

## MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT is made as of April \_\_\_\_\_, 2012 (the “**Effective Date**”) between SECUREKEY TECHNOLOGIES INC. (“**Supplier**”), an Ontario corporation, having an address at 199 Bay Street, Suite 2900, PO Box 366, Toronto, Ontario M5L 1G2 (Fax: 416-214-9895) and HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA (the “**Province**”), as represented by the Minister of Labour, Citizens’ Services and Open Government, having an address at 4000 Seymour Place, Victoria, British Columbia V8X 4S8 (attention: Ministry of Labour, Citizen Services and Open Government, Technical Services Division) (Fax: 250-387-1940).

### BACKGROUND:

- A. Supplier is a provider of hardware and software solutions for chip-based identity and payment technologies to facilitate online and mobile transactions and related services.
- B. The Province’s objectives in entering into this Agreement include obtaining: (1) high quality services provided in a cost-effective manner; (2) a flexible relationship with Supplier under which Supplier will be responsive to the requests of the Province and to changes in both Province’s business and technology and methods for providing services; (3) continuous improvement in services and reduction of Province’s associated costs in operating those portions of its business relating to the Services; (4) consistent and effective management of the relationship between Supplier and Province; and (5) full management of the necessary third party relationships required in order to provide the Services.
- C. Supplier: (1) has reviewed and analysed Province’s stated needs and requirements for the Services; (2) understands Province’s stated objectives in entering into this Agreement and procuring the Services; and (3) based on its review and understanding, agrees that it has, and undertakes to maintain, the capability to meet those needs and requirements and to achieve those objectives.
- D. On the basis of and in reliance upon the representations, warranties and covenants made by Supplier in this Agreement, the Province desires to engage Supplier to perform the Services, and Supplier has agreed to provide the Services, in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, Supplier and the Province (each, a “**Party**”) agree as follows.

### 1 INTERPRETATION

- 1.1 Definitions. Unless otherwise provided in this Agreement, capitalized terms will have the meanings given to them in the Schedule 1.1 and any capitalized terms defined elsewhere in this Agreement will have the meanings so given to them.
- 1.2 Construction. The division of this Agreement into Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Sections and Schedules are to Sections of and Schedules to this Agreement. In this Agreement, words importing the singular number only include the plural and vice versa and words importing any

gender include all genders. The term “including” means “including without limiting the generality of the foregoing”. A definition applies to other forms of the word. Except where otherwise expressly provided, all references to currency herein are to the lawful money of Canada and all references to a fiscal year are to the fiscal year of the Province (the twelve month period ending March 31). A reference to a statute, whether or not that statute has been defined, means a statute of the Province of British Columbia unless otherwise stated and includes every amendment to it, every regulation made under it, and any enactment passed in substitution therefor or in replacement thereof.

- 1.3 Time of the Essence. Time is of the essence in respect of the Services.
- 1.4 Non-Exclusive Relationship with Supplier. This Agreement will not be interpreted to grant to Supplier exclusive rights or to bind the Province in any way to an exclusive relationship with Supplier.
- 1.5 Schedules. The following are the Schedules to this Agreement as of the Effective Date:

- Schedule 1.1 – Definitions
- Schedule 1.5 – Card Management and Authentication Services SOW
- Schedule 2.2 – Form of SOW
- Schedule 3.1 – Project Planning
- Schedule 3.2 – Testing
- Schedule 3.4 – Service Levels
- Schedule 3.5 – Incident Management
- Schedule 4.1 – Governance
- Schedule 5.5 – Security
- Schedule 5.6 – Insurance
- Schedule 5.8 – Procured Equipment Requirements
- Schedule 5.7 – Business Continuity Planning and Disaster Recovery
- Schedule 6.4 – Form of Change Order
- Schedule 8.12 – Rate Card for Professional Services
- Schedule 10.3 – Privacy Protection Schedule

The SOW set out in Schedule 1.5 (the “**Effective Date SOW**”) has been completed by the Parties and is deemed to amend this Agreement in accordance with Section 13.2 as of the Effective Date.

- 1.6 Order of Priority. In the event of any inconsistency between any of the provisions of the main body of this Agreement, any SOW, the Schedules and any Change Order, the inconsistency will be resolved by reference to the following descending order of priority: (a) the applicable Change Order; (b) the main body of this Agreement; (c) the Schedules (other than the Effective Date SOW), with equal priority; and (d) the applicable SOW; provided, however, that the terms and conditions of the applicable SOW will prevail over the terms and conditions of the main body of this Agreement and Schedules to the extent the SOW expressly refers to the provisions in the main body of this Agreement and Schedules over which it prevails.

