# General Conditions of Specialty Consulting Services

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## Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>Definitions</td>
</tr>
<tr>
<td>2.0</td>
<td>Agreement and Interpretation</td>
</tr>
<tr>
<td>3.0</td>
<td>Consulting Services</td>
</tr>
<tr>
<td>4.0</td>
<td>Payment</td>
</tr>
<tr>
<td>5.0</td>
<td>Additional Conditions</td>
</tr>
<tr>
<td>6.0</td>
<td>Term of Agreement</td>
</tr>
<tr>
<td>7.0</td>
<td>Consultant's Responsibilities</td>
</tr>
<tr>
<td>8.0</td>
<td>University's Responsibilities</td>
</tr>
<tr>
<td>9.0</td>
<td>Representations and Warrants</td>
</tr>
<tr>
<td>10.0</td>
<td>Sub-Consultants</td>
</tr>
<tr>
<td>11.0</td>
<td>Successors and Assigns</td>
</tr>
<tr>
<td>12.0</td>
<td>Insurance</td>
</tr>
<tr>
<td>13.0</td>
<td>Workers' Compensation</td>
</tr>
<tr>
<td>14.0</td>
<td>Indemnification and Liability</td>
</tr>
<tr>
<td>15.0</td>
<td>Suspension of Services</td>
</tr>
<tr>
<td>16.0</td>
<td>Termination of Consulting Services by University</td>
</tr>
<tr>
<td>17.0</td>
<td>Termination of the Agreement by the Consultant</td>
</tr>
<tr>
<td>18.0</td>
<td>Dispute Resolution</td>
</tr>
<tr>
<td>19.0</td>
<td>Conflict of Interest</td>
</tr>
<tr>
<td>20.0</td>
<td>Confidential Information and Publicity</td>
</tr>
<tr>
<td>21.0</td>
<td>Ownership and Use of Documents, Patents, and Trademarks</td>
</tr>
<tr>
<td>22.0</td>
<td>Taxes and Applicable Laws</td>
</tr>
<tr>
<td>23.0</td>
<td>University Policies</td>
</tr>
<tr>
<td>24.0</td>
<td>Joint Ventures</td>
</tr>
<tr>
<td>25.0</td>
<td>Right to Audit and Records to Be Kept by the Consultant</td>
</tr>
<tr>
<td>26.0</td>
<td>Notices and Communication</td>
</tr>
<tr>
<td>27.0</td>
<td>Miscellaneous</td>
</tr>
</tbody>
</table>
1.0 DEFINITIONS

The following terms, wherever used in any provision contained herein or in any amendment thereto, mean:

1.1 “Addenda” means a written communication, prior to the parties executing the Agreement, from the University to the Consultant, as may be applicable, revising a term of the Contract Documents;

1.2 “Agreement” means the executed Agreement between the University and the Consultant describing the undertaking by the parties to perform their respective duties, responsibilities and obligations as described herein, or any amendments thereto, and numbered in accordance with GC 2.2;

1.3 “Proposal Forms” means the documents that the Consultant, executed to bid the work, and includes but is not limited to, the price, terms, conditions, and schedules included in the Contract Documents and entitled Proposal Forms;

1.4 “Change Request” means a written notice from the Consultant to the University of a contemplated change in the consulting services;

1.5 “Commencement Date” means the date that the Work is to commence as set out in the Proposal Form;

1.6 “Consultant” is the corporation, person, or entity, identified in the Agreement and includes those Sub-Consultants engaged by the Consultant to render complementary professional services relative to the Work. The term Consultant means the Consultant or the Consultant’s authorized representative;

1.7 “Consulting Fees” refer to the consideration provided to the Consultant for provision of the Consulting Services;

1.8 “Consulting Services” means the services outlined in the Scope of Services included in the Contract Documents;

1.9 “Contract Documents” means the documents outlining the respective obligations of the Consultant as may be applicable, and the University pursuant to their Agreement pertaining to the Project;

