

# Manitoba Housing Supplementary Conditions

Contract #: XXXXXX



Available in alternate formats upon request.

GENERAL	
1. Stipulated Price Contract CCDC2-2008	The Construction Contract for this project is the standard Construction Document- CCDC2 2008, Stipulated Price Contract.
2. CCDC2-2008 Supplementary Conditions	The following supplements modify, delete from or add to the “Agreement between <i>Owner</i> and <i>Contractor</i> ”, the “Definitions” and “The General Conditions of the Stipulated Price Contract” as noted above. Where any Article or General Condition is modified or any paragraph, sub-paragraph or sentence thereof is modified or deleted by these supplements, the unaltered portions shall remain in effect.
3. Part of Contract	These Supplementary Conditions form part of the CCDC2-2008 contract for the “ <i>Work</i> ”.
4. Manitoba Housing Contract Administrator and Project Manager	<p><b>Add</b> the following:</p> <p>Contract Administrator is:            Insert name            Insert phone number (204)            Insert email @gov.mb.ca</p> <p>Project Manager is:            Insert name            Insert phone number (204)            Insert email @gov.mb.ca</p>
AGREEMENT BETWEEN OWNER AND CONTRACTOR	
Article A-1 The Work	1.3. <b>Change to:</b> “commence the <i>Work</i> within X weeks after contract award and subject to adjustment in <i>Contract Time</i> as provided for in the <i>Contract Documents</i> , attain Substantial Performance of the <i>Work</i> within XX weeks after

	execution of signed contract and Total Performance within XX weeks after execution of signed contract.”
Article A-4 Contract Price	4.1 <b>Change:</b> “which excludes Value Added Taxes” to: “including PST where applicable.”
	4.2 <b>Delete</b>
	<b>Add:</b> 4.6 “Based on a Reciprocal Tax Agreement with the Canada Revenue Agency, the Manitoba Housing and Renewal Corporation (MHRC), which also operates under the business name “Manitoba Housing”, is relieved of paying GST/HST. GST/HST is not included in the Contract Price.
Article A-5 Payment:	5.1. <b>Delete:</b> “and, where such legislation or regulations do not exist or apply, subject to a holdback of _____ percent (___ %)”
	<b>Add:</b> 5.1.4. “If the <i>Owner</i> has notice of any lien or trust claim when a progress payment or release of holdback is due, the <i>Owner</i> may refuse to make the progress payment or release the holdback until it is satisfied that the lien or trust claim has been discharged.”
	5.3 <b>Delete</b>
Article A-7 Language of the Contract	7.1. <b>Delete:</b> “ French #”
<b>DEFINITIONS</b>	
12. Owner	<b>Add:</b> “The <i>Owner</i> shall mean Manitoba Housing and Renewal Corporation (MHRC)”.
20. Substantial Performance of Work	<b>Delete</b> the second sentence and <b>replace with:</b> “Date of <i>Substantial Performance of the Work</i> means the date on which the <i>Consultant</i> certifies that <i>Substantial Performance of the Work</i> has occurred.
24. Value Added Taxes	<b>Add:</b> “Based on a Reciprocal Tax Agreement with the Canada Revenue Agency, The Manitoba Housing and Renewal Corporation (MHRC), which also operates under the business name “Manitoba Housing”, is relieved of paying GST/HST.”

