

AGILE SOFTWARE DEVELOPMENT AGREEMENT

BETWEEN

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
REPRESENTED BY THE MINISTER OF**

(THE “PROVINCE”)

AND

(THE “CONTRACTOR”)

May 1, 2018

Table of Contents

ARTICLE 1 DEFINITIONS AND INTERPRETATION	1
1.1 Definitions	1
1.2 Interpretation.....	1
1.3 Headings.....	2
1.4 Currency	2
1.5 Schedules	3
1.6 Conflict of Provisions.....	3
1.7 Acting Reasonably	3
ARTICLE 2 TERM AND RENEWAL	3
2.1 Term	3
ARTICLE 3 SERVICES AND DELIVERABLES.....	3
3.1 Services	3
3.2 Technology to Comply with Standards	4
3.3 Knowledge Transfer	4
3.4 Service Location(s)	4
ARTICLE 4 FACILITIES AND PERSONNEL.....	4
4.1 Contractor Personnel	4
4.2 Province Facilities	4
4.3 Province Facilities Terms of Use	5
4.4 Contractor Facilities and Resources.....	5
4.5 Access to Province Systems	5
4.6 Contractor Access, Use and Security	5
4.7 Key Personnel.....	5
4.8 Procedure for Removal of Key Personnel	6
4.9 Replacement of Key Personnel.....	6
4.10 Key Personnel Issues	6
4.11 Familiarization	6
4.12 Standards of Conduct	6
4.13 Removal on Request.....	7
4.14 Contractor Responsibility	7
4.15 Province Product Manager	7
4.16 Province Personnel Availability	7
ARTICLE 5 FEES AND PAYMENT	8
5.1 Fees and Expenses	8

5.2	Invoices.....	8
5.3	Payments Due	8
5.4	Interest on Overdue Payments.....	8
5.5	Appropriation.....	8
5.6	Prohibition against committing money	8
5.7	Refunds of Taxes	8
ARTICLE 6 RECORDS AND AUDITS		9
6.1	Maintenance of Records	9
6.2	Inspection	9
6.3	Audit	9
6.4	Costs.....	9
6.5	Conduct of Parties.....	10
6.6	Deficiencies.....	10
ARTICLE 7 REPRESENTATIONS, WARRANTIES AND COVENANTS		10
7.1	Contractor Representations and Warranties.....	10
7.2	Specific Covenants	12
7.3	Reliance by Province	12
7.4	Province Representations and Warranties	12
7.5	Reliance by the Contractor.....	13
ARTICLE 8 INTELLECTUAL PROPERTY		13
8.1	Tangible Rights	13
8.2	Province's Intellectual Property Rights	13
8.3	Use of Province Material by the Contractor	13
8.4	Use of and Access to the Province Systems	13
8.5	Contractor's Intellectual Property Rights	13
8.6	Moral Rights.....	13
8.7	License to Province Over Increments.....	13
8.8	License to Province Over Documentation	14
8.9	Confirmation of Licenses.....	14
8.10	Intellectual Property Representations and Warranties.....	14
8.11	Replacement of Infringing Content	14
ARTICLE 9 CONFIDENTIALITY, SECURITY AND PRIVACY		15
9.1	Confidentiality	15
9.2	Protection of Confidential Information.....	15
9.3	Security Obligations and Point of Contact	16
9.4	Privacy	16

ARTICLE 10 SUBCONTRACTING	16
10.1 Subcontracting	16
10.2 Province Approval	16
10.3 Responsibility for Subcontractors	16
10.4 Subcontract Terms	16
ARTICLE 11 ASSIGNMENT	17
11.1 Assignment by the Province	17
11.2 Assignment by the Contractor	17
ARTICLE 12 SPRINT TESTING AND ACCEPTANCE	17
12.1 Contractor Testing.....	17
12.2 Province Acceptance Testing.....	17
ARTICLE 13 LEGAL RELATIONSHIP	17
13.1 Independent Contractor	17
13.2 No Partnership	17
13.3 No Authority	17
ARTICLE 14 INDEMNITY	18
14.1 Indemnity	18
14.2 Monetary limitations of indemnity	18
14.3 Exceptions to monetary limitations	18
14.4 Province to notify Contractor of Loss.....	18
14.5 Third-party intellectual property infringement claims.....	18
ARTICLE 15 INSURANCE	19
15.1 Insurance	19
15.2 Workers' Compensation	19
ARTICLE 16 TERMINATION.....	19
16.1 Events of Default.....	19
16.2 Termination for Default.....	19
16.3 Delay Not a Waiver	19
16.4 Notice of Events of Default.....	20
16.5 Province's Right to Terminate Other than for Default	20
16.6 Completion of Services	20
16.7 Payment Consequences of Termination.....	20
16.8 Invoice for Early Termination Fee.....	20
16.9 Early Termination Payment Due.....	20
16.10 Discharge of Liability	20
16.11 Delivery Upon Expiry or Early Termination.....	21

ARTICLE 17 GOVERNING LAW AND DISPUTE RESOLUTION.....	21
17.1 Governing Law.....	21
17.2 Dispute Resolution.....	21
17.3 Content of Notice.....	21
17.4 Costs of Arbitration.....	21
ARTICLE 18 NOTICE.....	22
18.1 Notice.....	22
18.2 Change of Address	22
ARTICLE 19 FORCE MAJEURE.....	22
19.1 Definition.....	22
19.2 Notice.....	23
19.3 Mitigation	23
19.4 Resumption of Performance.....	23
19.5 Exception	23
ARTICLE 20 MISCELLANEOUS.....	23
20.1 Waiver.....	23
20.2 Entire Agreement	23
20.3 Amendment.....	24
20.4 Publicity and Communications	24
20.5 Survival	24
20.6 Remedies.....	24
20.7 Time.....	24
20.8 Binding Effect and Enurement.....	24
20.9 No Permit or Fetter.....	24
20.10 Conflict of Interest	25
20.11 Severability	25
20.12 Further Assurances.....	25
20.13 Execution by Counterpart.....	25

SCHEDULES

Schedule “A” - Definitions

Schedule “B” – Services and Deliverables

Schedule “C” – Agile Scrum Process

Schedule “D” – Product Team and Dispute Resolution Board

Schedule “E” – Sprint Testing

Schedule “F” – Fees

Schedule “G” – Subcontractors

Schedule “H” – Insurance

Schedule “I” – Security Schedule

Schedule “J” – Privacy Protection Schedule

AGILE SOFTWARE DEVELOPMENT AGREEMENT

Contract # _____

THIS AGREEMENT is made the @@ day of @@@, 201_.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
represented by the Minister of
(the “**Province**”)

OF THE FIRST PART

AND:

CONTRACTOR,

(the “**Contractor**”)

OF THE SECOND PART

WHEREAS:

- A. The Province issued the Request for Proposals;
- B. The Contractor submitted a response, and was selected pursuant to the Request for Proposals;
- C. The Province wishes to retain the Contractor to provide the Services and the Contractor wishes to provide the Services to the Province, on the terms and conditions contained in this Agreement.

NOW THEREFORE in consideration of the premises and covenants, agreements, representations, warranties and payments set out in this Agreement, the parties agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless otherwise provided in this Agreement, capitalized terms will have the meanings given to those terms in the attached Schedule “A”.

1.2 Interpretation

Unless expressly stated otherwise or unless the context otherwise requires, in this Agreement:

- (a) a reference to a statute, whether or not that statute has been defined, means a

statute of the Province of British Columbia and includes all amendments to it, the regulations under it and any enactment passed in substitution therefor or replacement thereof;

- (b) words importing the singular number include the plural, and *vice versa*;
- (c) any reference in the body of this Agreement to an “Article”, “section” or “subsection” by number is a reference to the appropriate Article, section or subsection in the body of this Agreement, and unless specified in a Schedule to the contrary, any reference in a Schedule to a “section” or “subsection” by number is a reference to the appropriate section or subsection in that Schedule;
- (d) references to “person” include an individual, partnership, association, body corporate, firm, unincorporated organization, society, government or governmental authority, as the context may require;
- (e) the words “includes” and “including” are not intended to be limiting;
- (f) “attached” means attached to this Agreement when used in relation to a Schedule;
- (g) where the words “discretion”, “option” or any variations thereof are used with respect to a party’s entitlement to make any decision, act in any manner or exercise any right, they will be deemed to mean such party’s sole, absolute and unfettered discretion or option;
- (h) any reference to “knowledge” of either party or any officer or other personnel of that party means the knowledge of such party after having made due inquiry, and if such party fails to make such due enquiry, then the knowledge that such party would have had if such party had conducted reasonable enquiry into the subject matter; and
- (i) the definition of “record” in the *Interpretation Act* is incorporated into this Agreement and “records” will bear a corresponding meaning.

1.3 Headings

The headings or captions in this Agreement are inserted for convenience only and do not form a part of this Agreement or in any way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement. The provision of a table of contents is for convenience of reference only and is not to affect the construction or interpretation of this Agreement.

1.4 Currency

Unless otherwise specified, all references to money in this Agreement are to Canadian dollars.

1.5 Schedules

The following Schedules attached to this Agreement are an integral part of this Agreement as if set out at length in the body of this Agreement:

Schedule "A" - Definitions

Schedule "B" – Services and Deliverables

Schedule "C" – Agile Scrum Process

Schedule "D"- Product Team and Dispute Resolution Board

Schedule "E"- Sprint Testing

Schedule "F" – Fees

Schedule "G" – Subcontractors

Schedule "H" – Insurance

Schedule "I" –Security Schedule

Schedule "J" - Privacy Protection Schedule

1.6 Conflict of Provisions

If there is a conflict or inconsistency between a provision in a Schedule to this Agreement and any other provision in the body of this Agreement, the provision in the Schedule is inoperative to the extent of the conflict unless it states that it operates despite a conflicting provision in the body of this Agreement. Notwithstanding the foregoing and despite any other provision of this Agreement, if there is a conflict between a term of this Agreement and a term in Schedule "I" or Schedule "J", the term in this Agreement will be inoperative to the extent of the conflict.

1.7 Acting Reasonably

Any requirement in this Agreement for a party to act reasonably, use reasonable efforts, or any variations thereof, will mean that the party must use all reasonable commercial efforts having regard to the surrounding circumstances, unless expressly provided otherwise. Notwithstanding the foregoing, both parties expressly acknowledge and confirm that nothing contained in this Agreement will be construed or otherwise interpreted in any manner that would or could cause that party to fetter its discretion.

ARTICLE 2 TERM

2.1 Term

The term of this Agreement will commence on [@@@] and will end on [@@@] (the unless earlier terminated pursuant to sections 16.2 or 16.5.

ARTICLE 3 SERVICES AND DELIVERABLES

3.1 Services

The Contractor will provide to the Province the Services in accordance with the provisions set out in this Agreement and more particularly Schedule "B" to this Agreement.

3.2 Technology to Comply with Standards

In performing the Services, the Contractor must ensure that technologies used to develop the Increments for the Product comply with the Province's technology architecture standards for application development and technology platform unless the Province provides written permission to the Contractor to deviate from those standards.

3.3 Knowledge Transfer

The Contractor will provide the Province and any Province Personnel with any ongoing knowledge transfer with respect to the Services in such manner as may be requested by the Province from time to time and mutually agreed upon. The purpose of the knowledge transfer is so that the Province is a well-informed customer regarding the manner in which the Services are delivered and has sufficient knowledge to understand and obtain the benefit of and, if necessary to transition and continue, the Services previously performed or then being performed by the Contractor. At the request of the Province, and as mutually agreed upon, the Contractor will provide Province Personnel who have duties related to the Services with additional orientation and training relating to the Services or other matters relevant to such Province Personnel's duties. The Contractor will not rely upon Article 9 or any other obligation of confidentiality to limit or restrict the knowledge transfer provided for under this section 3.3, provided that the Contractor will be entitled to obtain from the Province and any Province Personnel assurances consistent with Article 9 that any Confidential Information provided as a result of the knowledge transfer under this section 3.3 will be maintained in confidence and used in accordance with Article 9.

3.4 Service Location(s)

The Contractor will:

- (a) subject to section 3.4(b), perform all Services at the Province's premises, and make the required Contractor Personnel, including Key Personnel, available to do so; and
- (b) if requested by the Province, perform such Services as requested by the Province from the Contractor's premises located at [@@@].

ARTICLE 4 FACILITIES AND PERSONNEL

4.1 Contractor Personnel

In carrying out the Services, the Contractor will provide Contractor Personnel to fulfill the roles and responsibilities set out in the attached Schedule "D" and this Article 4. All Contractor Personnel identified in Schedule "D" will be deemed to be Key Personnel for the performance of the Services.

4.2 Province Facilities

The Province will, at its own expense, provide all reasonably necessary, facilities, technical infrastructure, third-party and Province-owned or licensed routine software for the Product Team, which includes Contractor Personnel assigned to the Product and located onsite at the Province's premises. If the Contractor requires any specific facilities, technical infrastructure, or software, the provision of such resources must be approved in writing in advance by the Province.

4.3 Province Facilities Terms of Use

The Contractor will use Province facilities only to provide Services to the Province. The Contractor will keep Province facilities in good order and comply with all of the Province Policies in respect of them, including those for physical security and workplace safety. The Contractor will not make any structural, mechanical or electrical alterations to the Province facilities without the Province's written approval. Upon cessation of use of any Province facilities, the Contractor will:

- (a) return any Province software, or other equipment to the Province in the same condition as when the Contractor began using them, reasonable wear and tear excepted; and
- (b) ensure that any Province facilities are in the same condition as when the Contractor began using them, reasonable wear and tear and mutually agreed changes excepted.

4.4 Contractor Facilities and Resources

Unless the parties otherwise agree in writing, the Contractor must supply and pay for all labour, materials, equipment, tools, facilities, approvals and licenses necessary or advisable to perform the Contractor's obligations under this Agreement, including the licenses under Article 8.

4.5 Access to Province Systems

In accordance with and subject to the terms of section 8.4, the Province will provide to the Contractor such access to the Province Systems as may be necessary for the performance of the Services, including access to and use of development, testing and production environments on the Province Systems. The Contractor will comply, and will require Contractor Personnel to comply with Schedule "I" in connection with all access to and use of the Province Systems.

4.6 Contractor Access, Use and Security

The Contractor will, and will ensure that all Contractor Personnel:

- (a) comply with all security, acceptable use, conduct and other policies and procedures specified and provided in writing by the Province with respect to the access to and use by the Contractor and Contractor Personnel of the Province Systems and the Province's premises for the purposes of performing the Services;
- (b) access and use the Province Systems and the Province's premises only for the purposes of performing the Services; and
- (c) ensure that it does not provide or permit any other person to have access to or the use of the Province Systems or the Province's premises.

4.7 Key Personnel

The Contractor agrees to perform the Services using the individuals identified in Schedule "D" as "Key Personnel", or subject in each case to the Province's prior approval (acting reasonably), replacement Key Personnel with equivalent qualifications, expertise and experience. Either party may escalate Key Personnel changes or proposed changes through the Dispute Resolution Board at any time for notification purposes.

4.8 Procedure for Removal of Key Personnel

The Contractor will not remove an individual that is designated as a Key Personnel without the Province's prior written consent, such consent not to be unreasonably withheld, unless that individual has permanently and completely finished the Services or work to which he or she was assigned, or becomes unavailable for reasons beyond the Contractor's control (such as death, disability or resignation of employment) or has been terminated by the Contractor (and not engaged by the Contractor on a contractor basis).