## 2 SERVICES

- 2.1 Definition of Services. Supplier will perform, on the terms and conditions set out herein and in each applicable SOW, the following services (collectively, the “**Services**”): (a) the services and other obligations (including Deliverables) described in the Effective Date SOW and in any other SOW; and (b) all other services and obligations of Supplier set out in this Agreement (including the Transition Assistance Services); and (c), whether or not expressly described in this Agreement, (i) all services, functions and responsibilities that are inherent, necessary or

customarily provided as part of the services described in clauses (a) and (b), or that are reasonably required for the proper performance of such services; and (ii) the provision of all hardware, software, systems, materials, documentation, facilities, personnel and other resources used or required to be used in order to provide such services, as such services may be modified during the Term in accordance with this Agreement. For clarity, the Services do not include: (i) anything described in this Agreement, the Effective Date SOW or any other SOW as a Province Dependency or as a service or obligation to be performed or provided by an Other Service Provider, or any services, acts, functions or responsibilities that are inherent, necessary or customarily provided or performed as part of either of them; or (ii) use of or access to Terminals other than USB Terminals purchased by the Province under this Agreement.

- 2.2 Statements of Work. The Province may, from time to time, in its discretion, request that Supplier provide the Province with the Services (including Deliverables) identified in a SOW which may include the provision of a new Program. The request for a SOW will be deemed to be a Change Request which will be addressed in accordance with Section 6. Without limiting Section 6, each SOW will be prepared jointly by the Parties, be duly executed as an amendment to this Agreement in accordance with Section 13.2 and, unless the Parties agree otherwise, be in a form substantially similar to the form of SOW set out in Schedule 2.2. Each SOW will be deemed to incorporate by reference the terms and conditions of this Agreement, unless the applicable SOW expressly provides otherwise.
- 2.3 Provision of Services to Other Service Recipients. Upon Province's request, Supplier will provide the Services or any part of the Services in accordance with this Agreement to any other Person designated as an "**Other Service Recipient**" by the Province as if the Services were provided directly to the Province. Without limiting the foregoing, if the Province would be entitled to enforce rights or remedies under this Agreement in connection with Services provided to the Other Service Recipient if the Services were provided directly to the Province, then the Province will be entitled to enforce those rights or remedies on behalf of the Other Service Recipient. Notwithstanding any other provision of this Agreement, an Other Service Recipient may not without the Supplier's prior consent (which may be withheld for any reason) be a Supplier Competitor, provided, however, that the foregoing restriction will in no way limit Supplier's obligations under this Agreement with respect to Other Service Providers. Unless the Supplier agrees in writing in advance, the Province shall be responsible for the acts and omissions of an Other Service Recipient to which Services are provided hereunder to the same extent as if such acts and omissions were its own, and any breach of this Agreement by an Other Service Recipient shall be deemed to be a breach of this Agreement by the Province.
- 2.4 No Service Volume Guarantee. Supplier acknowledges and agrees that Province makes no representation or warranty as to the nature, timing, quality, quantity or volume of Services required from Supplier under this Agreement or the compensation that may be earned by Supplier from any usage-based or other variable-rate Fees.

### **3 PROJECT PLANNING; TESTING; PERFORMANCE STANDARDS**

- 3.1 Project Planning. The terms and conditions set out in Schedule 3.1 will apply to the performance of the Services in accordance with any Project Plan.
- 3.2 Testing. The terms and conditions set out in Schedule 3.2 will apply to the delivery, testing and Acceptance of any Test Component (including the performance of Acceptance Testing).
- 3.3 Specifications. Supplier will, at all times, provide the Deliverables and Services in accordance with all Specifications applicable to the Deliverable or Service.

- 3.4 Service Levels. Supplier will perform each Service in a manner that meets or exceeds the following service levels (the “**Service Levels**”): (a) all applicable service levels expressly set out in the SOW for the Service or elsewhere in this Agreement or (b), if no service level is expressly provided for a Service pursuant to Section 3.4(a), all performance measurements and metrics that are industry accepted best practices used or observed by top tier providers of similar services. Supplier will comply with the obligations with respect to Service Levels set out in Schedule 3.4.
- 3.5 Incident Management. Supplier will comply with the obligations set out in Schedule 3.5 with respect to the identification, investigation, reporting and remediation of all errors, malfunctions, irregularities or any other actual or potential failure or other degradation of all or part of the Services (“**Incidents**”) that result in the Services not conforming to or performing in accordance with all or part of the applicable Specifications or not being provided in accordance with this Agreement (including the Service Levels).

