# GENERAL CONDITIONS OF CONSTRUCTION

## 2016.05.18

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GENERAL CONDITIONS OF CONSTRUCTION

1.0 DEFINITIONS

1.1 The following capitalized terms, wherever used in any Contract Document, have the meanings assigned to them below:

1.1.1 “Agreement” means the agreement duly signed by the University and the Contractor and numbered in accordance with GC 2 representing the undertaking by the University and the Contractor respective duties, responsibilities, and obligations of the parties as set out in the Contract Documents;

1.1.2 “Approved Construction Budget” means the University’s budget to construct the Work;

1.1.3 “Bid Documents” means all of the documents that the University issued to obtain bids for the Work and the schedules, submittals, bid forms and other documentation prepared and submitted by the Contractor to bid the Work;

1.1.4 “Cash Allowances” means those funds that the Contractor is required to carry in the Contract Price that are provided for Product that is known to definitely be required, but which cannot be specified with adequate detail to permit accurate pricing by the Contractor at the time of bidding of the Work. Such Product and services for the Work is describable in general terms and cost can be estimated. This estimated cost is the specified amount of the Cash Allowance and excludes any amounts for the Contractor's overhead and profit on the Cash Allowance item, which the Contractor is required to carry separately in the Contract Price. When more information subsequently becomes available to permit the Product and services for the Work to be more accurately priced, the University approves expenditure of the Cash Allowance amount by means of a Cash Allowance expenditure form signed by the Contractor, Consultant and the University. Where the amount to be expended for a Cash Allowance item exceeds the specified amount of the Cash Allowance carried in the Contract Price for that item, the excess amount, plus an amount for the Contractor's overhead and profit on the excess, will be processed as a Change Order in accordance with the GC 8.0. Where the amount expended for a Cash Allowance item is less than the specified amount of the cash allowance carried in the Contract Price for that item, the University will be credited for the remaining unexpended amount as a credit Change Order, in accordance with GC 8.0. The Contractor will not be credited for overhead and profit on the remaining unexpended amount which the Contractor carried separately in the Contract Price;

1.1.5 “Certificate of Construction Completion” means that notice issued by the Consultant certifying that the entire Work, but exclusive of warranty period(s), and all defects and deficiencies as identified and recorded by the Consultant, including damage to other work resulting therefrom, has been completed;

1.1.6 “Certificate of Facility Takeover” means that notice issued by the Consultant certifying that all the prerequisites of Facility Takeover required by the Contract Documents have been completed by the Contractor and ratified by the Consultant;

1.1.7 “Certificate of Payment” means that notice issued by the Consultant to the University certifying a claim for payment made by the Contractor in the amount applied for or in such amount as the Consultant determines to be properly due;

1.1.8 "Certificate of Substantial Performance" means that notice issued by the Contractor in accordance with the Builders Lien Act of Alberta;
1.1.9 “Certificate of Total Performance” means that notice issued by the Consultant certifying that the entire Work has been completed in accordance with the requirements, standards, quality, and intent of the Contract Documents; and all defects due to faulty materials and/or workmanship including all of the items on the Deficient and Incomplete Work List and any damage to other work resulting therefrom have been corrected and/or resolved to the satisfaction of the University and the Warranty Period in accordance with GC 30, notwithstanding any warranties as apply for such longer periods for specific Products or parts of the Work as the Contract Documents require, have expired;

1.1.10 “Change Directive” means a written order prepared by the Consultant and signed by both the Contractor and the University authorizing a Change in the Work on a time & material basis to a maximum dollar amount, based on the best available current information, and which amount may be adjusted to decrease or increase the maximum dollar amount as a result of additional information, and which shall be subject to issuance of an amended Change Directive as may be required, and which will be confirmed by means of a Change Order when the Work is complete and final cost established;

1.1.11 "Change in the Work" means any change in, addition to, or deletion from the Work in accordance with GC 8;

1.1.12 "Change Order" means a written order signed by both the Contractor and the University authorizing a Change in the Work in accordance with GC 8 and valuation in accordance with GC9;

1.1.13 "Change Quotation" means a written quotation from the Contractor outlining the adjustments, if any, to the Contract Price and the Contract Time, or both, as the result of a proposed Change in the Work;

1.1.14 "Commencement Date" means the date that the Work is to commence derived from the Contractors milestone dates and or baseline schedule submitted with its bid, or another date if mutually agreed in writing between the Contractor and the University and specified in the Agreement;

1.1.15 “Construction and Demolition (C&D) Waste” is any waste generated from construction, demolition and renovation activities, that cannot be further repurposed, from both small and large-scale construction projects. These waste materials generally comprise non-hazardous materials such as wood, concrete, asphalt, drywall, metal, roofing materials and cardboard;

1.1.16 “Construction Cost Estimate” is an estimate of the cost of the project prepared by the Consultant at various times throughout the project;

1.1.17 “Construction Documents” consist of drawings, specifications, addenda, other documents and any other consolidated documents, prepared by the Consultant to describe the size, complexity and character of the entire Project including architectural, structural, mechanical, and electrical systems, Product and materials and such other elements setting forth in detail the requirements for the construction, enlargement or alteration of the building or buildings of the Project;

1.1.18 “Construction Equipment” means all tools, machinery, 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;

1.1.19 “Construction Schedule” means the document prepared by the Contractor derived from the Contractors milestone dates and or baseline schedule submitted with its bid indicating timing of major activities of the Work that provides sufficient additional detail of the dates of critical events
and their inter-relationship to demonstrate the Work will be performed in conformity with the
Contract Time, and which will be monitored relative to the progress of the Work on a monthly
basis and revised when approved by the University as a result of any extensions or reductions to
Contract Time resulting from a Change in the Work;

1.1.20 “Consultant” is the corporation, person, or entity, identified in the Agreement and includes those
Subconsultants engaged by the Consultant, to prepare the Construction Documents and render
professional services relative to the Work;

1.1.21 "Contemplated Change Notice" sometimes abbreviated as CCN means a written notice from the
Consultant of a contemplated Change in the Work;

1.1.22 "Contract Documents" consists of the executed Agreement and Amending Agreements between
the Contractor and the University, Bid Documents, Construction Documents, Contractors
Submittals, Change Orders and such other documents as may be identified as Contract Documents
made in accordance with provisions of the Agreement;

1.1.23 "Contract Price" means the total amount payable to the Contractor for the performance of the
Work, as set out in the Agreement or as adjusted during the course of the Work in accordance with
the Contract Documents;

1.1.24 “Contract Time” means time and all time limits stated in the Contract Documents are of the
essence of the Agreement. The Contractor shall perform work expeditiously and with adequate
forces to complete the Work of the Agreement within the Contract Time specified in the
Agreement, and which may be further amended if mutually agreed between the Contractor and
the University in accordance with the General Conditions;

1.1.25 “Contractor” means the corporation, person or entity designated as such in the Agreement;

1.1.26 "Contractor’s Submittals" also referred to as “Contractor’s Prepared Documents” means
documents, data, models and samples prepared by the Contractor pursuant to the Contract
Document, whether in written, electronic or other format and include but is not limited to:
Construction Schedule, shop drawings, plans, drawings, specifications, calculations, reports,
project meeting minutes, notes, Contractor issued bid documents for Trade Work by Subcontractor’s;

1.1.27 "Contractor’s Superintendent" also referred to as "the Superintendent" means that person
identified as such in the Bid Documents or a replacement approved by the University in accordance
with the Contract Documents as being the individual that represents the Contractor by directing
daily activities on the Work Site;

1.1.28 “Day” means a calendar day, unless otherwise defined in a Supplementary General Condition;

1.1.29 Deficient and Incomplete Work List means a list prepared by the Consultant, provided to the
Construction Manager and the University, which shall itemize all deficiencies and incomplete work,
providing an estimate of the time and or cost to correct each deficiency and complete each work
item. The Deficient and Incomplete Work List shall be used as the basis for the University to
determine monetary holdback and progress of payment for the Work;

1.1.30 “Employer” has the meaning ascribed to it in the Occupational Health and Safety Act of Alberta;

1.1.31 "Event of Force Majeure" has the meaning ascribed thereto in GC 17;
1.1.32 “Facility Takeover” follows Substantial Performance for all or a portion of the constructed Work at the Work Site and is the date when all the prerequisites to Facility Takeover required by the Contract Documents have been completed by the Contractor and ratified by the Consultant for all or a portion of the Work at the Work Site. Upon the date of Facility Takeover, the University shall assume responsibility for all or a portion of the constructed Work at the Work Site;

1.1.33 “Field Order” shall mean a written communication from the Consultant to the Contractor clarifying the Construction Documents, issuing additional instructions, or requesting information; a Field Order shall have no impact on the Contract Price or Contract Time unless responded to by the Contractor in accordance with GC 8;

1.1.34 “Final Cost of Construction” means the final Contract Price stated on the last Certificate of Payment issued by the Consultant;

1.1.35 “General Conditions” means the terms and conditions contained in the Contract Documents entitled General Conditions and sometimes abbreviated as "GC";

1.1.36 “Hazardous Materials” means any substance which is hazardous to persons, animals, property, or the environment and includes biological hazards, hazardous substances, controlled Product, hazardous waste, chlorofluorocarbon (CFC or ozone depleting substances), pesticides, and dangerous goods, all as identified or defined under applicable Law, including any prescribed product under the Nuclear Safety and Control Act (Canada);

1.1.37 “Key Personnel” means those personnel so identified in the Bid Documents or as amended in accordance with the Contract Documents;

1.1.38 "Law" means all applicable laws, including without limitation the following: all valid applicable common law and rules of equity; federal, provincial and municipal and other local laws, orders, rules, regulations and decisions of regulatory bodies, including occupational, health and safety, fire, employment insurance, workers’ compensation, Hazardous Materials, transportation of dangerous goods and handling, environmental protection legislation, building codes and other governmental requirements, work practices and procedures prescribed by law and related to the Contractor or the Work;

1.1.39 “Lien Holdback Release Certificate” means a notice issued by the Consultant to the University certifying the date of the expiry of the holdback period required by the Builders’ Lien Act of Alberta and the amount of lien holdback that may be released to the Contractor;

1.1.40 "Milestone Dates" mean those baseline dates prepared by the Contractor as a component of the Contractor Baseline Schedule identified in the Bid Documents;

1.1.41 "Other Contractor” means any corporation, person, or entity having a contract or agreement directly or indirectly with the University other than through the Contractor;

1.1.42 “Prime Contractor” has the meaning ascribed to it in the Occupational Health and Safety Act of Alberta or any amendments thereto;

1.1.43 “Product” means material, machinery, equipment and fixtures, forming the Work, but does not include Construction Equipment;

1.1.44 “Project” is the Project as described in the Agreement and Contract Documents and which the Work may be whole or part;
1.1.45 “Specifications” are that written portion of the Contract Documents prepared by the Consultant, consisting of the written requirements and standards for Product, systems, workmanship, quality, and the services necessary for the performance of the Work.

1.1.46 “Subconsultant” is any corporation, person or entity having a direct contract with the Consultant, to prepare part or parts of the Construction Documents and render professional services relative to the Work;

1.1.47 "Subcontractor" is any corporation, person or entity having a direct contract with the Contractor for the execution of a part or parts of the Work included in the Contract Documents as identified in accordance with GC 7, provided however that the term Subcontractor shall not include a Supplier;

1.1.48 "Sub-subcontractor" means a person, firm or corporation having a direct contract with a Subcontractor for the performance of a part of the Work at the Work Site.