4.9 Replacement of Key Personnel

If the Contractor removes any Key Personnel other than with the Province's prior written consent, or if any Key Personnel ceases to perform the Services to which he or she is assigned, other than in accordance with this section 4.9, then removal of a Key Personnel will be promptly escalated through the Dispute Resolution Board for notification purposes and the following consultative process will be followed:

- (a) the Contractor will identify a candidate to replace that Key Personnel and present the candidate's qualifications, in writing, to the Province;
- (b) the Province may interview the candidate identified;
- (c) subject to the Province's consent, the parties will jointly develop a transition plan to minimize the impact of the replacement on this Agreement; and
- (d) the Contractor will be responsible for all costs incurred in educating the replacement team member to the same level of Product knowledge as the previous Key Personnel.

4.10 Key Personnel Issues

If the Province is experiencing problems with any Key Personnel, then the Province may review those problems with the Scrum Master, escalate those problems for discussion purposes through the Dispute Resolution Board, or both.

4.11 Familiarization

The Contractor will be responsible, at its expense, to ensure that each Contractor Personnel is, to the extent necessary for the performance of the work to which he or she is assigned, familiar with the Province Systems and the requirements of this Agreement. The Contractor will not charge the Province any additional fees or other additional amounts for work done by any Contractor Personnel specifically to familiarize himself or herself with the Province Systems and the requirements of this Agreement.

4.12 Standards of Conduct

The Contractor will comply with, and cause Contractor Personnel to be knowledgeable of and to comply with, the Standards of Conduct and the CPPM and all other policies, practices and procedures established by the Province with respect to safety, security, conduct, behaviour and other matters in and around the Province's premises and Province Personnel, including with respect to the use of the Province Systems, and which are communicated in writing by the Province to the Contractor from time to time. The Contractor will, upon request by the Province, remove any Contractor Personnel who fails to comply with the Province's policies, practices and procedures or who acts in an unprofessional manner as determined by the Province, in its discretion.

4.13 Removal on Request

If the Province, in its discretion, decides that such a request would be in the interest of success under this Agreement, the Province may, from time to time, acting reasonably, request that the Contractor remove any Contractor Personnel from the Product Team. Upon receiving such a request, the Contractor will immediately remove such Contractor Personnel, use its best efforts to provide a temporary replacement therefor within ten (10) Business Days from receipt of the request, and use its best efforts to permanently replace such Contractor Personnel within thirty (30) days from receipt of the request. The Contractor will submit to the Province, for written approval by the Province, any proposed replacement. Either party may escalate any such request by the Province for discussion purposes through the Dispute Resolution Board.

4.14 Contractor Responsibility

The Contractor will be responsible for the management and supervision of, and for the acts, omissions and performance of, and claims and losses caused by, Contractor Personnel. The Contractor will ensure that all Contractor Personnel:

- (a) possess a degree of skill and experience appropriate to the tasks to which they are assigned,
- (b) receive appropriate training (including quality training courses, refresher courses and re-training programs) for the performance of the Services and compliance with the confidentiality provisions set forth in Article 9;
- (c) perform the Services in accordance with the Contractor's obligations and to the standards set out in this Agreement; and
- (d) strictly comply with the security and confidentiality provisions set forth in Article 9 and Schedule "I".

4.15 Province Product Manager

The Province, by notice to the Contractor, will appoint a person as the Province Product Manager in connection with this Agreement. The Province Product Manager is authorized to act for and bind the Province in all matters pertaining to this Agreement, except for amendments, which must be signed by an authorized signatory of the Province. The Province, by notice to the Contractor, may revoke any appointment made under this section 4.15 and appoint another person as the Province Product Manager.

4.16 Province Personnel Availability

The Province will use reasonable efforts to ensure that appropriate Province Personnel are available as required to facilitate or enable the Contractor's performance under this Agreement, but the Province will not be in default of any of its obligations under this Agreement if, in the Province's discretion, it is necessary to reallocate any Province Personnel to other business functions of the Province, provided that if a reallocation of Province Personnel is likely to have a material impact on the delivery of any Services, then the parties will escalate those problems for discussion purposes through the Dispute Resolution Board.

ARTICLE 5 FEES AND PAYMENT

5.1 Fees and Expenses

If the Contractor complies with this Agreement, then the Province must pay to the Contractor at the times and on the conditions set out in Schedule "F":

- (a) the fees described in that Schedule;
- (b) any applicable taxes payable by the Province under law or agreement with the relevant taxation authorities on the fees described in paragraph (a).

5.2 Invoices

In order to obtain payment of any Fees, the Contractor must submit to the Province a written invoice in a form satisfactory to the Province, as described in Schedule "F". The payment of any invoice by the Province will not be deemed to constitute approval or acceptance of such invoice, and no such payment will preclude the Province from disputing any amount set forth in an invoice at any later date in accordance with the dispute resolution process set out in section 17.2.

5.3 Payments Due

The Province will pay to the Contractor the Fees within thirty (30) days after receipt by the Province of an invoice delivered by the Contractor in accordance with section 5.2.

5.4 Interest on Overdue Payments

Interest on any overdue payments will be payable in accordance with the *Interest on Overdue Accounts Payable Regulation*, B.C. Reg. 215/83, as amended.

5.5 Appropriation

Notwithstanding any other provision of this Agreement, the payment of money by the Province to the Contractor pursuant to this Agreement is subject to:

- (a) there being sufficient monies available in an appropriation, as defined in the FAA, to enable the Province, in any fiscal year or part thereof when any payment of money by the Province to the Contractor falls due pursuant to this Agreement, to make that payment; and
- (b) Treasury Board, as defined in the FAA, not having controlled or limited expenditure under any appropriation referred to in subsection 5.5(a).

5.6 Prohibition against committing money

Without limiting any other provision of this Agreement, the Contractor must not, in relation to performing its obligations under this Agreement, commit or purport to commit the Province to pay any money except as may be expressly provided for in this Agreement.

5.7 Refunds of Taxes

The Contractor will:

- (a) apply for, and use reasonable efforts to obtain, any available refund, credit, rebate or remission of federal, provincial or other tax or duty imposed on the

Contractor as a result of this Agreement that the Province has paid or reimbursed to the Contractor or agreed to pay or reimburse to the Contractor under this Agreement; and

- (b) immediately on receiving, or being credited with, any amount applied for under subsection 5.7(a), remit that amount to the Province.

ARTICLE 6 RECORDS AND AUDITS

6.1 Maintenance of Records and Books of Account

The Contractor will establish and maintain in an electric format wherever possible books of account, including supporting documentation, relating to the Services in form and content satisfactory to the Province until directed by the Province in writing to dispose or deliver them to the Province.

6.2 Inspection

In addition to any other rights of inspection the Province may have under statute or otherwise, the Province may at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect and, at the Province's discretion, copy any of the Material and the Contractor must permit, and provide reasonable assistance to, the exercise by the Province of the Province's rights under this section.

6.3 Audit

The Province may appoint an internal or external auditor having qualifications suitable to the subject matter to be audited to conduct an audit of any matter relating to this Agreement, including without limitation:

- (a) any matter related to the Services, including
 - (i) the Contractor's compliance with applicable law, Province Policies and privacy and security processes,
 - (ii) the Contractor's general controls, practices and procedures in connection with the Services, and
 - (iii) the completeness and accuracy of reports, data and any other documentation or material provided by the Contractor to the Province;
- (b) books of account and supporting documentation referred to in section 6.1; and
- (c) operational and other audits as may be requested or otherwise required to be undertaken under the FAA or any other applicable law regarding any aspect of this Agreement.

6.4 Costs

Subject to section 6.6, each party will bear its own costs in connection with an audit or inspection under this Article 6, including in the case of the Contractor the cost of the time and effort of the Contractor and Contractor Personnel to comply with any requests or requirements of the auditor or inspector.

6.5 Conduct of Parties

In connection with any audit or inspection conducted under this Article 6:

- (a) the Province will cause all such audits and inspections to be performed during the Contractor's normal business hours, and unless the Province reasonably believes the Contractor to be in breach of this Agreement, upon reasonable prior notice to the Contractor;
- (b) the Province will, and will require its auditors and inspectors to:
 - (i) use reasonable efforts not to hinder or interfere with the performance of the Services by the Contractor, and
 - (ii) comply with security and other similar policies of the Contractor, including signing a non-disclosure agreement if requested by the Contractor and if the signing of such non-disclosure agreement is not incompatible with, or in contravention of, any statutory professional or other obligations or standards by which such auditors and inspectors may be bound, while at the Contractor's premises, provided that the Province has been provided with reasonable prior notice of such policies and that such policies do not unduly hinder or interfere with the conduct of the audit or inspection;
- (c) The Contractor will, and will cause Contractor Personnel to:
 - (i) cooperate with the Province's auditors and inspectors, and
 - (ii) make available, upon request by the Province or its auditors or inspectors, on a timely basis, Contractor Personnel and any records, books of account and supporting documentation relevant to the audit or investigation.

6.6 Deficiencies

If an audit or investigation under this Article 6 reveals a material deficiency, as determined by the Province in its discretion, the Contractor will, at its sole expense, remedy such deficiency in a manner and within a time period satisfactory to the Province, acting reasonably.

ARTICLE 7 REPRESENTATIONS, WARRANTIES AND COVENANTS

7.1 Contractor Representations and Warranties

The Contractor represents and warrants to and covenants with the Province that:

- (a) it is incorporated under the laws of British Columbia, and is and throughout the Term will remain a corporation duly organized and validly existing;
- (b) it is in good standing according to the laws of British Columbia;
- (c) it has the power and capacity to enter into this Agreement and to observe, perform and comply with the terms of this Agreement;
- (d) this Agreement has been duly authorized by all necessary corporate action of the Contractor and this Agreement constitutes a valid, subsisting and legally binding obligation upon the Contractor that is enforceable against the Contractor in accordance with its terms;

- (e) with the exception of any information provided by the Province and which is incorporated into the Contractor's documents, all information, statements, documents and reports furnished or submitted by the Contractor to the Province in connection with this Agreement, including the Contractor's response to the Request For Qualification, are true and correct to the best of the Contractor's knowledge;
- (f) it has no knowledge of any fact that materially adversely affects or, so far as it can foresee, might materially adversely affect its properties, assets, condition (financial or otherwise), business or operations or its ability to fulfill its obligations under this Agreement;
- (g) the observance and performance of the terms and conditions of this Agreement will not constitute a breach by it of or a default by it under
 - (i) any statute, bylaw or regulation of British Columbia or Canada applicable to or binding upon it,
 - (ii) its constating documents, or
 - (iii) any contract or agreement to which it is a party;
- (h) it is not a party to and has no knowledge of any legal claims against it that would materially affect its undertaking or financial condition;
- (i) it has filed all tax, corporate information and other returns required to be filed by the laws of British Columbia and Canada and has complied with all workers compensation legislation and other similar legislation to which it may be subject and has paid all taxes, fees and assessments calculated to be due by it under those laws as of the date of this Agreement;
- (j) it is not in breach of any statute, regulation or bylaw applicable to it or its operations;
- (k) it holds and will maintain throughout the Term all permits, licenses, consents and authorizations issued by any federal, provincial, regional or municipal government, or an agency of any of them, that are necessary in connection with its operations and the performance of its obligations under this Agreement;
- (l) it has no knowledge of any untrue or incorrect representation or assurance, whether verbal or written, given by it or its directors or officers to the Province in connection with this Agreement;
- (m) it possesses, and Contractor Personnel possess, the necessary skills, expertise and experience to carry out and complete the Services in a timely, reliable and professional manner in conformity with Good Industry Practice and in accordance with the terms of this Agreement;
- (n) it has and will maintain throughout the Term sufficient trained staff, facilities, materials, appropriate equipment and approved subcontractual agreements, if any, in place and available to enable it to fully perform its obligations under this Agreement;
- (o) it has obtained and will maintain throughout the Term all necessary arrangements and licenses with third parties to ensure that the Contractor can fully perform its obligations under this Agreement; and

- (p) it has sufficient rights to grant to the Province the licenses described in Article 9, and that such grant of licenses does not and will not infringe upon the intellectual property rights of any third party.

7.2 Specific Covenants

The Contractor will:

- (a) comply with all applicable municipal, provincial and federal laws in the performance of its obligations under this Agreement;
- (b) without limiting the generality of subsection 7.2(a), in accordance with the *Workers Compensation Act*,
 - (i) be registered with the WorkSafeBC (“**WCB**”),
 - (ii) ensure that any subcontractors are registered with the WCB,
 - (iii) maintain WCB coverage for the duration of this Agreement, and
 - (iv) submit to the Province a WCB clearance letter indicating that all WCB assessments have been paid, prior to receiving any payment under this Agreement; and
- (c) ensure that all persons employed or retained by it in connection with the provision of the Services are adequately trained, fully instructed and supervised.

7.3 Reliance by Province

All representations, warranties and covenants made or provided by the Contractor under this Agreement are material and will conclusively be deemed to have been relied upon by the Province, notwithstanding any prior or subsequent investigation by the Province.

7.4 Province Representations and Warranties

The Province represents and warrants to and covenants with the Contractor that:

- (a) it has the power and capacity to enter into this Agreement and to observe, perform and comply with the terms of this Agreement;
- (b) this Agreement has been duly authorized by all necessary action of the Province and this Agreement constitutes a valid, subsisting and legally binding obligation upon the Province that is enforceable against the Province in accordance with its terms;
- (c) the observance and performance of the terms and conditions of this Agreement will not constitute a breach of any statute or regulation of British Columbia or Canada by which it may be bound;
- (d) the observance and performance of the terms and conditions of this Agreement will not constitute a breach by it of or a default by it under any contract or agreement to which it is a party; and
- (e) it has no knowledge of any untrue or incorrect representation or assurance, whether verbal or written, given by its employees or agents to the Contractor in connection with this Agreement.

7.5 Reliance by the Contractor

All representations, warranties and covenants made or provided by the Province under this Agreement are material and will conclusively be deemed to have been relied upon by the Contractor, notwithstanding any prior or subsequent investigation by the Contractor.

ARTICLE 8 INTELLECTUAL PROPERTY

8.1 Tangible Rights

The Province exclusively owns all property rights in the Material which are not intellectual property rights. The Contractor must deliver any Material to the Province immediately upon the Province's request.

8.2 Province's Intellectual Property Rights

The Province, or its licensors, as applicable, exclusively owns all intellectual property rights, including copyright, in the Province Material.

8.3 Use of Province Material by the Contractor

The Province hereby grants to the Contractor:

- (a) a non-exclusive, revocable, fully paid-up, royalty-free, license for the Term to use, the Province Material for the sole purpose of providing the Services under this Agreement; and
- (b) the right to sublicense to Subcontractors any or all of the rights granted to the Contractor under paragraph (a).

8.4 Use of and Access to the Province Systems

The Province hereby grants to the Contractor during the Term, and on a non-exclusive basis, such rights as are necessary to access and use the Province Systems for the purpose of delivering the Services under this Agreement. Any rights not expressly granted to the Contractor by the Province pursuant to this Agreement will remain with the Province.

8.5 Contractor's Intellectual Property Rights

All intellectual property rights, including copyright, in the Contributions that are not owned by third parties will be owned by the Contractor.

8.6 Moral Rights

Upon the Province's request, the Contractor must deliver to the Province documents satisfactory to the Province that irrevocably waive in the Province's favour any moral rights which the Contractor (or employees of the Contractor) or a subcontractor (or employees of a subcontractor) may have in the Contributions.