#### **4 ENGAGEMENT MANAGEMENT**

- 4.1 Governance. In order to facilitate the proper management and control of the relationship of the Parties in connection with this Agreement, the Parties will comply with and make available resources to comply with the governance provisions applicable to this Agreement as set out in Schedule 4.1.
- 4.2 Key Personnel. Supplier will ensure that each Key Personnel has sufficient qualifications, seniority, authority, expertise and knowledge of Supplier’s obligations set out in this Agreement and is available to perform Supplier’s obligations under this Agreement during the applicable period specified for the Key Personnel in a SOW. Supplier will not be permitted to remove or change Key Personnel without Province’s prior written approval, except for resignation, termination for cause or other causes outside the reasonable control of Supplier, in which case, Supplier will promptly replace the incumbent Key Personnel with a suitable replacement Supplier Personnel who meets the requirements of this Section 4.2. Upon notice from Province, Supplier will immediately remove and promptly replace any Key Personnel which Province determines, in its reasonable opinion, are not performing their duties or obligations appropriately or in a professional or workmanlike manner. Each Key Personnel will be available to perform his or her designated responsibilities to the extent required for Supplier to fulfill its obligations under this Agreement. Subject to the foregoing, the Supplier makes no representation, warranty or covenant concerning the specific proportion of a Key Personnel’s working time that is dedicated to the Services or the performance of this Agreement.
- 4.3 Responsibility for Supplier Personnel. Supplier will be responsible for providing all personnel that are required to provide the Services. All Supplier Personnel will be and remain at all times during their assignment to provide Services (a) employees of Supplier, (b) Supplier Subcontractors, or (c) employees, agents or independent contract personnel of Supplier Subcontractors, and not employees of the Province. Supplier will be solely liable and responsible for all costs, expenses, liabilities or claims, whenever incurred, relating to: (i) training of Supplier Personnel; (ii) salaries and other compensation payable to Supplier Personnel; (iii) labour relations proceedings or orders, grievances, arbitration proceedings or unsatisfied arbitration awards applicable to Supplier Personnel; (iv) strikes or other actions due to labour disputes applicable to Supplier Personnel; and (v) complaints, claims, decisions, applications, orders or prosecutions under any employment or labour standards, occupational health and safety, workers’ compensation, pay equity, employment equity and human rights legislation applicable to its Supplier Personnel.

- 4.4 Subcontracting. Without the prior consent of Province, Supplier will not delegate or subcontract all or any part of the Services to any Person or enter any arrangement or agreement that would preclude the delivery of any Transition Materials to (including the necessary licensing of third party materials to) the Province in accordance with this Agreement. Notwithstanding the foregoing, no consent of the Province shall be required for any delegation or subcontracting by Supplier of (a) individual personnel on a staff augmentation or replacement basis, (b) “back-office” or administrative functions of Supplier, (c) the design, manufacturing, supply or fulfilment of terminals, readers or other equipment, or (d) any activity or function that is not a material part or portion of the Services and does not involve the collection, processing or other use of Province Data, if any such delegation or subcontracting does not impair or impede any right of the Province under Section 12.4. Any approval of any Person to act as a Supplier Subcontractor granted by Province pursuant to this Section 4.4 will relate only to the specific tasks and to the specific Person in respect of which Province provided its consent. Subject to Section 4.5, Supplier will ensure that any Supplier Subcontractor consented to by Province is made subject to the relevant terms and conditions of this Agreement. The subcontracting of all or any part of Supplier’s obligations set out in this Agreement to any Supplier Subcontractor will not relieve Supplier from any obligation or liability under this Agreement. Supplier will remain responsible for the performance of all or any part of its obligations set out in this Agreement performed by any Supplier Subcontractors to the same extent as if the obligations were performed by Supplier. Any breach of this Agreement by any Supplier Subcontractor will be deemed to be a breach of this Agreement by Supplier. If Supplier becomes aware of any actual or suspected breach by a Supplier Subcontractor of its subcontract or if Supplier reasonably believes that any breach may occur, Supplier will immediately notify the Province in writing and provide the Province with the information relating to the breach or possible breach as the Province may request. At the Province’s request, Supplier will terminate the involvement of any Supplier Subcontractor that has committed a breach in the Services delivered or provided hereunder. For clarity, the Personalization Service Provider and Services Card Engraver are direct or indirect subcontractors or agents of the Province, and not of the Supplier. The performance of all or any part of any Province Dependency or any obligations of the Province set out in this Agreement by any other Person will not relieve the Province from any obligation or liability under this Agreement, and the Province will remain responsible for satisfying Province Dependencies and the performance of all or any part of its obligations set out in this Agreement that are performed by any other Person to the same extent as if they were performed by the Province directly. Any breach of this Agreement by any Person to which the Province has delegated or subcontracted its obligations under this Agreement will be deemed to be a breach of this Agreement by the Province.
- 4.5 Key Supplier Subcontractors. The Province acknowledges that, subject to Supplier’s compliance with this Section 4.5, Supplier Subcontractors providing Key Subcontractor Services (“**Key Supplier Subcontractors**”) provide or may provide their services to the Supplier under forms of agreements or on terms and conditions that do or will not permit the Supplier to comply with all of the terms and conditions of this Agreement with respect to such provider and the Key Subcontractor Services it performs. Supplier will not use any Key Supplier Subcontractors in respect of the provision of any Services or other obligations performed under or in respect of this Agreement unless the Supplier obtains the prior written approval of the Province, which approval will not be unreasonably withheld. Any request for approval of a Key Supplier Subcontractor will include reasonable particulars of the extent to which the Key Supplier Subcontractor cannot comply with the terms and conditions of this Agreement applicable to the Services and any other obligations of Supplier to be performed by such Key Supplier Subcontractor to materially the same extent as the Supplier is responsible to the Province therefor (the “**Flow Down Exceptions**”), provided, however, that where obligations of confidentiality of Supplier to the Key Supplier Subcontractor restrict Supplier from providing specific details with respect to such non-

