

Supplementary General Conditions CCDC 14 – 2013

Design-Build Stipulated Price Contract

ARTICLE A-1 DESIGN SERVICES AND THE WORK

- The following is added to the end of Article 1.3:

“Time is of the essence in this agreement”.

- The following Definition is added:

“As-Built Drawings

As-Built Drawings are drawings representing a complete and accurate record of all *Work* performed and depicting the *Work* as actually built and installed”.

GC 1.1 CONTRACT DOCUMENTS

- GC 1.1.8 to GC 1.1.10 are deleted and replaced with the following:

“1.1.8 The *Design-Builder* shall grant and shall procure that each *Consultant* or *Other Consultant* shall, automatically and without additional consideration, grant to the *Owner* an irrevocable, perpetual, royalty-free licence to itself and through contractors and agents, for any purpose in connection with the *Project*, and to use, copy, reproduce, modify and create derivative works of all designs, plans, sketches, *Drawings*, graphic representations, maps, reports, *Specifications*, manuals, preliminary drafts, copies, data, software, programs and information generated as part of, or constituting outputs of, the *Design Services*, and the *Owner* may retain copies of all the same for such purpose.”

1.1.9 The *Owner* shall be entitled to keep original models or renderings specifically commissioned and paid for.

1.1.10 The *Design-Builder* represents and warrants that *Design Services*, or their outputs will not infringe, misappropriate, or misuse any copyright, patent, trademark, trade secret, or confidential or proprietary information of a third party. The *Design-Builder* shall defend, indemnify, and hold the *Owner* harmless from and against any and all damage, liability, cost and expense incurred by the *Owner* in connection with any claim by a third party that the *Design Service* caused, constituted or resulted in an infringement, misappropriation or misuse of its copyright, patent, trademark, trade secret or confidential or proprietary information.

GC 1.5 CONFIDENTIALITY

- The following is added as GC 1.5.2:

“The *Design-Builder* acknowledges that the *Owner* is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia). Notwithstanding GC 1.5.1, the *Owner* may disclose confidential information to the extent required by law.

GC 1.6 CONFLICT OF INTEREST

- The following is added as GC 1.6:

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“GC 1.6 CONFLICT OF INTEREST

1.6.1 The *Design-Builder* must not, during the term of the *Contract*, perform a service for, or provide advice to any person, firm, or corporation, which gives rise to a conflict of interest between the obligations of the *Design-Builder* under this *Contract* and the obligation of the *Design-Builder* to such other person, firm, or corporation.”

GC 1.7 NO DEROGATION

- The following is added as GC 1.7:

“GC 1.7 NO DEROGATION

1.7.1 Nothing in contained or implied in this *Contract* will fetter in any way the discretion of The Corporation of the District of Saanich or the Council of The Corporation of the District of Saanich”.

GC 2.1 OWNER’S INFORMATION

- GC 2.1.2 and GC 2.1.3 are deleted in their entirety.

GC 2.5 OWNER’S REVIEW OF THE DESIGN AND THE WORK

- GC 2.5.4 is amended by replacing “10 days” with “20 days”

GC 2.6 WORK BY OWNER OR OTHER CONTRACTORS

- GC 2.6 is amended by deleting paragraph 2.6.2.2.

GC 3.1 CONTROL OF THE DESIGN SERVICES AND THE WORK

- GC 3.1.2 is amended by adding the following after the first sentence:

“Without limiting the generality of the foregoing, the *Design-Builder* acknowledges and agrees that the *Design-Builder* shall be the “prime contractor” for the *Place of Work* within the meaning and subject to the requirements of the *Workers Compensation Act* and regulations thereunder.”

GC 3.2 DESIGN-BUILDER’S REVIEW OF OWNER’S STATEMENT OF REQUIREMENTS OR OTHER INFORMATION

- GC 3.2.1 and GC 3.2.2 are deleted and replaced with the following:

“3.2.1 The *Design-Builder* shall, as a competent contractor, reasonably experienced in the *Work*, review the *Contract Documents* and promptly report to the *Owner* any discovered error, inconsistency, or omission. In making such review the *Design-Builder* does not assume any responsibility or liability to the *Owner* to discover all errors, inconsistencies, or omissions.

3.2.2 If the *Design-Builder* does discover any error, inconsistency or omission in the *Contract Documents* the *Design-Builder* shall not proceed with affected *Work*

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without receiving directions or clarifications from the *Owner*. If the *Design-Builder* proceeds with *Work* in the face of an error, inconsistency, or omission that the *Design-Builder* discovered, or that a competent contractor, reasonably experienced in the *Work*, would have discovered, without additional instructions from the *Owner*, then the *Design-Builder* shall at the *Design-Builder's* cost remove or replace any incorrectly constructed *Work*.”

