

PROVINCIAL OWNER-CONTROLLED CONSTRUCTION INSURANCE PROJECTS

Insurance, contract security and indemnity risk provisions to be included in Supplementary General Conditions to the CCDC 5A – 2010 Contracts for Health entity projects insured by the Owner with an estimated construction value from Five Million (\$5,000,000) up to Seventy-Five Million Dollars (\$75,000,000).

MODIFICATIONS TO GENERAL CONDITIONS

GC 8.1 INSURANCE, replace entirely with the following:

GC 8.1 - INSURANCE

Without restricting the generality of GC 9.1—INDEMNIFICATION, insurance and coverage will be arranged and paid for as under-noted:

8.1.1 For the period when the *Owner's* Commercial General Liability – Wrap up Insurance is not in force, the *Construction Manager* shall, without limiting its obligation or liabilities herein and at its own expense, provide and maintain the following insurance with insurers licensed in British Columbia:

(a) **Commercial General Liability** with a limit of not less than FIVE MILLION DOLLARS (\$5,000,000), inclusive per occurrence against bodily injury and property damage, and the *Owner* is to be added as an additional insured and include a cross liability clause. This insurance shall be primary and not require the sharing of any loss by any insurer of the *Owner*.

8.1.2 **The *Construction Manager* 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*:**

(a) **Automobile Liability Insurance** in respect of all owned or leased vehicles if used directly or indirectly in the performance of the *Services* and *Project*, subject to limits of not less than TWO MILLION DOLLARS (\$2,000,000) inclusive per occurrence. The insurance shall be maintained continuously from commencement of the *Services* (including *Temporary Work*) and kept in force until the *Project* is ready for use or is being used for the purpose intended, whichever occurs first, and is so confirmed in writing by the *Consultant* in consultation with the *Construction Manager* and the *Owner*.

8.1.3 The insurance required under clause 8.1.1 (a) must be endorsed to provide the *Owner* with 30 days' advance written notice of cancellation.

8.1.4 As may be applicable, the *Construction Manager* must cause all *Trade Contractors* to comply with the insurance requirements outlined in clause 8.1.2(a).

8.1.5 **The *Owner* shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurance and coverages:**

(a) **Commercial General Liability – Wrap Up Insurance** with a limit of not less than TEN MILLION DOLLARS (\$10,000,000) inclusive per occurrence, TWENTY MILLION DOLLARS (\$20,000,000) general aggregate for third party bodily injury, death, and damage to

property including loss of use thereof, product/completed operations liability with a limit of not less than TEN MILLION DOLLARS (\$10,000,000) aggregate.

This insurance will cover the *Owner*, the *Construction Manager*, *Trade Contractors*, *Consultant*, sub-consultants and anyone employed by them to perform a part or parts of the *Project* but excluding suppliers whose only function is to supply and/or transport products to the project site, or security protection persons or organizations providing project site protection on or at the insured project. The insurance does not extend to any activities, works, jobs or undertakings of the insureds other than those directly related to the *Project* of this Agreement.

The insurance will preclude subrogation claims by the insurer against anyone insured hereunder.

Such insurance shall include, but not be limited to:

- .01 Premises and Operations Liability;
- .02 Products and Completed Operations Liability (24 months);
- .03 Blanket Written Contractual Liability;
- .04 Cross Liability and/or Severability of Interests;
- .05 Contingent Employer's Liability;
- .06 Personal Injury Liability;
- .07 Shoring, Blasting, Excavating, Underpinning, Demolition, Piledriving, Subsurface and Grading, as applicable;
- .08 Limited Pollution Liability (TWO MILLION DOLLARS (\$2,000,000))
- .09 Broad Form Tenants Legal Liability (ONE MILLION DOLLARS (\$1,000,000))
- .10 Operation of Attached Machinery
- .11 Forest Fire Fighting Expenses (ONE MILLION DOLLARS (\$1,000,000))

There will be a deductible not exceeding FIFTY THOUSAND DOLLARS (\$50,000) per occurrence except with respect to completed operations, to which a deductible not exceeding ONE HUNDRED THOUSAND DOLLARS (\$100,000) per occurrence will apply.

This insurance will be maintained continuously from commencement of the *Work* and kept in force until the *Project* is ready for use or is being used for the purpose intended, whichever occurs first, and is so confirmed in writing by the *Consultant*, in consultation with the *Construction Manager* and the *Owner*, plus with respect to completed operations cover a further period of twenty-four (24) months.

- (b) Course of Construction** (Builders Risk) coverage, against "All Risks" of direct physical loss or damage including the peril of equipment breakdown, and will cover all materials, property, structures and equipment purchased for, entering into, or forming part of the *Project* while located anywhere within Canada and continental United States of America during construction, erection, installation and testing and commissioning, but such coverage may be subject to off-site storage and transit exposure sub-limits and shall not include coverage for the *Construction Manager* and *Trade Contractors'* equipment of any description.

