The Agreement is amended as follows:

Add:

“ARTICLE A - 1A CONDITION PRECEDENT

It is a condition precedent to the Owner’s obligation to fulfil the terms and conditions of this Contract, but not to there being a binding agreement between the Owner and the Design-Builder, that B.C. Housing has issued a Loan Commitment for the Project. The Owner will provide to the Design-Builder a letter confirming that the Loan Commitment for the Project has been issued.”

ARTICLE A-1 DESIGN SERVICES AND THE WORK

Add:

“1.4 The Design-Builder shall properly design and fully construct the Work in accordance with B.C. Housing requirements, the requirements of all federal, provincial and local government authorities having jurisdiction and the rules and customs of best trade practice (meaning practice of the industry and not necessarily “local practice”) with the object of constructing modestly priced housing. Without limiting the generality of the foregoing, the Work shall include:

.1 the provision of all professional design and engineering services necessary to properly prepare fully detailed and professionally sealed plans and specifications which meet, as determined by B.C. Housing, the requirements of the applicable BC Housing Design and Construction Standards;

.2 inspection during and upon completion of construction by the Consultant to ensure conformance of the Work to the Contract Documents; and

.3 all necessary approvals, licences, permits, charges and certificates including the building permit for the Work.”
1.5 The Design-Builder shall at all times be fully responsible to the Owner for any errors, omissions, or deficiencies in the Contract Documents, including any revisions and addenda thereto and shall be fully liable for all direct, consequential and additional costs incurred by the Owner as a direct or indirect result of such errors, omissions or deficiencies.

1.6 At least Seven (7) calendar days prior to the commencement of construction, the Design-Builder shall deliver to the Owner all of the following:

.1 Proof of all necessary permits, licences, certificates and other authorizations required by all municipal, provincial or federal authorities, for the Work and proof of payment of all applicable fees;

.2 Certified copies of all insurance policies required by this Contract;

.3 The performance and labour and material payment bonds required by this Contract;

.4 A construction schedule satisfactory to the Owner as required by paragraph 3.6.1 of the Supplementary Conditions of the Contract including, in a graphic form, the proposed dates of commencement and completion of each of the various subdivisions of the Work, and corresponding to the breakdown of work shown on the schedule of values, as required by paragraph 5.2.4 of the Contract so as to facilitate evaluation of applications for payment;

.5 A schedule of values of the various parts of the Work as required by paragraph 5.2.4 of the Contract;

.6 A schedule of anticipated monthly progress payments as required by paragraph 5.2.5 of the Supplementary Conditions of the Contract;

.7 Proof that the Design-Builder has obtained Workers' Compensation Board registration and clearance;

.8 Proof that the Design-Builder is in compliance with all applicable Homeowner Protection Act regulations and requirements, including the following:

(1) proof that the Design-Builder has a residential builder licence (provide licence number and expiry date);

.9 A statutory declaration pursuant to B.C. Housing’s Conflict of Interest Guidelines.

1.7 The Design-Builder will give to the Owner a minimum of forty-five (45) calendar days' written notice that the Design-Builder will meet the date set in Article A-1 for Substantial Performance of the Work.

1.8 The Owner supports the provision of opportunities for work experience and training in the construction industry for entry level workers to trade apprentices. This includes recruitment from programs intended to grow skilled trades such as the Skilled Trades Employment
Program (STEP) and registration in programs committing employers to supply a safe and productive work environment such as the Builders Code.

The Design-Builder’s work force is required, where such programs exist, to include individuals placed through agencies such as Bladerunners and Embers that provide ongoing training and support to persons with barriers to employment. Individuals placed through these programs will be considered employees of the Design-Builder or Subcontractor. If no applicable program(s) exist within the geographic area of the Work the Design-Builder may seek a waiver from the Owner. The Owner, at its discretion, may require the Design-Builder or Subcontractor to provide sufficient evidence of the involvement of these employees in the Work.

1.9 The Owner is committed to reducing waste in all aspects of business. As such, construction and demolition (C&D) waste management targets have been set out in the BC Housing livegreen plan and BC Housing’s Design Guidelines and Construction Standards, and shall be tracked and reported. The minimum targets for C&D waste diversion from landfill in the Lower Mainland and on Vancouver Island projects is 80%, and 60% for projects elsewhere in the province. The Design-Builder shall submit the Waste Management Plan before signing the construction contract and is responsible for tracking waste diversion rates throughout the construction project and submission of the completed Waste Management Reporting Form. Refer to BC Housing’s Design Guidelines and Construction Standards.”

ARTICLE A-3 CONTRACT DOCUMENTS

3.1 Add the following:


Add:

“3.2: The Design-Builder acknowledges that it has reviewed and satisfied itself as to the Contract Documents, including without limitation, the plans, specifications, consultant reports, and other materials referred to in this Article, the observable site conditions, and all other materials it desires, prior to execution of this Contract. The Design-Builder agrees that, on execution of this Contract, the Design-Builder will assume full responsibility for completion of the Project, notwithstanding any defect or deficiency or incompleteness in any of the foregoing, it being acknowledged that, since this is intended to be a turnkey contract, the Design-Builder is taking the risk of any defects, deficiencies or incompleteness in any of the foregoing.”

ARTICLE A-4 CONTRACT PRICE

Add:

“4.6 The Contract Price includes all costs of the Work, including, without limitation, all costs incurred in the design and construction of the Work, whether foreseen or unforeseen, save and
except for those costs which are the responsibility of the Owner as specifically set out in this Contract, and the Contract Price shall include, without limitation:

.1 all professional design, engineering and construction services and products reasonably necessary to properly perform the Work and to permit the Project to operate as contemplated following Substantial Performance of the Work;

.2 all labour and materials;

.3 all permits, fees, licences and certificates of inspection and insurance in connection with the Work required by all authorities having jurisdiction including residential builder licensing fees, the building permit, the plumbing, electrical, sewer, water, and gas connections permits, and the gas, electricity and telephone service connection fees;

.4 all inspections required for specific warranty conditions;

.5 all inspections by all authorities having jurisdiction;

.6 all material testing required under bylaws, ordinances, rules, regulations, orders and approvals of all public authorities having jurisdiction;

.7 an updated survey of the Place of the Work prepared by a British Columbia Land Surveyor confirming the exact area of the property, the location of all registered easements or statutory rights of way, and confirming that the position of the buildings, including foundations and overhangs, building heights and finish grades comply with all municipal requirements;

.8 all required soils reports;

.9 a Project sign mutually agreed to between the Owner and the Design-Builder;

.10 all warranties required under the Contract;

.11 all bonds required under the Contract;

.12 all insurance required under the Contract;

.13 the construction or installation of all off-site services or payments in lieu thereof as may be required by all authorities having jurisdiction to be constructed or installed as a condition of the construction of the Project;

.14 two (2) complete sets of white prints and CAD file of all as built drawings for the Project; and

.15 all requirements of any subdivision, site plan, development or other agreement with the municipality.
4.7 The Design-Builder hereby releases and discharges the Owner from any and all liability for costs, delays and other damages incurred as a result of changes required by any authority having jurisdiction in order that the Work is in compliance with all applicable laws, regulations, guidelines, standards, ordinances and rules and the Design-Builder agrees:

.1 to bear all additional costs resulting therefrom in the performance of the Work; and

.2 that if there is any increase in development cost charges with respect to the Project, the Design-Builder will pay such increased charges."

ARTICLE A-5 PAYMENT

In paragraph 5.1, line 3, after the words “the Owner” add:

“, after receiving the prior written approval of B.C. Housing.”.

Add:

“ARTICLE A-9 THE CONSULTANT

9.1 The Design-Builder will provide the architectural and engineering services required for the Project through the Consultant and the Sub-Consultants. The Consultant and Sub-Consultants will be:

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<thead>
<tr>
<th>Consultant/Sub-Consultant</th>
<th>Full Legal Name</th>
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<tbody>
<tr>
<td>Consultant</td>
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<tr>
<td>Architect (if not the Consultant)</td>
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<tr>
<td>Certified Professional</td>
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<td>Electrical Engineer</td>
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<td>Mechanical Engineer</td>
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<td>Structural Engineer</td>
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<td>Geotechnical Engineer</td>
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<td>Landscaping Consultant</td>
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<td>Civil Engineer</td>
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<td>Surveyor</td>
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<td>Construction &amp; Project Manager</td>
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<tr>
<td>Management Consulting Professional</td>
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</table>
The Design-Builder shall not change any Sub-Consultant without cause and without the written consent of the Owner, which consent will not be unreasonably withheld. The Consultant shall not be changed excepted in accordance with paragraph 2.1.3 of GC 2.1.

The Design-Builder will ensure that the Consultant and all Sub-Consultants will sign an agreement and acknowledgement with the Owner in which such party:

1. agrees that, without regard to payment by the Design-Builder, the Owner, its successors and assigns, will have a licence to use the Contract Documents for the purposes of the Project and such party will act in an even handed fashion in the administration of the Contract; and

2. consents to an assignment to the Owner of the agreement between it and the Design-Builder effective on any default under this Contract by the Design-Builder, provided however that such party will not be obligated to provide services thereunder unless and until all payments then due thereunder are made in full, and the form of such agreement will be subject to the approval of both the Owner and B.C Housing. Notwithstanding such agreements, acknowledgements and assignments, the Design-Builder will remain fully liable for defects or deficiencies in the Work, even if the parties to such agreements and acknowledgements are also liable.