1.1.49 “Superintendent” has the meaning assigned to it in GC 6.3;

1.1.50 "Supplementary General Conditions" means the terms and conditions contained in the Contract Documents entitled Supplementary General Conditions and sometimes abbreviated as "SGC" that supersede, add, replace or amend these General Conditions of Construction, including Definitions;

1.1.51 “Supplier” means any corporation, person or entity having a direct contract with the Contractor or Subcontractor to supply Product for the Work without any reworking of the Product for the purpose of incorporation into the Work;

1.1.52 "Suspended Work" has the meaning ascribed thereto in GC 22;

1.1.53 “University” means The Governors of the University of Alberta;

1.1.54 "University's Confidential Information" has the meaning ascribed thereto in GC 34;

1.1.55 “Unsolicited Change Request” means a written notice prepared by the Contractor requesting the Consultant to consider a contemplated Change in the Work;

1.1.56 "Warranty" means those warranties set forth in GC 30;

1.1.57 "Warranty Period" means that period of time set forth in GC 30;

1.1.58 “Work” means the total construction and related services required by the Contract Documents;

1.1.59 "Work Schedule" means a detailed schedule for performance of the Work as referred to in GC 5;

1.1.60 "Work Site "means the designated site or location where of the Work is to be performed, including any laydown and storage areas identified in the Supplementary General Conditions;

1.1.61 “Work Site (OHS A)” for the purpose of the Occupational Health and Safety Act is that area defined as the “Work Site” in the Supplementary General Conditions.

2.0 AGREEMENT AND INTERPRETATION

2.1 The Agreement shall be executed in duplicate by The Governors of the University of Alberta and the Contractor with original signatures and shall be identified by a number as assigned by the University.
2.2 The Contract Documents are complementary and what is called for by any one shall be as binding as if called for by all. The intention of the Contract Documents is to include all labour, Product, Construction Equipment, transportation, and all other requirements for the proper execution of the Work. The Contractor shall abide by and comply with the Contract Documents taken as a whole.

2.3 In the event of a conflict or inconsistency among or between the Contract Documents, the following shall apply:

2.3.1 subject to the provisions of this GC 2.3, for documents as revised by either party and approved by the Consultant, the latest revisions shall govern;

2.3.2 figured dimensions on drawings shall govern, even though they may differ from scaled dimensions;

2.3.3 drawings of larger scale shall govern over those of smaller scale of the same date;

2.3.4 technical specifications issued by the Consultant shall govern over all drawings regardless of date;

2.3.5 subject to GC 2.3.6, GC 2.3.7 and GC 2.3.8, the General Conditions shall govern over all other Contract Documents;

2.3.6 Supplementary General Conditions, if any, shall govern over the General Conditions;

2.3.7 addenda issued during the bid process, if any, shall govern over all other Contract Documents except the executed Agreement; and

2.3.8 the executed Agreement between the University and the Contractor shall govern over all other Contract Documents.

2.4 The provisions of the Contract Documents shall survive the completion of the Work.

2.5 Each of the parties shall promptly and fully inform each other of any errors, omissions or inconsistencies in the Contract Documents, and of any errors, omissions or inconsistencies between the Contract Documents and the Law, of which they become aware. The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in any errors, omissions, or inconsistencies. Subject to GC 2.3, if the Contractor discovers any errors, omissions or inconsistencies in the Contract Documents, or between the Contract Documents and the Law, it shall resolve all such errors, omissions or inconsistencies with the Consultant before proceeding with the affected portion of the Work. Where the Contractor fails to resolve errors, omissions or ambiguities in the Contract Documents about which the Contractor knew or reasonably ought to have known, the Contractor shall be responsible for the results of failing to interpret or apply the Contract Documents correctly.

2.6 The Contract Documents constitute the entire agreement between the parties with respect to the Work and supersede all previous communications, representations, warranties and agreements, either written or verbal.

3.0 THE CONSULTANT

3.1 The Consultant shall have authority to act on behalf of the University to the extent provided in the Contract Documents or as otherwise specified by the University.

3.2 The Consultant is, in the first instance, the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder. Matters in question, relating to the quality and/or progress of the Work including rejected Work or the interpretation of the Contract Documents shall be referred to the
Consultant in writing for decision. The Consultant shall give its decision in writing to the Contractor and the University within a reasonable time and, subject to GC 29.2, the Contractor and the University shall act in accordance with such written decision.

3.3 The Consultant may visit the Work Site at sufficient intervals at its discretion to determine that the Work is being performed in general accordance with the Contract Documents. No inspection or evaluation contemplated herein by the Consultant shall release or relieve the Contractor from the requirement to perform the Work in accordance with the Contract Documents.

3.4 The Consultant shall prepare Contemplated Change Notices and Change Orders for University authorization, in accordance with the Contract Documents. The Consultant has authority to authorize Changes in the Work in accordance with GC 8, which do not involve an adjustment in Contract Price, or a change in the scope of the Work, or an extension to the Contract Time by issuance of Field Orders.

3.5 Nothing contained in the Contract Documents shall create any contractual relationship between the Consultant and the Contractor, its Subcontractors, its Suppliers, or their respective agents, employees or other persons performing any of the Work.

3.6 Notwithstanding the Contractor’s obligations as the Prime Contractor pursuant to GC 12.2, if the Consultant discovers an Employer’s non-compliance with the University Health and Safety Program, the requirements of the Occupational Health and Safety Act and its Regulations, or with any other safety requirement and there are no Key Personnel from the Contractor available or capable of addressing the non-compliance, and no occupational health and safety officer is available to take charge, then the Consultant may issue a written notice to the Contractor to take immediate corrective action, and shall also notify appropriate University authorities having jurisdiction. Any action taken by the Consultant shall not relieve the Contractor of any responsibility for loss, injury, or damage, which does occur.

4.0 OTHER CONTRACTORS

4.1 The University may let separate contracts in connection with the undertaking of which the Work is a part or otherwise and the Contractor shall connect properly and co-ordinate its Work with that of Other Contractors. If any part of the Work depends for its proper execution or result upon the work of any Other Contractor, the Contractor shall in writing report promptly to the Consultant any defects in the work of such Other Contractor as may interfere with the proper execution of the Work. Should the Contractor fail to so inspect and report, it shall have no claim against the University by reason of the defective or unfinished work of any Other Contractor except as to latent defects not reasonably noticeable at the time of the commencement of the portion of the Work so affected.

5.0 PERFORMANCE

5.1 The Contractor shall have complete control and responsibility of its organization as to construction means, methods, techniques, sequences or procedures, safety precautions, other regulations and general construction practice. Although the Consultant may consent to special methods of performing the Work, the Contractor will not be relieved of its responsibility for the result. The Consultant’s permission to use such special methods shall not constitute grounds for claims by the Contractor for any Change in the Work.

5.2 The Contractor accepts the Work Site and acknowledges that it has investigated and satisfied itself as to:

5.2.1 the nature of the Work;

5.2.2 the location of, and subject to GC 8.6, all conditions relating to the Work Site including but not limited to accessibility, general character, surface utilities, roads, subsurface conditions, uncertainties of seasonal weather, including the effects of winter construction, and all other
physical, topographical and geographical conditions;

5.2.3 the general character, quality, quantity and availability of Product required to execute and complete the Work;

5.2.4 all environmental risks, conditions, Laws and restrictions that might affect the Work;

5.2.5 all labour conditions and administrative practices, including those relating to safety, prevailing at or applicable to the Work or Work Site; and

In addition, any failure by the Contractor to discover matters that affect or could affect the Work shall not relieve the Contractor from its obligations under the Contract Documents or otherwise affect the Contract Price.

5.3 The Contractor and the University shall co-operate fully with each other and Other Contractors and Suppliers, and all other parties with whom the Contractor and the University may be involved during the performance of the Work

5.4 The Contractor agrees that it will:

5.4.1 efficiently and expeditiously perform all Work in a good and workman-like manner and in accordance with the Contract Documents;

5.4.2 exercise in its performance of the Work, that standard of care and skill normally exercised by Contractors performing this type of construction work;

5.4.3 perform the Work in a safe and environmentally sound manner and in compliance with applicable Law;

5.4.4 not perform activities of or related to the Work that cause, in the opinion of the University or the Consultant, undue noise or other disturbance.

5.4.5 not load or permit any part of the Work or any part of the University’s structures to be loaded with a load greater than the loads for which the structure has been designed or in any other way that may endanger safety or the integrity of the part of the Work or any part of the University’s structures.

5.5 The Contractor shall supervise its employees, Subcontractors, and Suppliers and inspect their work to ensure that such work and the Work conforms in every respect to the Contract Documents and to good and proper construction practices.

5.6 Neither acceptance of any part of the Work by the Consultant, by way of a certificate or otherwise, nor payment to the Contractor, shall relieve the Contractor from its responsibilities under the Contract Documents, whether pursuant to any of the warranties or guaranties expressed or implied herein.

5.7 The Contractor shall ensure that no activities or actions are undertaken in the performance of the Work by the Contractor, its Subcontractors or Suppliers, which would adversely affect, restrict or limit in any way, the continued operation of any part of the University’s facilities or Product that are in operation. If the Contractor deems it necessary to affect the continued operation of the facilities or Product, it will advise the Consultant in writing, requesting approval to proceed with a minimum of 72 hours’ notice prior to the scheduled activity or action. The Contractor shall not proceed without written approval from the Consultant.

5.8 Prior to the Commencement Date the Contractor shall prepare and provide to the University a detailed
Construction Schedule consistent with the Milestone Dates contained in the Contractor “Baseline Schedule” submitted with the Bid Documents, the sequence in which the Contractor intends to perform the Work and completion dates for all separate portions of the Work, manpower forecasts by trade or discipline, Submittal review dates accounting for complexity and quantities of submissions, key Product procurement and delivery dates, and other relevant data and information required by the Contractor, acting reasonably, for the performance of all or any part of the Work required under the Contract Documents. The Contractor shall control the progress of the Work to achieve compliance with the Construction Schedule.

5.9 The Contractor shall inspect and shall ensure that all Product, temporary facilities and other items used in accomplishing the Work, whether purchased, rented or otherwise, provided by the Contractor, Subcontractors or Suppliers, are in a safe, environmentally sound and good condition, capable of performing the functions for which they are intended and used. If any Product, temporary facilities or other items used is unsafe, environmentally unsound or incapable of doing the work for which it is intended, the Contractor shall repair or replace it with a safe, environmentally sound and capable Product, temporary facility or other items at the Contractor’s expense.

5.10 The Contractor shall record and report risks and progress of the Schedule and all other elements of the Work on a continual basis by a method and in a format that is acceptable to the Consultant. This shall include issuance of an updated Construction Schedule on a three (3) week interval basis that shall be forwarded in electronic form to the Consultant and the University’s project management office specified in the Agreement. The records and the basis for the information shall be open to the inspection of the Consultant at all times.

6.0 PERSONNEL

6.1 The Contractor shall provide sufficient personnel to enable timely and proper execution and completion of the Work. All such personnel shall be lawfully employable, competent, and qualified by education, training, and experience and in all other respects capable of carrying out the tasks to which each is assigned. At the University’s request, the Contractor shall reassign, replace or remove personnel who, in the University’s sole and unfettered discretion, do not meet the above requirements, or become intoxicated, intemperate, disorderly, incompetent, or negligent, or who have committed a violation of the University’s regulations or procedures, including those related to safety and security. Such requests by the University shall not limit in any way the Contractor’s responsibilities and obligations, pursuant to the Contract Documents or in Law.

6.2 The Contractors shall not make any changes to Key Personnel without the University’s written approval.

6.3 Pursuant to GC 7.1, at all times, in connection with the performance of the Work, the Contractor shall keep and employ at the Work Site a suitably qualified Contractor’s Superintendent who is skilled, fluent in the English language, experienced and competent, who shall be available at the Work Site at all times during the performance of the Work. The Superintendent shall represent the Contractor in its absence and any explanations, orders, instructions, directions, requests and notices given by the Consultant or the University to the Superintendent shall be held to be given to the Contractor. All verbal or written communications made by the Superintendent shall be binding on the Contractor.

6.4 If, during the performance of the Work, the Superintendent is required to leave the Work Site for a period of time such that the Contractor cannot reasonably oversee the progress of the Work, the Contractor shall notify the Consultant of the anticipated duration of the absence and shall appoint an acting Superintendent during the anticipated absence from the Work Site. The Superintendent shall, prior to leaving the Work Site, deliver or cause to be delivered to the Consultant the name of the person acting as Superintendent and shall not leave the Work Site prior to receiving approval from the Consultant.