1.10 “Contract Price” means the total amount payable (excluding GST) to the Consultant in consideration for its obligations as set out in the Contract Documents;

1.11 “Day” means a calendar day, unless otherwise defined in an article in the GC or in a Supplementary General Condition;

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

1.13 “General Conditions Specialty Consulting Services” means the terms and conditions in which this definition appears contained in the Contract Documents between the University and the Consultant, entitled General Conditions Specialty Consulting Services abbreviated as GC;

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

1.15 “Law” means the common law, the law of equity and all federal or provincial statutes or municipal by-laws and all regulations, orders, directives, codes, permits and licenses thereunder, which
apply to or otherwise affect the University or the Consultant with respect to the Project, or the property of the University or the Consultant, real or personal, or any part thereof, including but not limited to all environmental, occupational, health and safety Laws;

1.16 "Milestone Dates" means those dates set out in the Proposal Form and or any attached Schedules;

1.17 "Reimbursable Expenses" means those expenses so identified in Schedule A;

1.18 "Sub-Consultant" means a person, firm or corporation having a direct contract with the Consultant for the execution of a part or parts of the Consulting Services;

1.19 "Supplementary General Conditions" means the terms and conditions contained in the Contract Documents entitled Supplementary General Conditions;

1.20 "University" means The Governors of the University of Alberta;

1.21 "University's Confidential Information" has the meaning ascribed thereto in GC 20

2.0 AGREEMENT AND INTERPRETATION

2.1 The Agreement, Schedules and Attachments, as may be applicable, constitute the sole and entire agreement between the University and the Consultant relating to the Project and supersedes all prior agreements between them, whether written or oral respecting the subject matter hereof and no other terms, conditions or warranties, whether express or implied, shall form a part of the Contract Documents.

2.2 A number as assigned by the University shall identify the Agreement.

2.3 Only a written amending agreement signed by both the University and the Consultant may amend the Agreement.

2.4 If any term, condition, or covenant of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the Agreement shall be binding on the University and the Consultant.

2.5 Words importing the singular or masculine only also include the plural, feminine, or body corporate where the context requires.

2.6 The headings in the Agreement are for convenience only, shall not be deemed to be part of the Agreement, and shall not be taken into consideration in the interpretation of the Agreement.

2.7 Schedules and Attachments as may be applicable and attached to the Agreement shall form part of the Agreement between the University and the Consultant. If there is a conflict or discrepancy between the Agreement and the Schedule or Attachments, then the Agreement shall supersede the Schedule or Attachments.

3.0 CONSULTING SERVICES

3.1 The Consultant shall perform the Consulting Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

4.0 PAYMENT

4.1 In consideration for Consulting Services, the University shall pay the Consulting Fees plus GST in
accordance with the payment provisions of this GC 4 and Schedule “A” attached hereto.

4.2 Following the end of each month, the Consultant shall deliver to the University an invoice based on the estimated value of the portion of the Consulting Services performed during the preceding month, in proportion to the amount payable for each phase of the Consulting Services, if applicable, and the sum of all eligible Reimbursable Expenses. The invoice shall include a complete breakdown of the cost of Consulting Services provided and shall indicate the following:

4.2.1 amounts previously paid for Consulting Services;

4.2.2 amounts currently owing for Consulting Services; and

4.2.3 amounts remaining in the Consultant’s budget for Consulting Services.

4.3 Wherever amounts included in an invoice submitted in accordance with GC 4.2 include fees payable by the Consultant to any Sub-Consultant, the Consultant shall include with said invoice, a Statutory Declaration or a Letter from the Sub-Consultant attesting to receipt of payment for services rendered and detailing the amounts due to each Sub-Consultant.

4.4 Within ten (10) days of receipt of the invoice submitted in accordance with GC 4.2 and 4.3, the University shall provide details of any items or costs included therein which, in the sole and unfettered discretion of the University, contain errors, inconsistencies, or omissions. Upon receipt of such details, if any, the Consultant shall adjust the invoice to remedy the errors, inconsistencies, or omissions and resubmit the adjusted invoice to the University.

