
- 5.8.2 The *Consultant* will, no later than 10 calendar days after the receipt of an application from the *Construction Manager* for final payment, review the *Work* to verify the validity of the application and advise the *Construction Manager* in writing that the application is valid or give reasons why it is not valid.
- 5.8.3 When the *Consultant* finds the *Construction Manager's* application for final payment valid, the *Consultant* will promptly issue a final certificate for payment.
- 5.8.4 Subject to the provision of paragraph 10.4.1 of GC 10.4 – WORKERS' COMPENSATION and any lien legislation applicable to the *Place of the Work*, the *Owner* shall, no later than 5 calendar days after the issuance of a final certificate for payment, pay the *Construction Manager* as provided in Article A-9 of the Agreement – PAYMENT.

GC 5.9 WITHHOLDING OF PAYMENT FOR THE WORK

- 5.9.1 If because of climatic or other conditions reasonably beyond the control of the *Construction Manager*, there are items of work that cannot be performed, payment in full for that portion of the *Work* which has been performed as certified by the *Consultant* shall not be withheld or delayed by the *Owner* on account thereof, but the *Owner* may withhold, until the remaining portion of the *Work* is finished, only such an amount that the *Consultant* determines is sufficient and reasonable to cover the cost of performing such remaining work.

GC 5.10 NON-CONFORMING WORK

- 5.10.1 No payment by the *Owner* under the *Contract* nor partial or entire use or occupancy of the *Work* by the *Owner* shall constitute an acceptance of any portion of the *Work* or *Products* which are not in accordance with the requirements of the *Contract Documents*.

PART 6 CHANGES

GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

- 6.1.1 The *Owner*, through the *Consultant*, without invalidating the *Contract*, may make:
- .1 changes in the *Work* consisting of additions, deletions, or other revisions to the *Work* by *Change Order* or *Change Directive*, and
 - .2 changes to the *Contract Time* for the *Work*, or any part thereof, by *Change Order*.

- 6.1.2 The *Construction Manager* shall not perform a change in the *Work* without a *Change Order* or a *Change Directive*.
- 6.1.3 The *Owner* and the *Construction Manager*, without invalidating the *Contract*, may agree to make changes to the *Services*.

GC 6.2 CHANGE ORDER

- 6.2.1 When a change in the *Work* is proposed or required, the *Consultant* shall provide the *Construction Manager* with a written description of the proposed change in the *Work*. The *Construction Manager* shall promptly present, in a form acceptable to the *Consultant*, a method of adjustment or an amount of adjustment for the *Construction Manager's Fee*, a method of adjustment or an amount of adjustment for the *Guaranteed Maximum Price*, and the adjustment in the *Contract Time*, as applicable, for the proposed change in the *Work*.
- 6.2.2 When the *Owner* and *Construction Manager* agree to the adjustments in the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and the *Contract Time*, or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a *Change Order*. The value of the work performed as the result of a *Change Order* shall be included in applications for progress payment.
- 6.2.3 When the *Owner* and *Construction Manager* agree to exercise the stipulated price option at any time during the term of the *Contract*, such agreement shall be recorded in a *Change Order*.

GC 6.3 CHANGE DIRECTIVE

- 6.3.1 If the *Owner* requires the *Construction Manager* to proceed with a change in the *Work* prior to the *Owner* and the *Construction Manager* agreeing upon any corresponding adjustment in the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and the *Contract Time*, the *Owner*, through the *Consultant*, shall issue a *Change Directive*.
- 6.3.2 A *Change Directive* shall only be used to direct a change in the *Work* which is within the general scope of the *Contract Documents*.
- 6.3.3 A *Change Directive* shall not be used to direct a change in the *Contract Time* only.
- 6.3.4 Upon receipt of a *Change Directive*, the *Construction Manager* shall proceed promptly with the change in the *Work*.
- 6.3.5 If no method of adjustment is agreed:
- .1 the adjustment in the *Construction Manager's Fee* for a change carried out by way of a *Change Directive* shall be determined on the basis of the changes in costs of the *Construction Manager*; and
 - .2 the *Guaranteed Maximum Price* shall be adjusted by the changes in the *Cost of Work* and in the *Construction Manager's Fee* for the *Work* resulting from a *Change Directive*.
- 6.3.6 Pending determination of the adjustment to the *Construction Manager's Fee* required as a result of a *Change Directive*, the *Cost of the Work* incurred and the undisputed amount of the *Construction Manager's Fee* as the result of a *Change Directive* is eligible to be included in progress payments, notwithstanding the limit imposed by the *Guaranteed Maximum Price*.
- 6.3.7 If the *Owner* and the *Construction Manager* do not agree on the proposed adjustment in the *Construction Manager's Fee*, the *Guaranteed Maximum Price*, the *Contract Time*, or in the method of determining them, the adjustment shall be referred to the *Consultant* for a finding.
- 6.3.8 When the *Owner* and the *Construction Manager* reach agreement on the adjustment to the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and the *Contract Time*, this agreement shall be recorded in a *Change Order*.

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- 6.4.1 If the *Owner* or the *Construction Manager* discover conditions at the *Place of the Work* which are:
- .1 subsurface or otherwise concealed physical conditions which existed before the commencement of the *Work* which differ materially from those indicated in the *Contract Documents*; or
 - .2 physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the *Contract Documents*,
- then the observing party shall give *Notice in Writing* to the other party of such conditions before they are disturbed and in no event later than 5 *Working Days* after first observance of the conditions.

- 6.4.2 The *Consultant* will promptly investigate such conditions and make a finding. If the finding is that the conditions differ materially and this would justify an increase or decrease in the *Construction Manager's Fee* for the *Work*, the *Guaranteed Maximum Price* or the *Contract Time*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.
- 6.4.3 If the *Consultant* finds that the conditions at the *Place of the Work* are not materially different or that no change in the *Construction Manager's Fee* for the *Work*, the *Guaranteed Maximum Price* or the *Contract Time* is justified, the *Consultant* will report the reasons for this finding to the *Owner* and the *Construction Manager* in writing.
- 6.4.4 If such concealed or unknown conditions relate to toxic and hazardous substances and materials, artifacts and fossils, or mould, the parties will be governed by the provisions of GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES, GC 9.3 – ARTIFACTS AND FOSSILS and GC 9.5 – MOULD.

GC 6.5 DELAYS

- 6.5.1 If the *Construction Manager* is delayed in the performance of the *Work* by an action or omission of the *Owner*, *Consultant* or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the *Contract Documents*, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager*. The *Construction Manager's Fee* and the *Guaranteed Maximum Price* shall be adjusted by a reasonable amount for costs incurred by the *Construction Manager* as the result of such delay.
- 6.5.2 If the *Construction Manager* is delayed in the performance of the *Work* by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Construction Manager* or any person employed or engaged by the *Construction Manager* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager*. The *Construction Manager's Fee* and the *Guaranteed Maximum Price* shall be adjusted by a reasonable amount for costs incurred by the *Construction Manager* as the result of such delay.
- 6.5.3 If the *Construction Manager* is delayed in the performance of the *Work* by:
 - .1 labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the *Construction Manager* is a member or to which the *Construction Manager* is otherwise bound),
 - .2 fire, unusual delay by common carriers or unavoidable casualties,
 - .3 abnormally adverse weather conditions, or
 - .4 any cause beyond the *Construction Manager's* control other than one resulting from a default or breach of *Contract* by the *Construction Manager*,
 then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager*. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Construction Manager* agrees to a shorter extension. The *Construction Manager's Fee* and the *Guaranteed Maximum Price* shall be adjusted by a reasonable amount for overhead costs incurred by the *Construction Manager* as the result of such delay.
- 6.5.4 No extension shall be made for delay unless *Notice in Writing* of the cause of the delay is given to the *Consultant* not later than 10 *Working Days* after the commencement of the delay. In the case of a continuing cause of delay only one *Notice in Writing* shall be necessary.
- 6.5.5 If no schedule is made under paragraph 2.3.13 of GC 2.3 – CONSULTANT'S RESPONSIBILITIES or paragraph 3.5.1 of GC 3.5 – CONSTRUCTION SCHEDULE, then no request for extension shall be made because of failure of the *Consultant* to furnish instructions until 10 *Working Days* after demand for such instructions has been made.

GC 6.6 CLAIMS FOR A CHANGE IN CONSTRUCTION MANAGER'S FEE FOR THE SERVICES, THE PRICE OF THE WORK OR THE GUARANTEED MAXIMUM PRICE

- 6.6.1 If the *Construction Manager* intends to make a claim for an increase to the *Construction Manager's Fee* for the *Services*, the *Price of the Work* or the *Guaranteed Maximum Price*, or if the *Owner* intends to make a claim against the *Construction Manager* for a credit to the *Construction Manager's Fee* for the *Services*, the *Price of the Work* or the *Guaranteed Maximum Price*, the party that intends to make the claim shall give timely *Notice in Writing* of intent to claim to the other party and, if the claim relates to the *Price of the Work* or the *Guaranteed Maximum Price*, with a copy to the *Consultant*.

- 6.6.2 Upon commencement of the event or series of events giving rise to a claim, the party intending to make the claim shall:
 - .1 take all reasonable measures to mitigate any loss or expense which may be incurred as a result of such event or series of events, and
 - .2 keep such records as may be necessary to support the claim.
- 6.6.3 The party making the claim shall submit within a reasonable time to the other party a detailed account of the amount claimed and the grounds upon which the claim is based.
- 6.6.4 Where the event or series of events giving rise to the claim has a continuing effect, the detailed account submitted under paragraph 6.6.3 shall be considered to be an interim account and the party making the claim shall, at such intervals as the party receiving the claim may reasonably require, submit further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 6.6.5 If the claim is not acceptable to the other party, it shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION.

PART 7 DEFAULT NOTICE

GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK OR TERMINATE THE CONTRACT

- 7.1.1 If the *Construction Manager* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Construction Manager's* insolvency, or if a receiver is appointed because of the *Construction Manager's* insolvency, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, terminate the *Construction Manager's* right to continue with the *Work* by giving the *Construction Manager* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.1.2 If the *Construction Manager* neglects to prosecute the *Work* properly or otherwise fails to comply with the requirements of the *Contract Documents* to a substantial degree, and if the *Consultant* has given a written statement to the *Owner* and *Construction Manager* that sufficient cause exists to justify such action, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Construction Manager Notice in Writing* that the *Construction Manager* is in default of the *Construction Manager's* contractual obligations and instruct the *Construction Manager* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.
- 7.1.3 If the default cannot be corrected in the 5 *Working Days* specified or in such other time period as may be subsequently agreed in writing by the parties, the *Construction Manager* shall be in compliance with the *Owner's* instructions if the *Construction Manager*:
 - .1 commences the correction of the default within the specified time, and
 - .2 provides the *Owner* with an acceptable schedule for such correction, and
 - .3 corrects the default in accordance with the *Contract* terms and with such schedule.
- 7.1.4 If the *Construction Manager* fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the *Owner* may have, the *Owner* may:
 - .1 correct such default and deduct the cost thereof from any payment then or thereafter due the *Construction Manager* provided the *Consultant* has certified such cost to the *Owner* and the *Construction Manager*, or
 - .2 terminate the *Construction Manager's* right to continue with the *Work* in whole or in part or terminate the *Contract*.
- 7.1.5 If the *Owner* terminates the *Construction Manager's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Owner* shall:
 - .1 be entitled to take possession of the *Work* and *Products* at the *Place of the Work*; subject to the rights of third parties, utilize the *Construction Equipment* at the *Place of the Work*; finish the *Work* by whatever method the *Owner* may consider expedient, but without undue delay or expense, and
 - .2 pay the *Construction Manager* upon the *Consultant's* certificate and in accordance with Part 5 of the General Conditions – PAYMENT for the costs properly incurred by the *Construction Manager* to that time plus the proportionate amount of the fee as provided in Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE, and
 - .3 pay to the *Construction Manager* fair compensation, either by purchase or rental, at the option of the *Owner*, for any *Construction Equipment* retained for use in the *Work*, and
 - .4 assume and become liable for all obligations, commitments and unliquidated claims as certified by the *Consultant* that the *Construction Manager* may have heretofore, in good faith, undertaken or incurred in connection with the *Work*, other than such as are properly payable by the *Construction Manager* because of neglect or default.

- 7.1.6 If the *Owner* terminates the *Construction Manager's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Construction Manager* shall, as a condition of receiving the payments, execute and deliver such papers and take such action, including the legal assignment in the *Construction Manager's* contractual rights, as the *Owner* may require for the purpose of fully vesting in the *Construction Manager* the rights and benefits of the *Construction Manager* under the obligations or commitments to be assumed by the *Owner*.
- 7.1.7 The *Construction Manager's* obligation under the *Contract* as to quality, correction and warranty of the work performed by the *Construction Manager* up to the time of termination shall continue in force after such termination of the *Contract*.

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

- 7.2.1 If the *Owner* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Owner's* insolvency, or if a receiver is appointed because of the *Owner's* insolvency, the *Construction Manager* may, without prejudice to any other right or remedy the *Construction Manager* may have, terminate the *Contract* by giving the *Owner* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.2.2 If the *Work* is suspended or otherwise delayed for a period of 20 *Working Days* or more under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Construction Manager* or of anyone directly or indirectly employed or engaged by the *Construction Manager*, the *Construction Manager* may, without prejudice to any other right or remedy the *Construction Manager* may have, terminate the *Contract* by giving the *Owner Notice in Writing* to that effect.
- 7.2.3 The *Construction Manager* may give *Notice in Writing* to the *Owner*, with a copy to the *Consultant*, that the *Owner* is in default of the *Owner's* contractual obligations if:
- .1 the *Owner* fails to furnish, when so requested by the *Construction Manager*, reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*, or
 - .2 the *Consultant* fails to issue a certificate as provided in GC 5.4 – PROGRESS PAYMENT FOR THE WORK, or
 - .3 the *Owner* fails to pay the *Construction Manager*, or
 - .4 the *Owner* violates the requirements of the *Contract* to a substantial degree and the *Consultant*, except for GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, confirms by written statement to the *Construction Manager* that sufficient cause exists.
- 7.2.4 The *Construction Manager's* *Notice in Writing* to the *Owner* provided under paragraph 7.2.3 shall advise that if the default is not corrected within 5 *Working Days* following receipt of the *Notice in Writing*, the *Construction Manager* may, without prejudice to any other right or remedy the *Construction Manager* may have, suspend the *Work* or terminate the *Contract*.
- 7.2.5 If the *Construction Manager* terminates the *Contract* under the conditions set out above, the *Construction Manager* shall be entitled to be paid for all work performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Construction Manager* may have sustained as a result of the termination of the *Contract*.

PART 8 DISPUTE RESOLUTION

GC 8.1 AUTHORITY OF THE CONSULTANT

- 8.1.1 Differences between the parties to the *Contract* as to the interpretation, application or administration of the *Contract* or any failure to agree where agreement between the parties is called for, herein collectively called disputes, which are not resolved in the first instance by findings of the *Consultant* as provided in GC 2.3 – CONSULTANT'S RESPONSIBILITIES, shall be settled in accordance with the requirements of Part 8 of the General Conditions – DISPUTE RESOLUTION.
- 8.1.2 If a dispute arises under the *Contract* in respect of a matter in which the *Consultant* has no authority under the *Contract* to make a finding, the procedures set out in paragraph 8.1.3 and paragraphs 8.2.3 to 8.2.8 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.3 – RETENTION OF RIGHTS apply to that dispute with the necessary changes to detail as may be required.

- 8.1.3 If a dispute is not resolved promptly, the *Consultant* will give such instructions as in the *Consultant's* opinion are necessary for the proper performance of the *Work* and to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim the party may have. If it is subsequently determined that such instructions were in error or at variance with the *Contract Documents*, the *Owner* shall pay the *Construction Manager* costs incurred by the *Construction Manager* in carrying out such instructions which the *Construction Manager* was required to do beyond what the *Contract Documents* correctly understood and interpreted would have required, including costs resulting from interruption of the *Work*.

GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

- 8.2.1 In accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing, the parties shall appoint a *Project Mediator*
- .1 within 20 *Working Days* after the *Contract* was awarded, or
 - .2 if the parties neglected to make an appointment within the 20 *Working Days*, within 10 *Working Days* after either party by *Notice in Writing* requests that the *Project Mediator* be appointed.
- 8.2.2 A party shall be conclusively deemed to have accepted a finding of the *Consultant* under GC 2.3 – CONSULTANT'S RESPONSIBILITIES and to have expressly waived and released the other party from any claims in respect of the particular matter dealt with in that finding unless, within 15 *Working Days* after receipt of that finding, the party sends a *Notice in Writing* of dispute to the other party and to the *Consultant*, which contains the particulars of the matter in dispute and the relevant provisions of the *Contract Documents*. The responding party shall send a *Notice in Writing* of reply to the dispute within 10 *Working Days* after receipt of such *Notice in Writing* setting out particulars of this response and any relevant provisions of the *Contract Documents*.
- 8.2.3 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid, and timely disclosure of relevant facts, information and documents to facilitate these negotiations.
- 8.2.4 After a period of 10 *Working Days* following receipt of a responding party's *Notice in Writing* of reply under paragraph 8.2.2, the parties shall request the *Project Mediator* to assist the parties to reach agreement on any unresolved dispute. The mediated negotiations shall be conducted in accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing.
- 8.2.5 If the dispute has not been resolved within 10 *Working Days* after the *Project Mediator* was requested under paragraph 8.2.4 or within such further period agreed by the parties, the *Project Mediator* shall terminate the mediated negotiations by giving *Notice in Writing* to the *Owner*, the *Construction Manager* and the *Consultant*.
- 8.2.6 By giving a *Notice in Writing* to the other party and the *Consultant*, not later than 10 *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 Rules for Arbitration of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing. The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- 8.2.7 On expiration of the 10 *Working Days*, the arbitration agreement under paragraph 8.2.6 is not binding on the parties and, if a *Notice in Writing* is not given under paragraph 8.2.6 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.
- 8.2.8 If neither party, by *Notice in Writing* given within 10 *Working Days* of the date of *Notice in Writing* requesting arbitration in paragraph 8.2.6, requires that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.2.6 shall be
- .1 held in abeyance until
 - (1) Substantial Performance of the *Work*,
 - (2) the *Contract* has been terminated, or
 - (3) the *Construction Manager* has abandoned the *Work*,whichever is earlier, and
 - .2 consolidated into a single arbitration under the rules governing the arbitration under paragraph 8.2.6.

GC 8.3 RETENTION OF RIGHTS

- 8.3.1 It is agreed that no act by either party shall be construed as a renunciation or waiver of any rights or recourses, provided the party has given the *Notice in Writing* required under Part 8 of the General Conditions – DISPUTE RESOLUTION and has carried out the instructions as provided in paragraph 8.1.3 of GC 8.1 – AUTHORITY OF THE CONSULTANT.
- 8.3.2 Nothing in Part 8 of the General Conditions – DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the *Place of the Work* and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.2.6 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

PART 9 PROTECTION OF PERSONS AND PROPERTY

GC 9.1 PROTECTION OF WORK AND PROPERTY

- 9.1.1 The *Construction Manager* shall protect the *Work* and the *Owner's* property and property adjacent to the *Place of the Work* from damage which may arise as the result of the *Construction Manager's* operations under this *Contract*, and shall be responsible for such damage, except damage which occurs as the result of:
- .1 errors in the *Contract Documents*;
 - .2 acts or omissions by the *Owner*, the *Consultant*, other contractors, or their respective agents and employees.
- 9.1.2 Before commencing any work, the *Construction Manager* shall locate on site all underground utilities and structures that are indicated in the *Contract Documents* or information provided by the *Owner*, or that are reasonably apparent in an inspection of the *Place of the Work*.
- 9.1.3 Should the *Construction Manager* in the performance of the *Contract* damage the *Work*, the *Owner's* property or property adjacent to the *Place of the Work*, the *Construction Manager* shall be responsible for making good such damage at the *Construction Manager's* expense.
- 9.1.4 Should damage occur to the *Work* or *Owner's* property for which the *Construction Manager* is not responsible, as provided in paragraph 9.1.1, the *Construction Manager* shall make good such damage to the *Work* and, if the *Owner* so directs, to the *Owner's* property. The *Construction Manager's Fee*, the *Guaranteed Maximum Price* and the *Contract Time* shall be adjusted as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.

GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

- 9.2.1 For the purposes of applicable legislation, the *Owner* shall be deemed to have control and management of the *Place of the Work* with respect to existing conditions.
- 9.2.2 Prior to the *Construction Manager* commencing the *Work*, the *Owner* shall,
- .1 take all reasonable steps to determine whether any toxic or hazardous substances are present at the *Place of the Work*, and
 - .2 provide the *Consultant* and the *Construction Manager* with a written list of any such substances that are known to exist and their locations.
- 9.2.3 The *Owner* shall take all reasonable steps to ensure that no person's exposure to any toxic or hazardous substance exceeds the time weighted levels prescribed by applicable legislation at the *Place of the Work* and that no property is damaged or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances which were at the *Place of the Work* prior to the *Construction Manager* commencing the *Work*.
- 9.2.4 Unless the *Contract* expressly provides otherwise, the *Owner* shall be responsible for taking all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the *Place of the Work* prior to the *Construction Manager* commencing the *Work*.

- 9.2.5 If the *Construction Manager*
- .1 encounters toxic or hazardous substances at the *Place of the Work*, or
 - .2 has reasonable grounds to believe that toxic or hazardous substances are present at the *Place of the Work*, which were not brought to the *Place of the Work* by the *Construction Manager* or anyone for whom the *Construction Manager* is responsible and which were not disclosed by the *Owner* or which were disclosed but have not been dealt with as required under paragraph 9.2.4, the *Construction Manager* shall
 - .3 take all reasonable steps, including stopping the *Work*, to ensure that no person's exposure to any toxic or hazardous substances exceeds any applicable time weighted levels prescribed by applicable legislation at the *Place of the Work*, and
 - .4 immediately report the circumstances to the *Consultant* and the *Owner* in writing.
- 9.2.6 If the *Owner* and *Construction Manager* do not agree on the existence or significance of toxic or hazardous substances, or whether the toxic or hazardous substances were brought onto the *Place of the Work* by the *Construction Manager* or anyone for whom the *Construction Manager* is responsible, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and the *Construction Manager*.
- 9.2.7 If the *Owner* and *Construction Manager* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were not brought onto the place of the *Work* by the *Construction Manager* or anyone for whom the *Construction Manager* is responsible, the *Owner* shall promptly at the *Owner's* own expense:
- .1 take all steps as required under paragraph 9.2.4;
 - .2 adjust the *Construction Manager's Fee* and the *Guaranteed Maximum Price* by a reasonable amount for overhead costs incurred by the *Construction Manager* in taking the steps pursuant to paragraph 9.2.5;
 - .3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager* and the expert referred to in paragraph 9.2.6 and adjust the *Construction Manager's Fee* and the *Guaranteed Maximum Price* by a reasonable amount for costs incurred by the *Construction Manager* as a result of the delay; and
 - .4 indemnify the *Construction Manager* as required by GC 12.1 – INDEMNIFICATION.
- 9.2.8 If the *Owner* and *Construction Manager* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were brought onto the *Place of the Work* by the *Construction Manager* or anyone for whom the *Construction Manager* is responsible, the *Construction Manager* shall promptly at the *Construction Manager's* own expense:
- .1 take all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to safely remove and dispose the toxic or hazardous substance;
 - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the *Place of the Work* as provided in paragraph 9.1.3 of GC 9.1 – PROTECTION OF WORK AND PROPERTY;
 - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.2.6; and
 - .4 indemnify the *Owner* as required by GC 12.1 – INDEMNIFICATION.
- 9.2.9 If either party does not accept the expert's findings under paragraph 9.2.6, the disagreement shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by paragraph 9.2.7 or 9.2.8 it being understood that by so doing, neither party will jeopardize any claim that party may have to be reimbursed as provided by GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.

GC 9.3 ARTIFACTS AND FOSSILS

- 9.3.1 Fossils, coins, articles of value or antiquity, structures and other remains or things of scientific or historic interest discovered at the *Place of the Work* shall, as between the *Owner* and the *Construction Manager*, be deemed to be the absolute property of the *Owner*.
- 9.3.2 The *Construction Manager* shall take all reasonable precautions to prevent removal or damage to discoveries as identified in paragraph 9.3.1, and shall advise the *Consultant* upon discovery of such items
- 9.3.3 The *Consultant* will investigate the impact on the *Work* of the discoveries identified in paragraph 9.3.1. If conditions are found that would change the *Construction Manager's Fee*, the *Guaranteed Maximum Price* or the *Construction Manager's* time to perform the *Work*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.

GC 9.4 CONSTRUCTION SAFETY

- 9.4.1 Subject to paragraph 3.2.2.2 of GC 3.2 – CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, the *Construction Manager* shall be responsible for
- .1 construction health and safety at the *Place of the Work* in compliance with the rules, regulations and practices required by the applicable construction health and safety legislation, and
 - .2 establishing, initiating, maintaining and supervising all health and safety precautions and programs in connection with the performance of the *Work*.

GC 9.5 MOULD

- 9.5.1 If the *Construction Manager* or *Owner* observes or reasonably suspects the presence of mould at the *Place of the Work*, the remediation of which is not expressly part of the *Work*,
- .1 the observing party shall promptly report the circumstances to the other party in writing;
 - .2 the *Construction Manager* shall promptly take all reasonable steps, including stopping the *Work* if necessary, to ensure that no person suffers injury, sickness or death and that no property is damaged as a result of exposure to or the presence of the mould; and
 - .3 if the *Owner* and *Construction Manager* do not agree on the existence, significance or cause of the mould or as to what steps need be taken to deal with it, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and *Construction Manager*.
- 9.5.2 If the *Owner* and *Construction Manager* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was caused by the *Construction Manager's* operations under the *Contract*, the *Construction Manager* shall promptly, at the *Construction Manager's* own expense:
- .1 take all reasonable and necessary steps to safely remediate or dispose of the mould, and
 - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the *Place of the Work* as provided in paragraph 9.1.3 of GC 9.1 – PROTECTION OF WORK AND PROPERTY, and
 - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.5.1.3, and
 - .4 indemnify the *Owner* as required by GC 12.1 – INDEMNIFICATION.
- 9.5.3 If the *Owner* and *Construction Manager* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was not caused by the *Construction Manager's* operations under the *Contract*, the *Owner* shall promptly, at the *Owner's* own expense:
- .1 take all reasonable and necessary steps to safely remediate or dispose of the mould;
 - .2 adjust the *Construction Manager's Fee* and the *Guaranteed Maximum Price* by a reasonable amount for overhead costs incurred by the *Construction Manager* in taking the steps pursuant to paragraph 9.5.1.2 and making good any damage to the *Work* as provided in paragraph 9.1.4 of GC 9.1 – PROTECTION OF WORK AND PROPERTY;
 - .3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager* and the expert referred to in paragraph 9.5.1.3 and adjust the *Construction Manager's Fee* and the *Guaranteed Maximum Price* by a reasonable amount for costs incurred by the *Construction Manager* as a result of the delay; and
 - .4 indemnify the *Construction Manager* as required by GC 12.1 – INDEMNIFICATION.
- 9.5.4 If either party does not accept the expert's finding under paragraph 9.5.1.3, the disagreement shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by paragraphs 9.5.2 or 9.5.3, it being understood that by so doing neither party will jeopardize any claim the party may have to be reimbursed as provided by GC 9.5 – MOULD.

PART 10 GOVERNING REGULATIONS

GC 10.1 TAXES AND DUTIES

- 10.1.1 The *Construction Manager* shall pay all customs, taxes and duties in effect during the performance of the *Work*. The amount incurred shall be included in the *Cost of the Work* as in accordance with paragraph 7.1.14 of the Agreement A-7 – COST OF THE WORK.

GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 10.2.1 The laws of the *Place of the Work* shall govern the *Work*.
- 10.2.2 The *Owner* shall obtain and pay for development approvals, building permit, permanent easements, rights of servitude, and all other necessary approvals and permits, except for the permits and fees referred to in paragraph 10.2.3 or for which the *Contract Documents* specify as the responsibility of the *Construction Manager*.
- 10.2.3 The *Construction Manager* shall be responsible for the procurement of permits, licences, inspections, and certificates, which are necessary for the performance of the *Work* and customarily obtained by contractors in the jurisdiction of the *Place of the Work* after the issuance of the building permit. The *Cost of the Work* includes the cost of these permits, licences, inspections, and certificates, and their procurement.
- 10.2.4 The *Construction Manager* shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the *Work* and which relate to the *Work*, to the preservation of the public health, and to construction safety.
- 10.2.5 The *Construction Manager* shall not be responsible for verifying that the *Contract Documents* are in compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the *Work*. If the *Contract Documents* are at variance therewith, or if, subsequent to the time of bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the *Contract Documents*, the *Construction Manager* shall advise the *Consultant* in writing requesting direction immediately upon such variance or change becoming known. The *Consultant* will make the changes required to the *Contract Documents* as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 10.2.6 If the *Construction Manager* fails to advise the *Consultant* in writing, fails to obtain direction as required in paragraph 10.2.5, and performs work knowing it to be contrary to any laws, ordinances, rules, regulations or codes; the *Construction Manager* shall be responsible for and shall correct the violations thereof; and shall bear the costs, expenses and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations, or codes.

GC 10.3 PATENT FEES

- 10.3.1 The *Construction Manager* shall pay the royalties and patent licence fees required for the performance of the *Contract*. The amount incurred shall be included in the *Cost of the Work* in accordance with paragraph 7.1.12 of the Agreement A-7 – COST OF THE WORK. The *Construction Manager* shall hold the *Owner* harmless from and against claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the *Construction Manager*’s performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention by the *Construction Manager* or anyone for whose acts the *Construction Manager* may be liable.
- 10.3.2 The *Owner* shall hold the *Construction Manager* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Construction Manager*’s performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention in executing anything for the purpose of the *Contract*, or any model, plan or design which was supplied to the *Construction Manager* as part of the *Contract*.

GC 10.4 WORKERS' COMPENSATION

- 10.4.1 Prior to commencing the *Work*, again with the *Construction Manager*’s application for payment of the holdback amount following *Substantial Performance of the Work* and again with the *Construction Manager*’s application for final payment, the *Construction Manager* shall provide evidence of compliance with workers’ compensation legislation at the *Place of the Work*, including payments due thereunder.
- 10.4.2 At any time during the term of the *Contract*, when requested by the *Owner*, the *Construction Manager* shall provide such evidence of compliance by the *Construction Manager* and *Subcontractors*.

PART 11 INSURANCE — CONTRACT SECURITY

GC 11.1 INSURANCE

- 11.1.1 Without restricting the generality of GC 12.1 – INDEMNIFICATION, the *Construction Manager* shall provide, maintain and pay for the following insurance coverages, the minimum requirements of which are specified in CCDC 41 – INSURANCE REQUIREMENTS in effect at the time of bid closing except as hereinafter provided:
- .1 General liability insurance in the name of the *Construction Manager* and include, or in the case of a single, blanket policy, be endorsed to name, the *Owner* and the *Consultant* as insureds but only with respect to liability, other than legal liability arising out of their sole negligence, arising out of the operations of the *Construction Manager* with regard to the *Work*. General liability insurance shall be maintained from the date of commencement of the *Services* until one year from the date of *Substantial Performance of the Work*. Liability coverage shall be provided for completed operations hazards from the date of *Substantial Performance of the Work*, as set out in the certificate of *Substantial Performance of the Work*, on an ongoing basis for a period of 6 years following *Substantial Performance of the Work*.
 - .2 Automobile Liability Insurance from the date of commencement of the *Services* until one year after the date of *Substantial Performance of the Work*.
 - .3 Aircraft or Watercraft Liability Insurance when owned or non-owned aircraft or watercraft are used directly or indirectly in the performance of the *Work*.
 - .4 "Broad form" property insurance in the joint names of the *Construction Manager*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The "broad form" property insurance shall be provided from the date of commencement of the *Work* until the earliest of:
 - (1) 10 calendar days after the date of *Substantial Performance of the Work*;
 - (2) on the commencement of use or occupancy of any part or section of the *Work* unless such use or occupancy is for construction purposes, habitational, office, banking, convenience store under 465 square metres in area, or parking purposes, or for the installation, testing and commissioning of equipment forming part of the *Work*;
 - (3) when left unattended for more than 30 consecutive calendar days or when construction activity has ceased for more than 30 consecutive calendar days.
 - .5 Boiler and machinery insurance in the joint names of the *Construction Manager*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The coverage shall be maintained continuously from commencement of use or operation of the boiler and machinery objects insured by the policy and until 10 calendar days after the date of *Substantial Performance of the Work*.
 - .6 The "Broad form" property and boiler and machinery policies shall provide that, in the case of a loss or damage, payment shall be made to the *Owner* and the *Construction Manager* as their respective interests may appear. In the event of loss or damage:
 - (1) the *Construction Manager* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Construction Manager* shall proceed to restore the *Work*. Loss or damage shall not affect the rights and obligations of either party under the *Contract* except that the *Construction Manager* shall be entitled to such reasonable extension of *Contract Time* relative to the extent of the loss or damage as the *Consultant* may recommend in consultation with the *Construction Manager*;
 - (2) the *Construction Manager* shall be entitled to receive from the *Owner*, in addition to the amount due under the *Contract*, the amount which the *Owner's* interest in restoration of the *Work* has been appraised, such amount to be paid as the restoration of the *Work* proceeds in accordance with the progress payment provisions. In addition the *Construction Manager* shall be entitled to receive from the payments made by the insurer the amount of the *Construction Manager's* interest in the restoration of the *Work*; and
 - (3) to the *Work* arising from the work of the *Owner*, the *Owner's* own forces or another contractor, the *Owner* shall, in accordance with the *Owner's* obligations under the provisions relating to construction by *Owner* or other contractors, pay the *Construction Manager* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as in accordance with the progress payment provisions.
 - .7 Contractors' Equipment Insurance from the date of commencement of the *Work* until one year after the date of *Substantial Performance of the Work*.
- 11.1.2 Prior to commencement of the *Services* and upon the placement, renewal, amendment or extension of all or any part of the insurance, the *Construction Manager* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to this *Contract*.

- 11.1.3 The parties shall pay their share of the deductible amounts in direct proportion to their responsibility in regards to any loss for which the above policies are required to pay, except where such amounts may be excluded by the terms of the *Contract*.
- 11.1.4 If the *Construction Manager* fails to provide or maintain insurance as required by the *Contract Documents*, then the *Owner* shall have the right to provide and maintain such insurance and give evidence to the *Construction Manager* and the *Consultant*. The *Construction Manager* shall pay the cost thereof to the *Owner* on demand or the *Owner* may deduct the cost from the amount which is due or may become due to the *Construction Manager*.
- 11.1.5 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.
- 11.1.6 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies reduced insurance requirements, the parties shall address such reduction, prior to the *Construction Manager*'s insurance policy becoming due for renewal, and record any agreement in a *Change Order*.
- 11.1.7 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies increased insurance requirements, the *Owner* may request the increased coverage from the *Construction Manager* by way of a *Change Order*.
- 11.1.8 A *Change Directive* shall not be used to direct a change in the insurance requirements in response to the revision of CCDC 41 – INSURANCE REQUIREMENTS.

GC 11.2 CONTRACT SECURITY

- 11.2.1 The *Construction Manager* shall, prior to commencement of the *Work* or within the specified time, provide to the *Owner* any *Contract* security required by this *Contract* as in accordance with paragraph 7.1.13 of the Agreement A-7 – COST OF THE WORK.
- 11.2.2 If this *Contract* requires surety bonds to be provided, such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfilment of this *Contract*. The form of such bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY

GC 12.1 INDEMNIFICATION

- 12.1.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.1.4 and 12.1.5, the *Owner* and the *Construction Manager* shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to, their involvement as parties to this *Contract*, provided such claims are:
 - .1 caused by:
 - (1) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
 - (2) a failure of the party to the *Contract* from whom indemnification is sought to fulfill its terms or conditions; and
 - .2 made by *Notice in Writing* within a period of 6 years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.5.2.2 of GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*.

The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.
- 12.1.2 The obligation of either party to indemnify as set forth in paragraph 12.1.1 shall be limited as follows:
 - .1 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is to be provided by either party pursuant to GC 11.1 – INSURANCE, the insurance limit in effect at the time of bid closing.
 - .2 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is not required to be provided by either party in accordance with GC 11.1 – INSURANCE, the greater of the *Price of the Work* or \$2,000,000, but in no event shall the sum be greater than \$20,000,000.

- .3 In respect to claims by third parties for direct loss resulting from bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, the obligation to indemnify is without limit. In respect to all other claims for indemnity as a result of claims advanced by third parties, the limits of indemnity set forth in paragraphs 12.1.2.1 and 12.1.2.2 shall apply.
- 12.1.3 The obligation of either party to indemnify the other as set forth in paragraphs 12.1.1 and 12.1.2 shall be inclusive of interest and all legal costs.
- 12.1.4 The *Owner* and the *Construction Manager* shall indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of their obligations described in GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.
- 12.1.5 The *Owner* shall indemnify and hold harmless the *Construction Manager* from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings:
 - .1 as described in GC 10.3 – PATENT FEES, and
 - .2 arising out of the *Construction Manager'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*.
- 12.1.6 In respect to any claim for indemnity or to be held harmless by the *Owner* or the *Construction Manager*:
 - .1 *Notice in Writing* of such claim shall be given within a reasonable time after the facts upon which such claim is based became known;
 - .2 should either party be required as a result of its obligation to indemnify the other pay or satisfy a final order, judgment or award made against the party entitled by this contract to be indemnified, then the indemnifying party upon assuming all liability for any costs that might result shall have the right to appeal in the name of the party against whom such final order or judgment has been made until such rights of appeal have been exhausted.

GC 12.2 WAIVER OF CLAIMS

- 12.2.1 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Construction Manager* waives and releases the *Owner* from all claims which the *Construction Manager* has or reasonably ought to have knowledge of that could be advanced by the *Construction Manager* against the *Owner* arising from the *Construction Manager's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
 - .1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Owner* from the *Construction Manager* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
 - .2 indemnification for claims advanced against the *Construction Manager* by third parties for which a right of indemnification may be asserted by the *Construction Manager* against the *Owner* pursuant to the provisions of this *Contract*;
 - .3 claims for which a right of indemnity could be asserted by the *Construction Manager* pursuant to the provisions of paragraphs 12.1.4 or 12.1.5 of GC 12.1 – INDEMNIFICATION; and
 - .4 claims resulting from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.2.2 The *Construction Manager* waives and releases the *Owner* from all claims referenced in paragraph 12.2.1.4 except for those referred in paragraphs 12.2.1.2 and 12.2.1.3 and claims for which *Notice in Writing* of claim has been received by the *Owner* from the *Construction Manager* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.3 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Owner* waives and releases the *Construction Manager* from all claims which the *Owner* has or reasonably ought to have knowledge of that could be advanced by the *Owner* against the *Construction Manager* arising from the *Owner's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
 - .1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Construction Manager* from the *Owner* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;

- .2 indemnification for claims advanced against the *Owner* by third parties for which a right of indemnification may be asserted by the *Owner* against the *Construction Manager* pursuant to the provisions of this *Contract*;
 - .3 claims for which a right of indemnity could be asserted by the *Owner* against the *Construction Manager* pursuant to the provisions of paragraph 12.1.4 of GC 12.1 – INDEMNIFICATION;
 - .4 damages arising from the *Construction Manager*'s actions which result in substantial defects or deficiencies in the *Work*. "Substantial defects or deficiencies" mean those defects or deficiencies in the *Work* which affect the *Work* to such an extent or in such a manner that a significant part or the whole of the *Work* is unfit for the purpose intended by the *Contract Documents*;
 - .5 claims arising pursuant to GC 12.3 – WARRANTY; and
 - .6 claims arising from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.2.4 The *Owner* waives and releases the *Construction Manager* from all claims referred to in paragraph 12.2.3.4 except claims for which *Notice in Writing* of claim has been received by the *Construction Manager* from the *Owner* within a period of six years from the date of *Substantial Performance of the Work* should any limitation statute of the Province or Territory of the *Place of the Work* permit such agreement. If the applicable limitation statute does not permit such agreement, within such shorter period as may be prescribed by:
- .1 any limitation statute of the Province or Territory of the *Place of the Work*; or
 - .2 the Civil Code of Quebec, if the *Place of the Work* is the Province of Quebec.
- 12.2.5 The *Owner* waives and releases the *Construction Manager* from all claims referenced in paragraph 12.2.3.6 except for those referred in paragraph 12.2.3.2, 12.2.3.3 and those arising under GC 12.3 – WARRANTY and claims for which *Notice in Writing* has been received by the *Construction Manager* from the *Owner* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.6 "Notice in Writing of claim" as provided for in GC 12.2 – WAIVER OF CLAIMS to preserve a claim or right of action which would otherwise, by the provisions of GC 12.2 – WAIVER OF CLAIMS, be deemed to be waived, must include the following
- .1 a clear and unequivocal statement of the intention to claim;
 - .2 a statement as to the nature of the claim and the grounds upon which the claim is based; and
 - .3 a statement of the estimated quantum of the claim.
- 12.2.7 The party giving "Notice in Writing of claim" as provided for in GC 12.2 – WAIVER OF CLAIMS shall submit within a reasonable time a detailed account of the amount claimed.
- 12.2.8 Where the event or series of events giving rise to a claim made under paragraphs 12.2.1 or 12.2.3 has a continuing effect, the detailed account submitted under paragraph 12.2.7 shall be considered to be an interim account and the party making the claim shall submit further interim accounts, at reasonable intervals, giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 12.2.9 If a *Notice in Writing* of claim pursuant to paragraph 12.2.1.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.3.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.
- 12.2.10 If a *Notice in Writing* of claim pursuant to paragraph 12.2.3.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.1.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.