ARTICLE A-10 LIQUIDATED DAMAGES

10.1 If the Design-Builder fails to achieve Substantial Performance of the Work on or before the date set out in paragraph 1.3 of Article A-1 THE WORK, as may be adjusted in accordance with this Contract (the “Scheduled Substantial Performance Date”), the Design-Builder will pay to the Owner by way of liquidated damages and not as a penalty the sum of $[POPULATE] per day for each and every day after the Scheduled Substantial Performance Date that Substantial Performance of the Work is not achieved (or if the Owner has extended the Contract Time in accordance with this Contract, such other date established for the Scheduled Substantial Performance Date). The maximum aggregate amount of such liquidated damages will be ten percent (10%) of the Contract Price. If this Contract is terminated, the reference in this Article A-10 to the “Contract Price” will be deemed only for purposes of this Article A-10 to be the amount to which the Design-Builder would have been entitled if the Design-Builder had properly performed and completed the Work and this Contract had not been terminated. The liquidated damages will not relieve the Design-Builder from its obligation to complete the Work or from any other duties, obligations or responsibilities of the Design-Builder under this Contract, and will not limit the Owner’s rights to terminate this Contract for default of the Design-Builder under this Contract.

10.2 The Owner and the Design-Builder agree that the amount in Article A-10 represents a genuine pre-estimate of the damages and expenses that the Owner is likely to incur for such failure to meet the Scheduled Substantial Performance Date and both parties expressly agree that such amount is not a penalty. The Owner may, in its discretion, either deduct the daily sums in respect of liquidated damages from any amounts payable to the Design-Builder under this Contract or may require payment thereof by the Design-Builder on demand.
ARTICLE A-11 TIME OF THE ESSENCE

11.1 All time limits stated in this Contract are of the essence of the Contract.”

DEFINITIONS

Substantial Performance of the Work

Delete and replace with the following:

“Substantial Performance of the Work shall have been reached when:

.1 the Work is ready for use or is being used for the purpose intended and is so certified by the Consultant; and

.2 a Certificate of Completion has been issued for the Work as a whole.”

Other Consultant

Delete and replace with the following:

“Other-Consultant” means the person(s) or entity (entities) retained by the Design-Builder and identified as such in the Agreement. Other Consultant may be an architect, engineer or entity licensed to practice in British Columbia. The term Other Consultant means an Other Consultant or an Other Consultant’s authorized representative.”

Add New Definitions:

“B.C. Housing

B.C. Housing means the British Columbia Housing Management Commission and its authorized agents or representatives.

Builders Lien Act


Certificate of Completion

A Certificate of Completion is a certificate of completion as defined in the Builders Lien Act issued by the Payment Certifier.”

GENERAL CONDITIONS

PART 1 GENERAL PROVISIONS

GC1.1 CONTRACT DOCUMENTS
1.1.6.1 Delete and Replace with the following:

“.1 the order of priority of documents, from highest to lowest, shall be:
- Supplementary Conditions (if any),
- the Agreement between the Owner and the Design Builder,
- the Definitions,
- the General Conditions,
- the Owner’s Statement of Requirements,
- the Construction Documents.”

Add:

“1.1.11 The Design-Builder will provide to the Owner, without charge, sufficient copies of the Contract Documents to allow the Owner to monitor the Work.”

Add:

“1.1.12 The Owner and its successors and assigns may use the Contract Documents for additions or alterations to the Project, without obtaining any consent or permission or making any payment. The Design-Builder warrants that it has and shall obtain any and all waivers, assignments and approvals needed to confer this perpetual right and license.”

GC1.3 RIGHTS AND REMEDIES

Add:

“1.3.3 No inspection, review, approval, consent or any other act or omission on the part of the Owner or the Payment Certifier shall relieve the Design-Builder of any obligations under the Contract to complete the Work strictly in conformance with all applicable plans and specifications.”

GC1.4 ASSIGNMENT

Add:

“1.4.2 Notwithstanding paragraph 1.4.1, the Owner may assign its interest in the Contract and any of its rights and remedies available at law to B.C. Housing at any time without the consent of the Design-Builder and, upon receipt of written notice as to the effective date thereof from B.C. Housing, the Design-Builder shall thereafter be bound thereunder to B.C. Housing for the performance of the Design-Builder’s covenants and warranties.”

PART 2 OWNERS RESPONSIBILITIES

GC2.4 ROLE OF THE PAYMENT CERTIFIER

Add:
“2.4.10 The Payment Certifier will conduct reviews of the Work from time to time and, based upon such reviews will determine the date of Substantial Performance of the Work, issue Certificates of Completion for all or designated portions of the Work and identify and estimate values for deficient and incomplete items of work as provided in GC5.4

SUBSTANTIAL PERFORMANCE OF THE WORK, GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK, GC5.6 PROGRESSIVE RELEASE OF HOLDBACK and GC5.7 FINAL PAYMENT.”

GC2.6 WORK BY OWNER OR OTHER CONTRACTORS

Delete: 2.6.2.2

Add:

“2.6.3.4 take all reasonable precautions to avoid labour disputes or other disputes on the Project arising from the work of other contractors.

2.6.3.5 as it applies to applicable health and construction safety legislation at the Place of the Work the Design-Builder shall assume overall responsibility and be designated as the “Prime contractor” in accordance with GC 9.4 Construction Safety.

2.6.3.6 If the Design-Builder has caused damage to the work of another contractor on the Project, the Design-Builder agrees to settle the matter with the other contractor by negotiation or arbitration. If the other contractor makes a claim against the Owner on account of damage alleged to have been so sustained, the Owner shall notify the Design-Builder and may require the Design-Builder to defend the action at the Design-Builder’s expense. The Design-Builder shall satisfy a final order or judgment against the Owner and pay the costs incurred by the Owner arising from such action. Paragraph 12.2.6.2 of GC 12.1 INDEMNIFICATION shall apply.”

PART 3 DESIGN BUILDER’S RESPONSIBILITIES

GC3.1 CONTROL OF THE DESIGN SERVICES AND THE WORK

Add to the end of 3.1.1:

“The Design-Builder warrants and represents that it possesses and will provide and apply all the skill, expertise and experience normally provided in the performance of professional design and construction services and reasonably required to complete the Work and ensure that the Work is performed in a good, proper and workmanlike manner. If, in the opinion of the Consultant or the Owner, the Design-Builder makes use of methods or appliances which will not permit the proper execution of the Work or employs inefficient or insufficient labour which will not permit the proper execution of the Work within the Contract Time, the Consultant or the Owner may notify the Design-Builder to improve its construction methods whereupon the Design-Builder will comply without delay with such notification and will not be entitled to claim additional compensation or extension of the Contract Time as a result of such improvement in construction methods.
If the Design-Builder refuses or neglects to comply with such notification within 5 Working Days of receipt of the notification, such refusal or neglect will be deemed to be a default by the Design-Builder with respect to its contractual obligations under the Contract. If the Owner, acting reasonably, approves or suggests any construction means, methods, techniques, sequences or procedures, it will be considered to mean only that no objection is taken thereto by the Owner and the adoption thereof, in whole or part, by the Design-Builder shall be at the full risk and responsibility of the Design-Builder.”

GC3.3 ROLE OF THE CONSULTANT

3.3.3 Delete and replace with:

“If the employment of the Consultant is terminated, the Design-Builder will forthwith appoint a replacement for the Consultant following such termination or resignation, provided that the Owner and B.C. Housing first consent in writing to the replacement, which consent will not be unreasonably withheld or delayed.”

Add:

“3.3.4 The Consultant’s duties and responsibilities will include, without limitation:

.1 The coordination required to integrate all parts of the design of the Work;

.2 The provision of assistance to the Design-Builder to obtain approvals, permits, and licenses for the construction of the Work;

.3 The conducting of general review of the progress of the construction, to the extent necessary, in order to determine to the Consultant’s satisfaction that the construction of the Work is performed in compliance with the requirements of:

(1) the Contract Documents; and

(2) the applicable statutes, regulations, codes, and bylaws of all authorities having jurisdiction over the Work;

.4 The assurances required to regulatory authorities respecting substantial conformance of the design with the applicable building regulations, excluding construction safety issues;

.5 The reviewing of any defects or deficiencies in the Work during the period described in GC 12.5 - WARRANTY and the issuance of appropriate instructions for the correcting of same; and

.6 Such other work that may be required from time to time that is agreed to by the Design-Builder, the Consultant, and the Owner in writing.”

Add:
“3.3.5 The Consultant will deliver a copy of any Supplemental Instructions to the Owner at the same time as they are delivered to the Design-Builder and such Supplemental Instructions will not be effective until confirmed by the Owner if they are:

.1 Inconsistent with items in the Contract Documents; or
.2 Material or substantial.”

GC3.4 OTHER CONSULTANTS, SUBCONTRACTORS AND SUPPLIERS

Add:

“3.4.1.4 and shall take all reasonable steps to ensure that Subcontractors pay for their labour, products, tools, construction machinery and equipment, water, heat, light, power, transportation and other facilities and services necessary for the performance of the Work in accordance with the Contract.”

3.4.2 Delete and replace with the following:

“Subject to paragraph 3.4.3, the Design-Builder agrees to employ only those Subcontractors proposed in writing, including the Design-Builder’s own forces, if any, and accepted by the Owner with the acceptance of the tender or on entering into this Contract. The Design-Builder shall not change any Subcontractor without cause and without the written consent of the Owner, which consent will not be unreasonably withheld.”

