

Attachment 2 - General and Supplementary Conditions

The CCDC-2, 2008 Contract will be the Construction Contract, as amended by the Supplementary Conditions contained herein.

Article A-6 – Receipt and Addresses for Notices in Writing

Delete Article A-6.1 and substitute new article 6.1:

6.1 Notices in Writing between the parties or between them and the Consultant shall be considered to have been received by the addressee on the date of receipt if delivered by hand or by commercial courier or if sent during normal business hours by fax and addressed as set out below. Such Notices in Writing will be deemed to be received by the addressee on the next business day if sent by fax after normal business hours or if sent by overnight commercial courier. Such Notices in Writing will be deemed to be received by the addressee on the fifth Working Day following the date of mailing, if sent by pre-paid registered post, when addressed as set out below. An address for a party may be changed by Notice in Writing to the other party setting out the new address in accordance with this Article.

Definitions

Add the following definition:

19a. Submittals

Submittals are documents or items required by the Contract Documents to be provided by the Contractor, such as:

- Shop Drawings, samples, models, mock-ups to indicate details or characteristics, before the portion of the Work that they represent can be incorporated into the Work; and
- As-built drawings and manuals to provide instructions to the operation and maintenance of the Work.

1 General

1.1 Where a General Condition or paragraph of the General Conditions of the Stipulated Price Contract is deleted by these Supplementary Conditions, the numbering of the remaining General Conditions or paragraphs shall remain unchanged, and the numbering of the deleted item will be retained, unused.

GC 1.1 Contract Documents

.1 Add to the end of subparagraph 1.1.2.2:

Except where the Consultant shall be indemnified as a third party beneficiary as provided in subparagraphs 9.2.7.4, 9.5.3.4 and in 12.1.3.

.2 Add new subparagraph 1.1.7.5:

1.1.7.5 In case of discrepancies, noted materials and annotations shall take precedence over graphic indications in the Contract Documents.

GC 2.2 Role of the Consultant

.1 Add at the end of paragraph 2.2.9:

“The Owner and the Contractor shall waive any claims against the Consultant arising out of the making of such interpretations and findings made in accordance with paragraphs 2.2.7., 2.2.8. and 2.2.9”.

.2 Delete the comma after the word “submittals” and add the words “which are provided” before the words “in accordance” in paragraph 2.2.14.

GC 2.4 Defective Work

.1 Add new subparagraphs 2.4.1.1 and 2.4.1.2:

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

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

GC 3.1 Control of the Work

.1 Add new paragraph 3.1.3:

3.1.3 Prior to commencing individual procurement, fabrication and construction activities, the Contractor shall verify, at the Place of the Work, all relevant measurements and levels necessary for proper and complete fabrication, assembly and installation of the Work and shall further carefully compare such field measurements and conditions with the requirements of the Contract Documents. Where dimensions are not included or contradictions exist, or exact locations are not apparent, the Contractor shall immediately notify the Consultant in writing and obtain written instructions from the Consultant before proceeding with any part of the affected work.

GC 3.4 Document Review

.1 Delete paragraph 3.4.1 in its entirety and substitute new paragraph 3.4.1:

3.4.1 The Contractor shall review the Contract Documents and shall report promptly to the Consultant any error, inconsistency or omission the Contractor may discover. Such review by the Contractor shall comply with the standard of care described in paragraph 3.14.1 of the Contract. Except for its obligation to make such review and report the result, the Contractor does not assume any responsibility to the Owner or to the Consultant for the accuracy of the Contract Documents. The Contractor shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the Contract Documents, which the Contractor could not reasonably have discovered. If the Contractor does discover any error, inconsistency or omission in the Contract Documents, the Contractor shall not proceed with the work affected until the Contractor has received corrected or missing information from the Consultant.

GC 3.8 Labour and Products

.1 Add new paragraph 3.8.4:

3.8.4 The Contractor is responsible for the safe on-site storage of Products and their protection (including Products supplied by the Owner and other contractors to be

installed under the Contract) in such ways as to avoid dangerous conditions or contamination to the Products or other persons or property and in locations at the Place of the Work to the satisfaction of the Owner and the Consultant. The Owner shall provide all relevant information on the Products to be supplied by the Owner.