GC 12.3 WARRANTY

- 12.3.1 Except for extended warranties as described in paragraph 12.3.7, the warranty period under this *Contract* is one year from the date of *Substantial Performance of the Work*.
- 12.3.2 The *Construction Manager* shall be responsible for the proper performance of the *Work* to the extent that the design and *Contract Documents* permit such performance.
- 12.3.3 The *Owner*, through the *Consultant*, shall promptly give the *Construction Manager* *Notice in Writing* of observed defects and deficiencies which occur during the one year warranty period.
- 12.3.4 Subject to paragraph 12.3.2, the *Construction Manager* shall correct promptly, at the *Construction Manager's* expense, defects or deficiencies in the *Work* which appear prior to and during the one year warranty period.

- 12.3.5 The *Construction Manager* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.4.
- 12.3.6 The *Construction Manager* shall enforce the warranty obligations of the *Subcontractors* and *Suppliers* which shall include the following provisions:
- .1 the *Subcontractor* or the *Supplier* shall correct promptly at its expense defects or deficiencies in the work which appear prior to and during the warranty periods specified in the *Contract Documents*; and .
 - .2 the *Subcontractor* or the *Supplier* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.4.
- 12.3.7 Any extended warranties required beyond the one year warranty period as described in paragraph 12.3.1 shall be as specified in the *Contract Documents*. Extended warranties shall be issued by the warrantor to the benefit of the *Owner*. The *Construction Manager's* responsibility with respect to extended warranties shall be limited to obtaining any such extended warranties from the warrantor. The obligations under such extended warranties are solely the responsibilities of the warrantor.

APPENDIX – STIPULATED PRICE OPTION

The *Owner* and the *Construction Manager* may agree to exercise the stipulated price option at any time during the term of the *Contract* as in accordance with Article A-8 of the Agreement – OPTIONS. Upon the issuance of the *Change Order* exercising the stipulated price option, the following Articles of the Agreement, Definitions and General Conditions shall be deemed deleted, amended or added, as the case may be, and the *Contract* so revised shall be deemed to govern the rights and obligations of the parties with respect to the *Services* and *Work* to be provided from and after the date of the *Change Order*, unless stipulated otherwise in the *Change Order*.

ARTICLES OF THE AGREEMENT

1. **Article A-1**

New paragraph 1.4

insert new paragraph as follows:

1.4 subject to adjustment in *Contract Time* as provided for in the *Contract Documents*, attain *Substantial Performance of the Work*, by the _____ day of _____ in the year _____.

2. **Article A-5**

Delete this Article in its entirety.

3. **Article A-6**

Delete this Article in its entirety.

4. **Article A-7**

Delete this Article and replace with the following:

ARTICLE A-7 COST OF WORK

7.1 The cost of performing the work attributable to any *Change Directive* shall include:

- .1 salaries, wages and benefits paid to personnel in the direct employ of the *Construction Manager* under a salary or wage schedule agreed upon by the *Owner* and the *Construction Manager*, or in the absence of such a schedule, actual salaries, wages and benefits paid under applicable bargaining agreement, and in the absence of a salary or wage schedule and bargaining agreement, actual salaries, wages and benefits paid by the *Construction Manager*, for personnel
 - (1) stationed at the *Place of the Work*, in whatever capacity employed;
 - (2) engaged in expediting the production or transportation of material or equipment, at shops or on the road;
 - (3) engaged in the preparation or review of *Shop Drawings*, fabrication drawings and coordination drawings;
or
 - (4) engaged in the processing of changes in the *Work*.
- .2 contributions, assessments or taxes incurred for such items as employment insurance, provincial or territorial health insurance, workers' compensation, and Canada or Quebec Pension Plan, insofar as such cost is based on wages, salaries or other remuneration paid to employees of the *Construction Manager* and included in the cost of the *Work* as provided in paragraph 7.1.1;
- .3 travel and subsistence expenses of the *Construction Manager's* personnel described in paragraph 7.1.1;
- .4 all *Products* including cost of transportation thereof;
- .5 materials, supplies, *Construction Equipment*, *Temporary Work*, and hand tools not owned by the workers, including transportation and maintenance thereof, which are consumed in the performance of the *Work*; and cost less salvage value on such items used but not consumed, which remain the property of the *Construction Manager*;
- .6 all tools and *Construction Equipment*, exclusive of hand tools used in the performance of the *Work*, whether rented from or provided by the *Construction Manager* or others, including installation, minor repairs and replacements, dismantling, removal, transportation, and delivery cost thereof;
- .7 the *Construction Manager's* field office;

- .8 deposits lost provided that they are not caused by negligent acts or omissions of the *Construction Manager* and the *Services* are performed in accordance with this *Contract*;
- .9 the amount of all subcontracts;
- .10 quality assurance such as independent inspection and testing services;
- .11 charges levied by authorities having jurisdiction at the *Place of the Work*;
- .12 royalties, patent license fees and damages for infringement of patents and cost of defending suits therefor subject always to the *Construction Manager's* obligations to indemnify the *Owner* as provided in paragraph 10.3.1 of GC 10.3 – PATENT FEES;
- .13 any adjustment in premiums for all contract securities and insurance that the *Construction Manager* is required, by the *Contract Documents*, to purchase and maintain;
- .14 any adjustment in taxes, other than *Value Added Taxes*, and duties relating to the *Work* for which the *Construction Manager* is liable;
- .15 charges for long distance communications, courier services, expressage, printing, and reproduction incurred in relation to the performance of the *Work*;
- .16 removal and disposal of waste products and debris;
- .17 the cost of safety measures and requirements;
- .18 other costs incurred in the performance of the *Work* as listed below:

6. **Article A-8**

Delete this Article and replace with the following:

ARTICLE A-8 CONTRACT PRICE

- 8.1 The *Contract Price*, which excludes *Value Added Taxes*, is:
 _____ /100 dollars \$ _____
- 8.2 *Value Added Taxes* (of _____ %) payable by the *Owner* to the *Construction Manager* are:
 _____ /100 dollars \$ _____
- 8.3 Total amount payable by the *Owner* to the *Construction Manager* for the construction of the *Work* is:
 _____ /100 dollars \$ _____
- 8.4 These amounts shall be subject to adjustments as provided in the *Contract Documents*.
- 8.5 All amounts are in Canadian funds.

7. **Article A-9**

paragraph 9.1

Delete and replace with the following:

- 9.1 Where required by provincial or territorial legislation, payments shall be subject to the lien legislation applicable to the *Place of the Work*. The *Owner* shall pay the *Construction Manager*:
 - .1 payments on account of the *Contract Price* when due in the amount certified by the *Consultant* together with such *Value Added Taxes* as may be applicable to such payments,
 - .2 upon *Substantial Performance of the Work*, the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, and
 - .3 upon the issuance of the final certificate for payment, the unpaid balance of the *Construction Manager's Fee* for the *Services* and the *Contract Price* when due together with such *Value Added Taxes* as may be applicable to such payment.

8. **Schedule, A1**

Delete this Schedule in its entirety.

9. **Schedule A2**
Delete this Schedule in its entirety.

10. **Schedule B**
Delete this Schedule in its entirety.

DEFINITIONS

11. **Definition 5 – CHANGE DIRECTIVE**
Delete and replace with the following:

5. Change Directive

A *Change Directive* is a written instruction prepared by the *Consultant* and signed by the *Owner* directing the *Construction Manager* to proceed with a change in the *Work* within the general scope of this *Contract* prior to the *Owner* and the *Construction Manager* agreeing upon adjustments in the *Contract Price* and the *Contract Time*.

12. **Definition 6 – CHANGE ORDER**
Delete and replace with the following:

6. Change Order

A *Change Order* is a written amendment to this *Contract* prepared by the *Consultant* and signed by the *Owner* and the *Construction Manager* stating their agreement upon:

- a change in the *Services*;
- a change in the *Work*;
- the method of adjustment or the amount of the adjustment in the *Contract Price*, if any; and
- the extent of the adjustment in the *Contract Time*, if any.

13. **Definition 32 – SUPPLEMENTAL INSTRUCTION**
Delete and replace with the following:

Supplemental Instruction

A *Supplemental Instruction* is an instruction, not involving adjustment in the *Contract Price* or *Contract Time*, in the form of *Specifications*, *Drawings*, schedules, samples, models or written instructions, consistent with the intent of the *Contract Documents*. It is to be issued by the *Consultant* to supplement the *Contract Documents*, as required for the performance of the *Work*.

14. **New Definition 38 – CONTRACT PRICE**
Insert new Definition as follows:

Contract Price

The *Contract Price*, which excludes *Value Added Taxes*, is the amount specified in Article A-8 – CONTRACT PRICE to complete the *Services* and the *Work*.

GENERAL CONDITIONS

15. GC 2.3
Delete and replace with the following:

- 2.3.1 The *Consultant* will provide administration of the *Work* as described in the *Contract Documents*.
- 2.3.2 The *Consultant* will visit the *Place of the Work* at intervals appropriate to the progress of construction to become familiar with the progress and quality of the work and to determine if the *Work* is proceeding in general conformity with the *Contract Documents*.
- 2.3.3 If the *Owner* and the *Consultant* agree, the *Consultant* will provide at the *Place of the Work*, one or more project representatives to assist in carrying out the *Consultant's* responsibilities. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in writing to the *Construction Manager*.
- 2.3.4 The *Consultant* will promptly inform the *Owner* of the date of receipt of the *Construction Manager's* applications for payment for the *Work* performed as provided in paragraph 5.4.7.1 of GC 5.4 – PROGRESS PAYMENT FOR THE WORK.

- 2.3.5 Based on the *Consultant's* observations and evaluation of the *Construction Manager's* applications for payment for the *Work* performed, the *Consultant* will determine the amounts owing to the *Construction Manager* for the *Contract Price* and will issue certificates for payment as provided in Article A-9 of the Agreement – PAYMENT, GC 5.4 – PROGRESS PAYMENT FOR THE WORK and GC 5.8 – FINAL PAYMENT FOR THE WORK.
- 2.3.6 The *Consultant* will not be responsible for and will not have control, charge or supervision of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs required in connection with the *Work* in accordance with the applicable construction safety legislation, other regulations or general construction practice. The *Consultant* will not be responsible for the *Construction Manager's* failure to carry out the *Work* in accordance with the *Contract Documents*. The *Consultant* will not have control over, charge of or be responsible for the acts or omissions of the *Construction Manager, Subcontractors, Suppliers,* or their agents, employees, or any other persons performing portions of the *Work*.
- 2.3.7 Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, the *Consultant* will be, in the first instance, the interpreter of the requirements of the *Work*.
- 2.3.8 Matters in question relating to the performance of the *Work* or the interpretation of the *Contract Documents*, except with respect to the scope, fee and reimbursable expenses of the *Services*, shall be initially referred in writing to the *Consultant* by the party raising the question for interpretations and findings and copied to the other party.
- 2.3.9 Interpretations and findings of the *Consultant* shall be consistent with the intent of the *Contract Documents* as they relate to the *Work*. In making such interpretations and findings the *Consultant* will not show partiality to either the *Owner* or the *Construction Manager*.
- 2.3.10 The *Consultant's* interpretations and findings will be given in writing to the parties within a reasonable time.
- 2.3.11 With respect to claims for a change in the *Contract Price*, the *Consultant* will make findings as set out in GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE
- 2.3.12 The *Consultant* will have authority to reject work which in the *Consultant's* opinion does not conform to the requirements of the *Contract Documents*. Whenever the *Consultant* considers it necessary or advisable, the *Consultant* will have authority to require inspection or testing of work, whether or not such work is fabricated, installed or completed. However, neither the authority of the *Consultant* to act nor any decision either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the *Consultant* to the *Construction Manager, Subcontractor, Suppliers,* or their agents, employees, or other persons performing any of the *Work*.
- 2.3.13 During the progress of the *Work* the *Consultant* will furnish *Supplemental Instructions* to the *Construction Manager* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Consultant* and the *Construction Manager*.
- 2.3.14 The *Consultant* will review and take appropriate action upon *Shop Drawings*, samples and other *Construction Manager's* submittals which are provided in accordance with the *Construction Documents*.
- 2.3.15 The *Consultant* will prepare *Change Orders* and *Change Directives* as provided in GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 2.3.16 The *Consultant* will conduct reviews of the *Work* to determine the date of *Substantial Performance of the Work* as provided in GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK.
- 2.3.17 All certificates issued by the *Consultant* will be to the best of the *Consultant's* knowledge, information and belief. By issuing any certificate, the *Consultant* does not guarantee the *Work* is correct or complete.
- 2.3.18 The *Consultant* will receive and review written warranties and related documents required by the *Contract* and provided by the *Construction Manager* and will forward such warranties and documents to the *Owner* for the *Owner's* acceptance.

16. GC 2.4

Delete and replace with the following:

- 2.4.1 The *Construction Manager* shall provide the *Owner* and the *Consultant* access to the *Work* at all times. The *Construction Manager* shall provide sufficient, safe and proper facilities at all times for the review of the *Work* by the *Consultant* and the inspection of the *Work* by authorized agencies. If parts of the *Work* are in preparation at locations other than the *Place of the Work*, the *Owner* and the *Consultant* shall be given access to such work whenever it is in progress.

- 2.4.2 If work is designated for tests, inspections or approvals in the *Contract Documents*, or by the *Consultant's* instructions, or by the laws or ordinances of the *Place of the Work*, the *Construction Manager* shall give the *Consultant* reasonable notification of when the work will be ready for review and inspection. The *Construction Manager* shall arrange for and shall give the *Consultant* reasonable notification of the date and time of inspections by other authorities.
- 2.4.3 The *Construction Manager* shall furnish promptly to the *Consultant* two copies of certificates and inspection reports relating to the *Work*.
- 2.4.4 If the *Construction Manager* covers, or permits to be covered, work that has been designated for special tests, inspections or approvals before such special tests, inspections or approvals are made, given or completed, the *Construction Manager* shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good covering work at the *Construction Manager's* expense.
- 2.4.5 The *Consultant* may order any portion or portions of the *Work* to be examined to confirm that such work is in accordance with the requirements of the *Contract Documents*. If the work is not in accordance with the requirements of the *Contract Documents*, the *Construction Manager* shall correct the work and pay the cost of examination and correction at the *Construction Manager's* expense. If the work is in accordance with the requirements of the *Contract Documents*, the *Owner* shall pay the cost of examination and restoration.
- 2.4.6 The *Construction Manager* shall pay the cost of making any test or inspection, including the cost of samples required for such test or inspection, if such test or inspection is designated in the *Contract Documents* to be performed by the *Construction Manager* or is designated by the laws or ordinances applicable to the *Place of the Work*.
- 2.4.7 The *Construction Manager* shall pay the cost of samples required for any test or inspection to be performed by the *Consultant* or the *Owner* if such test or inspection is designated in the *Contract Documents*.

17. **GC 2.5**

Delete and replace with the following:

- 2.5.1 The *Construction Manager* shall promptly correct defective work that has been rejected by the *Consultant* as failing to conform to the *Contract Documents* whether or not the defective work has been incorporated in the *Work* and whether or not the defect is the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the *Construction Manager*. The correction of defective work shall be at the *Construction Manager's* expense.
- 2.5.2 The *Construction Manager* shall make good promptly other contractors' work destroyed or damaged by such removals or replacements. The correction of destroyed or damaged work shall be at the *Construction Manager's* expense.
- 2.5.3 If in the opinion of the *Consultant* it is not expedient to correct defective work or work not performed as provided in the *Contract Documents*, the *Owner* may deduct from the amount otherwise due to the *Construction Manager* the difference in value between the work as performed and that called for by the *Contract Documents*. If the *Owner* and the *Construction Manager* do not agree on the difference in value, they shall refer the matter to the *Consultant* for a finding.

18. **GC 3.7**

Delete and replace with the following:

- 3.7.1 The *Construction Manager* shall preserve and protect the rights of the parties under the *Contract* with respect to work to be performed under subcontract, and shall:
 - .1 enter into contracts or written agreements with *Subcontractors* and *Suppliers* to require them to perform their work as provided in the *Contract Documents*;
 - .2 incorporate the terms and conditions of the *Contract Documents* into all contracts or written agreements with *Subcontractors* and *Suppliers*; and
 - .3 be as fully responsible to the *Owner* for acts and omissions of *Subcontractors*, *Suppliers* and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Construction Manager*.
- 3.7.2 The *Construction Manager* shall, before entering into contracts or written agreements with *Subcontractors* and *Suppliers*, submit to the *Owner* all bids received for the various parts of the *Work* to be subcontracted and obtain the *Owner's* acceptance of the *Subcontractors* and *Suppliers* selected.

- 3.7.3 The *Construction Manager* shall cause to be obtained contract security from *Subcontractors* to the extent and for the amounts approved by the *Owner*.
- 3.7.4 The *Construction Manager* shall not be required to employ as a *Subcontractor* or *Supplier*, a person or firm to which the *Construction Manager* may reasonably object.
- 3.7.5 The *Owner*, through the *Consultant*, may provide to a *Subcontractor* or *Supplier* information as to the percentage of the *Subcontractor's* or *Supplier's* work which has been certified for payment.

19. **GC 3.8**

Delete and replace with the following:

- 3.8.1 The *Construction Manager* shall maintain good order and discipline among the *Construction Manager's* employees engaged on the *Work* and shall not employ on the *Work* anyone not skilled in the tasks assigned.
- 3.8.2 Unless otherwise specified in the *Contract Documents*, *Products* provided shall be new. *Products* which are not specified shall be of a quality consistent with those specified and their use acceptable to the *Consultant*.
- 3.8.3 The *Construction Manager* shall provide and pay for labour, *Products*, tools, *Construction Equipment*, water, heat, light, power, transportation, and other facilities and services necessary for the performance of the *Work* in accordance with the *Contract*.

20. **New GC 3.14 – SERVICES**

Insert new General Condition as follows:

GC 3.14 SERVICES

3.14.1 The *Construction Manager* shall:

- .1 chair and minute regular *Project* meetings with the *Owner* and the *Consultant*,
- .2 prepare and update the cash flow forecasts in accordance with the *Project* budget that are specified in the *Contract* or otherwise agreed with the *Owner*;
- .3 provide reasonable assistance and information to permit recovery of all tax rebates where applicable, and
- .4 assist the *Owner* in conducting post-construction occupancy review.

21. **GC 4.1**

Delete and replace with the following:

- 4.1.1 The *Contract Price*, and not the cash allowances, includes the *Construction Manager's* overhead and profit in connection with such cash allowances.
- 4.1.2 The *Contract Price* includes the cash allowances, if any, stated in this *Contract*. The scope of work or costs included in such cash allowances shall be as described in this *Contract*.
- 4.1.3 Expenditures under cash allowances shall be authorized by the *Owner* through the *Consultant*.
- 4.1.4 Where costs under any cash allowance exceed the amount of the allowance, the *Construction Manager* shall be compensated for the excess incurred and substantiated plus an amount for overhead and profit on the excess as set out in the *Contract Documents*. Where costs under any cash allowance are less than the amount of the allowance, the *Owner* shall be credited for the unexpended portion of the cash allowance, but not for the *Construction Manager's* overhead and profit on such amount. Multiple cash allowances shall not be combined for the purpose of calculating the foregoing.
- 4.1.5 The *Contract Price* shall be adjusted by *Change Order* to provide for any difference between each cash allowance and its actual cost.
- 4.1.6 The value of the *Work* performed under a cash allowance is eligible to be included in progress payments.
- 4.1.7 The *Construction Manager* and the *Consultant* shall jointly prepare a schedule that shows when the *Consultant* and the *Owner* must authorize ordering of items called for under cash allowances to avoid delaying the progress of the *Work*.