compliance, Supplier will be permitted to provide general details with respect to which provisions of this Agreement cannot be complied with by the Key Supplier Subcontractor. Supplier shall manage the delivery of Services by Key Supplier Subcontractors, but notwithstanding anything in this Agreement, the Supplier shall have no responsibility or liability (whether under the indemnification provisions of this Agreement, or as damages, or otherwise) for any acts or omissions (including for any loss, claim, damage, liability or expense arising therefrom) of any Key Supplier Subcontractors approved by the Province under this Section 4.5 to the extent such responsibility or liability, or acts or omissions, are with respect to any Flow Down Exceptions acknowledged and approved by the Province in writing as part of its approval of the Key Supplier Subcontractor, except for responsibility or liability for: (a) the portion of any Fees paid by the Province that are in respect of Services performed by Key Supplier Subcontractors, and (b) any Service Level Credits to which the Province is entitled hereunder in relation to Services performed by Key Supplier Subcontractors. For clarity, nothing in this Section shall detract from or otherwise affect any right of the Province under Section 12.2 to terminate this Agreement.

- 4.6 Co-operation with Other Service Providers. Supplier acknowledges that Province has entered into agreements, directly or indirectly, and may in its discretion enter into additional agreements, directly or indirectly, with Persons other than Supplier (each, an “**Other Service Provider**”) for the supply of products or services that are related to the Services or the provision of services by the Province. Supplier acknowledges and agrees that the performance by the Other Service Providers of their obligations may require the cooperation and assistance of Supplier and the Supplier Subcontractors. At Province’s request, Supplier will cooperate with and assist, and will cause each Supplier Subcontractor to cooperate with and assist, the Other Service Providers in order to coordinate the performance by each Other Service Provider of its obligations with the performance of the obligations of Supplier and the Supplier Subcontractors. For purposes of this Agreement, the Personalization Service Provider, the Services Card Engraver and the Insurance Corporation of British Columbia will be deemed to be Other Service Providers. For clarity, subject to Section 2.1(c), any such cooperation, coordination and assistance that is not expressly set forth in a SOW or necessarily incidental to the Supplier’s responsibilities thereunder shall be treated as an Ordinary Course Change or Change, as the case may be, and subject to Section 6.
- 4.7 Training of Province Personnel. At the Province’s request, Supplier will train the personnel designated by the Province (which may be Province employees or employees of Other Service Providers) in the use and operation of the Services (including Deliverables) to the extent reasonably required by the Province to enable the Province to receive the Services. Any other or additional training shall be treated as an Ordinary Course Change or Change, as the case may be, and subject to Section 6.
- 4.8 Supplier Not to Bind. In performing the Services, Supplier will give and make no warranties or representations on behalf of Province, or enter into any commitments or otherwise bind or purport to bind the Province.

## **5 OPERATIONAL AND COMPLIANCE REQUIREMENTS**

- 5.1 Maintenance of Information. During the Term and thereafter until the later of seven years (or any longer period as may be required by Applicable Law) or the date all disputes or other matters relating to this Agreement are resolved, Supplier will maintain, and will ensure that all Supplier Subcontractors maintain all records, documentation and other information required to enable the Province, Audit Representatives and Governmental Authorities to exercise their respective rights under this Agreement or otherwise required for Province to comply with Applicable Laws.