4.5 The University shall approve the Consultant’s invoice within ten (10) days of receipt of an invoice submitted in accordance with GC 4.2 and 4.3, if it does not provide details of any errors, inconsistencies, or omissions or resubmitted in accordance with GC 4.4. The University shall pay to the Consultant within twenty (20) days thereafter all amounts due according to the approved invoice.

4.6 Payments made to the Consultant for Consulting Services and Reimbursable Expenses shall include GST, which will be shown as a separate item.

5.0 ADDITIONAL CONDITIONS

5.1 Any additional conditions forming part of the Agreement are as described in the Supplementary General Conditions.

6.0 TERM OF AGREEMENT

6.1 The term of the Agreement for Consulting Services shall commence from the date specified within written notice provided by the University until the completion of Consulting Services; provided that if there are defects or deficiencies in the Consulting Services the term shall be extended until such time as such defects and deficiencies have been corrected.

7.0 CONSULTANT’S RESPONSIBILITIES

7.1 The Consultant shall provide all necessary qualified personnel to provide the Consulting Services expeditiously and to coordinate and integrate all parts of the Consulting Services.

7.2 The Consulting Services performed by the Consultant shall be subject to the inspection and the review of the University at all times. Such inspection and review shall not relieve the Consultant from its responsibility for the proper performance of the Consulting Services.

7.3 The Consultant shall designate a representative authorized to act on its behalf who shall receive
and examine documents submitted by the University and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Consulting Services.

8.0 UNIVERSITY'S RESPONSIBILITIES

8.1 Without in any way limiting the University's obligations elsewhere in the Agreement, the University shall:

8.1.1 provide project appropriate details of the University's total requirements in connection with the Work.

8.1.2 examine documents submitted by the Consultant and give the Consultant decisions and approvals as required;

8.1.3 designate a representative authorized to act on its behalf who shall receive and examine documents submitted by the Consultant and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Consulting Services;

8.1.4 arrange and make provisions for the Consultant to enter onto University facilities as well as other public and private property as required for the Consultant to perform the Consulting Services;

8.1.5 provide or authorize the Consultant to obtain, as required, the following information:

.1 existing as-built record drawings of the existing facility, consisting of ozalid prints, or, if reasonably available to the University, AutoCAD files, for the Work areas only, the reasonable accuracy and completeness of which the Consultant shall be entitled to rely upon, provided, however, that the existing as-built record drawings shall be a reasonably true record of the existing building as-built conditions for the elements and systems shown only to the best of the University’s knowledge and belief and may not necessarily identify all existing elements and systems or may be incomplete.

.2 Documentation relevant to the planning and programming of the project.

9.0 REPRESENTATIONS AND WARRANTIES

9.1 The Consultant represents and warrants that it has the experience and capability necessary and agrees to perform the Consulting Services with reasonable diligence using reasonable skill and care to a standard which is expected of a reputable consulting firm providing services similar to the Consulting Services.

10.0 SUB-CONSULTANTS

10.1 The Consultant shall engage such Sub-Consultants as are necessary for the complete provision of the Consulting Services.

10.2 Fees for services performed by any Sub-Consultants shall be included as a part of the Consulting Fees.

10.3 The University may, at its sole and unfettered discretion, accept or reject the use of any Sub-Consultant. The Consultant shall not engage the services of any Sub-Consultant before obtaining written approval of the Sub-Consultant from the University. Notwithstanding the prior written acceptance of the University of any Sub-Consultants, the Consultant shall be solely responsible and accountable for the instruction, direction and co-ordination of all Sub-Consultants so engaged and for the satisfactory performance of all Consulting Services provided by Sub-Consultants.
10.4 The Consultant shall, in accordance with any agreements made with Sub-Consultants, make payments to Sub-Consultants for all Consulting Services satisfactorily performed. If the Consultant withholds payments from a Sub-Consultant for Consulting Services, the Consultant shall promptly notify the University in writing of the reasons for withholding such payments.

