



SUPPLEMENTARY AGREEMENT BETWEEN OWNER AND CONTRACTOR

(CCDC 2-2008 Stipulated Price Contract)

Contract # [Click or tap here to enter text.](#)

The Standard Construction Document for the Stipulate Price Contract, English Version, CCDS 2-2008 Stipulated Price Contract, consisting of the “Agreement Between Owner and Contractor, Definitions, and General Conditions of the Stipulated Price Contract, Parts 1 to 12 inclusive”, governing same is hereby made part of the Contract Documents with the following amendments, additions and modifications set out herein.

1. ARTICLE A-3 CONTRACT DOCUMENTS

1.1. Paragraph 3.4

(a) Add Paragraph 3.4

“Regardless of the order of precedence set out in paragraph herein any provision establishing a higher standard of safety, reliability, durability, performance or service shall take precedence over a provision establishing a lower standard of safety, reliability, durability performance or service.”

2. PART 1 GENERAL PROVISIONS

2.1. GC 1.1 CONTRACT DOCUMENTS

(a) Delete GC 1.1.7.1 in its entirety and replace with the following:

“.1 the order of priority of documents, from highest to lowest, shall be

- Contract Amendments;
- Change Order;
- Change Directive;
- the body of this Supplementary Agreement between Owner and Contractor;
- Definitions;
- General Conditions of the Contract;
- Agreement between Owner and Contractor;
- General Conditions for Contractors/Subcontractors
- Drawings; and
- Technical Specifications”

(b) Delete GC 1.1.8 in its entirety and replace with the following:

“1.1.8 The Owner shall provide the Contractor, without charge, up to **five (5)** copies of the Contract Documents. If requested by the Contractor, the Owner shall provide additional copies, at the cost of the Contractor.”

2.2. GC 1.3 RIGHTS AND REMEDIES

(a) Add GC 1.3.3 as follows:

“1.3.3 Notwithstanding paragraph 1.3.1, the Owner shall not be liable, whether in contract, tort or any other theory of law, for any claim arising from any prior negotiation, representation, or agreement, whether written or oral, which is superseded by the Contract under Article A-2 of the Agreement – Agreements and Amendments.”

2.3. GC 1.5 ADVERTISING AND PUBLIC NOTICES

- (a) Add GC 1.5 – ADVERTISING AND PUBLIC NOTICES as follows:

“GC 1.5 – ADVERTISING AND PUBLIC NOTICES

- 1.5.1 The Contractor will obtain the Owner’s prior written approval for any public statement, advertising, written public sales promotions, press release or other general publicity matter, in which the name or trademarks of the Owner are mentioned or used or in which words are used from which any connection with the Owner or their trademarks may be inferred. The Contractor will not allow or permit any public ceremony in connection with the Work without the prior written permission of the Owner, which may be unreasonably withheld. The Contractor will not erect or permit the erection of any sign or advertising without the prior written approval of the Owner. The Contractor shall not publish, issue or make any public statements or news release, electronic or otherwise concerning the Contract or the Work, without the express written consent of the Owner, which may be unreasonably withheld.”

2.4. GC 1.6 CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION

- (a) Add GC 1.6 – CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION as follows:

“GC 1.6 – CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION

- 1.6.1 The Contractor shall not disclose or provide any Confidential Information to third parties who do not require that information or data to complete any portion of the Work and who are not authorized by the Owner to receive, or have access to, such Confidential Information.
- 1.6.2 The Contractor acknowledges that the Owner is subject to the Municipal Freedom of Information and Protection of Privacy Act (Ontario), and agrees that all MFIPPA records are subject to, and the collection, use, storage and treatment thereof, is governed by MFIPPA. The Contractor agrees to keep all MFIPPA Records secure and available, in accordance with the requirements of MFIPPA. In the event of a conflict between the requirements of this Contract and the requirements of MFIPPA, the requirements of MFIPPA shall take precedence.
- 1.6.3 In the event that a request is made under MFIPPA for the disclosure of any MFIPPA Records, the Owner shall provide prompt written notice thereof to the Contractor and the Contractor shall provide any and all relevant MFIPPA Records to the Owner on demand for the purposes of responding to an access request under MFIPPA. In these circumstances, the Contractor shall provide all MFIPPA Records requested to the Owner within seven (7) Working Days of the receipt of the request from the Owner. Notwithstanding anything to the contrary in this Contract and subject to the Contractor’s rights of appeal pursuant to MFIPPA, the Owner shall determine what MFIPPA Records will be disclosed in connection with any such request, in accordance with the requirements of MFIPPA.
- 1.6.4 For greater certainty, the Contractor shall advise its representatives and all Subcontractors of the requirements of this GC 1.6, and associated requirements set out elsewhere in this Contract, and take appropriate action to ensure

compliance by such representatives with the terms of this GC 1.6. In addition to any other liabilities of the Contractor pursuant to this Contract or otherwise at law or in equity, the Contractor shall be liable for all claims arising from any non-compliance with this GC 1.6. In addition to any other liabilities of the Contractor, Subcontractors and their respective personnel.”

2.5. GC 3.1.3 CONTROL OF THE WORK

(a) Add GC 3.1.3 as follows:

“3.1.3 Notwithstanding paragraphs 3.1.1 and 3.1.2, the Contractor agrees that it shall fully comply with all policies and procedures of the Owner which are relevant to any activity of the Contractor to be performed under the Contract. The Contractor further agrees that it will use reasonable efforts to inquire from the Owner if such policies or procedures exist which are relevant to any activity of the Contractor to be performed under the Contract. The Owner agrees that it will use reasonable efforts to communicate to the Contractor all policies or procedures it may have which are relevant to any such activity.

2.6. GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

(a) Delete GC 3.2.2 in its entirety.

2.7. GC 3.4 DOCUMENT REVIEW

(a) Add GC 3.4.2 as follows:

“3.4.2 If the Contractor finds discrepancies in or omissions from the Contract Documents or has any doubt as to the meaning or intent of any part thereof, the Contractor shall immediately notify the Consultant, who will provide written instructions or explanations. Neither the Owner nor the Consultant will be responsible for oral instructions.”

2.8. GC 3.5 CONSTRUCTION SCHEDULE

(a) Add GC 3.5.4 as follows:

“3.5.4 If, at any time, it should appear to the Owner or the Consultant that the actual progress of the Work is behind schedule or is likely to become behind schedule, or if the Contractor has given notice of such to the Owner or the Consultant pursuant to GC 3.5.2, the Contractor shall take appropriate steps to cause the actual progress of the Work to conform to the schedule or minimize the resulting delay and shall produce and present to the Owner and the Consultant a recovery plan demonstrating how the Contractor will achieve recovery of the schedule.”

2.9. GC 3.6 SUPERVISION

(a) Add the words “with the prior consent of the Owner” at the end of GC 3.6.1.

(b) Add GC 3.6.3 as follows:

“3.6.3 It is the Contractor’s responsibility to see that all activities are properly coordinated with the LKDSB’s operations and modifications to the Work are made as required.”

(c) Add GC 3.6.4 as follows:

“3.6.4 The Owner may, at any time, object to and representative or employee of the Contractor, Subcontractors or Suppliers and require the Contractor to remove, dismiss or replace, or cause to be removed, dismissed or replaced, the said representative or employee.”

2.10. GC 3.7 SUBCONTRACTS AND SUPPLIERS

(a) Add GC 3.7.7 as follows:

“3.7.7 The Owner’s consent to subcontracting by the Contractor shall not be construed as relieving the Contractor from any obligation under the Contract and shall not impose any liability on the Owner. Nothing contained in the Contract Documents shall create a contractual relationship between a Subcontractor and the Owner. The Contractor shall be solely responsible for scheduling, coordinating and reviewing the work of its Subcontractors and Suppliers.”

