

SUPPLEMENTAL GENERAL CONDITIONS

Amendments to OPSS.MUNI 100, Nov. 2019

SECTION GC 1.0 - INTERPRETATION

GC 1.04 Definitions

Clause GC 1.04.01 is amended by deleting the definition of "Final Acceptance" and replacing with the following:

Final Acceptance means the date on which the Contract Administrator determines that the Work has passed all inspection and testing requirements and the Contract Administrator is satisfied that the Contractor has rectified all imperfect Work and has discharged all of the Contractor's obligations under the Contract Documents and, for certainty, Final Acceptance shall in no event occur before the end of the Warranty Period.

Clause GC 1.04.01 is amended by deleting the *definition of "Working Area" and replacing it with the following:*

Working Area means all the lands and easements on, over or under which the Work is to be constructed.

SECTION GC 2.0 - CONTRACT DOCUMENTS

GC 2.01 Reliance on Contract Documents

Clause GC 2.01.01 is deleted in its entirety and replaced with the following:

- .01 The Owner warrants that the information furnished in the Contract Documents can be relied upon with the following limitations or exceptions:
- a) The Contractor shall assume full responsibility for obtaining the exact locations of all Utilities. The Contract Administrator does not warrant the correctness or completeness of the Plans with respect to the Utilities and services whether underground or on the surface. The Contractor shall have no claim for additional compensation, if, in uncovering and carrying out the Work, it should find that the actual location of the Utilities does not correspond with the locations shown on the Plans.

SECTION GC 3.0 - ADMINISTRATION OF THE CONTRACT

GC 3.01 Contract Administrator's Authority

Clause GC 3.01 .16 is deleted in its entirety and replaced with the following:

- .16 The Owner has the right to terminate the Contract for wilful or persistent violation by the Contractor or its workers of any applicable laws or bylaws or the Owner's applicable

policies and by-laws, including but not limited to, the Occupational Health and Safety Act legislation and regulations, Workplace Safety and Insurance Board Act, Regulation 347 of the Environmental Protection Act, the Accessibility for Ontarians with Disabilities Act, 2005 and the Integrated Accessibility Standards (Ontario Regulation 191/11).

GC 3.04 Emergency Situations

Clause GC 3.04.02 is deleted in its entirety and replaced with the following:

- .02 If the emergency situation is determined to be the fault of the Contractor, the remedial work shall be done at the Contractor's expense. If the remedial work is done by others at the direction of the Contract Administrator, the Contractor shall pay to the Owner all costs of the work plus an administration fee of 20% thereof, and any amount or amounts payable by the Contractor hereunder may be deducted from monies then or thereafter owing under this or any other contract, or otherwise owing to the Contractor.

Subsection GC 3.04 is amended by the addition of the following:

- .03 If the emergency situation is determined by the Contract Administrator not to be the fault of the Contractor, the Owner shall pay for the remedial work. If the remedial work is done by the Contractor payment for the remedial work may be negotiated pursuant to subsection GC 3.13, Claims, Negotiations, Mediation, or payment may be made according to the conditions contained in clause GC 8.02.04, Payment on a Time and Material Basis.

GC 3.05 Layout Information

Clauses GC 3.05.01, GC 3.05.02 and GC 3.05.03 are deleted in its entirety and replaced with the following:

- .01 It shall be the responsibility of the Contractor to provide its own layout for the Work. The Contract price shall be deemed to include full compensation for all costs of such layout work.

GC 3.07 Delays

Clause GC 3.07.01 is amended by deleting the words set out below 3.07.01 g) and replacing them with the following:

then the Contractor may apply for an extension of Contract Time, provided that in the case of an application for an extension of Contract Time due to abnormal inclement weather, the Contractor shall, with the Contractor's application, submit evidence from Environment Canada in support of such application. Extension of Contract Time may be granted in accordance with subsection GC 3.06, Extension of Contract Time.

GC 3.09 Subcontracting by the Contractor

Clauses GC 3.09.02 and GC 3.09.03 are deleted in their entirety and replaced with the following:

- .02 The Contractor shall not, without the written consent of the Owner, change a Subcontractor that was named or identified in the Contractor's Tender. Such approval shall only be considered after receipt by the Owner of a written request for the change by the Contractor with a full explanation of the reasons for the requested change and a letter from the previously named Subcontractor agreeing to withdraw its bid to the Contractor, with no consequences to the Owner.
- .03 The Owner reserves the right to reject a proposed Subcontractor for any reason.