11.0 SUCCESSORS AND Assigns

11.1 Neither party may assign the Agreement or any part thereof without the prior written consent of the other party.

11.2 The Agreement shall enure to the benefit of and be binding upon the parties hereto and upon their executors, administrators, successors, and assigns.

12.0 INSURANCE

12.1 Unless expressly instructed otherwise in writing by the University, the Consultant shall pay the cost of and maintain the following insurance policies:

12.1.1 Professional Liability Insurance from a company and in a form acceptable to the University which shall:

.1 insure, on a claims made basis, against claims arising from errors, omissions, or negligent acts in the performance of Consulting Services;

.2 have limits of not less than one million dollars ($1,000,000.00) per claim and subject to an annual aggregate limit of not less than one million dollars ($1,000,000.00) or as specified in the Supplementary General Conditions.

.3 be maintained in full force and effect for a minimum period of three (3) years following provision by the Consultant of Consulting Services pursuant to the Agreement. The Consultant shall immediately notify the University of any reported claim under the policy.

12.1.2 Commercial General Liability Insurance with limits of liability not less than five million dollars ($5,000,000.00) with a minimum coverage equivalent to that provided according to the appropriate standard form from the Insurance Bureau of Canada or as otherwise set out herein. Such insurance policy shall:

.1 name the University as an additional insured;

.2 provide cross liability coverage and contractual liability coverage;

.3 be primary insurance in respect to the University, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the University, its officers, employees, agents, or volunteers shall be in excess of the Consultant’s insurance and shall not contributed to it; and

.4 be with a company and in a form acceptable to the University;

12.1.3 Automobile Liability Insurance in respect of licensed vehicles with limits of not less than two million dollars ($2,000,000.00) inclusive per occurrence for bodily injury, death and damage to property, providing Third Party Liability and Accident benefits Insurance and covering licensed vehicles owned or operated by or on behalf of the Consultant; and

The Consultant shall comply with all terms and conditions of the aforesaid insurance policies and,
without limiting the generality of the foregoing, on the happening of any loss or damage shall at no expense to the University furnish all necessary notices and proofs and do all necessary acts required by such policies in a timely manner.

12.2 The Consultant shall require all Sub-Consultants to procure, pay the cost of, and maintain insurance coverage comparable to that provided by the Consultant under the Agreement.

12.3 Consultant shall provide to the University certificates of insurance evidencing coverage required according to GC 12.1. Each certificate shall provide that the coverage therein afforded shall not be cancelled or materially changed except after thirty (30) days prior written notice to the University. Should this occur, the Consultant shall procure and furnish new certificates confirming coverage prior to such effective date. Upon request at any time, the Consultant shall provide certified copies of all policies, which shall be reasonably acceptable to the University.

12.4 If the University desires that the Consultant obtain further or increased insurance against any risk beyond the coverage provided by the aforesaid policies, the Consultant shall, at the University's expense, obtain such insurance.

12.5 In the event that the Consultant does not have or fails to provide the required forms and coverage of insurance, the University shall have the right to provide and maintain the aforesaid commercial general liability insurance specified in GC 12.1.2 and give evidence thereof to the Consultant. Subject to GC 12.6:

12.5.1 the cost thereof shall be payable by the Consultant to the University on demand or the University may deduct the cost thereof from monies which are due or may become due to the Consultant, and

12.5.2 all deductibles shall remain and be borne by the Consultant in event that a claim is brought under the said insurance.

12.6 Should any of the policies required of the Consultant be materially changed or cancelled, the Consultant shall provide to the University thirty (30) days advance written notice of such change or cancellation. Should the University provide insurance in accordance with the provisions of GC 12.5 and should change or cancellation of same be pending, it shall provide the Consultant with similar notice.

13.0 WORKERS’ COMPENSATION

13.1 The Consultant and Sub-Consultants 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 Consultant and Sub-Consultants as well as Personal Coverage for any employers, proprietors, partners and directors performing work at the University.

