

**SCHEDULE C
GENERAL CONDITIONS**

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PART A – DEFINITIONS AND INTERPRETATION

GC1 DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this Contract, the following words and expressions have the following meanings:

- (a) “Agreement” means this Contract;
- (b) “Architect” means a professional architect registered and in good standing under the *Architects Act* (British Columbia);
- (c) “Bond” means the performance bond for the Project as required by the Contract;
- (d) “Builders Lien Act” means the *Builders Lien Act* (British Columbia) as it may be amended, repealed or replaced from time to time;
- (e) “Business Day” means a day other than a Saturday, Sunday or statutory holiday in British Columbia;
- (f) “Change Order” has the meaning set out in GC34.2(b);
- (g) “Construction” means all Work other than Design;
- (h) “Contaminants” means any materials, substances or special (hazardous) wastes, the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is now or hereafter prohibited, controlled, or regulated under the *Environmental Management Act*, (British Columbia) and the *Contaminated Sites Regulation* (British Columbia), as they may be amended, repealed or replaced from time to time;
- (i) “Contract” means the whole of the agreement between the parties and includes all of the Contract Documents;
- (j) “Contract Documents” has the meaning set out in Article 5.1 of the Form of Agreement;
- (k) “Contract Price” has the meaning set out in Article 2.1 of the Form of Agreement;
- (l) “Contract Time” means the time within which the Contractor will achieve Substantial Completion of the Work as set out in Article 4.1 of the Form of Agreement;
- (m) “Contractor’s Consultant” means any architectural or engineering firm or person, including any Architect or Professional Engineer, engaged by the Contractor to be

the coordinating professional, to prepare the Drawings and Specifications, or to otherwise consult to the Contractor on the Project;

- (n) “Contractor’s Representative” has the meaning set out in GC3.2;
- (o) “Design” means all design for the Project;
- (p) “Dispute” means any claim, dispute or difference between the Contractor and the School District arising in any way in connection with the Contract;
- (q) “Drawings” means Drawings as defined in the Master Agreement and such other construction drawings for the Project that are prepared by or for the Contractor and that are accepted in writing by the School District’s Representative as provided in this Contract;
- (r) “Effective Date” means the date described in GC2.1 of the Contract;
- (s) “End Date” means the date described in GC2.1 of the Contract;
- (t) “Force Majeure” means labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractor association of which the Contractor is a member), fire, unusual delay by common carriers or unavoidable casualties or, without limiting any of the foregoing, by any cause of any kind whatsoever that could not have been reasonably prevented by and is beyond the control of the Contractor;
- (u) “Form of Agreement” means the portion of this Contract titled “Form of Agreement” to which the other Contract Documents are attached or incorporated by reference;
- (v) “Freedom of Information and Protection of Privacy Act” means the *Freedom of Information and Protection of Privacy Act* (British Columbia), as may be amended, repealed or replaced from time to time;
- (w) “GCs” and “General Conditions” each mean this Schedule C – General Conditions and reference to one or more GCs or General Conditions refers to the referenced section of this Schedule;
- (x) “Heritage Conservation Act” means the *Heritage Conservation Act* (British Columbia);
- (y) “Indemnified Parties” has the meaning set out in GC 43.1;
- (z) “Insurance Conditions” means the terms and conditions set out in Schedule D — Insurance Conditions;
- (aa) “Key Personnel” means the persons identified in Schedule E — Key Personnel;

- (bb) “Land” means the lands on which the completed Work is to be located as set out in the Order Summary, and the limits of which will be as specified by the School District;
- (cc) “Laws” means the common law and any and all laws, statutes, enactments, by-laws, regulations, rules, orders, directives, policies, permits, licences, codes and rulings of any government, and any ministries, agencies, board, commission or tribunal of any government;
- (dd) “Lien Holdback” means the 10% holdback required under the Builders Lien Act;
- (ee) “Order Summary” means Schedule A – Order Summary;
- (ff) “Other Contractor” means any person employed by or having a separate contract directly or indirectly with the School District for work related to the Project other than the Work;
- (gg) “Professional Engineer” means a professional engineer registered and in good standing under the *Engineers and Geoscientists Act* (British Columbia);
- (hh) “Program” has the meaning set out in Recital F of the Form of Agreement;
- (ii) “Progress Monitor” means the party appointed by the Province of British Columbia to act as the Progress Monitor under this Agreement;
- (jj) “Project” has the meaning set out in the Form of Agreement;
- (kk) “Project Management Plan” means the Project Management Plan as defined in the Master Agreement together with such changes to such plan that are prepared by or for the Contractor and that are accepted in writing by the School District’s Representative as provided in this Contract;
- (ll) “Proposal Extracts” means Schedule F — Proposal Extracts;
- (mm) “Province” means the Province of British Columbia;
- (nn) “Quality Management Plan” means the Quality Management Plan as defined in the Master Agreement together with such changes to such plan that are prepared by or for the Contractor and that are accepted in writing by the School District’s Representative as provided in this Contract;
- (oo) “Record Drawings” means the drawings that record the as-built features of the Project;
- (pp) “School District’s Representative” has the meaning set out in GC3.1;
- (qq) “School District Requirements” means the School District’s functional and other requirements for the design and construction of the Project, including all

performance and other specifications set out in the Order Summary and Statement of Requirements;

- (rr) “Scope of Work” means the summary of the Work, as described in the Contract, to be undertaken to complete the Project;
- (ss) “Site Occupation Date” has the meaning set out in GC6.9;
- (tt) “Specifications” means Specifications as defined in the Master Agreement and such other construction or performance specifications that are prepared for the Project by or for the Contractor and that are accepted in writing by the School District’s Representative as provided in this Contract;
- (uu) “Standards” means any and all Laws, building codes, professional standards and specifications applicable to the Work, or to work such as the Project, as they are in force from time to time or in the latest current version thereof, as the case may be;
- (vv) “Statement of Requirements” means Schedule B – Statement of Requirements;
- (ww) “Statutory Declaration” means the document appropriate for the nature of the declaration in the form provided by the School District to the Contractor;
- (xx) “Subcontract” means a contract between the Contractor and a Subcontractor;
- (yy) “Subcontractor” is a person or entity, other than the Contractor’s Consultant or other design consultants, having a direct contract with the Contractor to perform a part or parts of the Work, or to supply products worked to a special design for the Work;
- (zz) “Substantial Completion” has the meaning set out in GC30.1;
- (aaa) “Substantial Completion Certificate” means the certificate issued to the Contractor by the School District’s Representative acknowledging the occurrence of Substantial Completion as described in the Contract;
- (bbb) “Substantial Completion Date” means the date that Substantial Completion has been achieved for the Work as the context requires;
- (ccc) “Target Substantial Completion Date” has the meaning set out in Article 4.1 of the Form of Agreement;
- (ddd) “Term” means the period commencing on the Effective Date and ending on the End Date;
- (eee) “Time Schedule” means the general schedule for timing of the Work as set out in Schedule A4 – Time Schedule and as updated pursuant to GC5 – Time Schedule;

- (fff) “Total Completion” means total completion of the Work in accordance with the Contract Documents;
- (ggg) “Total Completion Certificate” means the certificate issued to the Contractor by the School District’s Representative upon the achievement of Total Completion;
- (hhh) “Total Completion Date” means the date of Total Completion as determined by the School District’s Representative in accordance with the Contract Documents and set out in the Total Completion Certificate;
- (iii) “Warranty Period” means the period defined in GC25.1 during which the Contractor is required to repair any deficiencies or defects that arise in the Work;
- (jjj) “Work” means everything to be undertaken by the Contractor under this Contract, including the design, construction, delivery, installation and commissioning of modular classrooms in accordance with the Contract Documents;
- (kkk) “Work Site” means the place where the Work is to be performed on the Land; and
- (lll) “Workers Compensation Board” or “WorkSafe BC” is the board constituted pursuant to the *Workers Compensation Act* (British Columbia).

Interpretation

1.2 Reference in this Contract to:

- (a) the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) a particular numbered or lettered section, or lettered schedule, is a reference to the corresponding numbered or lettered section, or lettered schedule, of this Contract;
- (c) the word “enactment” is a reference to an enactment as that word is defined in the *Interpretation Act* (British Columbia) on the reference date of this Contract;
- (d) an enactment is a reference to that enactment as amended, revised or replaced;
- (e) a “party” or “parties” is a reference to a party, or the parties, to this Contract and the respective successors, assigns, trustees, administrators and receivers; and
- (f) “include”, “includes”, “including” and similar expressions, whether or not stated expressly to be without limitation, are to be interpreted as without limitation.

1.3 The Contract Documents are complementary, and what is required by any one will be as binding as if required by all.

1.4 Words that have well-known technical or trade meanings are used in the Contract Documents in accordance with the recognized meanings.

- 1.5 If there is a conflict within the Contract Documents the order of priority of documents from highest to lowest will be:
- (a) in the order in which the Contract Documents appear in Article 5 of the Form of Agreement;
 - (b) Drawings of a large scale will govern over those of a smaller scale of the same date;
 - (c) dimensions shown in the Drawings will govern over dimensions scaled from the Drawings; and
 - (d) later dated documents will govern over earlier dated documents of the same type.
- 1.6 Notwithstanding the priority described in GC1.5 provisions of any Contract Document establishing the higher quality, manner or method of performing the Work, using more stringent standards, will prevail with the intent that the provisions that produce the higher quality with the higher levels of safety, reliability, durability, performance and service will govern.

PART B - THE WORK

GC2 TERM

- 2.1 With the exception of provisions that are expressly stated to survive the expiry of the Term, this Contract is effective for the period commencing on the date of execution of this Contract (the “Effective Date”) and ending on the date (the “End Date”) that all of the following conditions are fulfilled:
- (a) the Contractor and the School District have performed all obligations required under this Contract;
 - (b) the Total Completion Certificate has been issued in accordance with GC30.5; and
 - (c) the Contractor has fulfilled all of its obligations pursuant to GC25 — Warranty.

GC3 DESIGNATED REPRESENTATIVES

- 3.1 Within 7 days after the execution of this Contract, the School District will give written notice to the Contractor designating its representative for the purposes of this Contract (the “School District’s Representative”). The School District will give written notice to the Contractor of any change in the School District’s Representative.
- 3.2 The representative of the Contractor for the purposes of this Contract (the “Contractor’s Representative”) will be the person designated as such in Schedule E — Key Personnel, unless otherwise agreed by the School District.

- 3.3 The Contractor will not change the Contractor's Representative or other personnel set out in Schedule E – Key Personnel unless the Contractor provides documentation to the School District's Representative demonstrating to the satisfaction of the School District, in its sole discretion, that the proposed replacement person has qualifications and experience equivalent to or better than those of the person being replaced.

GC4 THE WORK

- 4.1 The Contractor will perform and provide all professional design services, construction administration and construction work and all related labour, services, products, materials, tools, water, heat, light, power, transportation, equipment, machinery and other facilities and services and everything else necessary to achieve Total Completion.

GC5 TIME SCHEDULE

- 5.1 The Time Schedule included as Schedule A4 – Time Schedule is deemed to be submitted for review by the School District's Representative.
- 5.2 The Contractor will ensure that the Time Schedule will be consistent with and meet all applicable requirements of this Contract.
- 5.3 The Contractor will submit for review by the School District's Representative an updated Time Schedule at a maximum interval of 1 month, reflecting progress to date and including a comparison to the previously submitted Time Schedule and a forecast to achieving Substantial Completion of the Work and Total Completion of the Work.
- 5.4 If, in the opinion of either the School District's Representative or the Contractor, at any time the actual progress of the Work does not materially conform with the Time Schedule then, within 14 days of being so required by the School District's Representative or, if earlier becoming aware of the same, the Contractor will:
- (a) submit to the School District's Representative a report identifying the reasons for such non-conformity or the reasons why it does not agree that there is material non-conformity; and
 - (b) if the Contractor agrees that there is material non-conformity (or following resolution of the Dispute that has established that there is material nonconformity), submit to the School District's Representative a revised Time Schedule, which will meet all applicable requirements of this Contract and its Schedules and provide for the Work to be commenced and pursued diligently to Substantial Completion of the Work and Total Completion.

GC6 CONTROL AND SUPERVISION OF THE WORK

- 6.1 The Contractor will effectively direct and supervise the Work using its best skill and attention. The Contractor will be solely liable and responsible for all design and all construction means, methods, techniques, sequences and procedures with respect to the Work, and for coordinating all parts of the Work under this Contract and for coordinating

the Work with work of Subcontractors and of Other Contractors and in accordance with generally accepted management and supervisory practices in British Columbia.