Subsection GC 3.09 is amended by the addition of the following:

- .07 The Contractor shall, in the case of its Subcontractors and suppliers, be held responsible for and shall ensure that they obtain all necessary permits, fees, licenses, certifications, inspections and all insurance in connection with the Work as may be required by laws, ordinances, rules, regulations and codes relating to the Work and by the Contract Documents.

GC 3.10.01 Changes in the Work

Clause GC 3.10.01 is amended by the addition of the following:

- .04 The Owner shall have the right to delete any part of the Work from the Contract upon five (5) days written notice to the Contractor. In the event of such a deletion, the Contractor shall be entitled to payment for that portion of the Work that is, in the Contract Administrator's opinion, satisfactorily performed up to the date of the deletion notice and the Contractor may request negotiations for payment of actual costs incurred by the Contractor to remove equipment, materials and labour from the site, provided the Contractor shall provide reasonable evidence of any such actual costs, provided further that the Contractor shall not be entitled to any claim for loss of profit or anticipated profit, loss of business opportunities, or any other indirect or consequential damages that may arise from the Owner's deletion of the Work.

GC 3.13.03 Claims Procedure

Paragraph GC 3.13.03.02 is amended by adding the following sentence to the end of that paragraph:

- .02 In the case of a claim in respect of Extra Work, the Contractor shall give written notification of its intent to submit a claim for Extra Work prior to the commencement of the Extra Work; otherwise claims for Extra Work will not be considered.

Paragraph GC 3.13.03.03 is amended by deleting the reference to "30 Days" and replacing it with "10 Days".

Paragraph GC 3.13.03 is amended by adding the following clause GC 3.13.03 .06

- .06 Under no circumstance shall the Owner be obligated to make any additional payment to the Contractor unless the Contractor has complied with the Claims Procedure described herein and a Change Order has been signed by the Contractor and the Owner, or the Contract Administrator where so authorized.

GC 3.14.01 Conditions of Arbitration

Paragraphs GC 3.14.01.01 and 3.14.01.02 are deleted in their entirety and replaced with the following:

- .01 If a claim is not resolved satisfactorily through the negotiation stage noted in clause GC 3.13.04, Negotiations, or the mediation stage noted in clause GC 3.13.05, Mediation, either party may request an arbitration of the dispute and the parties, by mutual agreement, may invoke the provisions of subsection GC 3.14, Arbitration.
- .02 If the parties agree to engage in arbitration, notification that arbitration shall be implemented to resolve the issue shall be communicated by the Owner in writing to the Contract Administrator as soon as possible and no later than 60 Days following the opinion given in paragraph GC 3.13.03.05. Where the use of a third party mediator was implemented, notification shall be made within 120 Days of the opinion given in paragraph GC 3.13.03.05.

SECTION GC 4.0 - OWNER'S RESPONSIBILITIES AND RIGHTS

GC 4.02 Approvals and Permits

Clause GC 4.02.01 is amended by deleting the words "plumbing and".

GC 4.05 Default by the Contractor

Clause GC 4.05 .01 is deleted in its entirety and replaced with the following:

1. If the Contractor fails to commence the Work within 14 Days of a formal order to commence Work signed by the Contract Administrator or, upon commencement of the Work, should neglect to prosecute the Work properly or otherwise fails to comply with the requirements of the Contract, the Owner may, without prejudice to any other right or remedy the Owner may have, notify the Contractor in writing that the Contractor is in default of the Contractor's contractual obligations and instruct the Contractor to correct the default in the 5 Working Days immediately following the receipt of such notice.

GC 4.06 Contractor's Right to Correct a Default

Clause GC 4.06.01 is deleted in its entirety and replaced with the following:

- .01 The Contractor shall have the right within the 5 full Working Days following the receipt of a notice of default to correct the default in a manner acceptable to the Contract Administrator and provide the Owner with satisfactory proof that appropriate corrective measures have been taken.

Clause GC 4.06.02 is amended by deleting b) and c) in their entirety and replacing them with the following:

- b) provides the Owner with a schedule for the progress of such correction acceptable to the Contract Administrator; and
- c) completes the correction in accordance with such schedule to the satisfaction of the Contract Administrator.