7.0 SUBCONTRACTORS AND ASSIGNMENTS
7.1 The Contractor shall provide in writing to the University, details in a form acceptable to the University, acting reasonably, of the Subcontractors and Suppliers that the Contractor intends to engage for the performance of the Work and any proposed changes to the Subcontractors and Suppliers that the Contractor intends to engage for the performance of the Work. The University may, for reasonable cause, object to the use of a proposed Subcontractor or Supplier and require the Contractor to obtain other Subcontractors or Suppliers. Any reviews or approvals by the University pursuant to the provisions of this GC 7 shall not release or relieve the Contractor of any of its obligations under the Contract Documents. The Contractor shall, to the extent applicable, require any Subcontractors or Suppliers to agree to be bound by the Contract Documents and to abide by the University’s requirements for safety and loss management.

7.2 The Contractor shall be fully responsible for any part of the Work performed by Subcontractors or Suppliers and for the acts and omissions of Subcontractors and Suppliers and all persons either directly or indirectly employed or otherwise retained by them, to the same extent as the Contractor is for its own acts and omissions. Without in any way limiting the Contractor’s obligations pursuant to the provisions of this GC 7 or elsewhere under the Contract Documents, the Contractor shall be fully responsible for each of the contracts concluded by the Contractor with Subcontractors and Suppliers.

7.3 The Contractor shall not assign the Agreement or any part thereof without the prior written approval of the University, which approval may be arbitrarily withheld. The University may assign the Agreement including all rights and obligations hereunder, at any time without the prior agreement of the Contractor, provided that the assignee agrees to be bound by all of the provisions of the Contract Documents.

7.4 The Contractor shall request and use its best efforts to obtain for the benefit of the University, the best warranties and guarantees that it is possible to secure from its Subcontractors and Suppliers and as a minimum shall provide the warranties required by the Contract Documents. The Contractor shall enforce the warranty obligations of its Subcontractors and Suppliers. All contracts between the Contractor and its Subcontractors and Suppliers shall provide that warranties given by the Subcontractors or Suppliers shall be given to both the Contractor and the University and the warranties may be enforced by either the Contractor or the University.

7.5 Except as otherwise specified in GC 7.4, nothing in the Contract Documents shall create any contractual relationship between any Subcontractor and the University.

8.0 CHANGE IN THE WORK

8.1 The University shall have the right, at any time, to make Changes in the Work through additions, deletions, modifications, or variations. The value of such Change in the Work shall be taken into account in accordance with GC 9, and in ascertaining the final amount of the Contract Price. All such Work shall be executed under the conditions of the Contract Documents. Subject to GC 18.2, no extension of the Contract Time or change to the Contract Price shall be made on account of Changes in the Work unless expressly provided for in a Change Order.

8.2 When a Change in the Work is proposed or required, the Consultant shall provide a Contemplated Change Notice to the Contractor describing the proposed Change in the Work.

8.2.1 The Contractor, upon receipt of a Contemplated Change Notice, shall promptly provide the Consultant with a Change Quotation that shall include a method of adjustment or an amount of adjustment to the Contract Price, if any, in accordance with GC 9 and the adjustment in the Contract Time, if any, for the proposed Change in the Work. The Contractor shall include in its Change Quotation all proposed changes to the Contract Price and Contract Time, if any, reasonably expected to result from a Change in the Work.

8.2.2 The Consultant, following receipt of the Change Quotation will review and recommend acceptance
to the University or give the Contractor notice that the Change Quotation is not acceptable.

8.2.3 If the Change Quotation is agreed to, then the Consultant will prepare a Change Order initiating the Change in the Work, which shall be signed by the University and the Contractor.

8.2.4 The value of Work performed, as a result of a Change Order shall be included in invoices for payment given in accordance with GC19.

8.3 The Contractor may propose a Change in the Work by preparing an Unsolicited Change Request in writing to the Consultant.

8.3.1 The Consultant, following receipt of the Unsolicited Change Request will review and recommend acceptance to the University or give the Contractor notice that the Unsolicited Change Request is not acceptable.

8.3.2 If the Unsolicited Change Request is agreed to, then the Consultant will prepare a Contemplated Change Order Notice initiating the Change in the Work, which shall be signed by the University and the Contractor. The Contractor, upon receipt of a Contemplated Change Notice, shall promptly provide the Consultant with a Change Quotation that shall include a method of adjustment or an amount of adjustment to the Contract Price, if any, in accordance with GC 9 and the adjustment in the Contract Time, if any, for the proposed Change in the Work. The Contractor shall include in its Change Quotation all proposed changes to the Contract Price and Contract Time, if any, reasonably expected to result from a Change in the Work.

8.3.3 If the Change Quotation is agreed to, then the Consultant will prepare a Change Order initiating the Change in the Work, which shall be signed by the University and the Contractor.

8.3.4 The value of Work performed, as a result of a Change Order shall be included in invoices for payment given in accordance with GC 19.

8.4 If, during the performance of the Work, the Contractor is of the opinion that any instruction, interpretation, decision or direction from the Consultant should have but has not resulted in a Contemplated Change Notice being issued, the Contractor shall within the earlier of:

8.4.1 commencement of the affected Work; or

8.4.2 seven (7) days of receipt of such instruction, interpretation, decision or direction

give the Consultant written notice with a Change Quotation requesting any adjustment in the Contract Price and Contract Time required whereby the Consultant will proceed in accordance with GC 8.4. Upon receipt of the Change Quotation, the Consultant shall promptly consider the Change Quotation and recommend acceptance to the University or advise the Contractor that the Contractor's request is denied. If the Contractor disputes the University's decision, the Contractor shall, before proceeding with the Work, provide notice to the Consultant disputing the University's decision, but shall promptly proceed to perform the Work. The Contractor shall keep daily records, signed daily by the Consultant, of the time and Product employed in respect of the disputed Work. The Contractor's entitlement to an adjustment in the Contract Price and Contract Time shall then be resolved under GC 29. Under no circumstances shall the disputed Work result in an adjustment to the Contract Price or an extension to the Contract Time unless notice is provided in accordance with this GC 8.6 and the result of dispute resolution conducted under GC 29 in favour of the Contractor.

8.5 No modification, additions, deletions or other revisions to the Contract Documents will be binding on either party unless set out in a Change Order. Neither the keeping of daily records in respect of disputed work nor the signing of those records by the Consultant shall be considered as an admission of entitlement to
payment by the University but shall constitute a record of the time, and Product employed in respect of the Work for which the Contractor has given notice of a dispute.

8.6 Subject to GC 8.7, if the Contractor encounters actual subsurface or other latent physical conditions at the Work Site which are materially different from the conditions represented to exist in the Contract Documents, then the Contractor shall provide notice in writing to the Consultant within five (5) days of encountering the conditions and shall allow inspection before the conditions are further disturbed. The Consultant will promptly investigate the conditions described by the Contractor and if the actual conditions encountered by the Contractor at the Work Site differ materially from the conditions represented in the Contract Documents so as to substantially increase the cost to the Contractor or the time to perform the Work, then the Consultant will issue a Contemplated Change Notice to the Contractor in accordance with GC 8.2 and the Contractor shall promptly prepare a Change Quotation in accordance with GC 8.2.1 to cover the increased cost and changed time to perform the Work. If the Change Quotation is agreed to, then the Consultant will prepare a Change Order initiating the Change in the Work, which shall be signed by the University and the Contractor. The Contract Price or the Contract Time shall not be adjusted if notice is not provided in accordance with this GC 8.6.

8.7 Under no circumstances is the University liable for subsurface water or surface water conditions arising at the Work Site after the commencement of the Work.

8.8 No claim by the Contractor for additional payment or for an extension to the Contract Time, because of a Change in the Work shall be valid and enforceable against the University unless it is made pursuant to the provisions of this GC 8.

9.0 VALUATION OF CHANGE IN THE WORK

9.1 The valuation of Change in the Work due to differences between actual measured quantities at the time of construction and the approximate estimated quantities shown in the Bid Forms shall be determined on the basis of the unit prices named in the Bid Forms, if applicable. No Change Order is required.

9.2 The valuation of Change in the Work due to deletion of work within the scope of the Contract Documents or addition of work to the scope of the Contract Documents shall be determined by unit prices named in the Bid Forms, if applicable. A Change Order is required.

9.3 When there is a Change in the Work which is not covered by unit prices named in the Bid Forms, the valuation of such Change in the Work shall be determined:

9.3.1 by estimate, and acceptance by the University, in a lump sum, submitted with the Contractor’s, Subcontractors’ and Suppliers’ signed quotations and breakdown estimates for material, equipment and labour. The Contractor shall apply a mark-up to a Suppliers quote in accordance with GC 9.3.2.2 and to a Subcontractors quote in accordance with GC 9.3.3.7;

9.3.2 at:

.1 the rates for the provision of labour and Plant named in the Bid Form; and

.2 the Contractor’s cost plus fifteen percent (15%) for Product, F.O.B. the Work Site for Changes in the Work not exceeding a value of $5000 and twelve percent (12%) thereafter, as established by invoices; and

.3 a mark-up on rental plant applied in accordance with GC 9.3.3.4, GC 9.3.3.5 and GC 9.3.3.6; or,

9.3.3 on a Contractor’s cost basis as follows:
payroll cost of labour as defined on a fully burdened payroll schedule to be submitted and which shall include all overheads and premiums paid as direct wages and salaries for the hours worked, including workers’ compensation, unemployment insurance, holiday pay, paid statutory holidays and other valid payroll burdens; plus

where the Contractor or Subcontractors procure Product directly the Contractor’s or the Subcontractor’s cost for Product, F.O.B. the Work Site, less trade discounts, as established by invoices; plus

Fifteen percent (15%) fee on the sum of items .1 and .2 for Change in the Work not exceeding a value of $5000 and twelve percent (12%) thereafter for the Contractor or Subcontractor actually performing the work, to cover office and general overhead, use of small tools and profit. Overhead shall include all normal overhead costs such as supervision, insurance, small tools, office expense, permit fees, and bonding; plus

the cost of rental of Plant for the hours worked, at locally-accepted rates for complete units including fuel, grease, maintenance and, unless the cost of such labour is included as an item under GC 9.3.2.1 or GC 9.3.3.1, operator, and all such other costs as are normal to an operating unit on the Work Site; plus

a 10% mark-up on item .4 provided that the Contractor or Subcontractor does not own the Plant; plus

valid transportation costs for Plant, specifically required for the Change in the Work, with no mark-up; plus

if the Change in the Work is to be completed by a Subcontractor, or a Subcontractor of a Subcontractor, each subsequent Subcontractor or Contractor shall apply a five percent (5%) fee on the sum of items .1, .2 and .4 for the Change in the Work to cover office and general overhead.

The choice of valuation methods GC 9.3.1, 9.3.2, or 9.3.3, or a combination thereof, shall be made by the University in its sole and unfettered discretion.

When a valuation of a Change in the Work is completed in accordance with GC 9.3.2 or 9.3.3, the Contractor shall submit to the Consultant or the University designate if the Consultant is not available, an accounting for work done on the same day. The accounting shall include a listing of the hours of labour and Construction Equipment and a listing of the Product used. The Consultant shall, each day, check the Contractor’s accounting and, if it is numerically correct, sign the three (3) copies and return one (1) signed copy to the Contractor. The Consultant’s signature shall not constitute an approval for payment. If, on any day, the Contractor fails to submit an account of the Change in the Work in accordance with this GC 9.4, the Consultant shall prepare the accounting, and this accounting shall be used as the basis of payment for that portion of the Change in the Work, and no payment will be made for any other amount subsequently claimed by the Contractor for that portion of the Change in the Work.

At all times during the progress of the Work, the Consultant, the University and its representatives and the University’s Special Consultants shall have the right to inspect or witness any part of the Work, but such inspection or witnessing shall not be construed to be an acceptance of any such Work or as relieving the Contractor of its responsibilities pursuant to the Contract Documents.