<b>PART 1 GENERAL PROVISIONS</b>	
GC 1.1 Contract Documents	1.1.9. <b>Change:</b> “shall remain the <i>Consultant’s</i> property” <b>to:</b> “shall be the <i>Owner’s</i> property,”
<b>PART 2 ADMINISTRATION OF THE CONTRACT</b>	
GC 2.1 Authority of the Consultant	2.1.2. <b>Change:</b> “with the written consent of the <i>Owner</i> , the <i>Contractor</i> and the <i>Consultant</i> ” <b>to:</b> “with written advice from the <i>Owner</i> to the <i>Contractor</i> about the change”.
GC 2.2 Role of the Consultant	2.2.7. <b>Delete:</b> “Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER,”
GC 2.3 Review and Inspection of the Work	2.3.3. <b>Change to:</b> “The <i>Contractor</i> shall furnish promptly to the <i>Consultant</i> and the <i>Owner</i> one copy each of certificates and inspection reports relating to the <i>Work</i> ”
<b>PART 3 EXECUTION OF THE WORK</b>	
GC 3.2 Construction by Owner or Other Contractors	3.2.2.2 <b>Delete</b>
	3.2.3: <b>Add</b> item 3.2.3.4: to read “assume overall responsibility for other contractor and <i>Owner’s</i> own forces for compliance with the applicable health and construction safety legislation at the Place of the <i>Work</i> ”
GC 3.6 Supervision	3.6.1: <b>Change</b> the second sentence to: “The appointed representative and any additional personnel representing the <i>Contractor</i> , and any <i>Subcontractors</i> , and their roles and responsibilities for the work shall not be changed except for valid reason and with notification; all changes shall have approval by Manitoba Housing prior to taking affect.”
GC 3.8 Labour and Products	GC 3.8.3: <b>Replace with</b> “All employees must wear identification badges, which shall include a photo of the employee, the company name and the first name of the employee.  The <i>Contractor</i> must not employ persons who are not skilled in the assigned tasks or duties. If requested by the <i>Owner</i> , the <i>Contractor</i> will immediately remove from work an employee, agent or <i>Subcontractor</i> who, in the opinion of the <i>Owner</i> , is incompetent, has engaged in improper conduct or who has been deemed inappropriate. The <i>Owner</i> will within

	<p>a reasonable period of time, provide the <i>Contractor</i> with written notification justifying the removal. Persons removed from the work will not be permitted to return without the written consent of the <i>Owner</i>.”</p> <p><b>Add:</b> 3.8.4 “The <i>Owner</i> may require the <i>Contractor</i>, or individual staff members of the <i>Contractor</i>, undergo character, financial and security screening. Criminal Record Searches, Child Abuse Registry Searches and Adult Abuse Registry Searches are required when the Manitoba Housing asset is occupied. The <i>Contractor</i> shall execute and deliver and shall cause its employees to execute and deliver such consents and other documentation as may be reasonably required by the <i>Owner</i> to carry out the screening under this section.”</p>
GC 3.11 Use Of The Work	<p><b>Add:</b> “3.11.3 The <i>Contractor</i> is responsible for all additional security and the safety of the <i>Work</i>; this includes installation of a security fence around the perimeter of the construction zone, coordination of additional security and any costs associated with damage, vandalism or theft in the construction zone. Additional on-site security services must be communicated to and approved in writing by Manitoba Housing.”</p>
<b>PART 4 ALLOWANCES</b>	
GC 4.1 Cash Allowances	<p>4.1.4 <b>Change:</b> “but not for the Contractor’s overhead and profit on such amount”</p> <p><b>to:</b></p> <p>“the Contract Price shall be adjusted accordingly and the Contractor’s overhead and profit shall apply to the expended portion only”</p>
GC 4.2 Contingency Allowance	4.2 <b>Delete</b>
<b>PART 5 PAYMENT</b>	
GC 5.1 Financing Information Required of the Owner	5.1.1 <b>Delete</b>
	5.1.2 <b>Delete</b>