8.7 License to Province Over Increments

The Contractor will make available to the Province the Increments, including any embedded Contractor Material, under the terms of the Apache license, version 2, found

at the following URL: <https://www.apache.org/licenses/LICENSE-2.0> or such license approved by the Province Product Manager in the Province's sole discretion and hereby grants to the Province all license rights as may be necessary to do so.

8.8 License to Province Over Documentation

The Contractor hereby grants to the Province with respect to the Documentation, including any embedded Contractor Material:

- (a) a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to exercise, in respect of the Documentation, the rights set out in the Copyright Act (Canada), including the right to use, reproduce, modify, publish and distribute the Documentation, and
- (b) the right to sublicense or assign to third parties any or all of the rights granted to the Province under subsection 8.8(a).

8.9 Confirmation of Licenses

For greater certainty, the Contractor expressly agrees and confirms that the Contractor has not included or embedded in the Contributions any proprietary materials or open source materials that are not available or compatible with licensing as set out in sections 8.7 and 8.8.

8.10 Intellectual Property Representations and Warranties

The Contractor represents and warrants that:

- (a) the Contributions are the original work of the Contractor, or has been obtained by the Contractor with all necessary rights, permissions and licenses to enable the Contractor to comply with its obligations under this Agreement;
- (b) the grant of licenses in sections 8.7 and 8.8 do not and will not infringe upon the copyrights, trademarks, rights of privacy, publicity or other intellectual property right or other right of any third party; and
- (c) the Contractor has made and will make no grant, encumbrance or other disposition to others of any right, title, privilege or interest of any kind in the Contributions that is inconsistent with the rights and privileges granted pursuant to the terms of this Agreement.

8.11 Replacement of Infringing Content

In the event of any claim by a third party alleging infringement of that third party's proprietary rights or interest in connection with the Province's exercise of the licensed rights granted to it in sections 8.7 and 8.8, the Contractor may:

- (a) at the Contractor's sole expense, replace the allegedly infringing content with functionally equivalent content that is not infringing;
- (b) modify the allegedly infringing content as necessary to avoid such claim, provided that with respect to the Increments, the content (as modified) functions in substantially the same way as it did before modification; or
- (c) procure the necessary rights from the applicable third party or parties to permit the Province to continue using the allegedly infringing content pursuant to the terms of this Agreement,

and, in the case of subsection 8.11(a) or (b) only, the Contractor will reimburse the Province for all reasonable additional costs and expenses incurred by the Province that the Province would not have incurred if the Contribution had been non-infringing.

ARTICLE 9

CONFIDENTIALITY, SECURITY AND PRIVACY

9.1 Confidentiality

The Receiving Party will maintain the Confidential Information disclosed to it by the Disclosing Party in confidence, and will not, without the prior written consent of the Disclosing Party, publish, release or disclose or permit to be published, released or disclosed either before or after the expiration or sooner termination of this Agreement, the Confidential Information except where:

- (a) the information is, at the time of the disclosure by the Disclosing Party to the Receiving Party, publicly available, or subsequently becomes publicly available through no act or omission of the Receiving Party;
- (b) the information is lawfully and in good faith obtained by the Receiving Party from an independent third party without breach of this Agreement, as shown by documentation establishing the third party as a source of the information, and not obtained by the third party from the Disclosing Party;
- (c) the Receiving Party can establish, by written record or other tangible evidence, that the information was in its possession prior to disclosure of that information by the Disclosing Party to the Receiving Party;
- (d) the information is independently developed by the Receiving Party without reference to the Confidential Information; or
- (e) the publication, release or disclosure is required by law including, without limitation, the *Freedom of Information and Protection of Privacy Act*, provided that the Receiving Party provides prompt notification to the Disclosing Party of such required publication, release or disclosure.

9.2 Protection of Confidential Information

The Receiving Party will:

- (a) except as expressly set out in section 9.1, not disclose the Confidential Information in any manner whatsoever in whole or in part, except that the Receiving Party may disclose such Confidential Information to its employees who have a need to know, and any other party with the Disclosing Party's prior written consent. Before disclosure to any other party other than the employees of the Receiving Party who have a need to know, the Receiving Party will have a written agreement with that party sufficient to require that party to treat the Confidential Information in accordance with this Agreement; and
- (b) be responsible for maintaining the security and confidentiality of the Confidential Information using the same standard of care that it uses for its own confidential information.

9.3 Security Obligations and Point of Contact

The Contractor will comply, and will ensure that Contractor Personnel comply with Schedule "I" attached to this Agreement. The Contractor will provide in writing to the Province contact information for a Contractor Personnel who will be the point of contact for any matters in connection with the Contractor's and any subcontractors' compliance with Schedule "I". If there is any change to the point of contact designated by the Contractor pursuant to this section, the Contractor will notify the Province of such change in writing and will designate a new point of contact for the matters contemplated in this section.

9.4 Privacy

The Contractor must comply with the Privacy Protection Schedule attached as Schedule "J".

ARTICLE 10 SUBCONTRACTING

10.1 Subcontracting

The Contractor must not subcontract any of the Contractor's obligations under this Agreement to any person without the prior written approval of the Province, excepting persons listed in the attached Schedule "G".

10.2 Province Approval

If the Contractor wishes to retain any subcontractor not listed in the attached Schedule "G" in the performance or delivery of any Services, the Contractor will submit a written request to the Province specifying the Services for which approval of such subcontractor is sought. The Contractor will provide the Province with such information regarding the proposed subcontractor as may be requested by the Province. The Province may approve or reject any proposed subcontractor, acting reasonably. The approval by the Province of a proposed subcontractor will pertain only to the retainment of such subcontractor for the specific Services described in the Contractor's request for the Province's approval.

10.3 Responsibility for Subcontractors

No subcontract, whether approved by the Province or not, will relieve the Contractor of any of its obligations under this Agreement or impose any obligation or liability upon the Province in relation to any such subcontractor. Without limiting the general nature of the foregoing, the Contractor will be solely responsible for all fees, charges, expenses and other amounts payable to its subcontractors and will be fully liable for all actions and omissions of its subcontractors.

10.4 Subcontract Terms

The Contractor will ensure that any subcontractor retained by it fully complies with this Agreement in performing the subcontracted obligations. Without limiting the general nature of the foregoing, the Contractor will ensure that no subcontract includes any term or provision that is inconsistent with, or contrary to, the terms and conditions of this Agreement.

ARTICLE 11 ASSIGNMENT

11.1 Assignment by the Province

The Province may assign at any time, in its discretion, and without the consent of the Contractor but upon reasonable prior written notice, this Agreement or any of its rights or obligations under this Agreement to any 'government body' as defined in the FAA.

11.2 Assignment by the Contractor

The Contractor will not assign, either directly or indirectly, this Agreement or any of its rights or obligations under this Agreement, without the prior written consent of the Province, which consent may be given or withheld by the Province in its discretion.

ARTICLE 12 SPRINT TESTING AND ACCEPTANCE

12.1 Contractor Testing

The Contractor will perform Contractor Testing in accordance with Schedule "E".

12.2 Province Acceptance Testing

Unless otherwise stated in this Agreement, all Increments delivered by the Contractor to the Province will be subject to Agile Acceptance Tests by the Province in accordance with the procedures, terms and conditions set out in Schedule "E".

ARTICLE 13 LEGAL RELATIONSHIP

13.1 Independent Contractor

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

13.2 No Partnership

No partnership, joint venture or agency will be created or will be deemed to be created by this Agreement or any action of the parties under this Agreement.

13.3 No Authority

The Contractor does not have any authority to, and will not, in any manner whatsoever, commit or purport to commit the Province to any obligation or liability of any kind whatsoever, including the payment of any money to any person.

ARTICLE 14 INDEMNITY

14.1 Indemnity

The Contractor must indemnify and save harmless the Province and the Province's employees and agents from any loss, claim (including any claim of infringement of third-party intellectual property rights), damage award, action, cause of action, cost or expense that the Province or any of the Province's employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, (each a "**Loss**") to the extent the Loss is directly or indirectly caused or contributed to by:

- (a) any act or omission by the Contractor or by any of the Contractor's agents, employees, officers, directors or subcontractors in connection with this Agreement; or
- (b) any representation or warranty of the Contractor being or becoming untrue or incorrect.

14.2 Monetary limitations of indemnity

The indemnification by the Contractor pursuant to section 14.1 is limited to:

- (a) \$2,000,000 per Loss; and
- (b) \$4,000,000 in the aggregate for all Losses.

14.3 Exceptions to monetary limitations

The limitations set out in section 14.2 do not apply to a Loss resulting from or relating to any of the following:

- (a) bodily injury or damage to real property or tangible personal property;
- (b) third-party intellectual property rights; or
- (c) a breach of section 4.6 or any of the provisions in Article 9 of this Agreement.

14.4 Province to notify Contractor of Loss

To claim indemnification for a Loss pursuant to section 14.1, the Province must notify the Contractor in writing of the Loss as soon as reasonably practicable after the Province becomes aware of the Loss provided that a failure by the Province to provide such notification will not invalidate the claim unless the Contractor is materially prejudiced by that failure.

14.5 Third-party intellectual property infringement claims

If the Loss is on the basis of a third-party claim that any element of the Material infringes the intellectual property rights of any person,

- (a) then, without limiting section 14.1, the Contractor must defend the Province against that claim at the Contractor's expense and the Contractor must pay all associated costs, damages and legal fees that a court or arbitrator finally awards or are included in a settlement agreed to by the Contractor; and

- (b) the Province must cooperate with the Contractor in the defence of the claim and, where appropriate in the discretion of the Province, will allow the Contractor to appoint and instruct counsel and otherwise control the defence and any related settlement negotiations.

ARTICLE 15 INSURANCE

15.1 Insurance

The Contractor will comply with the insurance specifications set out in Schedule “H” to this Agreement.

15.2 Workers’ Compensation

Without limiting any other provision of this Agreement, the Contractor must comply with, and must ensure that any subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of the Contractor’s obligations under this Agreement, including the *Workers Compensation Act* in British Columbia or similar laws in other jurisdictions.

ARTICLE 16 TERMINATION

16.1 Events of Default

Each of the following occurrences will be deemed to be an Event of Default for the purposes of this Agreement:

- (a) an Insolvency Event;
- (b) the Contractor fails to perform any of its obligations under this Agreement, or fails to perform such obligations in a manner satisfactory to the Province; or
- (c) any representation, warranty or covenant made by the Contractor in this Agreement is or becomes untrue or incorrect.

16.2 Termination for Default

Upon the occurrence of an Event of Default, or at any time thereafter, the Province may, at its option, elect to do any one or more of the following:

- (a) by written notice to the Contractor, require that the Event of Default be remedied within a time period specified in the notice;
- (b) pursue any remedy or take any other action available to it at law or in equity; or
- (c) by written notice to the Contractor, terminate this Agreement with immediate effect or on a future date specified in the notice, subject to the expiration of any time period specified under subsection 16.2(a).

16.3 Delay Not a Waiver

No failure or delay on the part of the Province to exercise its rights in relation to an Event of Default will constitute a waiver by the Province of such rights.

16.4 Notice of Events of Default

If the Contractor becomes aware that an Event of Default has occurred or is likely to occur, the Contractor must promptly notify the Province and supply to the Province particulars of the Event of Default or anticipated Event of Default, along with the steps the Contractor proposes to take to address, prevent, or prevent recurrence of, the Event of Default.

16.5 Province's Right to Terminate Other than for Default

In addition to the Province's right to terminate this Agreement under subsection 16.2(c) upon the occurrence of an Event of Default, the Province may terminate this Agreement for any reason by giving fourteen (14) days' written notice of termination to the Contractor at any time after the completion of at least three Sprints in any of Inception, Prototype or Implementation Phases.

16.6 Completion of Services

During the notice period provided for in subsection 16.2(a), subsection 16.2(c) or section 16.5, the Contractor will complete the Services to the extent reasonably practicable and with the intent of concluding the Services to that extent by the end of the notice period to ensure a smooth transition of the Services to or as directed by the Province.

16.7 Payment Consequences of Termination

If the Province terminates this Agreement under section 16.5, the Province must pay to the Contractor an amount equal to the applicable monthly fee prorated based on the number of calendar days in the Billing Period during which the Services were completed to the Province's satisfaction before termination of this Agreement (the "**Early Termination Fee**").

16.8 Invoice for Early Termination Fee

In order to obtain payment of the Early Termination Fee, the Contractor must submit to the Province a written invoice in a form satisfactory to the Province, as described in Schedule "F". The payment of that invoice by the Province will not be deemed to constitute approval or acceptance of such invoice, and no such payment will preclude the Province from disputing any amount set forth in an invoice at any later date in accordance with the dispute resolution process set out in section 17.2.

16.9 Early Termination Payment Due

The Province will pay to the Contractor the Early Termination Fee within thirty (30) days after receipt by the Province of an invoice delivered by the Contractor in accordance with section 16.8.

16.10 Discharge of Liability

The payment by the Province of the amount described in section 16.9 discharges the Province from all liability to make payments due to the Contractor under this Agreement.

16.11 Delivery Upon Expiry or Early Termination

Unless otherwise directed by the Province, in the event of the expiry or early termination of the Agreement, within five Business Days of the date of such termination or expiry, the Contractor will deliver to the Province, without limiting any other items required to be delivered by the Contractor under this Agreement and without any costs to the Province,

- (c) Object Code and Source Code versions of the Increments in their current state of development;
- (d) an up to date version of the Documentation; and
- (e) any other document or information that the Province may require.

ARTICLE 17 GOVERNING LAW AND DISPUTE RESOLUTION

17.1 Governing Law

This Agreement will be governed by, and will be interpreted and construed in accordance with, the laws applicable in British Columbia.

17.2 Dispute Resolution

Disputes arising under this Agreement that are not resolved by the Dispute Resolution Board will be resolved as follows:

- (a) either party may refer the dispute for resolution to the [@@@] for the Province or to the Account Manager responsible for the Contract for the Contractor, who will meet within seven (7) days of receipt of such referral and attempt to resolve the dispute; and
- (b) if the dispute is not resolved pursuant to subsection 17.2(a), then the dispute will be referred to and finally resolved by arbitration under the *Arbitration Act*, and the place of arbitration will be Victoria, British Columbia.

17.3 Content of Notice

A notice given under section 17.2 will identify the dispute and include a statement by the notifying party of its position in respect of the dispute. All notices, discussions and other communications between the parties in respect of any dispute will be on a without prejudice basis and may not be used, referred to or introduced into evidence in any proceedings in respect of that dispute.

17.4 Costs of Arbitration

Unless the parties otherwise agree in writing, or the arbitrator otherwise orders, the parties will share equally the costs of an arbitration under subsection 17.2(b) other than those costs relating to the production of expert evidence or representation by counsel.

ARTICLE 18 NOTICE

18.1 Notice

Any notice, approval, communication or other document that either party may be required or may desire to give to the other under this Agreement will be in writing and conclusively deemed validly given to and received by the addressee if:

- (a) delivered personally or by recognized courier service, on the date of delivery;
- (b) mailed by prepaid registered mail, on the third Business Day after the mailing of the same in British Columbia;

addressed, as the case may be, to the Province at:

[@ @ @]

Attention: [@ @ @]

or to the Contractor at:

[@ @ @]

Attention: [@ @ @]

18.2 Change of Address

Either party may, from time to time, advise the other by notice in writing of any change of address of the party giving such notice and from and after the giving of such notice the address specified in the notice will, for the purposes of this Article 18, be conclusively deemed to be the address of the party giving such notice.