(b) Add GC 3.7.8 as follows:

“3.7.8 The Contractor shall not be entitled to compensation by the Owner or any extension to the Contract Time arising out of, or in any way relating to, any breach of contract or failure to perform work by an Subcontractor or Supplier for any reason, including but not limited to, the insolvency or bankruptcy of the Subcontractor or Supplier, even though the Subcontractor or Supplier may have been designated or pre-qualified by the Owner or the Consultant.”

2.11. GC 3.8 LABOUR AND PRODUCTS

(a) Add GC 3.8.4 as follows:

“3.8.4 The Owner may at any time, for reasonable cause, require the Contractor to promptly remove from the Place of the Work any employee of the Contractor as well as any Subcontractor or employee of any Subcontractor.”

2.12. GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

Delete 5.1 in its entirety.

2.13. GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT

(a) Add GC 5.2.8, as follows:

“5.2.8 Applications for Payment should include an invoice for the amount claimed plus applicable taxes, and shall include the following information:

- LKDSB Purchase Order and Contract Number
- Supplier Name and Address
- Correct “Bill To” entity name
- Unique Invoice Number
- Specify the amount and country for an services performed in a foreign country

- Taxes should be shown separate from the amount claimed

2.14. GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF WORK

- (a) Delete GC 5.5.3 in its entirety.
- (b) Delete GC 5.5.4 in its entirety and replace with the following:

“The Contract shall be subject to the Construction Act (Ontario). In accordance with the Act, the Owner may retain any amounts which are: required by law to satisfy any lies against the Work, in respect of claims of their parties made to the Owner in respect of the Contract or the Work, and in respect of any claims the Owner may have against the Contractor.”

- (c) Delete GC 5.5.5 in its entirety.

2.15. GC 5.7 FINAL PAYMENT

- (a) Delete the number “5” and replace with “15” in the second line of GC 5.7.4

2.16. GC 7.3 FORCE MAJEURE

Add new Article GC 7.3 as follows:

“GC 7.3 FORCE MAJEURE

- 7.3.1 Force majeure is deemed as causes beyond a party’s control, which are not avoidable by the exercise of reasonable foresight. Neither party shall be responsible for any delay or failure to perform its obligations under this Contract by reason of force majeure. If either party is unable to perform any of its obligations in this contract by reason of force majeure, including fire or other casualty, strike, order of a public authority, Act of God, or other cause beyond the reasonable control of such party, then such party shall be excused from such performance of the contract for the duration of such cause. In the event such inability to perform shall continue longer than thirty (30) days, either party may terminate this Contract without further liability by giving written notice to the other party.”

2.17. GC 9.4 CONSTRUCTION SAFETY

- (a) Add GC 9.4.2 as follows:

“9.4.2 The Contractor shall assume the role of contractor, constructor, prime contractor or principal contractor as may apply in accordance with applicable Occupational Health and Safety Legislation at the Place of Work and provide to the Owner copies of the related Health and Safety notices and documents.”

2.18. GC 11.2 CONTRACT SECURITY

- (a) Delete GC 11.2.1 in its entirety and replace with the following:

“11.2.1 The Contractor shall, prior to the commencement of the Work, provide the LKDSB with:

- (i) a performance bond in the amount of fifty percent (50%) of the Total Contract Amount
- (ii) a Labour and Materials bond in the amount of fifty percent (50%) of the Total Contract Amount.”

(b) Delete “If the Contract Documents require surety bonds to be provide, such” from GC 11.2.2.

(c) Add GC 11.2.3 as follows:

“11.2.3 The premiums for the bonds required by the Contract Documents are included in the Contract Price. On or before entering into the Contract, the Contractor shall promptly provide the Owner with confirmation of the Contract security with documentary evidence and thereafter provide confirmation and evidence of up-to-date Contract security from time to time upon request by the Owner. If approved changes pursuant to the Contract result in approved increases to the Contract Price, the Contractor shall promptly acquire additional bonding and provide the Owner with confirmation and evidence of the up-to-date Contract security.”