GC 5.2 Applications for Progress Payment	<b>Add</b> 5.2.8 to read: “An application for payment shall be deemed received only if submitted complete with required supporting documentation as determined by the <i>Consultant</i> .”
GC 5.3 Progress Payment	5.3.1.2: <b>Change:</b> “no later than 10 <i>calendar days</i> after the receipt” <b>to:</b> “no later than 10 <i>working days</i> after the receipt” 5.3.1.3 <b>Change:</b> “on or before 20 <i>calendar days</i> ” <b>to:</b> “on or before 30 <i>calendar days</i> ”
GC 5.4 Substantial Performance of the Work	5.4.2 <b>Amend</b> to read: “The <i>Consultant</i> will review the <i>Work</i> in consultation with the <i>Owner</i> to verify the validity of the application...” 5.4.3 <b>Amend</b> to read: “Immediately following the issuance of the certificate of <i>Substantial Performance of the Work</i> , the <i>Contractor</i> in consultation with the <i>Consultant</i> and the <i>Owner</i> , shall establish a reasonable date for finishing the <i>Work</i> .”
GC 5.5 Payment of Holdback Upon Substantial Performance of the Work	5.5.3 <b>Delete</b>
GC 5.6 Progressive Release of Holdback	5.6.1 <b>Change to:</b> “When, upon joint application by the <i>Contractor</i> and a <i>Subcontractor</i> , the <i>Consultant</i> certifies that the work of the subcontract has been substantially performed, the holdback amount authorized by the certificate for payment of the holdback amount retained for the subcontract is due and payable on the first <i>Working Day</i> following the expiration of the holdback period stipulated in The Builders’ Liens Act, C.C.S.M. c.B91 (the Act). The <i>Owner</i> may retain out of the holdback amount any sums required by law to satisfy any liens against the <i>Work</i> or, if permitted by the Act, other third party monetary claims against the <i>Contractor</i> which are enforceable against the <i>Owner</i> . The <i>Contractor</i> and <i>Subcontractor</i> shall use the forms supplied by the <i>Owner</i> to make application for certification of substantial performance of the subcontract work.”
GC 5.7 Final Payment	5.7.4 <b>Change:</b> “no later than 5 calendar days after the issuance of” <b>to:</b> “no later than 30 <i>calendar days</i> after the issuance of”
<b>PART 6 CHANGES IN THE WORK</b>	

<p>GC 6.2 Change Order</p>	<p>6.2.1 <b>Add:</b> “Quoted prices shall be all inclusive and final with no exclusions. When the valuation of a change in the Work is to be determined either by estimate and acceptance in a lump sum or by cost and a fixed or percentage fee, the valuation shall be in accordance with the following:</p> <p>Costs: The valuation of changes shall be based on costs as defined in paragraph GC 6.3.7 of GC 6.3 Change Directive.</p> <p>Mark-Up: Costs for increases in the <i>Work</i>, unless otherwise agreed, shall be marked up as follows for overhead and profit:</p> <ul style="list-style-type: none"> <li>.1 <i>General Contractor</i>: 10% overhead and 5% fee on cost of his own work, and 5% overhead and 5% fee on <i>Subcontractor</i> prices.</li> <li>.2 <i>Subcontractors</i> 10% overhead and 10% fee on the cost of their own work, 5% overhead and 5% fee on <i>Subcontractor</i> prices</li> <li>.3 <i>Sub-subcontractor</i>: Same rates as for <i>Subcontractor</i>.</li> </ul> <p>Cost for decreases in the <i>Work</i> may not be marked up.</p> <p>Substantiation: The <i>Contractor</i> shall submit details of quantities, prices, and fees, as outlined above, together with substantiating documentation.</p> <p>Time for Submission and Acceptance of Quotation: The <i>Contractor</i> will co-operate in the pricing of the change to submit his quotation within 21 days of the <i>Consultant's</i> request, and the quotation shall remain open for acceptance for 30 days from the date of submission. The <i>Contractor</i> shall have the option to accept changes in the Work under separate contract where such changes would unreasonably delay the date of <i>Substantial Performance of the Work</i>.”</p>
<p>GC 6.5 Delays</p>	<p>6.5.1 <b>Amend</b> to read: “... such reasonable time as the <i>Consultant</i> may recommend in consultation with the <i>Owner</i> and the <i>Contractor</i>.”</p>