- 6.2 The Contractor will have the sole responsibility for the design, erection, operation, maintenance and removal of temporary structures and other temporary facilities and the design and execution of construction methods required in their use. The Contractor will engage and pay for Professional Engineers or Architects as appropriate to perform these functions where required by Law, and in all cases where such temporary facilities and their method of construction are of such a nature that the education, training and qualifications of the Architect or Professional Engineer are required to produce safe and satisfactory results.
- 6.3 The Contractor will execute the Work in a continuous and diligent manner, and perform all its obligations in conformance with the Contract including, without limitation, the Project Management Plan and the Time Schedule.
- 6.4 Unless otherwise stated in this Contract, the Contractor will perform the Work at the times, in the order of procedure, and in the manner and method that the Contractor considers appropriate provided such Work is in conformance with the Contract including, without limitation, the Project Management Plan and the Time Schedule.
- 6.5 The Contractor will employ a competent construction manager, and necessary assistants, at the Work Site at all times during the progress of the Work.
- 6.6 The Contractor's construction manager will represent the Contractor at the Work Site and written notices and instructions given to the Contractor's construction manager by the School District's Representative or the School District will be deemed to have been given to the Contractor.
- 6.7 The Contractor will at all times maintain good order and discipline among its employees engaged on the Work and will not employ on the Work any unfit person nor anyone not skilled in the task assigned to him or her.
- 6.8 Before commencing the Work, the Contractor will:
 - (a) purchase and deliver the Bond as set out in GC45 — Bond and Insurance to the School District's Representative; and,
 - (b) file with the School District's Representative certificates of all insurance policies and necessary endorsements to comply with the Insurance Conditions.
- 6.9 The Contractor will not perform any Construction on the Work Site prior to the date approved by the School District under Schedule A – Order Summary for occupation of the Work Site (the "Site Occupation Date").
- 6.10 The Contractor may request Work Site investigations. If the School District agrees that the investigations are necessary, the School District will perform, or cause to be performed, the investigations.

GC7 QUALITY MANAGEMENT

- 7.1 Without affecting any other GC, the Contractor is solely responsible for the quality of the Work and will diligently implement its Quality Management Plan.
- 7.2 The Contractor will not commence any Construction, including manufacturing, until the quality procedures applicable to that part of the Work have been developed, submitted to the School District's Representative, included in the Quality Plan and are fully implemented.
- 7.3 Despite the rest of this GC7, the School District's Representative may at any time audit the Quality Management Plan and its implementation and may, at the School District's expense, carry out independent quality control testing at any time.
- 7.4 Nothing in this GC7 and no review, audit, inspection, acceptance, comment approval, action or inaction by the School District or the School District's Representative or any other authority, agency or government will derogate from or relieve the Contractor from any obligations under this Contract, including its sole responsibility for the quality of the Work, the Quality Management Plan and implementation of the Quality Management Plan.
- 7.5 The School District and the School District's Representative or consultants will have access to the Work for review wherever the Work is in preparation or progress and the Contractor will provide reasonable facilities for such access. No testing and review by the School District or the School District's Representative or consultants will relieve the Contractor from its sole responsibility for the quality of the Work, the Quality Management Plan or implementation of the Quality Management Plan.
- 7.6 If the results of any testing or other aspect of the Quality Management Plan disclose, or based on the results of any aspect of the implementation of the Quality Management Plan the School District determines, that any part of the Work is incomplete or defective in any way, the School District may require the Contractor to complete that part of the Work or correct the defect. The Contractor will immediately complete that part of the Work or correct the defect at its own expense.
- 7.7 Prior to Total Completion, the Contractor will deliver to the School District all tests and results taken and generated by the implementation of the Quality Management Plan.
- 7.8 The Contractor will permit access to the Work Site and to the Design and the Construction to persons designated by the School District's Representative including persons representing other authorities or agencies of government.

GC8 DESIGN

- 8.1 The Contractor is responsible for the means, methods, techniques, sequences and procedures necessary to properly complete the Design in conformance with this Contract including, without limitation, the Project Management Plan and the Time Schedule.

8.2 The Contractor:

- (a) will ensure that the Work and the Design are fully compliant with all requirements of this Contract and all Laws;
- (b) will perform and complete the Design and the Work so as to provide the Project that, at Total Completion, is fit for the intended use as specified in the Drawings and Specifications and the Proposal Extracts; and
- (c) acknowledges and agrees that it has the non-delegable duty and obligation to the School District to complete the Work, including the Design, in a manner that is fully compliant with all requirements of this Contract and all Laws.

8.3 The Contractor will make any revisions to the Design as may reasonably be required from time to time by the School District's Representative, including changes resulting from a Change Order.

8.4 The Contractor will:

- (a) cause all portions and aspects of the Drawings and Specifications to be prepared under the direction of, and to be sealed under the professional seal of, the Architect;
- (b) cause the Architect to confirm to the School District, under his or her professional seal, that in the opinion of the Architect:
 - (i) the Drawings and Specifications implement and otherwise conform to the School District Requirements;
 - (ii) the Drawings and Specifications implement and otherwise conform to the Proposal Extracts;
 - (iii) the Drawings and Specifications have been prepared in accordance with, and substantially comply with, all Standards; and
 - (iv) the Work has been completed in accordance with the Drawings and Specifications; and
- (c) provide the School District with all letters of professional assurance as required pursuant to all Laws.

8.5 The Contractor will not construct any part of the Work that is not based on the most recent Drawings and Specifications or that does not meet the School District Requirements. To the extent that the Drawings and Specifications conflict with, modify or deviate from the School District Requirements, the Contractor will revise the Drawings and Specifications such that the Work will be constructed in accordance with the strict terms of the School District Requirements, unless the deviation, conflict or modification was specifically identified, brought to the attention of and accepted by the

School District's Representative in advance and in writing, in which case the relevant part of the Drawings and Specifications will apply.

- 8.6 The Contractor will make, or cause the Contractor's Consultant to make, any revisions or changes to the Drawings or Specifications as are necessary from time to time due to approved changes to the Work and, for clarity, the Contractor will comply with GC8.4 with respect to any such revisions or changes.
- 8.7 Nothing in this GC8, or otherwise in or under this Contract, makes the School District's Representative or the School District responsible for the Design of the Project, including compliance of the Drawings and Specifications with the School District Requirements and all Standards, and the Contractor will, notwithstanding any acceptance under this GC or other act of the School District or School District's Representative, remain solely liable and responsible for compliance of the Drawings and Specifications with the School District Requirements and all Standards.
- 8.8 Without limiting any of the obligations of the Contractor under this Contract, the duties and responsibilities of the Contractor with respect to the Design include, but are not limited to:
 - (a) review of the documents, reports, drawings, School District Requirements and other information provided by the School District;
 - (b) preparation of a Design that meets the School District Requirements, all Standards and all terms of this Contract;
 - (c) the coordination required to integrate all parts of the Design in the Work;
 - (d) preparation of all reports, documents, information and schemes as required by this Contract;
 - (e) inspecting the progress of the Construction in order to determine that the Work is in compliance with the requirements of the Design, Specifications, all Standards and all terms of this Contract;
 - (f) liaising with the School District's Representative and local authorities having jurisdiction as required during the Design and Construction and providing copies of all correspondence with such local authorities to the School District's Representative; and
 - (g) providing all required assurances to local authorities having jurisdiction respecting substantial conformance of the Design with all Standards.
- 8.9 The Contractor will ensure that the Contractor's Consultant and all other architects, engineers and professionals performing professional services related to the Design fulfill their duties and responsibilities to the standard of diligence, skill and care that such professionals would customarily provide in accordance with their professional and legal obligations. Any failure by any of the Contractor's Consultants or other architects,

engineers or professionals performing professional services in relation to the Design will not relieve the Contractor of any responsibility for ensuring that the Work is carried out in conformance with the Contract Documents including the School District Requirements, the Design and all Standards.

- 8.10 The Contractor will provide the School District with the following documents:
- (a) all issued for construction Drawings and related Specifications;
 - (b) all changes to the issued for construction Drawings and related Specifications;
and
 - (c) Record Drawings in accordance with the requirements stated in this Contract.

GC9 OWNERSHIP OF DOCUMENTS

- 9.1 The Contractor acknowledges and agrees that this Contract contains intellectual property that is protected by copyright and that this intellectual property is intended to be used solely for the purposes of the Project. The Contractor will obtain prior written permission and will require the Contractor's Consultant and any other Subcontractors to obtain prior written permission for any other use.
- 9.2 Copyright for the Design and Drawings belongs to the Contractor, the Contractor's Consultant or other consultants who prepared them.
- 9.3 Plans, sketches, Drawings, graphic representations and Specifications, including computer generated designs, when prepared by the Contractor's Consultant or other consultants are instruments of their service and will remain their property whether the construction for which they are made is executed or not.
- 9.4 Submission or distribution of the Contractor's Consultants' or other consultants' plans, sketches, Drawings, graphic representations and Specifications to meet official regulatory requirements or for other purposes in connection with the Work is not to be construed as publication in derogation of their reserved rights.
- 9.5 The School District may retain copies, including reproducible copies, of all plans, sketches, Drawings, graphic representations, Specifications and other material. The Contractor hereby grants an irrevocable licence to use any and all such material for any purpose related to the use and ownership of the Work, including for additions or alterations to the Work, and further such licence may be assigned, at the discretion of the School District, to any third party who has or may acquire an interest or obligation related to the Work. The Contract will at the School District's request, and prior to any payment after such request being issued under this Contract, deliver to the School District, a consent and acknowledgement signed by the Contractor's Consultant confirming such licence.

GC10 ERRORS IN DESIGN

- 10.1 The Contractor is responsible for all errors, omissions or deficiencies in the Design despite any review or acceptance of any portion or all of the Design by or on behalf of the School District.
- 10.2 The Contractor will give written notice to the School District's Representative immediately upon becoming aware of any error, omission or deficiency in the Design.
- 10.3 The Contractor will remedy at its own cost, any error, omission or deficiency identified in the Design including, without limitation, any resulting error, omission or deficiency in the Design that results in defects or deficiencies in any part of the Construction that has been commenced or completed. Such remediation will conform with the requirements of this Contract.

GC11 PRODUCTS

- 11.1 Unless otherwise expressly provided in this Contract, the Contractor will provide and pay for all labour, products, materials, tools, equipment, machinery, water, heat, light, power, transportation and all other facilities, things and services whatsoever, without limitation, necessary for the proper performance of the Work.
- 11.2 All products and materials provided will be new unless otherwise expressly specified in the Contract Documents. Any products that are not specified will be of a quality necessary for the purpose required.

GC12 SUBCONTRACTS

- 12.1 The Contractor will preserve and protect the rights of the School District under this Contract with respect to any Work to be performed by a Subcontractor, so that the subcontracting does not prejudice the School District's rights under this Contract, and the Contractor will be responsible to the School District for the performance of all its Subcontractors and will require its Subcontractors to perform their work in accordance with the terms and conditions of this Contract.
- 12.2 The Contractor will be as fully responsible to the School District for acts and omissions of its Subcontractors and of persons directly or indirectly employed by them as for the acts and omissions of persons directly employed by the Contractor.
- 12.3 The School District may, for reasonable cause, object at any time before the Contractor has executed the contract to a proposed Subcontractor and require the Contractor to employ another Subcontractor acceptable to the School District, but the Contractor will not be required to employ as a Subcontractor any person or firm to whom it reasonably objects. If the School District requires the Contractor to change a proposed Subcontractor, then the price and time will be adjusted by the differences occasioned by the change. The value will be determined in accordance with GC34 — Valuation and Certification of Changes in the Work.