GC 3.10 Shop Drawings

.1 Add the words “**and Other Submittals**” to the Title after **Shop Drawings**.

.2 Add “and Submittals” after the words “Shop Drawings” in paragraphs 3.10.1, 3.10.2, 3.10.4, 3.10.7, 3.10.8, 3.10.8.2, 3.10.9, 3.10.10, 3.10.11, and 3.10.12.

.3 Delete 3.10.3 in its entirety and substitute new paragraph 3.10.3

GC.3.10.3 Prior to the first application for payment, the Contractor and the Consultant shall jointly prepare a schedule of the dates for submission and return of Shop Drawings and any Submittals.

.4 Delete the words “with reasonable promptness so as to cause no delay in the performance of the Work” and replace with “within 10 working days or such longer period as may be reasonably required” in paragraph 3.10.12.

GC 3.14 Performance by Contractor

.1 Add new General Condition 3.14.1:

3.14.1 In performing its services and obligations under the Contract, the Contractor shall exercise a standard of care, skill and diligence that would normally be provided by an experienced and prudent contractor supplying similar services for similar projects. The Contractor acknowledges and agrees that throughout the Contract, the Contractor’s obligations, duties and responsibilities shall be interpreted in accordance with this standard. The Contractor shall exercise the same standard of due care and diligence in respect of any Products, personnel, or procedures which it may recommend to the Owner.

2 Add new General Condition 3.14.2:

3.14.2 The Contractor further represents, covenants and warrants to the Owner that:

.1 The personnel it assigns to the Project are appropriately experienced;

.2 It has a sufficient staff of qualified and competent personnel to replace its designated supervisor and project manager, subject to the Owner’s approval, in the event of death, incapacity, removal or resignation.

GC 4.1 Cash Allowances

.1 Delete paragraph 4.1.4 in its entirety and substitute new paragraph 4.1.4:

4.1.4 Where costs under a cash allowance exceed the amount of the allowance, unexpended amounts from other cash allowances shall be reallocated at the Consultant’s direction to cover the shortfall.

.2 Delete paragraph 4.1.5 in its entirety and substitute new paragraph 4.1.5:

4.1.5. The net amount of any unexpended cash allowances, after providing for any reallocations as contemplated in paragraph 4.1.4, shall be deducted from the Contract Price by Change Order.

.3 Delete paragraph 4.1.7 in its entirety and substitute new paragraph 4.1.7:

4.1.7 At the commencement of the Work, the Contractor shall prepare for the review and acceptance of the Owner and the Consultant, a schedule indicating the times, within the construction schedule referred to in GC 3.5, that items called for under cash allowances and items that are specified to be Owner purchased and Contractor installed or hooked up are required at the site to avoid delaying the progress of the Work.

.4 Add new paragraph 4.1.8:

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

GC 6.4 Concealed or Unknown Conditions

.1 Add new subparagraph 6.4.5:

6.4.5 The Contractor confirms that, prior to bidding the Project, it carefully investigated the Place of the Work and applied to that investigation the degree of care and skill described in paragraph 3.14.1, given the amount of time provided between the issue of the bid documents and the actual closing of bids, the degree of access provided to the Contractor prior to submission of bid, and the sufficiency and completeness of the information provided by the Owner. The Contractor is not entitled to compensation or to an extension of the Contract Time for conditions which could reasonably have been ascertained by the Contractor by such careful investigation undertaken prior to the submission of the bid.

GC 6.5 Delays

.1 Delete the period at the end of paragraph 6.5.1, and substitute the following words: “, but excluding any consequential, indirect or special damages.”