	<p>6.5.2 <b>Amend</b> to read: "...such reasonable time as the <i>Consultant</i> may recommend in consultation with the <i>Owner</i> and the <i>Contractor</i>" and <b>delete</b> the last sentence.</p> <p>6.5.3.4 <b>Add:</b> "or from the <i>Contractor's</i> insolvency or other financial difficulties," and amend to read: "...such reasonable time as the <i>Consultant</i> may recommend in <i>consultation with the Owner and the Contractor.</i>"</p>
<b>PART 7 DEFAULT NOTICE</b>	
GC 7.2 Contractor's Right to Suspend the Work or Terminate the Contract	7.2 <b>Delete</b>
<b>PART 8 DISPUTE RESOLUTIONS</b>	
GC 8.2 Negotiation, Mediation and Arbitration	8.2.7 <b>Change to:</b> "If a Notice in Writing is not given under paragraph 8.2.6 within the required time, the agreement of the parties under paragraph 8.2.6 to arbitrate is not binding on the parties, and the parties may refer the unresolved dispute to the courts, or to any other form of dispute resolution, including arbitration, which they have agreed to use."
<b>PART 9 PROTECTION OF PERSONS AND PROPERTY</b>	
GC 9.2 Toxic and Hazardous Substances	9.2.3: <b>Change:</b> "The <i>Owner</i> shall take all reasonable steps to ensure", <b>to:</b> "The <i>Owner</i> shall ensure all reasonable steps are taken to ensure"
GC 9.4 Construction Safety	9.4.1: <b>Delete:</b> "Subject to GC 3.2.2.2 of GC 3.2 – CONSTRUCTION BY OWNER OR OTHER CONTRACTORS,"
	<p><b>Add:</b> 9.4.2 "Prior to the start of any work, the <i>Contractor</i> shall prepare and submit to Manitoba Housing a Site Safety Plan that meets the requirements of <i>The Workplace Safety and Health Act</i>. This Plan shall include but is not limited to all items listed below:</p> <p>.1 Hazard/risk assessment practices and procedures, including planned site safety inspections and accident/incident investigation procedures.</p>

	<p>.2 Site safety rules</p> <p>.3 Outline of company safety training program</p> <p>.4 Safety committee and/or site safety (toolbox) meeting program</p> <p>.5 Emergency response plan and procedures”</p>
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**PART 10 GOVERNING REGULATIONS**

GC 10.2 Laws, Notices, Permits and Fees	10.2.2: Delete “building permit” from the first sentence.
	10.2.3: <b>Add</b> at the beginning of the paragraph: “The <i>Contractor</i> shall transfer the building permit, obtained and paid for by the <i>Owner</i> , from the <i>Owners</i> name to the <i>Contractors</i> business name from the authority having jurisdiction and maintain the responsibility of the building permit. The <i>Contractor</i> shall provide a copy of the building permit in the <i>Contractors</i> business name to the Contract Administrator prior to commencement of the <i>Work</i> . Also, the <i>Contractor</i> shall obtain and provide the <i>Owner</i> with occupancy permit when the <i>Work</i> or any part of the <i>Work</i> is to be accepted for occupancy.”
	10.2.3: <b>Add</b> at the beginning of the paragraph: “The <i>Contractor</i> shall obtain and pay for the building permit from the authority having jurisdiction. Also, the <i>Contractor</i> shall obtain and provide the <i>Owner</i> with occupancy permit when the <i>Work</i> or any part of the <i>Work</i> is to be accepted for occupancy.”
	<b>Add:</b> 10.2.8 “The <i>Contractor</i> shall be responsible for co-ordinating and conducting tests of the building systems as may be required by the Authorities having jurisdiction as a requirement to obtain occupancy permit”.
	<b>Add:</b> 10.2.9 “The <i>Contractor</i> will abide by all applicable requirements and regulation thereunder of <i>The Workplace Safety and Health Act, The Apprenticeship and Certification Act, The Employment Standards Code, and The Construction Industry Wages Act</i> including the compulsory certification trade requirements as set out in <i>The Apprenticeship and Certification Act</i> and the applicable trade regulations under that Act and supervision ratios as set out in applicable trade regulations under <i>The Apprenticeship and Certification Act</i> and under <i>The Construction Industry Wages Act</i> . The <i>Contractor</i> will post a copy of the