GC 4.08 Termination of Contractor's Right to Continue the Work

Clause GC 4.08 .02 d) is deleted in its entirety and replaced with the following:

- d) withhold further payments to the Contractor with respect to the Work or the portion of the Work withdrawn from the Contractor.

GC 6.02 Indemnification

Clauses GC 6.02 .01 and .04 are deleted in their entirety and replaced with the following:

- .01 The Contractor shall indemnify and hold harmless the Contract Administrator, the Owner, its elected officials, agents, officers, and employees from and against all claims, demands, losses, expenses, costs, damages, actions, suits, or proceedings (hereinafter called "claims"), directly or indirectly arising or alleged to arise out of the performance of or the failure to perform the Work by the Contractor, provided such claims are,
 - (a) attributable to bodily injury, sickness, disease, or death or to damage to or destruction of tangible property;
 - (b) caused by negligent acts or omissions of the Contractor or anyone for whose acts the Contractor may be liable; and
 - (c) made in writing within a period of 6 years from the date of Substantial Performance of the Work as set out in the Certificate of Substantial Performance of the Work or, where so specified in the Contract Documents, from the date of certification of Final Acceptance.
- .04 The Owner shall indemnify and hold harmless the Contractor, its agents, officers, and employees from and against all claims, demands, losses, expenses, costs, damages, actions, suits, or proceedings arising out of the Contractor's performance of the Contract that are attributable to a defect in title to the Working Area.

SECTION GC 5.0 – MATERIAL

GC 5.04 Substitutions

Clause GC 5.04.03 is deleted in its entirety and replaced with the following:

- .03 If the proposed substitution is approved by the Contract Administrator, the Contract Administrator and the Contractor shall negotiate an adjustment to the Contract price, if any, that is acceptable to both parties.

SECTION GC 6.0 – INSURANCE, PROTECTION AND DAMAGE

GC 6.04 Bonding

Subsection GC 6.04 is amended by the addition of the following:

- .03 The date of expiry of all bonds or other surety furnished to the Owner by the Contractor shall be extended at the expense of the Contractor to at least two (2) months from the date of Final Acceptance, and the Contractor shall furnish the Owner with evidence of such extension of the bond or other surety.

GC 6.05 Workplace Safety and Insurance Board

Clause GC 6.05.01 is amended by deleting a), b) and c) and replacing them with the following:

- a) At the time of the execution of the Contract by the Contractor.
- b) Prior to the issuance of any payment by the Owner and prior to issue of the Certificate of Substantial Performance.
- c) Prior to expiration of the Warranty Period and upon the completion payment.

SECTION GC 7.0 – CONTRACTOR’S RESONSIBILITIES AND CONTROL OF THE WORK

GC 7.01.03 Control and Responsibility

Clause GC 7.01.03.02 is deleted in its entirety and replaced with the following:

- .02 The Contractor shall provide adequate labour, Equipment, and Material to ensure the completion of the Contract in accordance with the Contract Documents. The Work shall be performed as expeditiously, efficiently and as continuously as weather conditions or other interferences may permit.

Clause GC 7.01.03.03 is amended by the addition of the following:

- .03 The Contractor shall satisfy itself as to the nature of the soil, the bearing capacity and other physical characteristics included but not limited to the location of various earth or rock strata and ground water levels.

Geotechnical reports or borehole logs provided to the Contractor by the Owner does not relieve the Contractor of sole responsibility for determining all necessary information relevant to the Work.

GC 7.01.04 Compliance with the Occupational Health and Safety Act

Clause GC 7.01.04.01 is amended by the addition of the following:

- h) The Contractor shall be responsible for ensuring that the requirements of the Health and Safety Act are maintained onsite for the workers, the Owner and the Owner’s staff, representatives and visitors.

GC 7.01.05 Contractor's Representatives

Clause GC 7.01.05.01 is amended by the addition of the following words:

The Contractor's representative on the site shall be able to read, write and speak English.

GC 7.02 Monuments and Layout

Clauses GC 7.02.01, 7.02.02, 7.02.05 and 7.02.06 are deleted in their entirety.