22. **GC 5.2**

Delete and replace with the following:

- 5.2.1 The *Construction Manager* shall keep full and detailed accounts and records necessary for the documentation of and the cost of performing the work attributable to the *Change Directive*.

5.2.2 For 60 calendar days after the application for final payment or for such other period specified in the *Contract*, the *Owner* shall be afforded reasonable access to all of the *Construction Manager's* books, records, correspondence, instructions, drawings, receipt vouchers, *Subcontractor* and *Supplier* invoices, and memoranda relating to the cost of performing the work attributable to the *Change Directive*, and for this purpose the *Construction Manager* shall preserve all such records..

23. **GC 5.3**

Delete this General Condition in its entirety.

24. **GC 5.4**

Delete and replace with the following:

5.4.1 Applications for payment on account as provided in Article A-9 of the Agreement – PAYMENT may be made monthly as the *Work* progresses.

5.4.2 Applications for payment shall be dated the last day of each payment period, which is the last day of the month or an alternative day of the month agreed in writing by the parties.

5.4.3 The amount claimed shall be for the value, proportionate to the *Contract Price*, of *Work* performed and *Products* delivered to the *Place of the Work* as of the last day of the payment period

5.4.4 The *Construction Manager* shall submit to the *Consultant*, at least 15 calendar days before the first application for payment after exercising the stipulated price option, a schedule of values for the parts of the *Work*, aggregating the total amount of the *Contract Price*, so as to facilitate evaluation of applications for payment.

5.4.5 The schedule of values shall be made out in such form and supported by such evidence as the *Consultant* may reasonably direct and when accepted by the *Consultant*, shall be used as the basis for applications for payment, unless it is found to be in error.

5.4.6 Applications for payment for *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall be supported by such evidence as the *Consultant* may reasonably require to establish the value and delivery of the *Products*.

5.4.7 After receipt by the *Consultant* of an application for payment for the *Work* submitted by the *Construction Manager* in accordance with paragraphs 5.4.1 to 5.4.6:

- .1 the *Consultant* will promptly inform the *Owner* of the date of receipt of the *Construction Manager's* application for payment;
- .2 the *Consultant* will issue to the *Owner* and copy to the *Construction Manager*, no later than 10 calendar days after the receipt of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due. If the *Consultant* amends the application, the *Consultant* will promptly advise the *Construction Manager* in writing giving reasons for the amendment; and
- .3 the *Owner* shall make payment to the *Construction Manager* on account as provided in Article A-9 of the Agreement – PAYMENT on or before 20 calendar days after the later of:
 - receipt by the *Consultant* of the application for payment, or
 - the last day of the monthly payment period for which the application for payment is made.

5.4.8 The *Construction Manager* shall include a statement based on the schedule of values with each application for payment.

25. **GC 6.2**

Delete and replace with the following:

6.2.1 When a change in the *Work* is proposed or required, the *Consultant* shall provide the *Construction Manager* with a written description of the proposed change in the *Work*. The *Construction Manager* shall promptly present, in a form acceptable to the *Consultant*, a method of adjustment or an amount of adjustment for the *Contract Price* and the adjustment in the *Contract Time*, as applicable, for the proposed change in the *Work*.

6.2.2 When the *Owner* and *Construction Manager* agree to the adjustments in the *Contract Price* and the *Contract Time*, or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a *Change Order*. The value of the work performed as the result of a *Change Order* shall be included in applications for progress payment

26. **GC 6.3**

Delete and replace with the following:

- 6.3.1 If the *Owner* requires the *Construction Manager* to proceed with a change in the *Work* prior to the *Owner* and the *Construction Manager* agreeing upon any corresponding adjustment in the *Contract Price* and the *Contract Time*, the *Owner*, through the *Consultant*, shall issue a *Change Directive*.
- 6.3.2 A *Change Directive* shall only be used to direct a change in the *Work* which is within the general scope of the *Contract Documents*.
- 6.3.3 A *Change Directive* shall not be used to direct a change in the *Contract Time* only.
- 6.3.4 Upon receipt of a *Change Directive*, the *Construction Manager* shall proceed promptly with the change in the *Work*.
- 6.3.5 For the purpose of valuing *Change Directives*, changes in the *Work* that are not substitutions or otherwise related to each other shall not be grouped together in the same *Change Directive*.
- 6.3.6 The adjustment in the *Contract Price* for a change carried out by way of a *Change Directive* shall be determined on the basis of the cost of the *Construction Manager's* actual expenditures and savings attributable to the *Change Directive*, valued in accordance with Article A-7 of the Agreement – COST OF WORK and as follows:
- .1 If the change results in a net increase in the *Construction Manager's* cost, the *Contract Price* shall be increased by the amount of the net increase in the *Construction Manager's* cost, plus the *Construction Manager's* percentage fee on such net increase.
 - .2 If the change results in a net decrease in the *Construction Manager's* cost, the *Contract Price* shall be decreased by the amount of the net decrease in the *Construction Manager's* cost, without adjustment for the *Construction Manager's* percentage fee.
 - 3 The *Construction Manager's* fee shall be as specified in the *Contract Documents* or as otherwise agreed by the parties.
- 6.3.7 If the *Owner* and the *Construction Manager* do not agree on the proposed adjustment in the *Contract Price*, the *Contract Time*, or in the method of determining them, the adjustment shall be referred to the *Consultant* for a finding.
- 6.3.8 When the *Owner* and the *Construction Manager* reach agreement on the adjustment to the *Contract Price* and the *Contract Time*, this agreement shall be recorded in a *Change Order*.
- 6.3.9 Pending determination of the final amount of a *Change Directive*, the undisputed value of the work performed as the result of a *Change Directive* is eligible to be included in progress payments.

27. **GC 6.4**

Delete and replace with the following:

- 6.4.1 If the *Owner* or the *Construction Manager* discover conditions at the *Place of the Work* which are:
- .1 subsurface or otherwise concealed physical conditions which existed before the commencement of the *Work* which differ materially from those indicated in the *Contract Documents*; or
 - .2 physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the *Contract Documents*,
- then the observing party shall give *Notice in Writing* to the other party of such conditions before they are disturbed and in no event later than 5 *Working Days* after first observance of the conditions.
- 6.4.2 The *Consultant* will promptly investigate such conditions and make a finding. If the finding is that the conditions differ materially and this would justify an increase or decrease in the *Contract Price* or the *Contract Time*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.
- 6.4.3 If the *Consultant* finds that the conditions at the *Place of the Work* are not materially different or that no change in the *Contract Price* or the *Contract Time* is justified, the *Consultant* will report the reasons for this finding to the *Owner* and the *Construction Manager* in writing.
- 6.4.4 If such concealed or unknown conditions relate to toxic and hazardous substances and materials, artifacts and fossils, or mould, the parties will be governed by the provisions of GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES, GC 9.3 – ARTIFACTS AND FOSSILS and GC 9.5 – MOULD.

28. **GC 6.5**

Delete and replace with the following:

- 6.5.1 If the *Construction Manager* is delayed in the performance of the *Work* by an action or omission of the *Owner*, *Consultant* or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the *Contract Documents*, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager*. The *Contract Price* shall be adjusted by a reasonable amount for costs incurred by the *Construction Manager* as the result of such delay.
- 6.5.2 If the *Construction Manager* is delayed in the performance of the *Work* by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Construction Manager* or any person employed or engaged by the *Construction Manager* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager*. The *Contract Price* shall be adjusted by a reasonable amount for costs incurred by the *Construction Manager* as the result of such delay.
- 6.5.3 If the *Construction Manager* is delayed in the performance of the *Work* by:
- .1 labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the *Construction Manager* is a member or to which the *Construction Manager* is otherwise bound),
 - .2 fire, unusual delay by common carriers or unavoidable casualties,
 - .3 abnormally adverse weather conditions, or
 - .4 any cause beyond the *Construction Manager's* control other than one resulting from a default or breach of *Contract* by the *Construction Manager*,
- then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager*. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Construction Manager* agrees to a shorter extension. The *Construction Manager* shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the *Owner*, *Consultant* or anyone employed or engaged by them directly or indirectly.
- 6.5.4 No extension shall be made for delay unless *Notice in Writing* of the cause of the delay is given to the *Consultant* not later than 10 *Working Days* after the commencement of the delay. In the case of a continuing cause of delay only one *Notice in Writing* shall be necessary.
- 6.5.5 If no schedule is made under paragraph 2.3.13 of GC 2.3 – CONSULTANT'S RESPONSIBILITIES or paragraph 3.5.1 of GC 3.5 – CONSTRUCTION SCHEDULE, then no request for extension shall be made because of failure of the *Consultant* to furnish instructions until 10 *Working Days* after demand for such instructions has been made.

29. **GC 6.6**

Delete and replace with the following:

GC 6.6. CLAIMS FOR A CHANGE IN CONTRACT PRICE

- 6.6.1 If the *Construction Manager* intends to make a claim for an increase to the *Contract Price*, or if the *Owner* intends to make a claim against the *Construction Manager* for a credit to the *Contract Price*, the party that intends to make the claim shall give timely *Notice in Writing* of intent to claim to the other party with a copy to the *Consultant*.

30. **GC 7.1**

Delete and replace with the following:

- 7.1.1 If the *Construction Manager* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Construction Manager's* insolvency, or if a receiver is appointed because of the *Construction Manager's* insolvency, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, terminate the *Construction Manager's* right to continue with the *Work*, by giving the *Construction Manager* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.

- 7.1.2 If the *Construction Manager* neglects to prosecute the *Work* properly or otherwise fails to comply with the requirements of the *Contract Documents* to a substantial degree, and if the *Consultant* has given a written statement to the *Owner* and *Construction Manager* that sufficient cause exists to justify such action, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Construction Manager Notice in Writing* that the *Construction Manager* is in default of the *Construction Manager's* contractual obligations and instruct the *Construction Manager* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.
- 7.1.3 If the default cannot be corrected in the 5 *Working Days* specified or in such other time period as may be subsequently agreed in writing by the parties, the *Construction Manager* shall be in compliance with the *Owner's* instructions if the *Construction Manager*:
- .1 commences the correction of the default within the specified time, and
 - .2 provides the *Owner* with an acceptable schedule for such correction, and
 - .3 corrects the default in accordance with the *Contract* terms and with such schedule.
- 7.1.4 If the *Construction Manager* fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the *Owner* may have, the *Owner* may:
- .1 correct such default and deduct the cost thereof from any payment then or thereafter due the *Construction Manager* provided the *Consultant* has certified such cost to the *Owner* and the *Construction Manager*, or
 - .2 terminate the *Construction Manager's* right to continue with the *Work* in whole or in part or terminate the *Contract*.
- 7.1.5 If the *Owner* terminates the *Construction Manager's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Owner* shall be entitled to:
- .1 take possession of the *Work* and *Products* at the *Place of the Work*; subject to the rights of third parties, utilize the *Construction Equipment* at the *Place of the Work*; finish the *Work* by whatever method the *Owner* may consider expedient, but without undue delay or expense, and
 - .2 withhold further payment to the *Construction Manager* until a final certificate for payment is issued, and
 - .3 charge the *Construction Manager* the amount by which the full cost of finishing the *Work* as certified by the *Consultant*, including compensation to the *Consultant* for the *Consultant's* additional services and a reasonable allowance as determined by the *Consultant* to cover the cost of corrections to work performed by the *Construction Manager* that may be required under GC 12.3 – WARRANTY, exceeds the unpaid balance of the *Price of the Work*; however, if such cost of finishing the *Work* is less than the unpaid balance of the *Price of the Work*, the *Owner* shall pay the *Construction Manager* the difference, and
 - .4 on expiry of the warranty period, charge the *Construction Manager* the amount by which the cost of corrections to the *Construction Manager's* work under GC 12.3 – WARRANTY exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the *Construction Manager* the difference.
- 7.1.6 The *Construction Manager's* obligation under the *Contract* as to quality, correction and warranty of the work performed by the *Construction Manager* up to the time of termination shall continue in force after such termination of the *Contract*.

31. GC 9.1

Delete and replace with the following:

- 9.1.1 The *Construction Manager* shall protect the *Work* and the *Owner's* property and property adjacent to the *Place of the Work* from damage which may arise as the result of the *Construction Manager's* operations under this *Contract*, and shall be responsible for such damage, except damage which occurs as the result of:
- .1 errors in the *Contract Documents*;
 - .2 acts or omissions by the *Owner*, the *Consultant*, other contractors, or their respective agents and employees.
- 9.1.2 Before commencing any work, the *Construction Manager* shall locate on site all underground utilities and structures that are indicated in the *Contract Documents* or information provided by the *Owner*, or that are reasonably apparent in an inspection of the *Place of the Work*.
- 9.1.3 Should the *Construction Manager* in the performance of the *Contract* damage the *Work*, the *Owner's* property or property adjacent to the *Place of the Work*, the *Construction Manager* shall be responsible for making good such damage at the *Construction Manager's* expense.

- 9.1.4 Should damage occur to the *Work* or *Owner's* property for which the *Construction Manager* is not responsible, as provided in paragraph 9.1.1, the *Construction Manager* shall make good such damage to the *Work* and, if the *Owner* so directs, to the *Owner's* property. The *Contract Price* and the *Contract Time* shall be adjusted as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.

32. **GC 9.2**

Delete and replace with the following:

- 9.2.1 For the purposes of applicable legislation, the *Owner* shall be deemed to have control and management of the *Place of the Work* with respect to existing conditions.
- 9.2.2 Prior to the *Construction Manager* commencing the *Work*, the *Owner* shall,
- .1 take all reasonable steps to determine whether any toxic or hazardous substances are present at the *Place of the Work*, and
 - .2 provide the *Consultant* and the *Construction Manager* with a written list of any such substances that are known to exist and their locations.
- 9.2.3 The *Owner* shall take all reasonable steps to ensure that no person's exposure to any toxic or hazardous substance exceeds the time weighted levels prescribed by applicable legislation at the *Place of the Work* and that no property is damaged or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances which were at the *Place of the Work* prior to the *Construction Manager* commencing the *Work*.
- 9.2.4 Unless the *Contract* expressly provides otherwise, the *Owner* shall be responsible for taking all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the *Place of the Work* prior to the *Construction Manager* commencing the *Work*.
- 9.2.5 If the *Construction Manager*
- .1 encounters toxic or hazardous substances at the *Place of the Work*, or
 - .2 has reasonable grounds to believe that toxic or hazardous substances are present at the *Place of the Work*, which were not brought to the *Place of the Work* by the *Construction Manager* or anyone for whom the *Construction Manager* is responsible and which were not disclosed by the *Owner* or which were disclosed but have not been dealt with as required under paragraph 9.2.4, the *Construction Manager* shall
 - .3 take all reasonable steps, including stopping the *Work*, to ensure that no person's exposure to any toxic or hazardous substances exceeds any applicable time weighted levels prescribed by applicable legislation at the *Place of the Work*, and
 - .4 immediately report the circumstances to the *Consultant* and the *Owner* in writing.
- 9.2.6 If the *Owner* and *Construction Manager* do not agree on the existence or significance of toxic or hazardous substances, or whether the toxic or hazardous substances were brought onto the *Place of the Work* by the *Construction Manager* or anyone for whom the *Construction Manager* is responsible, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and the *Construction Manager*.
- 9.2.7 If the *Owner* and *Construction Manager* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were not brought onto the place of the *Work* by the *Construction Manager* or anyone for whom the *Construction Manager* is responsible, the *Owner* shall promptly at the *Owner's* own expense:
- .1 take all steps as required under paragraph 9.2.4;
 - .2 reimburse the *Construction Manager* for the costs of all steps taken pursuant to paragraph 9.2.5;
 - .3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager* and the expert referred to in paragraph 9.2.6 and reimburse the *Construction Manager* for reasonable costs incurred as a result of the delay; and
 - .4 indemnify the *Construction Manager* as required by GC 12.1 – INDEMNIFICATION.
- 9.2.8 If the *Owner* and *Construction Manager* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were brought onto the *Place of the Work* by the *Construction Manager* or anyone for whom the *Construction Manager* is responsible, the *Construction Manager* shall promptly at the *Construction Manager's* own expense:
- .1 take all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to safely remove and dispose the toxic or hazardous substance;

- .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the place of the *Work* as provided in paragraph 9.1.3 of GC 9.1 – PROTECTION OF WORK AND PROPERTY;
- .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.2.6; and
- .4 indemnify the *Owner* as required by GC 12.1 – INDEMNIFICATION.

9.2.9 If either party does not accept the expert's findings under paragraph 9.2.6, the disagreement shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by paragraph 9.2.7 or 9.2.8 it being understood that by so doing, neither party will jeopardize any claim that party may have to be reimbursed as provided by GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.

33. **GC 9.3**

Delete and replace with the following:

- 9.3.1 Fossils, coins, articles of value or antiquity, structures and other remains or things of scientific or historic interest discovered at the *Place of the Work* shall, as between the *Owner* and the *Construction Manager*, be deemed to be the absolute property of the *Owner*.
- 9.3.2 The *Construction Manager* shall take all reasonable precautions to prevent removal or damage to discoveries as identified in paragraph 9.3.1, and shall advise the *Consultant* upon discovery of such items
- 9.3.3 The *Consultant* will investigate the impact on the *Work* of the discoveries identified in paragraph 9.3.1. If conditions are found that would cause an increase or decrease in the *Construction Manager's* cost or time to perform the *Work*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.

34. **GC 9.5**

Delete and replace with the following:

- 9.5.1 If the *Construction Manager* or *Owner* observes or reasonably suspects the presence of mould at the *Place of the Work*, the remediation of which is not expressly part of the *Work*,
 - .1 the observing party shall promptly report the circumstances to the other party in writing;
 - .2 the *Construction Manager* shall promptly take all reasonable steps, including stopping the *Work* if necessary, to ensure that no person suffers injury, sickness or death and that no property is damaged as a result of exposure to or the presence of the mould; and
 - .3 if the *Owner* and *Construction Manager* do not agree on the existence, significance or cause of the mould or as to what steps need be taken to deal with it, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and *Construction Manager*.
- 9.5.2 If the *Owner* and *Construction Manager* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was caused by the *Construction Manager's* operations under the *Contract*, the *Construction Manager* shall promptly, at the *Construction Manager's* own expense:
 - .1 take all reasonable and necessary steps to safely remediate or dispose of the mould, and
 - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the *Place of the Work* as provided in paragraph 9.1.3 of GC 9.1 – PROTECTION OF WORK AND PROPERTY, and
 - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.5.1.3, and
 - .4 indemnify the *Owner* as required by GC 12.1 – INDEMNIFICATION.
- 9.5.3 If the *Owner* and *Construction Manager* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was not caused by the *Construction Manager's* operations under the *Contract*, the *Owner* shall promptly, at the *Owner's* own expense:
 - .1 take all reasonable and necessary steps to safely remediate or dispose of the mould;
 - .2 reimburse the *Construction Manager* for the cost of taking the steps under 9.5.1.2 and making good any damage to the *Work* as provided in paragraph 9.1.4 of GC 9.1 – PROTECTION OF WORK AND PROPERTY;
 - .3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager* and the expert referred to in paragraph 9.5.1.3 and reimburse the *Construction Manager* for reasonable costs incurred as a result of the delay; and
 - .4 indemnify the *Construction Manager* as required by GC 12.1 – INDEMNIFICATION.

9.5.4 If either party does not accept the expert's finding under paragraph 9.5.1.3, the disagreement shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by paragraphs 9.5.2 or 9.5.3, it being understood that by so doing neither party will jeopardize any claim the party may have to be reimbursed as provided by GC 9.5 – MOULD.

35. **GC 10.1**

Delete and replace with the following:

10.1.1 The *Contract Price* shall include all taxes and customs duties in effect at the time of the bid closing except for *Value Added Taxes* payable by the *Owner* to the *Construction Manager* as stipulated in Article A-8 of the Agreement – CONTRACT PRICE.