GC3.8 LABOUR AND PRODUCTS

Add:

“3.8.1 The Design-Builder agrees, with respect to the employment of all persons in the performance of the Work, including employment of Subcontractors and of persons employed by Subcontractors, to perform any and all obligations imposed upon employers under any employment insurance, pension, income tax and other similar and applicable Federal or Provincial laws now or hereafter in force, including the payment or deduction and remittance of any and all contributions, taxes, fees or charges under such laws and the Design-Builder agrees fully to comply with and to make all returns required by any and all such laws and agrees to indemnify the Owner against all cost, loss, liability, obligation and lien which the Owner may sustain or incur by reason of the failure of the Design-Builder, or any Subcontractor, to perform any of the aforesaid obligations. The Design-Builder agrees immediately to qualify, and will require all of its Subcontractors to qualify, and remain qualified throughout the term of this Contract, as an employer or employers under any and all such laws.”

3.8.3 Add:

“The Design-Builder shall take all reasonable precautions to avoid labour disputes.”

Add:
“3.8.4 A Product, construction method or system singly named is considered exclusive and its use is mandatory, unless an equal is approved in advance by the Owner. Where plural named, each named Product, construction method or system is approved for use under the Contract Documents and the choice rests with the Design-Builder.

3.8.5 All Products shall be used strictly according to manufacturers’ printed directions or recommendations unless specifically stated otherwise in the specifications. All Products shall be properly packed for delivery, must be delivered in their original containers, crates or wrappings, etc. as applicable and must be clearly identified with manufacturers’ name and address, product type and name. All Products shall be stored as recommended by the manufacturer and kept dry at the recommended temperature where applicable. Any damaged Products shall be rejected and the Design-Builder shall remove such Products from the Place of the Work at the Design-Builder’s own expense.

3.8.6 The Design-Builder shall provide to the Owner at least 2 weeks prior to the Design-Builder’s deadline for choices, or such earlier time as is agreed between the Owner and the Design-Builder, for approval by the Owner such manufacturer’s standard samples as the Consultant may reasonably require. Samples shall be labelled as to origin and intended use in the Work and shall conform to the requirements of the Contract Documents.”

GC3.12 USE OF THE WORK

Add:

“3.12.1 The Owner reserves the right to take possession of and use any completed or partially completed portion of the Work, regardless of the date of Substantial Performance of the Work, providing it does not interfere with the Design-Builder’s work. Such taking of possession or use of the Work or part thereof shall not be construed as Substantial Performance of the Work or an acknowledgement of fulfilment of the Contract.

3.12.2 The Design-Builder shall not use any service, plant or equipment installed as part of the Work without first receiving the written approval of the Consultant and the Owner. On receipt of such approval, the Design-Builder shall be subject to any conditions set out as part of such approval and shall be responsible for all costs including damage and compensation for wear.”

PART 5 PAYMENT

GC5.2 APPLICATIONS FOR PROGRESS PAYMENT

5.2.3 In line 2, delete “and Products delivered to the Place of Work”. At the end thereof, add:

“No claim will be made by the Design-Builder, and no payment will be made by the Owner, for Products fabricated for the Project but stored off-site, or for Products delivered to the Place of the Work but not incorporated into the Project unless in the opinion of the Payment Certifier the Products will be installed within 30 calendar days of delivery, or as otherwise agreed to in writing by the Owner.”
Add:

“5.2.5 “The schedule of values shall be prepared in such a manner that each major item of work and each subcontracted item of work is shown as a separate line item and, in the case of each subcontract, shall accurately represent the subcontract price, and the Payment Certifier and the Owner shall be entitled to rely on same. Separate amounts shall be shown for initial start up, continuing expenses and Project closeout. A schedule stating the anticipated monthly progress payments shall be submitted with the schedule of values.

5.2.9 Before any payment is made by the Owner to the Design-Builder, the Payment Certifier or the Owner may, by written notice, require that the Design-Builder furnish such further detailed information as the Payment Certifier or the Owner may determine is necessary to establish compliance by the Design-Builder with the Contract Documents.

5.2.10 Notwithstanding any application for payment or claim by the Design-Builder, the Owner will not be obligated to pay the Design-Builder an amount greater than that approved by B.C. Housing.

5.2.11 Every application for payment shall identify the Value Added Taxes payable by the Owner to the Design-Builder as a separate entry.”

GC5.3 PROGRESS PAYMENT

5.3.1 Delete and replace with the following:

“No certificate for payment will be issued for any of the Work and no payment shall be approved, authorized or made unless the Design-Builder has provided all documents as required to be provided at that time under this Contract. After the receipt of a complete application for payment from the Design-Builder submitted in accordance with GC5.2 APPLICATIONS FOR PROGRESS PAYMENT, the Payment Certifier will issue to the Owner a certificate for payment in the amount applied for or in such other amount as Payment Certifier determines to be properly due, provided that if the Payment Certifier amends the application, the Payment Certifier will promptly notify the Design-Builder in writing giving reasons for the amendment.”

Add:

“5.3.2 “Subject to the Owner receiving the written approval of B.C. Housing, the Owner shall make payment of 90% of the amount as determined by the Payment Certifier to be due to the Design-Builder on account in accordance with the provisions of Article A-5 PAYMENT no later than 20 calendar days after the certificate for payment has been issued, provided that the Owner, at its sole and absolute discretion, may retain out of such payment the amount of any outstanding liens or claims or any other indebtedness which may have been incurred by the Design-Builder in performing the Work and for which the Owner may in any way be held responsible. “Other indebtedness” means only such debts incurred by the Design-Builder to persons in privity of contract with the Design-Builder, debts arising out of statutory requirements and, in the case of the Design-Builder’s workers, any debts arising out of collective bargaining agreements, legislation applying to workers compensation, employment insurance and minimum wage standards where applicable. Upon request by
the Owner, the Design-Builder shall forthwith provide a full accounting as to the disbursement of all monies paid by the Owner to the Design-Builder, including a complete list of all persons to whom monies remain due and the amounts due.

5.3.3 The Design-Builder is required to submit the Waste Management Reporting Form at the following stages in order for the Owner or Payment Certifier to issue the certificate for payment:

1. Completion of demolition (if applicable);
2. 50% construction progress claims; and
3. Substantial completion.”

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

5.4.1 Delete “permitted by the lien legislation applicable to the Place of the Work” on the first two lines. Add at the end of paragraph 5.4.1:

“The Design-Builder shall submit the following documents and items with its request for Substantial Performance review by the Consultant. These requirements do not limit the Design-Builder’s Substantial Performance obligations noted elsewhere in the Contract. A deficiency holdback will be retained for the estimated value of correcting or supplying the following items until they are all submitted, reviewed and accepted by the Payment Certifier, this will include, at minimum, a holdback of $15,000.00 CAD for each sub-paragraph .4 and .5 and $10,000.00 CAD for sub-paragraph .11.

1. The list of all deficient and incomplete items of work including the estimated value of each item;

2. Complete reports including a balancing report for the mechanical system and certification by all testing, cleaning or inspection authorities or associations as specified in the Contract Documents;

3. A complete demonstration of all mechanical and electrical systems and electrically operated devices to the Owner’s operating and maintenance staff and any training required by the specifications, to the Owner’s satisfaction;

4. All maintenance manuals, operating instructions, maintenance and operating tools, replacement parts or materials and warranties as specified in the Contract Documents;

5. A complete set of marked up construction drawings and other data in the form specified in the Contract Documents, or as required by the Consultant, for the production of as built drawings to show all significant Changes to the Work made during construction;

6. Current certification by the Workers Compensation Board that the Design-Builder and all Subcontractors are in good standing;
.7 A statement that all claims and demands for extra work or otherwise, under or in connection with the Contract, have been presented to the Payment Certifier and that the Design-Builder expressly releases the Owner from all claims and demands except those made in writing prior to that date and still unsettled;

.8 A statutory declaration in accordance with paragraph 5.2.8 of the Supplementary Conditions of the Contract;

.9 A survey of the Place of the Work prepared by a British Columbia Land Surveyor confirming the exact area of the property, the location of all registered easements or statutory rights of way, and confirming that the position of the buildings, including foundations and overhangs, building heights and finish grades comply with all municipal requirements;

.10 All keys required for the entire Project; and

.11 The final Waste Management Reporting Form that includes all waste generated from the Work by type and weight and demonstrating achievement against the targets identified at Article 1.9. A whole building demolition prior to construction of the new development is considered as a separate project for the purpose of C&D waste management deficiency holdback. The Design-Builder shall submit a separate Waste Management Reporting Form for whole building demolition and new development in those instances.”

5.4.3 Delete and replace with the following:

“Upon receipt of the Design-Builder’s request for issuance of a Certificate of Completion for all or a designated portion of the Work, the Payment Certifier will forthwith review the Work to verify the validity of the request and, no later than 10 calendar days after the date of the request, will notify the Design-Builder and the Owner whether the Work, or the designated portion of the Work, is substantially performed by delivery of the applicable Certificate of Completion, together with verification of the holdback amount to be released pursuant to the Builders Lien Act with respect to any subcontract. With respect to a request from the Design-Builder for a review by the Payment Certifier for issuance of the Certificate of Completion for the Work in its entirety, the Payment Certifier will, in addition to making an inspection and assessment of the Work to verify the validity of the request, establish a list of all deficient and incomplete items of work confirmed or provided by the Consultant, including an estimated value for each item, subject to the approval of such value by the Owner and B.C. Housing. The Design-Builder shall be responsible for all additional costs incurred by the Owner for inspection of the Work prior to the Design-Builder meeting all requirements set out in paragraph 5.4.1, and such costs shall be deducted from the monies due to the Design-Builder upon Substantial Performance of the Work. This shall not in any way be construed as limiting the applicant of the Builders Lien Act.”

5.4.5 Delete and replace with the following:
“Immediately following the issuance of the Certificate of Completion for the Work, the Design-Builder, in consultation with the Consultant and the Owner, will establish a reasonable date for finishing the Work.”