GC 7.03 Working Area

Subsection GC 7.03 is amended by the addition of the following:

- .06 The Contractor shall ensure that any operations associated with the Work within the Working Area shall be controlled and managed to minimize impacts on adjacent residents and businesses.
- .07 The Contractor shall take such steps as may be required to prevent dust nuisance resulting from its operations either within the right-of-way or elsewhere or by public traffic where it is the Contractor's responsibility to maintain a roadway through the Working Area.
- .08 Where the Work requires the sawing of asphalt or the sawing or grinding of concrete, blades and grinders of the wet type shall be used together with sufficient water to prevent the incidence of dust, wherever dust would affect traffic or wherever dust would be a nuisance to residents of the area where the Work is being carried out.

GC 7.07 Access to Properties Adjoining the Work and Interruption of Utility Services

Subsection GC 7.07 is amended by deleting clauses 7.07.02 and 7.07.03 in their entirety, and replacing with the following:

- .02 The Contractor shall provide at all times and at no extra cost to the Owner access to fire hydrants, water and gas valves, all other Utilities, and access to all entrances to the Working Area.
- .03 Where any interruptions in the supply of Utility services or restrictions to pedestrian and vehicular access to properties adjoining the Working Area are required and are authorized by the Contract Administrator, the Contractor shall give the affected property owners notice in accordance with subsection GC 7.11, Notices by the Contractor, and shall arrange such interruptions so as to create a minimum of interference to those affected.

GC 7.10 Contractor's Right to Stop the Work or Terminate the Contract

Clause GC 7.10.03 c) is deleted in its entirety and replaced with the following:

- c) the Owner fails to materially comply with the requirements of the Contract.

Clauses GC 7.10.04 and 7.10.05 are deleted in their entirety and replaces with the following:

- .04 The Contractor's written notice to the Owner shall advise that if the default is not corrected in the 30 Days immediately following receipt of the written notice, the Contractor may, without prejudice to any other right or remedy the Contractor may have, stop the Work or terminate the Contract.
- .05 If the Contractor terminates the Contract under the conditions set out in subsection GC 7.10, the Contractor shall be entitled to be paid for that portion of the Work that is, in the Contract Administrator's opinion, satisfactorily performed.

GC 7.14 Limitations of Operations

Subsection GC 7.14 is amended by deleting the first paragraph and replacing it with the following:

- .01 Except as otherwise approved in writing by the Contract Administrator and subject to any by-laws of the Owner limiting the hours of work, the Contractor shall confine the hours of work to:

7 a.m. to 6 p.m.	Monday to Friday
9 a.m. to 4 p.m.	Saturday

and shall not work on Sundays or Holidays as defined in the Retail Business Holidays Act, R.S.O. 1990, Chap. R.30 or any successor thereof, or the last business day afternoon before a long weekend. The Contractor shall not be entitled to a claim for delay, change in the schedule or increase in the Contract Price arising from the Contractor's obligation to comply with these limitations of operations.

GC 7.16 Warranty

Clause GC 7.16.02 is deleted in its entirety and replaced with the following:

- 02 Subject to the previous paragraph, the Contractor shall correct promptly, at no additional cost to the Owner, all defects or deficiencies in the Work that appear prior to and during the period of 24 months from the date of Completion, as set out in the Completion Certificate. Any Work repaired or replaced during such 24-month period shall be re-warranted for an additional 12 months from the date of completion of the repair or replacement, whether such 12-month period comes within, or extends beyond, the initial 24-month period (the initial 24-month period and any extension, if any, shall be the Warranty Period). For certainty, notwithstanding the expiration of the Warranty Period, the Contractor shall not be relieved of its obligations to correct any defects or deficiencies in the Work of which notice has been given to the Contractor prior to the expiration of the Warranty Period. In addition, during the Warranty Period, the Contractor shall secure the warranty of the Work for the full length of the Warranty Period in one or more of the following forms:
 1. A letter of credit;
 2. A performance bond;

3. Adjustment of the holdback such that a portion of it is released on the expiry of the Warranty Period;
4. Any other form as may be prescribed by the Owner;

as the Owner, in its absolute discretion, may determine in the circumstances.