13.2 Prior to the Commencement Date, and at any time thereafter at the University's request, the Consultant shall arrange to have the Workers' Compensation Board (Alberta) send a clearance letter to the University, verifying that all required assessments and contributions have been paid by the Consultant and Sub-Consultants.

14.0 INDEMNIFICATION AND LIABILITY

14.1 The Consultant shall:

14.1.1 be liable to the University for;

14.1.2 indemnify and hold harmless the University, its Board, directors, officers, agents, advisors
and employees 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 his 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:

a) any breach, violation or non-performance of any covenant, condition or agreement
set forth in this Agreement and required to be fulfilled, kept, observed and performed
by the Consultant;

b) any negligent or wrongful act or omission of the Consultant, its agents, employees or
sub-contractors or suppliers in connection with the provision of Services.

This indemnity shall survive the expiry or earlier termination of the Term.

14.2 Notwithstanding any thing to the contrary expressed or implied in this Agreement, the University
shall not be liable to the Consultant 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.

15.0 SUSPENSION OF SERVICES

15.1 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 by notice to the Consultant specifying the
effective date of the suspension, require the Consultant to suspend the Consulting Services or
any portion thereof (the “Suspended Services”). Upon receiving notice, the Consultant shall:

15.1.1 discontinue the Suspended Services;

15.1.2 continue to perform all Consulting Services which are not Suspended Services; and

15.1.3 take reasonable steps, as may be necessary or desirable to minimize the costs
associated with the Suspended Services.

15.2 The University may at any time authorize resumption of the Suspended Services or any part
thereof, by giving the Consultant reasonable notice specifying the part of the Suspended Services
to be resumed and the effective date of such resumption. Subject to 15.3, the Consultant shall
resume the Suspended Services on the date and to the extent specified in the notice at no
additional cost to the University.

15.3 If the date for resumption of Suspended Services is more than thirty (30) days after the date of
resumption the Consultant’s Fees and Reimbursable Expenses shall be equitably adjusted,
taking into account the actual verifiable costs incurred by the Consultant in the resumption of the
Suspended Services.

16.0 TERMINATION OF CONSULTING SERVICES BY UNIVERSITY

16.1 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 Consulting
Services, or any portion thereof, by giving notice to the Consultant specifying the Consulting
Services to be terminated and the effective date of the termination. Upon receipt of such notice,
the Consultant shall:

16.1.1 discontinue the Consulting Services in accordance with the notice;
16.1.2 continue to perform all portions of the Consulting Services not terminated; and

16.1.3 take whatever other steps may be reasonable to minimize the costs associated with the termination of the Consulting Services, or the portion thereof;

16.1.4 negotiate in good faith with the University regarding an equitable adjustment to the value of the Consulting Fees, taking into account the value, to the University, of the Consulting Services terminated. If the parties fail to reach an agreement regarding the appropriate adjustment to the value of the Consulting Fees, the parties shall proceed in accordance with GC 18.

16.2 Except in the event that the Consulting Services, or a portion thereof, are terminated in accordance with GC 16.3 or 16.4, the University shall reimburse the Consultant for those costs reasonably incurred by the Consultant as a direct result of the termination. In this regard, the Consultant shall:

16.2.1 maintain full and complete records of all cancellation and termination charges;

16.2.2 make such records available on request to audit and inspection by the University; and

16.2.3 allow the University to make copies of and to take extracts from any or all of such records and to furnish the University with any information it may require from time to time in connection with such records.

16.3 Not so as to limit the generality of GC 16.1, the University may in its sole and unfettered discretion terminate the Consulting Services, or a portion thereof, by notice to the Consultant or, if applicable, receiver or trustee in bankruptcy, in any of the following circumstances:

16.3.1 if the Consultant 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 Consultant;

16.3.2 if an order is made or resolution is passed for the winding up or liquidation of the Consultant;

16.3.3 if a custodian, receiver, manager or other officer with similar powers is appointed in respect of the Consultant or any of the Consultant's property;

16.3.4 if the Consultant ceases to carry on in the ordinary course of business;

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

16.3.6 if the Consultant fails or refuses at any time to comply with applicable Laws or University safety policies.