10.1.2 Any increase or decrease in costs to the *Construction Manager* due to changes in such included taxes and duties after exercising the stipulated price option shall increase or decrease the *Contract Price* accordingly.

36. **GC 10.2**

Delete and replace with the following:

10.2.1 The laws of the *Place of the Work* shall govern the *Work*.

10.2.2 The *Owner* shall obtain and pay for development approvals, building permit, permanent easements, rights of servitude, and all other necessary approvals and permits, except for the permits and fees referred to in paragraph 10.2.3 or which the *Contract Documents* specify as the responsibility of the *Construction Manager*.

10.2.3 The *Construction Manager* shall be responsible for the procurement of permits, licences, inspections and certificates which are necessary for the performance of the *Work* and customarily obtained by contractors in the jurisdiction of the *Place of the Work* after the issuance of the building permit. The *Contract Price* includes the cost of these permits, licences, inspections and certificates, and their procurement.

10.2.4 The *Construction Manager* shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the *Work* and which relate to the *Work*, to the preservation of the public health, and to construction safety.

10.2.5 The *Construction Manager* shall not be responsible for verifying that the *Contract Documents* are in compliance with the applicable laws, ordinances, rules, regulations or codes relating to the *Work*. If the *Contract Documents* are at variance therewith, or if, subsequent to the time of bid closing, changes are made to the applicable laws, ordinances, rules, regulations or codes which require modification to the *Contract Documents*, the *Construction Manager* shall advise the *Consultant* in writing requesting direction immediately upon such variance or change becoming known. The *Consultant* will make the changes required to the *Contract Documents* as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.

10.2.6 If the *Construction Manager* fails to advise the *Consultant* in writing, fails to obtain direction as required in paragraph 10.2.5, and performs work knowing it to be contrary to any laws, ordinances, rules, regulations or codes; the *Construction Manager* shall be responsible for and shall correct the violations thereof; and shall bear the costs, expenses and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations or codes.

37. **GC 10.3**

Delete and replace with the following:

10.3.1 The *Construction Manager* shall pay the royalties and patent licence fees required for the performance of the *Contract*. The *Construction Manager* shall hold the *Owner* harmless from and against claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the *Construction Manager's* performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention by the *Construction Manager* or anyone for whose acts the *Construction Manager* may be liable.

10.3.2 The *Owner* shall hold the *Construction Manager* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Construction Manager's* performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention in executing anything for the purpose of the *Contract*, or any model, plan or design which was supplied to the *Construction Manager* as part of the *Contract*.

38. **GC 11.2**

Delete and replace with the following:

- 11.2.1 The *Construction Manager* shall, prior to commencement of the *Work* or within the specified time, provide to the *Owner* any *Contract* security required by this *Contract*.
- 11.2.2 If this *Contract* requires surety bonds to be provided, such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfilment of this *Contract*. The form of such bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

39. **GC 12.1**

Delete and replace with the following:

- 12.1.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.1.4 and 12.1.5, the *Owner* and the *Construction Manager* shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to, their involvement as parties to this *Contract*, provided such claims are:
- .1 caused by:
 - (1) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
 - (2) a failure of the party to the *Contract* from whom indemnification is sought to fulfill its terms or conditions; and
 - .2 made by *Notice in Writing* within a period of 6 years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.5.2.2 of GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*.
- The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.
- 12.1.2 The obligation of either party to indemnify as set forth in paragraph 12.1.1 shall be limited as follows:
- .1 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is to be provided by either party pursuant to GC 11.1 – INSURANCE, the insurance limit for the loss so covered as prescribed in GC 11.1 – INSURANCE.
 - .2 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is not required to be provided by either party in accordance with GC 11.1 – INSURANCE, the greater of the *Contract Price* or \$2,000,000, but in no event shall the sum be greater than \$20,000,000.
 - .3 In respect to claims by third parties for direct loss resulting from bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, the obligation to indemnify is without limit. In respect to all other claims for indemnity as a result of claims advanced by third parties, the limits of indemnity set forth in paragraphs 12.1.2.1 and 12.1.2.2 shall apply.
- 12.1.3 The obligation of either party to indemnify the other as set forth in paragraphs 12.1.1 and 12.1.2 shall be inclusive of interest and all legal costs.
- 12.1.4 The *Owner* and the *Construction Manager* shall indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of their obligations described in GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.
- 12.1.5 The *Owner* shall indemnify and hold harmless the *Construction Manager* from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings:
- .1 as described in GC 10.3 – PATENT FEES, and
 - .2 arising out of the *Construction Manager'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*.
- 12.1.6 In respect to any claim for indemnity or to be held harmless by the *Owner* or the *Construction Manager*:
- .1 *Notice in Writing* of such claim shall be given within a reasonable time after the facts upon which such claim is based became known;
 - .2 should either party be required as a result of its obligation to indemnify the other pay or satisfy a final order, judgment or award made against the party entitled by this contract to be indemnified, then the indemnifying party upon assuming all liability for any costs that might result shall have the right to appeal in the name of the party against whom such final order or judgment has been made until such rights of appeal have been exhausted.

40. **GC 12.3**

Delete and replace with the following:

- 12.3.1 Except for extended warranties as described in paragraph 12.3.6, the warranty period under this *Contract* is one year from the date of *Substantial Performance of the Work*.
- 12.3.2 The *Construction Manager* shall be responsible for the proper performance of the *Work* to the extent that the design and the *Contract Documents* permit such performance.
- 12.3.3 The *Owner*, through the *Consultant*, shall promptly give the *Construction Manager Notice in Writing* of observed defects and deficiencies which occur during the one year warranty period.
- 12.3.4 Subject to paragraph 12.3.2, the *Construction Manager* shall correct promptly, at the *Construction Manager's* expense, defects or deficiencies in the *Work* which appear prior to and during the one year warranty period.
- 12.3.5 The *Construction Manager* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.4.
- 12.3.6 Any extended warranties required beyond the one year warranty period as described in paragraph 12.3.1, shall be as specified in the *Contract Documents*. Extended warranties shall be issued by the warrantor to the benefit of the *Owner*. The *Construction Manager's* responsibility with respect to extended warranties shall be limited to obtaining any such extended warranties from the warrantor. The obligations under such extended warranties are solely the responsibilities of the warrantor.

**SUPPLEMENTARY CONDITIONS TO THE CONSTRUCTION MANAGEMENT CONTRACT
CCDC5B-2010 (the "Contract") BETWEEN KSV KOFMAN INC., SOLELY IN ITS CAPACITY
AS TRUSTEE AND RECEIVER AND MANAGER OF CERTAIN ASSETS, UNDERTAKINGS
AND PROPERTIES OF STATION POINT DEVELOPMENTS LTD., AND NOT IN ITS
PERSONAL CAPACITY, AS OWNER, AND RMS BUILDING INC., AS CONSTRUCTION
MANAGER**

These Supplementary Conditions are modifications or additions to the agreement between *Owner* and *Construction Manager*, Definitions and General Conditions in the form of CCDC5B-2010 (the "**Form**") that comprise the *Contract* between the *Owner* and the *Construction Manager* regarding the *Services* and *Work* described therein and form part of the *Contract*. If there is a direct conflict between any provisions of the Form and any provisions of these Supplementary Conditions, the provisions of these Supplementary Conditions shall prevail.

SC 1. Article A-1 is amended by deleting paragraph 1.3 and replacing it with the following:

upon receiving a *Notice in Writing* from the *Owner* that the *Owner* has received the necessary approvals from the Court of Queen's Bench of Alberta to commence the *Work* and *Services*, commence the *Services* and the *Work* and continue in accordance with any schedule provided in Article A-3 of the *Agreement* – DESCRIPTION OF THE PROJECT and the *Work Schedule*.

SC 2. Article A-2 is amended by adding paragraph 2.3 as follows:

The parties acknowledge and agree that (i) KSV Kofman Inc. is entering into this *Agreement* solely in its capacity as Court-appointed Trustee, Receiver and Manager of certain assets, undertakings and properties of Station Point Developments Ltd., and not in its personal capacity; (ii) it is a condition precedent of this *Agreement* that (A) the *Owner* has received all necessary approvals from the Court of Queen's Bench of Alberta to enter into and perform its obligations under this *Agreement* and (B) the *Construction Manager* has received written approval of the *Cost of Work Estimate* from both the *Owner* and KingSett Mortgage Corporation; and (iii) neither party shall have any rights or be subject to any obligations under this *Agreement* until the *Owner* and the *Construction Manager* have received the foregoing approvals, as applicable.

SC 3. Article A-4 is amended by deleting the following: "the Appendix – STIPULATED PRICE OPTION" and replacing it with "the Supplementary Conditions".

SC 4. Article A-5 is amended by deleting paragraph 5.2 in its entirety and replacing it with "NOT USED".

SC 5. Article A-5 is amended by deleting paragraph 5.4 in its entirety and replacing it with the following:

Notwithstanding any provision within this *Contract*, the percentage fee making up the *Construction Manager's Fee* for *Work* shall not be subject to adjustment throughout the performance of the *Services* and the *Work*.

SC 6. Article A-6 is amended by adding to the end of paragraph 6.1:

Any costs or expenses not included within Schedule A2 to the *Agreement* and not identified as reimbursable expenses are deemed to be for *Construction Manager's* account.

SC 7. Article A-7 paragraphs 7.1, 7.1.3, 7.1.5, 7.1.8, 7.1.9, 7.1.11, 7.1.18, and 7.1.21 are amended as follows:

- 7.1 (i) by deleting "actual cost incurred" and replacing it with the words "actual, verifiable, reasonably and properly incurred costs"; (ii) by deleting "actual cost" and replacing it with the words "actual, verifiable, reasonably and properly incurred costs"; and (iii) adding immediately after the word "following", the words "without duplication".
- 7.1.3 by adding ", pre-approved by *Owner* and reasonably and properly incurred," immediately after "travel and subsistence expenses".
- 7.1.5 by adding the following at the end of this paragraph: "such *Construction Equipment* shall include the *Construction Manager's* owned equipment which shall be provided at the rates prescribed under the RMS Leasing Inc. Equipment Rate Schedule attached as Schedule "C" to the *Agreement*;"
- 7.1.8 by adding the following at the end of this paragraph: "however, notwithstanding any other term or condition in the *Contract Documents*, the *Construction Manager's Fee* for the *Work* pursuant to paragraph 5.3 of Article A-5 shall not be applied to or accrued for the *Cost of the Work* incurred by the *Construction Manager* under this paragraph 7.1.8 of Article A-7;"
- 7.1.9 by deleting this paragraph in its entirety and replacing it with the following:
- the amounts of all direct contracts or written agreements with first tier *Subcontractors* and *Suppliers*;
- 7.1.11 by adding the following at the end of this paragraph: "which, do not result from the acts, omissions, fault or breach of *Contract* by or of a member of the *CM Group*;"
- 7.1.18 by adding "excluding any legal costs incurred as a result of the *Construction Manager* negotiating or entering into an agreement with any other member of the *CM Group*" immediately after "legal costs"; and further amended by adding "on behalf of the *Owner*" immediately after "by the *Construction Manager*"; and is further amended by adding the following at the end of this paragraph: "however, notwithstanding any other term or condition in the *Contract Documents*, the *Construction Manager's Fee* for the *Work* pursuant to paragraph 5.3 of Article A-5 shall not be applied to or accrued for the *Cost of the Work* incurred by the *Construction Manager* under this paragraph 7.1.18 of Article A-7;"
- 7.1.21 by adding the following at the end of this paragraph: "which, is approved in writing by the *Owner* prior to such cost being incurred;"

SC 8. Article A-7 paragraph 7.1.19 is deleted in its entirety and replaced with "NOT USED".

SC 9. Article A-7 paragraph 7.23 is deleted in its entirety and replaced with:

the unrecoverable costs to the *Construction Manager* that result from any *Subcontractor's* or *Supplier's* default, insolvency or abandonment; termination of any *Subcontractor's* or *Supplier's* right to perform due to default by the *Subcontractor* or *Supplier*; or termination of

any *Subcontractor's* or *Supplier's* contract due to default by the *Subcontractor* or *Supplier*; however, notwithstanding any other term or condition in the *Contract Documents*, the *Construction Manager's Fee* for the *Work* pursuant to paragraph 5.3 of Article A-5 shall not be applied to or accrued for the *Cost of the Work* incurred by the *Construction Manager* under this paragraph 7.23 of Article A-7; and

SC 10. Article A-7 is amended by adding a new paragraph 7.24 as follows:

all other costs and expenses reasonably and properly incurred by the *Construction Manager* in performing the *Work* that have been pre-approved by the *Owner* in writing.

SC 11. Article A-7 at paragraph 7.3: (i) after the word "*Work*" add "or due to its acts, omissions, fault or breach of *Contract*"; and (ii) add to the end of paragraph 7.3: "*The Construction Manager will be responsible for payment of: (i) all deductibles relating to insurance claims arising from the acts, omissions, fault or breach of Contract by or of the Construction Manager or CM Group up to a maximum of \$5,000.00 per occurrence.*"

SC 12. Article A-7 paragraph 7.6.1 is deleted in its entirety and replaced with "NOT USED".

SC 13. Article A-7 is amended by adding a new paragraph 7.7 as follows:

7.7 The parties acknowledge and agree that:

.1 the *Construction Manager* has a duty while performing the *Work* to make reasonable efforts to mitigate the *Cost of Work* subject to the *Construction Manager's* obligation to exercise a standard of care, skill and diligence equivalent to the *Specified Industry Standard*;

.2 the *Construction Manager* has submitted to the *Consultant* and the *Owner* an estimated aggregate amount of the *Cost of the Work* to complete the *Project* attached as Schedule E to the *Agreement* (the "*Cost of Work Estimate*");

.3 the *Construction Manger* shall provide a *Notice in Writing* to the *Owner* if the aggregate *Cost of Work* exceeds 80% of the *Cost of Work Estimate* and in such notice, confirm whether the *Construction Manager* reasonably expects to complete the *Project* without exceeding the *Cost of Work Estimate*; and

.4 if the aggregate *Cost of Work* exceeds the *Cost of Work Estimate*, the *Construction Manager* shall obtain written consent from the *Owner* prior to performing any further *Work*.

SC 14. Article A-8 OPTIONS is deleted in its entirety and replaced with "NOT USED".

SC 15. Article A-9 is amended by deleting paragraph 9.1.1 in its entirety and replacing it with the following:

payments on account of the reimbursable expenses for the *Services* earned as described in Article A-6 of the *Agreement* – REIMBURSABLE EXPENSES FOR THE SERVICES together with such *Value Added Taxes* as may be applicable to such payments,

SC 16. Article A-9 is amended by deleting paragraph 9.1.2 in its entirety and replacing it with the

following:

payments on account of the *Construction Manager's Fee* for the *Work* when due in the amount certified by the *Consultant* together with such *Value Added Taxes* as may be applicable to such payments,

- SC 17. Article A-9 is amended by deleting paragraph 9.1.3 in its entirety and replacing it with the following:

payments on account of the *Cost of Work* when due in the amount certified by the *Consultant* together with such *Value Added Taxes* as may be applicable to such payments; excepting the *Cost of the Work* attributable to the amounts owed directly by the *Construction Manager* to any *Subcontractor* or *Supplier*, as such amounts shall be paid directly by the *Owner* to such *Subcontractor* and *Supplier* pursuant to GC 5.4 – PROGRESS PAYMENT FOR THE WORK,

- SC 18. Article A-9 is amended by adding a new paragraph 9.4 as follows:

Without limiting the rights and remedies of the *Owner* hereunder or at law, the *Owner* shall be entitled to set-off from any and all payments that may be owing from time to time to the *Construction Manager* pursuant to this *Contract*, any amounts owing to the *Owner* from the *Construction Manager* pursuant to this *Contract* that have been determined and confirmed by the *Consultant*. However, the *Owner's* entitlement to set-off under this paragraph 9.4 shall not apply to any payments that the *Owner* is obligated to pay directly to a first-tier *Subcontractor* or first-tier *Supplier* pursuant to GC 5.4 – PROGRESS PAYMENT FOR THE WORK.

- SC 19. Article A-9 is amended by adding a new paragraph 9.5 as follows:

The *Owner* shall not be deemed by virtue of the *Contract* or for any other reason to have any contractual relationship with or obligation to any *Subcontractor* or *Supplier* and the *Construction Manager* hereby agrees that, subject to GC 7.1 – OWNER'S RIGHT TO PERFORM THE WORK OR TERMINATE THE CONTRACT, in the event that (i) the *Contract* is terminated, or (ii) the *Construction Manager's* right to continue the *Work* is terminated, any or all subcontracts for *Services, Work* or *Products*, as may be selected by the *Owner* in its sole and absolute direction, shall be assigned to the *Owner* by the *Construction Manager*, subject to the acceptance of such assignment by the applicable *Subcontractor* or *Supplier* and such *Subcontractor* or *Supplier* releasing the *Construction Manager* from its obligations and commitments under the applicable contract, except for any such obligations or commitments that arose prior to the date of such assignment.

AMENDMENTS TO SCHEDULE A-1

- SC 20. Schedule A1 – SERVICES AND COMPENSATION is deleted in its entirety and replaced with the following:

	Performed by the Construction Manager
1. PRECONSTRUCTION	
1.1 Construction Document Phase	
<p>.1 Constructability:</p> <p>(1) Provide updates as necessary regarding the availability of materials and labour, building systems, and possible economies.</p> <p>(2) Review the <i>Specifications</i> and <i>Drawings</i> and make recommendations to the <i>Owner</i> and the <i>Consultant</i> as to clarity, consistency, constructability, and coordination among the <i>Subcontractors</i>.</p> <p>(3) Assist the <i>Owner</i> and the <i>Consultant</i> in preparing bid documents for <i>Subcontractors</i>.</p> <p>(4) Assist the <i>Owner</i> in determining the contract security requirements of <i>Subcontractors</i>.</p>	Yes
<p>.2 Estimating and Cost Control:</p> <p>(1) Prepare the <i>Cost of Work Estimate</i>.</p> <p>(2) Update the cash flow forecasts for the <i>Project</i>.</p> <p>(3) Provide a <i>Notice in Writing</i> to the <i>Owner</i> if the aggregate <i>Cost of Work</i> exceeds 80% of the <i>Cost of Work Estimate</i> and in such notice, confirm whether the <i>Construction Manager</i> reasonably expects to complete the <i>Project</i> without exceeding the <i>Cost of Work Estimate</i>.</p>	Yes
<p>.3 Scheduling:</p> <p>(1) Prepare the <i>Work Schedule</i>.</p> <p>(2) Review and update the <i>Work Schedule</i> and the <i>Project</i> schedule with appropriate details.</p> <p>(3) Advise the <i>Owner</i> if it appears that the <i>Project</i> schedule may vary from that specified in Article A-3 of the <i>Agreement – DESCRIPTION OF THE PROJECT</i>, the <i>Work Schedule</i>, or otherwise agreed with the <i>Owner</i>, and make recommendations for corrective action, including changes to <i>Project</i> scope, schedule or budget.</p>	Yes
<p>.4 Other Services:</p> <p>(1) Make recommendations to the <i>Owner</i> regarding any equipment or materials, which should be preordered to meet the <i>Project</i> objective.</p>	Yes
1.2 Construction Procurement Phase	
<p>.1 Scheduling:</p> <p>(1) Review and update the <i>Work Schedule</i> and the <i>Project</i> schedule with appropriate details.</p>	Yes
<p>.2 Contracting:</p> <p>(1) Develop methods of solicitation for <i>Subcontractors</i> and the distribution of addenda.</p> <p>(2) Prepare the prequalification criteria for <i>Subcontractors</i> and <i>Suppliers</i> as required by the <i>Owner</i>.</p>	Yes

(3) Review for completeness and coordinate all bid documents for the solicitation of competitive bids for the <i>Work</i> to be performed by <i>Subcontractors</i> .	
.3 Other Service: (1) Update the cash flow forecasts for the <i>Project</i> .	Yes
2. CONSTRUCTION	
2.1 General Service .1 Chair and minute regular <i>Project</i> meetings with the <i>Owner</i> and the <i>Consultant</i> .	Yes
2.2 Cost Control and Accounting	
.1 Prepare and update the <i>Construction Cost</i> and cash flow forecasts in accordance with the <i>Project</i> budget as specified in Article A-3 of the <i>Agreement</i> – DESCRIPTION OF THE PROJECT or otherwise agreed with the <i>Owner</i> .	Yes
.2 Develop, implement and maintain a system of <i>Project</i> cost control and accounting.	Yes
.3 Advise the <i>Owner</i> and the <i>Consultant</i> on the variances between actual cost and <i>Construction Cost Estimate</i> .	Yes
.4 Provide reasonable assistance and information to permit recovery of all tax rebates where applicable.	Yes
.5 Provide recommendations to the <i>Owner</i> for necessary changes to maintain the <i>Project</i> budget, <i>Work Schedule</i> and <i>Project</i> schedule.	Yes
3. POST-CONSTRUCTION	
3.1 General Service .1 Prepare final <i>Construction Cost</i> report.	Yes
3.2 Occupancy Review .1 Assist the <i>Owner</i> in conducting post-construction occupancy review.	Yes

AMENDMENTS TO SCHEDULE A-2

- SC 21. Item # 1 of Schedule A2 – Reimbursable Expenses Applicable to Schedule A1 is amended by adding ", pre-approved by *Owner* and reasonably and properly incurred," immediately after "travel and subsistence expenses".
- SC 22. Item # 3 of Schedule A2 – Reimbursable Expenses Applicable to Schedule A1 is amended by adding "which, is approved in writing by the *Owner* prior to such cost being incurred" immediately after "method determined by the parties".
- SC 23. Item # 4 of Schedule A2 – Reimbursable Expenses Applicable to Schedule A1 is deleted in its entirety and replaced with "NOT USED".
- SC 24. Item # 5 of Schedule A2 – Reimbursable Expenses Applicable to Schedule A1 is amended by adding the following "; however, the administrative charge pursuant to paragraph 6.1 of Article A-6 shall not apply to any such costs" immediately after "failure to perform".
- SC 25. Item # 6 of Schedule A2 – Reimbursable Expenses Applicable to Schedule A1 is amended by adding the following "which, do not result from the acts, omissions, fault or breach of *Contract* by or of a member of the *CM Group*" immediately after "*Place of the Work*".
- SC 26. Item # 9 of Schedule A2 – Reimbursable Expenses Applicable to Schedule A1 is amended by adding "(only to the extent such losses and expenses are not the result of the act, omission, fault or breach of *Contract* by or of a member of the *CM Group*); however, the administrative charge pursuant to paragraph 6.1 of Article A-6 shall not apply to any such losses and expenses" immediately after "are not insurable".
- SC 27. Item # 11 of Schedule A2 – Reimbursable Expenses Applicable to Schedule A1 is amended by adding "excluding any legal costs incurred as a result of the *Construction Manager* negotiating or entering into an agreement with any other member of the *CM Group*" immediately after "legal costs"; and further amended by adding "on behalf of the *Owner*" immediately after "by the *Construction Manager*"; and is further amended by adding "; however, the administrative charge pursuant to paragraph 6.1 of Article A-6 shall not apply to any such costs" immediately after "with this Contract".
- SC 28. Item # 13 of Schedule A2 – Reimbursable Expenses Applicable to Schedule A1 is added as follow: "The costs incurred to obtain all permits, licences, or certificates necessary for the performance of the *Work*, as applicable, in accordance with GC 10.2.2."