ARTICLE 19 FORCE MAJEURE

19.1 Definition

In this Agreement, “**Force Majeure**” means an event or circumstance that is beyond the reasonable control of a party and that prevents or delays that party in the performance or observance of any or all of its obligations under this Agreement, including but not limited to:

- (a) acts of God or natural disasters, including without limitation fire, flood, storm, earthquake;
- (b) outbreak of serious disease or epidemic, quarantines or other public health emergencies;
- (c) a war (declared and undeclared), insurrection or act of terrorism or piracy;
- (d) a strike (including illegal work stoppage or slowdown), labour dispute or lockout;
- (e) acts or omissions of governmental authorities, including but not limited to

blockades or freight embargoes; or

- (f) failure, malfunction or unavailability of power, telecommunications, data communications, computer systems or software and related services,

but lack of financial capability and technological impossibility do not constitute Force Majeure and lack of labour, materials or utilities does not constitute Force Majeure unless such lack of labour, materials or utilities is caused by an event or circumstance that is itself Force Majeure.

19.2 Notice

A party that is prevented or delayed by Force Majeure and that seeks relief under this Article 19 must give notice to the other party as soon as possible after the event or circumstance of Force Majeure is known to the first party, and in any event not later than fifteen (15) days after the date when that event or circumstance is known to the first party. A party that has given notice of an event or circumstance of Force Majeure under this section 19.2 must promptly notify the other party of the cessation of the event or circumstance of Force Majeure.

19.3 Mitigation

Each party will exercise reasonable efforts to avoid or minimize any delay occasioned by an event or circumstance of Force Majeure.

19.4 Resumption of Performance

A party that is prevented or delayed in the performance of its obligations under this Agreement by an event or circumstance of Force Majeure will resume promptly its performance of such obligations after the cessation of the event or circumstance of Force Majeure.

19.5 Exception

Nothing in this Article 19 will excuse any default or failure to perform or comply under Article 8 or 9.

ARTICLE 20 MISCELLANEOUS

20.1 Waiver

A waiver of any term or breach of this Agreement is effective only if it is in writing and signed by, or on behalf of, an authorized representative of the waiving party and is not a waiver of any other breach or term.

20.2 Entire Agreement

This Agreement (including any amendment to or alteration of it) constitutes the entire agreement between the parties and supersedes any other prior agreements, undertakings, declarations, commitments and understandings, whether written or oral, express or implied, statutory or otherwise between the parties with respect to the subject matter of this Agreement.

20.3 Amendment

Any alteration or amendment to the terms and conditions of this Agreement must be in writing and duly executed by both parties.

20.4 Publicity and Communications

The Contractor will not make any public announcement relating to this Agreement without the prior written approval of the Province or as required by law. Without restricting the generality of the foregoing, the Contractor will submit to the Province for its prior written approval all advertising, written sales promotion, press releases, public notices and all other publicity matters or materials relating to this Agreement, or in which the Province's name mark, or logo is mentioned or language from which the connection of said name, mark or logo may be inferred or implied, and will not publish or use such advertising, written sales promotion, press releases, public notices or any other publicity matters or materials without prior consultation with and the written approval of the Province, such approval not to be unreasonably withheld. Notwithstanding the foregoing, the Contractor may include the Province's name and a factual description of the work performed under this Agreement only on employee bulletin boards, in internal business planning documents and whenever otherwise required by reason of legal, accounting or regulatory requirements.

20.5 Survival

Any accrued but unpaid payment obligations and any other sections of this Agreement (including Schedules) which, by their terms or nature, are intended to survive the completion of the Services or termination of this Agreement, will continue in force indefinitely subject to any applicable limitation period prescribed by law, even after this Agreement ends.

20.6 Remedies

The rights, powers and remedies of either party in this Agreement are cumulative and in addition to and not in substitution for any right, power or remedy that may be available to either party.

20.7 Time

Time is of the essence in this Agreement and, without limitation, will remain of the essence after any amendment, alteration or renewal of this Agreement, whether or not expressly restated in the document effecting the amendment, alteration or renewal.

20.8 Binding Effect and Enurement

This Agreement enures to the benefit of and is binding upon the Province and the Contractor and their respective successors and permitted assigns.

20.9 No Permit or Fetter

This Agreement does not operate as a permit, license, approval or other statutory authority which the Contractor may be required to obtain from the Province or its agencies in order to provide the Services. Nothing in this Agreement is to be construed as interfering with the exercise by the Province or its agencies of any statutory power or duty.

20.10 Conflict of Interest

The Contractor will not perform a service for or provide advice to any person, firm or corporation where the performance of the service or the provision of the advice may or does, in the reasonable opinion of the Province, conflict with the Contractor's obligations to the Province under this Agreement.

20.11 Severability

If any provision of this Agreement is determined to be invalid, illegal or unenforceable, in whole or in part, it will be severable from this Agreement and the remaining provisions will not be affected and will continue in full force and effect to the extent permitted by law.

20.12 Further Assurances

Each of the parties will, upon the reasonable request of the other, perform the acts, execute and deliver the writings, and give the assurances as may be reasonably necessary to give full effect to this Agreement.

20.13 Execution by Counterpart

This Agreement may be executed by the parties in any number of counterparts, each of which when so executed and delivered will be deemed to be an original and all of which together will constitute one and the same document. Delivery of an executed counterpart by facsimile transmission or by email with a scanned PDF attachment will be effective to the same extent as if such party had delivered a manually executed counterpart.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

SIGNED on behalf of Her Majesty the)
Queen in Right of the Province of)
British Columbia by a duly authorized)
representative of the)
Minister of [@@@])
in the presence of:)
)
)
_____)
(Witness)

For the Minister of [@@@]

SIGNED on behalf of)
[@@@])
by its duly authorized signatory)
)

(Signature of Authorized Signatory)

(Print Name of Authorized Signatory)

SCHEDULE “A” DEFINITIONS

“Agile Acceptance” means with respect to any User Story, the acceptance of the Increment corresponding to such User Story by the Province as being in compliance with the applicable Agile Acceptance Criteria as determined in accordance with the Agile Acceptance Tests.

“Agile Acceptance Criteria” means with respect to any User Story, the applicable business, technical, operational, performance, functional and other criteria to be used in the Province’s conduct of Agile Acceptance Tests, as such business, technical, operational, performance, functional and other criteria as recorded and updated (including adding new, removing or modifying existing requirements) in the Product Tracking Tool in accordance with the terms of this Agreement.

“Agile Acceptance Tests” means the tests conducted by the Province to ensure compliance of a particular Increment with the applicable Agile Acceptance Criteria in accordance with section B of Schedule “E”.

“Agile Scrum Process” means the process for software development related to the Product as further described in Schedule “C” of this Agreement.

“Billing Period” has the meaning ascribed to it in Schedule “F” of this Agreement.

“Business Day” means a day, other than a Saturday or Sunday, on which provincial government offices are open for normal business in British Columbia.

“Confidential Information” means any log-in account information, technical, business, financial, personal, employee, operational, scientific, research, or other information or data in whatsoever form or media, whether in writing, electronic form or communicated orally or visually and including any proprietary software or business processes or plans, cost or price information, strategies, technology architecture, reports, agenda, meeting minutes, products and services, and technology or operational know-how that would be understood by a reasonably prudent person to be confidential in nature and is clearly identified at the time of disclosure as ‘Confidential’ or ‘Proprietary’.

“Contractor Material” means any material in existence prior to the start of the Term or developed independently of this Agreement, and that is incorporated or embedded in the Contributions by the Contractor or any subcontractor.

“Contractor Personnel” means as the context may require, Contractor employees and any subcontractors collectively, or any of them.

“Contractor Tests” and **“Contractor Testing”** means any tests by the Contractor required to be carried out under this Agreement as further described in section A of Schedule “E”.

“Contractor Test Plan” means the test plan set out in section A of Schedule “E”.

“Contributions” means the Increments and the Documentation provided by the Contractor under this Agreement, and includes any Contractor Material.

“CPPM” means the Province’s Core Policy and Procedure Manual, as it exists on the date hereof at <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/core-policy>,

together with any updates or amendments thereto notice of which has been given by the Province to the Contractor.

“Daily Scrum Meeting” means a meeting between the members of the Product Team during the Agreement Term on each Business Day to discuss:

- (a) tasks completed on the previous Business Day;
- (b) tasks to be completed on the current Business Day; and
- (c) any impediments which may affect delivery of the relevant Sprint, including the status of any disputes escalated under section 17.2 of the Agreement.

“Definition of Done” means the understanding agreed to by the Product Team during the Sprint Planning Meeting concerning the elements that must be achieved for each User Story (and the corresponding Contributions) to be considered complete.

“Development Team” means the individuals described in section D of Schedule “D”, and any replacements from time to time permitted under this Agreement.

“Disabling Code” means any virus, Trojan horse, worm, logic bomb, drop dead device, backdoor, shutdown mechanism or similar software, hardware, system or combination of any of the foregoing that is intended or designed to, is operable to, is likely to or has the effect of disabling, deleting, erasing, denying authorized access to, permitting unauthorized access to, repossessing, damaging, destroying, corrupting or otherwise affecting or interfering with the provision of the Services or the normal use of any of the Contractor’s or the Province’s hardware, software or systems or any data or files on or used in conjunction with any of the aforementioned.

“Dispute Resolution Board” means the governing body that has the authority as set out in this Agreement and as further described in section E of Schedule “D” of this Agreement.

“Disclosing Party” means the party that discloses Confidential Information to the Receiving Party pursuant to this Agreement.

“Documentation” means, with respect to any non-binary deliverable identified under this Agreement as requiring documentation, both collectively and individually as the context may require, all manuals and other design documentation regarding the capabilities, implementation, installation, operation, application, use or method of performance of that which is being documented, including, as applicable and available, user manuals, console operation manuals, linking instructions, error logs and reports, scripts, forms, templates, training materials, and other manuals and reports, whether in printed or electronic format and where such Documentation is defined by User Stories relating to the scope of the Product. Documentation includes the Product Backlog, the Product Roadmap, the Resourcing Plans, the Sprint Backlog, and any and all other related materials supplied and/or created by the Contractor under this Agreement.

“Done User Stories” means the User Stories for which the Product Manager has confirmed that the corresponding Contribution has met the Definition of Done in accordance with Schedule “C”.

“Early Termination Fee” has the meaning ascribed to it in section 16.7 of this Agreement.

“Event of Default” means each of the events set out in section 16.1 of this Agreement.

“FAA” means the *Financial Administration Act*, R.S.B.C. 1996, c. 138, as amended from time to time.

“Fees” means the fees payable to the Contractor by the Province as set out in Schedule “F” of this Agreement.

“Final Acceptance Notice” has the meaning ascribed to it in section 2.3 of Schedule “B”.

“Force Majeure” has the meaning ascribed to it in section 19.1 of this Agreement.

“GitHub” means the third party source code repository hosting service where Increments are delivered by the Contractor.

“Good Industry Practice” means the exercise of that skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading software development company that uses the Agile Scrum Process, as defined by leading Scrum organizations (such as the Scrum Alliance), to develop software.

“Implementation Phase” means the third phase of Product development as set out in section 1.1(c) of Schedule “B”, during which the Product Team will collaborate on the delivery of the functional components on the Product Roadmap.

“Implementation Phase Holdback” has the meaning ascribed to it in section 3 of Part 3 of Schedule “F”.

“Inception Completion Notice” has the meaning ascribed to it in section 2.1 of Schedule “B”.

“Inception Phase” means the first phase of Product development as set out in section 1.1(a) of Schedule “B”, during which the Product Team will collaborate on the development of the initial Product Backlog.

“Inception Phase Holdback” has the meaning ascribed to it in section 3 of Part 1 of Schedule “F”.

“Increment” means the digital contributions designed, created, developed, configured, customized and integrated to implement a User Store or a number of grouped User Stories.

“Insolvency Event” means any of the following: (a) an order is made, a resolution is passed or a petition is filed, for the liquidation or winding up of the Contractor (b) the Contractor commits an act of bankruptcy, makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency; (c) a bankruptcy petition is filed or presented against the Contractor or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by the Contractor; (d) a compromise or arrangement is proposed in respect of the Contractor under the *Companies’ Creditors Arrangement Act* (Canada); (e) a receiver or receiver-manager is appointed for any of the Contractor’s property; or (f) the Contractor ceases, in the reasonable opinion of the Province, to carry on business as a going concern.

“Kanban” means a visual signal that's used to trigger an action.

“Key Personnel” means the Contractor Personnel listed in Schedule “D” and any other Contractor Personnel who replace any such Contractor Personnel in accordance with Article 4.

“Loss” has the meaning ascribed to it in section 14.1 of this Agreement.

“Material” means the Contributions and the Province Material.

“Object Code” means the machine-readable version of the relevant software.

“Product” means a digital service provided by the Province that is defined by the Product Road Map. The Product will evolve through the completion of work on the Contributions, which is described in the Product Backlog.

“Product Backlog” means the latest version of the list of User Stories required to deliver the outcomes described in the Product Roadmap, which is prepared and maintained in accordance with section B of Schedule “C” and is comprised of:

- (a) the User Stories to be completed, listed in order of priority;
- (b) the Increments developed to date; and
- (c) the Done User Stories to date.

“Product Backlog Refinement Meeting” means a meeting held by the Product Team to review the Product Backlog pursuant to section D of Schedule “C”.

“Product Roadmap” means the plan that matches short-term and long-term business goals for the Product with specific technology solutions to help meet those goals, the initial version of which is set out in Exhibit C1 to Schedule “C”.

“Product Team” means the team consisting of the Product Manager, the Scrum Master and the Development Team working together on the Product using the Agile Scrum Process.

“Product Tracking Tool” means the software tool(s) used to manage Product activities, including Product Backlog management, Sprint Backlog management and tracking of progress of Sprints relating to the Product and which is set out in Exhibit B1 to Schedule “B”;

“Prototype Completion Notice” has the meaning ascribed to it in section 2.2 of Schedule “B”.

“Prototype Phase” means the second phase of Product development as set out in section 1.1(b) of Schedule “B” of this Agreement during which the Product Team will collaborate on the further development of the Product Roadmap, a working alpha release of the Increments, and a Resourcing Plan for the Implementation Phase.

“Prototype Phase Holdback” has the meaning ascribed to it in section 3 of Part 2 of Schedule “F”.

“Province Material” means records, software and other material, whether complete or not, that, as a result of this Agreement, are received by the Contractor or any subcontractor from the Province or any other person acting on behalf of the Province.

“Province Personnel” means an employee, contractor, consultant, officer, director or agent of the Province that is employed within, or retained to perform services for the benefit of, the Province, excluding the Contractor and any Contractor Personnel.

“Province Policies” means policies of the Province in effect at any time and from time to time, that are applicable to the Services, and which are referred to in this Agreement or in respect of which the Province has given the Contractor notice in writing under this Agreement.

“Province Product Manager” means appointed by the Province as the Province Product Manager in accordance with section 4.15 of the Agreement and assigned to perform the role described in section A of Schedule “D”, and any replacement appointed by the Province from time to time.

“Province Systems” means the information technology and communication systems, including networks, hardware, software and interfaces owned by, or licensed to the Province, and which is required or otherwise used in the performance of the Services.