Upon receipt of such notice, the Consultant or receiver or trustee in bankruptcy shall discontinue the Consulting Services 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 Consulting Services. The University shall not be liable for those costs incurred by the Consultant as a result of the termination of the Consulting Services pursuant to this GC 16.3.

16.4 If the Consultant is in default in carrying out any of the terms, conditions, covenants or obligations of the Agreement, or has made a false representation, declaration or warranty, the University may give the Consultant notice of default. Except as otherwise specified in GC 16, the Consultant
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 remedy the default. If the Consultant fails to rectify the default in the time required, the University may, by further notice in writing to the Consultant, terminate the Consulting Services or any portion thereof. In the case of any default which would reasonably require more than the time allowed to rectify the default, the Consultant 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 Consultant shall discontinue the Consulting Services 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 Consulting Services. The University shall not be liable for those costs incurred by the Consultant as a result of the termination of the Consulting Services pursuant to this GC 16.4.

16.5 If the Consulting Services, or any portion thereof, are terminated pursuant to GC 16.3 or 16.4, the University shall:

16.5.1 pay the Consultant for all Consulting Services satisfactorily performed to the date of termination, less the sum of all monies already paid to the Consultant and all costs the University shall pay in excess of the Consulting Fees to obtain satisfactory completion of the Consulting Services by others. If the costs the University shall pay in excess of the Consulting Fees exceeds the sum of all monies owed by the University to the Consultant for Consulting Services satisfactorily performed less the sum of monies already paid, the Consultant shall pay said costs to the University, and

16.5.2 pay the Consultant in consideration for Consulting Services performed after the termination of a portion of the Consulting Services, if any, the Consulting Fees as adjusted in accordance with GC 16.1.4.

16.6 Upon termination of the Consulting Services, or any portion thereof, pursuant to GC 16.3 or 16.4, the Consultant shall turn over to the University, in both hard copy and electronic form, all work performed prior to the date of termination and the University shall retain sole copyright in said documents.

16.7 Notwithstanding GC 16.2, 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 Consulting Services, or any portion thereof, by the University.

17.0 TERMINATION OF THE AGREEMENT BY THE CONSULTANT

17.1 If the University fails to make a payment to the Consultant when due and payable pursuant to the Agreement, the Consultant may give the University notice of default. If the University fails to rectify the default within five (5) days, or is not contesting the Consultant's entitlement to payment in good faith, then the Consultant may suspend the further performance of the Consulting Services, 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 Consulting Services by the Consultant, the Consultant 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 Consultant all amounts on account of Consulting Services satisfactorily performed to the date of suspension under this GC 17.1 and reasonable costs associated with the termination, excluding loss of profit.

17.2 If all Consulting Services are suspended in accordance with GC 15 for a period in excess of ninety (90) days, the Consultant may, by written notice to the University, terminate the Agreement. The University shall be liable for and pay to the Consultant all amounts on account of
Consulting Services satisfactorily performed to the date of suspension and reasonable costs associated with the termination, excluding loss of profit.

18.0 DISPUTE RESOLUTION

18.1 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.

18.2 Any disputes, claims, or differences from the Agreement not resolved through good faith negotiation by the parties in accordance with GC 18.1 may, with the consent of both parties, be resolved through mediation. The procedural terms of the mediation shall, unless otherwise agreed to by the parties, be conducted in accordance with Alberta Arbitration and Mediation Society procedures for mediation; provided however that in the event of any inconsistency between the Alberta Arbitration and Mediation Society procedures and the Agreement, the provisions of the Agreement shall prevail. The parties shall use reasonable efforts to complete the mediation within ten (10) days of the parties consenting to proceed with mediation.