Add:

“5.4.6 No later than thirty (30) calendar days following issuance of the Certificate of Completion for the Work, the Design-Builder shall provide to the Owner all service contracts, manufacturer’s inspections, certifications, guarantees and warranties and assignments of all guarantees and warranties as specified in the Contract Documents.

5.4.7 No later than thirty (30) calendar days following issuance of the Certificate of Completion for the Work, the Owner shall pay to the Design-Builder the balance of the Contract Price less:

.1 Any holdback monies as required by the Builders Lien Act to be released in accordance with GC5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK;

.2 The aggregate amount, if any, determined pursuant to paragraph 5.4.3 multiplied by two; and

.3 The amount, if any, determined pursuant to GC5.8 DEFERRED WORK,

and until all of the deficient and incomplete work for which amounts are withheld pursuant to subparagraphs .2 and .3 of this paragraph 5.4.7 are rectified and completed to the satisfaction of all of the Consultant, the Owner and B.C. Housing, the Owner may withhold the full amounts set out in subparagraphs .2 and .3 of this paragraph 5.4.7 respectively.

5.4.8 The Design-Builder shall complete the deficient and incomplete work speedily and at the discretion and convenience of the Owner. Acceptance of the Work or occupancy of the Project or any portion thereof by the Owner, the Payment Certifier or B.C. Housing shall not relieve the Design-Builder from the obligation of correcting deficiencies which are missed at the time of drawing up the list of deficient and incomplete items of work or those hidden deficiencies which become apparent during the warranty period.”

GC5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

5.5.1 In line 1, delete “the Certificate of Substantial Performance of the Work” and replace with the following “the Certificate of Completion for the Work”.

Add:

“.3 If specifically requested by the Owner, submit acknowledgements by the major Subcontractors and Suppliers that they have been paid in full, except for amounts properly retained as holdbacks, and that they have received notification of
Substantial Performance of the Work by delivery of a notice that the Certificate of Completion for the Work has been issued, and

.4 Submit a statement that all claims and demands for extra work or otherwise, under or in connection with the Contract, have been presented to the Payment Certifier and that the Design-Builder expressly releases the Owner from all claims and demands except those made in writing prior to that date and still unsettled.”

5.5.2 Delete and replace with the following:

“The Payment Certifier shall be the payment certifier responsible under the Builders Lien Act for certifying substantial completion of the Work and, if required, the work of a Subcontractor or Supplier, and for issuing a Certificate of Completion. The Design-Builder shall promptly provide the Payment Certifier with all information and documentation requested by the Payment Certifier to assist the Payment Certifier in making its inquiries and determinations for issuing a Certificate of Completion, including without limitation for Subcontractors and Suppliers, and shall indemnify and save the Owner and the Payment Certifier harmless from all liability arising from a failure to issue a Certificate of Completion when required, or from a premature issuance of a Certificate of Completion for a Subcontractor or Supplier, arising directly or indirectly from a failure to promptly provide complete and accurate information and documentation requested by the Payment Certifier.”

5.5.3 Delete.

5.5.5 Delete.

GC5.6 PROGRESSIVE RELEASE OF HOLDBACK

5.6.1 Add the following to the end of the first sentence:

provided that:

.1 The Payment Certifier has issued a Certificate of Completion for such subcontract work or the Products supplied by such Supplier; and

.2 The Design-Builder and the Owner jointly agree to release the holdback amount retained for such subcontract work or the Products supplied by such Supplier, and the Owner has received the written approval of B.C. Housing with respect to such release.”

GC5.7 FINAL PAYMENT

5.7.1 Add:

“The Design-Builder may apply for final payment when the entire Work, except those items arising from the provisions of GC12.5 WARRANTY, has been performed to the requirements of the Contract Documents; all building systems have been brought to a state of full readiness for operation in accordance with the Contract Documents to the satisfaction of
the Consultant and the Owner; all deficient and incomplete work previously identified has been rectified or completed to the satisfaction of the Consultant and the Owner; all cleanup has been performed (including (a) removal of waste products and debris, other than that resulting from the work of the Owner, other contractors or their employees, leaving the Place of the Work clean and suitable for use or occupancy by the Owner and (b) removal of any remaining products, tools, Construction Equipment, Temporary Work, and waste products and debris, other than those resulting from the work of the Owner, other contractors or their employees) and the Owner has received the written approval of B.C. Housing with respect to the same; all landscaping has been completed in accordance with the Contract Documents to the satisfaction of the Consultant and the Owner; and when the Design-Builder has submitted to the Owner all of the following:

.1 Current certification by the Workers Compensation Board that the Design-Builder and all Subcontractors are in good standing;

.2 Proof of release and discharge of any builders or other liens;

.3 Special Project Possession and Warranty Certificates pursuant to the applicable warranty program;

.4 If specifically requested by the Owner, satisfactory evidence that all taxes, employment insurance premiums, Canada Pension Plan contributions, duties, royalties, and all other monies required by law to be paid by the Design-Builder and all Subcontractors have been paid in full;

.5 A statutory declaration in accordance with paragraph 5.2.8; and

.6 Two (2) complete sets of white prints and CAD file of all as built drawings for the Project satisfactory to the Owner, showing all significant changes in the Work made during construction.”

5.7.2 Add:

“The Design-Builder shall be responsible for all additional costs incurred by the Owner for review and inspection of the Work where previously identified deficient or incomplete work has not been rectified or completed in a manner satisfactory to all of the Owner, the Consultant and B.C. Housing, making additional inspections by the Payment Certifier necessary, or where the Design-Builder has failed to satisfy all requirements set out in paragraph 5.7.1 and such costs shall be deducted from the monies due to the Design-Builder upon issuance of the final certificate for payment.”

5.7.4 In line 2, delete the number “5” and replace with the number “20”.

Add at the end thereof:

“less any monies properly retained by the Owner pursuant to the terms of this Contract and less any other third party monetary claims against the Design-Builder which are enforceable against the Owner.”
PART 6 CHANGES IN THE WORK

GC6.1 OWNER’S RIGHT TO MAKE CHANGES

6.1.1 Add at the outset:

“Subject to the written approval of B.C. Housing”

Add:

“6.1.3 Any substitution of Products specified in the Contract Documents or any variance from the B.C. Housing Design Guidelines and Construction Standards must be approved by the Owner and B.C. Housing in writing prior to such substitution or variation.”

GC6.2 CHANGE ORDER

6.2.1 Add at the end:

“The adjustment for the Contract Price shall not exceed the actual cost of the Design-Builder’s work for the change in the Work, plus an allowance for overhead and profit as follows:

.1 For the Design-Builder, for overhead and profit, 15% of the actual cost of the Design-Builder’s work;

.2 For the Design-Builder, for overhead and profit, 7.5% of the amount for the Subcontractor’s work, being the actual cost of the Subcontractor’s work plus the amount determined as set out in subparagraph .3 below;

.3 For the Subcontractor, for overhead and profit, 15% of the actual cost of the Subcontractor’s work.”

6.2.2 In line 1 after the word “Owner”, insert “, upon the written approval of B.C. Housing,”

Add:

“6.2.4 If a change in the Work results in a net decrease in the Contract Price, the amount of the credit shall be the net cost, without deduction for overhead and profit. When both additions and deletions covering related work or substitutions are involved in a change in the Work, the allowance for overhead and profit shall be calculated on the basis of the net increase, if any, with respect to that change in the Work.

6.2.5 Where requested by the Consultant, the Design-Builder shall promptly provide itemized labour and material cost and quantity breakdowns, subcontractor costs, and other
detailed information required to substantiate the Design-Builder’s claim for a change to the Design-Builder Price or Contract Time.”

**GC6.3 CHANGE DIRECTIVE**

6.3.6.3 Add:

“.3 Unless otherwise agreed between the Owner and the Design-Builder, the allowance for overhead and profit shall be calculated as follows:

.1 For the Design-Builder, for overhead and profit, 15% of the actual cost of the Design-Builder’s work;

.2 For the Design-Builder, for overhead and profit, 7.5% of the amount for Subcontractor’s work, being the actual cost of the Subcontractor’s work plus the amount determined as set out in subparagraph .3 below;

.3 For the Subcontractor, for overhead and profit, 15% of the actual cost of the Subcontractor’s work.”

**GC6.4 CONCEALED OR UNKNOWN CONDITIONS**

6.4.2 and 6.4.3 Delete and replace with the following:

“6.4.2 The Design-Builder warrants that it is fully acquainted with the site comprising the Place of the Work having physically inspected such site and has obtained and reviewed such reports and tests as to the subsurface conditions as may be necessary for the proper performance of the Work and evaluating the cost thereof.

6.4.3 The Design-Builder accepts full responsibility for having satisfied itself as to the nature, location and condition of the site including without limitation the subsurface conditions and the existing adjoining buildings and agrees as follows:

.1 The Owner and B.C. Housing make no representations or warranties as to any aspect thereof and any information or documentation relating to the same and supplied to the Design-Builder is furnished solely for the Design-Builder’s convenience; and

.2 The failure of the Design-Builder to acquaint itself with any applicable condition will not relieve it from the responsibility for determining the proper methods of construction and properly estimating the difficulties, costs and time for successfully performing the Contract.”

.3 the Design-Builder will not be entitled under any circumstances to any additional compensation or additional time for the performance of the Work arising out of or in any way relating to actual subsurface conditions encountered at the Place of the Work; and
.4 that changes in the Work as a result of soils conditions which differ from those for which the Project was designed will not result in any change in the Contract Price and all additional work required as a result will be performed at the expense of the Design-Builder. The foregoing will include, without limitation, any costs arising from any contamination of the soil.”