- 12.4 Nothing contained in the Contract Documents will create any contractual or other relationship between any Subcontractor and the School District or any Subcontractor employee and the School District.
- 12.5 The Contractor will require every Subcontractor to observe the terms of this Contract so far as they apply to that portion of the Work to be performed directly or indirectly by that Subcontractor. The Contractor will require that the terms of this Contract that are applicable to the portion of the Work to be performed by a Subcontractor will form part of that Subcontract.
- 12.6 For greater certainty, the Contractor will ensure every Subcontract and standard purchase order contains the following provisions:
- (a) the parties will immediately notify the School District's Representative in writing of any dispute that remains unresolved for a period of 30 days or more; and
 - (b) the parties will negotiate in good faith to resolve all disputes and provide frank, candid and timely disclosures of relevant information and documentation in their possession to the other party.
- 12.7 The Contractor will require that every Subcontract and standard purchase order for designers and Subcontractors require such designers and Subcontractors, where requested by either the School District's Representative or the Contractor, to: attend any Dispute resolution process including discussions, negotiations, mediation or arbitration between the Contractor and the School District; provide frank, candid and timely disclosure of relevant information and documentation; and, negotiate in good faith to resolve such Disputes.
- 12.8 Payment of any sums by the School District to the Contractor, and those sums paid by the Contractor to any Subcontractor, and those sums paid by any Subcontractor to another Subcontractor on account of the Contract Price are and constitute a trust fund in the hands of the Contractor or of the Subcontractor, as the case may be, pursuant to the Builders Lien Act.

GC13 SEPARATE CONTRACTS WITH OTHER CONTRACTORS

- 13.1 The School District reserves the right to enter into separate contracts with Other Contractors in connection with the Project.
- 13.2 The Contractor will co-operate with and co-ordinate the Work with all concurrent construction activities by the School District and Other Contractors on the Work Site or adjacent to the Work Site. The work by the School District or Other Contractors may include the following:
- (a) preparation of the Work Site as described in the Order Summary;
 - (b) any other work in relation to the Work;

- (c) any other work in respect of other facilities at the Work Site; and
- (d) utilities and municipal services construction that may be undertaken by another agency within or adjacent to the Work Site.

13.3 The Contractor will:

- (a) co-ordinate the Work with that of Other Contractors and connect the Work with the work of Other Contractors as applicable;
- (b) provide a design that enables coordination of the Work with the work of Other Contractors without disruption to the Work or the work of Other Contractors; and
- (c) ensure that performance of the Work is carried out in accordance with the Time Schedule so that Other Contractors are not delayed in their work.

13.4 The Contractor will promptly report to the School District any apparent deficiencies in Other Contractors' work that could affect the Work as soon as they come to the Contractor's attention, and will confirm such report in writing promptly. Failure by the Contractor to so report promptly will invalidate any claims for delay by reason of the deficiencies of Other Contractors' work.

13.5 Where a change in the Work is required by the School District, or requested by the Contractor, as a result of the coordination and connection of the work of Other Contractors or the School District with the Work, the changes in the Work will only be made as provided in GC33 — Changes in the Work.

13.6 Claims, disputes and other matters in question between the Contractor and Other Contractors will be dealt with as provided in GC49 — Dispute Resolution provided the Other Contractors have reciprocal obligations. The Contractor will be deemed to have consented to arbitration of any dispute with any Other Contractor whose contract with the School District contains a similar requirement to GC49 — Dispute Resolution.

13.7 The School District will require Other Contractors to coordinate and schedule their construction activities at the Work Site in accordance with the reasonable instructions of the Contractor acting as prime contractor that are applicable to health and construction safety at the Work Site and that are in accordance with the Workers' Compensation Act.

13.8 The Contractor acknowledges that other persons working at the Work Site may be union or non-union, the Contractor will comply with any requirements of the School District in respect of labour relations and the Contractor will take all reasonable precautions to avoid labour disruptions caused or contributed to by the Contractor, its Subcontractors or any persons performing the Work.

GC14 ACCESS TO AND USE OF LAND

14.1 Subject to any limitations under this Contract, including under GC14.2 and GC14.3, the School District grants to the Contractor a licence to enter and be upon the Work Site from

the Site Occupation Date until Total Completion, after school hours and on weekends or as expressly agreed by the School District, to perform the Work that is required to be performed on the Work Site.

14.2 The Contractor will:

- (a) limit its activities to within the Work Site unless the Contractor obtains permission to occupy or use other lands; and
- (b) obtain any construction easements and permits that may be required for construction of the Project.

14.3 The Contractor will not remove or disturb trees or other vegetation, including for construction, laydown areas or any other Work.

GC15 USE OF WORK SITE

15.1 The Contractor will confine its tools and equipment, the storage of materials and products, and the operations of its workers, to limits specified by the School District, by or under all Laws, and will not unreasonably encumber the Work Site.

15.2 The Contractor will enforce the School District's policies, procedures and instructions regarding parking, safety, harassment, fires, smoking, signs and advertisements.

15.3 The Contractor will ensure that the Work does not adversely impact the ongoing operations of School District schools near or adjacent to the Work Site.

15.4 The Contractor will confirm the location of all utilities and ensure that all of its labour force, employees, Subcontractors and any other workers at the Work Site:

- (a) are made aware of the location of all utilities in connection with the Project and the importance of avoiding damage to those underground utilities; and
- (b) observe any instructions in connection with those utilities issued by the School District's Representative on behalf of any applicable utility owners.

GC16 SUBSURFACE CONDITIONS AT WORK SITE

16.1 The Contractor acknowledges and agrees that:

- (a) the School District is responsible for preparing the Work Site as described in the Order Summary, including having all necessary geotechnical work carried out with respect to the Work Site, and the School District will provide copies of any reports for geotechnical work to the Contractor;
- (b) it has had the opportunity to undertake additional examinations and investigations of the Work Site in order to satisfy itself as to Work Site conditions and the

impact they could have on any or all of the Work (including Design and Construction), Contract Time and Contract Price;

- (c) only objective geotechnical data provided in this Contract can be relied upon for accuracy (subject to any qualifications or conditions set out in such information or this Contract) but such data cannot be relied upon for sufficiency, relevancy or interpretation;
- (d) neither the School District nor the School District's Representative is in any way responsible or liable for the completeness, interpretation or accuracy of the reports described in GC16.1(a) (except accuracy of objective geotechnical data identified in GC16.1(c) for which the School District will be responsible) or for any variation between Work Site conditions actually encountered by the Contractor and those set out in those reports; and
- (e) the Contractor is not entitled to any adjustment in the Contract Time or Contract Price, or to any other remuneration, compensation or damages whatsoever, in any way connected with Work Site conditions, including the matters described in GC16.1(c) except for concealed subsurface conditions which were existing before commencement of the Work that differ materially from those indicated in the Contract Documents and that could not have reasonably been foreseen.

16.2 The Contractor will notify the School District in writing before the concealed subsurface conditions identified in GC16.1(e) above are disturbed and in no event later than 5 days after the first observance of such conditions.

16.3 Notwithstanding that the Contractor may be entitled to an adjustment in the Contract Time pursuant to GC16.1(e), if the School District determines that the Target Substantial Completion Date can still be met and requests in writing that the Contractor accelerate the Work, the Contractor will accelerate its efforts to meet the Target Substantial Completion Date and the School District will reimburse the Contractor for all reasonable and direct costs that the Contractor incurred as a result of such acceleration efforts.

GC17 WORK FOR OTHERS ON ADJACENT PROPERTIES

17.1 The Contractor may enter into separate arrangements with other persons to complete Construction work, such as servicing properties within or adjacent to the Work Site, if the following conditions are met:

- (a) the Contractor obtains advance written approval from the School District's Representative (approval may be granted provided any additional work to be performed by the Contractor will not adversely affect the School District's costs, the Time Schedule, the quality of the Work or adversely impact the School District's operations and maintenance procedures or costs); and
- (b) the Contractor is responsible for any design, application for necessary approvals and obtaining approvals prior to construction.

GC18 ARCHAEOLOGICAL ITEMS

18.1 Upon discovery at the Work Site of any fossils, remains, coins, articles of value or antiquity, including all heritage objects (as defined in the Heritage Conservation Act), the Contractor will:

- (a) immediately notify the School District's Representative;
- (b) take all steps not to disturb the item and, if necessary, stopping Construction insofar as performing such works would endanger the object or prevent or impede its excavation;
- (c) take all necessary steps to preserve the item in the same position and condition in which it was found; and
- (d) comply with all Laws and regulations and all requirements of governmental authorities with respect to such discovery including pursuant to the Heritage Conservation Act.

18.2 If the Contractor is delayed in performing the Work or incurs additional costs as a result of taking steps required under GC18.1, the School District will extend the Time Schedule including the Substantial Completion Date by the number of days equal to the substantiated "critical path" delay, and the School District will reimburse the Contractor for all reasonable and direct costs the Contractor incurred as a result of the delay unless the School District determines that the Target Substantial Completion Date can still be met and requests in writing that the Contractor accelerate the Work, in which case the Contractor will accelerate its efforts to meet the Target Substantial Completion Date and the School District will reimburse the Contractor for all reasonable and direct costs of taking such acceleration efforts in addition to the additional costs of taking those steps required under GC18.1.

GC19 CONTAMINANTS AND ENVIRONMENTAL MANAGEMENT

19.1 Before the Site Occupancy Date, the School District will:

- (a) take all reasonable steps to determine whether any Contaminants are present at the Work Site; and
- (b) provide the Contractor with a written list of any such Contaminants that the School District determines at that time to be present at the Work Site.

19.2 Except those Contaminants identified pursuant to GC19.1, the Contractor acknowledges that the School District has made no representation or warranty as to the absence or presence on, in or under the Work Site of any Contaminant. If the Contractor, after commencing the Work, encounters or has reason to believe in the existence of any Contaminant on, in or under the Work Site, the Contractor will at once take all reasonable steps, including suspension of the Work, as necessary to ensure that no person or property suffers injury, sickness, death, damage or destruction as a result of exposure to, or the

presence of, any Contaminant, and the Contractor will immediately report such Contaminant to the relevant governmental authorities and to the School District.

- 19.3 If the Contractor is delayed in performing the Work, or incurs additional costs, due to discovery of such Contaminants, adjustment in the Contract Time or the Contract Price will be agreed upon, in the latter case as set out in GC34 — Valuation and Certification of Changes in the Work. Where the Contractor claims a delay due to discovery of Contaminants, the Contractor will provide full information regarding any options to accelerate the Work to achieve Substantial Completion of the Work by the Target Substantial Completion Date.

GC20 WORK SITE SAFETY

- 20.1 The Contractor agrees to be the “prime contractor” for the purposes of all applicable occupational health and safety Laws, including the Workers’ Compensation Act, and the Contractor is responsible for filing any documents necessary to comply with the Workers’ Compensation Act, including, but not limited to, a notice of project. The Contractor will comply with all requirements with the Workers’ Compensation Act and any other occupational health and safety Laws, applicable to the Project, the Work or to the Work Site.
- 20.2 Prior to commencing the Work and as a condition of receiving payment on Substantial Completion and on Total Completion, the Contractor will provide the School District with satisfactory written evidence of compliance by the Contractor with all requirements under the Workers’ Compensation Act, including payments of assessments due under it to the Workers’ Compensation Board. Without limiting the foregoing, the School District’s Representative may at any time require the Contractor to provide evidence of compliance with all requirements under the Workers’ Compensation Act, or payment of assessments due under it to the Workers’ Compensation Board, or both.
- 20.3 When required to do so by the School District, the Contractor will provide the School District with evidence of its compliance and compliance of any or all of its Subcontractors under GC20.2.
- 20.4 Following the Site Occupation Date, the Contractor will coordinate health and safety for the Work Site for all activities performed by its workers as well as those of Subcontractors, utilities, suppliers, inspectors, the School District, other contractors and any others performing any activities at the Work Site.
- 20.5 The Contractor will establish, implement, and provide for the review by the School District’s Representative, by no later than 30 days after the Effective Date, a “Health and Safety Plan” that meets all applicable requirements of this Contract with respect to health and safety at the Work Site and that addresses the safety of the public and the school population attending the nearby existing school who may be active on property adjacent to the Work Site. Unless expressly provided otherwise in the Contract, the Contractor will provide safety fencing and hoarding as necessary to limit public access, including student access, to the Work Site in accordance with the Health and Safety Plan.

- 20.6 The Contractor will ensure that its Health and Safety Plan is consistent with, and accommodates any requirements of, the School District's policies regarding safety and that it specifically addresses the safety of children who attend the nearby existing school.
- 20.7 The Contractor will maintain and comply with the Health and Safety Plan in all material respects during execution of the Work.
- 20.8 Prior to any person accessing the Work Site pursuant to this Contract, the Contractor will provide health and safety orientation and information to such person in accordance with its Health and Safety Plan.

GC21 DOCUMENTS AT THE WORK SITE

- 21.1 The Contractor will keep 1 copy of the following documents at the Work Site in good order and available to the School District's Representative:
 - (a) all current Contract Documents, including an executed copy of this Contract;
 - (b) all shop drawings and a current and up-to-date set of Record Drawings; and
 - (c) the Health and Safety Plan referred to in GC20.5.