	<p>applicable minimum wage rates in a conspicuous place at the work site and, if requested by the <i>Owner</i>, the <i>Contractor</i> will provide the <i>Owner</i> with a signed copy of the minimum wage rates applicable to the <i>Work</i>.</p> <p><b>Add:</b> 10.2.10 “The <i>Contractor</i> or its officers, employees, any <i>Subcontractors</i> or agents may be required to undergo character, financial and security screening. Criminal record checks and child abuse registry checks are required when the Manitoba Housing asset is occupied. The <i>Contractor</i> shall execute and deliver any consents or other documentation that may be reasonably required by the <i>Owner</i>. Any confirmation of screening requirements must be supplied as soon as requested by the <i>Owner</i>.”</p> <p><b>Add:</b> 10.2.11 “If in the course of providing the work, the <i>Contractor</i> may have access to or be given “personal information” or “personal health information”, as these terms are defined in <i>The Freedom of Information and protection of Privacy and the Personal Health Information Act</i>, the <i>Contractor</i> agrees that it will comply with all instructions and/or policies of the <i>Owner</i> related to the collection, use, disclosure and protection of personal information and personal health information.”</p> <p><b>Add:</b> 10.2.12 “While this <i>Contract</i> is in effect, and at all times thereafter, the <i>Contractor</i>, and any officers, employees, <i>Subcontractors</i> or agents of the <i>Contractor</i>, shall not use, publish or disclose any information, documents and materials, including (without limitation) all data, research, reports, drawings, designs, plans, photographs and other materials, discovered or produced by the <i>Contractor</i>, or the officers, employees, subcontractors or agents of the <i>Contractor</i>, in the performance of, or incidental to the performance of, this contract without first obtaining written permission from the <i>Owner</i>.”</p>
<b>PART 11 INSURANCE AND CONTRACT SECURITY</b>	
GC 11.1 Insurance	<p><b>Delete:</b> 11.1.1 to 11.1.5 and <b>replace with</b> the following:</p> <p>11.1.1 “Without restricting the generality of GC 12.1 – INDEMNIFICATION, the <i>Contractor</i> shall provide, maintain, and pay for the insurance coverage specified below. Unless otherwise stipulated, the duration of <i>Contractor</i> supplied insurance policies shall be from the date of commencement</p>

of the *Work* until the later of 90 days after the date of *Substantial Performance of the Work* or Total Performance of the *Work*. Prior to commencement of the *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if requested, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements.

#### 11.1.1.1 General Liability and Property Damage Insurance

General Liability and property damage insurance shall be in the joint names of the *Contractor*, the *Owner* and the *Consultant* involved with the *Work*, with limits of not less than \$2,000,000 per occurrence. To achieve the desired limit, umbrella, or excess liability insurance may be used. Coverage under this policy shall be maintained for completed operations hazards on an ongoing basis for a period of twenty-four (24) months following *Substantial Performance of the Work*.

#### 11.1.1.1 Wrap-up Liability Insurance

Wrap-up Liability insurance shall be in the joint names of the *Contractor*, the *Owner*, the *Consultant*, and all *Subcontractors and Sub-consultants* involved with the *Work*, with limits of not less than \$5,000,000 per occurrence and with a property damage deductible of \$10,000 maximum. To achieve the desired limit, umbrella, or excess liability insurance may be used. Coverage under this policy shall be maintained for completed operations hazards on an ongoing basis for a period of twenty-four (24) months following *Substantial Performance of the Work*.