GC6.5 DELAYS

6.5.3.4 In line 1, after the words “any cause beyond the Design-Builder’s control”, insert:

“except for any cause related to the inability or unwillingness of the Design-Builder to make payments of monies for which the Design-Builder is responsible for”

Add the following after “… the Design-Builder agrees to a shorter extension.”:

“Any such extension of time shall be deemed to be in full and final satisfaction for all actual and probable losses, claims, damages, causes of action or injuries sustained or sustainable by the Design-Builder in respect of any such extension.”

Add:

“6.5.6 During any delays in the performance of the Work as set out in GC6.5 DELAYS, the Design-Builder shall maintain adequate surveillance of the Work and undertake such maintenance and protection of the Work as may be reasonable to maintain safety and when possible to protect Products already installed in the Work or delivered to the Place of the Work.”

PART 7 RIGHT TO SUSPEND OR TERMINATE

GC7.2 OWNER’S RIGHT TO TERMINATE THE DESIGN-BUILDERS RIGHT TO CONTINUE WITH THE DESIGN SERVICES OR WORK OR TERMINATE THE CONTRACT

7.2.1 In line 1, after the word “bankrupt”, insert “commits an act of bankruptcy or threatens to commit an act of bankruptcy,”

In line 2, after the word “insolvency” where it appears for the second time, insert:

“or if the Design-Builder at any time is in a conflict of interest as described in B.C. Housing’s Conflict of Interest Guidelines unless the Design-Builder rectifies such conflict of interest within such time as may be specified by B.C. Housing or B.C. Housing approves the continuation of the Contract notwithstanding such conflict of interest,”

Add:

“7.2.7 Except as provided in paragraphs 7.2.5.4 and 7.2.5.5, the Design-Builder shall have no claim or right of action against the Owner for any damages, costs, expenses, loss of profits or otherwise as a result of the termination by the Owner of the Design-Builder’s right to continue with the Work in whole or in part or the termination by the Owner of the Contract.”
7.2.8 The Owner may terminate this Contract, in whole or part, during its term upon 14 calendar days’ written notice to the Design-Builder.

7.2.9 If the Owner terminates the Design-Builder’s right to continue with the Services and Work in whole or in part or terminates the Contract, the Design-Builder shall, safeguard the Work then completed and the materials and equipment then delivered to the Place of the Work, assign or novate any Subcontractor or Supplier contracts to the Owner or terminate any Subcontractor or Supplier contracts to the extent requested by the Owner during the term of the Contract and do such other extra work as may be ordered by the Consultant for the purpose of leaving the Work in a safe and useful condition.”

GC7.3 DESIGN BUILDER’S RIGHT TO SUSPEND THE DESIGN SERVICES OR TERMINATE THE CONTRACT

7.3.3 Delete 7.3.3.1.

Delete 7.3.3.2.

Add the following as a new paragraph after paragraph 7.3.3.4:

“The foregoing defaults in contractual obligations shall not apply to the withholding of certificates of payment or payment, or both, following receipt of court ordered garnishments of monies owing to the Design-Builder, notice of the Design-Builder’s failure to pay claims against the Design-Builder or the filing of liens against the Project for as long as they remain outstanding.”

7.3.4 In line 2, delete the number “5” and replace with the number “20”.

Add to the end of the paragraph:

“provided that if the default is of the nature set out in paragraph 7.3.3.4 and such default cannot be reasonably corrected within 20 Working Days, the Owner shall no longer be considered to be in default if the Owner:

.1 provides the Design-Builder with a reasonable schedule for correction within 20 Working Days; and

.2 corrects the default in accordance with such schedule.”

7.3.6 Delete and replace with the following:

“If the Design-Builder terminates the Contract under the conditions set out above, the Design-Builder shall be entitled to be paid for all Work performed to the date of termination, including a reasonable profit thereon, for loss sustained upon Products and construction machinery and equipment and for reasonable wind-up costs for the removal of construction machinery and equipment from the Place of the Work.”

PART 8 DISPUTE RESOLUTION
GC8.1 NEGOTIATION, MEDIATION AND ARBITRATION

8.1.4 Delete the last sentence.
Add:

“8.1.11 Unless both parties agree, the Design-Builder shall not stop the Work, or any part of the Work, pending the resolution of any dispute under the Contract between the parties.”

PART 9 PROTECTION OF PERSONS AND PROPERTY

GC9.1 PROTECTION OF WORK AND PROPERTY

Add:

“9.1.5 The Design-Builder shall be responsible generally for the care, maintenance and protection of the Work during construction and during any shut-down or suspension of the Work.

9.1.6 The Design-Builder shall ensure that all rights and privileges presently accorded to all properties adjacent to the Place of the Work are maintained.”

GC9.2 TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS

Delete GC9.2.1 to GC9.2.9 and replace with the following:

“9.2.1 The Design-Builder acknowledges that any environmental assessment report with respect to the Place of the Work provided by the Owner or B.C. Housing has been furnished solely for the Design-Builder’s information and convenience and neither the Owner nor B.C. Housing has any obligations with respect to the presence of any toxic or hazardous substances at the Place of the Work.

9.2.2 The Design-Builder shall be deemed to have control and management of the Place of the Work with respect to any toxic or hazardous substances which are on or in the Place of the Work or may be brought on to the Place of the Work by the Design-Builder or the Subcontractors. Prior to the Design-Builder commencing the Work, the Design-Builder shall:

.1 Take all reasonable steps to determine whether any toxic or hazardous substances are present at the Place of the Work as may be recommended in any environmental assessment report or as may be prudent; and

.2 Provide the Consultant and the Owner with a written list of any such substances.

9.2.3 The Design-Builder shall take all reasonable steps to ensure that no person suffers injury, sickness or death and that no property is damaged or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances at the Place of the Work.”
9.2.4 The Design-Builder shall take all necessary steps in accordance with all applicable legislation to treat, store or otherwise dispose of toxic or hazardous substances present at the Place of the Work.

9.2.5 If the Design-Builder:

.1 Encounters toxic or hazardous substances at the place of building; or

.2 Has reasonable grounds to believe that toxic or hazardous substances are present at the Place of the Work which were not identified pursuant to paragraph 9.2.2, or which were identified but have not been dealt with as required under paragraph 9.2.4, the Design-Builder shall:

.3 Take all reasonable steps, including stopping the Work, to ensure that no person suffers injury, sickness or death and that no property is damaged or destroyed as a result of exposure to or the presence of the substances; and

.4 Immediately report the circumstances to the Consultant and the Owner in writing and take all necessary steps in accordance with the instructions of the Consultant and all applicable legislation to treat, store or otherwise dispose of the substances or materials.

9.2.6 If the Design-Builder incurs additional costs as a result of taking any steps required under GC9.3, the Design-Builder will not be reimbursed for such costs. If the Design-Builder is delayed in performing the Work, the Contract Time may be extended for such reasonable time as may be mutually agreed by the Owner and the Design-Builder, and the Design-Builder will not be reimbursed for costs incurred as a result of the delay unless such delay was the result of actions by the Owner. Any such extension of time will be deemed to be in full and final satisfaction for all actual and probable losses, claims, damages, causes of action or injuries sustained or sustainable by the Design-Builder in respect of any such extension.

9.2.7 The Design-Builder shall indemnify and hold harmless each of the Owner and BC Housing, their respective assigns, agents, directors, officers, authorized representatives and employees, from and against any claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of or resulting from exposure to, or the presence of, toxic or hazardous substances which are on or in the Place of the Work or brought on to the Place of the Work by the Design-Builder or its Subcontractors. This obligation will not be construed to negate, abridge, or reduce any other rights or obligations of indemnity set out in GC12.1 - INDEMNIFICATION or which otherwise exist respecting a person or party described in this paragraph.

9.2.8 In the event of conflict between the provisions of this GC9.2 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIAL and any other General Condition, the provisions of this GC9.2 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIAL will govern.”
GC9.4 CONSTRUCTION SAFETY

9.4.1 In line 1, delete "Except as provided for to paragraph 2.6.2.2 of GC2.6 – WORK BY OWNER OR OTHER CONTRACTORS,"

Add the following to GC 9.4”

“9.4.2 The Design-Builder shall be responsible for and ensure the safety not only of the workers, Subcontractors, tradesmen and suppliers and their plant and equipment but also of all other persons who enter the Place of the Work whether during working hours or not and for that purpose shall erect such boardings and signs and shall employ such safety measures as may be necessary to ensure the safety of such persons.

9.4.3 The Design-Builder acknowledges and agrees that the Design-Builder shall be the “prime contractor” for the workplace for the purposes of section 118 of the Workers Compensation Act, as amended from time to time. Without limiting the foregoing, the Design-Builder shall, as the “prime contractor”, comply with, and ensure compliance by Subcontractor and Suppliers with, the Workers Compensation Act of British Columbia and its regulations including the Occupational Health & Safety Regulations, WHIMIS regulation and the transportation of hazardous substances or dangerous goods requirements and obligations and shall pay assessments or compensation required to be paid under applicable legislation. If Design-Builder or any Subcontractor fails to pay any due assessment or compensation, the Owner may make such payment on behalf of Design-Builder or any Subcontractor, but will not be obliged to do so. Design-Builder shall reimburse Owner the amount of such payment on demand. The Owner may set off any amounts paid against money otherwise owed to the Design-Builder.

9.4.4 The Design-Builder shall deliver the Notice of Project required by Section 20.2 of B.C. Regulation 296/97 to the Workers’ Compensation Board of British Columbia, in accordance with the requirements of Section 20.2 of B.C. Regulation 296/97.