- 5.2 Audit Rights. During the Term and for the period Supplier is required to comply with Section 5.1 Province, Audit Representatives and Governmental Authorities will have the right, at all reasonable times (and in the case of Governmental Authorities, at any time required by the Governmental Authorities) and upon reasonable prior written notice (except in the event of audits by Governmental Authorities) to audit and inspect: (a) any facility or part of a facility at which Supplier or any Supplier Subcontractor is providing the Services; and (b) all data, records, reports, documentation and other information of Supplier or any Supplier Subcontractor relating to the Services located anywhere, in order to verify the compliance with Supplier's obligations under this Agreement, including the amounts charged to Province under this Agreement and the Supplier's compliance with this Agreement and all Applicable Laws. Supplier and each Supplier Subcontractor will co-operate with and provide to the Province, Audit Representatives and Governmental Authorities such reasonable assistance as they require in order to exercise the rights set out in this Section. If an audit reveals an overpayment by Province, Supplier will promptly repay the overpayment within 30 days after the audit and reissue any unpaid invoice containing an error, as applicable.
- 5.3 Regulatory. Supplier will comply with the following requirements: (a) Supplier will promptly give notice to Province of all Claims from a Governmental Authority, disputes, litigation or other events, in each case known to it and affecting Supplier or any Supplier Subcontractor that Supplier reasonably believes may have a material effect on: (i) the ability of Supplier to comply with any of its obligations under this Agreement; (ii) the Province's ability to provide services to any other Person; (iii) the Province's reputation; or (iv) the value of the Province's trade-marks, brands or goodwill; and (b) Supplier will be solely responsible for obtaining all Regulatory Authorizations applicable to Supplier and will thereafter satisfy all requirements necessary to maintain the Regulatory Authorizations in good standing. Upon request by the Province, Supplier will provide to the Province proof of applicable Regulatory Authorizations (including any Regulatory Authorizations with respect to Supplier Subcontractors). Supplier will promptly notify the Province in writing if Supplier or any Supplied Subcontractor fails to maintain in good standing any applicable Regulatory Authorizations.
- 5.4 Policies. Supplier will comply, and will cause all Supplier Personnel and Supplier Subcontractors to comply, with the policies, processes and procedures of Province that have been communicated in writing to Supplier upon reasonable prior notice from time to time (the "**Policies**"). Any such Policies communicated in writing to Supplier by the Province after the Effective Date shall be treated as an Ordinary Course Change or Change, as the case may be, and subject to Section 6.
- 5.5 Security. Supplier will comply with the obligations and requirements set out in Schedule 5.5 (the "**Security Obligations**"). In addition to Supplier's other obligations in this Agreement, Supplier will maintain, enforce, review and update, and will cause all Supplier Subcontractors to maintain, enforce, review and update, internal security and back-up procedures sufficient to ensure compliance by Supplier with the applicable Policies and to protect Province Data, Province IP and all other Confidential Information of Province for which Supplier is responsible hereunder.
- 5.6 Insurance. Supplier will comply with the obligations and requirements set out in Schedule 5.6 and will comply with any other insurance-related requirements set out in a SOW. Supplier acknowledges that any requirement or advice by Province as to the amount of coverage under any policy of insurance does not, and will not be deemed to, constitute a representation by Province that the amount required under such insurance is adequate.
- 5.7 Business Continuity Planning and Disaster Recovery. Supplier will comply with the obligations and requirements with respect to business continuity planning, testing and Service recovery set out in Schedule 5.7.

5.8 Procured Equipment Requirements. Supplier will comply with the procurement requirements set out in Schedule 5.8 and will comply with any other procurement-related requirements set out in a SOW for any hardware, software, systems or other materials (the “**Procured Equipment**”) purchased by Province through the provision of the Services by Supplier.

## 6 CHANGE

6.1 Ordinary Course Changes. Upon written notice from the Province, the Supplier will make changes to the Services that do not have a material impact on the delivery, performance, general architecture or on the cost of providing of the Services (“**Ordinary Course Changes**”).