Subsection GC 7.16 is amended by the addition of the following:

- .04 The Contractor shall, within fourteen (14) Days after receiving written instructions from the Contract Administrator, unless otherwise agreed to by the Owner, make good, in a manner that is stable and resilient, in accordance with industry best practices, satisfactory to the Contract Administrator, any defects or deficiencies discovered in the Work.
- .05 Should the Contractor fail to comply with the directions of the Contract Administrator, the Owner may, after giving the Contractor five Business Days written notice, perform the necessary work, provided that in the event of an emergency, the Owner may forthwith without notice perform the necessary work and the cost of such work in either event shall become the responsibility of the Contractor and shall be deducted or collected by the Owner.
- .06 The decision of the Contract Administrator shall be final as to the existence of such defects or deficiencies, the necessity of remedying same, and the remedial measures required.

GC 7.18 Drainage

Subsection GC 7.18 is amended by the addition of the following:

- .02 The Contractor shall be solely responsible for all damages caused by, or resulting from water backing up or flowing over, under, through, from, on or along any part of the Work or which any of its operations may cause to flow elsewhere and shall bear such costs, make such provisions and provide such indemnity as required in the Contract Documents.

SECTION GC 8.0 – MEASUREMENT AND PAYMENT

GC 8.02.03 Advance Payments for Material

Clause GC 8.02.03 is deleted in its entirety.

GC 8.02.04.01 Progress Payment

Clause GC 8.02.04.01 is deleted in its entirety and is replaced with the following:

- .01 On or before the 5th day of every month, the Contractor shall submit an invoice to the Owner for the Work completed up until the last day of the previous month, with such invoice sent to AccountsPayable@uclg.on.ca, by email or, to the following, by mail (regular or courier):

Accounts Payable,

United Counties of Leeds and Grenville
25 Central Ave W, Suite 100
Brockville, ON K6V 4N6

- .02 Each invoice shall be a “proper invoice”, as defined in Section 6.1 of the Construction Act, having the following information:
1. Name and address of Contractor;
 2. Invoice date and the period during which the services or materials were supplied or the Work performed;
 3. Information identifying the authority, whether in the Contract or otherwise, under which the services or materials were supplied or Work performed;
 4. A description, including quantity where appropriate, of the services or materials that were supplied or Work performed;
 5. The amount payable for the services or materials that were supplied, or Work performed, and the payment terms;
 6. The name, title, telephone number and mailing address of the person to whom payment is to be sent;
 7. Any other substantiating documentation/information required by the Contract (Statutory declaration, WSIB clearance certificate, etc.)
- .03 Payment shall be made by the Owner within 28 days of receipt of a proper invoice unless the Owner delivers a notice of non-payment setting out the amount being withheld and the reason(s) therefor, in the form and manner prescribed under the Construction Act.
- .04 The Owner shall retain the Statutory Holdback in the form and amount as required under the Construction Act.

GC 8.02.04.02 Certification of Subcontract Completion

Paragraph GC 8.02.04.02 is deleted in its entirety.

GC 8.02.04.03 Subcontract Statutory Holdback Release Certificate and Payment

Paragraphs GC 8.02.04.03 is deleted in its entirety.

GC 8.02.04.06 Certificate of Completion

Paragraph GC 8.02.04.06 is deleted in its entirety and replaced with the following:

- .01 Application for Completion may be requested by the Contractor once all services and Material required by the Contract have been supplied, exclusive of any warranties, and shall be submitted in the form of a letter, accompanied with:
- a) An application for payment at Completion in a form satisfactory to the Contract Administrator for all work to date, the amount of the 10% holdback, and the amount due the Contractor.