GC 3.4 OTHER CONSULTANTS, SUBCONTRACTORS AND SUPPLIERS

- GC 3.4.4 is deleted and replaced with the following:

“If the *Owner* requires the *Design-Builder* to change a proposed *Other Consultant*, *Subcontractor* or *Supplier*, other than for reasonable cause, the *Contract Price* and *Contract Time* shall be adjusted by the differences resulting from such required change.”

GC 3.8 LABOUR AND PRODUCTS

- The following is added as GC 3.8.4:

“3.8.4 *Products* shall be delivered, stored, handled and applied in strict accordance with manufacturer’s instructions and shall be delivered with type, brand name and product details clearly identifiable.”

- The following is added as GC 3.8.5:

“3.8.5 In any case where the *Design-Builder* or the *Design-Builder's* employees shall be working alongside, interacting with, or working in the vicinity of the *Owner's* employees in the performance of the *Work*, the *Design-Builder* shall ensure that all its employees are familiar with and comply with the following District of Saanich policies:

- .1 [Respectful Workplace – 5/Work-Res;](#)
- .2 [Substance Use / Abuse – 1/SUB;](#) and
- .3 [Smoking and E-Cigarette Free Workplace – 1/SMO.”](#)
- .4 [Covid 19 Vaccination Policy – Volunteer and Contractors](#)

- The following is added as GC 3.8.6:

“3.8.6 Whenever in the performance of the *Work* any employee of the *Design-Builder* performs work of the same or a similar nature to work for which a wage is specified in the collective agreement between the District of Saanich and the Canadian Union of Public Employees Local 2011 (the “*Collective Agreement*”) the *Design-Builder* shall, as required by Article 34:01 of the *Collective Agreement*, pay such employee a wage not less than the wage specified for such work in the *Collective Agreement*. Without limiting the foregoing, the *Design-Builder* shall pay its labourers a rate not less than \$26.87 per hour, being the wage specified for such work in the *Collective Agreement*.”

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

- GC 5.1 is deleted in its entirety.

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GC 5.3 PROGRESS PAYMENT

- GC 5.3.1 is amended by deleting the figure “20” from paragraph 5.3.1.3 and replacing it with the figure “30”.

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

- GC 5.4.2 is deleted and replaced with the following:

The *Design-Builder’s* application for *Substantial Performance of the Work* shall include a copy of the *As-Built Drawings* and a statement from the *Consultant* and other *Consultants* in support of the submitted information and the date of *Substantial Performance of the Work* or designated portion of the *Work*.

GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

- GC 5.5.3 is deleted in its entirety.

GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK

- GC 5.6.1 is amended by deleting the words “calendar day” and replacing them with the words “*Working Day*”.

GC 5.7 FINAL PAYMENT

- The following is added as GC 5.7.5

“No partial or progressive payments of the deficiency holdback amounts will be considered. No application for payment for final payment will be accepted until all incomplete and deficient *Work* has been completed to the satisfaction of the *Owner’s Advisor* and the *Payment Certifier*.”

- The following is added as GC 5.7.6

“If the defective or incomplete *Work* is not corrected or completed by the *Design-Builder* within the reasonable time established pursuant to GC 5.4.5, then the *Owner* may have all or a portion of the deficient or defective work corrected or completed by whatever means may be expedient and the *Owner* may deduct from and set off all associated costs against the amount of the deficiency holdback held by the *Owner* and thereafter pay the remaining balance, if any, of the deficiency holdback to the *Design-Builder*.”

GC 5.10 ADDITIONAL INFORMATION

- The following is added as GC 5.10

“GC 5.10 Additional Information

5.10.1 Before any payment is made by the *Owner* to the *Design-Builder*, the *Payment Certifier* or the *Owner* may, by written notice, require that the *Design-Builder* furnish such further detailed information as the *Payment Certifier*, or the *Owner*

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may determine is necessary to establish compliance by the *Design-Builder* with the *Contract Documents*.”

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- GC 6.4.4 is deleted and replaced with the following:

“The *Design-Builder* shall not be entitled to an adjustment in the *Contract Price* or the *Contract Time* if such conditions were reasonably apparent during the period prior to the commencement of the *Contract*.”

GC 6.5 DELAYS

- The following is added as GC 6.5.6:

“6.5.6 Nothing in paragraphs 6.5.1 to 6.5.3 shall be interpreted to provide the *Design-Builder* any claim for delay against the *Owner*, whether such claim is for an adjustment of the *Contract Time* or to the *Contract Price*, or both, for any actions or omissions of the *Owner*.”