6.2 Change Order Requests. The Province may request a change to the Services (a “**Change**”) that are outside the scope of Ordinary Course Changes by delivering a written notice (the “**Change Request**”) to Supplier specifying the proposed change and the reason the Province is requesting the proposed change. Within ten Business Days after receipt of the Change Order Request (or such longer period of time requested by Supplier and agreed to by the Province, acting reasonably), Supplier will deliver to the Province a written response (the “**Change Response**”) that includes sufficient details to enable the Province to assess the anticipated impact of the change, including (a) a description of how and when the change would be implemented; (b) the effect of the Change on the Services and Service Levels; (c) an analysis of the risk (including privacy assessment if requested); (d) any increase or reduction in Fees (including any one time and ongoing Fees); (e) any other rights or obligations related to this Agreement that will be materially impacted (both positively and negatively); and (f) any other information reasonably requested by the Province. If the Province makes the Change Request on an emergency basis (including for privacy, confidentiality, security or legal compliance), Supplier will provide the Change Response as soon as possible and in any event no later than four Business Days after receipt. Supplier may request a Change by delivering to the Province a Change Request and a Change Response that contain the information required above. If a Change Request may result in an increase or decrease to the Fees, then the Parties will determine any increase or decrease to be made to the Fees in a manner consistent with the existing rates and margins under this Agreement.

6.3 Negotiation and Approval of Changes. Following receipt of a Change Request and the corresponding Change Response, the Parties will negotiate in good faith the terms and conditions pursuant to which the applicable Change will be implemented. Supplier acknowledges that the Province will be dependent on Supplier for the provision of the Deliverables and the Services, and Supplier agrees that it will not be entitled to reject any Change Request received from the Province unless it is not technically or legally possible to carry out the proposed Change or the proposed Change is incompatible with Supplier’s general architecture for the relevant Service and Supplier’s technology roadmap (as may be changed by Supplier from time to time in consultation with the Joint Executive Committee). The Province may reject any Change Request or Change Response, regardless of which Party initiated the applicable Change Request.

6.4 Change Orders. Supplier will not implement any Change (whether requested by the Province or Supplier) unless a Change order setting out in detail the terms and conditions pursuant to which the Change will be made (a “**Change Order**”) in the form set out as Schedule 6.4 or a new SOW has been executed by an authorized signing representatives of Province unless the Province provides written notice to Supplier to require Supplier to implement the Change pending the resolution of any dispute in respect of the Change, in which case Supplier will promptly implement the Change. Upon the execution by the Parties of a Change Order: (a) Supplier will implement the Change described in the Change Order in accordance with its terms; (b) the Change will be deemed part of the applicable Deliverables, Specifications, Services, Service

Levels or other applicable obligations of Supplier pursuant to this Agreement; and (c) if the Change Order expressly states that it is intended to amend this Agreement and identifies the specific amendments to be made, then the Change Order will be deemed incorporated into and will constitute a formal amendment to this Agreement and all provisions of this Agreement (including all affected Schedules and the applicable SOW) which are expressly amended as part of the Change Order will be amended accordingly. Supplier will maintain an accurate and complete record of all Ordinary Course Changes, Change Orders and SOWs in a form acceptable to the Province and, upon request by the Province, will provide these documents to the Province.

- 6.5 Implementation of Programs. The Province may implement a Program without the consent of Supplier, but will notify Supplier of any such implementation.

## **7 DISPUTE RESOLUTION**

- 7.1 Dispute Resolution Process. In the event of any dispute between the Parties arising out of or in connection with this Agreement, the following dispute resolution process will apply unless the Parties otherwise agree in writing: (a) the parties must initially attempt to resolve the dispute through collaborative negotiation; and (b) if the dispute is not resolved through collaborative negotiation within 15 Business Days of the dispute arising, the dispute must be referred to and finally resolved by arbitration under the *Commercial Arbitration Act*.
- 7.2 Location of Arbitration. Unless the parties otherwise agree in writing, an arbitration under Section 7.1 will be held in Victoria, British Columbia.
- 7.3 Costs of Arbitration. Unless the parties otherwise agree in writing or, in the case of an arbitration, the arbitrator otherwise orders, the Parties must share equally the costs of a arbitration under Section 7.1 other than those costs relating to the production of expert evidence or representation by counsel.
- 7.4 Continuity of Services during Dispute. The Parties acknowledge that the timely and complete performance of their obligations pursuant to this Agreement is critical to the business and operations of the Parties. Accordingly, in the event of a dispute, and at all times before, during and after the process contemplated by this Section 7, (a) Supplier will continue to so perform its obligations and to deliver the Services under this Agreement in good faith during the resolution of such dispute; and (b) the Province will continue to pay all Fees payable to Supplier in accordance with the terms of this Agreement, other than those Fees which are in dispute and withheld from payment in accordance with Section 8.7.
- 7.5 Disagreement Regarding Pricing of Changes. If the Province provides written notice to Supplier to require Supplier to implement a Change pending the resolution of any dispute with respect to the pricing of such Change in accordance with Section 6.4, following the implementation of the Change and the applicable calculation period and subject to the terms upon which the dispute is resolved under this Section 7, Supplier may invoice the Province on an interim basis based on the actual demonstrated incurred costs and work effort to implement the Change in manner consistent with the following principles: (a) if the fees proposed by Supplier include one-time fees payable based on time spent, the amount of time actually spent by Supplier Personnel in the performance of Services that is solely and directly attributable to the implementation of the Change, multiplied by the applicable rate for each such Supplier Personnel set out in this Agreement or, if no such applicable rate is specified in this Agreement, an appropriate rate based on Supplier's actual labour costs and determined in a manner consistent with similar rates set out herein; and (b) if the fees proposed by Supplier include any increase to existing one-time Fees or other recurring fees, or any new one-time Fees or other recurring fees and are based in whole or part on work effort,