.2 Add new subparagraph 6.5.6:

6.5.6 If the Contractor is delayed in the performance of the Work by an act or omission of the Contractor or anyone employed or engaged by the Contractor directly or indirectly, or by any cause within the Contractor’s control, then the Contract Time shall be extended for such reasonable time as the Consultant may decide in consultation with the Contractor. The Owner shall be reimbursed by the Contractor for all reasonable costs incurred by the Owner as the result of such delay, including all services required by the Owner from the Consultant as a result of such delay by the Contractor and, in particular, the cost of the Consultant’s services during the period between the date of Substantial Performance of the Work stated in Article A-1 herein as the same may be

extended through the provisions of these General Conditions and any later, actual date of Substantial Performance of the Work achieved by the Contractor.

GC 6.6 Claims for a Change in Contract Price

.1 Add the words “as noted in paragraph 6.6.3” after the words “of the claim” in paragraph 6.6.5 and add the words “and the Consultant”, at the end of paragraph 6.6.5.

GC 8.2 Negotiations, Mediation and Arbitration

.1 Add the following new paragraphs 8.2.9, 8.2.10, 8.2.11, 8.2.12., 8.2.13., and 8.2.14:
8.2.9 Within five days of receipt of the notice of arbitration by the responding party under paragraph 8.2.6, the Owner and the Contractor shall give the Consultant a written notice containing:

- a) a copy of the notice of arbitration;
- b) a copy of supplementary conditions 8.2.9 to 8.2.14 of this Contract, and;
- c) any claims or issues which the Contractor or the Owner, as the case may be, wishes to raise in relation to the Consultant arising out of the issues in dispute in the arbitration.

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

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

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

8.2.12 The arbitrator in the arbitration in which the Consultant has elected under paragraph 8.2.10 to become a full party may: a) on application of the Owner or the Contractor, determine whether the Consultant has satisfied the requirements of paragraph 8.2.10, and; b) make any procedural order considered necessary to facilitate the addition of the Consultant as a party to the arbitration.

8.2.13 The provisions of paragraph 8.2.9 shall apply mutatis mutandis to written notice to be given by the Consultant to any sub-consultant; 8.2.14. In the event of notice of arbitration given by the Consultant to a sub-consultant, the sub-consultant is not entitled to any election with respect to the proceeding as outlined in 8.2.10, and is deemed to be bound by the arbitration proceeding.

GC 9.1 Protection of Work and Property

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

9.1.1.1 Errors in the Contract Documents which the Contractor could not have discovered applying the standard of care described in paragraph 3.14.1;

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

9.1.2 Before commencing any Work, the Contractor shall determine the locations of all underground utilities and structures indicated in the Contract Documents, or that are discoverable by applying to an inspection of the Place of the Work the degree of care and skill described in paragraph 3.14.1.

GC 9.2 Toxic and Hazardous Substances

.1 Add to paragraph 9.2.6 after the word "responsible", the following new words: "or whether any toxic or hazardous substances or materials already at the Place of the Work (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the Contractor or anyone for whom the Contractor is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damage to the property of the Owner or others."

.2 Add "and the Consultant" after the word "Contractor" in subparagraph 9.2.7.4.

.3 Add to paragraph 9.2.8 after the word "responsible", the following new words: "or that any toxic or hazardous substances or materials already at the Place of the Work (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the Contractor or anyone for whom the Contractor is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damage to the property of the Owner or others."

GC 9.5 Mould

.1 Add "and the Consultant" after "Contractor" in subparagraph 9.5.3.4.

GC 10.2 Laws, Notices, Permits and Fees

.1 Delete from the first line of paragraph 10.2.5 the word, "The" and substitute the words: "Subject to paragraph 3.14.1, the".

GC 12.1 Indemnification

.1 Add new clause 12.1.1.3.

12.1.1. 3. The Contractor shall indemnify and hold harmless the Consultant, its agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings by third parties that arise out of, or are attributable to, the Contractor's performance of the Contract, provided such claims are attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, and caused by negligent acts or omissions of the Contractor or anyone for whose acts the Contractor may be liable, and made 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, or within such shorter such period as may be prescribed by any limitation statute or the province or territory of the Place of Work.

GC 12.3 Warranty

.1 Delete from the first line of paragraph 12.3.2 the word, "The" and substitute the words: "Subject to paragraph 3.14.1, the..."