9.4.5 The Design-Builder shall be the “prime contractor” with respect to any work performed by the Owner’s own forces or other firms retained by the Owner carried out in the area of the Place of the Work. Without limiting the generality of the foregoing, the Design-Builder is responsible for ensuring that the work undertaken by the Owner’s own forces or other contractors retained by the Owner are coordinated with the Work so as to avoid or minimize any hazardous situations.

9.4.6 The Design-Builder shall immediately inform the Owner if the Owner’s own forces or other contractor firms retained by the Owner attend at the Place of the Work without prior notification to the Design-Builder.

9.4.7 The Workers’ Compensation Board of British Columbia operates under the name WorkSafeBC. References in the Contract to the Workers’ Compensation Board, WCB, compensation board, WorkSafeBC, and other similar terms shall be understood to refer to the Workers’ Compensation Board of British Columbia and WorkSafeBC and its operating bodies.”

PART 10 GOVERNING REGULATIONS
GC10.1 TAXES AND DUTIES

Add:

“10.1.3 Where documentation may be required for tax refund purposes, the Design-Builder shall be responsible for providing the Owner with such invoices and records as may be necessary to substantiate the amount of tax paid during the performance of the Work for which the Owner may lawfully claim exemption.”

GC10.2 LAWS, NOTICES, PERMITS AND FEES

10.2.3 Add “development permit” after “building permits.”

10.2.5 Delete and replace with the following:

“The Design-Builder shall be responsible for verifying that the Contract Documents are in substantial compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the Work. If after the Contract is executed, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the Contract Documents, the Design-Builder shall notify the Owner in writing immediately upon such variance or change becoming known. The Design-Builder shall bear the costs incurred in order to comply with such variance or change.”

Add:

“10.2.8 The Design-Builder shall provide to the Consultant copies of all inspection reports from the various authorities having jurisdiction forthwith as they are received from time to time.”

GC10.3 PATENT FEES

10.3.2 Delete.

GC10.4 WORKERS COMPENSATION

10.4.1 In line 3, after the word “compliance” insert “by the Design-Builder and Subcontractors”.

Add:

“10.4.3 The Design-Builder shall abide by and comply with all provisions of the Workers’ Compensation Act with respect to the performance of the Work and will make all payments, contributions and other remittances and all reports, returns and statements required of employers under the said Act. The Design-Builder shall ensure full compliance with the said Act by all Subcontractors and other persons employed by the Design-Builder or with whom the Design-Builder may make any contract for the performance of any part of the Work. The Design-Builder agrees to indemnify the Owner against all cost, loss, liability, obligation and lien which may arise as a consequence of any failure by the Design-Builder or any Subcontractor or other person fully to comply with the said Act. The Design-Builder...
Builder agrees immediately to qualify, and shall require all Subcontractors to qualify, as an employer or employers under the said Act.”

PART 11  INSURANCE & CONTRACT SECURITY

GC11.1  INSURANCE

11.1  Delete in its entirety and replace with the following:

“11.1  If the original Contract Price at the time of execution of the Contract is less than one million dollars ($1,000,000.00) CAD then GC 11.1.1 shall apply and GC11.1.2 is hereby deleted or if the original Contract Price at the time of execution of the Contract is one million dollars ($1,000,000.00) CAD or greater then GC11.1.2 shall apply and GC11.1.1 is hereby deleted.

11.1.1  The Design Builder shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurances with insurers licensed in British Columbia and in forms and amounts acceptable to the Owner:

11.1.1.1  Commercial General Liability Insurance in an amount not less than two million dollars ($2,000,000.00) inclusive per occurrence against bodily injury and property damage.

(a)  The Owner is to be added as an additional insured under this policy. Any deductible applicable to property damage shall not exceed five thousand dollars ($5,000.00) or such other reasonable deductible that is agreed upon in advance by the Owner. Such insurance shall include, but not be limited to:

.01  Products and Completed Operations Liability (Twenty-Four (24) months);
.02  Owner’s and Design Builder’s Protective Liability;
.03  Blanket Written Contractual Liability;
.04  Contingent Employer’s Liability;
.05  Personal Injury Liability;
.06  Non-Owned Automobile Liability;
.07  Cross Liability;
.08  Employees as Additional Insureds;
.09  Broad Form Property Damage;
.10  Elevator and Hoist Liability;
.11  Operation of Attached Machinery;

and where such further risk exists:

.12  Shoring, Blasting, Excavating, Underpinning, Demolition, Piledriving and Caisson Work, Work Below Ground Surface, Tunneling and Grading, as applicable;
.13  Limited Pollution Liability in an amount not less than Two Million Dollars ($2,000,000.00); and
.14  Broad Form Tenants Legal Liability.
This insurance shall be maintained continuously from commencement of the Work until the date of final certificate for payment is issued or when the insured project is completed and accepted by or on behalf of the Owner, whichever occurs first, plus with respect to completed operations cover a further period of twenty-four (24) months.

(b) **Property** insurance which shall cover, on a replacement cost basis, all property, of every description, to be used in the construction of the Work, against “All Risks” of physical loss or damage, including earthquake and flood, while such property is being transported to the site, and thereafter throughout erection, installation and testing and such insurance shall be maintained until Substantial Performance of the Work. Such policy of insurance shall extend to protect the interest of the Owner, and shall contain a waiver of subrogation against the Owner. Any deductible shall not exceed Five Thousand Dollars ($5,000.00) or such other reasonable deductible for each and every occurrence except for the peril of flood, which may include a maximum deductible of Twenty Five Thousand Dollars ($25,000.00), and earthquake, which may include a maximum deductible of Ten Percent (10%) based upon the total project value insured.

(c) **Automobile Liability Insurance**
The Design Builder (or Design Builder’s Subcontractors) shall provide, maintain and pay for Automobile Liability Insurance in respect of all owned or leased vehicles if used directly or indirectly in the performance of the Work, subject to limits of not less than Two Million Dollars ($2,000,000.00) inclusive per occurrence. The insurance shall be placed with such company or companies and in such form and deductibles as may be acceptable to Owner.

(d) **Aircraft and/or Watercraft Liability Insurance**
When applicable, the Design Builder (or Design Builder’s Subcontractors) shall provide, maintain and pay for liability insurance with respect to all owned or non-owned aircraft and watercraft if used directly or indirectly in the performance of the Work, subject to limits of not less than Two Million Dollars ($2,000,000.00) inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof and including aircraft passenger hazard liability. The Owner must be included as an additional insured but only with respect to liability arising out of the Design Builder’s performance of the Contract. The insurance shall be placed with such company or companies and in such form and deductibles as may be acceptable to Owner.

(e) **Pollution Liability Insurance**
When applicable, the Design Builder (or Design Builder’s Subcontractors) shall provide, maintain and pay for Design Builder’s Pollution Liability, where the Design Builder’s performance (or Design Builder’s Subcontractor’s performance) of the Work is associated with hazardous materials clean-up, removal and/or containment, transit and disposal. This insurance must have a limit of liability not less than Two Million Dollars ($2,000,000.00) inclusive per occurrence insuring against bodily injury, death, and damage to property including loss of use thereof. The Owner must be included as an additional insured but only with respect to liability arising out of the Design Builder’s performance of the Contract. Such insurance shall not be impaired by any time element limitations to the pollution event, biological contaminants (without limitation, mold and bacteria), asbestos, or lead exclusions. Any “insured vs. insured” exclusion shall not prejudice coverage for the Owner and shall not affect the Owner’s ability to bring suit against the Design Builder as a third party.

If any such insurance is provided on a claims-made basis and that insurance is cancelled or not renewed, such policy must provide a twenty-four (24) month extended reporting period.

11.1.1.2 All the foregoing insurance shall be primary and not require the sharing of any loss by any insurer of the Owner.

11.1.1.3 The Design Builder shall provide the Owner with proof of insurance for those insurances required to be provided by the Design Builder prior to the commencement of the Work. Such evidence shall be in the form of the Owner’s certificate of insurance. When requested by the Owner, the Design Builder shall provide certified copies of required insurance policies. The Design Builder must cause all Subcontractors to comply with the insurance requirements outlined herein.

11.1.1.4 All required insurance shall be endorsed to provide the Owner with thirty (30) days advance written notice of cancellation or adverse material change.

11.1.1.5 The Design Builder hereby waives all rights of recourse against the Owner with regard to damage to the Design Builder’s property.

11.1.1.6 The Design Builder shall be responsible for deductible amounts under all policies described in paragraph 11.1.1 except where such amounts may be excluded from the Design Builder’s responsibility by the terms of GC 9.1 – PROTECTION OF WORK AND PROPERTY and except for deductibles associated to perils of flood or earthquake insurances.

11.1.2 The Owner shall obtain, maintain and pay for, through BC Housing, the insurance coverages described in this paragraph 11.1.2 issued by insurance companies licensed to
carry on business in British Columbia except for those insurances which are identified as Design Builder provided.

11.1.2.1 Course of Construction Policy

(1) The Owner shall provide, maintain and pay for Course of Construction coverage, against “All Risks” including Flood and Earthquake of direct physical loss or damage, and will cover all materials, property, structures and equipment purchased for, entering into, or forming part of the Work whilst located anywhere within Canada and continental United States of America during construction, erection, installation and testing, but such coverage shall not include coverage for Design-Builder’s and subcontractor’s equipment of any description. Such coverage shall be maintained until Substantial Performance of the Work. There will be a deductible of Ten Thousand Dollars ($10,000.00) for each and every occurrence on projects valued at Ten Million Dollars ($10,000,000.00) or less and a deductible of Twenty Five Thousand Dollars ($25,000.00) on projects valued at more than Ten Million Dollars ($10,000,000.00) except for the peril of earthquake which shall have a five percent (5%) (subject to minimum Two Hundred Fifty Thousand Dollars ($250,000.00)) deductible based upon the total project value insured. A one day waiting period for each month of the project subject to a minimum waiting period of 30 days shall apply with respect to soft costs.