the commercially reasonable increase or additional fees demonstrated by Supplier to be solely and directly attributable to any increase in the number of Supplier Personnel required to perform the Service for which the one-time Fee is chargeable or any increase in the amount of time required to perform the Service for which the one-time Fee is chargeable. All such fees will be discounted to take into account any realized or expected efficiencies in connection with the Change. For clarity, upon resolution of the dispute, any amounts paid by the Province to Supplier by the Province under this Section 7.5 with respect to the Change prior to resolution of the dispute in accordance with this Section 7 will be offset against the total Fees payable for the Change as determined in accordance with this Section 7 to ensure no double payment of Fees by the Province.

- 7.6 Exceptions to Dispute Resolution Procedures. The provisions of this Section 7 will not be construed to prevent a Party from: (a) seeking a temporary restraining order or injunctive or other equitable relief with respect to a breach (or attempted breach) of this Agreement by another party, to the extent such remedies are available to a party pursuant to Applicable Law (including, without limitation, the *Crown Proceeding Act*); (b) where there is a material breach by a Party, pursuing any remedy to which it is entitled pursuant to this Agreement or otherwise without having to exhaust or utilize the procedures of this Section 7; (c) instituting litigation or other formal proceedings to the extent necessary and available pursuant to Applicable Law: (i) to enforce arbitration awards or orders for injunctive or other similar relief, (ii) to avoid the expiration of any applicable limitations period; or (iii) to preserve a position with respect to other creditors.

## **8 FEES**

- 8.1 Fees. In consideration for the performance by Supplier of Supplier's obligations under each SOW (which, for greater certainty, will include the performance by Supplier of all of its applicable obligations under this Agreement), the Province will pay to Supplier the applicable fees set out in, and in accordance with, each SOW (collectively, the "Fees") and otherwise in accordance with the applicable terms and conditions set out in this Agreement. Except as expressly set out in this Agreement, there will be no other fees or other amounts payable by Province to Supplier in respect of the Services.
- 8.2 Proration of Payments. If any period in which any payment is to be made is less than the full period in respect of which the payment is due, then the payment will be prorated on a daily basis based on the number of days in the actual period.
- 8.3 Procedure for Obtaining Refund, Credit or Discount. If the Province is entitled to a refund, credit (including Service Level Credits) or discount pursuant to any provision of this Agreement, Supplier will credit the amount against the immediately following invoice provided under this Agreement and will deliver to the Province a credit note that indicates the credit, its amount and the provision of this Agreement pursuant to which the credit entitlement arose. If the refund, credit or discount is larger than the amount of the invoice, the remaining amount of the refund, credit or discount due will be credited against successive future invoices; provided, however, that if any portion of the refund, credit or discount owed has not been paid to Province upon the termination or expiration of this Agreement, Supplier will pay the outstanding credit amounts to Province by way of cheque within 30 days of the effective date of the termination or expiration.
- 8.4 Invoicing. Supplier may invoice Province for the Fees payable pursuant to each SOW in accordance with the requirements set out in the SOW (if any). Each invoice will comply with the requirements with respect to form, substance and required supporting documentation and

information to be provided as reasonably required by Province to satisfy its internal accounting requirements.