18.3 Any disputes, claims, or differences arising from the Agreement not resolved through good faith negotiation by the parties in accordance with GC 18.1 may, with the consent of both parties, be resolved through arbitration in accordance with the Arbitration Act of Alberta. All terms of the arbitration shall, unless otherwise agreed to by the parties, be conducted in accordance with the Alberta Arbitration and Mediation Society procedures for arbitration; provided however that in the event of any inconsistency between the Alberta Arbitration and Mediation Society procedures and the Agreement, the provisions of the Agreement shall prevail.

18.4 If no agreement is made to proceed with arbitration or mediation, or if mediation fails to produce a resolution to the dispute, then either party may submit the dispute to such judicial tribunal as the circumstances may require.

18.5 In the event of a dispute between the parties, each of the parties shall, without in any way prejudicing the rights it may have at Law and irrespective of the method of dispute resolution adopted in accordance with this GC 18, continue with the uninterrupted performance of its obligations under the Agreement.

18.6 Notwithstanding the dispute resolution procedures set out herein, the parties may, at any point in the dispute resolution process, resolve the dispute through negotiation.

19.0 CONFLICT OF INTEREST

19.1 The Consultant 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 Consultant and its Sub-Contractors 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.

19.2 Immediately upon becoming aware of the circumstances, the Consultant 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 Consultant or its Sub-Contractors 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 Consultant is in default of its obligations under this Agreement and may give notice of default to the Consultant. If the Consultant does not remove the conflict in accordance with such notice of default, the University may, at its sole discretion, terminate the Agreement.
19.3 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.

20.0 CONFIDENTIAL INFORMATION AND PUBLICITY

20.1 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 Consultant 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:

20.1.1 information that the Consultant can show was in the Consultant's lawful possession prior to the Consultant's receipt or acquisition thereof from the University;

20.1.2 information which, after the Consultant's receipt or acquisition thereof from the University as aforesaid, becomes lawfully available through no act of the Consultant or of any third party under an obligation of confidence with respect to such information, but only after such information becomes lawfully available; or

20.1.3 Information, which, after receipt or acquisition thereof from the University as aforesaid, is lawfully obtained by the Consultant from a third party 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.

20.2 The Consultant 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 Consultant shall not use the University's Confidential Information, except in performance of the Consulting Services.

20.3 Notwithstanding GC 20.2 hereof, the Consultant may disclose the University's Confidential Information to those of its employees and Sub-Consultants and their respective employees to whom disclosure is required in order for the Consultant to perform the Consulting Services, provided the Consultant shall ensure that its employees and agents comply with and shall contractually require its Sub-Consultants and their respective employees and agents to comply with GC 20.2.

20.4 The Consultant shall not disclose details of any documents produced by the Consultant or Sub-Consultants as part of the Consulting Services to others without the prior approval of the University, except as necessary to perform the Consulting Services.

20.5 The Consultant 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, without the prior written approval of the University.

20.6 The University is a public body subject to the Freedom of Information and Protection of Privacy Act. Confidentiality of any document produced as part of the Consulting Services by the Consultant or its Sub-Consultants cannot be ensured. If the University receives a request for information under the Freedom of Information and Protection of Privacy Act, the University will give the Consultant notice of such a request and the Consultant shall proceed to process the
request for information in accordance with the notice and the Freedom of Information and Protection of Privacy Act. The Consultant shall be responsible for all costs related to its confidentiality requirements and requests for information and record management practices under the Freedom of Information and Protection of Privacy Act. The Consultant’s obligations under the Freedom of Information and Protection of Privacy Act shall survive the termination of the Agreement.

21.0 OWNERSHIP AND USE OF DOCUMENTS, PATENTS, AND TRADEMARKS

21.1 All documents prepared by Consultant with respect to this Agreement including, without limitation, instruments of service, all concept and formalized design and construction drawings, reports, calculations, notes, and other documentation produced (whether electronically or otherwise and regardless of whether the building information model used is owned by the Consultant or the University) (the “Documents”) shall be deemed to be the sole and exclusive property of the University. Subject to the terms of this Agreement, the Consultant reserves the copyright in any actual design developed pursuant to this Agreement except where the Consultant and the University otherwise agree. Subject to GC 21.2, the University shall be entitled to use the Documents in any manner whatsoever including, without limitation, amending, altering or revising the same.