GC22 CLEANUP AND FINAL CLEANING OF WORK

- 22.1 The Contractor will maintain the Work in a tidy condition and free from the accumulation of waste products and debris, other than that caused by the School District, Other Contractors or their employees.
- 22.2 The Contractor will remove all surplus products, tools, construction machinery and equipment, and any waste and debris, and leave the Work and Work Site clean and suitable for occupancy by the School District by the date of Substantial Completion or an earlier date that the School District uses, or has advised the Contractor in writing that it will use, the Work for the purpose intended.
- 22.3 Despite the foregoing, the Contractor is not required to remove waste on Total Completion if such waste caused by the School District.

GC23 REMEDIAL WORK

- 23.1 The Contractor will do all remedial work that may be required to make all parts of the Work comply with the Contract.
- 23.2 The Contractor will co-ordinate the Time Schedule for the Work to ensure that the requirement under GC23.1 is kept to a minimum.
- 23.3 Remedial work will be performed by specialists familiar with the materials affected and will be performed in a manner to neither damage nor endanger any Work.

GC24 REJECTED WORK

- 24.1 Defective Work, whether the result of poor design, poor workmanship, use of defective equipment or materials, or damage through carelessness, default or other acts of the Contractor or any Subcontractor, and whether incorporated in the Work or not, which has been rejected by the School District as failing to conform to any of the School District Requirements, the Design or the Standards, will be removed promptly by the Contractor and replaced and re-executed promptly and properly at the Contractor's expense.
- 24.2 If the Contractor does not remove such defective Work within the time fixed by written notice by the School District, the School District may remove them and store any materials at the expense of the Contractor.
- 24.3 Other Contractor's work destroyed or damaged by such removals or replacements will be made good by the Contractor promptly at the Contractor's expense.
- 24.4 If in the opinion of the School District it is not expedient to correct defective Work or Work not done in accordance with the Contract Documents, the School District may deduct from the Contract Price the value required for the School District to have the work done by others, as determined by the School District.

GC25 WARRANTY

- 25.1 The Contractor will correct, at its own expense, any defects or deficiencies in the Work which are determined by the School District to not comply with the School District Requirements, the Design or the Standards or to be not in accordance with the Contract Documents for a period applicable to each modular classroom that is 12 months from the date of Substantial Completion of that modular classroom, plus an extension for each month (calculated from the date of Substantial Completion) that the modular classroom remains unoccupied after the date of Substantial Completion to a maximum extension of 6 months. The Contractor will provide to the School District the extended warranties from Subcontractors or suppliers described in the Proposal Extracts or other Contract Documents and any other extended warranties normally provided by Subcontractors or suppliers.
- 25.2 The Contractor will correct, at its own cost, or pay the School District for any damage to other work resulting from any corrections required under GC25.1.
- 25.3 Issuance of the certificates of Substantial Completion and of Total Completion, and final payment to the Contractor, do not relieve the Contractor from its responsibility under this GC25.

GC26 TITLE AND RISK

- 26.1 Title to the Work will vest only in the School District. Without prejudice to any of the rights of the School District under this Contract, title to the Work or any part of the Work will vest in the School District at the earliest of:

- (a) the time that the Work or part of it is at the Work Site;
 - (b) the time that the School District has paid for the Work or part of the Work; and
 - (c) the time of installation or construction of the Work or part of the Work.
- 26.2 The Work and any part of the Work remains under the care, custody and control of the Contractor and at the risk of the Contractor until completion of the whole of the Work as determined by the School District or until such earlier date determined by the School District, and notified in writing to the Contractor, for occupancy and use by the School District. The Contractor will exercise all reasonable care to avoid loss of, or damage to, the Work or any part of the Work until the whole of the Work has been completed.
- 26.3 The Contractor represents and warrants that title to the Work and any part of the Work will pass to the School District free and clear of all liens, charges and encumbrances.

PART C - PAYMENT AND COMPLETION

GC27 APPLICATIONS FOR PAYMENT

- 27.1 The Contractor will make applications for payment in accordance with this GC27. Applications for payment of milestone payments may be made upon the achievement of the applicable payment event. Applications for payment will not be made more than once each month, at the end of each month shown in the Time Schedule
- 27.2 Applications for payment will be dated the last day of the monthly period.
- 27.3 Applications for payment for any change in the Work that is not made on a milestone basis will be made on the basis of the progress of the change. Pending determination of the final result of any change in the Work, the undisputed value of the Work performed as a result of a change is eligible to be included in applications for payment for the relevant month.
- 27.4 Subject to any further information that may be required by the School District's Representative, an application for payment will include:
- (a) the payment events that have been achieved and the applicable milestone payments;
 - (b) payment amounts in respect of any changes in the Work not paid on a milestone basis;
 - (c) the balance of the Contract Price complete the Work;
 - (d) the amount of Lien Holdback deduction calculated based on the provisions of the Builders Lien Act;
 - (e) the amount applied for in the application;

- (f) the Statutory Declaration required as described in GC27.5; and
 - (g) a clearance letter from the Workers Compensation Board indicating that all current assessments due from the Contractor and all Subcontractors have been paid.
- 27.5 An application for payment will be accompanied by a Statutory Declaration attesting that all labour, suppliers, Subcontractors and consultants have been paid in full for goods and services provided to the Project to the date of the previous application for payment (excepting only Lien Holdback and amounts identified as being in dispute).
- 27.6 Applications for release of the Lien Holdback will be made under GC29 — Lien Holdback and applications for any payment at Substantial Completion or Total Completion will be made under GC30 – Substantial Completion and Total Completion.
- 27.7 The School District’s Representative will, within 14 days of receipt of the Contractor’s application for payment and the Statutory Declaration, either:
- (a) accept the amount set out in the application for payment; or
 - (b) adjust the amount of any payment to reflect the determination of whether the relevant payment events have been achieved and whether the applicable progress of any change in the Work has been satisfactorily performed as of the date of the application for payment.

If the School District’s Representative amends the application for payment, the School District’s Representative will promptly notify the Contractor in writing and give reasons for the amendment.

- 27.8 Provided the Contractor is not in material default of any provision in this Contract, the School District will pay the Contractor within 30 days of the School District’s Representative accepting or adjusting the Contractor’s application for payment in accordance with GC27.7. The School District is not required to pay interest on overdue payments.
- 27.9 Whenever any sum of money is recoverable from or payable by the Contractor pursuant to this Contract or is an amount for which the School District may be liable on account of a default by the Contractor, the School District may deduct such sum from, or may reduce, any amounts then due or that may thereafter become due to the Contractor under this Contract. Without limiting the generality of the foregoing, the School District may set-off any amounts for liquidated damages set out in this Contract.

GC28 TAXES AND DUTIES

- 28.1 The Contract Price is inclusive of all applicable taxes, other than value added taxes including the harmonized sales tax (the “HST”). The School District will pay to the Contractor any value added taxes on materials and services provided to the School District by the Contractor as part of the Work and such taxes will be shown separately on

payment applications made by the Contractor. The Contractor will remit to Canada all value added taxes as and when required by the relevant legislation and will, without limiting GC43 – Indemnification, indemnify and hold the Indemnified Parties harmless from and against any value added tax under such legislation and other taxes, that the Contractor fails to remit as and when due, and from and against any penalties and interest which may be levied against the Indemnified Parties, and any costs, in respect thereof.

- 28.2 The Contractor will pay all applicable government value added taxes, customs duties and excise taxes under the Excise Tax Act (Canada), payable in accordance with any enactment with respect to any component of the Work.
- 28.3 Any increase or decrease in costs to the Contractor due to changes in taxes or duties that are in effect at the date of the Contract (other than value added taxes payable by the School District to the Contractor) will increase or decrease the Contract Price accordingly.
- 28.4 Where an exemption or refund of taxes, customs duties or excise taxes is applicable to this Contract by way of the Contractor filing claims for, or cooperating fully with the School District and the proper authorities in seeking to obtain such exemption or refund, the Contractor will make such applications and provide such cooperation.
- 28.5 Refunds that are properly due to the School District and have been recovered by the Contractor will be promptly refunded to the School District.

GC29 LIEN HOLDBACK

- 29.1 The School District will retain and release the Lien Holdback in accordance with the provisions of the Builders Lien Act.
- 29.2 For purposes of this Contract, the School District's Representative will be the payment certifier under the Builders Lien Act.
- 29.3 For purposes of progressive release of portions of the Lien Holdback in respect of Subcontracts, the School District's Representative will be the payment certifier under the Builders Lien Act.
- 29.4 The Contractor will make application to the School District's Representative for certification under the Builders Lien Act. As a condition of making any application and as a condition of any certification, the Contractor will provide the School District with all information required by the School District's Representative, including a complete copy of any Subcontracts in respect of any certification of substantial performance of the Subcontracts.
- 29.5 Without limiting GC43 – Indemnification, the Contractor will, at its sole risk and expense, do everything necessary, including through the institution, prosecution or defence of legal proceedings, to promptly discharge from title to the Work Site any claims of builders' lien, builders' liens or certificates of pending litigation. If the School District becomes aware that a claim of builders' lien, builders' lien or certificate of

pending litigation is threatened or has been registered against title to the Work Site, the School District may, in its sole discretion, withhold out of the Lien Holdback and any other monies payable to the Contractor such amounts as the School District reasonably considers necessary in order to secure the discharge of the claim of builders' lien, builders' lien or certificate of pending litigation. The School District will cooperate with the Contractor in securing the discharge of any of the foregoing, subject to such arrangements being made as the School District reasonably considers necessary before any such additional holdback monies are paid to any person or into court.

GC30 SUBSTANTIAL COMPLETION AND TOTAL COMPLETION

30.1 The Contractor may make application to the School District's Representative for a certificate of Substantial Completion at any time after it considers that it has achieved Substantial Completion of the Work. "Substantial Completion" means that all of the following have been achieved:

- (a) the School District's Representative has certified that substantial performance of the Work under the Builders Lien Act has been achieved;
- (b) the Work is ready for use by the School District or is being used by the School District for the purpose intended, and the following items have been submitted to the School District's Representative or completed by the Contractor and the items are acceptable to the School District's Representative:
 - (i) all equipment and mechanical systems essential to the operation of the Project are in place and are fully operational;
 - (ii) preliminary commissioning reports satisfactory to the School District;
 - (iii) all manufacturer's inspections, certifications, guarantees and warranties specified in the Performance Specifications;
 - (iv) maintenance manuals, operating instructions, maintenance and operating tools, replacement parts or products as specified in the Performance Specifications;
 - (v) certification by all testing, cleaning, or inspection authorities or associations;
 - (vi) a clearance letter from the Workers Compensation Board indicating that all current assessments due from the Contractor and all Subcontractors have been paid;
 - (vii) a statement reconciling all change orders and claims under the Contract with respect to the Work to the date of the application for Substantial Completion;

- (viii) all approvals necessary for the Project from local authorities having jurisdiction;
 - (ix) all submittals, certificates and evidence required for the School District to obtain an occupancy permit as required from local authorities having jurisdiction;
 - (x) a Statutory Declaration stating that all accounts for labour, services, subcontracts, materials, products, construction equipment and machinery and other indebtedness which may have been incurred by the Contractor in performing the Work and for which the Owner might in any way be held responsible, have been paid in full except for amounts properly retained as a holdback or as an identified amount in dispute;
 - (xi) demonstration to the School District's satisfaction of all mechanical and electrically operated devices to the School District's operating and maintenance staff;
 - (xii) the requirements of GC22.2 have been fulfilled; and
 - (xiii) any other conditions specified in the Contract with respect to achieving Substantial Completion;
- (c) the Work is at least 98% complete as determined by the School District's Representative;
 - (d) a comprehensive deficiency list, including an estimated value for each item, has been submitted to the School District's Representative by the Contractor; and
 - (e) a schedule for completion of all remaining Work has been submitted to the School District's Representative by the Contractor.

For purposes of GC25 (Warranty) and any payment milestones in Schedule A2 – Schedule of Prices for payment upon Substantial Completion of a modular classroom, references to “Substantial Completion” mean that, with respect to the relevant modular classroom, the Contractor has for that modular classroom achieved all of the requirements of this GC 30.1 but is not required to obtain the certification under the Builders Lien Act referred to in GC 30.1(a).

The School District's Representative will not disapprove or delay issuance of the certificate of Substantial Completion of a modular classroom for any items that the Contractor cannot achieve as a result of the School District failing to perform its obligations under this Agreement.