When required by Law, any authority having jurisdiction under Law must be called to inspect the Work.
10.3 If the Law requires testing of any part of the Work, the Contractor shall provide the Consultant with sufficient advance notice of the arrangements for the test and shall provide the Consultant with two (2) copies of the results upon completion of the test.

10.4 The Contractor shall inspect and be solely responsible for the inspection of all workmanship and Product furnished by the Contractor, Subcontractors or Suppliers in respect of the Work, to ensure conformity in each and every respect to the requirements of the Contract Documents and the Law and to ensure that good and proper construction practices are followed and that the Work is performed in a safe and environmentally sound manner.

10.5 If the Contract Documents require any test to be performed or witnessed by the Consultant, the Contractor shall provide the Consultant with sufficient advance notice of its readiness for the test and the Consultant will then promptly perform or witness the test. If the Consultant fails to witness the test when scheduled, any re-testing required by the Consultant shall constitute a Change in the Work. If any portion of the Work is closed or covered by the Contractor without the Consultant’s permission and before the Consultant has been given the opportunity to perform or witness a required test, then if requested by the Consultant, that portion of the Work will be opened or uncovered for testing and re-closed or re-covered, all at the Contractor’s expense.

10.6 In no circumstances shall any portion of the Work, other than that which has been inspected and specifically approved by the Consultant, be deemed to be accepted or approved by the Consultant.

11.0 PROTECTION OF THE WORK AND PROPERTY

11.1 The Contractor shall for the duration of the Contract Time or any extension thereto be fully and solely responsible for the protection of the Work and of all Product delivered to the Work Site for incorporation into the Work and of all Product, buildings or structures provided by the University for use in connection with the Work and all adjacent properties. If, during Contract Time or any extension thereto, any damage, loss, theft, or injury shall happen to the Work, Product, building or structures or adjacent structures or any part thereof, from any cause whatsoever, excepting damage which occurs as a result of errors in the Contract Documents or acts or omissions by the University, the Consultant or Other Contractors, the Contractor shall at its own expense repair and make good said damages, loss, theft, or injury such that at its completion the Work is in accordance with the Contract Documents.

12.0 HEALTH AND SAFETY

12.1 The Contractor shall have and maintain a valid University of Alberta, Health and Safety Pre-Qualification Registration Number at all times while performing the Services at the Work Site. Failure to maintain a valid University of Alberta, Health and Safety Pre-Qualification Registration Number Services while performing the Services may constitute a default by the Contractor of the terms, conditions, covenants and obligations of the Contract Documents, which will entitle the University to pursue all rights and remedies it has under the General Conditions and at Law against the Contractor, including, without limitation, termination of the Agreement.

12.2 The Contractor shall assume the role of Prime Contractor for the purposes of the Occupational Health and Safety Act and its Regulations for the duration of the Contract Time or any extensions thereto and, pursuant to this role, the Contractor is to establish and maintain a system or process that ensures compliance with the Act at the Work Site. Accordingly, the system or process shall take into account, and encompass the employees and agents of the University, the Consultant, the Contractor, Subcontractors, Suppliers, Other Contractors and the general public.

12.3 Work Site (OHS A) access will be restricted and only persons completing the Contractor’s safety orientation program, following proper sign-in procedure, and wearing all required personal protective equipment shall
be allowed on the Work Site.

13.0 WORK AREA AND CLEAN UP

13.1 The University or the Consultant may designate space at the Work Site for the Contractor's working and storage areas. The Contractor shall be responsible for keeping these areas clean, orderly and secure and shall confine its apparatus, Construction Equipment, storage of Product and the activities of its workers, Subcontractors, and Suppliers to limits required by law, ordinances, permits, or directions of the University and shall not unreasonably encumber the Work with its Construction Equipment and Product. Should the Contractor require additional facilities or areas, the Contractor shall make all the necessary arrangements with the University or occupants of such other facilities and shall pay all rentals and all consequential, indirect or similar damages caused by such occupancy.

13.2 The University is not responsible for theft, loss or damage to the Contractor’s Construction Equipment and Product at the Work Site howsoever caused, except for the negligent act or omission of the University or those for whom in Law it is responsible.

13.3 During the performance of the Work, the Contractor shall comply fully with the University's safety and emergency regulations, guidelines, and publications regarding clean-up at the Work Site. The Contractor shall clean-up, remove and dispose of all waste, bins, Product, surplus Product and Construction Equipment caused by the activities of its workers, Subcontractors, or Suppliers. Upon completion of the Work, or earlier termination of the Agreement, the Contractor shall promptly clean up and remove all of its Product, surplus Product and Construction Equipment from the Work Site as specified by the University and shall leave the Work Site clean and restored to the original condition and ready for the University's use and occupancy. In the event of a dispute in this regard, the University may remove such waste, bins Product, surplus Product and Construction Equipment and charge the cost of such removal to the Contractor as the Consultant shall determine to be just.

13.4 The Contractor shall ensure that all Hazardous Materials brought to the Work Site by the Contractor and/or its Subcontractors and/or Suppliers to perform the Work are removed from the Work Site, and that the Work Site has been cleaned and/or remediation of the Work Site has been completed to standards acceptable to the University or required by Law. Upon completion of the Work, or earlier termination of the Agreement, the Contractor shall promptly remove all of its Hazardous Materials from the Work Site as specified by the University and leave the Work Site clean and ready for the University's use and occupancy. In the event of a dispute in this regard, the University may remove such Hazardous Materials and charge the cost of such removal to the Contractor as the Consultant shall determine to be just.

14.0 REJECTED WORK

14.1 Defective work which has been rejected by the Consultant as failing to conform to the Contract Documents whether the result of poor workmanship, use of defective Product, or damage through carelessness or other act or omission of the Contractor, and whether incorporated in the Work or not, shall be removed promptly from the Work Site by the Contractor and replaced or re-executed promptly at the Contractor’s expense. Work or property destroyed or damaged by such removals or replacements shall be made good promptly at the Contractor’s expense.

14.2 If, in the opinion of the Consultant or the University it is not expedient to correct defective Work or Work not done in accordance with the Contract Documents, the University may deduct from the Contract Price the difference in value between the Work as done and that called for by the Contract Documents. The difference shall be determined in the first instance by the Consultant.

15.0 UNIVERSITY OCCUPANCY
15.1 Should the University wish to use or occupy any portion of the Work, the Consultant shall inspect the portion of the Work so affected and give notice to the Contractor and the University of the suitability of the Work for occupancy. The Contractor shall not unreasonably deny the University the right to access occupy or use the portion of the Work.

15.2 No payment made by the University relative to such partial or entire use or occupancy of the Work shall constitute an acceptance of any portion of the Work involved which is not in accordance with the requirements of the Contract Documents nor shall it relieve the Contractor of its obligations thereunder.

15.3 In the event that the University uses or occupies the Work or any part thereof prior to substantial completion the cost of electricity, heating, and water for any portions of the Work so used or occupied shall be borne by the University.

16.0 LIENS

16.1 Any lien or claim that may be filed or made on account of the Work performed or Product supplied by Subcontractors or Suppliers of the Contractor, or on account of a lien filed by the Contractor shall be released and discharged by the Contractor and at the expense of the Contractor within thirty (30) days after filing. If the Contractor fails to release or obtain the release and discharge of any such lien or claim, then the University may, but shall not be obliged to, discharge, release or otherwise deal with the lien or claim, and the Contractor shall pay any and all costs and expenses incurred by the University in so releasing, discharging or otherwise dealing with the claim or lien. Any amounts so paid by the University shall be deducted from any amounts due the Contractor, or recovered by the University by any other means.

17.0 FORCE MAJEURE

17.1 "Event of Force Majeure" as used herein, means an event (including but not limited to acts of God, acts of war, terrorism, revolution, riot, insurrection and civil commotion, fires, floods, storms, slides, epidemics, quarantine restrictions, freight embargoes or power failure) which is a major disabling event or circumstance and which:

17.1.1 is beyond the reasonable control and without fault or negligence of the party relying on such occurrence;

17.1.2 could not have been prevented by reasonable precautions by the party relying on such occurrence; and

17.1.3 results in a material delay, interruption or failure by the affected party in carrying out its obligations under the Contract Documents,

provided however that neither lack of money, financing or credit, nor strikes or lockouts, including illegal work stoppages or slowdowns, shall be deemed an Event of Force Majeure.

17.2 Either the University or Contractor may claim that an Event of Force Majeure has taken place, by giving the other party verbal notice within twenty-four (24) hours of the Event of Force Majeure, and written notice, together with a written proposed plan of corrective action to resolve or minimize the effect of the Event of Force Majeure, if practical, within forty-eight (48) hours of the Event of Force Majeure, or as soon thereafter as possible. Upon approval by the other party to the proposed plan, the parties shall implement the approved plan. The party claiming Force Majeure shall provide such further evidence of the Event of Force Majeure as may reasonably be requested by the other party.

17.3 If the University has given notice of an Event of Force Majeure or agrees with the Contractor’s notice that the Work or any portion thereof is affected as a result of an Event of Force Majeure, then the University shall do one of the following:
17.3.1 cause the Contractor to complete the Work, with such adjustments to Contract Time as are required by the Event of Force Majeure;

17.3.2 suspend the Work or any portion thereof in accordance with GC 22; or

17.3.3 terminate the Agreement or any portion thereof in accordance with GC 23.

17.4 If the Contractor has given notice of an Event of Force Majeure under GC 17.2 and the University does not agree that an Event of Force Majeure has taken place or that the Work, or any portion thereof, is affected as a result of an Event of Force Majeure, then the Contractor shall complete the Work in accordance with the written proposed plan of the University and may request an adjustment to the Contract Price and Contract Time in accordance with GC 8.

17.5 Any delay or failure on the part of either the University or the Contractor, which is a result of an Event of Force Majeure, shall not constitute default hereunder or give rise to any claim for consequential, indirect or similar damages.

17.6 Except as otherwise expressly set forth in the Contract Documents or agreed by both parties in writing, an Event of Force Majeure shall not result in any increase to the Contract Price.

18.0 DELAYS

18.1 If the Contractor is delayed in the performance of the Work by any act or omission of the University, the Consultant or Other Contractor or any employee of any one of them contrary to the provisions of the Contract Documents, then the Contract Time shall be extended for such reasonable time as may be necessary to allow the Contractor to make up the delay as the Consultant may decide, and the Contractor shall be reimbursed by the University for reasonable costs incurred by the Contractor as the result of such delay.

18.2 If the Contractor is delayed in the performance of the Work by an order issued by a court or other public authority having jurisdiction and provided that such order was not issued as the result of an act or fault of the Contractor, a Subcontractor, or a Supplier or any person employed or engaged by the Contractor, a Subcontractor, or a Supplier directly or indirectly, then the Contract Time shall be extended for such reasonable time as the Consultant may recommend in consultation with the Contractor. The University shall reimburse the Contractor for reasonable costs incurred by the Contractor as the result of such delay.

18.3 No claim for delay and no extension of time on account of delay shall be considered unless notice with a Change Quotation is given by the Contractor to the Consultant not later than ten (10) days after the commencement of delay, providing however, that in the case of a continuing cause of delay only one notice of claim shall be necessary. Upon receipt of said Change Quotation, if any, the Consultant shall proceed in accordance with GC 8.

18.4 If, in accordance with the Contract Documents, no schedule is made under GC 5.8 of these General Conditions, no claim for delay shall be allowed on account of failure to furnish Construction Documents or instructions until fourteen (14) days after demand for such Construction Documents or instructions and not then unless such claim is reasonable.

19.0 PAYMENT

19.1 As full and complete compensation for performance of the Work, the University shall pay the Contractor the Contract Price in accordance with this GC 19.
19.2 Prior to the Commencement Date, the Contractor shall provide to the Consultant a “cash flow forecast”, which shall indicate the Contractor’s best estimate of construction progress claim amounts on a monthly basis.