INTERPRETATION

- SC 29. Any reference in the *Contract* to construction schedule shall be replaced with the term *Work Schedule*.

AMENDMENTS TO DEFINITIONS

- SC 30. **Class A Construction Cost Estimate** – the definition of Class A Construction Cost Estimate is deleted in its entirety and replaced with "NOT USED".
- SC 31. **Class B Construction Cost Estimate** – the definition of Class B Construction Cost Estimate is deleted in its entirety and replaced with "NOT USED".

SC 32. **Class C Construction Cost Estimate** – the definition of Class C Construction Cost Estimate is deleted in its entirety and replaced with "NOT USED".

SC 33. **Class D Construction Cost Estimate** – the definition of Class D Construction Cost Estimate is deleted in its entirety and replaced with "NOT USED".

SC 34. **Construction Cost Estimate** – the definition of *Construction Cost Estimate* is deleted in its entirety and replaced with "NOT USED".

SC 35. **Construction Documents** – the definition of *Construction Documents* is deleted in its entirety and replaced with:

The *Construction Documents* consist of (i) the *Specifications* and *Drawings* that are consistent with the *Contract Documents* and are prepared by the *Consultant* and accepted by the *Owner* after execution of the *Agreement* for the performance of the *Project*; and (ii) such other documents deemed to be "Construction Documents" under ARTICLE A-4 CONTRACT DOCUMENTS.

SC 36. **Contract Time** – is amended by inserting the following immediately after "WORK": ", and includes the periods specified in the *Work Schedule*."

SC 37. **Price of Services** – the definition of Price of Services is deleted in its entirety and replaced with "NOT USED".

SC 38. **Subcontractor** – the definition of *Subcontractor* is deleted in its entirety and replaced with the following:

A *Subcontractor* is a person who enters into an agreement with *Construction Manager* to perform part of *Construction Manager's* obligations under this *Agreement* or to assist *Construction Manager* in the performance of its obligations under this *Agreement*, and, in each case, except as otherwise specified herein, includes such *Subcontractor's* subcontractors of every tier and their successors and permitted assigns, and includes a *Supplier*.

SC 39. **Substantial Performance of the Work** – the definition of *Substantial Performance of the Work* is deleted in its entirety and replace it with the following:

Substantial Performance of the Work means *Work* that has been performed such that it meets the requirements of Section 2 of the *Builders' Lien Act* (Alberta).

SC 40. **Supplier** - the definition of *Supplier* is deleted in its entirety and replaced with the following:

A *Supplier* is a person or entity who enters into an agreement with the *Construction Manager* to supply *Products* for the *Services* or the *Work* and includes every person or entity of any tier having a contract to supply *Products* for the *Services* or the *Work*.

SC 41. **Work** – the definition of *Work* is amended by inserting ", supply of *Products*, installation, commissioning, checkout, startup, testing" immediately after "total construction".

SC 42. Add the following defined terms:

Agreement or Contract means this AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER – FOR SERVICES AND CONSTRUCTION, including the Contract Documents.

Claims or claims means losses, damages, costs, expenses, liabilities, claims, demands, actions, causes of action, proceedings, judgments and other amounts (including legal fees and disbursements, on a full indemnity basis).

Cost of Work Estimate has the meaning ascribed to such term under Article A-7 at paragraph 7.7.2.

CM Group means, collectively, the *Construction Manager*, its directors, officers, employees, agents, consultants, *Subcontractors* or *Suppliers*, and any of their respective affiliates (as defined in the *Business Corporations Act* (Alberta)).

Encumbrance includes any encumbrance, mortgage, pledge, assignment, charge, lien, builders' lien, security interest or other third party interest, and any agreement, option, right, privilege, notice, or caveat (whether by law, contract or otherwise) capable of becoming any of the foregoing, or providing notice of any of the foregoing.

Law or law means, whether used in the singular or the plural, all applicable laws, including common law, laws of equity, together with any statutes, rules, regulations, by-laws, codes, orders-in-council, policies, guidelines, notices, directives, or other governmental provisions having the force of law, however designated, whether federal, provincial, regional, or local, and whether legislative, judicial, or administrative in origin, including all requirements, conditions, and agreements, however designated, under all permits or certificates of approval applicable at any time to the *Project* and/or the *Services* and/or the *Work*. The term "Law(s)" is also deemed to include all relevant provincial codes, standards and guidelines, such as the Alberta Building Code.

OHSA has the meaning ascribed to such term under GC 9.4.4.

Order has the meaning ascribed to such term under GC 5.1.

Owner Permits means the following, which are the only permits that *Owner* shall be responsible for obtaining, unless otherwise required in the *Construction Documents*: (i) development permit for the *Project*; and (ii) land use bylaw amendment in relation to the *Project* (if applicable).

Person or person means an individual, a partnership, a corporation, a trust, an unincorporated organization, a government or any department or agency thereof and the heirs, executors, administrators or other legal representatives of an individual.

Pre-Existing Work means any work completed, or partially completed, on the *Project* as of the date of execution of this *Agreement*.

Specified Industry Standard means a reasonable industry practice for services and work similar to the *Services* or *Work* as applicable in Alberta and includes the standard of practice attained by exercising that degree of knowledge, skill, diligence, prudence, and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the same type of undertaking (including an experienced and prudent construction

manager and general contractor) in the same or similar circumstances, including determining what is reasonable in the circumstances having regard for safety, reliability, and economic considerations, but is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, and rather is intended to include practices, methods, and acts generally accepted in Alberta.

Work Schedule means the construction schedule prepared by the *Construction Manager* and accepted by the *Owner*, attached as Schedule D to the *Agreement*.

AMENDMENTS TO GC 1.1 CONTRACT DOCUMENTS

SC 43. GC 1.1.6.1 is deleted in its entirety and replaced with:

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

- any amendment of the *Contract* made in accordance with the *Contract Documents*,
- the Supplementary Conditions,
- the *Agreement* between *Owner* and *Construction Manager* (including the Schedules to the *Agreement*),
- the *Definitions*,
- the *General Conditions*,
- the *Construction Documents*
 - the *Specifications*,
 - technical *Specifications*,
 - material and finishing schedules,
 - the *Drawings*.

SC 44. GC 1.4.1 is deleted in its entirety and replaced with the following:

Construction Manager shall not assign the *Contract* or a portion thereof without the prior written consent of the *Owner*, which consent may not be unreasonably withheld. The *Owner* shall not assign all or part of its rights, title and interest in and/or delegate its duties under this *Contract*, without either: (i) the prior written consent of the *Construction Manager*, such consent not to be unreasonably withheld, conditioned or delayed; or (ii) an order obtained on notice to the *Construction Manager* from the Alberta Court of Queen's Bench authorizing the *Owner* to assign the *Contract* or a portion thereof.

AMENDMENTS TO GC 2.2 AUTHORITY OF THE CONSULTANT

SC 45. GC 2.2.2 is deleted in its entirety and replaced with the following:

The duties, responsibilities and limitations of authority of the *Consultant* as set forth in the *Contract Documents* may only be modified or extended with the written consent of both the *Construction Manager* and the *Owner*, following consultation with the *Consultant*, or as otherwise modified by a *Change Order* or *Change Directive* pursuant to this *Agreement*.

SC 46. GC 2.2.3 is amended by replacing "immediately" with "within a reasonable period of time".

AMENDMENTS TO GC 2.3 CONSULTANT'S RESPONSIBILITY

SC 47. GC 2.3.7 is amended by adding the following at the end of the paragraph: "No such

interpretations or recommendations shall be binding upon the parties who may dispute any such decision pursuant to and in accordance with Part 8 - DISPUTE RESOLUTION."

SC 48. GC 2.3.9 is amended by adding the following at the end of the paragraph: "No such interpretations or recommendations shall be binding upon the parties who may dispute any such decision pursuant to and in accordance with Part 8 - DISPUTE RESOLUTION."

SC 49. GC 2.3.10 is amended by adding the following at the end of the paragraph: "No such interpretations or recommendations shall be binding upon the parties who may dispute any such decision pursuant to and in accordance with Part 8 - DISPUTE RESOLUTION."

SC 50. GC 2.3.11 is deleted in its entirety and replaced with "NOT USED".

SC 51. GC 2.3.19 is added as follows:

If requested by the *Owner* or the *Construction Manager*, the *Consultant* will determine on an impartial basis and confirm the amounts owing to the *Owner* by the *Construction Manager* for determining the applicable set-off amount or withholding amount pursuant to paragraphs 9.4 of ARTICLE A-9 PAYMENT and 12.1.3 of GC 12.1 INDEMNIFICATION, as applicable.

AMENDMENTS TO GC 2.4 REVIEW AND INSPECTION OF THE WORK

SC 52. GC 2.4.3 is amended by deleting "two" and replacing it with "electronic" and by adding "and the *Owner*" immediately after "*Consultant*".

SC 53. GC 2.4.5 is amended by adding in the first line immediately after "*Consultant*", the words "or the *Owner*".

SC 54. Add a new GC 2.4.6:

General review during construction by the *Owner* or the *Consultant* does not relieve the *Construction Manager* of the responsibility to carry out its own quality control and to make the *Work* conform to the *Contract* requirements. Subject to GC 2.5.4., the *Construction Manager* is solely responsible for the quality of the *Work* and shall undertake any quality control activities specified in the *Contract Documents* or, if none is specified, as may be reasonably required to ensure such quality.

AMENDMENTS TO GC 2.5 DEFECTIVE WORK

SC 55. GC 2.5.1 is amended by adding "Except for the correction of the *Pre-Existing Work*," at the beginning of the last sentence.

SC 56. GC 2.5.2 is amended by adding "Except for the correction of the *Pre-Existing Work*," at the beginning of the last sentence.

SC 57. GC 2.5.3 is amended as follows: by adding "or the *Owner* acting reasonably" immediately after "the opinion of the *Consultant*" and by adding ", excepting the *Pre-Existing Work*," immediately after "correct defective work or work".

SC 58. GC 2.5.4 is added as follows:

The *Construction Manager* shall correct defective *Pre-Existing Work* or *Pre-Existing Work* not performed as provided in the *Contract Document*; however, if in the opinion of the *Consultant* or the *Owner* it is not expedient to correct defective *Pre-Existing Work* or *Pre-Existing Work* not performed as provided in the *Contract Documents*, the *Construction Manager* shall not correct such *Pre-Existing Work*. Notwithstanding any provision herein, if the *Construction Manager* does not correct such *Pre-Existing Work* as a result of the opinion of the *Consultant* or the *Owner*, the *Construction Manager* shall not be responsible or obligated to correct: (i) such *Pre-Existing Work* pursuant to GC 12.3 WARRANTY; or (ii) defects or deficiencies in the *Work* resulting from the non-correction of such *Pre-Existing Work* pursuant to GC 12.3 WARRANTY.

AMENDMENTS TO GC 3.1 CONTROL OF THE WORK

SC 59. GC 3.1.3 is added as follows:

The *Construction Manager* shall provide personnel reasonably required for completion of the *Work* and the *Services*.

AMENDMENTS TO GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

SC 60. GC 3.2.1 is amended by adding the following to the end of the paragraph:

Notwithstanding the foregoing, the *Owner* shall not award separate contracts in connection with other parts of the *Project* to other contractors without either: (i) the prior written consent of the *Construction Manager*, such consent not to be unreasonably withheld, conditioned or delayed; or (ii) an order obtained on notice to the *Construction Manager* from the Alberta Court of Queen's Bench authorizing the *Owner* to award such contracts.

SC 61. GC 3.2.2 is deleted in its entirety and replaced with the following:

When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces:

- .1 the *Owner* shall require all other contractors and the *Owner's* own forces co-ordinate their activities with the *Construction Manager*;
- .2 the *Construction Manager* shall retain overall responsibility for compliance with the applicable occupational health and safety legislation at the *Place of the Work*;
- .3 the *Construction Manager* shall take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors or the *Owner's* own forces; and
- .4 the *Construction Manager* shall have direct and complete control of the *Place of the Work*.

SC 62. GC 3.2.3.2 is amended by deleting "and" immediately after "schedules;"

SC 63. GC 3.2.3.3 is amended by deleting the period at the end of this paragraph and replacing it with: "; and".

SC 64. GC 3.2.3.4 is added as follows:

for the *Owner's* own forces and for other contractors, assume overall responsibility for

compliance with applicable health and safety legislation at the *Place of the Work* for the *Project*.

SC 65. GC 3.2.6 is amended by the deleting the last sentence in its entirety.

SC 66. GC 3.2.7 is added as follows:

Entry at the *Place of the Work* by the *Owner's* own forces and by other contractors does not mean acceptance of the *Work* and does not relieve the *Construction Manager* of the *Construction Manager's* obligations under the *Contract*. Prior to the entry by the *Owner's* own forces or other contractors to perform *Work* at the *Place of the Work*, the parties and their representatives will meet for an inspection of the *Work* in order to document deficiencies existing prior to such entry.

AMENDMENT TO 3.5 CONSTRUCTION SCHEDULE

SC 67. GC 3.5.1 is deleted in its entirety and replaced with the following:

The *Construction Manager* shall:

- .1 monitor the progress of the *Work* relative to the *Work Schedule* and update the *Work Schedule* on a monthly basis or more frequently as may be reasonably required by the *Owner* or *Consultant*;
- .2 advise the *Consultant* of any revisions required to the *Work Schedule* as the result of extensions of the *Contract Time* as provided in Part 6 of the General Conditions – CHANGES;
- .3 be responsible for the scheduling of all activities relating to the execution of the *Work*; schedule and conduct progress meetings at which the *Owner, Subcontractors, Consultant* and *Construction Manager* can discuss jointly such matters as procedures, progress, problems and scheduling during the performance of the *Work*; and
- .4 perform the *Work* in accordance with the *Work Schedule*.

SC 68. GC 3.5.2 is added as follows:

Time shall be of the essence in the performance of the *Work* and the *Services*. The *Construction Manager* shall, no later than ten (10) *Working Days* after becoming aware or when the *Construction Manager*, acting reasonably, should have become aware of a delay in the performance of the *Services* or the *Work*, provide written notice to the *Owner* and the *Consultant* where, in the *Construction Manager's* view, there will be a delay in the performance of the *Services* or the *Work*, such that (i) the *Work* will not be completed in accordance with the dates within the *Work Schedule*; and (ii) the *Services* will not be performed within a reasonable time period, and provide reasons for such delay.

SC 69. GC 3.5.3 is added as follows:

If at any time it should appear to the *Consultant* that the actual progress of the *Work* and/or the *Services* is behind schedule, or if the *Construction Manager* has determined that it is behind schedule, regardless of whether the *Construction Manager* has given notice to that effect to the *Owner* or the *Consultant* pursuant to GC 3.5.3, the *Construction Manager* shall, at its own cost, unless such delay is caused by: (i) the *Owner's* own forces, (ii) other contractors, (iii) the

default or negligence of the *Owner*, or (iv) the events described in GCs 6.5.1, 6.5.2, 6.5.3, or 7.1.8, take appropriate steps to cause the actual progress of (i) the *Work* to conform to the *Work Schedule* and/or (ii) the *Services* to be performed within a reasonable time period, and shall produce and present to the *Owner* and the *Consultant* a recovery plan demonstrating how the *Construction Manager* will achieve the recovery of the *Work Schedule* and/or the performance of the *Services*.

SC 70. GC 3.5.5 is added as follows:

If the *Construction Manager* does not perform the *Services* and the *Work* in accordance with the recovery plan provided to the *Owner* and *Consultant* under GC 3.5.4 or does not provide the *Owner* with an acceptable recovery plan, the *Owner* shall be entitled to direct the *Construction Manager* to accelerate the performance of the *Services* and the *Work* as directed by the *Owner*, whereupon the *Construction Manager* shall implement such measures as directed by the *Owner* in order to achieve the *Contract Time* and otherwise perform the *Services* and the *Work* in accordance with the *Work Schedule*. and the *Construction Manager* shall be solely responsible for all costs and expenses it incurs accelerating the performance of the *Services* and the *Work* pursuant to this GC 3.5.5.

AMENDMENTS TO GC 3.6 SUPERVISION

SC 71. GC 3.6.2 is deleted in its entirety and replaced with the following:

The appointed representative shall represent the *Construction Manager* at the *Place of the Work* and shall have full authority to act on written instructions given by the *Consultant* and/or the *Owner* so long as such written instructions are contemporaneously provided by the *Consultant* and/or the *Owner* to the *Construction Manager's* head office.

SC 72. GC 3.6.3 is added as follows:

The *Owner*, acting reasonably, shall have the right to require the *Construction Manager* to remove, from the *Work*, any representative or employee of the *Construction Manager*, a *Subcontractor* or *Supplier* whose performance, in the opinion of the *Owner*, is a detriment to the *Work*.

AMENDMENTS TO GC 3.7 SUBCONTRACTORS AND SUPPLIERS

SC 73. GC 3.7.1 is amended by deleting "The *Construction Manger*" at the beginning of the first sentence and replacing same with "Subject to GC 3.7.2, the *Construction Manager*".

SC 74. GC 3.7.2 is amended by: deleting "all bids" and replacing same with "multiple bids"; and inserting "written" immediately after "*Owner's*".