(2) The coverage shall include as insureds the Design-Builder, Subcontractor, Architect, Engineer, or other consultants who are engaged in the Project.

(3) The coverage will contain a waiver of the Owner’s rights of subrogation against all insureds except where a loss is deemed to have been caused by or resulting from any error in design or any other professional error or omission or manufacturers (not employees of the Owner).

(4) The Design-Builder shall, at his own expense, take special precaution to prevent fires occurring in or about the Work and shall observe, and comply with, all insurance policy warranties and all laws and regulations in force respecting fires. The Owner Controlled Insurance warranties required by this policy are posted on BC Housing website as the following hyperlinks: http://www.bchousing.org/Partners/Standards_Procurement/Procurement/Contracts http://www.bchousing.org/contractors/resources

(5) For modular construction, warranties will apply to both the Pre-Fabrication Site and the Project Site.

11.1.2.2 Wrap Up Liability Policy

(1) This shall be a wrap up liability policy that shall:
(a) be written in the joint names of the Owner, the fee simple owner of the Place of the Work, BC Housing, the Design-Builder and Subcontractors, the Consultant, all Sub-consultants and any other consulting engineers or consulting architects and Suppliers who perform work at the Place of the Work provided however that such policy shall exclude Suppliers whose only function is to supply materials, machinery or other supplies to the project and who do not carry out any installation, construction, or supervisory work on the project and shall exclude security protection organizations or persons providing site protection on or at the project.

(b) provide the following coverages:

(i) Premises and Operations Liability;
(ii) Products and Completed Operations Liability (24 months);
(iii) Blanket Contractual Liability;
(iv) Cross Liability (or Severability of Interests);
(v) Elevator and Hoist Liability;
(vi) Contingent Employer's Liability;
(vii) Personal Injury Liability;
(viii) Shoring, Blasting, Excavating, Underpinning, Demolition, Pile driving and Caisson Work, Work Below Ground Surface, Tunneling and Grading, as applicable;
(ix) Broad Form Completed Operations;
(x) Broad Form Property Damage; and Employees as Additional Insureds,

provided however that the insurance does not extend to any activities, work, jobs or undertakings of the insureds other than those directly related to the Work under this Contract; and

(c) Provide for a limit of liability not less than $10,000,000 inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof, subject to a general aggregate limit of $20,000,000 and a limit of liability not less than $10,000,000 annual aggregate for completed operations.

(2) Exclusions under the foregoing insurance will be as prescribed by the insurer.

(3) Each claim under the foregoing insurance shall be adjusted separately.

(4) Claims under the foregoing insurance shall be subject to a deductible of $10,000 for each and every claim, except with respect to hot roofing activities, the deductible shall be $50,000.00.
The foregoing insurance shall be maintained continuously from commencement of the Work until the insured project is completed and accepted by or on behalf of the Owner and BC Housing, provided that the Broad Form Completed Operations coverage shall be maintained for Twenty-Four (24) months.

11.1.2.3 The Design-Builder shall be responsible for deductible amounts under all policies described in paragraph 11.1.2 except where such amounts may be excluded from the Design-Builder’s responsibility by the terms of GC 9.1 – PROTECTION OF WORK AND PROPERTY and except for deductibles associate to perils of flood or earth insurances.

11.1.2.4 The Owner shall promptly provide a copy of each insurance policy described in paragraph 11.1.2 to any insured party upon request.

11.1.2.5 The Owner does not represent that the insurance policies described in paragraph 11.1.2 will be sufficient to protect the Design-Builder against all of its responsibilities under the Contract or as required by law. The Design-Builder shall obtain such additional insurance as it may consider necessary at its own expense. The insurance coverage described in paragraph 11.1.2 shall in no way limit the Design-Builder’s obligations under GC 12.2 INDEMNIFICATION.

11.1.2.6 Without restricting the generality of GC 12.2 – INDEMNIFICATION, the Design-Builder shall obtain, maintain and pay for the following types of insurance coverages issued by insurance companies licensed to carry on business in British Columbia and shall cause all of its Subcontractors to maintain insurance in forms and with limits appropriate to the work conducted by the subcontractors engaged on the Project. If any of the insurance coverage required by the Contract is not provided or lapses for any reason whatsoever, the Design-Builder shall, if requested to do so by the Owner at the Design-Builder’s risk and expense, stop all work on the Project until satisfactory evidence of coverage is produced. The insurance coverage required by this paragraph 11.1.2.6 shall be in forms and amounts acceptable to the Owner and shall be issued by an insurer licensed to conduct insurance business in British Columbia. The approval of any insurance policy by the Owner shall in no way relieve the Design-Builder of the obligation to provide the insurance referred to in this paragraph 11.1.2.6:

11.1.2.6.1 **Automobile Insurance**

The Design-Builder (or Design-Builder’s Subcontractors, Consultants, and Sub-Consultants) shall provide, maintain and pay for Automobile Liability Insurance in respect of all owned or leased vehicles, subject to limits of not less than Two Million Dollars ($2,000,000.00) inclusive per occurrence. The insurance shall be placed with such company or companies and in such form and deductibles as may be acceptable to Owner.
11.1.2.6.2 **Contractors Pollution Liability Insurance**

When applicable, the Design-Builder (or Design-Builder’s Subcontractors) shall provide, maintain and pay for:

Contractor’s Pollution Liability, where the Design-Builder’s performance (or Design-Builder’s Subcontractors performance) of the work is associated with hazardous materials clean-up, removal and/or containment, transit and disposal. This insurance must have a limit of liability not less than $2 million inclusive per occurrence insuring against bodily injury, death, and damage to property including loss of use thereof. The Owner must be included as an additional insured for its vicarious liability. Such insurance shall not be impaired by any time element limitations, biological contaminants (without limitation, mold and bacteria), asbestos, or lead based paint exclusions. Any “insured vs. insured” exclusion shall not prejudice coverage for the Owner and shall not affect the Owner’s ability to bring suit against the Design-Builder as a third party.

If any such insurance is provided on a claims-made basis and that insurance is cancelled or not renewed, such policy must provide a twenty-four (24) month extended reporting period.

11.1.2.6.3 **Design-Builder’s Equipment Insurance**

(1) This policy shall cover all Design-Builder’s tools and equipment used at the Place of the Work against “all risks” of direct physical loss or damage, including the perils of earthquake and flood, subject to customary exclusions.

(2) All such contractor’s equipment insurance policies shall contain a waiver of subrogation against the Owner, the fee simple owner of the Place of the Work, BC Housing, the Design-Builder, the Consultant, the Subcontractors, architects, engineers, consultants and sub-consultants engaged on the Project, and shall provide for sixty (60) calendar days prior written notice of cancellation or material change to be given by the insurer(s) to the Owner and BC Housing.

11.1.2.6.4 **Professional (Errors and Omission) Liability Insurance**

The Design-Builder or the Design-Builder’s Consultant during the term of the Agreement shall provide and maintain continuously from the commencement of the Work, until two (2) years after Substantial Performance of the Work, the following insurance
which shall be placed with such company or companies and in such form and amounts and with such deductibles as may be acceptable to the Owner:

Professional Errors and Omissions Liability Insurance protecting the Design Builder or the Design-Builder’s Consultant, Sub-Consultant(s) and their respective servant(s), agent(s) or employee(s) against any loss or damage arising out of the Design Services under this Agreement. Such insurance shall be for the adequate amount acceptable to the Owner and shall in any event be not less than:

i. For construction valued at $0.00 to $2.5 million: $250,000;
ii. For construction value at $2.5 million to $7.5 million: $500,000;
iii. For construction value at $7.5 million to $15 million: $1,000,000; or
iv. For construction value over $15 million: as negotiated, not less than $1,000,000.

Structural, Mechanical, Electrical and Civil Sub-Consultants Insurance coverage to be based on the value of their scope of work. All other specialty Consultants to carry a minimum $250,000 Errors and Omissions Insurance despite the value of their scope of work.

If coverage is provided by the Design-Builder’s Consultant, then such Professional Errors and Omissions Liability Insurance shall not contain a “Design-Build” exclusion.

11.1.2.7 The Design-Builder shall, prior to the commencement of the Work, provide the Owner with Certificates of Insurance evidencing compliance with paragraph 11.1.2.6. For automobile liability the standard I.C.B.C. Certificate of Insurance Form #APV-47 shall be used.

11.1.2.8 The Owner shall not be responsible for injury to the Design-Builder’s employees or for loss or damage to the Design-Builder’s or to the Design-Builder’s employees’ machinery, equipment, tools or supplies which may be temporarily used or stored in, on or about the premises during construction and which may from time to time, or at the termination of the contract, be removed from the premises. The Design-Builder hereby waives all rights of recourse against the Owner or any other contractor with regard to damage to the Design-Builder’s property.”

Delete GC 11.2 CONTRACT SECURITY, including GC 11.2.1 and 11.2.2, and replace with the following:
“GC11.2 CONTRACT SECURITY

11.2.1 The Design-Builder shall, at least 7 calendar days prior to the commencement of construction, provide to the Owner a performance bond and a labour and material payment bond, each in the amount of 50% of the Contract Price.