- b) A release, on the Owner's standard form PH-CC-817, Application for Substantial Performance/Completion, by the Contractor to the Contract Administrator releasing the Owner from all further claims related to the Contract qualified by stated exceptions (e.g., outstanding submissions or matters arising out of subsection GC 3.14, Clarifications and Claims).
 - c) A statutory declaration, on Owner's standard form PH-CC-817, Application for Substantial Performance/Completion, by the Contractor to the Contract Administrator that all liabilities incurred by the Contractor and Subcontractors in carrying out the Contract have been discharged, except for the statutory holdbacks properly retained.
 - d) A satisfactory Certificate of Clearance from the Workplace Safety and Insurance Board.
- .02 Upon confirming the Contract is complete, the Owner shall issue a Certificate of Completion on the Owner's standard form PH-CC-890, Certificate of Completion, and shall set out in the form the date on which the Contract was completed (date of Completion) and within 7 Days after the signing the said certificate, the Owner shall provide a copy to the Contractor. A Certificate of Substantial Performance shall also be provided, if not previously requested by the Contractor.
- .03 If the Contractor has not previously received a Certificate of Substantial Performance, upon receipt of a copy of the Certificate of Completion and the Certificate of Substantial Performance, the Contractor shall arrange to have the Certificate of Substantial Performance published in the Daily Commercial News and the Contractor shall provide to the Contract Administrator proof that the certificate was published. Where the Contractor fails to publish a Certificate of Substantial Performance within 7 Days of receiving the certificate, the Owner may publish the certificate in the Daily Commercial News and charge the Contractor \$400 for the costs of advertising and administration. The 60-Day lien period shall start on the date the certificate is published in the Daily Commercial News.
- .04 The Certificate of Completion may be issued although not all required Contractor submissions have been provided. The Contractor shall provide all outstanding submissions (e.g., test results, Record Drawings, and manuals) within 20 Business Days of the date of Certificate of Completion. It is anticipated the Owner shall incur damages after such time should the submissions not be received within the above time. The parties agree that liquidated damages of \$400 per Day shall be charged to the Contractor for each Day after 20 Business Days of the date of Certificate of Completion until all submissions have been received.
- .05 Upon receipt of the application for payment at Completion, the Contract Administrator shall check the invoice and advise the Contractor of any discrepancies. Any of these discrepancies that are unresolved prior to the expiry of the 60-Day lien period may be treated as a set-off.
- .06 Upon conclusion of the 60-Day lien period, and provided no liens have been received, all remaining holdback, exclusive of set-offs and subject to any provision in these Supplemental General Conditions, shall be paid by the Owner, within 30 Days.

GC 8.02.04.08 Interest

Paragraph GC 8.02.04.08 is deleted in its entirety and replaced with the following:

- .01 The Owner shall not, under any circumstances, provide payment for any charges relating to accrued interest or late fees, unless required by law or otherwise agreed by the Owner in writing.

GC 8.02.04.09 Interest for Late Payment

Paragraph GC 8.02.04.09 is deleted in its entirety.

GC 8.02.04.10 Interest for Negotiations and Claims

Paragraph GC 8.02.04.10 is deleted in its entirety.

GC 8.02.04.12 Delay in Payment

Paragraph GC 8.02.04.12 is deleted in its entirety.

GC 8.02.05.01 Definitions

Paragraph GC 8.02.05.01.01 is deleted in its entirety and replaced with the following:

Working Time means each period of time during which a unit of Equipment is actively and of necessity engaged on a specific operation.

GC 8.02.05.06.01 Working Time

Paragraph GC 8.02.05.06.01. is deleted in its entirety and replaced with the following:

- .01 The Owner shall pay the Contractor for the Working Time of all Equipment, other than Rented Equipment and Operated Rented Equipment, used on the Work on a Time and Material basis at 110% of the 127 Rate.

GC 8.02.05.06.02 Standby Time

Paragraph GC 8.02.05.06.02 is deleted in its entirety and replaced with the following:

- .01 The Owner is not liable to pay Standby Time for any equipment or the Cost of Labour of operators or associated labourers who cannot be otherwise employed during the standby period or other period of idleness.

GC 8.02.09 Liquidated Damages

Clause GC 8.02.09.01 is deleted in its entirety and replaced with the following:

01. It is agreed by the parties to the Contract that in case all the Work is not finished or completed within the time specified in the Contract Documents, subject to any extension granted by the Contract Administrator, damages will be sustained by the Owner and that it is and will be impracticable and extremely difficult to ascertain and determine the actual damages which the Owner will sustain in the event of and by any reason of such delay and the parties hereto agree that the Contractor shall pay to the Owner the sum of **Six Hundred Dollars (\$600.00)** for liquidated damages for each and every Day there is a delay in finishing the Work in excess of the time limit prescribed. It is agreed that this amount is an estimate of the actual damages to the Owner which will accrue during the period in excess of the time prescribed, and is not a penalty.

The Owner may deduct any amount due under this paragraph from any monies that may be due or payable to the Contractor on any account with respect to the Contract Documents. The liquidated damages payable under this paragraph are in addition to and without prejudice to any other remedy, action or other alternative that may be available to the Owner.

END OF SUPPLEMENTAL GENERAL CONDITIONS