- 30.2 The School District's Representative with input from the Contractor's Consultant will, not later than 14 days after the receipt of an application from the Contractor for a certificate of Substantial Completion, review and assess the Work to verify the validity of the application. The School District's Representative will, not later than 7 days after the

review, notify the Contractor of approval, or the reasons for disapproval, of the application. The Contractor will remedy all defects in the application and any substantive deficiencies that, in the opinion of the School District's Representative, prevent the issuance of a certificate and the School District's Representative will within 7 days after notice from the Contractor of rectification of the defects or deficiencies, approve or disapprove of the application, and so on, until such time as the School District's Representative determines that Substantial Completion has been achieved. When the School District's Representative determines that Substantial Completion has been achieved, the School District's Representative will issue a certificate of Substantial Completion. The date of Substantial Completion will be as stated in that certificate. Immediately following the issuance of the certificate of Substantial Completion of the Work, the School District's Representative, with input from the Contractor, will establish a reasonable date for Total Completion of the Project.

- 30.3 The School District may retain out of the amount due and owing to the Contractor upon Substantial Completion:
- (a) any sums required by law to satisfy any liens against the Work;
 - (b) an amount determined by the School District's Representative to be equal to 2 times the estimated value of the work still to be satisfactorily performed or replaced as specified in the list of deficiencies; and
 - (c) any amount withheld pursuant to GC29.5.
- 30.4 Notwithstanding any other provision in this Contract, no payment will be made to the Contractor after the payment determined by the School District's Representative to be due and owing upon certification of Substantial Completion of the Work until Total Completion has been certified in accordance with this GC30.
- 30.5 The Contractor may make application to the School District's Representative for a certificate of Total Completion when:
- (a) the entire Work has been performed to the requirements of the Contract Documents;
 - (b) all deficiencies and incomplete Work previously identified have been rectified or completed to the School District's satisfaction;
 - (c) the requirements of GC22 — Cleanup and Final Cleaning of Work have been fulfilled; and
 - (d) the following items have been submitted by the Contractor and are acceptable to the School District:
 - (i) all submittals, including certified Record Drawings in accordance with GC31 — Record Drawings, final commissioning reports, final inspections (structural, environmental, etc.) and deficiency reports;

- (ii) a Statutory Declaration of an officer or senior management employee of the Contractor that all accounts for labour, subcontracts, materials, construction machinery and equipment, and other indebtedness, which may have been incurred by the Contractor and for which the School District might in any way be held responsible have been paid in full, except Lien Holdback monies properly retained by the Contractor, and that no notice of liens has been served on the Contractor in respect of anything done under, or by virtue of this Contract, dated at least 45 days after the date of substantial performance under the Builders Lien Act;
- (iii) a written statement of the Contractor that all claims for payment for Work done under this Contract as of the date of the Contractor's application for a certificate of Substantial Completion including extras, change orders and force account items have been presented to School District's Representative;
- (iv) a clearance letter from the Workers Compensation Board indicating that all current assessments due from the Contractor and all Subcontractors have been paid;
- (v) certification, acceptable to the School District, that all taxes, Employment Assistance payments, Canada Pension Plan contributions, duties, royalties, and all other monies required to be paid by law or statute have been paid in full; and
- (vi) all warranties and guarantees from product manufacturers, Subcontractors and suppliers.

30.6 The School District's Representative will, subject to the conditions contained in GC30.5, not later than 14 days after the receipt of an application from the Contractor for a certificate of Total Completion of the Work, review and assess the Work to verify the validity of the application. If such review reveals that previously identified deficiencies or incomplete work have not been corrected in a manner satisfactory to the School District, making additional reviews by the School District's Representative necessary, the Contractor will be responsible for all additional costs of further reviews as determined by the School District's Representative, such costs to be deducted from the monies due to the Contractor upon Total Completion. The School District's Representative will, not later than 7 days after the review, notify the Contractor of approval or the reasons for disapproval of the application. The Contractor will rectify all defects in the application and all deficiencies and incomplete Work. If the Contractor remedies all such deficiencies and defects, the School District will, within 7 days after notification by the Contractor of such rectification, approve or disapprove of the application, and so on, until Total Completion is reached. When the School District's Representative finds that Total Completion has been reached, the School District's Representative will promptly issue a certificate of Total Completion and certify for payment the monies due to the Contractor under this Contract, less any amount still retained for the Lien Holdback monies, amounts withheld under GC29.5 or any amount set-off in accordance with GC27.9. Subject to the

foregoing, the School District will, not later than 30 days after the issuance of such certificate, make final payment to the Contractor in accordance with the provisions of this Contract.

- 30.7 No payment made by the School District under this Contract, or partial or entire use or occupancy of the Work by the School District, will constitute an acceptance of Work not in accordance with the requirements of the Contract Documents.
- 30.8 By issuing any certificate, the School District's Representative and the School District do not guarantee, or otherwise become liable or responsible in any way for, the correctness or completeness of the Work, including the Design, and no certificate makes the School District's Representative or the School District in any way responsible or liable for adequacy of the Design or for the Work, all of which remain the responsibility of the Contractor.
- 30.9 As of the date of Total Completion, the Contractor expressly waives and releases of the School District from all claims against the School District, including without limitation those that might arise from the negligence or breach of this Contract by the School District, except those made in writing prior to the Contractor's application for payment upon Total Completion and still unsettled.
- 30.10 In the event of conflict between the provisions of this GC30 and any other GC or the Contract, the provisions of this GC30 govern.
- 30.11 Without limiting any other withholding or set-off under this Contract, the School District may deduct from any payment to the Contractor under this Contract the amount paid by the School District to put the Contractor into the compliance with the Insurance Conditions if the Contractor has defaulted in complying with the Insurance Conditions.

GC31 RECORD DRAWINGS

- 31.1 Before issuance of the certificate of Total Completion, the Contractor will provide to the School District the following:
 - (a) 2 complete sets of paper print Record Drawings and Specifications, signed and sealed by the Contractor's Consultant, showing the as-built Work and identified in bold letters with the words "CERTIFIED AS-BUILT"; and
 - (b) 2 complete copies of the Record Drawings on CD in AutoCAD DXF, AutoCAD DWG and Adobe PDF format.

PART D - CHANGES

GC32 DELAYS

- 32.1 If, in the opinion of the School District's Representative, the Contractor is delayed in performing a task or task on the critical path of the Work as a direct result of a failure of the School District to provide access to the Work Site, or a material breach by the School District of the terms of this Contract, then:
- (a) the Contract Time will be extended for such reasonable time as may be agreed by the School District and the Contractor, acting reasonably, and the Contractor will be reimbursed for any costs directly incurred by it as the result of such delay, determined in accordance with GC35 — Determination of Cost; or
 - (b) if the School District determines that the Target Substantial Completion Date can still be met and requests in writing that the Contractor accelerate the Work, the Contractor will accelerate its efforts to meet the Target Substantial Completion Date. The Contractor will be reimbursed for all reasonable and direct costs incurred by it as a result of undertaking such acceleration efforts.
- 32.2 If, in the opinion of the School District's Representative, the Contractor is delayed in performing a task or task on the critical path of the Work by an order issued by any court or public authority having jurisdiction, and providing that such order was not issued as the result of any act or fault of the Contractor or of anyone employed by it, then:
- (a) the Contract Time will be extended for such reasonable time as determined by the School District, acting reasonably, that is not less than the time that the critical path of the Work was delayed; or
 - (b) if the School District determines that the Target Substantial Completion Date can still be met and requests in writing that the Contractor accelerate the Work, the Contractor will accelerate its efforts to meet the Target Substantial Completion Date. The Contractor will be reimbursed for all reasonable and direct costs incurred by it as a result of undertaking such acceleration efforts.
- 32.3 If, in the opinion of the School District's Representative, the Contractor is delayed in performing a task or task on the critical path of the Work by an event of Force Majeure, then:
- (a) the School District will extend the Contract Time for such reasonable time as determined by the School District, acting reasonably, but in no case will such an extension of time be less than the time of delay in the critical path of the Work as a result of the event of Force Majeure causing the delay, unless a shorter extension of time is agreed to by the Contractor; or

- (b) if the School District determines that the Target Substantial Completion Date can still be met and requests in writing that the Contractor accelerate the Work, the Contractor will accelerate its efforts to meet the Target Substantial Completion Date. The Contractor will be reimbursed for all reasonable and direct costs incurred by it as a result of undertaking such acceleration efforts.
- 32.4 If the Contractor is delayed in the performance of the Work for any reason other than that for which an extension of time is permitted under this GC32 or if the Contractor does not perform the Work substantially in accordance with the Time Schedule to meet the Target Substantial Completion Date, the Contractor will at its cost accelerate the Work to meet the Target Substantial Completion Date.
- 32.5 The Contractor is not entitled to any extension of time or any reimbursement of costs for delay under this GC unless written notice is given to the School District not later than 7 days of the date that the Contractor becomes aware of the event causing the delay, but in the case of a continuing cause of delay, only 1 notice is necessary.
- 32.6 In the case of any delay under GC32.1, GC32.2 or GC32.3 the Contractor will use commercially reasonable efforts to mitigate the costs and impacts of the delay including removing the cause of the delay as promptly as practicable such that the Time Schedule is maintained and that acceleration efforts, if requested by the School District, are minimized.

GC33 CHANGES IN THE WORK

- 33.1 The School District, without invalidating this Contract, may by written notice to the Contractor make changes to the scope of the Work by altering, adding to, or deducting from the Work, with the Contract Price and Contract Time being adjusted in accordance with GC34 — Valuation and Certification of Changes in the Work. The School District's Representative may issue any Change Order, which can include a stop Work order or resume Work order, to the Contractor's Representative or to any other person authorized by the Contractor to receive a Change Order.
- 33.2 No change to the scope of the Work will be made without a written order from the School District, and no claim for an addition or deduction to the Contract Price, or change in the Contract Time, will be valid unless so ordered and at the same time valued or agreed to be valued as provided for in GC34 — Valuation and Certification of Changes in the Work.
- 33.3 The School District's Representative may, at anytime, require the Contractor to assess the impact of a proposed Change Order on the Contract Price and the Time Schedule and the Contractor will provide such impact assessment and the School District's Representative and the Contractor will agree to changes to Contract Price as set out in GC34 — Valuation and Certification of Changes in the Work and the Time Schedule, failing which the Dispute will be resolved in accordance with the provisions of GC49 — Dispute Resolution.

GC34 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK

34.1 The value of any change in the Work will be determined by one or more of the following methods:

- (a) by estimate and acceptance in a lump sum; or
- (b) by unit prices or fee rates agreed upon.

34.2 The following process will be followed for changes in the Work:

- (a) when a change in the Work is proposed or required by the School District, the Contractor will promptly, and in any case within 10 days after the change in the Work is proposed or required by the School District, present to the School District its claims for any change to the Contract Price or change in the Contract Time, or both, which arise from the change. Where the Contractor claims a change in Contract Time, the Contractor will provide full cost and other information regarding an option to accelerate the Work to achieve the Target Substantial Completion Date; and
- (b) when the School District and Contractor agree to the change in the Work, including adjustments in the Contract Price and Contract Time, the basis of payment on a milestone or progress basis, or to the method to be used to determine the adjustments, such change will be effective when recorded in a written document executed by the School District and Contractor (the “Change Order”).

The School District may also specify other processes for changes in the Work or contemplated changes in the Work and the Contractor will comply with those processes.

34.3 In the case of changes in the Work to be paid for under GC34.2(b), the form of presentation of costs and methods of measurement will be agreed to by the School District and the Contractor before proceeding with the change. The Contractor will keep accurate records of quantities or costs as agreed upon and will present an account of the costs of the change in the Work, together with vouchers where applicable, at least once each month during performance of the change in the Work, and will present a final account upon completion of the change in the Work.

34.4 If the methods of valuation, measurement and value of any change cannot be promptly agreed upon, and in any case within 7 days after the proposed change, and the change is required by the School District to be proceeded with, then the change in the Work will be performed by the Contractor and the value of the change will be determined in accordance with the Dispute resolution process described in GC49 — Dispute Resolution.

34.5 It is intended in all matters involving changes in the Work that both the School District and the Contractor will act promptly and in accordance with the times set out in this GC34.