21.2 In the event that the Documents are used by the University for purposes other than in connection with the Work or if the Documents have been amended, altered or revised in any manner whatsoever without notice to the Consultant and without receiving the Consultant’s prior written consent, the Consultant does not warrant the fitness of same for the University’s use, and the University agrees to indemnify, hold harmless and defend the Consultant from and against all claims, demand, losses, damages, liability and costs associated with such use by the University.

21.3 Submissions or distribution of the Documents to meet official regulatory or reporting requirements or for other purposes in connection with the Work, including posting of the Documents is not to be construed as publication in derogation of the Consultant’s reserved copyright.

21.4 The Consultant shall not be entitled to keep original models or architectural renderings specifically commissioned by the University.

21.5 The Consultant shall be entitled to photograph and publish details of the completed project including general information pertaining to the Approved Construction Budget with the consent of the University, which shall not be unreasonably withheld.

22.0 TAXES AND APPLICABLE LAWS

22.1 The Consultant shall be responsible for the payment of:

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

22.1.2 all employment taxes and contributions imposed by Law or required to be paid on behalf of the employees of the Consultant or Sub-Consultants.

Any increase in taxes and charges described herein shall be the sole responsibility of the Consultant.
22.2 The Agreement is governed and construed in accordance with the Laws in force in the Province of Alberta and the parties attorn to the jurisdiction of the applicable Courts of the Province of Alberta.

23.0 UNIVERSITY POLICIES

23.1 The Consultant shall comply with the University's waste management and parking policies and all other applicable policies established by the University.

24.0 JOINT VENTURES

24.1 If the Consultant is a joint venture:

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

24.1.2 where the joint venture is established to provide Consulting Services to the University, the joint venture agreement shall continue for the purposes it was established, and will not be dissolved until all Consulting Services are complete, 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;

24.1.3 each member of the joint venture shall be jointly and severally liable for the performance of the Consulting Services and for any liability of the Consultant there-under or arising there from or otherwise arising pursuant to the Agreement;

24.1.4 any invoice submitted by the Consultant under the Agreement shall be in the name of the Consultant and shall be submitted in accordance with the provisions of the Agreement;

24.1.5 payment by the University of any invoice to the Joint Ventures designated shall discharge the payment obligations of the University to each of the members of the joint venture for the Consulting Services 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;

24.1.6 no dispute between the members of the joint venture shall entitle either member of the joint venture to withhold Consulting Services that are the responsibility of the Consultant under the Agreement;

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

24.1.8 none of the following shall release the Consultant or any member of the joint venture 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 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
Agreement 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;

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

25.0 RIGHT TO AUDIT AND RECORDS TO BE KEPT BY THE CONSULTANT

25.1 The Consultant shall keep detailed, proper and accurate records and accounts for the Project 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 Consultants records and accounts to ensure conformity with the provisions of the Agreement including changes to the contract amount as stipulated in the Agreement and for up to two (2) years following the date of completion of the Work. The Consultant shall cooperate with the University to undertake an inspection and audit of the records. The Consultant shall account for errors or omissions discovered as a result of such audit.

26.0 NOTICES AND COMMUNICATION

26.1 All notices required by the Agreement 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 certified mail, facsimile or e-mail, addressed to the regular business address of such party as identified in the executed Agreement.

27.0 MISCELLANEOUS

27.1 Time shall be of the essence of the Agreement and the parties herewith undertake to not unreasonably withhold such recommendations, acceptances or actions as are required to further the progress of the Consulting Services or, if applicable, the Work.

27.2 The Consultant shall provide all documentation in both paper and electronic format in Microsoft Office 2007 or the latest version of that Microsoft Office software.