#### 11.1.1.2. Automobile Liability Insurance

Automobile liability insurance in respect of licensed vehicles shall have limits of not less than \$5,000,000 inclusive per occurrence for bodily injury, death, and damage to property, covering all licensed vehicles owned or leased by the *Contractor*, and endorsed to provide the *Owner* with not less than 30 days notice in writing in advance of any cancellation, change or amendment restricting coverage. Where the policy has been issued

pursuant to a government-operated automobile insurance system, the *Contractor* shall provide the *Owner* with confirmation of automobile insurance coverage for all automobiles registered in the name of the *Contractor*.

#### 11.1.1.3 Aircraft and Watercraft Liability Insurance

Aircraft and watercraft liability insurance with respect to aircraft and watercraft used directly or indirectly in the performance of the *Work*, including use of additional premises, shall be subject to limits of not less than \$2,000,000 inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof and limits of not less than \$2,000,000 for aircraft passenger hazard. Such insurance shall be in a form acceptable to the *Owner*. The policies shall be endorsed to provide the *Owner* with not less than 30 days notice in writing in advance of cancellation, change, or amendment restricting coverage.

#### 11.1.1.4 Builder's Risk Property Insurance

- (1) "All risks" - Course of Construction property insurance shall be in the joint names of the *Contractor*, the *Owner*, the *Consultant*, and all *Subcontractors* and Sub-consultants involved with the *Work*, insuring not less than the sum of the Actual Cost of the *Work* plus 10%, with a deductible of \$10,000 and shall remain in effect until 10 days after *Substantial Performance*.
- (2) Operational testing, (start-up and test) insurance shall be in the joint names of the *Contractor*, the *Owner*, the *Consultant*, and all *Subcontractors* and Sub-consultants for not less than the replacement value of the boilers, pressure vessels, and other insurable objects forming part of the *Work*. The insurance provided shall be maintained throughout the period of operational testing.
- (3) The policies shall provide that, in the case of a loss or damage, payment shall be made to the *Contractor* and the *Owner* as their respective interests may appear. The *Contractor* shall adjust the loss or damage payment with the insurers. Loss or damage shall not affect the

	<p>rights and obligations of either party under the contract.</p> <p>11.1.1.5 Contractors' Equipment Insurance</p> <p>The <i>Contractor</i> is responsible for insuring construction machinery and equipment used by the <i>Contractor</i> for the performance of the <i>Work</i> and such insurance shall not allow subrogation claims against the <i>Owner</i> or <i>Consultant</i>.</p> <p>11.1.1.6 Asbestos Liability Insurance</p> <p>If asbestos remediation is identified in the <i>Work</i>, the <i>Contractor</i> shall have or ensure its <i>Subcontractor</i> has obtained and maintains throughout the term of this Agreement Asbestos Liability Insurance providing coverage for the <i>Contractor</i> and any of its officers, employees or agents. Such insurance shall provide at minimum \$1,000,000 limits of liability per occurrence in a form satisfactory to the <i>Owner</i>.</p> <p>11.1.1.7 Errors &amp; Omissions</p> <p>Ensure that all of the <i>Contractor's</i> professional consultants providing the <i>Work</i> obtain and maintain errors and omissions insurance covering claims for personal and bodily injury, death or damage to property arising out of faulty design, maps, plans and specifications or any other error, omission, mistake of a professional or technical nature committed or alleged to have been committed by or on behalf of the <i>Contractor's</i> professional consultants. Such insurance shall provide coverage of not less than \$2,000,000 per claim.”</p>
	<p>11.1.2: <b>Change:</b> “the <i>Contractor</i> shall promptly provide the <i>Owner</i> with confirmation of coverage and,” <b>to:</b> “the <i>Contractor</i> shall promptly provide the <i>Owner</i> with Certificate of Insurance and copies of amending endorsements as written confirmation of coverage for policies supplied by the <i>Contractor</i> and,”</p> <p>And <b>add:</b> “The <i>Contractor</i> is responsible to ensure that all trades performing the work of this contract maintain adequate insurance coverage.”</p>
	<p>11.1.3: <b>Amend to read:</b> “The <i>Contractor</i> shall be responsible for deductible amounts under the policies except</p>