11.2.2 All bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in British Columbia and shall be maintained in good standing until the fulfilment of the Contract including all warranty obligations pursuant to GC12.5 WARRANTY. Such bonds shall be in the form of the latest editions of CCDC Document 221 (2003) - Performance Bond and CCDC Document 222 (2003) - Labour and Material Payment Bond. The obligee on the bonds shall be the Owner, and BC Housings hall be named as dual obligee on the bonds pursuant to a dual obligee rider acceptable to the Owner and BC Housing.

11.2.3 All bonds shall be held and be subject to enforcement by the Owner without prejudice to any other legal remedy available to the Owner.”

PART 12 INDEMNIFICATION--WAIVER—WARRANTY

GC12.2 INDEMNIFICATION

12.2.1 Delete and replace with the following:

“12.2.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.2.4 and 12.2.5, and excepting always losses arising out of the independent acts of the party for whom indemnification is sought, the Owner and the Design-Builder shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to their involvement as parties to this contract, provided such claims are:

.1 caused by:

(a) the acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or

(b) a failure of the party to the Contract from whom indemnification is sought to fulfill its terms or conditions; and

.2 made by Notice in Writing within such periods as prescribed by the Limitation Act of the Province of British Columbia.”

12.2.2 Delete and replace with the following:

“12.2.2 The obligation of either party to indemnify as set forth in paragraph 12.2.1 shall be limited as follows:
.1 In respect to losses suffered by the Owner and the Design-Builder for which insurance is to be provided by the owner pursuant to GC 11.1 – INSURANCE, the limit of the COURSE OF CONSTRUCTION POLICY – GC11.1.1.1 or the limit of the WRAP UP LIABILITY COVERAGE – GC11.1.1.2 whichever is pertinent to the loss.

.2 In respect to losses suffered by the Owner and the Design-Builder for which insurance is not required to be provided by either party in accordance with GC 11.1 – INSURANCE, the greater of the Contract Price as recorded in Article A-4 – CONTRACT PRICE or $2,000,000, but in no event shall the sum be greater than $20,000,000.00.

.3 In respect to claims by third parties for direct loss resulting from bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, the obligation to indemnify is without limit. In respect to all other claims for indemnity as a result of claims advanced by third parties, the limits of indemnity set forth in paragraphs 12.2.2.1 and 12.2.2.2 shall apply.”

**GC12.4 WAIVER OF CLAIMS**

12.4.1 Delete “Subject to any lien legislation applicable to the Place of the Work, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable to the Place of the Work, the Design-Builder waives and releases the Owner from” and replace with the following:

“The Design-Builder’s request or application for the Certificate of Completion shall constitute a waiver and release by the Design-Builder of any and”.

12.4.1.1 Delete “no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the Place of the Work” and replace with the following: “together with or prior to the Design-Builder’s request or application for the Certificate of Completion”.

12.4.3 Delete “Subject to any lien legislation applicable to the Place of the Work, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable to the Place of the Work, the Owner waives and releases the Design-Builder from” and replace with the following:

“The issuance of the Certificate of Completion shall constitute a waiver and release by the Owner of any and”.

12.4.3.1 Delete “no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the Place of the Work” and replace with the following: “together with or prior to the Design-Builder’s request or application for the Certificate of Completion”.

12.4.3.4 Add at the end:
“or for which the aggregate cost of repair or remedying the defects or deficiencies would be greater than 10% of the Contract Price”

12.4.4 Delete “should any limitation statute of the Province or Territory of the Place of the Work permit such agreement. If the applicable limitation period does not permit such agreement, within such shorter time as may be prescribed by:

.1 Any limitation statute of the Province or Territory of the Place of the Work; or
.2 If the Place of the Work is the Province of Quebec, then Article 2118 of the Civil Code of Quebec” and replace with the following:

“or, as to any defect or deficiency or other claim of which the Owner is not aware at the end of the said period of six years, a period of one year after the Owner has become aware”.

12.4.8 Immediately before the words “further interim” and again immediately before the words “submit a final account”, insert the following: “, upon request”.

12.4.9 Delete.

12.4.10 Delete.

Add:

“12.4.11 For greater certainty, in paragraphs 12.4.1, 12.4.2, 12.4.3 and 12.4.5 of GC 12.4 WAIVER OF CLAIMS, “claims” includes claims based on changes and delay (e.g. under Part 6 CHANGES IN THE CONTRACT).”

**GC 12.5 WARRANTY**

12.5.1 Add at the end:

“provided that if, as a result of the failure of the Design-Builder to fulfil its obligations under this Contract, there are any defects in the Work due to professional errors or omissions or defects in the Work which affect the Work to such extend that a significant part of the Work is unfit for the purpose intended, such one year limitation shall not apply and the Owner shall be entitled to claim for any losses or damages suffered on or before the date which is 6 years from the date of Substantial Performance of the Work.”

12.5.4 Delete and replace with the following:

“Except for the provisions of paragraphs 12.5.6 and 12.5.7, the Design-Builder shall correct promptly, at the Design-Builder’s expense, to the satisfaction of the Owner and as approved by B.C. Housing, defects or deficiencies in the Work, including without limitation those due to faulty workmanship or Products or architectural, engineering or design errors or omissions by the Design-Builder, the Consultant or any Subcontractor or Supplier or by any of their respective consultants which appear prior to and during the warranty periods specified in the Contract Documents.”
12.5.3 Add at the end thereof:

“Such notice may specify the time within which the defects or deficiencies must be rectified.”

Add:

“12.5.9 Where specific warranties or guarantees are required by the Contract Documents relating to the Work and including without limitation those relating to any fixtures, improvements, appliances, equipment or other chattels for the Project, the Design-Builder shall secure such warranties or guarantees from the Subcontractors and Product suppliers and they shall be assigned to or addressed to and in favour of the Owner. The Design-Builder shall cooperate and assist in the enforcement of such warranties or guarantees. The Design-Builder shall deliver the originals plus two copies of such warranties or guarantees to the Owner upon completion of the Work.”

Add the following General Conditions:

“GC13.1 GAS AND ELECTRICITY

13.1.1 The Design-Builder is responsible for having all required gas and electric meters installed and ready on the date of Substantial Performance of the Work. This includes installation of individual meters for units as specified.

13.1.2 The occupancy date will be the date of turnover of all gas and electricity billings to the Owner. The Design-Builder shall notify the gas and electricity suppliers and the Owner in writing as to the date of billing turnover at least 45 calendar days prior to such date.

13.1.3 The Owner shall be responsible for notifying the gas and electricity suppliers of start-up billing, failing which the Owner shall reimburse the Design-Builder for all charges accruing thereafter.

GC14.1 PUBLIC STATEMENTS AND SIGNS

14.1.1 The Design-Builder shall not make any public statement with respect to the Project without the prior written consent of the Owner and B.C. Housing.

14.1.2 The Design-Builder shall not erect or permit the erection of any sign or advertising at the Place of the Work without the prior written approval of the Owner.

GC15.1 LIENS

15.1.1 The Design-Builder will pay or cause to be paid promptly when due all claims, debts and charges against the Design-Builder or Subcontractors engaged by the Design-Builder which might become a lien upon the Project arising out of the Work performed or materials furnished by the Design-Builder or any Subcontractors under the Contract, and will not suffer or permit
any lien or encumbrance of any kind to be filed against or upon the Project, regardless of whether the basis of such lien is a claim against the Design-Builder or any Subcontractor.

15.1.2 If the Owner is not in default in making payment to the Design-Builder as required under this Contract and if a claim of builders lien is filed against title to the Project by anyone claiming under or through the Design-Builder, the Owner may notify the Design-Builder in writing that the filing of such claim or claims of builders lien is a material default by the Design-Builder of its contractual obligations and instruct the Design-Builder to obtain and file a release of the said claim or claims in the Land Title Office within seven (7) Working Days immediately following receipt of such notice.

15.1.3 If such default is not corrected within the time specified or subsequently agreed upon in writing, the Owner, without prejudice to any other right or remedy it may have, may:

.1 pay, settle or compromise, or pay into Court (together with a reasonable amount for costs) the amount of, any such claim or claims of the builder’s lien and deduct the amount of any such payment from the next ensuing payment which may become due to the Design-Builder; or

.2 pay into Court from the holdback account established by the Owner in accordance with the Builders Lien Act the total amount of the claim or claims filed and this provision shall constitute the agreement of the Design-Builder to make such payment as required under Section 5(2)(c) of the Builders Lien Act;

and the Owner may deduct from the next ensuing payment which may become due to the Design-Builder all costs and expenses thereby incurred by the Owner, including any account for legal fees and disbursements incurred by the Owner.

15.1.4 If the Owner is not in default in making payment to the Design-Builder as required under this Contract, the Design-Builder will indemnify and save the Owner harmless from and against the costs of any and all actions commenced by any lien claimant claiming under or through the Design-Builder against the Owner pursuant to the Builders Lien Act, including solicitor and client costs.

15.1.5 Notwithstanding any other provision of the Contract, no payments whatsoever shall be due or owing to the Design-Builder so long as any liens filed by anyone claiming under or through the Design-Builder remain registered against title to the Project.”

GC16.1 INFORMATION TECHNOLOGY RELATED THREATS

16.1.1 The Design-Builder shall notify the Owner and its mutual affiliates, as soon as reasonably possible, of any information technology related threat that may be transmitted electronically to the Owner or any of its affiliates which includes but is not limited to: viruses, rogue security software, trojan horses, spyware, computer worms, phishing, rootkits and any real or perceived electronic attack (the “IT Threat”). In the event the Owner becomes aware of an IT Threat, the Owner may, at its sole discretion, notify any organization that it reasonably believes could be exposed to the same IT Threat and
include in such notification any relevant details for the purpose of avoiding or minimizing any negative impact.”

END OF DOCUMENT