There will be a deductible of TWENTY THOUSAND DOLLARS (\$20,000) for each and every occurrence where the project value is TEN MILLION DOLLARS (\$10,000,000) or less and a deductible not exceeding FIFTY THOUSAND DOLLARS (\$50,000) for each and every occurrence where the project value exceeds TEN MILLION (\$10,000,000) except for the following perils:

Earthquake with a deductible not exceeding FIVE PERCENT (5%) of the total project value at the time of the loss, subject to a minimum TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000);

Water Damage perils (includes Flood and Sewer and Drain Back Up) with a deductible not exceeding ONE HUNDRED THOUSAND DOLLARS (\$100,000);

Soft Costs with a one day waiting period for each month of the estimated project term subject to a minimum waiting period of 30 days will apply with respect to soft costs.

The coverage will include as a protected entity, the *Owner*, the *Construction Manager*, *Consultant* and each *Trade Contractor* who is engaged in the *Project*.

The coverage will contain a waiver of the *Owner's* rights of subrogation against all protected entities except that rights of subrogation will be retained against architects, engineers and manufacturers (who are not employees of a protected entity) for liability in the event of loss caused by or resulting from any error in design or any other professional error or omission pertaining to the subject of this insurance.

The *Construction Manager* will, at its own expense, take precautions to prevent fires occurring in or about the *Work* and will observe, and comply with, all insurance policy warranties and all laws and regulations in force respecting fires.

Such coverage will be maintained continuously from commencement of the *Work* and will be kept in force until the *Project* is ready for use or is being used for the purpose intended, whichever occurs first, and is so confirmed in writing by the *Consultant* in consultation with the *Construction Manager* and the *Owner*.

- 8.1.6 The description of the *Owner* arranged insurance described herein is provided on a summary basis only and is not a statement of the actual policy terms and conditions. The *Owner* does not represent or warrant that the *Owner* arranged insurance contains insurance for any and all losses. It is the *Construction Manager's* responsibility to ascertain the exact nature and extent of coverage provided by the *Owner* arranged insurance, to review all policies pertaining thereto and to obtain any other insurance that it may be prudent for the *Construction Manager* to obtain.
- 8.1.7 The *Construction Manager* shall provide, maintain and pay for any additional insurance which they are required to provide by law or which they consider necessary.
- 8.1.8 The parties shall pay their share of the deductible amounts in direct proportion to their responsibility in regards to any loss for which the *Owner* placed coverage and insurance are required to pay, except where such amounts may be excluded by the terms of the *Contract*.
- 8.1.9 The *Owner* shall, upon request, provide the *Construction Manager* with proof of insurance for those coverages and insurances required to be provided by the *Owner* prior to commencement of the *Project* and subsequent certified copy of policies within a reasonable time period thereafter.
- 8.1.10 The *Construction Manager* shall provide the *Owner* with proof of insurance for those insurances required to be provided by the *Construction Manager* prior to the

commencement of the *Services* and *Project* as applicable in the form of a completed certificate of insurance and will also provide a certified copy of any required policies upon request.

8.1.11 The *Owner* shall not be responsible for injury to the *Construction Manager's* employees or for loss or damage to the *Construction Manager's* or to the *Construction Manager's* employees' machinery, equipment, tools or supplies which may be temporarily used or stored in, on or about the project site during construction and which may, from time to time, or at the termination of this *Contract* be removed from the project site. The *Construction Manager* hereby waives all rights of recourse against the *Owner* with regard to damage to the *Construction Manager's* property.

8.1.12 If the *Construction Manager* fails to provide, maintain and pay for insurance as required by this schedule, other than automobile liability insurance, the *Owner* may obtain and pay for the required insurance, the cost of which will be payable on demand by the *Owner*. The *Owner* may offset such amounts from any monies due to the *Construction Manager* if not paid within 15 days.

GC 9.1 INDEMNIFICATION, delete GC 9.1.1 - 9.1.2 and replace with the following:

GC 9.1 – INDEMNIFICATION

9.1.1 Excepting always losses caused or contributed by the acts of the party for whom indemnification is sought, the *Owner* and the *Construction Manager* 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:

- (1) the acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
- (2) 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.

9.1.2 The obligation of either party to indemnify as set forth in paragraph 9.1.1 shall be limited as follows:

.1 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is to be provided by either party pursuant to GC 8.1 – INSURANCE, the limit of:

- (1) Commercial General Liability Coverage – GC 8.1.1(a);
 - (2) Commercial General Liability – Wrap Up Insurance – GC 8.1.5 (a); or
 - (3) Course of Construction (Builders Risk) – GC 8.1.5 (b)
- whichever is pertinent to the loss.

.2 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is not required to be provided by either party in accordance with GC 8.1 – INSURANCE, the greater of:

- (1) the *Construction Manager's* compensation as recorded in Article A-5 – COMPENSATION FOR SERVICES or;
 - (2) TWO MILLION DOLLARS (\$2,000,000.00),
but in no event shall the sum be greater than TWENTY MILLION DOLLARS (\$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 9.1.2.1 and 9.1.2.2 shall apply.