“Receiving Party” means the party that receives Confidential Information of the Disclosing Party pursuant to this Agreement.

“Request for Proposals” means the Request for Proposals entitled ‘[@@@]’ issued on [@@@] by the Province and having for number RFP # [@@@].

“Requirement” means the non-technical description in a particular User Story of a requirement of the Province describing the intended operations, functions, performance and other characteristics of the Increments or part of the Increments.

“Repository” means the GitHub repository associated with the Product.

“Resourcing Plan” means the plan, developed by the Product Team, which identifies the composition and capabilities of the Product Team required in either of the Prototype and Implementation Phases.

“Scrum Master” means the Contractor Personnel designated by the Contractor as the Scrum Master and whose role is further described in Schedule “D” of this Agreement.

“Services” means the services provided by the Contractor in relation to the Product as described in Schedule “B” of this Agreement.

“Source Code” means, with respect to any software, program source code, notes, specifications, and all other materials and documents necessary to enable a reasonably skilled programmer to understand, maintain, amend and enhance the software, whether in eye-readable or machine-readable form.

“Sprint” means a fixed two to three week period as set out in section C of Schedule “C”, during which Contributions for the applicable User Stories are developed, tested and delivered in accordance with this Agreement;

“Sprint Deliverables” mean the deliverables set out in section 2.4 of Schedule “B”;

“Sprint Backlog” means the document defining the work for the current Sprint and specifying:

- (a) the list of User Stories to be progressed by the Development Team during the Sprint;
- (b) the list of tasks required to be carried out by the Development Team in order to complete each User Story;
- (c) any amended or additional Agile Acceptance Criteria for each User Storey identified by the Product Team at the Sprint Planning Meeting; and
- (d) the Definition of Done for each User Story agreed to by the Product Team at the Sprint Planning Meeting.

“Sprint Meetings” means:

- (a) The Sprint Planning Meeting;
- (b) The Product Backlog Refinement Meeting;
- (c) The Daily Scrum Meeting;
- (d) The Sprint Review Meeting; and
- (e) The Sprint Retrospective Meeting.

“Sprint Planning Meeting” means a planning meeting of the Product Team to scope and plan the current Sprint as further described in section D.2 of Schedule “C”.

“Sprint Retrospective Meeting” means a retrospective meeting of the Product Team to review the performance of the completed Sprint and discuss and agree on potential improvements for implementation of future Sprints as further described in section D.4 of Schedule “C”.

“Sprint Review Meeting” means a review meeting of the Product Team and any stakeholders that wish to attend to demonstrate the output of the Sprint and discuss any issues arising as further described in section D.3 of Schedule “C”.

“Standards of Conduct” means the Province's Standards of Conduct, as it exists on the date hereof at <https://www2.gov.bc.ca/gov/content/careers-myhr/managers-supervisors/ethics-standards-of-conduct/standards-of-conduct?keyword=standards&keyword=of&keyword=conduct>, together with any updates or amendments thereto notice of which has been given by the Province to the Contractor.

“Team Velocity” means a trend that is derived by calculating the mean of the aggregate amount of work a Development Team has achieved over three consecutive Sprints.

“Term” has the meaning provided for in section 2.1 of this Agreement.

“Termination Date” means the effective date of the expiry or earlier termination of this Agreement.

“User Story” means a Requirement and its associated Agile Acceptance Criteria which are tracked in the Product Backlog. It is the description of a software feature from an end-user perspective.

“WCB” has the meaning ascribed to it in section 7.2 of this Agreement.

SCHEDULE “B” SERVICES AND DELIVERABLES

1 Services

1.1 Services Performed in Three Phases

The Contractor will provide the Services in three phases as follows:

- (a) an initial phase of @@@ months whereby the Contractor will collaborate with the Province on the development of the Initial Product Backlog for the Prototype Phase (the “Inception Phase”);
- (b) a phase of @@@ months during which the Contractor will collaborate with the Province on the further development of the Product Roadmap, a working alpha release of the Increments; and a Resourcing Plan for the Implementation Phase (the “Prototype Phase”); and
- (c) a phase of @@@ months involving the implementation of the Increments according to delivery of the business goals of the Product Roadmap (the “Implementation Phase”).

1.2 Services Performed in Accordance with Goals

The Contractor will provide the Services (as described in this Agreement) in accordance with the overall goals in relation to the Product, which are to:

- (a) adopt a collaborative approach between the parties in the development and implementation of the Increments in accordance with the Product Roadmap;
- (b) demonstrate learning and success using efficient Agile product development and deployment methodologies; and
- (c) build the Province’s capacity in Agile product development by contracting leading practitioners that use best practices and share expertise.

1.3 High Level Description of the Services

The Contractor will provide the Services by doing the following:

- (a) using the Agile Scrum Process (as described in Schedule “C” to this Agreement);
- (b) creating and making available Contributions that support of the development of the Product;
- (c) creating and making available the Increments under the Apache 2.0 license, or such other license as approved by the Product Manager; and
- (d) ensuring the Increments follow the Office of the Chief Information Officer’s ‘Open Source by Default’ approach, the ‘Open Code by Default’ approach and software development standards.

2 Deliverables

2.1 Summary of Inception Phase Deliverables

During the Inception Phase, the Contractor will collaborate with the Province using the Agile Scrum Process to provide the Province with the Documentation for the Inception

Phase, including the initial Product Backlog for the Product until the Province issues the Contractor written notification of completion of all of the User Stories in the Product Backlog relating to the goals of the Inception Phase (the “Inception Completion Notice”).

2.2 Summary of Prototype Phase Deliverables

During the Prototype Phase, the Contractor will collaborate with the Province using the Agile Scrum Process to provide the Province with:

- a) a working alpha release of the Increments relating to a prototype of the Product;
- b) any Documentation related to the deliverables of the Prototype Phase including a mutually agreed updated Product Roadmap and a Resourcing Plan for the Implementation Phase

until the Province issues the Contractor written notification of completion of all of the User Stories in the Product Backlog relating to the goals of the Prototype Phase (the “Prototype Completion Notice”).

2.3 Summary of Implementation Phase Deliverables

The Contractor will during the Implementation Phase collaborate with the Province using the Agile Scrum Process to deliver Increments corresponding to the objectives of the Product Roadmap until the Province issues the Contractor written notification that all of the Contributions received to date have satisfied all the goals and outcomes set out in the Product Roadmap (the “Final Acceptance Notice”).

2.4 Sprint Deliverables

At the end of each Sprint, the Contractor will provide to the Province the Contributions developed during that Sprint, including any of the following as requested by the Product Manager (the “Sprint Deliverables”):

Type	Deliverable	Description
Increment	automated functional test script based on a behavioural driven development statement	an automated functional test script will be supplied for every merge associated with a User Story.
	tested code	Github commits in the BCGov Government Organization on GitHub that has been tested (and has passed Contractor Testing According to Schedule “E”).
	working (deployed) software	working software that can be tested against business outcomes, which can be traced back through the User Stories to the Product Roadmap business goals.
Documentation	Sprint tickets (recorded in the Product Tracking Tool)	documentation indicating desired User Story outcomes, estimations and links or attachments to the delivered artifact(s).

	Kanban (recorded in the Product Tracking Tool)	an up to date KanBan that records and indicates the status of the work that was completed during each Sprint.
	screenshot, links, or other documentation	documentation reflecting completed features, including number and percentage of completed Sprint tasks (e.g. burn down/up charts).
	user research documentation	documentation that can be traced back through the sprint tickets to the Product Roadmap.
	design artifacts	mock ups and/or design files if applicable, or design changes reflected in the Increment.
	summary slide decks or other artifacts	Documentation created for design, development, system architecture, and stakeholder briefings.

3 TECHNICAL INFRASTRUCTURE

3.1 Product Tools

The Contractor will use the tools attached as Exhibit B1 to this Schedule “B” to deliver the Services.


3.2 Technology Stack

During the performance of the Services, the Contractor will use the following technology stack for the Product:

(a) @@@

Schedule “B” - Exhibit B1 – Product Tools

The Contractor will use the following tools to develop the Product:

- (a)  as the Product Tracking Tool
- (b)
- (c)
- (d)
- (e)

The Product tools are subject to change as mutually agreed to by the parties through the Dispute Resolution Board. The Contractor must use all of the Product tools provided by the Province. As with any Agile project/environment, retrospectives and a continuous improvement mindset will be needed to ensure that business value is being achieved in the use of the tools and in the overall management and execution of the Product. The Contractor will ensure that where waste is identified, the Contractor will use best efforts to eliminate it.

**SCHEDULE “C”
AGILE SCRUM PROCESS**

A. PRODUCT ROADMAP

1. The initial version of the Product Roadmap is set out in Exhibit C1 to this Schedule “C”. All activities carried out by the parties under this Agreement will have regard to, and support delivery of, the objectives of the Product Roadmap.
2. If the Product Roadmap is updated by written mutual agreement of the parties during the Agreement Term, then the updated Product Roadmap will supersede and replace the applicable then-existing Exhibit C1 in its entirety and be deemed to form part of this Agreement.

B. PRODUCT BACKLOG

1. The initial Product Backlog will be developed by the parties during the Inception Phase.
2. The Product Manager will be responsible during the Term for preparing and maintaining the Product Backlog in the Product Tracking Tool.

C. SPRINTS

1. Services in relation to the Product will be carried out in Sprints that are in accordance with Good Industry Practice until the earliest of:
 - (a) the Product Manager issues the Final Acceptance Notice; or
 - (b) this Agreement reaches the end of the Term or is terminated pursuant to Article 16.
2. During a Sprint, the Development Team will:
 - (a) develop Increments to implement each User Story in accordance with the Sprint Backlog;
 - (b) test all Increments developed in accordance with the Contractor Test Plan and any additional testing agreed to by the Product Team at the Sprint Planning Meeting or considered necessary by the Development Team during the Sprint;
 - (c) update the Sprint Backlog and other Documentation on a daily basis to reflect progress with the development work; and
 - (d) track its progress by maintaining a Sprint burn down chart and updating it daily.
3. A new Sprint will start immediately after the conclusion of the previous Sprint.

D. SPRINT MEETINGS

Sprint Meetings

1. During each Sprint, the Product Team will participate in the following meetings:
 - (a) Sprint Planning Meeting;
 - (b) Product Backlog Refinement Meeting;
 - (c) Daily Scrum Meetings;
 - (d) Sprint Review Meeting; and
 - (e) Sprint Retrospective Meetings.

Sprint Planning Meeting

2. The Sprint Planning Meeting will take place before any work begins regarding a Sprint. At the Sprint Planning Meeting for a Sprint:
 - (a) the Product Manager will notify the Scrum Master and the Product Team of the User Stories to be included in the Sprint Backlog;
 - (b) the Product Team will review, refine and agree to the Definition of Done for each User Story and upon agreement the Scrum Master, will record the Definition of Done in the Product Tracking Tool;
 - (c) the Scrum Master and the Development Team will create the Sprint Backlog.

Sprint Review Meeting

3. At the Sprint Review Meeting for a Sprint:
 - (a) the Development Team will demonstrate the Contributions developed in that Sprint to the Product Manager and other stakeholders that the Product Manager may invite to the meeting;
 - (b) the Product Manager and the stakeholders will provide feedback on the Increments to the Scrum Master and the Development Team.
 - (c) The Product Manager will:
 - i. review and determine which of the Increments demonstrated at the Sprint Review Meeting are ready for the Province to perform Agile Acceptance Tests in accordance with section B of Schedule “E”;
 - ii. mark User Stories for which the Increments have met all the requirements of the Definition of Done as Done User Stories;
 - iii. return to the Product Backlog any User Story for which the Increments have not passed the Definition of Done; and
 - iv. reset all priorities for outstanding User Stories.

Sprint Retrospective Meeting

4. At the Sprint Retrospective Meeting, the Product Team will:

- (a) discuss and agree on potential improvements to their technical practices, environment, communication, and/or organization for implementation in future Sprints; and
- (b) review the appropriateness and effectiveness of any improvements proposed at the previous Sprint Retrospective Meeting for a Sprint.

E. DISPUTE RESOLUTION

1. Any areas of disagreement that cannot be resolved by the Product Team during the Agile Scrum Process described in this Schedule “C” will be referred to the Dispute Resolution Board for resolution.

Schedule “C”- Exhibit C1 – Initial Product Roadmap

The initial Product Roadmap is as follows:

[•].

SCHEDULE “D”

PRODUCT TEAM AND DISPUTE RESOLUTION BOARD

A. Product Manager

1. The Product Manager appointed by the Province and as set out in section D of this Schedule “D” will fulfil the responsibilities set out in section A.3 of this Schedule “D” and carry out all activities identified in this Agreement as being a Product Manager activity.
2. The Product Manager will:
 - (a) be the Province’s main representative for all decisions concerning all aspects of the Product;
 - (b) be empowered by the Province to perform their responsibilities (including the giving of approval where required and the sorting of priority of User Stories); and
 - (c) other than those issues identified in this Agreement that should be dealt with by the Dispute Resolution Board, be empowered by the Province to approve all decisions concerning the Product.
3. In the performance of the Product development, the Product Manager will:
 - (a) be accountable for the creation and evolution and continuous updating of the Product Roadmap;
 - (b) be accountable for the initial creation of the Product Backlog and have the final decision on all questions relating to the inclusion, deletion and priority of User Stories in the Product Backlog;
 - (c) maintain and update the Product Backlog on a continuous basis by:
 - (i) refining User Stories and when required, clarifying the business objectives;
 - (ii) removing User Stories which are no longer required to achieve the Product Roadmap;
 - (iii) adding new User Stories identified as being required to achieve the Product Roadmap; and
 - (iv) reviewing and setting (including resetting) the business objectives of the User Stories;
 - (d) actively participate in all Sprint Meetings;
 - (e) be available during normal business hours to answer Product Team questions relating to the Sprint Deliverables and do so within a reasonable timeframe;
 - (f) have the final decision as to whether an Increment meets the Definition of Done for the applicable User Story or User Stories;
 - (g) have the final decision on all questions relating to the content and timing of the delivery of the Product;
 - (h) have the final decision as to whether to continue development under this Agreement; and

- (i) use best efforts to resolve any disputes in good faith by agreement with the Scrum Master and the Development Team at the applicable Sprint Meeting.

B. The Scrum Master

1. The Scrum Master appointed by the Contractor as set out in section D of this Schedule “D” will fulfil the responsibilities set out in section B.3 below and carry out all activities identified in this Agreement as being a Scrum Master activity. The Contractor will not appoint any replacement Scrum Master without the prior written consent of the Province.
2. The Scrum Master will be empowered by the Contractor to perform their responsibilities (including the procurement of items required by the Development Team or removal of impediments to the functioning of the Development Team where required) without the need to seek prior stakeholder approval or other authorization from the Contractor.
3. In the performance of the Product development, the Scrum Master will:
 - (a) seek to maximize team performance and establish a predictable Team Velocity that is acceptable to the Product Team;
 - (b) lead, enable and support the timely implementation of the User Stories and delivery of the Product in accordance with the Product Roadmap;
 - (c) enable and facilitate collaboration, cooperation and self-organization between all Product Team members and resolution of any issues or disputes related to the Product;
 - (d) facilitate self-organization of the Development Team;
 - (e) ensure timely removal of any impediments which may affect the delivery of any Sprint Deliverable;
 - (f) lead, facilitate and support all Sprint Meetings (including enforcement of timeboxes for such meetings);
 - (g) capture and record empirical data reported or generated at Sprint Meetings to facilitate adjustment of forecasts in relation to Sprints;
 - (h) schedule the Sprint Meetings and record meeting minutes and decisions using the Product Tracking Tool;
 - (i) if reasonably requested to do so, provide assistance to any Development Team member or the Product Manager;
 - (j) work full time on the Product at a location in British Columbia designated by the Province; and
 - (k) use best efforts to resolve any disputes in good faith by agreement with the Product Manager and the Development Team at the applicable Sprint Meeting.