GC35 DETERMINATION OF COST

- 35.1 Subject to GC35.2 whenever it is necessary for the purposes of this Contract to determine the cost of labour, equipment or material, the cost of such labour, equipment or material will be the amount agreed upon by the Contractor and the School District from time to time within a reasonable time after the issue arises in any given instance.
- 35.2 If the Contractor and the School District cannot agree as to the cost of labour, equipment or material as contemplated in GC35.1, the cost of labour, equipment or material for the purposes of these GCs will be equal to the aggregate of:
- (a) all reasonable and proper amounts actually expended by or legally payable by the Contractor in respect of the labour, equipment or material which fall within 1 of the classes of expenditures described in GC35.3, (being costs which are directly attributable to the performance of the Work and are not costs in respect of which the allowance in GC35.2(b) is made); plus
 - (b) a markup for overhead of 10% and a markup for profit of 5%.
- 35.3 Classes of expenditure that are allowable for the purposes of GC35.2 are:
- (a) payments to the Contractor's Consultant or Subcontractors that comply with GC35.2(a), but, notwithstanding GC35.2(b), the percentage applied to such payments to the Contractor's Consultant and Subcontractors will for the purposes of GC35.2(b), be 5%;
 - (b) wages, salaries and traveling expenses of employees of the Contractor while they are actually and properly engaged on the Work, other than wages, salaries, bonuses, living and traveling expenses of personnel of the Contractor generally employed at the head office, or at a general office, of the Contractor unless such personnel is engaged at the Work Site, with the approval of the School District;
 - (c) payments for materials necessary for and incorporated in the Work or necessary for and consumed in the performance of the Work;
 - (d) payment for equipment necessary for and incorporated in the Work;
 - (e) payments for tools, other than tools customarily provided by tradespersons, necessary for and used in the performance of the Work;
 - (f) payments for preparation, inspection, delivery, installation, commissioning and removal of equipment and materials necessary for the performance of the Work;
 - (g) assessments payable under any statutory scheme relating to workers compensation, unemployment insurance, or holidays with pay;
 - (h) payments for renting equipment (but not tools), allowances for equipment (but not tools) owned by the Contractor, necessary for the performance of the Work,

provided that such payments or allowances are reasonable or have been agreed to by the Contractor and the School District; and

- (i) other payments, made with the prior approval of the School District, that are necessary for the performance of the Work, as determined by the School District in its sole discretion.

PART E - DEFAULT AND TERMINATION

GC36 DEFAULT & TAKING WORK OUT OF THE CONTRACTOR'S HANDS

- 36.1 Without limiting GC37 — Suspension of Work, Termination for Convenience, if the School District's Representative determines that the Contractor has neglected to perform the Work in accordance with the School District Requirements, the Design or the Standards, or has failed to comply with any obligation under this Contract, including failing to adhere to the Time Schedule, the School District may notify the Contractor in writing that the Contractor is in default and if the School District so instructs, the Contractor will correct the default within 7 days after receiving the notice.
- 36.2 If correction of the default cannot be completed within the 7 days, the Contractor will be considered to be in compliance with the School District's instructions if it does all of the following:
 - (a) commences correction of the default within the specified time;
 - (b) provides the School District with a schedule for correction acceptable to the School District's Representative; and
 - (c) completes the correction in accordance with the accepted schedule.
- 36.3 If the Contractor fails to comply with GC36.1 or GC36.2, the School District may, without prejudice to any other right or remedy it may have, take all or part of any of the Work out of the Contractor's hands and may employ such means as the School District determines are appropriate to make good the default or complete the Work, or both.
- 36.4 If the School District takes all or part of any of the Work out of the Contractor's hands, the School District will be entitled to:
 - (a) charge the Contractor the amount of the full cost of finishing such Work plus a reasonable allowance to cover the cost of correcting Work pursuant to GC25 - Warranty and deduct such amount from the unpaid balance of the Contract Price and, if such amount is less than the unpaid balance of the Contract Price, the School District will pay the Contractor the difference; and
 - (b) on expiry of the Warranty Period charge the Contractor the amount of the cost of corrections to the Work pursuant to GC25 — Warranty and deduct such amount

from any allowance provided for such corrections, and if such amount is less than the allowance, pay the Contractor the difference.

- 36.5 Despite GC36.4, where the Work or any portion thereof has been taken out of the Contractor's hands under GC36.3 and the portion is subsequently completed by a surety under a bond provided by the Contractor under this Contract, or by the School District, the School District may determine the amount, if any, due and payable but not paid at the time of taking the Work out of the Contractor's hands that is not necessary to hold the School District harmless from all cost, loss and damage suffered by the School District by reason of the default of the Contractor and by reason of non-completion of the Work by the Contractor, and the School District may, if no financial prejudice to the School District will result, pay that amount to the Contractor.
- 36.6 The taking of the Work, or any portion thereof, out of the Contractor's hands pursuant to GC36.3 does not relieve or discharge the Contractor from any obligations under this Contract or imposed upon it by any Standards, except the obligation to perform the portion of the Work so taken out of its hands.

GC37 SUSPENSION OF WORK, TERMINATION FOR CONVENIENCE

- 37.1 Notwithstanding that the Contractor may not be in default of the terms of this Contract, if conditions arise which in the School District's reasonable opinion make it necessary, the School District may suspend performance of the Work or terminate this Contract by giving 5 days written notice to that effect to the Contractor and the suspension or termination is effective in the manner specified in the notice.
- 37.2 Without limiting GC37.1, the School District's Representative may, if it determines that there is an emergency, by notice to the Contractor, do either or both of the following:
- (a) suspend the Work whenever in its opinion such suspension may be necessary to ensure the safety or life of others or of the Work or neighbouring property; or
 - (b) make changes in the Work, and order, assess and award the cost of such changes that are extra to the Contract Price in accordance with GC34 – Valuation and Certification of Changes in the Work and GC35 – Determination of Cost as determined to be necessary.
- 37.3 The School District's Representative will within 2 Business Days after a change under GC37.2(b), confirm in writing any change instructions and if a change in the Work has been performed by order of the School District's Representative, the Contractor retains its right to claim the value of such change in the Work.
- 37.4 The Contractor upon receiving notice of suspension or termination from the School District will immediately suspend all operations except those, which, in the Contractor's reasonable opinion, are necessary to ensure the safety of personnel and the public or for the care and preservation of the Work and materials. Subject to any directions in the notice of suspension or termination, the Contractor will discontinue ordering materials, will not enter into any further subcontracts (except such subcontracts as are necessary for

the safety of personnel or for the care and preservation of the Work), and will make every reasonable effort in the event of termination to cancel existing subcontracts and orders on the best terms available.

- 37.5 During the period of suspension the Contractor will not remove from the Work Site any of the Work, or any material, without the prior written consent of the School District's Representative.
- 37.6 If the period of suspension is 30 days or less, the Contractor, upon the expiration of the period of suspension, will resume the performance of the Work and will be paid for all costs reasonably incurred by the Contractor in complying with the suspension, determined in accordance with GC35 — Determination of Cost and for costs reasonably incurred for acceleration of the Work so that Substantial Completion of the Work are achieved by the Target Substantial Completion Date where the School District requires such acceleration by written notice to the Contractor.
- 37.7 If the period of suspension is greater than 30 days and, before 120 days after the date of the notice of suspension, the School District and the Contractor agree to continue with and complete the Work, the Contractor will resume operations and complete the Work in accordance with any terms and conditions agreed upon by the School District and the Contractor.
- 37.8 If the period of suspension is greater than 30 days and the School District and the Contractor do not agree to continue with and complete the Work, or they fail to agree on the terms and conditions upon which the Contractor is to resume operations and complete the Work, before 120 days after the date of the notice of suspension, this Contract will be deemed to have been terminated.
- 37.9 If this Contract is terminated pursuant to this GC37, the School District will pay the Contractor:
- (a) in accordance with the Contract Documents, for all Work performed and for all of the Contractor's obligations under subcontracts which it was unable to cancel, or asked by the School District not to cancel, less any payments made by the School District prior to termination; and
 - (b) all costs reasonably incurred by the Contractor in complying with the suspension or termination order, determined in accordance with GC35 — Determination of Cost, less any costs already paid to the Contractor pursuant to GC37.6.
- 37.10 The Contractor's obligations as to quality, correction and warranty of any Work performed continue in force after termination under this GC37.
- 37.11 The Contractor, by giving written notice to the School District, may suspend performance of the Work or terminate this Contract if the Work is stopped for a period in excess of 30 days by an order of any court or public authority having jurisdiction through no act or fault of the Contractor or of anyone employed by it.

GC38 DEFAULT AND TERMINATION OF CONTRACT

- 38.1 The School District may give notice to the Contractor of default under this Contract if the Contractor:
- (a) is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency;
 - (b) abandons the Work;
 - (c) refuses or fails to supply sufficient properly skilled workers or proper material after 7 days' written notice from the School District;
 - (d) fails to make prompt payment when due to its Subcontractors, suppliers or workers;
 - (e) has delivered a Statutory Declaration in support of application for a payment under this Contract that the School District's Representative, acting reasonably, determines was false or materially inaccurate;
 - (f) breaches the provisions of this Contract, including by failing to adhere to the Time Schedule or by failing to construct the Work in accordance with the Contract Documents;
 - (g) neglects to construct the Work in accordance with the Design; or
 - (h) has made an assignment of this Contract without the required consent of the School District.
- 38.2 On the happening of a default, other than a default referred to in GC38.1(a) or 38.1(b), the School District's Representative may waive the default, or specify in writing a 7 day rectification period within which the Contractor will remedy the default.
- 38.3 If a default referred to in GC38.1(a) or 38.1(b) occurs or if the Contractor does not rectify any other default referred to in GC38.2 within the 7 day rectification period, the School District may suspend the Work or terminate this Contract, without prejudice to any other right or remedy the School District may have.
- 38.4 If the School District terminates this Contract under GC38.3, the Contractor will not be entitled to any further payment, and without limiting any other remedies available to the School District, the School District may charge the Contractor the amount by which the full cost of completing the Work, as certified by the School District's Representative (including compensation to the School District's Representative for its additional services and a reasonable allowance as determined by the School District's Representative to cover the cost of any corrections required by GC24 — Rejected Work), exceeds the unpaid balance of the Contract Price.

38.5 The rights, powers, and remedies conferred on the School District under this Contract are not intended to be exclusive but are cumulative and are in addition to and not in substitution for any other right, power and remedy existing under this Contract, under any other Contract, at law or in equity. The exercise by the School District of any right, power or remedy does not preclude the simultaneous or later exercise by the School District of any other right, power or remedy.

GC39 TERMINATION BY THE CONTRACTOR

39.1 The Contractor may by giving written notice to the School District's Representative, declare the School District in default of this Contract for any of the following reasons:

- (a) the School District has failed to pay the Contractor within 30 days of the date that any payment becomes due to the Contractor in accordance with the terms of this Contract, unless the School District is bona fide disputing liability to make such payment and has provided notice to the Contractor of the basis for its dispute before the time provided in GC27.7 for payment of invoices; or
- (b) the School District has failed to substantially supply the Work Site to the Contractor, subject to any property availability restrictions identified in this Contract, within 180 days following the Site Occupation Date proposed by the Contractor and accepted by the School District in the Time Schedule or otherwise amended pursuant to this Contract.

39.2 On the happening of a default by the School District referred to in GC39.1, the Contractor will either waive the default or specify in writing a 21 day rectification period within which the School District will remedy the event of default.

39.3 If the School District fails to remedy the default within the rectification period or any extension thereof established in accordance with GC39.2, the Contractor may:

- (a) further extend the rectification period;
- (b) suspend the Work;
- (c) terminate this Contract; or
- (d) within 7 days of the end of the rectification period provide notice to the School District, in writing, that it waives the default, that it further extends the rectification period or that it terminates the Contract.

39.4 If the Contractor terminates this Contract in accordance with GC39.3(c), the Contractor is entitled to be paid:

- (a) in accordance with the terms of this Contract for all Work satisfactorily performed to the date of termination; and

- (b) expenses of the Contractor which are directly related to the termination and reasonable in the circumstances including the Contractor's obligations to other parties.