GC 7.3 DESIGN-BUILDER’S RIGHT TO SUSPEND THE DESIGN SERVICES OR WORK, OR TERMINATE THE CONTRACT

- GC 7.3.3 is amended by deleting paragraph 7.3.3.1.

GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS

- GC 9.2.7 is amended by deleting paragraph 9.2.7.4.
- GC 9.2.8 is amended by deleting paragraph 9.2.8.4.

GC 10.2 LAWS, NOTICES, PERMITS AND FEES

- GC 10.2.3 is amended by adding the following sentence at the end of the paragraph:

“Without restricting the generality of the foregoing, the *Design-Builder* shall obtain and maintain in force throughout the term of the *Contract* an inter-municipal business licence or non-resident business licence valid for the carrying on of business in the District of Saanich.”

GC 11.1 INSURANCE

- GC 11.1 is deleted in its entirety and replaced with the following:

“GC 11.1 INSURANCE

11.1.1 Without restricting the generality of GC 12.1 – INDEMNIFICATION, the *Design-Builder* will provide, maintain, and pay for the following insurance coverages with an insurance company or companies and under policies of insurance acceptable to and approved by the *Owner*:

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- .1 Commercial General Liability Insurance with minimum limits of Five Million Dollars (\$5,000,000), inclusive per occurrence, Ten Million Dollars (\$10,000,000) general aggregate for bodily injury, death, and damage to property including loss of use thereof, and product/completed operations liability with a limit of Ten Million Dollars (\$10,000,000) annual aggregate, subject to the following:
- (1) The insurance shall include the *Owner*, the *Consultant* and their respective officers, employees, volunteers, and agents as additional insureds;
 - (2) The insurance shall preclude subrogation claims by the insurer against anyone insured thereunder;
 - (3) The insurance shall include coverage for:
 - (a) Premises and Operations Liability;
 - (b) Products and Completed Operations Liability;
 - (c) Blanket Contractual Liability;
 - (d) Cross Liability;
 - (e) Elevator and Hoist Liability;
 - (f) Contingent Employer's Liability;
 - (g) Personal Injury Liability
 - (h) Shoring, Blasting, Excavating, Underpinning, Demolition, Pile Driving, Caisson Work, Work Below Ground Surface, Tunneling and Grading, as applicable;
 - (i) Liability with respect to Non-owned Licensed Vehicles (\$5,000,000);
 - (j) Broad Form Property Damage;
 - (k) Broad Form Completed Operations;
 - (l) Limited Pollution Liability (\$2,000,000);
 - (m) Employees as Additional Insureds;
 - (n) Broad Form Tenants Legal Liability (\$100,000); and
 - (o) Operation of Attached Machinery;
 - (4) Any deductible applicable to the insurance shall not exceed Two Thousand Five Hundred Dollars (\$2,500);
 - (5) The insurance shall be maintained continuously from commencement of the *Work* until the date of final certificate for payment is issued or when the insured project is completed and accepted by or on behalf of the *Owner*, whichever occurs first plus with respect to completed operations coverage a further period of twenty-four (24) months.
- .2 If any professional services are rendered by the *Design-Builder*, its *Subcontractors* or *Consultants*, the *Design-Builder* shall provide, maintain, and pay for, or require all *Subcontractors* and *Consultants* providing such services to provide, maintain and pay for Professional Liability Insurance, subject to limits of not less than One Million Dollars (\$1,000,000) per claim for third party property damage, bodily injury or death. For purposes of such insurance, *Consultants* of the *Design-Builder* will include but not be limited to all architectural or engineering firms, project managers, construction managers, applied science technologists, land surveyors,

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quantity surveyors and environmental consultants providing professional services in relation to the *Design Services* or the *Work* who are hired by or working on behalf of the *Design-Builder*. Such insurance is subject to the following:

- (1) Coverage will be maintained for a period of at least twenty-four (24) months after final completion of the *Work*;
 - (2) Any deductible applicable to the insurance shall not exceed one hundred thousand dollars (\$100,000);
- .3 Automobile Liability Insurance in respect of all owned, rented, or leased vehicles, subject to limits of not less than Five Million Dollars (\$5,000,000) inclusive per occurrence, with such deductibles as may be acceptable to *Owner*;
 - .4 If any owned or non-owned Aircraft or Watercraft are used directly or indirectly in the performance of the *Work*, the *Design-Builder* shall provide, maintain and pay for liability insurance with respect to such risks, subject to limits of not less than Five Million Dollars (\$5,000,000) inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof and including Aircraft Passenger Hazard coverage where applicable, with such deductibles as may be acceptable to the *Owner*;
 - .5 Contractors Equipment Insurance in respect of all owned, rented, or leased equipment to its full insurable value. All such insurance shall have the right of subrogation waived against the *Owner*, the *Consultant*, and their respective officers, employees, volunteers, and agents.
- 11.1.2 Unless specified otherwise, the duration of each coverage and insurance policy required under paragraph 11.1.1 shall be from the date of commencement of the *Design Services* until the date of final certificate for payment.
 - 11.1.3 The *Design-Builder* and its *Subcontractors* and *Consultants*, as may be applicable, shall be responsible for the payment of any deductible amounts under the policies of coverage and insurance required under paragraph 11.1.1.
 - 11.1.4 The *Design-Builder* shall provide, maintain, and pay for any additional insurance which the *Design-Builder* is required to provide by law or which the *Design-Builder* considers necessary to cover risks not otherwise covered by the policies of coverage and insurance required under paragraph 11.1.1.
 - 11.1.5 The *Design-Builder* shall provide the *Owner* with proof of insurance for the policies of coverage and insurance required under paragraph 11.1.1 prior to the commencement of the *Design Services* in the form of one or more completed Certificates of Insurance.
 - 11.1.6 The *Owner* shall not be responsible for injury to the *Design-Builder's* employees or for loss or damage to the *Design-Builder's* or to the *Design-Builder's* employees' machinery, equipment, tools, or supplies which may be temporarily used or stored in, on or about the *Place of Work* during construction and which may, from time to time, or at the termination of the contract, be removed from the *Place of Work*. The

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Design-Builder hereby waives all rights of recourse against the *Owner* or any other contractor with regard to damage to the *Design-Builder's* property.

11.1.7 The *Design-Builder* releases the *Owner* and its officers, employees, agents, and volunteers from all claims concerning liability or responsibility with respect to the adequacy of any insurance coverage pertaining to the *Design Services* and the *Work*.

11.1.8 All policies of coverage and insurance required under paragraph 11.1.1 shall provide the *Owner* with 30 days prior written notice of cancellation or material change.

11.1.9 The *Design-Builder* shall ensure that its *Subcontractors* and *Consultants* comply with the same insurance requirements outlined in this GC 11.1.”

GC 12.1 DEFINITION AND SURVIVAL

- GC 12.1 is deleted in its entirety.

GC 12.2 INDEMNIFICATION

- GC 12.2 is deleted and replaced with the following:

“GC 12.2 INDEMNIFICATION

12.2.1 The *Design-Builder* shall indemnify, defend and hold harmless the *Owner*, its elected and other officials, officers, employees, agents, servants, representatives, and volunteers (collectively, the “*Owner Parties*”) from and against any and all liability, loss, claims, actions, causes of action, legal proceedings and expenses, including but not limited to legal expenses (collectively, “*Claims*”), suffered, sustained or incurred by the *Owner Parties* or any of them to the extent such *Claims* arise as a result of any errors, or willful, or negligent acts or omissions, or breach of any terms of the *Contract* by the *Design-Builder*, the *Design-Builder's* officers, directors, employees, sub-consultants, subcontractors, agents, representatives or volunteers (collectively, the “*Design-Builder Parties*”) in the course of providing services pursuant to the *Contract*.

12.2.2 Without limiting GC 12.2.1, the *Design-Builder* shall indemnify, defend, and hold harmless the *Owner* from and against, and shall pay to the *Owner* promptly on demand any amount in respect of, any loss or damage to the *Owner's* property and facilities that arises as a result of the use of the property or facilities by the *Design-Builder Parties* under the terms of the *Contract*.

12.2.3 The indemnities provided under GC 12.2.1 and 12.2.2 shall survive the termination, completion, or expiry of the *Contract*. Any risk that *Claims* against the *Owner* may be made after the termination, completion, or expiry of the *Contract* is assumed entirely by the *Design-Builder*.

GC 12.3 LIMITATION OF LIABILITY FOR DESIGN SERVICES

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- GC 12.3 is deleted in its entirety.

GC 12.4 WAIVER OF CLAIMS

- GC 12.4.1 is amended by deleting paragraphs 12.4.1.2 and 12.4.1.3.
- GC 12.4.2 is amended by deleting the words “referred in paragraphs 12.4.1.2 and 12.4.1.3 and”.
- GC 12.4.3 is amended by deleting the words “of paragraph 12.2.4” from paragraph 12.4.3.3.