C. The Development Team

1. The Development Team appointed by the Contractor as set out in section D of this Schedule “D” will fulfil the responsibilities set out in section C.2 of this Schedule “D” and carry out all activities identified in this Agreement as being a Development Team activity. The Contractor will not appoint any replacement Development Team member that is Key Personnel, or any additional Development Team member, without the prior written

consent of the Province. In the performance of the Product development, the Development Team will:

- (a) be responsible for providing foundational information regarding the Product Roadmap, based on user research, to the Product Manager;
- (b) be responsible for the design, creation, development, configuration, customization and integration of the Product to implement the User Stories in support of the objectives identified in the Product Roadmap;
- (c) estimate and notify the Product Manager of the efforts required for the delivery of each User Story;
- (d) seek to maximize team performance and establish a predictable, mutually acceptable working Team Velocity;
- (e) assist the Product Manager to develop and clarify a Sprint Backlog, the volume of which conforms to the capacity of the Development Team and the Team Velocity; and
- (f) in each Sprint:
 - (i) deliver Increments , which represent a cumulatively growing subset of the Product and include all User Stories proposed by the Product Manager prior to the Sprint;
 - (ii) test all Increments developed as part of the Sprint in accordance with the Contractor Test Plan and any additional tests identified by the Development Team as required or desirable at the Sprint Planning Meeting or otherwise during the Sprint to ensure the Increments meet the Definition of Done; and
 - (iii) write the Documentation for the Increments developed during the Sprint and update previous Documentation as required to ensure that the Documentation remains up to date at all times, including the following details: design, functions, performance attributes and any other information that the Product Manager may reasonable require.

2. Each Development Team member will, as part of the Development Team:

- (a) collaborate and cooperate with all Product Team members;
- (b) in conjunction with the Scrum Master and the Product Manager, use all reasonable efforts to remove impediments potentially affecting the delivery of any Sprint goals and to resolve any disputes between any Product Team members concerning the Product, including any disputes that involve themselves;
- (c) ensure that each User Story is designed and developed so as to minimize the risk of Disabling Code attacking the User Story or the Product;
- (d) actively participate in all Sprint Meetings;
- (e) if instructed to by the Contractor, work full time on the Product.
- (f) work at a location in British Columbia designated by the Province during the Agreement Term; and
- (g) use best efforts to resolve any disputes in good faith by agreement with the Product Manager and the Scrum Master at the applicable Sprint Meeting.

D. The Product Team

1. The Product Team will be comprised of the Province Product Manager, the Scrum Master and the Development Team.

Province Personnel:

The Product Manager is: _____

Contractor Personnel:

The Scrum Master is: _____

The Development Team is:

Personnel	Capability

E. The Dispute Resolution Board

1. The Dispute Resolution Board consists of, but is not limited to, the following membership. It is the responsibility of the Dispute Resolution Board members to ensure suitable representation at the meeting in the event they cannot attend.

Contractor Personnel:

- Contractor Account Manager (optional)
- Scrum Master

Province Personnel:

- Province Product Manager
- Province Program Sponsors

2. The Dispute Resolution Board will meet once during each Sprint throughout the Term. If not required, these regular meetings will be cancelled by the Province. In the case of a issue that requires urgent resolution, any member of the Dispute Resolution Board can call an extraordinary Dispute Resolution Board meeting at any time during the Term. It is the responsibility of the Scrum Master to schedule the meetings and record meeting minutes and decisions in the Product Tracking Tool.
3. The Dispute Resolution Board will make decisions based on consensus. If consensus cannot be reached, then the issue will be escalated pursuant to section 17.2 of the Agreement.

SCHEDULE “E” SPRINT TESTING

A. Contractor Testing

1. During each Sprint, the Development Team will carry out Contractor Testing of the Increments, in accordance with the Contractor Test Plan as further described in section A.2 of this Schedule “E”.
2. The Contractor Test Plan will include confirming that all Increments comply with the surveillance plan standard set out in the following table:

Increment	Acceptable Quality Level	Method of Surveillance
Tested	code passes functional tests	Province’s continuous integration pipeline
Accessible (Implementation Phase Only)	meets WCAG 2.0 Standards	https://www2.gov.bc.ca/gov/content/home/accessibility
Deployed	successful build with a single command	combination of manual review and automatic testing
Documented	all dependencies are listed and the licenses are documented. Software/source code/APIs are documented.	combination of manual review and automatic testing
Available	all of the code needed to run the Product.	Product Manager will assess code availability.

Secure	Sonarqube overall rating: Passed Sonarqube bugs: Level A-C Sonarqube vulnerabilities: Level A-C Sonarqube code smells: Level A-C	https://sonarqube.com
--------	---	---

- Following Contractor Testing, the Development Team will merge the Increments that have passed the Contractor Test Plan into the Province's Product's Repository on GitHub.

B. Agile Acceptance Tests

- During each Sprint, the Province will carry out Agile Acceptance Tests of Increments referred by the Product Manager for Agile Acceptance Testing under section D.3(c)(i) of Schedule "C".
- The Province's Agile Acceptance Test will include an assessment of whether the Increment achieves a pass score based on the following criteria:

Criteria	Key	Score
Design decisions	Is the code elegant and simple?	3
Documentation	Is there code documentation that is logical, clear and instructive?	3
Functional Tests	Have test scripts been developed for the code?	3
Flaws and Bugs	Does the code work without flaws?	6
User Acceptance Testing	Does the code meet the business goals of each of the User Stories?	6
Total potential score		21
Pass score		17

- If the Province's Agile Acceptance Test will be conducted in parallel with the next Sprint and the Province will provide the results of the Agile Acceptance Test to the Contractor within 3 Business Days.

4. Following completion of the Agile Acceptance Tests by the Province, the Product Manager will:
 - (a) update the Product Backlog to:
 - i. return to the Product Backlog any User Stories for which the Increments have not passed the Agile Acceptance Tests;
 - ii. reset all priorities for outstanding User Stories; and
 - iii. notify in writing the Development Team and Scrum Master about the completion of the Agile Acceptance Tests by the Province; and
 - (b) merge Increments that have passed the Agile Acceptance Tests to the master version of the Product code on the Repository for the Product.

SCHEDULE "F"

FEES

TOTAL MAXIMUM AMOUNT PAYABLE

1. Despite Parts 1, 2 and 3 of this Schedule, \$@@@ is the maximum amount which the Province is obligated to pay to the Contractor for Fees and expenses under this Agreement (exclusive of any applicable taxes described in section 5.1 of this Agreement).

PART 1 - INCEPTION PHASE

1. INCEPTION PHASE MAXIMUM AMOUNT PAYABLE

Despite sections 2 and 3 of this Part 1, \$@@@ is the maximum amount which the Province is obliged to pay to the Contractor for Fees during the Inception Phase of this Agreement (exclusive of any applicable taxes described in section 5.1 of this Agreement).

2. MONTHLY FEES

Subject to section 3 of this Part 1, the Province will pay the Contractor at a rate of \$@@@ per month for those months during the Inception Phase when the Contractor provides the Services.

3. HOLDBACK AND EARLY COMPLETION

The Province will pay to the Contractor an additional fixed fee of \$@@@ upon issuance of the Inception Completion Notice by the Province (the "Inception Phase Holdback"). Should the Province issue the Inception Completion Notice prior to the end of the timeframe for the Inception Phase set out in section 1.1(a) of Schedule "B", the Province will pay the Contractor both the Inception Phase Holdback as well as an additional fee equal to the full amount of the total remaining monthly fees that would have been paid pursuant to section 2 of this section had the Inception Phase been completed in the timeframe set out in section 1.1(a) of Schedule "B".

PART 2 - PROTOTYPE PHASE

1. PROTOTYPE PHASE MAXIMUM AMOUNT PAYABLE

Despite sections 2 and 3 of this Part 2, \$@@@ is the maximum amount which the Province is obliged to pay to the Contractor during the Prototype Phase of this Agreement, exclusive of any applicable taxes described in section 5.1 of this Agreement.

2. MONTHLY FEES

Subject to section 3 of this Part 2, the Province will pay the Contractor at a rate of \$@@@ per month for those months during the Prototype Phase when the Contractor provides the Services.

3. HOLDBACK AND EARLY COMPLETION

The Province will pay to the Contractor an additional fixed fee of \$@@@ upon issuance of the Prototype Completion Notice by the Province (the "Prototype Phase Holdback"). Should the Province issue the Prototype Completion Notice prior to the end of the timeframe for the Prototype Phase set out in section 1.1(b) of Schedule "B", the Province will pay the Contractor both the Prototype Phase Holdback as well as an additional fee equal to the full amount of the total remaining monthly fees that would have been paid pursuant to section 2 of this section had the Prototype Phase been completed in the timeframe set out in section 1.1(b) of Schedule "B".

PART 3 - IMPLEMENTATION PHASE

1. IMPLEMENTATION PHASE MAXIMUM AMOUNT PAYABLE

Despite sections 2 and 3 of this Part 3, \$@@@ is the maximum amount which the Province is obliged to pay to the Contractor during the Implementation Phase of this Agreement, exclusive of any applicable taxes described in section 5.1 of this Agreement.

2. MONTHLY FEES

Subject to section 3 of this Part 3, the Province will pay the Contractor at a rate of \$@@@ per month for those months during the Implementation Phase when the Contractor provides the Services.

3. HOLDBACK AND EARLY COMPLETION

The Province will pay the Contractor an additional fixed fee of \$@@@ upon issuance by the Province of the Final Acceptance Notice (the "Implementation Phase Holdback"). Should the Province issue the Final Acceptance Notice prior to the end of the timeframe for the Implementation Phase set out in section 1.1(c) of Schedule "B", the Province will pay the Contractor both the Implementation Phase Holdback as well as an additional fee equal to twenty (20) percent of the total remaining monthly fees that would have been paid pursuant to section 2 of this section had the Product been completed in the timeframe set out in section 1.1(c) of Schedule "B".

Part 4 - EXPENSES

1. There are no expenses under this Agreement.

Part 5 - STATEMENTS OF ACCOUNT

1. In order to obtain payment of any monthly fees in any phase or early completion fees under Part 3 for payments for a period from and including the 1st day of a month to and including the last day of that month (each a "Billing Period"), the Contractor must deliver to the Province a written statement of account in a form satisfactory to the Province containing:
 - (i) the Contractor's legal name and address;
 - (ii) the date of the statement, and the Billing Period or applicable portion of the Billing Period to which the statement pertains;

- (iii) the Contractor's calculation of all Fees claimed for that Billing Period, including a declaration by the Contractor of the month in which the Contractor has provided the Services during the Billing Period;
 - (iv) the Contractor's calculation of any applicable taxes payable by the Province in relation to the Services for the Billing Period;
 - (v) a description of this Agreement, including the contract number assigned to this Agreement by the Province;
 - (vi) a statement number for identification; and
 - (vii) any other billing information reasonably requested by the Province.
- 2. In order to obtain payment of any fees under this Agreement for the holdback for the completion of any of the Inception, Prototype or Implementation Phases, as applicable, the Contractor must deliver to the Province written statement of account in a form satisfactory to the Province containing:
 - (i) the Contractor's legal name and address;
 - (ii) the date of the statement;
 - (iii) the Contractor's calculation of all Fees claimed for that phase, including a description that the Services for which the Contractor claims Fees have been completed;
 - (iv) the Contractor's calculation of any applicable taxes payable by the Province in relation to the Services;
 - (v) a description of this Agreement, including the contract number assigned to this Agreement by the Province;
 - (vi) a statement number for identification; and
 - (vii) any other billing information reasonably requested by the Province.
- 3. The Contractor will submit all statements of account as described in this Part 5 to [@@@]. If the Contractor does not provide additional information as request under this Part 5, section 1(g), the Province may return the statement of account unpaid.

SCHEDULE “G” –SUBCONTRACTORS

@@@ [NTD: Insert subcontractors, or, if no subcontractors, indicate N/A]

SCHEDULE "H"

INSURANCE

1. The Contractor must, without limiting the Contractor's obligation or liabilities and at the Contractor's own expense, purchase and maintain throughout the Term the following insurances with insurers licensed in Canada in forms and amounts acceptable to the Province:
 - (a) Commercial General Liability in an amount not less than \$2,000,000 inclusive per occurrence against bodily injury, personal injury and property damage and including liability assumed under this Agreement and this insurance must:
 - (i) include the Province as an additional insured,
 - (ii) be endorsed to provide the Province with 30 days advance written notice of cancellation or material change, and
 - (iii) include a cross liability clause; and
 - (b) Professional Errors and Omissions Liability insuring the Contractor's liability resulting from errors or omissions in the performance of the Services in an amount per occurrence, and in the aggregate, in an amount not less than \$2,000,000.
2. All insurance described in section 1 of this Schedule must:
 - (a) be primary; and
 - (b) not require the sharing of any loss by any insurer of the Province.
3. The Contractor must provide the Province with evidence of all required insurance as follows:
 - (a) within 10 Business Days of commencement of the Services, the Contractor must provide to the Province evidence of all required insurance in the form of a completed Province of British Columbia Certificate of Insurance;
 - (b) if any required insurance policy expires before the end of the Term, the Contractor must provide, within 10 Business Days of the policy's expiration, evidence of a new or renewal policy meeting the requirements of the expired insurance in the form of a completed Province of British Columbia Certificate of Insurance; and
 - (c) despite paragraph (a) or (b) above, if requested by the Province at any time, the Contractor must provide to the Province certified copies of the required insurance policies.
4. Despite section 1(b) of this Schedule, if in the Province's sole discretion, the Province has approved in writing either a fronted self-insurance program or a duly licensed captive insurer as an alternative to the Professional Liability Insurance requirement set out in section 1(b), then the Contractor must maintain throughout the Term that alternative in accordance with the terms of the approval.

SCHEDULE "I"

SECURITY SCHEDULE

Definitions

1. In this Schedule, unless the context otherwise requires:
 - (a) **"Confidential Information"** means Personal Information and information the Contractor must treat as confidential under this Agreement, whether or not in record form;
 - (b) **"Contractor's Systems"** includes Systems of third parties that the Contractor authorizes its Services Workers to use in providing the Services (for example, the portable computing device of a Services Worker employed by the Contractor who is authorized to use that device pursuant to the Contractor's work at home or bring your own device to work policy or a data storage service used by the Contractor to back-up data);
 - (c) **"Facilities"** means the facilities used in providing the Services, including those housing Systems (including Systems awaiting disposal) or Confidential Information;
 - (d) **"Information Incident"** means an unwanted or unexpected event or series of events that threaten privacy or security of Confidential Information, including its unauthorized access, collection, use, disclosure, alteration, storage or disposal, whether or not in record form and whether accidental or deliberate;
 - (e) **"Personal Information"** has the meaning given in the Privacy Protection Schedule if attached;
 - (f) **"Sensitive Information"** means, whether or not in record form:
 - (i) Personal Information, and
 - (ii) Confidential Information marked or identified when disclosed or entrusted in the custody of the Contractor as "Confidential", "High Sensitivity", "Cabinet Confidential", "Sensitive Information" or the like;
 - (g) **"Services Worker"** means an individual involved in providing the Services for or on behalf of the Contractor, including:
 - (i) the Contractor or a subcontractor if an individual, or
 - (ii) an employee or volunteer of the Contractor or of a subcontractor; and
 - (h) **"Systems"** means the equipment or interconnected systems or subsystems of equipment, including software, hardware and networks, used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, emission, transmission or reception of:
 - (i) Confidential Information, or
 - (ii) information, whether or not in record form, used in providing the Services.