19.3 The Contractor shall also, a minimum of fourteen (14) days before the first application for payment, submit to the Consultant a projected forecast of the construction progress claim amounts for the various parts of the Work (the “Schedule of Values”) with each part of the Work to include its proportionate share of cost, overhead and profit, for Consultant approval, aggregating the total amount of the Contract Price, divided so as to facilitate payments and prepared in such form and supported by such evidence as to its accuracy as the Consultant may direct.

19.4 At the end of each month, or such other date as may be agreed upon between the Contractor and the University, the Contractor shall submit to the Consultant a progress claim for payment covering the percentage of Work performed to the end of the previous month. The Contractor’s claim shall be based on the Schedule of Values and shall include the following information:

19.4.1 total price for each item;
19.4.2 previous, current and total percentage complete for each item;
19.4.3 previous, current and total progress invoice amount for each item;
19.4.4 Change Order monthly summary and
19.4.5 supporting documentation as required by the University of all monies due to any or all Subcontractors;

19.5 Claims for Product delivered to the Work Site at any date but not incorporated into the Work shall be supported by such evidence as the Consultant and University may reasonably require establishing the value and delivery of the Product. The supporting evidence for such Product shall include:

19.5.1 the storage location and methods of protection which shall be subject to the approval of the University, acting reasonably;
19.5.2 evidence that individual Product are complete with respect to fabrication and/or manufacture.

19.6 Notwithstanding any other General Condition, the University may withhold from any amount claimed by or payable to the Contractor:

19.6.1 the full value of Product delivered to the Work Site but not yet incorporated into the Work which are found to be damaged, incomplete or missing and which were previously claimed for and for which payment was made;
19.6.2 the full value of any portion of the Work which is found to be not in accordance with the Contract Documents and which was previously claimed for and for which payment was made;
19.6.3 all overpayments relating to the Work for which payment was previously made.

19.7 The Consultant shall within ten (10) calendar days of receipt of the Contractor’s claim for payment, review the claim and issue a Certificate of Payment or advise the Contractor of the reasons that the claim or any portion of the claim is not certified for payment.

19.8 The University shall pay upon receipt of a Certificate of Payment within twenty (20) days of receipt of a
Certificate of Payment from the Consultant on the condition that:

19.8.1 there are no builders' liens arising out of the Work; and

19.8.2 the Contractor has provided the University with a statutory declaration in the form approved for use by the University evidencing payment to employees, Subcontractors, Suppliers, and others for all labour, Product and other services relating to the Work invoiced by the Contractor in all prior applications for progress payment.

19.9 The University shall retain from all payments due and payable to the Contractor hereunder the amount required according to the provisions of the Builders Lien Act of Alberta.

19.10 Monies retained pursuant to GC 19.9 shall not be forwarded to the Contractor until:

19.10.1 A minimum of forty-five (45) days from the date of the Certificate of Substantial Performance, or such other minimum period as required by the Builders Lien Act of Alberta;

19.10.2 the Contractor and its Subcontractors have removed all Product, surplus Product, Construction Equipment, waste, debris from the Work Site in accordance with GC 13.

19.10.3 the Consultant has issued the Certificate of Construction Completion;

19.10.4 the Contractor confirms in writing that there are no outstanding claims in respect of the Work for which notice has not been provided to the University in writing, and that there are no builders' liens arising out of the Work registered against lands owned by the University or claims in respect of which rights to file builders' liens arising out of the Work against lands owned by the University exist;

19.10.5 the Contractor has provided to the Consultant written clearance from the Workers' Compensation Board.

The University may, in its sole and unfettered discretion, choose to release such monies, or a portion thereof, prior to the completion of any or all of the obligations set out in GC 19.10.2, GC 19.10.3, GC 19.10.4, or GC 19.10.5.

19.11 Monies payable to the Contractor shall be payable by issuance of a cheque payable to the Contractor or paid by electronic funds transfer if such arrangements have been made.

20.0 COMPLETION AND ACCEPTANCE

20.1 Concurrent with its submission of a Certificate of Substantial Performance, the Contractor shall submit to the Consultant a comprehensive list, in a form acceptable to the Consultant, acting reasonably, of items to be completed or corrected (the “Deficiency List”). Failure to include an item that has not been satisfactorily completed shall not relieve the Contractor of its obligations to complete the Work.

20.2 After the Contractor has completed all the Work and corrected all known deficiencies, it shall give the Consultant notice that the Work has been finally completed and provide to the Consultant the appropriate declaration, on a declaration form approved for use by the University. Within ten (10) days of receipt of that notice, the Consultant will either issue a Certificate of Construction Completion or give notice to the Contractor of the deficiencies to be remedied before a Certificate of Construction Completion can be issued. In the latter case, the foregoing procedure with respect to the deficiencies shall be repeated until the Consultant issues the Certificate of Construction Completion. Notwithstanding the foregoing, the Consultant’s issuance of the Certificate of Construction Completion shall not relieve the Contractor of any of its obligations under the
The Consultant shall not issue a Certificate of Construction Completion until the Contractor has fulfilled all of its obligations as set out in the Contract Documents including, but not limited to, the Contractor’s obligations with respect to commissioning, training of the University employees including completion of required training seminars, if any, provision of as-built drawings, issuance of applicable certificates or permits for all utilities or any other certificates or permits required for the University to take possession of and use the completed Work, and provision of operating and maintenance manuals.

21.0 TAXES, DUTIES, PERMITS, AND APPLICABLE LAWS

21.1 The Contractor shall be responsible for the payment of:

21.1.1 all taxes imposed by reason of the performance or completion of the Work including but not limited to license and registration fees and the Contractor’s income, profit, franchise, business, and personal property taxes;

21.1.2 all employment taxes and contributions imposed by Law or required to be paid on behalf of the employees of the Contractor, Subcontractors or Suppliers, including but not limited to taxes and contributions for income tax, workers’ compensation, unemployment insurance, old age benefits, welfare funds, pensions and annuities and disability insurance; and

21.1.3 all duties and sales tax owing with respect to any labour, Product or Construction Equipment supplied by the Contractor for use in the performance of or to be incorporated into the Work, except for goods and services tax payable by the University with respect to payments due to the Contractor. It is the responsibility of the Contractor to minimize costs where possible, by taking advantage of any applicable Canada Customs and Revenue Agency duties relief programs.

21.2 Any increase in taxes and charges described in GC 21.1.1 and GC 21.1.2 shall be the sole responsibility of the Contractor. In the event of a change in taxes or charges described in GC 21.1.3, a Change Order shall be issued changing the Contract Price to account for the difference between the amount of tax that would have been payable by the Contractor as of the Commencement Date and the actual amount of tax that becomes payable as a result of the change in the tax.

21.3 The Contract Documents are governed and construed in accordance with the Laws of the Province of Alberta and the parties attorn to the jurisdiction of the applicable Courts of the Province of Alberta.

21.4 The Contractor shall comply with and shall ensure that its employees and agents comply with and shall contractually require its Subcontractors and Suppliers and their respective employees and agents to comply with all applicable Laws in connection with the Work.

21.5 The Contractor shall obtain from governmental authorities or other third parties, and pay for those licenses, permits and approvals required by Law or by the Contract Documents for the Work, except those licenses, permits and approvals required with respect to the land-use aspects of the Work to be performed on the Work Site, and except for those licenses, permits and approvals to be obtained by the University as listed in the Supplementary General Conditions or elsewhere in the Contract Documents.

21.6 The Contractor shall comply with the Safety Codes Act of Alberta (covering building, electrical, elevator, fire, gas, plumbing and boiler & pressure vessel disciplines) and obtain the necessary permits and approvals as required. The University has “Accredited Corporation status” under this Act and administers the Safety Codes process in all buildings owned or leased by the University. The University shall pay any applicable fees directly to the University’s approved safety codes inspection agency.
21.7 The Contractor shall make the necessary inspection requests to satisfy the Safety Codes Act and adhere to the policies outlined within the University’s quality management plans for accredited status under the Safety Codes Act (covering building, electrical, elevator, fire, gas, plumbing and boiler & pressure vessels disciplines).

21.8 If the Contractor discovers any variance between the Law and any Product purchased or supplied by the Contractor, Subcontractors or Suppliers, then the Contractor shall promptly notify the Consultant and the University before proceeding with the part of the Work affected, and shall make the necessary revisions to the Product to comply with the Law, at the Contractor’s expense.

21.9 The Contractor is not required to obtain City of Edmonton development or building permits or have the City inspect the Work.

21.10 Without limiting the generality of GC 21.4, the Contractor shall at its own expense, comply with all Laws from time to time in force relating to the protection of the environment and to all Hazardous Materials in or on the Work Site, University lands, buildings, premises or any part thereto. The Contractor is responsible for all of its own Hazardous Materials to the extent that such Hazardous Materials or the existence thereof results in fines or penalties, damages, costs or liabilities (including third party liabilities) being levied against that party.

22.0 SUSPENSION OF THE WORK

22.1 In addition to any other rights that the University may have hereunder or in Law, the University may in the exercise of its sole and unfettered discretion, at any time or times, by notice to the Contractor specifying the effective date of the suspension, require the Contractor to suspend the Work or any portion thereof (the “Suspended Work”). Upon receiving notice, the Contractor shall:

22.1.1 discontinue the Suspended Work, except for those activities necessary for the care and preservation of the Suspended Work;

22.1.2 place no further purchase orders or subcontracts with respect to the Suspended Work;

22.1.3 promptly make reasonable efforts to obtain suspension terms satisfactory to the University with respect to all purchase orders, subcontracts, supply contracts and rental agreements related to the Suspended Work;

22.1.4 continue to perform all Work which is not Suspended Work; and

22.1.5 not remove from the Work Site any part of the Work or any Product or Construction Equipment without the written approval of the University.

22.2 The University may at any time authorize resumption of the Suspended Work or any part thereof, by giving the Contractor reasonable notice specifying the part of the Suspended Work to be resumed and the effective date of such resumption. The Contractor shall resume the Suspended Work on the date and to the extent specified in the notice provided that if the date for resumption is more than thirty (30) days after the date of suspension, or as otherwise specified by the University, acting reasonably, in the notice to suspend the Work, the Contractor may, by Change Quotation, given within five (5) days of receipt of the notice of resumption, request a Change Order in the manner provided in GC 20 deleting the Suspended Work from the Work and adjusting the Contract Price and Contract Time on account of the suspension and deletion of the Suspended Work. In the event of a Change Quotation issued by the Contractor in accordance with this GC 22.2, the Contractor shall not be entitled to any compensation for loss of profit, if any, due to the deletion of the Suspended Work.
22.3 The Contractor shall use its employees, Construction Equipment and Product in such manner, and take such other steps as may be necessary or desirable to minimize the costs associated with the Suspended Work. During the period of suspension of the Work, the Contractor shall secure and protect the Suspended Work and all Construction Equipment and Product to be used or incorporated therein.

22.4 The University shall issue a Change Order to reimburse the Contractor for those direct costs reasonably incurred by the Contractor as a result of the Suspended Work. Under no circumstances shall the University be liable for any consequential, indirect or similar damages or loss of profits on account thereof.

23.0 UNIVERSITY’S RIGHT TO TERMINATE THE AGREEMENT OR THE CONTRACTOR’S RIGHT TO DO THE WORK

23.1 In addition to any other rights that the University may have hereunder, or in Law, the University may at any time, in the exercise of its sole and unfettered discretion, terminate the Contractor’s right to perform the Work, or any portion thereof, or the Agreement by giving notice to the Contractor specifying the Work or portion thereof to be terminated and the effective date of the termination. Upon receipt of such notice, the Contractor shall:

23.1.1 discontinue the Work in accordance with the notice;

23.1.2 continue to perform all portions of the Work not terminated, if any, in accordance with the Contract Documents including, as applicable, the placing of orders for manpower, facilities and Product;

23.1.3 make all reasonable effort to obtain cancellation of all existing orders and subcontracts on terms satisfactory to the University; and

23.1.4 take whatever other steps may be reasonable to minimize the costs associated with the termination of the Work.