PART F - REPRESENTATIONS, WARRANTIES AND INDEMNITIES

GC40 REPRESENTATIONS AND WARRANTIES

40.1 The Contractor covenants, represents, and warrants to the School District as of the date of this Contract and at all times throughout the Term that:

- (a) all necessary proceedings have been taken to authorize the Contractor to enter into this Contract and to execute and deliver this Contract;
- (b) the Contract has been properly executed by an authorized signatory of the Contractor and is enforceable against the Contractor in accordance with its terms;
- (c) the Contractor has filed all tax, corporate information, and other returns required to be filed by all Laws, has complied with all workers' compensation legislation and other similar legislation to which it is subject, and has paid all taxes, fees, and assessments due by the Contractor under those laws as of the reference date of this Contract, except for Lien Holdback monies properly retained, payments deferred by Contract, and accounts withheld by reason of legitimate dispute;
- (d) the Contractor holds all permits, licences, consents, and authorities issued by any level of government, or any agency of any level of government, that are required by all Laws to conduct its business and perform the Work;
- (e) the Contractor has paid and will pay punctually, as they become due, all accounts, expenses, wages, salaries, taxes, rates, fees and assessments required to be paid by it on any of its undertakings and will so do in respect of the Work and fulfillment of its obligations under this Contract;
- (f) the Contractor acknowledges that the investigations made by the School District of the conditions of the Work Site, including subsurface conditions, are of a preliminary nature and are made for the purpose of study and preliminary design for the sole benefit of the School District only except for objective geotechnical data which can be relied upon by the Contractor for accuracy but not interpretation, sufficiency or relevance;
- (g) any statement, representation, or information, whether oral or written, made, furnished, or given by the Contractor's directors, officers or agents or the Contractor's Representative to the School District or any of its representatives or consultants in connection with this Contract is materially correct and accurate;

- (h) the Contractor has no knowledge of any fact that materially adversely affects or, so far as it can foresee, might materially adversely affect either its financial condition or its ability to fulfill its obligations under this Contract;
- (i) there is no bona fide proceeding pending or threatened against the Contractor, which would, if successful, materially adversely affect the ability of the Contractor to fulfill its obligations under this Contract;
- (j) the Contractor is not in breach of any law, by-law, or regulation that is material to performance of the Contractor obligations under this Contract;
- (k) the Key Personnel, or any substitute with equivalent qualifications proposed by the Contractor who have been first been expressly accepted in writing by the School District, will be available and fully involved in the performance of the Work;
- (l) the Contractor acknowledges that it has the responsibility for informing itself of all aspects of the Project and all information necessary to perform the Work; and
- (m) the Contractor is registered for the purposes of the goods and services tax under the Excise Tax Act (Canada) under the number set out on the first page of this Contract.

40.2 The School District covenants, represents, and warrants to the Contractor that:

- (a) it has been properly constituted pursuant to applicable legislation;
- (b) it has been properly authorized to fulfill the obligations of the School District under this Contract; and,
- (c) it has the power, capacity and authority to enter into this Contract and to carry out its obligations under this Contract.

GC41 PROTECTION OF WORK AND PROPERTY

41.1 The Contractor will protect the Work Site and the property adjacent to the Work Site from damage and, without limiting GC43 – Indemnification, will hold the School District harmless from any claims which may arise as the result of its operations under this Contract, or from its failure to provide such protection, or both.

41.2 The Contractor will protect the Work and the School District's property on the Work Site from damage. The Contractor will also be responsible for any damage which may arise as the result of its operations under this Contract except damage which occurs as the result of actions of the School District, its agents, employees or Other Contractors.

41.3 Should any damage occur to the Work or the School District's property, or both, for which the Contractor is responsible, it will make good such damage at its own expense or pay all costs incurred by others in making good such damage.

- 41.4 Should any damage occur to the Work or the School District's property, or both, for which the Contractor is not responsible, it will make good, at the School District's expense, such damage to the Work and, if the School District so directs, to the School District's property, and the Contract Price and Contract Time will be adjusted in accordance with GC33 — Changes in the Work and GC34 — Valuation and Certification of Changes in the Work.

GC42 DAMAGES AND MUTUAL RESPONSIBILITY

- 42.1 If either party to this Contract should suffer damage in any manner because of any wrongful act or neglect of the other party or of anyone for whom the other party is responsible in Law, then that party will be reimbursed by the other party for such damage. The reimbursing party will be subrogated to the rights of the other party in respect of such wrongful act or neglect if it be that of a third party.
- 42.2 Claims for damage under GC42.1 will be made in writing to the party liable within reasonable time after the first observance of such damage and if undisputed will be confirmed by Change Order. Disputed claims will be resolved as set out in GC49 — Dispute Resolution.
- 42.3 If the Contractor has caused damage to the work of an Other Contractor, the Contractor agrees upon due notice to settle with the Other Contractor by negotiation or arbitration. If the Other Contractor makes a claim against the School District on account of damage alleged to have been so sustained, the School District will notify the Contractor and may require the Contractor to defend the action at the Contractor's expense. The Contractor will satisfy any final order or judgment against the School District and will pay the costs incurred by the School District, including legal costs on a solicitor and own client basis, arising from such action.
- 42.4 Under no circumstances will the Contractor be entitled to any compensation or payment not specifically provided for in the Contract including, without limitation, any payment for loss of profits or consequential damage or loss.

GC43 INDEMNIFICATION

- 43.1 The Contractor will indemnify and save harmless and assume the defence of the School District, the Province and their respective officers, employees, representatives (including the School District's Representative and the Progress Monitor), consultants and agents (collectively the "Indemnified Parties"), from and against any and all losses, claims, damages, actions, causes of action, costs and expenses that any of the Indemnified Parties may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Contract, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act, omission, negligence or misconduct of the Contractor or of any representative, agent, employee, officer, director, consultant or Subcontractor of the Contractor, excepting only liability to the extent arising out of the independent negligent acts of the Indemnified Parties.

- 43.2 The Contractor agrees that all indemnities under the Master Agreement in favour of the School District and its officers, employees, representatives (including the School District's Representative), consultants and agents may be enforced directly against the Contractor. The Contractor agrees that all indemnities under this Contract in favour of the Province and its officers, employees, representatives (including the Progress Monitor), consultants and agents may be enforced directly against the Contractor.
- 43.3 GC43 — Indemnification will govern over the provisions of GC42 — Damages and Mutual Responsibility.
- 43.4 Notwithstanding the obligation of the Contractor to assume the defence of any claims or action against the School District under GC43.1, the School District may retain its own counsel to represent it, and the Contractor will reimburse the School District for the actual cost of that counsel including all fees and disbursements.
- 43.5 The obligations of the Contractor under this GC43 — Indemnification will not be affected by completion or termination of this Contract, whether for default or otherwise, or suspension of the Work or any withdrawal of services or labour from the Project.
- 43.6 Neither the requirement of the Contractor to purchase and maintain insurance as described in the Insurance Conditions nor the acceptance of evidence of such insurance by the School District will, in any manner, limit or qualify the right of the School District to make a claim and recover insurance proceeds under the insurance policies described in the Insurance Conditions or the liability and obligations otherwise assumed by the Contractor under this Contract.

GC44 CONTRACTOR'S DISCHARGE OF LIABILITY

- 44.1 The Contractor will discharge all liabilities incurred by it, including for labour, equipment, materials or services used or reasonably required for use, in the performance of this Contract, on or before the date each becomes due.
- 44.2 The Contractor will include as a condition of every Subcontract that the Subcontractor discharge all liabilities incurred by it, including for labour, equipment, materials, supplies or services used or reasonably required for use, in the performance of the Subcontract, on or before the date upon which each becomes due.
- 44.3 The Contractor will furnish the School District with satisfactory evidence that its liabilities and those of Subcontractors have been discharged, such satisfactory evidence to be a Statutory Declaration sworn by a knowledgeable officer or senior management employee of the Contractor or Subcontractor, as the case may be, or such other evidence as the School District may require.
- 44.4 The Contractor will not directly or indirectly create, incur, assume or allow to be created by any of its Subcontractors, labourers or suppliers any lien, charge or encumbrance on the Work Site, Project or any part thereof or interest therein. The Contractor will immediately notify the School District of any lien, charge or encumbrance asserted upon the Work Site, the Project or any part thereof.

PART G - CONTRACT SECURITY, RECORDS, REPORTS AND AUDIT

GC45 BOND AND INSURANCE

- 45.1 The Contractor will prior to commencement of the Work furnish a performance bond in a sum equal to 50% of the total Contract price. The bond must be issued by a surety company acceptable to the School District and authorized to transact the business of suretyship in British Columbia and will be maintained in good standing until the fulfillment of the Contract. The surety bond is to be held by the School District to guarantee the Contractor's performance of the Contract.
- 45.2 The Contractor will pay for and maintain the bond in force during the Term.
- 45.3 If the surety notifies either party that the bond described in GC45.1 is or is going to be terminated or cancelled for any reason whatsoever, the Contractor will obtain and provide the School District's Representative with a valid bond effective from the date of termination or cancellation of the original bond which comply with the bonding requirements of this Contract.
- 45.4 The Contractor will, as part of the Contract Price, obtain and maintain during the Term the insurance required by the Insurance Conditions, and otherwise will comply with the Insurance Conditions.
- 45.5 Before beginning the Work, the Contractor will deliver to the School District certified copies of all insurance coverage obtained by the Contractor in accordance with the Insurance Conditions, or such other proof of that insurance as is satisfactory to the School District, acting reasonably.
- 45.6 The School District's Representative may require the Contractor to obtain the written consent of the insurer or surety or both to any Change Order.
- 45.7 The Contractor will notify its surety and insurer of any event or circumstances, including but not limited to a change to the Scope of Work or change to the Time Schedule that could result in such event or circumstances not being covered under the bond or insurance and update its bond or insurance coverage accordingly.
- 45.8 If an issuing company notifies either party that they decline consent or coverage for any Change Order or change to Scope of Work, the Contractor will obtain and provide the School District's Representative with valid additional bond or insurance, satisfactory to the School District's Representative and complying with bonding requirements for the bond as set out in this GC45 and the Insurance Conditions covering the Work specified in the Change Order, which comply with this Contract.
- 45.9 In addition to any obligation the Contractor may have to notify any insurer or insurers or any regulatory agency, the Contractor will give written notice to the School District's

Representative at such address as the School District or School District's Representative may from time to time direct in writing:

- (a) of any material accident or occurrence during occupation of the Work Site by the Contractor until the issuance of the Total Completion Certificate, enclosing pertinent details of the accident or occurrence, within 7 days from the date on which the accident or occurrence arises or occurs;
- (b) any professional liability or errors and omissions claims; and
- (c) within 14 days following final disposition of any material accident, occurrence, or claim enclosing pertinent details.

GC46 RECORDS

46.1 The Contractor will, in connection with this Contract:

- (a) establish and maintain, at a location within British Columbia, accurate books of account and records (including supporting documents) to the satisfaction of the School District's Representative;
- (b) forthwith following the request of the School District's Representative, give written particulars of the location of the books of account and records; and
- (c) permit the School District or its consultants and representatives at any time during normal business hours, to copy or audit any one or more of the books of account or records (including supporting documents),

for 6 years following the Total Completion Date or until the date any proceeding, claim, Dispute, audit, arbitration, or litigation arising in connection with this Contract is resolved or completed, whichever is later.

46.2 The Contractor will permit the School District and its consultants and representatives at all reasonable times during the Term to inspect and copy any or all of the material and documentation relating to the Project.

GC47 REPORTS

47.1 The Contractor will, upon the request of the School District's Representative:

- (a) fully inform the School District's Representative of Work done and to be done by the Contractor and, if requested by the School District's Representative, submit that information in writing; and
- (b) permit the School District's authorized representatives or consultants at all reasonable times to inspect and copy any findings, data, specifications, drawings, working papers, reports, documents and material whether complete or otherwise

that have been produced, received or acquired by the Contractor or provided by or on behalf of the School District to the Contractor as a result of the Contract.

GC48 AUDIT

48.1 The School District may, in its discretion, have its authorized representatives or consultants conduct an audit of all books and records of the Contractor that, in any way, relate to the Project or to any claim or Dispute and has all powers necessarily incidental to conducting an audit including, without limitation, the right to inspect and take copies of the books and records of the Contractor in connection with this Contract upon reasonable notice and at reasonable times.

48.2 Without limiting the generality of GC48.1 and subject to Laws respecting privacy, the Contractor will make available to any authorized representatives or consultants of the School District all information concerning the Project including, without limitation, the following:

- (a) diaries, daily time sheets, supervisors' daily reports;
- (b) insurance, welfare, and benefits records;
- (c) payroll registers and tax forms;
- (d) invoices and requisitions;
- (e) cost distribution worksheets;
- (f) equipment records (including, without limitation, hours of use and distribution);
- (g) invoices from vendors, rental agencies, Subcontractors and agents;
- (h) payment certificates of Subcontractors and agents; and
- (i) cancelled cheques (payroll and vendors).