Schedule contains additional obligations

2. The obligations in this Schedule are in addition to other obligations in this Agreement relating to security (if any), including in the Privacy Protection Schedule if attached.

Services Worker confidentiality agreements

3. The Contractor must not permit a Services Worker who is an employee or volunteer of the Contractor to have access to either Confidential Information through Systems supplied by the Services Worker or Sensitive Information unless the Services Worker is contractually bound to the Contractor in writing to keep that information confidential on terms no less protective than applicable to the Contractor under this Agreement.

Services Worker security screening

4. The Contractor may only permit a Services Worker who is an employee, volunteer or subcontractor of the Contractor to have access to Sensitive Information, the Province's Systems or, subject to applicable laws and any express exception in this Agreement, otherwise be involved in providing the Services if, after having subjected the Services Worker to the Contractor's personnel security screening requirements, which must be no less stringent than the requirements in Appendix H1 and any additional security requirements the Contractor may consider appropriate, the Contractor is satisfied that the Services Worker does not constitute an unreasonable security risk. Subject to applicable laws, the Contractor must retain records of its compliance with Appendix H1. If the Contractor is an individual, the Province may subject the Contractor to the screening requirements in Appendix H1.

Services Worker information security training

5. The Contractor is responsible for ensuring Services Workers are aware of the requirements of the *Freedom of Information and Protection of Privacy Act* as it relates to this Agreement and any other enactment in effect from time to time relating to handling information. Without limiting the foregoing, the Province may require particular Services Workers to complete any relevant information security awareness, education and training provided by the Province online or otherwise before those Services Workers may provide specific Services or receive or access particular Confidential Information or particular Systems or Facilities of the Province and may require the Contractor to keep records tracking such training.

Access controls

6. The Contractor must apply security controls to:
 - (a) limit access to the Contractor Facilities where practicable and Contractor's Systems to those persons authorized by the Contractor to have that access and for the purposes they are authorized, which security control must include measures to verify the identity of those persons and to revoke access when conditions for authorization cease;
 - (b) limit access to records containing Sensitive Information to those Services Workers authorized by the Contractor to have that access and for the purposes they are authorized to perform the Contractor's obligations under this Agreement, which must include measures to verify the identity of those Services Workers and to revoke access when conditions for the Services Worker's authorization cease; and
 - (c) limit the performance of all maintenance on the Contractor's Systems where a plausible risk exists that records containing Sensitive Information could be accessed by the performers of maintenance, despite the Contractor's efforts to comply with paragraph (b), to either authorized Services Workers or, if those

records cannot be removed first, other persons who are bound by similar confidentiality agreements and meet similar security screening requirements.

Access audit logs

7. The Contractor must keep in accordance with sections 8 and 9 detailed records logging and monitoring accesses to records containing Sensitive Information transported or stored on the Contractor's Systems, except as this Agreement or the Province in writing may instruct otherwise.
8. The records described in section 7 must include the following details for each event when appropriate for the technology:
 - (a) Services Worker identification;
 - (b) date, time and details of event;
 - (c) subject matter accessed; and
 - (d) details of unauthorized access or tampering.
9. The Contractor must keep and protect the records described in section 7 from unauthorized access, alteration or destruction for no less than two years after the end of the calendar year ending December 31st in which the records are created unless the Province agrees in writing to a different period. This includes applying security controls to prevent individuals from being able to alter, erase or deactivate records of their own access.

Contractor's Systems and Facilities protection controls

10. The Contractor must apply security controls to protect the Contractor's Systems and Contractor's Facilities from loss, damage or other occurrence, including from fire and environmental hazards and power interruptions, that may result in them being unavailable when required to provide the Services.
11. If this Agreement limits the processing, transporting or storing of any records containing Confidential Information to particular Contractor's Systems or Contractor's Facilities or their specified location or Services carried on them, the Contractor must, before it makes any change to those Systems or Facilities or Services carried on them that risks reducing the security of those records or to their location to different Systems or Facilities, obtain the Province's written agreement or confirmation that a security threat and risk assessment ("STRA") or privacy impact assessment ("PIA") or both do not need to be performed or updated. Before agreeing, the Province may require the Contractor, at the Contractor's expense, to:
 - (a) perform or update, or assist the Province or a mutually acceptable third party in performing or updating, a STRA or PIA, or both, in accordance with Province policies, standards, procedures and guidelines, for review by the Province, and
 - (b) submit a plan and remediate or otherwise address any security threats or risks or privacy impacts of concern to the Province identified in the STRA or PIA within a reasonable time.

Integrity and availability of records

12. The Contractor must apply security controls to maintain the integrity and availability of records containing Confidential Information or other information under the Province's control while possessed, accessed or processed by the Contractor. This includes controls to protect such records on the Contractor's Systems from malicious code (including viruses, disabling or damaging codes, trap doors, listening devices, computer worms and Trojan Horses), including as appropriate:
 - (a) ensuring regularly updated software designed to scan for, detect and provide protection from malicious code is installed with real-time scanning and periodic scanning of all discs enabled,
 - (b) maintaining and following business continuity plans to recover from malicious code incidents,
 - (c) scanning backup media prior to restoration so that malicious code is not introduced or re-introduced into such Systems, and
 - (d) installing critical security patches and updates to all installed software.
13. For section 12, maintaining the integrity of Confidential Information means that, except as this Agreement or the Province may instruct otherwise, the Confidential Information has:
 - (a) remained as accurate and complete as when it was obtained or accessed by the Contractor; and
 - (b) not been altered in any material respect.

Additional security controls for Sensitive Information

14. The Contractor must apply security controls to:
 - (a) ensure that records (including backup copies) containing Sensitive Information in transit or stored on the Systems or Contractor's Systems (including portable computing and storage devices) are secure and encrypted in accordance with the Province's "Cryptographic Standards for Information Protection" (as may be accessed from the website of the Office of the Chief Information Officer at http://www2.gov.bc.ca/gov/content/governments/services-for-government/policies-procedures/im-it-standards/find-a-standard#it_sec), except as this Agreement may specify other cryptographic standards;
 - (b) protect and limit access to the Contractor's Systems that will transport or store Sensitive Information through the following means when appropriate for the technology:
 - (i) segregating or partitioning Systems to separate and restrict access to Sensitive Information from other records (for example, storing Sensitive Information on a computer or server in a separate, password-protected, encrypted virtual disk or folder),
 - (ii) storing and transporting portable storage devices safely,
 - (iii) protecting the Systems with a physical locking, restraint or security mechanism,
 - (iv) ensuring network perimeters and network traffic control points are established or firewalls are installed and enabled,

- (v) having appropriate log-in procedures to the Systems and Sensitive Information stored on the Systems, such as:
 - (1) requiring user identifiers that are unique and personal for log-in,
 - (2) requiring complex passwords or personal identification numbers (PINs) that are not shared, default or blank and that require changing at predetermined intervals and are encrypted (not displayed) when entered, biometric accesses, keys, smart cards or other logical or physical access controls or combinations of them,
 - (3) applying locking screen-savers and session time-out mechanisms,
 - (4) applying limits on unsuccessful attempts to log-in, and
 - (5) logging unauthorized changes to system security settings and controls that may enable unauthorized access or tampering,
- (vi) disabling unneeded ports, protocols and services, and
- (vii) performing any remote management in a secure manner, using encrypted communication channels and adequate access controls; and
- (c) ensure records (including backup copies) containing Sensitive Information are not disclosed, accessed from, or stored (including on any Services Worker's portable computing device or third party data storage service) outside Canada without the Province's prior written consent, except as may be in a written direction under the Privacy Protection Schedule if attached.

Documentation of security controls, including changes

- 15. Unless this Agreement specifies otherwise, the Contractor must keep detailed records documenting, and logging any changes to, security controls to support compliance with sections 6, 10, 12 and 14.
- 16. The Contractor's security control documentation and records required to support compliance with this Schedule, including the records described in sections 4, 5, 7 and 15, which may be subject to privacy protection laws governing the private sector, but excluding the log described in section 23, are or are deemed to be the sole property of the Contractor and under Contractor control.

Province's Systems and Facilities

- 17. If the Province makes available any of the Province's Facilities or Systems for use in providing any Services, the Contractor must comply with:
 - (a) section 12.3.1 (Appropriate Use of Government Resources) of the Province's "Core Policy and Procedures Manual", Chapter 12 (Information Management and Information Technology Management) (as may be accessed from the website of the Office of the Comptroller General through <http://www.fin.gov.bc.ca>) as it relates to Systems; and
 - (b) other policies, standards and procedures provided by the Province, if any, on acceptable use, protection of, and access to, such Facilities or Systems,
 in addition to other applicable provisions of this Agreement and only permit its authorized Services Workers who have been instructed to comply with such policies, standards, procedures and provisions to have such access.

18. The Province has the rights to:
- (a) not make the Province's Facilities or Systems available before the Contractor or Services Worker or both agree to a form of agreement acceptable to the Province on acceptable use, protection of, and access to, such Facilities or Systems;
 - (b) not permit particular Systems to connect to the Province's Systems until satisfied with the security controls to be applied;
 - (c) keep access and other audit logs and monitor and analyze use of the Province's Facilities and Systems to verify compliance, investigate suspected or actual breaches or Information Incidents and protect the Province's assets, including records, in compliance with laws, including the *Freedom of Information and Protection of Privacy Act* and *Document Disposal Act*, and the Province's policies; and
 - (d) limit or revoke access, in addition to any other rights the Province may have.

Notice of demands for disclosure

19. If, after complying with any applicable obligations under this Agreement relating to responding to requests for Material or Personal Information, the Contractor is still required to produce, provide access to or otherwise disclose any Sensitive Information pursuant to any enactment or any subpoena, warrant, order, demand or other request from a court, government agency or other legal authority, the Contractor must immediately notify and provide reasonable assistance to the Province so the Province may seek a protective order or other remedy to prevent or limit the disclosure.

Notice of Information Incidents

20. In addition to any requirement imposed under the *Freedom of Information and Protection of Privacy Act* or other law, if, during or after the Term, the Contractor discovers a suspected or actual Information Incident, the Contractor must:
- (a) immediately report the particulars of the Information Incident to, and follow the instructions of, the Province, confirming any oral report with a notice in writing to the Province as soon as reasonably practicable (if unable to contact the Province's contract manager or other designated contact for this Agreement, follow the procedure for reporting and managing information incidents on the website of the Office of the Chief Information Officer at <http://www2.gov.bc.ca/gov/content/governments/services-for-government/information-management-technology/information-security/information-incidents> or through <http://www.gov.bc.ca>);
 - (b) make every reasonable effort to recover the Confidential Information or records containing Confidential Information if appropriate in the circumstances and contain the Information Incident, following such instructions as the Province may give.

Review of Information Incidents

21. The Province may review any Information Incident (whether or not reported under section 20) and, if requested, the Contractor must participate in that review and follow any instructions for remediation and prevention to the extent reasonably practicable.

Retention, destruction and delivery of records

22. Subject to written instruction by the Province to retain for a different period or deliver any records, the Contractor must retain records in the Contractor's possession that contain Confidential Information until their delivery or disposal as provided in this Agreement. Except as this Agreement or the Province may instruct otherwise:
- (a) backup, transient and extra copies of records (including configuration data) that contain Confidential Information must be securely destroyed when no longer needed to perform this Agreement;
 - (b) records that contain Confidential Information, other than those destroyed in accordance with paragraph (a), must be securely delivered to the Province when no longer needed to perform this Agreement; and
 - (c) if, despite the delivery or disposal of electronic records of Sensitive Information in accordance with this section, any Sensitive Information remains on the storage media used, the storage media must be securely destroyed.
23. The Contractor must keep records logging the dates, particulars, format and means of the delivery or disposal of records that contain Confidential Information and deliver any such log records on request from the Province.

Inspection

24. In addition to any other rights of inspection the Province may have under this Agreement or under statute, the Province has the rights, at any reasonable time and on reasonable notice to the Contractor, to:
- (a) request the Contractor to verify compliance with this Schedule to keep security control documentation or records to support compliance; and
 - (b) enter on the Contractor's premises to inspect and, at the Province's discretion, copy:
 - (i) any records in the possession of the Contractor containing Confidential Information or other records under Province control, or
 - (ii) any of the Contractor's information management practices, security control documentation or records required to support compliance with this Schedule relevant to and for the purpose of determining the Contractor's compliance with this Schedule and any other information management requirements under this Agreement

and the Contractor must permit, and provide reasonable assistance to, the Province to exercise the Province's rights under this section. If any non-compliance or deficiency is found, the Province may (in addition to any other rights it may have) require the Contractor, at the Contractor's expense, to develop and implement a corrective action plan within a reasonable time.

Standard for security controls

25. Except as this Agreement may specify otherwise, the Contractor must apply security controls to manage Confidential Information, the Contractor's Systems and Contractor's Facilities, and the Services and related deliverables, that are reasonable and, either:
- (a) implemented controls and documented in policies, standards or procedures (with

such records remaining or being the sole property of the Contractor and under the Contractor's control) based on ISO/IEC 27002:2005 or ISO/IEC 27002:2013 "Information technology — Security techniques — Code of practice for information security management" and reviewed periodically; or

- (b) compliant with all applicable policies, standards and procedures in the following documents, including any referenced documents (the "**Policies**"):
 - (i) the Province's "Information Security Policy" (<http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/services-policies-for-government/policies-procedures/information-security-policy/isp.pdf>) (as may be accessed from the website of the Office of the Chief Information Officer at <http://www2.gov.bc.ca/gov/content/governments/services-for-government/policies-procedures/information-security-policy>),
 - (ii) the Province's "IM/IT Standards" (as may be accessed from the website of the Office of the Chief Information Officer at <http://www2.gov.bc.ca/gov/content/governments/services-for-government/policies-procedures/im-it-standards>), and
 - (iii) the Province's "Guidelines on the Use of Open Source Software" (as may be accessed from the website of the Office of the Chief Information Officer at <http://www2.gov.bc.ca/gov/content/governments/services-for-government/policies-procedures/im-it-standards>).