	<p>where such amounts may be excluded from the <i>Contractor's</i> responsibility by the terms of the <i>Contract</i>.”</p> <p>11.1.4: <b>Change:</b> “the <i>Owner</i> shall have the right to provide” <b>to:</b> “the <i>Owner</i> shall have the right, but is under no obligation, to provide”.</p> <p>11.1.5: <b>Add:</b> “All policies provided by the <i>Contractor</i> shall be endorsed by the carrier to provide the <i>Owner</i> and <i>Contractor</i> with not less than thirty (30) days notice in writing in advance of any cancellation, and of change or amendment restricting coverage.”</p> <p>11.1.6: <b>Amend to read:</b> “In the event of an accident, occurrence or loss that may result in a claim under any of the above policies, including injuries to the public, or loss or damage to the <i>Work</i>, the <i>Contractor</i> shall immediately report the incident, occurrence or loss in writing to the <i>Owner</i> and the <i>Consultant</i>.”</p> <p>11.1.7: <b>Amend to read:</b> “By setting the forgoing minimum coverage, the <i>Owner</i> does not represent that such amount is adequate to cover all possible claims or losses of this kind and expressly disclaims such a representation. The <i>Contractor</i> acknowledges that it is solely responsible for determining the adequacy of its insurance coverage.”</p> <p>11.1.8 <b>Delete</b></p>
GC 11.2 Contract Security	<p>11.2.1: <b>Amend to read:</b> “The <i>Contractor</i> shall provide and maintain performance security until the expiration of the warranty period in the form of:</p> <ul style="list-style-type: none"> <li>.1 A performance bond of a company registered to conduct the business of a surety in Manitoba, in the amount of fifty percent (50%) of the <i>Contract Price</i>; and</li> <li>.2 A labour and materials payment bond of a company registered to conduct the business of surety in Manitoba, in the amount of fifty percent (50%) of the <i>Contract Price</i>.”</li> </ul> <p>11.2.2: <b>Delete</b> the last sentence</p> <p><b>Add:</b> 11.2.3: “A copy of the labour and materials bond shall be posted at the <i>Place of Work</i> for the entire duration of <i>Work</i>.”</p>

**PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY**

<p>GC 12.1 Indemnification</p>	<p><b>Delete:</b> 12.1.1 to 12.1.6 and <b>replace with</b> the following:</p> <p>12.1.1 The <i>Contractor</i> shall save harmless and indemnify the <i>Owner</i> against all costs, damages or expenses arising from actions, claims, demands and proceedings, by whomsoever brought, made or taken as a result of acts or omissions of the <i>Contractor</i>, his <i>Subcontractors</i>, employees or agents in the performance or purported performance of the <i>Work</i>, and more particularly from:</p> <ul style="list-style-type: none"> <li>.1 accidental injury to or death of any person whether retained by or in the employ of the <i>Contractor</i> or not, arising directly or indirectly by reason of the performance of the <i>Work</i>, or by reason of any trespass on or damage to property;</li> <li>.2 damage to any property owned in whole or in part by the <i>Owner</i>, or which the <i>Owner</i> by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain;</li> <li>.3 damage to, or trespass or encroachment upon, property owned by persons other than the <i>Owner</i>;</li> <li>.4 failure to pay and obtain a discharge of a notice of claim for lien served upon the <i>Owner</i> in accordance with the requirements of <i>The Builders' Liens Act</i>;</li> <li>.5 failure to pay a workers compensation assessment, or federal or provincial taxes;</li> <li>.6 unauthorized use of any design, device, material or process covered by letters patent, copyright, trademark or trade name in connection with the <i>Work</i>;</li> <li>.7 inaccuracies in any information provided to the <i>Owner</i> by the <i>Contractor</i>.</li> </ul> <p>12.1.2 The <i>Owner</i> has the right, acting reasonably and upon notice to the <i>Contractor</i>, to settle any such action, proceeding, claim or demand and charge the <i>Contractor</i> with the amount so paid or to be paid in effecting a settlement.</p>
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	<p>12.1.3 The <i>Contractor</i> shall pay to the <i>Owner</i> the value of all legal fees and disbursements required to settle any such claim or to defend the <i>Owner</i> against any such claim, action, proceeding, claim or demand notwithstanding that the settlement or defense of the said action, proceeding, claim or demand was undertaken on behalf of the <i>Owner</i> by a salaried employee of the <i>Owner</i> or of the Government of Manitoba.</p>
	<p>12.1.4 The <i>Contract</i> shall inure to the benefit of and binding on the respective successors and assigns of the <i>Owner</i> and the <i>Contractor</i>.</p>
	<p>12.1.5 If the <i>Contractor</i> fails to make any payment required to be made to the <i>Owner</i> pursuant to 12.1.2 or 12.1.3, the <i>Owner</i> shall be entitled to deduct the amount of such payment from any payment required to be made by the <i>Owner</i> to the <i>Contractor</i> under the <i>Contract</i> or take whatever other remedies against the <i>Contractor</i> that the <i>Owner</i> may have at law.”</p>
<p>GC 12.2 Waiver of Claims</p>	<p>12.2 <b>Delete</b></p>
<p>GC 12.3 Warranty</p>	<p>12.3.1 <b>Add:</b> “unless extended pursuant to 12.3.3 or 12.3.4, in which case it should expire when provided for under those sections.”</p> <p>12.3.2 <b>Add</b> as second sentence: “The <i>Contractor</i> warrants that the <i>Work</i> will be free of any and all defects or deficiencies during the warranty period.”</p> <p>12.3.3 <b>Change:</b> “during the one year warranty period.” <b>to:</b> “during the warranty period.” and</p> <p><b>Add</b> as second sentence: “If a defect or deficiency prevents the full and normal use or operation of the <i>Work</i> or any portion thereof, time as it relates to the warranty period shall cease to elapse for the defective or deficient portion and for any portion of the <i>Work</i> whose use or operation is prevented by such defect or deficiency, as of the date on which the defect or deficiency is observed or the use or operation is prevented. Time shall begin to run again when the defect or deficiency has been corrected or the <i>Work</i> may be used or operated to the satisfaction of the <i>Consultant</i>.”</p> <p>12.3.4 <b>Change:</b> “during the one year warranty period.” <b>to:</b> “during the warranty period.” and</p>

**Add** as second sentence: “ If all outstanding defects or deficiencies have not been corrected to the satisfaction of the *Consultant* by at least two (2) weeks prior to the date on which the warranty would expire except for this 12.3.4, then the *Consultant* may require the *Contractor* to extend the warranty period for a further period of one (1) year for those defects or deficiencies in the *Work* identified by the *Consultant* as still outstanding and uncorrected or for any portion of the *Work* whose use or operation is prevented by such defects or deficiencies.”

12.3.6 **Change to:** “Notwithstanding 12.3.1, if any law of Manitoba or of the jurisdiction in which the *Work* was manufactured requires, or if the manufacturer provides, a longer warranty period or a warranty which is more extensive in its nature, then the provisions of such law or manufacturer's warranty shall apply.”

**Add** the following:

“12.3.7 If the *Contractor* disagrees with the *Consultant's* determination under 12.3, he shall nonetheless comply with 12.3.4. The *Contractor* may concurrently appeal the determination of the *Consultant* as provided for in GC 8.2.

12.3.8 The *Consultant* shall certify acceptance of the *Work* upon:

- (a) the satisfactory performance of the *Work* during the warranty period; and
- (b) The *Contractor* having fully complied with 12.3.4

12.3.9 Certification of acceptance of the *Work* shall not, however, relieve the *Contractor* from his responsibilities for any breach of the Contract including, but not limited to, defective or deficient *Work* appearing after the date of such certification.”