Without limiting the generality of GC48.1, the Contractor will make available to any authorized representative of the School District all information and documents relating to each Dispute that fully supports entitlement to any claim or Dispute including all information and details regarding the magnitude of any claim or Dispute including worksheets used to establish the cost components for all items of each claim or Dispute.

48.3 The Contractor will fully cooperate with the School District to conduct an audit pursuant to this GC48.

PART H - DISPUTE RESOLUTION

GC49 DISPUTE RESOLUTION

- 49.1 If a Dispute arises, the Contractor will abide by the School District's Representative's decision with respect to the Dispute, diligently proceed with the Work, and closely track all costs and impacts associated therewith while reserving its rights to claim or dispute the instructions or the School District's position concerning the Dispute.
- 49.2 The School District and the Contractor will:
- (a) make bona fide efforts to resolve any Dispute arising between them by amicable negotiations; and
 - (b) provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate the resolution of any claim or Dispute.
- 49.3 In order to facilitate the negotiations in GC49.2(a), the Contractor will provide full written particulars of the nature, entitlement and magnitude of any claim or Dispute and any request for an extension of time being sought and the School District will provide a description of its position to the Contractor with respect to such claim or Dispute, any claim advanced by the School District or any Dispute including the provisions of the Contract relied upon and any relevant facts, information and documents.
- 49.4 Within 7 days of a Dispute arising, the Contractor's Representative or School District's Representative, as the case may be and provided the parties have received all information requested pursuant to GC49.2(b) and GC49.3, will give the other party written notice of the Dispute and the Contractor's Representative and the School District's Representative will use bona fide efforts as identified by GC49.2(a) to resolve the Dispute.
- 49.5 If the School District's Representative and the Contractor's Representative fail to resolve the Dispute within 10 days after receipt of the notice pursuant to GC49.4, the parties will refer the Dispute and all information to the School District Secretary Treasurer and the nominated senior officer of the Contractor for resolution.
- 49.6 If the School District Secretary Treasurer and the nominated senior officer of the Contractor fail to resolve the Dispute within 10 days after the Dispute has been referred to them, the Dispute will be referred to a single arbitrator and finally resolved by binding arbitration under the rules of the British Columbia Mediation and Arbitration Institute.
- 49.7 The arbitrator will be chosen by mutual agreement between the Contractor and the School District. If an arbitrator has not been appointed within 14 days of the date that the Dispute has been referred to an arbitrator pursuant to GC49.6, the arbitrator will be appointed by the British Columbia Mediation and Arbitration Institute.

- 49.8 Any of the times specified in this GC49 may be varied by mutual agreement between the Contractor's Representative and the School District's Representative. In addition, the School District and the Contractor may by written agreement vary the requirements of this GC49, including to provide for resolution of the Dispute through mediation.
- 49.9 If required by the School District, resolution of a Dispute will be consolidated with resolution of any other dispute under the Master Agreement or any other Modular Classroom Contract (as that term is defined in the Master Agreement).
- 49.10 Pursuit of the resolution of a Dispute under any part of this GC49 does not relieve either party of its responsibility to ensure timely performance of its obligations under this Contract.

PART I - GENERAL PROVISIONS

GC50 LAWS, NOTICE, PERMITS AND FEES

- 50.1 The Contractor will perform the Work in accordance with all Standards and will comply with all Laws that may affect or relate to the Work.
- 50.2 Except for a permit or licence that is specifically identified in the Order Summary as the responsibility of the School District, the Contractor will apply and pay for all necessary permits and licences required for the performance of the Work. The Contractor will give all necessary notices and pay all fees required by Law and comply with all Standards.
- 50.3 Except for an approval that is specifically identified in the Order Summary as the responsibility of the School District, the Contractor will obtain all necessary municipal approvals and approvals from relevant ministries of the government of the Province of British Columbia, and relevant departments of the government of Canada.
- 50.4 With regards to any permit, licence or approval that is specifically identified in the Order Summary as the responsibility of the School District, the Contractor will:
- (a) cooperate with the School District in obtaining the permit, licence or approval; and
 - (b) provide all required assistance to the School District to obtain the permit, licence or approval.
- 50.5 All Laws in force in British Columbia, as amended from time to time, govern the Work and the Contract Documents will be deemed to include any such Laws in force, as amended from time to time.

GC51 INTELLECTUAL PROPERTY FEES

51.1 The Contractor will obtain and pay for all intellectual property rights (including of any patent, copy right, industrial design, trademark or trade secret) all royalties and licence fees required for the performance of the Contractor and will, without limiting GC43 – Indemnification, indemnify and hold the Indemnified Parties harmless from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor’s performance of the Work under this Contract which are attributable to infringement or an alleged infringement of any intellectual property right by the Contractor or anyone for whose acts it may be liable.

GC52 COMMUNICATIONS AND CONFIDENTIALITY

52.1 The Contractor will treat as confidential and will not, without the prior written consent of the School District’s Representative, disclose or permit to be disclosed, any information, positions or arguments related in any way to any claims or Disputes that may arise out of this Contract.

52.2 The Contractor agrees and acknowledges that:

- (a) the School District is subject to the provisions of the Freedom of Information and Protection of Privacy Act and that the Contract Documents, the information they contain and any other information supplied by the Contractor to the School District in connection with the Project may be disclosed pursuant to that enactment. However, the Contractor may stipulate that any technical, scientific, commercial, financial or trade secret information supplied to the School District in connection with the Project is confidential for the purposes of that Act; and
- (b) the Contract Documents, and the information they contain and any other information supplied by the Contractor to the School District in connection with the Project, may be the subject of an access to information request made to the School District under the Freedom of Information and Protection of Privacy Act and that despite GC52.2(a), the School District may be obliged by that Act to disclose all or part of the Contract Documents or the information they contain or all or part of any information of the Contractor supplied to the School District in connection with the Project, whether or not the Contractor has expressly stipulated that the information in question is confidential for the purposes of that Act.

52.3 The Contractor will not make any public announcement relating to the Project or this Contract without the prior written consent of the School District’s Representative. The Contractor, with the prior written consent of the School District’s Representative, may include the Project in its promotional materials.

52.4 The Contractor acknowledges that the School District may, in its discretion and without consultation with the Contractor, make any public announcement relating to the Project.

52.5 The Contractor acknowledges that the School District may establish communications plans in relation to the Project, including for public announcements, traffic management, public consultation and stakeholder relations, and the Contractor will provide timely information and assistance to the School District.

GC53 LEGAL RELATIONSHIP

53.1 The Contractor is an independent contractor and not the servant, employee, partner or agent of the School District.

53.2 The Contractor will not commit the School District to the payment of any money to any person.

53.3 No partnership, joint venture, or agency involving the School District is created by this Contract or under this Contract.

53.4 All personnel engaged by the Contractor to design and construct the Project are at all times the employees or Subcontractors of the Contractor and not of the School District. The Contractor is solely responsible for all matters arising out of the relationship of employer and employee.

GC54 ASSIGNMENT

54.1 The Contractor will not, without the prior written consent of the School District's Representative, assign, either directly or indirectly, any right or obligation of the Contractor under this Contract.

54.2 The School District may, upon notice to the Contractor, assign any or all of its rights or obligations under this Contract to any third party.

54.3 This Contract continues to the benefit of and binds the School District and its assigns and the Contractor and its successors and permitted assigns.

GC55 LIMITATION FOR ACTIONS

55.1 The Contractor's right to commence any legal proceedings or any action against the School District for any matter arising directly or indirectly out of the performance or non-performance of the Contractor's or School District's obligations under the Contract:

- (a) only arises in respect of any Dispute after strict compliance with the dispute resolution provisions in this Contract set out in GC49 — Dispute Resolution; and
- (b) is subject to the waiver and release set out in GC30.9; and
- (c) will be absolutely barred upon the expiration of 24 months after the Total Completion Date.

55.2 The Contractor will not assert any claim, file or commence any legal proceeding or any action, or seek any other recourse against the School District's trustees, superintendent, officers, employees or agents.

GC56 WAIVER

56.1 No waiver by either party of a right of that party or any breach by the other party in the performance of any of its obligations under this Contract is effective unless it is in writing.

56.2 No waiver of any right or obligation is a waiver of any other right or obligation under the Contract.

56.3 Failure or delay to complain of an act or failure of the other party or to declare the other party in default, irrespective of how long the failure or delay continues, does not constitute a waiver by the party of any of its rights against the other party.

56.4 The duties and obligations imposed by this Contract and the rights and remedies available hereunder will be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

GC57 OTHER PROVISIONS

57.1 If any term of this Contract is held to be unenforceable by a court, that term is to be severed from this Contract and the rest of this Contract remains in force unaffected by the severance of that term.

57.2 All the indemnities and the obligations accruing thereunder and all terms of this Contract in favour of the School District and all rights and remedies of the School District, either at law or in equity, survive the expiry or earlier termination of this Contract.

57.3 This Contract is the entire agreement between the parties regarding its subject.

57.4 Time is of the essence of this Contract.

57.5 This Contract binds the parties to it and their respective successors, assigns and administrators.

57.6 The parties must do everything reasonably necessary to given effect to the intent of this Contract, including execution of further instruments.

57.7 The Contractor and the School District will take all reasonable and necessary steps to minimize and avoid all costs and impacts arising out of the performance of the Work and this Contract.

57.8 Neither the School District nor the Contractor will take advantage of any apparent discrepancy, ambiguity, error or omission in this Contract and will notify the other party

forthwith following the detection of anything it suspects may be an ambiguity, discrepancy, error or omission.

- 57.9 Each Schedule attached to the Contract is an integral part of the Contract as if set out at length in the body of the Contract.
- 57.10 This Contract may only be amended by an agreement of the parties in writing. No such amendments will be valid unless executed by the School District and the Contractor.
- 57.11 This Contract will be governed, construed and interpreted in accordance with the laws of the Province of British Columbia.
- 57.12 The Contractor hereby irrevocably attorns itself to the jurisdiction of the courts of the Province of British Columbia in all matters related to this Contract.

SCHEDULE D
INSURANCE CONDITIONS

1. The Contractor must, without limiting the Contractor's obligations or liabilities and at the Contractor's own expense, purchase and maintain throughout the Term the following insurances with insurers licensed in Canada in forms and amounts acceptable to the School District:

- (a) Commercial General Liability in an amount not less than \$10,000,000.00 inclusive per occurrence against bodily injury, personal injury and property damage and including liability for products and completed operations as well as any liability assumed under this Contract and this insurance must
 - (i) include the Province and the School District as an additional insured,
 - (ii) be endorsed to provide the Province and the School District with 30 days advance written notice of cancellation or material change, and
 - (iii) include a cross liability clause;
- (b) Professional Liability in an amount not less than \$2,000,000 per claim, insuring the Contractor's liability resulting from errors and omissions in the performance of professional services under this Contract and this insurance must be endorsed to provide the Province and the School District 30 days advance written notice of cancellation; and
- (c) Property insurance covering the Work, including the modular classrooms and any associated materials, throughout construction, delivery, installation and commissioning operations with a limit equal to the completed value of the Work and this insurance will remain in place until Substantial Completion and contain a waiver of subrogation against the Province and the School District.

2. All insurance described in section 1 of this Schedule must:

- (a) be primary; and
- (b) not require the sharing of any loss by any insurer of the Province or the School District.

3. The Contractor must provide the Province and the School District with evidence of all required insurance as follows:

- (a) within 10 Business Days of commencement of the Work, the Contractor must provide to the Province evidence of all required insurance in the form of a completed Province of British Columbia Certificate of Insurance;
- (b) if any required insurance policy expires before the end of the Term, the Contractor must provide to the Province and the School District within 10 Business Days of the policy's expiration, evidence of a new or renewal policy

meeting the requirements of the expired insurance in the form of a completed Province of British Columbia Certificate of Insurance; and

- (c) despite paragraph (a) or (b) above, if requested by the Province or the School District at any time, the Contractor must provide to the Province and the School District certified copies of the required insurance policies.

4. The Contractor must obtain, maintain and pay for any additional insurance which the Contractor is required by law to carry, or which the Contractor considers necessary to cover risks not otherwise covered by insurance specified in this Schedule in the Contractor's sole discretion.

**SCHEDULE E
KEY PERSONNEL**

The following are the Key Personnel:

- 1. [REDACTED] Senior Project Manager
- 2. [REDACTED] Project Director

**SCHEDULE F
PROPOSAL EXTRACTS**