23.2 Except in the event that the Contractor’s right to perform the Work or the Agreement is terminated in accordance with GC 17, 23.3 or 23.4, the University shall reimburse the Contractor for those costs reasonably incurred by the Contractor as a direct result of the termination. In this regard, the Contractor shall submit a termination settlement proposal to the University for consideration within thirty (30) days of the date of the notice of termination and shall maintain full and complete records of all cancellation and termination charges and shall make such records available on request to audit and inspection by the University or the Consultant and shall allow the University or Consultant to make copies of and to take extracts from any or all of the records and related material and to furnish the University or the Consultant with any information it may require from time to time in connection with such records and material.

23.3 Not so as to limit the generality of GC 23.1, the University may in its sole and unfettered discretion terminate the Contractor’s right to perform the Work, or any portion thereof, or the Agreement by notice to the Contractor or, if applicable, the receiver, receiver-manager or trustee in bankruptcy, in any of the following circumstances:

23.3.1 if the Contractor becomes insolvent or makes a general assignment for the benefit of its creditors or otherwise acknowledges its insolvency or if a bankruptcy or receiving order is filed or made against the Contractor;

23.3.2 if an order is made or resolution is passed for the winding up or liquidation of the Contractor;

23.3.3 if a custodian, receiver, manager or other officer with similar powers is appointed in respect of the Contractor or any of the Contractor’s property;
23.3.4 if the Contractor ceases to carry on in the ordinary course of business;

23.3.5 if an encumbrancer takes possession of any of the Contractor's property or if a distress, execution or any similar process is levied or enforced against such property and remains unsatisfied by the Contractor; or

23.3.6 if the Contractor fails or refuses at any time to comply with the provisions of GC 10, GC 21 or GC 32.2.

Upon receipt of such notice, the Contractor or receiver, receiver-manager or trustee in bankruptcy shall discontinue the Work in accordance with the notice, and shall take such steps as may be necessary or desirable to minimize the costs to the University associated with the termination of the Work. The University shall not be liable for those costs incurred by the Contractor as a result of the termination of the Work pursuant to this GC 23.3.

23.4 If the Contractor is in default in carrying out any of the terms, conditions, covenants or obligations of the Contract Documents, or has made a false representation, declaration, or warranty, the University may give the Contractor notice of default. Except as otherwise specified in GC 23.3, the Contractor shall have five (5) days following receipt of the notice or such longer time as the University has specified in the notice of default within which to rectify the default. If the Contractor fails to rectify the default in the time required the University may by further notice in writing to the Contractor terminate the whole or any part of the Agreement or the Contractor’s right to perform the Work, or any part thereof. In the case of any default which would reasonably require more than the time allowed to rectify the default the Contractor shall be deemed to have rectified the default if within the allowed time it has submitted to the University a schedule for rectification of the default which the University has accepted and it has commenced rectification and thereafter promptly and diligently and continuously proceeded with the rectification of the default, in accordance with the approved schedule. Upon notice of termination, the Contractor shall discontinue the Work in accordance with the notice and shall take such steps as may be necessary or desirable to minimize the costs to the University associated with the termination of the Work. The University shall not be liable for those costs incurred by the Contractor as a result of the termination of the Work pursuant to this GC 23.4.

23.5 In the event the Agreement or the Contractor’s right to perform the Work, or any portion thereof, is terminated, the University may complete or have others complete the Work.

23.6 If the Contractor’s right to perform the Work or the Agreement is terminated pursuant to GC 23.3 or GC 23.4, the University:

23.6.1 shall, subject to GC 19.9, pay the Contractor for all Work satisfactorily performed to the date of termination, less the sum of all monies already paid to the Contractor and all costs the University shall pay in excess of the Contract Price to obtain satisfactory completion of the Work by others. If the costs the University shall pay in excess of the Contract Price exceeds the sum of all monies owed by the University to the Contractor for work satisfactorily performed less the sum of monies already paid, the Contractor shall pay said costs to the University immediately on demand;

23.6.2 may on expiry of the Warranty Period charge the Contractor the amount by which the cost of corrections to its Work under GC 30 exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, the University shall pay the Contractor the difference;

23.6.3 may at its discretion exercise the provisions of any surety bond or other instrument that has been provided in accordance with the Contract Documents;

23.6.4 is entitled to take possession of the Work, Product and to utilize the Construction Equipment at
the Work Site subject to the rights of third parties, and finish the Work by whatever method the
University may consider expedient, but without undue delay or expense;

23.6.5 is entitled to pursue all other rights and remedies which it may have at Law against the Contractor.

23.7 Upon termination of the Agreement or the Contractor’s right to perform the Work or any part thereof, the
Contractor shall:

23.7.1 turn over to the University all Work performed prior to the date of termination including Product
that the University has paid for and being within the Work, or part of the Work, identified in the
aforesaid notice as terminated;

23.7.2 properly protect and secure all property at the Work Site;

23.7.3 provide the University with all operating manuals, quality control documentation, as-built
drawings and other documents all as related to the terminated Work or part thereof;

23.7.4 execute and deliver to the University all other documents required by the University; and

23.7.5 take all steps required by the University, to fully vest in the University all right, title and interest of
the Contractor under existing agreements with the Contractor, Subcontractors and Suppliers,
which are related to the Work.

23.8 Notwithstanding GC 23.2, the University shall not be liable for any penalties, consequential, indirect, or
similar damages or loss on account of anticipated profits as a result of the termination of the Contractor’s
right to perform the Work or the Agreement by the University. The rights and remedies provided in this GC
24 are in addition to the rights and remedies provided by Law, or under any other provision of the Contract
Documents.

23.9 The Contractor’s obligations under the Contract Documents as to quality, correction and warranty of the
Work performed by it up to the time of termination of its right to perform the Work or of the Agreement
shall continue in force after such termination.

23.10 Any disagreements between the parties to the Contract Documents arising here from and which are not
resolved by negotiation or interpretation by the Consultant shall be resolved in accordance with the
provisions of GC 29.

24.0 CONTRACTOR’S RIGHT TO TERMINATE THE AGREEMENT

24.1 If the University fails to make a payment to the Contractor when due and payable pursuant to the Contract
Documents, the Contractor may give the University notice of default. If the University fails to rectify the
default within five (5) days, or is not contesting the Contractor’s entitlement to payment in good faith, then
the Contractor may suspend the further performance of the Work, without prejudice to all other rights and
remedies it may have at Law. In the event that the University remains in default of payment for a further
period of fourteen (14) days after suspension of the Work by the Contractor, the Contractor may terminate
the Agreement, without prejudice to all other rights and remedies it may have at Law. The University shall
be liable for and pay to the Contractor all amounts on account of Work satisfactorily performed to the date
of suspension under this GC 24.2.

24.2 If an Event of Force Majeure exists and continues for a period in excess of sixty (60) days and results in
substantially all of the Work being stopped or suspended during that period, the Contractor may terminate
the Agreement and the University shall be liable for and pay to the Contractor all amounts on account of
Work satisfactorily performed to the date of suspension under this GC 24.3.
24.3 The Contractor's obligations under the Contract Documents as to quality, correction and warranty of the Work performed by it up to the time of suspension of the Work or termination of the Agreement shall continue in force after such termination.

25.0 WORKERS' COMPENSATION

25.1 The Contractor and Subcontractors shall have proof of an account in good standing with the Workers’ Compensation Board (Alberta) and such accounts shall remain in good standing for the duration of the Contract Time. Coverage shall include all employees of the Contractor and Subcontractor as well as personal coverage for any employers, proprietors, partners and directors performing Work at the Work Site.

25.2 Prior to the Commencement Date, and at any time thereafter at the University's request, the Contractor shall arrange to have the Workers' Compensation Board of Alberta send a clearance letter to the University, verifying that all required assessments and contributions have been paid, or other confirmation that coverage has been obtained by the Contractor.

26.0 INSURANCE

26.1 This GC is stated in Attachment 4 General Conditions of Insurance, issued in the Bid Documents and part of the Contract Documents.

27.0 INDEMNIFICATION

27.1 With respect to the Contractor's negligence, the Contractor shall:

27.1.1 be liable to the University for,

27.1.2 indemnify and hold harmless the University, its officers, directors, employees, consultants and agents from and against:

any and all liabilities, claims, suits or actions, costs, damages and expenses (and without limiting the generality of the foregoing, any losses, costs, damages and expenses of the University, including costs as between a solicitor and its own client) which may be brought or made against the University or which the University may pay or incur as a result of or in connection with:

.1 any acts or omissions in connection with the performance, purported performance, or non-performance of the requirements of the Contract Documents, the Contractor’s Prepared Documents or of the Work by the Contractor, Subcontractors, Suppliers or their respective employees or agents;

.2 any acts or omissions of the University, the Consultant, Other Contractors or their respective employees or agents or in connection with such act or omissions, while acting under the direction or control of the Contractor, Subcontractors, Suppliers or their respective employees or agents.

.3 any breach or violation of any covenant, condition or agreement set forth in the Contract Documents and required to be performed by the Contractor, Subcontractors, Suppliers or their respective employees or agents.

This indemnity shall survive the expiry or earlier termination of this Agreement.
27.2 Notwithstanding anything to the contrary expressed or implied in this Agreement, the University shall not be liable to the Contractor for any general, indirect or consequential damages or any economic losses of any kind, regardless of whether the liability to which such damages relate arises in contract, tort or otherwise in Law.

28.0 CONSEQUENTIAL DAMAGES

28.1 Notwithstanding any other provision contained in the Agreement and except to extent to which coverage is provided by a policy or policies of insurance, neither the Contractor nor the University and their respective officers, directors, personnel or subcontractors shall be liable to each other, or anyone claiming through or under one or more of them, whether by way of indemnity or by reason of breach of contract or in tort, including liability for negligence and breach of statutory duty, or on any other legal or equitable basis, for any special, punitive, indirect, economic or consequential loss or damage; loss of use, whether complete or partial, of the Work or existing facilities of the University or Contractor or any other third parties; loss of product; loss of revenue, overhead, fixed costs and profit; or loss of any contract that may be suffered by the other party or any other third parties.

29.0 DISPUTE RESOLUTION

29.1 The parties shall make all reasonable efforts to resolve all disputes and claims by negotiation and agree to provide, without prejudice, open and timely disclosure of relevant facts, information and documents to facilitate these negotiations. Notwithstanding the dispute resolution procedures set out herein, the parties may, at any point in the dispute resolution process, resolve any dispute through negotiation.

29.2 Should either the Contractor or the University dispute the written interpretation or determination made by the Consultant in the first instance in accordance with GC 3.2, or in the event of differences between the parties as to the interpretation, application, or administration of the Contract Documents, or in the event of a failure to agree where agreement between the parties is called for, then, within six (6) days of the parties receiving the Consultant’s decision in the first instance or of the parties acknowledging the existence of a difference or failure to agree, either party may submit to the Consultant a written notice of the dispute. Such notice shall set forth particulars of the matter in dispute, the probable extent and cost of the problem and the relevant provisions of the Contract Documents.

29.3 As soon as reasonably possible after receipt of a notice of a dispute, the Consultant shall give such instructions as in its 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 no act by either party shall be construed as a renunciation or waiver of any of its rights or recourse.

29.4 The claimant shall forward the written dispute notice to the other party concurrent with its submission to the Consultant. The other party shall reply to such notice in writing to the Consultant and the claimant no later than seven (7) days after it receives or is considered to have received it, setting out in such reply its grounds and other relevant provisions of the Contract Documents.