SC 75. GC 3.7.2 is further amended by adding the following to the end of the paragraph:

Except for *Work* in respect of which the *Construction Manager* has entered into subcontracts or letters of intent with the prior approval of the *Owner* prior to execution of the *Contract*, the *Construction Manager* shall obtain multiple bids as required to obtain competitive pricing from *Subcontractors* or *Suppliers* for each part of the *Work* to be performed by any *Subcontractor* or *Supplier*, except in circumstances where a specific *Subcontractor* or *Supplier*

is approved in the *Contract Documents*. The *Construction Manager* agrees not to change *Subcontractors* or *Suppliers* without the written consent of the *Owner*, which consent will not be unreasonably withheld. Notwithstanding any such approval by the *Owner*, the *Construction Manager* shall remain fully responsible for all *Subcontractors* and *Suppliers* including their acts and omissions.

SC 76. GC 3.7.6 is added as follows:

Notwithstanding any provision herein, the *Construction Manager* shall require the *Owner's* written consent prior to entering into a contract or written agreement with *Subcontractors* and *Suppliers* that are not at arms-length with the *Construction Manager* and/or are an affiliate of the *Construction Manager*.

AMENDMENTS TO GC 3.8 LABOUR AND PRODUCTS

SC 77. GC 3.8.2 is deleted in its entirety and replaced with the following:

Products shall be new and free from defects. *Products* not specified shall be of a quality consistent with those specified and their use acceptable to the *Consultant*. *Products* brought to the *Place of the Work* by the *Construction Manager* shall be deemed to be the property of the *Owner* and shall not be removed from the *Place of the Work*, but the *Owner* shall be under no liability for loss thereof or damage thereto arising from any cause whatsoever. The said *Products* shall be at the sole risk of the *Construction Manager*.

SC 78. GC 3.8.3 is added as follows:

The *Construction Manager* shall maintain good order and discipline among the *CM Group* engaged in the *Work* and shall not employ on the *Work* anyone not skilled in the tasks assigned.

SC 79. GC 3.8.4 is added as follows:

The *Construction Manager* shall perform all *Work* under applicable national and local labour laws as may be necessary to achieve performance of the *Work* in accordance with the *Work Schedule*.

AMENDMENTS TO GC 3.10 SHOP DRAWINGS

SC 80. GC 3.10.1 is amended by inserting "or as the *Consultant* may reasonably request" immediately after "*Construction Documents*".

ADDITION OF GC 3.14 PERFORMANCE BY CONSTRUCTION MANAGER

SC 81. GC 3.14 is added as follows:

In performing and completing the *Contract*, including its performance and completion of the *Services* and the *Work*, the *Construction Manager* shall:

- .1 exercise a standard of care, skill and diligence equivalent to the *Specified Industry Standard*. The *Construction Manager* acknowledges and agrees that throughout the *Contract*, the *Construction Manager's* obligations, duties and responsibilities shall be

interpreted in accordance with this standard. The *Construction Manager* shall exercise the same standard in respect of any *Products*, personnel, or procedures which it may recommend to the *Owner*;

- .2 perform the *Work* with due diligence and dispatch in accordance with the *Work Schedule*, if applicable, or otherwise consistently in accordance with a reasonable time period; and
- .3 perform the *Services* consistently and diligently in accordance with a reasonable time period.

AMENDMENTS TO GC 4.1 CASH ALLOWANCES

SC 82. GC 4.1 is deleted in its entirety and replaced with "NOT USED".

AMENDMENTS TO GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

SC 83. GC 5.1.1 is deleted in its entirety and replaced with the following:

The *Owner* shall, at the request of the *Construction Manager* furnish to the *Construction Manager*, the Order from the Court of Queen's Bench of Alberta dated June 18, 2019 (Court File #1903-08169), which authorizes the *Owner* to borrow up to an aggregate principal amount of \$17,000,000 (the "*Order*").

SC 84. GC 5.1.2 is deleted in its entirety and replaced with the following:

The *Owner* shall give the *Construction Manager Notice in Writing* of any material change in the *Order* during the performance of the *Contract*, if such material change affects the *Owner's* obligations under the *Contract* during the performance of the *Contract*.

AMENDMENTS TO GC 5.2 ACCOUNTING AND AUDIT

SC 85. GC 5.2.1 is amended by adding the following to the end of the paragraph:

All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of other accounting documents pertaining in whole or in part to the *Contract* and shall be clearly identified and readily accessible.

AMENDMENTS TO GC 5.3 PROGRESS PAYMENT FOR THE SERVICES

SC 86. GC 5.3.1 is deleted in its entirety and replaced with the following:

The *Owner* shall make payment on account of the reimbursable expenses validly and properly incurred for the *Services* as described in Article A-6 of the *Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES*, of undisputed amounts for *Services* actually and properly performed by the *Construction Manager*, less applicable holdbacks pursuant to the *Builders' Lien Act* (Alberta), no later than twenty (20) calendar days after receipt of an application for payment for *Services* submitted by the *Construction Manager*.

AMENDMENTS TO GC 5.4 PROGRESS PAYMENT FOR THE WORK

SC 87. GC 5.4.1 is amended by adding "for all undisputed amounts" at the end of the provision.

SC 88. GC 5.4.5 is amended by adding the following after the last sentence:

Subject to GC 5.4.11, the *Construction Manager* shall also provide such reasonable information that the *Owner* may require confirming whether there are any *Encumbrances* registered against the *Place of the Work* or in relation to the *Project*.

SC 89. GC 5.4.6 is amended by adding the following after the last sentence:

The *Construction Manager* shall ensure *Products* are delivered at a time as same are reasonably required for the *Construction Manager* to perform the *Work* in accordance with the *Work Schedule*.

SC 90. GC 5.4.7.3 is deleted in its entirety and replaced with the following:

the *Owner* shall make payment to the *Construction Manager* and each applicable first tier *Subcontractor* and *Supplier* on account as provided in Article A-9 of the *Agreement – PAYMENT*, of undisputed amounts, less applicable holdbacks pursuant to the *Builders' Lien Act* (Alberta), on or before twenty (20) calendar days after the later of: (i) receipt by the *Consultant* of the application for payment, or (ii) the last day of the monthly payment period for which the application for payment is made.

SC 91. GC 5.4.8 is added as follows:

The *Construction Manager* shall submit with each application for payment, the necessary banking and payment information for each *Subcontractor* and *Supplier*, which the *Owner* is required to pay directly pursuant to GC 5.4.7.3 and Article A-9 of the *Agreement – PAYMENT*.

SC 92. GC 5.4.9 is added as follows:

In the event of a dispute with respect to the amount the *Owner* is requested to pay directly to a *Subcontractor* or *Supplier* pursuant to an application for payment under GC 5.4.7, if the dispute is not settled before such amount becomes due and payable under the relevant agreement between the *Construction Manager* and the *Subcontractor* or *Supplier*, as applicable, the *Construction Manager* may pay such *Supplier* or *Subcontractor* the disputed amount and the *Owner* shall reimburse the *Construction Manager* for such portion of the disputed amount that the *Owner* is determined obligated to pay to the *Construction Manager*, if any, upon resolution of such dispute pursuant to Part 8 of the General Conditions – DISPUTE RESOLUTION.

SC 93. GC 5.4.10 is added as follows:

In the event that the *Owner* is late with payment to a *Subcontractor* or *Supplier* pursuant to GC 5.4.7.3 or if at any time it should reasonably appear to the *Construction Manager* that the *Owner* will be late with such a payment, the *Construction Manager* may directly pay such *Subcontractor* or *Supplier* and issue a *Notice in Writing* to the *Owner* of such payment. Within five (5) *Working Days* of receiving such *Notice in Writing*, the *Owner* shall reimburse the *Construction Manager* for such payment.

SC 94. GC 5.4.11 is added as follows:

The *Construction Manager* shall not be entitled to any payment for the *Work* at any time a *Encumbrance* is registered or claimed against the *Place of the Work* or in relation to the *Project*, unless such *Encumbrance* is a result of: (i) work or services provided by the *Owner* or other contractors; (ii) failure by the *Owner* to make payment to the *Construction Manager* or any *Subcontractor* or *Supplier* under GC 5.4 PROGRESS PAYMENT FOR THE WORK; or (iii) any other default by or negligent act of the *Owner* or the *Consultant*.

SC 95. GC 5.4.12 is added as follows:

Any *Products* delivered to the *Place of the Work*, but not yet incorporated into the *Work*, shall remain at the risk of the *Construction Manager*.

SC 96. GC 5.4.13 is added as follows:

The *Construction Manager* must provide with each application after the first, a sworn statement, in form satisfactory to the *Owner*, certifying that all accounts for the subcontracts, construction machinery and equipment materials, *Products*, labour and other indebtedness which may have been incurred by the *Construction Manager* and for which the *Owner* might in any way be held responsible have been provided to the *Owner* by the *Construction Manager* for payment in accordance with the *Contract Documents*.

SC 97. GC 5.4.14 is added as follows:

Concurrently with its second and each subsequent application for payment, the *Construction Manager* shall submit a statutory declaration in a form similar to the CCDC 9B 'Statutory Declaration' or otherwise satisfactory to the *Owner*, certifying that all accounts for the construction machinery and equipment materials, *Products*, labour and other indebtedness which may have been incurred by the *Construction Manager* and for which the *Owner* might in any way be held responsible have been paid by the *Construction Manager* in accordance with *Contract Documents*, except for amounts properly retained in holdback or as an identified amount in dispute and a clearance certificate from the Workers' Compensation Board of Alberta.

SC 98. GC 5.4.15 is added as follows:

Payment by the *Owner* pursuant to the *Contract* shall not preclude the *Owner* from thereafter disputing any of the items involved and shall not be construed as acceptance of any part of the *Work*. However, notwithstanding the forgoing, the *Owner* shall not be entitled to dispute any such items and shall be deemed to have accepted any such part of the *Work*, if the *Owner* has not disputed any such item or part of the *Work* within sixty (60) days from: (i) the date of *Substantial Performance of the Work*, if payment for such part of the *Work* is made by the *Owner* prior to or on the date of *Substantial Performance of the Work*; or (ii) the date of payment for such part of the *Work*, if payment for such part of the *Work* is made after the date of *Substantial Performance of the Work*. For greater certainty, this GC 5.4.15 shall not affect either of the party's rights or obligations under GC 12.3 – WARRANTY.

AMENDMENTS TO GC 5.5 SUBSTANTIAL PERFORMANCE OF THE WORK

SC 99. GC 5.5.3 is amended by adding "and *Owner*" after the word "*Consultant*" in the second line of

the paragraph and is further amended by adding "in accordance with the *Work Schedule* for the *Work* and otherwise in a timely and diligent manner" immediately after "finishing the *Work*".

SC 100. GC 5.5.4 is added as follows:

Upon the *Construction Manager* achieving *Substantial Performance of the Work*, the *Construction Manager* shall diligently proceed to complete the *Work* in accordance with the *Work Schedule* and otherwise in a timely manner in accordance with the *Contract*.

AMENDMENTS TO GC 5.6 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

SC 101. GC 5.6.2 is deleted in its entirety and replace with the following:

After the receipt of an application for payment from the *Construction Manager* and the statutory declaration as provided in paragraph 5.6.1, the *Consultant* will issue a certificate for payment of the major lien fund.

SC 102. GC 5.6.3 is deleted in its entirety and replaced with "NOT USED".

SC 103. GC 5.6.4 is deleted in its entirety and replaced with the following:

Following forty five (45) calendar days after the issuance of the certificate of *Substantial Performance of the Work*, or a portion thereof, the *Owner* shall directly pay the *Construction Managers* and each *Subcontractor* and *Supplier* its respective portion of the holdback pertaining to the major lien fund, as applicable, pursuant to the provisions of the *Builders' Lien Act* (Alberta), provided that no liens are registered with respect to the *Place of the Work* or in relation to the *Project* as a result of the *Services* or the *Work* at the time payment is due.

SC 104. GC 5.6.5 is deleted in its entirety and replaced with "NOT USED".

AMENDMENTS TO GC 5.7 PROGRESSIVE RELEASE OF HOLDBACK

SC 105. GC 5.7.1 is amended by deleting "shall pay the *Construction Manager*" and replacing it with "shall directly pay such *Subcontractor* or *Supplier*".

SC 106. GC 5.7.2 is deleted in its entirety and replaced with "NOT USED".

AMENDMENTS TO GC 5.8 FINAL PAYMENT FOR THE WORK

SC 107. GC 5.8.4 is amended by adding "and each *Subcontractor* and *Supplier*, as applicable," immediately after the "*Construction Manager*".

AMENDMENTS TO GC 5.9 WITHHOLDING OF PAYMENT

SC 108. GC 5.9.1 is amended by deleting "If" and replacing: "Subject to applicable lien legislation, if".

AMENDMENTS TO GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

SC 109. GC 6.1.4 is added as follows:

A *Change Order* shall be a final determination or adjustment to the *Contract Time* and the scope of the *Work*, as applicable.

AMENDMENTS TO GC 6.2 CHANGE ORDER

SC 110. GC 6.2.1 is amended by deleting "a method of adjustment or an amount of adjustment for the *Construction Manager's Fee*, a method of adjustment or an amount of adjustment for the *Guaranteed Maximum Price*, and"; and is further amended by deleting ", as applicable,"; and is further amended by inserting the following at the end of the paragraph:

There shall be no adjustment to the *Contract Time* should the *Construction Manager* fail to present a request for an adjustment to the *Contract Time* in response to a contemplated *Change Order*.

SC 111. GC 6.2.2. is amended by deleting "the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and".

SC 112. GC 6.2.3 is deleted in its entirety and replaced with "NOT USED".

AMENDMENTS TO GC 6.3 CHANGE DIRECTIVE

SC 113. GC 6.3.1 is amended by deleting "the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and".

SC 114. GC 6.3.5 is deleted in its entirety and replaced with "NOT USED".

SC 115. GC 6.3.6 is deleted in its entirety and replaced with "NOT USED".

SC 116. GC 6.3.7 is amended by deleting "the *Construction Manager's Fee*, the *Guaranteed Maximum Price*,"; and is further amended by deleting "them" and replacing it with "the *Contract Time*".

SC 117. GC 6.3.8 is amended by deleting "the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and".

AMENDMENTS TO GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

SC 118. GC 6.4.2 is amended by deleting "the *Construction Manager's Fee* for the *Work*, the *Guaranteed Maximum Price* or".

SC 119. GC 6.4.3 is amended by deleting "the *Construction Manager's Fee* for the *Work*, the *Guaranteed Maximum Price* or".

AMENDMENTS TO GC 6.5 DELAYS

SC 120. GCs 6.5.1 and 6.5.2 are amended by deleting the last sentence in each such paragraph and replacing it with the following:

In the event of a delay under this GC, the *Owner* shall pay the *Construction Manager* all reasonable associated costs necessarily incurred by the *Construction Manager* as a result of

such delay, including any costs of securing, making safe, and protecting the *Work*, and any standby costs for the *Construction Manager* and its *Subcontractors* up to \$50,000 in the aggregate, including their respective personnel and equipment, and any other standby costs authorized in advance by the *Owner*. However, except for the foregoing the *Owner* shall not be liable for any other costs or damages whatsoever including, without limitation, any loss of profit or any indirect, consequential, or special damages, such as loss of profits or loss of opportunity resulting from such delay.

SC 121. GC 6.5.3.1 is deleted in its entirety and replaced by:

any labour disputes, strikes or lock-outs affecting the *Work* or the *Project*,

SC 122. GC 6.5.3.4 is amended by adding the following to the end of such paragraph:

which shall include a significant change to the scope of *Work* as a result of a defect or deficiency in the *Pre-Existing Work* that the *Construction Manager* did not know of prior to commencing the *Work*,

SC 123. GC 6.5.3 is amended by deleting "The *Construction Manager's Fee* and the *Guaranteed Maximum Price* shall be adjusted by a reasonable amount for overhead costs incurred by the *Construction Manager* as the result of such delay." and replacing it with the following:

In the event of a delay under this GC 6.5.3, the *Owner* shall, in such instance, only be liable for reasonable costs incurred by the *Construction Manager* and shall not be liable for any other costs or damages whatsoever including, without limitation, any loss of profit or any direct, consequential, or special damages, such as loss of profits or loss of opportunity resulting from such delay.

SC 124. GC 6.5.4 is amended by adding the following to the end of the paragraph:

Without limiting the generality of the foregoing, the *Construction Manager* shall use its best efforts to minimize the impact of the delay event dealt with by paragraphs 6.5.1, 6.5.2, or 6.5.3, upon the performance of the *Work*, the *Contract Time* and the cost to the *Owner*.

SC 125. A new GC 6.5.6 is added as follows:

If the *Work* and/or *Services* should be behind schedule for a reason other than as described in paragraphs 6.5.1, 6.5.2, 6.5.3 or 7.1.8 the *Construction Manager*, at its expense, shall use all measures necessary to bring the *Work* and/or *Services* back on schedule pursuant to the *Work Schedule* and/or a reasonable time period for performing the *Services*, as applicable.

AMENDMENTS TO GC 6.6 CLAIMS FOR A CHANGE IN CONSTRUCTION MANAGER'S FEE FOR THE SERVICES, THE PRICE OF THE WORK OR THE GUARANTEED MAXIMUM PRICE

SC 126. GC 6.6 is deleted in its entirety and replaced with "NOT USED".

AMENDMENTS TO GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT

SC 127. GC 7.1.5.4 is amended by adding the following at the end of this paragraph:

Including, for greater certainty, any of the *Construction Manager's* obligations and commitments pursuant to: (i) its unwritten agreements with *Subcontractors* or *Suppliers*; or (ii) non-cancellable orders with *Suppliers*.

SC 128. Delete paragraph 7.1.6 and replace it with the following:

If the *Owner* terminates the *Construction Manager's* right to continue with the *Work* as provided in paragraphs 7.1.1, 7.1.4 and 7.1.9, the *Construction Manager* shall, as a condition of receiving the payments, execute and deliver such papers and take such action, including the legal assignment in the *Construction Manager's* contractual rights, as the *Owner* may require for the purpose of fully vesting in the *Owner* the rights and benefits of the *Construction Manager* under any obligations or commitments, including, without limitation, contracts with *Subcontractors* or *Suppliers*, which the *Owner* elects to assume. However, such legal assignment shall be subject to the acceptance of same by the applicable third party and such third party releasing the *Construction Manager* from its obligations and commitments under the applicable contract, except for any such obligations or commitments that arose prior to the date of such assignment.

SC 129. GC 7.1.8 is added as follows:

The *Owner* may instruct the *Construction Manager* to suspend the performance of the *Work* or any part thereof for either a specified or unspecified period by issuing the *Construction Manager* with a written "Notice of Suspension". On receipt of a "Notice of Suspension", the *Construction Manager* shall cease all operations in performance of the *Work* or identified part thereof except such work as may be necessary for the protection or safety of *Work* completed at the time of suspension as directed by the *Consultant*. The *Owner* will compensate the *Construction Manager* for reasonable associated costs necessarily incurred by the *Construction Manager* as a result of such suspension, including any costs of securing, making safe, and protecting the *Work*, and any standby costs for the *Construction Manager* and its *Subcontractors* up to \$50,000 in the aggregate, including their respective personnel and equipment, and any other standby costs authorized in advance by the *Owner*. The *Construction Manager* shall make every effort to mitigate these costs and expenses to the *Owner*. Except for the foregoing the *Owner* shall not be liable for any other costs or damages whatsoever including, without limitation, any loss of profit or any indirect, consequential, or special damages, such as loss of profits or loss of opportunity resulting from such suspension. If the suspension is sixty (60) days or less, the *Construction Manager* shall resume the performance of the *Work* within five (5) days following receipt of notification to resume by the *Owner*. If the suspension exceeds sixty (60) days, no *Work* will be resumed prior to the *Construction Manager* and the *Owner* having agreed upon the resumption terms and conditions.

SC 130. GC 7.1.9 is added as follows:

The *Owner* may terminate the *Contract* for convenience by giving a written "Notice of Termination" to the *Construction Manager*. On receipt of the "Notice of Termination", the *Construction Manager* will cease all operations in performance of the *Services* and the *Work*

except same as may be necessary for the protection or safety of *Work* completed at the time of termination as directed by the *Consultant*. The *Owner* will be entitled to the rights under GC 7.1.5.1 and subject to the obligations under GCs 7.1.5.3 and 7.1.5.4. The *Owner* will pay the *Construction Manager* and the *Construction Manager* will accept in full and final settlement of all monies owing under the *Contract* the following compensation: (i) payment for all *Work* properly performed prior to the effective date of termination, including payment of the appropriate holdback; plus (ii) payment for materials for the *Work* and *Products* delivered to the *Place of the Work* unless such items can be returned; plus (iii) compensation for any reasonably incurred demobilization costs; plus (iv) any other unavoidable direct costs incurred by the *Construction Manager* as a result of the said termination; plus (v) a break fee of \$50,000.