Systems utilizing cloud services

- 26. Without limiting the Contractor's other obligations under this Agreement, including sections 11 and 19 through 22 of this Schedule and obligations with respect to compliance with laws (including the *Freedom of Information and Protection of Privacy Act* and the *Information Management Act*), Personal Information or other Sensitive Information, subcontracting, and obtaining required prior written consents or directions from the Province in relation to any particular type of Confidential Information or Services, if any of the Contractor's Systems does or will utilize, consists of or depends in any way on any cloud service, such as infrastructure-as-a-service, platform-as-a-service or software-as-a-service, the Contractor must:
 - (a) obtain approval in writing from the Province to utilize cloud services in the provision of Services;
 - (b) ensure the cloud services, including all data centres used in providing those cloud services are located in Canada with Personal Information not being stored or accessed from outside Canada, unless the Province has granted in writing the Contractor the option to store and access Personal Information outside of Canada; and
 - (c) ensure the cloud services, including all data centres used in providing those cloud services (including for back-up or disaster-recovery purposes) are compliant with one or more established international security standards, such as:
 - (i) ISO/IEC 27017;
 - (ii) NIST Special Publication 800-53 of the National Institute of Standards and Technology, an agency of the U.S. Department of Commerce; or
 - (iii) the Cloud Security Alliance (CSA) Cloud Control Matrix, as certified or

confirmed by an independent accredited or otherwise reputable third party, through an annual SOC 2 Type II audit and attestation, or Level 2 of CSA STAR Attestation or Level 2 of CSA STAR Certification as evidenced by a CSA audit report or letter from a CSA auditor.

The Contractor will ensure that the cloud services provider utilized will assist the Province with security investigations and legal discovery related to the services, and provide on-line access to logs required to conduct such security investigations.

27. Security policies, standards and procedures of the Province are subject to change in the Province's discretion and without notice. However, no additional requirement (including a higher standard) will form part of the Policies unless added in accordance with the applicable change process, if any, in this Agreement. If none, the following change process will apply as between the Contractor (but not a subcontractor) and the Province:
- (a) upon notice of the additional requirement by the Province, the Contractor will have 15 days, or such longer time as the Province may give or agree in writing, to give notice:
 - (i) that the Contractor can comply with the additional requirement without amendment to this Agreement, upon which it will form part of the Policies, or
 - (ii) with supporting detail, including an estimate of the incremental costs that would be incurred, where applicable, that the changes required to implement the additional requirement would:
 - (1) not be technically feasible using existing Facilities and Systems available to the Contractor,
 - (2) result in material costs being incurred not recoverable through the fees and expenses agreed to be paid by the Province under this or another agreement with the Province and would not otherwise be implemented by the Contractor within six months of the Contractor's notice or for the Contractor to comply with law, or
 - (3) affect the dates, time frames or other obligations of the Contractor under this Agreement;
 - (b) if notice under paragraph (a)(ii) is received, the Province may agree to amend this Agreement or refer any disagreement on the feasibility or impact of the additional requirement to the dispute resolution process under this Agreement or exercise any other rights it may have; and
 - (c) if notice under paragraph (a) is not received within the period given, the additional requirement will be considered added to the Policies without need to amend this Agreement.
28. If the Province agrees to pay any costs of the Contractor to implement changes to comply with an additional requirement to the Policies, the Contractor must not charge the Province an amount more than:
- (a) once, to implement the same change to comply with the same additional requirement under different agreements between the parties, despite any provision in any agreement to the contrary; and
 - (b) Province pre-approved, material, incremental costs actually incurred.

29. For greater certainty, the obligations in sections 17 and 18 will not be subject to any change process.

Open source software

30. Unless otherwise specified in this Agreement or unless the Province gives its prior written consent, after being advised of the applicable license and affected Contribution, the Contractor must not:
- (a) provide any Contribution that derives from, consists of, embeds or incorporates any free or open source software (including freeware, but excluding public domain software) or provide any Service that introduces free or open source software into any of the Province's Systems or computer code (whether or not owned by or licensed to the Province); or
 - (b) use any free or open source software to create, modify, assemble, compile, produce or otherwise develop any Contribution if it would require the Contribution or any of the Province's Systems or computer code (whether owned by or licensed to the Province) to:
 - (i) be made accessible or distributed in source code form to others,
 - (ii) be licensed to others for the purpose of making derivative works,
 - (iii) be licensed to others under terms that permit reverse engineering, reverse assembly or disassembly or other study for any purpose, or
 - (iv) be redistributable to others at no charge.

Any use of open source software in connection with this Agreement must comply with the Province's "Guidelines on the Use of Open Source Software" (as may be accessed from the website of the Office of the Chief Information Officer at <http://www2.gov.bc.ca/gov/content/governments/services-for-government/policies-procedures/im-it-standards>).

Privacy and security contact

31. If the Contractor is not an individual and not provided elsewhere in this Agreement, the Contractor (but not a subcontractor) must provide in writing to the Province contact information for a Services Worker who will coordinate the Contractor's and subcontractors' compliance and act as a direct contact for the Province on matters related to this Schedule and the Privacy Protection Schedule if attached.

Termination of Agreement

32. In addition to any other rights of termination the Province may have under this Agreement or at law, the Province may, subject to any applicable provision in this Agreement setting a mandatory cure period for default, terminate this Agreement on written notice to the Contractor if the Contractor fails to comply with this Schedule in a material respect.

Interpretation

33. In this Schedule, unless otherwise specified, references to sections are to sections of this Schedule.

34. Unless otherwise specified, any reference to the "Contractor" in this Schedule includes any subcontractor or agent involved in providing the Services, including any further subcontractor of the Contractor and the Contractor must ensure that any such subcontractors or agents comply with this Schedule.
35. If there is a conflict between a provision in an appendix to this Schedule and any other provision of this Schedule, the provision in the appendix is inoperative to the extent of the conflict unless the appendix states that it operates despite a conflicting provision of this Schedule.
36. If there is a conflict between:
- (a) a provision of this Agreement, this Schedule or an appendix to this Schedule; and
 - (b) a documented security control required by this Schedule to be followed by the Contractor,
- the provision of this Agreement, Schedule or appendix will prevail to the extent of the conflict.
37. Sections 20 to 244 of this Schedule and any other obligations of the Contractor in this Schedule (including any appendix) which, by their terms or nature, are intended to survive the completion of the Services or termination of this Agreement, will continue in force indefinitely even after this Agreement ends.

SCHEDULE “I” – Appendix I1 – Security screening requirements

This Appendix is to assist the Contractor determine whether or not a Services Worker constitutes an unreasonable security risk.

Verification of name, date of birth and address

1. The Contractor must verify the name, date of birth and current address of a Services Worker by viewing at least one piece of “primary identification” of the Services Worker and at least one piece of “secondary identification” of the Services Worker* that has not expired, as described in the table below. Subject to applicable laws, the Contractor must keep records of those verifications. For a Services Worker from another province or jurisdiction, reasonably equivalent identification documents are acceptable.

Primary Identification	Secondary Identification
<p>Issued by ICBC:</p> <ul style="list-style-type: none">• BC Services Card (photo)• Combination driver's licence and BC Services Card (photo)• B.C. driver's licence or learner's licence (photo)• B.C. Identification (BCID) card (not without expiry date) <p>Issued by provincial or territorial government:</p> <ul style="list-style-type: none">• Canadian birth certificate <p>Issued by Government of Canada:</p> <ul style="list-style-type: none">• Canadian Citizenship Card• Canadian Record of Landing/Canadian Immigration Identification Record• Passport• Permanent Resident Card• Secure Certificate of Indian Status (must have holographic design)	<ul style="list-style-type: none">• Bank card (only if holder's name is imprinted and signed on card)• BC Services Card (non-photo)• B.C. CareCard or other health card issued by province or territory• Canadian or U.S. driver's licence• Canadian Forces ID• Correctional Service Conditional Release Card• Credit card (only if holder's name is imprinted on card)• Department of National Defense 404 driver's license (name, signature and photo)• Employee ID with photo• Firearms Acquisition Certificate• Foreign Affairs Canada or consular identification• Foreign birth certificate (a baptismal certificate is not acceptable)• Native Status card• Naturalization certificate• NEXUS card (name and photo)• Parole Certificate ID• Passport (Canada or foreign, including U.S. passport card)• Police identification• Student card (School ID)• Social Insurance Card (must have signature strip)• Vehicle registration (only if signed)

* It is not necessary that each piece of identification viewed by the Contractor contains the name, date of birth and current address of the Services Worker. It is sufficient that, in combination, the identification viewed contains that information.

Verification of education and professional qualifications

2. The Contractor must verify, by reasonable means, any relevant education and professional qualifications of a Services Worker, and keep records of those verifications.

Verification of employment history and reference checks

3. The Contractor must verify, by reasonable means, any relevant employment history of a Services Worker, which will generally consist of the Contractor requesting that a Services Worker provide employment references and the Contractor contacting those references. If a Services Worker has no relevant employment history, the Contractor must seek to verify the character or other relevant personal characteristics of the Services Worker by requesting the Services Worker to provide one or more personal references and contacting those references. The Contractor must keep records of those verifications.

Security interview

4. The Contractor must allow the Province to conduct a security-focused interview with a Services Worker if the Province identifies a reasonable security concern and notifies the Contractor it wishes to do so.

Criminal history check

5. The Contractor must arrange for and retain documented results of a criminal history check on a Services Worker obtained through the Services Worker's local policing agency. Criminal history checks must be repeated as necessary to ensure that at all times the most recent criminal history check on a Services Worker was completed within the previous five years.
6. If the results of the criminal history check on a Services Worker reveals a criminal history:
 - (a) even if the Contractor deems that the Services Worker does not constitute an unreasonable security risk, the Contractor must provide a copy of the criminal history check of such Services Worker to the Province for evaluation to assist the Province in determining if it considers such Services Worker to be an unreasonable security risk;
 - (b) the Contractor must request the prior written approval of the Province for the use of such Services Worker in the provision of the Services or in accessing Sensitive Information; and
 - (c) the Province reserves the right, in its sole discretion, to refuse any request made by the Contractor in accordance with paragraph (b).

SCHEDULE "J"
PRIVACY PROTECTION SCHEDULE

Definitions

1. In this Schedule,
 - (a) **"access"** means disclosure by the provision of access;
 - (b) **"Act"** means the *Freedom of Information and Protection of Privacy Act*;
 - (c) **"contact information"** means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
 - (d) **"personal information"** means recorded information about an identifiable individual, other than contact information, collected or created by the Contractor as a result of the Agreement or any previous agreement between the Province and the Contractor dealing with the same subject matter as the Agreement but excluding any such information that, if this Schedule did not apply to it, would not be under the "control of a public body" within the meaning of the Act; and
 - (e) **"privacy course"** means the Province's online privacy and information sharing training course.

Purpose

2. The purpose of this Schedule is to:
 - (a) enable the Province to comply with the Province's statutory obligations under the Act with respect to personal information; and
 - (b) ensure that, as a service provider, the Contractor is aware of and complies with the Contractor's statutory obligations under the Act with respect to personal information.

Collection of personal information

3. Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Contractor may only collect or create personal information that is necessary for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
4. Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Contractor must collect personal information directly from the individual the information is about.

5. Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Contractor must tell an individual from whom the Contractor collects personal information:
 - (a) the purpose for collecting it;
 - (b) the legal authority for collecting it; and
 - (c) the title, business address and business telephone number of the person designated by the Province to answer questions about the Contractor's collection of personal information.

Privacy Training

6. The Contractor must ensure that each person who will provide services under the Agreement that involve the collection or creation of personal information will complete, at the Contractor's expense, the privacy course prior to that person providing those services.
7. The requirement in section 6 will only apply to persons who have not previously completed the privacy course.

Accuracy of personal information

8. The Contractor must make every reasonable effort to ensure the accuracy and completeness of any personal information to be used by the Contractor or the Province to make a decision that directly affects the individual the information is about.

Requests for access to personal information

9. If the Contractor receives a request for access to personal information from a person other than the Province, the Contractor must promptly advise the person to make the request to the Province unless the Agreement expressly requires the Contractor to provide such access and, if the Province has advised the Contractor of the name or title and contact information of an official of the Province to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

Correction of personal information

10. Within 5 Business Days of receiving a written direction from the Province to correct or annotate any personal information, the Contractor must annotate or correct the information in accordance with the direction.
11. When issuing a written direction under section 10, the Province must advise the Contractor of the date the correction request to which the direction relates was received by the Province in order that the Contractor may comply with section 12.
12. Within 5 Business Days of correcting or annotating any personal information under section 10, the Contractor must provide the corrected or annotated information to any

party to whom, within one year prior to the date the correction request was made to the Province, the Contractor disclosed the information being corrected or annotated.

13. If the Contractor receives a request for correction of personal information from a person other than the Province, the Contractor must promptly advise the person to make the request to the Province and, if the Province has advised the Contractor of the name or title and contact information of an official of the Province to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

Protection of personal information

14. The Contractor must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the Agreement.

Storage and access to personal information

15. Unless the Province otherwise directs in writing, the Contractor must not store personal information outside Canada or permit access to personal information from outside Canada.

Retention of personal information

16. Unless the Agreement otherwise specifies, the Contractor must retain personal information until directed by the Province in writing to dispose of it or deliver it as specified in the direction.

Use of personal information

17. Unless the Province otherwise directs in writing, the Contractor may only use personal information if that use is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.

Disclosure of personal information

18. Unless the Province otherwise directs in writing, the Contractor may only disclose personal information inside Canada to any person other than the Province if the disclosure is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
19. Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Contractor must not disclose personal information outside Canada.

Notice of foreign demands for disclosure

20. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.2 of the Act, if in relation to personal information in the custody or under the control of the Contractor, the Contractor:
 - (a) receives a foreign demand for disclosure;

- (b) receives a request to disclose, produce or provide access that the Contractor knows or has reason to suspect is for the purpose of responding to a foreign demand for disclosure; or
- (c) has reason to suspect that an unauthorized disclosure of personal information has occurred in response to a foreign demand for disclosure

the Contractor must immediately notify the Province and, in so doing, provide the information described in section 30.2(3) of the Act. In this section, the phrases “foreign demand for disclosure” and “unauthorized disclosure of personal information” will bear the same meanings as in section 30.2 of the Act.

Notice of unauthorized disclosure

21. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.5 of the Act, if the Contractor knows that there has been an unauthorized disclosure of personal information in the custody or under the control of the Contractor, the Contractor must immediately notify the Province. In this section, the phrase “unauthorized disclosure of personal information” will bear the same meaning as in section 30.5 of the Act.

Inspection of personal information

22. In addition to any other rights of inspection the Province may have under the Agreement or under statute, the Province may, at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor’s premises to inspect any personal information in the possession of the Contractor or any of the Contractor’s information management policies or practices relevant to the Contractor’s management of personal information or the Contractor’s compliance with this Schedule and the Contractor must permit, and provide reasonable assistance to, any such inspection.

Compliance with the Act and directions

23. The Contractor must in relation to personal information comply with:
- (a) the requirements of the Act applicable to the Contractor as a service provider, including any applicable order of the commissioner under the Act; and
 - (b) any direction given by the Province under this Schedule.
24. The Contractor acknowledges that it is familiar with the requirements of the Act governing personal information that are applicable to it as a service provider.

Notice of non-compliance

25. If for any reason the Contractor does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Contractor must promptly notify the Province of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

Termination of Agreement

26. In addition to any other rights of termination which the Province may have under the Agreement or otherwise at law, the Province may, subject to any provisions in the Agreement establishing mandatory cure periods for defaults by the Contractor, terminate the Agreement by giving written notice of such termination to the Contractor, upon any failure of the Contractor to comply with this Schedule in a material respect.

Interpretation

27. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
28. Any reference to the "Contractor" in this Schedule includes any subcontractor or agent retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors and agents comply with this Schedule.
29. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.
30. If a provision of the Agreement (including any direction given by the Province under this Schedule) conflicts with a requirement of the Act or an applicable order of the commissioner under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.
31. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or, subject to section 32, the law of any jurisdiction outside Canada.
32. Nothing in this Schedule requires the Contractor to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the Act.