29.5 Any disputes, claims, or differences not settled as provided in GC 29.1 to 29.4 may, by the consent of both parties, be resolved through mediation. Either party may commence the mediation proceeding by issuing a request for mediation to the other party, who may consent thereto within three (3) business days. The procedural terms of the mediation shall, unless otherwise agreed to by the parties, be conducted in accordance with the ADR Institute of Canada National Mediation Rules provided, however, that in the event of any inconsistency between the ADR Institute of Canada National Mediation Rules and the Contract Documents, the provisions of the Contract Documents shall prevail. The mediator shall be appointed by agreement between the parties. The parties will act reasonably and in good faith to select a mediator who is objective and who is suitably qualified by education or experience to deal with the matters in issue. If the
parties fail to agree to a mediator within ten (10) days the parties will request that the Chair of the Western
Canadian Commercial Arbitration Society nominate a mediator. The mediation will be held in Edmonton,
Alberta. The costs of the mediation shall be shared equally by the parties. If the dispute has not been
resolved within thirty (30) days from the appointment of the mediator, either party may terminate the
mediation, at which point either party shall be at liberty to enforce its rights as it sees fit, subject only to
the terms and conditions of this Agreement.

29.6 Any disputes, claims, or differences arising out of or in connection to this Agreement not settled as
provided in GC 29.1 to 29.5 may, by the consent of both parties, be resolved through arbitration in accordance with
the Arbitration Act (Alberta), RSA 2000, c. A-43, as amended (the “Act”). Either party may issue to the other
a written request that the dispute be arbitrated and if the other party agrees to submit the dispute to
arbitration within three (3) business days of its receipt of the written request provided by the other party,
the following provisions shall apply.

29.6.1 The arbitration shall be conducted in accordance with the Act and the ADR Institute of Canada
Rules Arbitration Rules (the “Rules”);

29.6.2 If there is a conflict between the Act and the Rules, the Rules shall prevail, and any conflict between
the Rules and the following provisions shall be resolved in favour of the latter;

29.6.3 The parties shall, within ten (10) days of a written request to arbitrate being delivered to either party,
agree upon a single arbitrator to hear and determine the dispute. In the event that the parties fail to
agree upon an arbitrator, either party may apply to the Court of Queen’s Bench of Alberta to have a
single arbitrator appointed in accordance with the Act;

.1 The arbitration shall be conducted in English;

.2 The arbitrator selected by the parties, or appointed pursuant to this GC 29.6.3 must be qualified by
education and training and have such technical expertise, if any, as may be necessary or appropriate
having regard to the dispute;

29.6.4 The arbitration hearing will be conducted in accordance with the Rules and the arbitrator shall
endeavour to conclude the arbitration as expeditiously as possible having regard to the nature of the
dispute, the evidence to be presented, and the requirements of fairness to each of the parties;

29.6.5 The decision of the arbitrator shall be final and binding upon the parties, and not subject to any appeal;

29.6.6 The arbitration proceedings, evidence at the arbitration proceedings, and the decision of the arbitrator
shall be treated as confidential information and the parties shall jointly instruct the arbitrator to
maintain the confidentiality of the proceedings, evidence and his or her decision;

29.6.7 The arbitration shall be conducted in Edmonton, Alberta;

29.6.8 The costs of any arbitration shall be in the discretion of the arbitrator;

29.6.9 The parties may mutually agree in writing to extend any time period or deadline provided for in this
GC 29.6.

29.7 If the parties are unable to settle any disputes, claims or differences after attempts to use the dispute resolution
mechanisms contained in this GC 29, then either party may submit the dispute to the courts of the Province of
Alberta. Each party shall continue the performance of their respective obligations under the Contract
Documents during the resolution of any dispute, including during any period of negotiation, mediation or
arbitration, unless and until the Agreement is terminated or expires in accordance with its terms and
WARRANTIES

30.1 The Contractor represents and warrants to the University that:

30.1.1 it has the experience, resources, personnel and capability to expeditiously and diligently perform the Work and its obligations under the Agreement;

30.1.2 it has all required permits, licenses and authorizations necessary to carry on its business and to be obtained by it to conduct the Work;

30.1.3 the title to any and all Product which are to be provided by the Contractor for incorporation into the Work will be free from any and all claims, liens, charges, encumbrances or security interests of any kind whatsoever;

30.1.4 all Product furnished by the Contractor, Subcontractors or Suppliers shall:

.1 meet the specifications in the Contract Documents or, if not specified, then be of the quality best suited for the required operating conditions and intended use and purpose of the Product and services and of sufficient size and capacity for the Work, or as otherwise specified by the Consultant;

.2 be safe and environmentally sound; and

30.1.5 all Product furnished by the Contractor, Subcontractors or Suppliers shall be new unless otherwise specified by the Consultant.

30.2 The Warranty Period is as follows:

30.2.1 The Contractor warrants that the Work shall be free from any and all defects and deficiencies in workmanship performed and Product supplied by the Contractor, its Subcontractors and Suppliers for the Warranty Period of twelve (12) months from the date of the Certificate of Substantial Completion for the Work completed prior to that date, and twelve (12) months from the date of the Certificate of Construction Completion for the balance of Work;

30.2.2 The Contractor further warrants that an item or items of workmanship performed and or Product supplied that is covered by an extended Warranty specified in the Contract Documents shall be free from any and all defects and deficiencies in workmanship performed and Product supplied by the Contractor, its Subcontractors and Suppliers for the Warranty Period specified in the Contract Documents;

During the course of construction or during the Warranty Period in 30.2.1 or 30.2.2, should the University determine that an extended warranty is required or the Contractor deems it advisable to obtain an extended warranty for an item or items of workmanship performed or to be performed and or Product supplied or to be supplied, the Contractor in consultation with University shall obtain the terms, conditions and price for the extended Warranty. If the University agrees to proceed with the extended Warranty in contract this change shall be processed in accordance with the provisions of the General Conditions.

30.3 During the Warranty Period, the Contractor shall, at its expense, promptly repair, replace and make good all defects in the Work and correct all deficiencies, errors, omissions and mistakes with respect to the Work (or any component system thereof) at its own cost by re-performing the Work or repairing or replacing any Product, which does not comply with the Contract Documents. The Contractor shall do so in a manner that
minimizes disruptions to the University’s continuing operations. Notwithstanding the foregoing, the University may, in the case of emergency or the failure of the Contractor to perform the requested warranty work in a timely manner, make or cause to be made the necessary corrections, repairs or replacements and charge the cost thereof to the Contractor provided that where practical, the University shall provide the Contractor with the opportunity to make the necessary corrections, repairs or replacements.

30.4 The Contractor shall immediately advise the Consultant of any defects in workmanship, or Product and of all deficiencies, errors, omissions, or mistakes in the Work that it discovers or becomes aware of during the Contract Time and Warranty Period.

30.5 If the Agreement or any part of the Work is terminated, then this GC 30 shall survive such termination, and the Warranty Period with respect to completed Work shall commence upon the effective date of termination.

30.6 The Contractor shall arrange and provide all parties with adequate notice of an inspection for the purpose of determining Total Performance of the Work with such inspection to be held approximately twenty (20) days prior to the expiry of the Warranty Period and at which representatives of the Consultant, its Subconsultants, Subcontractors and Suppliers, as directed by the Consultant, shall be present. The Consultant shall record all defects due to faulty Product and/or workmanship, including damage to other work resulting therefrom, that is evident at such inspection of the Work for correction by the Contractor and determine, in consultation, with the Contractor, a reasonable period of time to correct. Upon the correction of such defects by the Contractor to the satisfaction of the Consultant, the Consultant shall confirm such state of the Work by the issuance of a Certificate of Total Performance, in duplicate, to the University and the Contractor. The issuance of the Certificate of Total Performance shall not release the Contractor from its obligations under the Contract Documents.

31.0 PATENTS AND LICENCES

31.1 The Contractor represents and warrants to the University that it either owns or has subsisting agreements pertaining to any patent, trademark, copyright, or industrial design and the rights associated thereto for any Product, compositions, processes, methods or designs supplied in the performance of the Work by the Contractor, its Subcontractors or Suppliers. The Contractor and the University shall comply with all such agreements, whether supplied by the Contractor or by the University.

31.2 The Contractor shall promptly give notice to the University if the Contractor has or acquires knowledge of any patent, trademark, copyright or industrial design or similar right under which an action could reasonably be expected to be maintained because of the use or purchase by the University of Product, materials, compositions, processes, methods or designs incorporated or to be incorporated by the Contractor as part of the Work. Following notification to the University, the Contractor shall not incorporate any such Product, materials, compositions, processes, methods or designs into any plans, drawings, specifications or other documents, or use the same in connection with the Work without the University’s prior approval.

31.3 The Contractor hereby grants the University a non-exclusive, royalty-free, perpetual, irrevocable licence to use all patents, industrial designs, copyrights and technology related to the Work, that the Contractor owns or controls. The Contractor shall obtain any consents of third parties relating to such licences.

31.4 The Contractor hereby grants the University a non-exclusive, royalty-free, perpetual, irrevocable licence to make, have made and use the Product, materials, compositions, designs, methods and processes supplied by the Contractor as per the Contract Documents. The Contractor shall obtain any consents of third parties relating to such licences.

32.0 UNIVERSITY POLICIES
32.1 Prior to construction start up on the Commencement Date, the Contractor shall either obtain approval in writing from the University’s fire protection officer for the Contractor’s fire safety plan or agree in writing to use the University’s “Demolition and Construction Fire Safety Plan”.

32.2 In addition to the requirements under all environmental health and safety (EHS) standards established by Law and required pursuant to GC 22.4, the Contractor shall comply with applicable EHS standards established by the University. Failure to comply with these requirements will constitute a material default and may result in immediate termination pursuant to GC 23.3.6.

32.3 The Contractor shall comply with the University’s waste management regulations, policies and procedures.

32.4 The Contractor shall comply with University policies regarding clean-up of the Work Site, work permits, and parking.

32.5 Prior to commencement of any Work at the Work Site, the Contractor must obtain temporary Work Site occupancy, excavation and welding permits from the University. Written request for such permits must be given to the University a minimum of seventy two (72) hours in advance of their need in order to ensure processing. These permits are made available to the Contractor at no cost.

32.6 The Contractor shall not, and shall ensure that its Subcontractors and Suppliers do not use, transport, or store Hazardous Materials on the Work Site except with the prior approval of the University. All Hazardous Materials so used, transported or stored shall be dealt with in accordance with the Law, the Contract Documents and all of the University’s published regulations, guidelines or publications regarding Hazardous Materials.

32.7 The Contractor shall enforce all University policies and all regulations and rules regarding signs, advertisements, fires, smoking, and disposal of waste, as required by Law or by the University.

33.0 CONFIDENTIAL INFORMATION AND PUBLICITY

33.1 The term "University's Confidential Information", as used herein, shall mean all information relating to the Work and any process, technology or system relating thereto, the design, construction, operation, maintenance or any other aspect of the Work Site, or relating to the nature of the University's business and affairs, which the Contractor directly or indirectly receives or acquires from the University or anyone on behalf of the University, either in writing or verbally, or through observation of the Work Site or the Work, except information falling into any one of the following categories:

33.1.1 information that the Contractor can show was in the Contractor's possession on a non-confidential basis prior to the Contractor's receipt or acquisition thereof from the University;

33.1.2 information which, after the Contractor's receipt or acquisition thereof from the University as aforesaid, becomes part of the public domain through no act of the Contractor or of any third party under an obligation of confidence with respect to such information, but only after such information becomes part of the public domain; or

33.1.3 information which, after receipt or acquisition thereof from the University as aforesaid, is lawfully obtained by the Contractor from a third party, but only after such information is so received or acquired, and provided such third party is under no obligation of confidence with respect to such information.

Specific information shall not be considered to be within the scope of any of the exceptions listed above merely because it is included with general information within the scope of the above exceptions.
33.2 The Contractor shall keep all of the University's Confidential Information in confidence and shall not disclose it to others without the prior approval of the University. The Contractor shall not use the University's Confidential Information, except in performance of the Work.

33.3 Notwithstanding GC 33.2 hereof, the Contractor may disclose the University's Confidential Information to those of its employees, Subcontractors and Suppliers and their respective employees to whom disclosure is required in order for the Contractor to perform the Work, provided the Contractor shall contractually require its employees, agents, Subcontractors and Suppliers and their respective employees and agents to comply with GC 33.2.

33.4 The Contractor shall not disclose the Contractor's Submittals to others without the prior approval of the University, except as necessary to perform the Work.