AMENDMENTS TO GC 7.2 CONSTRUCTION MANAGER'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

SC 131. GC 7.2.2 is deleted in its entirety and replaced with the following:

If the *Work* is suspended or otherwise delayed for a period of forty five (45) *Working Days* or more under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Construction Manager* or of anyone directly or indirectly employed or engaged by the *Construction Manager*, the *Construction Manager* may terminate this *Contract* upon giving the *Owner Notice in Writing* to that effect.

SC 132. GC 7.2.3.1 is deleted in its entirety and replaced with the following: "the *Owner* fails to furnish reasonable evidence that financial arrangements under GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER have been made, or".

SC 133. GC 7.2.4 is deleted in its entirety and replace with the following:

The *Construction Manager's Notice in Writing* to the *Owner* provided under paragraph 7.2.3 shall instruct the *Owner* to correct the default within ten (10) *Working Days* following receipt of the *Notice in Writing*, provided that, if the default cannot be corrected in the ten (10) *Working Days* specified or in such other time period as may be subsequently agreed in writing between the parties, the *Owner* shall be in compliance with the *Construction Manager's* instructions if the *Owner* commences the correction of the default within the specified time and is diligently pursuing a correction of or to the same. If this paragraph 7.2.4 is not complied with, the *Construction Manager* may, without prejudice to any other right or remedy the *Construction Manager* may have, suspend the *Work* or terminate the *Contract*.

AMENDMENTS TO PART 8 DISPUTE RESOLUTION

SC 134. GC 8.1 – AUTHORITY OF THE CONSULTANT is deleted in its entirety and replaced with the following:

GC 8.1 DISPUTES

8.1.1 Any dispute, controversy or claim arising out of or relating to this *Contract*, including but not limited to any differences between the parties as to the

interpretation, application or administration of the *Contract* or any failure to agree where agreement between the parties is called for, herein collectively called "**disputes**", (which for clarity includes any disputes over any recommendations of the *Consultant* as provided in GC 2.3 – CONSULTANT'S RESPONSIBILITIES, except to the extent the parties have agreed to same), shall be exclusively and finally resolved in accordance with the requirements and procedure of Part 8 of the General Conditions – DISPUTE RESOLUTION.

AMENDMENTS TO GC 8.2 NEGOTIATION, MEDIATION, AND ARBITRATION

SC 135. GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION is deleted in its entirety and replaced with the following:

GC 8.2 DISPUTE RESOLUTION

8.2.1 If the parties cannot resolve a matter within twenty (20) days of either party providing written *Notice in Writing* of such dispute to the other party, the parties will escalate the matter to an appropriate senior officer of each of the *Owner* and the *Construction Manager*.

8.2.2 If the dispute is not resolved within ten (10) days of the date the dispute is escalated to an appropriate senior officer of each of the *Owner* and the *Construction Manager*, then the dispute shall proceed to be resolved by a justice sitting on commercial list of the Court Queens' Bench of Alberta. Unless otherwise agreed to in writing, the *Owner* and the *Construction Manager* hereby attorn to the exclusive jurisdiction of the courts of the Province of Alberta with respect to any dispute arising out of or in relation to this *Contract*.

AMENDMENTS TO GC 8.3 RETENTION OF RIGHTS

SC 136. GC 8.3.1 is amended by deleting "and has carried out the instructions as provided in paragraph 8.1.3 of GC 8.1 – AUTHORITY OF THE CONSULTANT".

SC 137. GC 8.3.2 is amended by deleting "and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.2.6 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based".

AMENDMENTS TO GC 9.1 PROTECTION OF PERSONS AND PROPERTY

SC 138. GC 9.1.2 is deleted in its entirety and replaced with the following:

Before commencing any *Work*, the *Construction Manager* shall locate on site all utilities and structures that are indicated in the *Contract Documents* or information provided by the *Owner*, or that may be reasonably encountered when performing the *Work*.

SC 139. GC 9.1.4 is amended by deleting "*Construction Manager's Fee*, the *Guaranteed Maximum Price* and the".

AMENDMENTS TO GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

- SC 140. GC 9.2.7.2 is deleted in its entirety and replaced with "NOT USED".
- SC 141. GC 9.2.7.3 is amended by deleting "adjust the *Construction Manager's Fee* and the *Guaranteed Maximum Price* by a reasonable amount for costs incurred by the *Construction Manager* as a result of the delay" and replacing it with "pay the *Construction Manager* all reasonable associated costs necessarily incurred by the *Construction Manager* as a result of such delay, including any costs of securing, making safe, and protecting the *Work*, and any standby costs for the *Construction Manager* and its *Subcontractors* up to \$50,000 in the aggregate, including their respective personnel and equipment, and any other standby costs authorized in advance by the *Owner*. However, except for the foregoing the *Owner* shall not be liable for any other costs or damages whatsoever including, without limitation, any loss of profit or any indirect, consequential, or special damages, such as loss of profits or loss of opportunity resulting from such delay".
- SC 142. GC 9.2.7.4 is amended by adding the following after the words "as required by GC 12.1 – INDEMNIFICATION": ", but not for consequential damages of any nature, whatsoever, including, but not limited to, damages for indirect costs, loss of productivity, impact costs, interest expenses, overhead, loss of income or profit."

AMENDMENTS TO GC 9.3 ARTIFACTS AND FOSSILS

- SC 143. GC 9.3.3 is amended by deleting "the *Construction Manager's Fee*, the *Guaranteed Maximum Price* or".

AMENDMENTS TO GC 9.4 CONSTRUCTION HEALTH AND SAFETY

- SC 144. GC 9.4.1 is deleted in its entirety and replaced with the following:

The *Construction Manager* shall be solely responsible for construction safety at the *Place of the Work* and for compliance by all the employees and workers with the rules, regulations and practices required either by the applicable construction, health and safety legislation and/or the *Contract Documents* including all risk prevention programs established by standard practice in the construction industry for the type of *Work* contemplated by the *Project*, and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the *Project*. In addition, the *Construction Manager* shall:

- .1 ensure that the measures and procedures prescribed by the applicable construction, health and safety legislation in force at the *Place of the Work* and any regulations made pursuant thereto are carried out for the *Work* and the *Project*;
- .2 ensure that every *Subcontractor* and every worker performing the *Work* and the *Project* complies with: (i) the applicable construction, health and safety legislation in force at the *Place of the Work* and any regulations made pursuant to such legislation; and (ii) the *Construction Manager's* safety plan and existing health and safety policy;
- .3 ensure that the health and safety of all *Workers* performing the *Work* and the *Project* is protected;
- .4 ensure that all persons and *Work* groups are undertaking the *Work* and the *Project* on a coordinated basis and that the *Work* and the *Project* are performed safely; and
- .5 direct and control all of the *Work* and the *Project* in a safe manner.

SC 145. GC 9.4.2 is added as follows:

The *Construction Manager* shall publish a comprehensive safety plan for the *Work* including, without limitation, inspection frequencies, and written job procedures, to be reviewed by the *Owner* and shall designate a safety officer. The *Construction Manager* shall provide to the *Owner* the safety officer's resume. Such safety officer shall be employed by the *Construction Manager* on an as needed part-time basis to ensure the health and safety requirements under this GC 9.4 – CONSTRUCTION HEALTH AND SAFETY and the *Contract Documents* are met. The *Construction Manager* shall review the safety programs of each of the *Subcontractors* and make appropriate recommendations. In addition to providing the safety plan, the *Construction Manager* agrees to provide, as may be requested from time to time, by the *Owner*, evidence of the *Construction Manager's* existing health and safety policy.

SC 146. GC 9.4.3 is added as follows:

The *Construction Managers* shall be responsible for any costs related to occupational health and safety including fines or penalties levied against the *Owner* for a member of the *CM Group's* failure to observe applicable requirements.

SC 147. GC 9.4.4 is added as follows:

The *Construction Manager* shall be responsible for ensuring that the *Work* is completed in compliance with all *Laws* relating to health and safety (including the *Occupational Health and Safety Act* (Alberta) (the "**OHSA**")). The *Construction Manager* shall ensure that all *Subcontractors' Work* is in accordance with the OHSA. The *Construction Manager* shall fulfill the role of the "prime contractor" within the meaning of the OHSA for the entire *Place of the Work* during the entire term of this *Contract* and agrees to carry out the duties, liabilities, obligations and responsibilities of the "prime contractor" with respect to, and throughout the performance of, the *Work*.

AMENDMENTS TO GC 9.5 - MOULD

SC 148. GC 9.5.3.2 is deleted in its entirety and replaced with "NOT USED".

SC 149. GC 9.5.3.3 is amended by deleting "adjust the *Construction Manager's Fee* and the *Guaranteed Maximum Price* by a reasonable amount for costs incurred by the *Construction Manager* as a result of the delay" and replacing same with "pay the *Construction Manager* all reasonable associated costs necessarily incurred by the *Construction Manager* as a result of such delay, including any costs of securing, making safe, and protecting the *Work*, and any standby costs for the *Construction Manager* and its *Subcontractors* up to \$50,000 in the aggregate, including their respective personnel and equipment, and any other standby costs authorized in advance by the *Owner*. However, except for the foregoing the *Owner* shall not be liable for any other costs or damages whatsoever including, without limitation, any loss of profit or any indirect, consequential, or special damages, such as loss of profits or loss of opportunity resulting from such delay".

SC 150. GC 9.5.3.4 is amended by adding the following after the words "as required by GC 12.1 – INDEMNIFICATION": ", but not for consequential damages of any nature, whatsoever, including, but not limited to, damages for indirect costs, loss of productivity, impact costs, interest expenses, overhead, loss of income or profit."

AMENDMENTS TO GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

SC 151. GC 10.2.1 is amended by adding the words "and this *Contract*" at the end of the sentence.

SC 152. GC 10.2.2 is deleted in its entirety and replaced with the following:

The *Construction Manager* shall obtain and pay for all permits, licences, or certificates necessary for the performance of the *Work* (except those listed in the *Contract Documents* as being the responsibility of *Owner* or as defined in the Definitions as being "*Owner Permits*" or already obtained by the *Owner* prior to the commencement of the *Work*, as applicable). The amount incurred shall be included as reimbursable expense in accordance with SCHEDULE A2 – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE A1.

SC 153. GC 10.2.3 is amended by adding the following to the end of the paragraph:

Whenever standards of the laws, ordinances, rules, regulations, codes and orders relating to the *Work* differ, the most stringent standards shall govern.

AMENDMENTS TO GC 10.4 WORKERS' COMPENSATION

SC 154. GC 10.4.1 is deleted in its entirety and replace with the following:

Prior to commencing the *Work*, again prior to the *Construction Manager's* each application for payment, again prior to the *Construction Manager's* application for payment of the holdback amount following *Substantial Performance of the Work* and again prior to the *Construction Manager's* application for final payment, the *Construction Manager* shall provide evidence of compliance with the *Workers' Compensation Act* (Alberta) at the *Place of the Work*, including payments due thereunder. The *Construction Manager* acknowledges, represents, warrants and agrees that the *Construction Manager* is an independent construction manager and neither the *Construction Manager* nor its employees, agents, *Suppliers* and *Subcontractors* shall be considered or deemed agents, employees or workers of the *Owner* for any purpose, including without limitation, applicable workers compensation and income tax legislation, nor shall they share in benefits provided, or required to be provided by the *Owner* to the *Owner's* employees.

AMENDMENTS TO GC 11.1 INSURANCE

SC 155. GC 11.1.1 is amended by deleting "bid closing" and replacing it with "the commencement of the *Work* and *Services* by the *Construction Manager*".

SC 156. GC 11.1.2 is amended by adding "or *Work*" immediately after "commencement of the *Services*".

SC 157. GC 11.1.1.7 is added as follows:

Builder's Risk - Course of Construction insurance with HUB International HKMB Limited, during the performance of the *Work*, in the name of the *Construction Manager* and including the *Owner*, the *Subcontractors*, the *Consultant*, and any other entities performing the *Work*, as additional insured, covering "all risks" of direct physical loss or damage to property insured, subject to policy terms, conditions and exclusions, for an amount up to \$29,092,211. This insurance shall cover loss or damage to the *Work*, including all machinery, materials and supplies at the *Place of the Work* or in transit to the *Place of the Work* and intended to become a part of the finished *Work*, and while at the *Place of the Work*, awaiting erection or installation, during erection or installation, during testing and until final acceptance of the *Work* by the *Owner*. The deductible for such insurance shall be a maximum of \$50,000 per occurrence.

SC 158. GC 11.1.1.8 is added as follows:

Wrap-Up Liability insurance with HUB International HKMB Limited, in the name of the *Construction Manager* and including the *Owner*, the *Subcontractors*, the *Consultant*, and any other entities performing the *Work*, as additional insured, providing: (i) a combined single limit of up to \$35,000,000 for each occurrence or accident; (ii) coverage for damages because of bodily injury (including death at any time resulting therefrom) and personal injury sustained by any person or persons or because of injury to or destruction of property arising out of any operations in connection with this *Contract*, subject to all exclusions set out in the said policy; (iii) that the inclusion of more than one insured shall not in any way affect the rights of any insured as respects any claim, demand, suit or judgment made against any other insured; (iv) coverage during the term of this *Contract*, including any maintenance or warranty period which may be required; and (v) completed operations coverage that shall be in effect for a period of not less than 24 months from final acceptance of the *Work* by the *Owner*. The deductible for such insurance shall be a maximum of \$10,000 per occurrence.

SC 159. GC 11.1.1.9 is added as follows:

Workers' Compensation insurance and Employer's Liability insurance in any jurisdiction in which the *Work* is to be performed, in the amounts required by all *Laws*, during the term of this *Contract*, including any maintenance or warranty period which may be required.

SC 160. GC 11.1.9 is added as follows:

All policies required to be maintained by the *Construction Manager* shall contain a waiver of subrogation in favour of the *Owner*, the *Consultant* and all of their respective directors, officers, employees, agents, representatives and employees, except where such waiver of subrogation is prohibited by statutory condition. The *Construction Manager* shall also require all policies maintained by any other member of the *CM Group* to waive subrogation in favour of the *Owner*, the *Consultant* and all of their respective directors, officers, employees, agents, representatives and employees.

SC 161. GC 11.1.10 is added as follows:

Construction Manager shall ensure that all *Subcontractors* engaged in the *Work* shall procure insurance in accordance with standard industry practice. Before permitting any *Subcontractor* to perform any *Work*, the *Construction Manager* shall obtain a certificate of insurance from each *Subcontractor* evidencing such insurance. Notwithstanding the generality of the foregoing, the *Construction Manager* shall ensure that all of its *Subcontractors* have and continuously maintain effective Workers' Compensation or equivalent insurance in any jurisdiction in which its *Subcontractors* perform any *Work*, and specifically in respect of any *Work* performed at the *Place of the Work*.

SC 162. GC 11.1.11 is added as follows:

Construction Manager shall use all diligence to ensure that all insurance arranged under this *Contract* shall not be invalidated. All insurance policies provided by *Construction Manager* shall be considered primary and will be consistent to what is typically obtained for work and projects similar in nature, size and scope of the *Work* and the *Project*.

AMENDMENTS TO GC 11.2 CONTRACT SECURITY

SC 163. GC 11.2 is deleted in its entirety and replaced with "NOT USED".

AMENDMENTS TO GC 12.1 INDEMNIFICATION

SC 164. GC 12.1.1 is amended by deleting "the *Owner* and the *Construction Manager* shall each" and replacing it with "the *Construction Manager* shall"; is further amended by deleting "the other" and replacing it with "the *Owner*"; is further amended by deleting "by them" and replacing it with "by the *Owner*"; and is further amended by deleting "their involvement as parties" and replacing it with "the *Construction Manager's* involvement as party".

SC 165. GC 12.1.2 is amended by deleting "either party" and replacing it with "the *Construction Manager*".

SC 166. GC 12.1.2.1 is amended by deleting "and the *Construction Manager*"; and is further amended by deleting "bid closing" and replacing it with "the commencement of the *Work* and *Services* by the *Construction Manager*"; and is further amended by adding the following to the end of this paragraph: "For greater certainty, the aforementioned *Construction Manager's* indemnification obligations for such losses shall apply even if the insurance provided by either party fails to respond, if such failure to respond is a result of the acts or omissions of a member of the *CM Group*."

SC 167. GC 12.1.2.2 is amended by deleting "and the *Construction Manager*".

SC 168. GC 12.1.4 is amended by adding "and GC 9.5 – MOULD" immediately after "TOXIC AND HAZARDOUS SUBSTANCES".

SC 169. GC 12.1.7 is added as follows:

The *Construction Manager* acknowledges and agrees that KSV Kofman Inc. is entering into this *Agreement* solely in its capacity as Court-appointed Trustee, Receiver and Manager and that notwithstanding any provision herein, KSV Kofman Inc. shall have absolutely no personal or corporate liability under or as a result of this *Agreement* in any respect.

SC 170. GC 12.1.8 is added as follows:

The *Owner* shall have the right to withhold: (i) any amount that is subject to a bona fide dispute between the *Owner* and the *Construction Manager*; or (ii) any other amount that may be incurred by the *Owner* as a result of the *Construction Manager's* failure to perform any obligations under this GC 12 – INDEMNIFICATION, if such other amount has been determined and confirmed by the *Consultant*.

AMENDMENTS TO GC 12.2 WAIVER OF CLAIMS

SC 171. GC 12.2.11 is added as follows:

All provisions of GC 12.2 – WAIVER OF CLAIMS, are subject to the provisions of the *Limitations Act* (Alberta) and amendments thereto.

AMENDMENTS TO GC 12.3 WARRANTY

SC 172. GC 12.3.4 is deleted in its entirety and replaced with the following:

Subject to paragraphs 12.3.2 and 12.3.3, the *Construction Manager* shall correct promptly, at the *Construction Manager's* expense, defects or deficiencies in the *Work* which appear prior to and during the warranty period specified within GC 12.3.1. The carrying out of the corrective *Work* and making good of such defects or deficiencies shall be executed at reasonable times; however, such times will be convenient with the *Owner*, acting reasonably, which may entail overtime *Work* on the part of the *Construction Manager*.

SC 173. GC 12.3.8 is added as follows:

The final payment certificate shall not relieve the *Construction Manager* from its responsibility under this GC 12.3 – WARRANTY.

SC 174. GC 12.3.9 is added as follows:

Following *Substantial Performance of the Work*, and without limiting the *Construction Manager's* warranty under this GC 12.3 – WARRANTY, the *Construction Manager* shall assign to the *Owner*, to the extent assignable, the benefit of all warranties and guarantees relating to the *Work*. The assignment shall expressly reserve the right of the *Construction Manager* to make any claims under such warranties and guarantees and such assignment shall in no way prejudice any rights of or benefits accruing to the *Construction Manager* pursuant to such warranties and guarantees.

SC 175. Notwithstanding anything in this Agreement, the *Construction Manager* does not warrant the Fortis Structural System and related exterior panel systems, insulation, windows and stucco, etc.

ADDITION OF GC 13 MISCELLANEOUS

SC 176. GC 13.2 - REVIEW BY OWNER AND REVIEW BY CONSULTANT is added as follows:

The *Owner's* receipt, review or approval of any documents or the *Work*, shall not limit, waive or diminish the *Construction Manager's* obligations, responsibilities, duties or liabilities under the *Contract*. The review or approval by the *Owner* is intended only to ascertain that the document or the performance of the *Construction Manager's* duties, liabilities, responsibilities

or obligations under the *Contract* including, without limitation, the *Work* generally meets the intention of the *Contract* and is not an assurance or confirmation or the adequacy, quality, fitness, suitability or correctness of the *Construction Manager's* obligations, responsibilities, duties or liabilities under the *Contract* including, without limitation, the *Work*, for which the *Construction Manager* is solely responsible in accordance with the *Contract*.

SC 177. GC 13.3 - WAIVER OF DAMAGES is added as follows:

Notwithstanding any other provision herein, except for the *Construction Manger's* entitlement to standby costs under this *Contract*, neither party shall be liable to the other for any consequential, special, punitive or indirect losses or damages, including lost profits arising under this *Contract*, whether such liability arises in contract, indemnity, tort, or any other legal theory and whether or not either party had *Notice in Writing* thereof.

END OF SECTION