33.5 The Contractor shall not use the University's name, registered or unregistered trademarks or any of the University's slogans in any advertising or promotional materials or publicity releases, and shall not take, permit to be taken or use any photographs of the Work Site, without the prior written approval of the University.

33.6 The Contractor acknowledges that the University of Alberta is a public body subject to the Freedom of Information and Protection of Privacy Act of Alberta (the “Act”). Confidentiality for any documents cannot be ensured by the University. Provisions exist under the Act to allow disclosure of personal or business information where disclosure would not be harmful to business interests or would not be deemed an unreasonable invasion of a third party’s personal privacy as defined within the Act.

33.7 If the University receives a request for information under the Act, which includes information provided by the Contractor, the University will give the Contractor notice of such request and the Contractor will respond to such notice in accordance with the Act. If the Contractor does not respond to the notice from the University, the University will proceed to process the request for information in accordance with the Act.

33.8 If the University’s response to a request under the Act is appealed to the Office of the Information and Privacy Commissioner, the Contractor shall have the burden of proof as to exception from disclosure as defined under the Act. The Contractor shall be responsible for all costs related to its confidentiality requirements.

33.9 As applicable for University records and information under its care, the successful Contractor shall bear the burden and associated costs of records management practices required under the Act. As well, the Contractor shall be responsible to provide for the protection of the confidentiality of University records and information as required by the Act.

33.10 The Contractor and the University agree that the obligations of the parties as specified within the Act shall survive the termination or expiration of this Agreement.

34.0 **CONFLICT OF INTEREST**

34.1 The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions, which could result in a conflict with the University's best interests. This obligation shall apply to the activities of the Contractor and its Subcontractors and Suppliers, and their respective employees and agents, in their relations or dealings with the employees of the University and their families, and other third parties arising from its obligations under the Agreement.

34.2 Immediately upon becoming aware of the circumstances, the Contractor shall disclose to Supply Management Services any facts which may or do constitute a conflict of interest relating to this Agreement.
including details of any University employee or immediate family member who may receive a financial or other benefit or who holds an interest or directorship in the Contractor or its Subcontractors or Suppliers. If the University deems the particular circumstances or any other circumstances disclosed to or discovered by the University to constitute a conflict of interest, the University may, at its sole discretion determine that the Contractor is in default of its obligations under this Agreement and may give notice of default to the Contractor. If the Contractor does not remove the conflict in accordance with such notice of default, the University may, at its sole discretion terminate the Agreement.

34.3 To preserve the image and integrity of the University and its employees and agents, business gifts other than items of minor value shall not be offered. Reasonable hospitality is an accepted courtesy of a business relationship. The frequency and nature of gifts or hospitality shall not be allowed whereby the recipient might be or might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality or gifts.

35.0 PARTNERSHIP

35.1 If the Contractor is a partnership:

35.1.1 a true copy of the partnership agreement shall be forwarded to the University;

35.1.2 where the partnership is established to provide construction services to the University, the partnership agreement shall continue for the purposes it was established, and will not be dissolved until all the Work has been completed, a Certificate of Total Performance has been issued, all warranties and extended warranties have expired, and the University agrees in writing to a written request from the members of the partnership to dissolve the partnership, and the University is in agreement;

35.1.3 each member of the partnership shall be jointly and severally liable for the performance of the Work and for any liability of the Contractor thereunder or arising there from or otherwise arising pursuant to the Contract Documents;

35.1.4 any invoice submitted by the Contractor under the Agreement shall be in the name of the partnership and shall be submitted in accordance with the provisions of the Agreement and the partnership agreement;

35.1.5 payment by the University of any invoice to the partnership shall discharge the payment obligations of the University to each of the members of the partnership for the Work invoiced and the University shall have no independent responsibility or liability for payment to the aforesaid members of the partnership or either of them;

35.1.6 no dispute between the members of the partnership shall entitle a member of the partnership to withhold Work that is the responsibility of the Contractor under the Agreement;

35.1.7 the insurance which the Contractor is required to provide pursuant to the Agreement shall provide coverage for each member of the partnership, jointly and severally;

35.1.8 none of the following shall release the Contractor or any member of the partnership from its obligations to the University under the Agreement;

.1 the wind-up, bankruptcy, insolvency or ceasing to exist of or the ceasing to carry on business by, any member of the partnership;

.2 the inability of any individual member of the partnership to perform its obligations for any reasons
beyond its reasonable control in circumstances where all members of the partnership are not similarly affected;

.3 the termination of the partnership;

.4 the improper or inappropriate allocation of monies paid by the University pursuant to the Contract Documents among the members of the partnership, whether occurring honestly or otherwise;

.5 the failure of any member of the partnership to fulfill its obligations under the partnership agreement;

35.1.9 all costs incurred by the Contractor in establishing and operating the partnership shall be to the account of the Contractor and not the University and the Contractor shall take all steps reasonably necessary, at the Contractor’s expense, to ensure that the University is not disadvantaged by reason of the Contractor consisting of the partnership rather than a single entity.

36.0 JOINT VENTURES

36.1 If the Contractor is a joint venture:

36.1.1 a true copy of the joint venture agreement shall be forwarded to the University;

36.1.2 where the joint venture is established to provide construction services to the University, the joint venture agreement shall continue for the purposes it was established, and will not be dissolved until all Work has been completed, a Certificate of Total Performance has been issued, all warranties and extended warranties have expired, and the University agrees in writing to a written request from the members of the joint venture to dissolve the joint venture, and the University is in agreement;

36.1.3 each member of the joint venture shall be jointly and severally liable for the performance of the Work and for any liability of the Contractor thereunder or arising there from or otherwise arising pursuant to the Agreement;

36.1.4 any invoice submitted by the Contractor under the Contract Documents shall be in the name of the joint venture and shall be submitted in accordance with the provisions of the Contract Documents and the joint venture agreement;

36.1.5 payment by the University of any invoice to the joint venture shall discharge the payment obligations of the University to each of the members of the joint venture for the Work invoiced and the University shall have no independent responsibility or liability for payment to the aforesaid members of the joint venture or either of them;

36.1.6 no dispute between the members of the joint venture shall entitle a member of the joint venture to withhold the Work that is the responsibility of the Contractor under the Agreement;

36.1.7 the insurance which the Contractor is required to provide pursuant to the Agreement shall provide coverage for each member of the joint venture, jointly and severally;

36.1.8 none of the following shall release the Contractor or any member of the joint venture from its obligations to the University under the Contract Documents

.1 the wind-up, bankruptcy, insolvency or ceasing to exist of or the ceasing to carry on business by, any member of the joint venture;
.2 the inability of any individual member of the joint venture to perform its obligations for any reasons beyond its reasonable control in circumstances where all members of the joint venture are not similarly affected;

.3 the termination of the joint venture;

.4 the improper or inappropriate allocation of monies paid by the University pursuant to the Contract Documents among the members of the joint venture, whether occurring honestly or otherwise;

.5 the failure of any member of the joint venture to fulfill its obligations under the joint venture agreement;

36.1.9 all costs incurred by the Contractor in establishing and operating the joint venture shall be to the account of the Contractor and not the University and the Contractor shall take all steps reasonably necessary, at the Contractor’s expense, to ensure that the University is not disadvantaged by reason of the Contractor consisting of the joint venture rather than a single entity.

37.0 TITLE AND RESPONSIBILITY

37.1 All of the Contract Documents, the Contractor’s Submittals, and models and samples relative to the Work shall belong to the University, and accordingly the Contractor shall have no proprietary right or interest in the Contract Documents or Contractor’s Submittals. The Contractor shall not use, copy or disclose any of the Contract Documents and Contractor’s Submittals for any purpose other than performing the Work and shall, subject to GC 37.2, return to the University all Contract Documents, Contractor’s Submittals, and models and samples relative to the Work upon receipt of the Certificate of Construction Completion.

37.2 The Contractor may retain for its own records one (1) copy of the Contract Documents and the Contractor’s Submittals.

37.3 Notwithstanding GC 37.1 or any other provision of the Contract Documents, the Contractor shall be responsible for possession of all Contractors’ Prepared Documents completed or in progress until received by the University. If any of the Contractor’s Submittals are lost, damaged or destroyed prior to receipt by the University, then such Contractor’s Submittals shall be promptly redone and replaced by the Contractor, at the Contractor’s expense unless the loss, damage or destruction was caused by the University or persons for whom in Law it is responsible.

37.4 The University agrees that it will not sell to third parties any of the Contractor’s Submittals nor will it distribute any of the Contractor’s Submittals to third parties except for the purpose of operating, maintaining, repairing, replacing, re-building or renovating the University’s property resulting from the Work.

37.5 The title to all portions of the Work completed or in the course of construction at the Work Site and the title to all Product, furnished or fabricated by the Contractor in connection with the Work shall become the property of the University upon the earlier of payment therefor or delivery to the Work Site.

37.6 Notwithstanding the provisions of GC 37.5, and except for any portion of the Work for which the University has taken possession as contemplated by GC 15.1, the Contractor shall retain all risk with respect to and be responsible for:

37.6.1 all items furnished by the Contractor, Subcontractors or Suppliers which are to be incorporated into the Work or used in the performance of the Work;
37.6.2 all items supplied by the University to the Contractor for incorporation into the Work or for use in performing the Work;

37.6.3 all temporary structures or facilities used in the performance of the Work; and

37.6.4 any Work completed or in progress until the Consultant has issued a Certificate of Construction Completion, in which case the risk shall pass to the University with respect to the Work covered thereby.

37.7 No Product incorporated into the Work shall be subject to any general security agreement, chattel mortgage, financing contract or other agreement by which an interest therein is retained by the seller or Supplier thereof.

38.0 RIGHT TO AUDIT AND RECORDS TO BE KEPT BY THE CONTRACTOR

38.1 The Contractor shall keep detailed, proper and accurate records and accounts for the Work in a form and manner consistent with standard accounting practices. The University shall have the right to inspect, audit, make copies and take extracts from the Contractor’s records and accounts to ensure conformity with the provisions of the Contract Documents including changes to the Contract Price as stipulated in the Contract Documents and for up to two (2) years following the date of the issuance of the Certificate of Total Performance of the Work. The Contractor shall cooperate with the University to undertake an inspection and audit of the records. The Contractor shall account for errors or omissions discovered as a result of such audit.

39.0 NOTICES AND COMMUNICATION

39.1 All notices required by the Contract Documents to be given by either party shall be deemed to be properly given and received within two (2) business days if made in writing to the other party by registered mail addressed to the regular business address of such party as identified in the executed Agreement.

40.0 MISCELLANEOUS

40.1 No waiver of any right, power, or privilege by a party shall limit or affect that party's rights with respect to any further breach of the Agreement by the other party.

40.2 If a Court of competent jurisdiction determines that any provision of the Contract Documents is invalid or unenforceable, such determination shall not affect the validity or enforceability of the remaining provisions of the Contract Documents.

40.3 Time is and shall continue to be of the essence.

40.4 All of the covenants and agreements herein contained on the part of either party shall apply to, enure to the benefit of and be binding upon their respective legal representatives, successors and approved assigns.

40.5 Unless the context otherwise requires, words importing the singular shall include the plural and vice-versa and words importing gender shall include the masculine, feminine and neuter genders.

40.6 The terms "herein," "hereunder," "hereto" and similar expressions refer to the Contract Documents, and not to any particular GC or paragraph of the Contract Documents.

40.7 Where reference is made to a "day," "week," "month" or "year," the reference is to a calendar day, week, month, or year, unless the context indicates otherwise.
40.8 The headings and sub-headings of GC's contained herein are used for convenience and ease of reference only and in no way define, limit, describe or interpret the scope or intent of any of its provisions.

40.9 Subject to GC 1, Product, Product, or methods described in words, which so applied, have a well-known technical or trade meaning shall be held to refer to such recognized meaning.

40.10 The Contractor and the Consultant in the administration and performance of the Work shall use the University’s standard (pre-printed) forms and documents.