- 8.5 Payment of Undisputed Invoiced Amounts. Subject to Sections 8.6 and 8.7, the Province will pay all Fees not disputed under Section 8.7 on invoices delivered in accordance with the requirements of Section 8.4 within 60 days of the date of receipt of the invoice. Province will have no obligation to pay any amount invoiced if the invoice was delivered to Province more than 180 days following the date on which Supplier's right to invoice Province for the payment arose, regardless of the invoice date.
- 8.6 Set-Off. The Province may set-off and deduct from any amounts payable to Supplier any amounts owing by Supplier to the Province pursuant to this Agreement or any other agreement between Supplier and the Province.
- 8.7 Disputed Fees. The Province may withhold payment of any portion of any amounts due to Supplier under this Agreement that the Province disputes until the dispute is resolved in accordance with this Section. The Province will notify Supplier in writing of the specific amounts that it disputes, which notice will describe in detail the Province's reason for disputing each such amount. Within five days of Supplier's receipt of such notice, the Parties will refer the dispute for resolution in accordance with the applicable process set out in this Agreement. Failure by the Province to give notice of a dispute or payment by the Province of an amount invoiced will not affect the Province's right to later initiate a dispute with respect to a disputed amount.
- 8.8 Taxes. Supplier will be responsible for all taxes and amounts exigible on, imposed, in respect of or relating to the Fees earned by Supplier from the Services, including taxes based on its own capital or net income, employment taxes in respect of its own employees, and taxes on any property owned by Supplier, and will be responsible for arrangements to pay all taxes in a timely manner when due and payable. The Province will be responsible for Canadian provincial and federal sales taxes applicable to the Fees. The Province may deduct or withhold from any payments to Supplier any amount required to be withheld or deducted in accordance with Applicable Law. Supplier will be solely responsible for claiming any applicable tax credits related to deductions or withholdings.
- 8.9 Refunds of Taxes. Supplier 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 Supplier as a result of this Agreement that the Province has paid or reimbursed to Supplier or agreed to pay or reimburse to Supplier under this Agreement; and (b) immediately on receiving, or being credited with, any amount applied for under paragraph (a) above, remit that amount to the Province.
- 8.10 Appropriation and Approvals. Notwithstanding any other provision of this Agreement, the payment of money by the Province to Supplier under this Agreement is subject to: (a) there being sufficient monies available in an appropriation, as defined in the FAA, to enable the Province to make that payment; and (b) Treasury Board, as defined in the FAA, not having controlled or limited, under the FAA, expenditure under any appropriation referred to in paragraph (a) above.
- 8.11 *[Redacted]*
- 8.12 Rate Card for Professional Services. Schedule 8.12 sets out Supplier's rates for the provision of professional services procured under this Agreement.

8.13 [Redacted]

8.14 [Redacted]

## 9 INTELLECTUAL PROPERTY

9.1 Ownership of Province IP. The Province is and will be the exclusive owner of all of the following information and all Intellectual Property Rights therein (collectively, the “**Province IP**”): (a) all Province Data; (b) all Custom Developments; (c) all hardware, software, systems, documentation, trade-marks, Confidential Information or other information or intellectual property (including business rules and business processes) that is or has been procured, created or developed by the Province (whether alone or jointly with one or more Persons including Other Service Providers but excluding the Supplier, and whether the activities occurred prior to or after the Effective Date and independent of or in connection with the Services) or created or developed for, or licensed to, the Province by another Person other than Supplier; (d) all reports and data, other than the Transition Materials (excluding all mapping information to corresponding PANs), produced for the use of the Province in the course of the performance or receipt of the Services; and (e) any other hardware, software, systems, documentation, trade-marks, Confidential Information or other information or intellectual property that the Parties expressly identify in a SOW as Province IP. All right, title and interest, including all Intellectual Property Rights, in the Province IP will vest in the Province, immediately upon creation and regardless of the state of completion of the Province IP. To the extent ownership of the Province IP does not vest in the Province, Supplier agrees to assign, or cause to be assigned, all right, title and interest in the Province IP, and to waive, and cause all authors to waive, in favour of the Province all moral rights in the Province IP. Supplier will acquire no rights to any Province IP other than the license rights expressly granted in Section 9.4.

9.2 Ownership of Supplier IP. Supplier is and will be the exclusive owner of all hardware, software, systems, documentation, trade-marks, Confidential Information or other information or intellectual property (including business rules and business processes, and including the Supplier Provided PANs and Transition Materials (excluding all mapping information to corresponding PANs)) that is or has been procured, created or developed by Supplier (whether alone or jointly with one or more Persons, other than the Province or a Person on behalf of the Province) or created or developed for, or licensed to Supplier Subcontractor by another Person and of all Intellectual Property Rights therein (collectively, the “**Supplier IP**”). All right, title and interest, including all Intellectual Property Rights, in the Supplier IP will vest in Supplier, immediately upon creation and regardless of the state of completion of the Supplier IP. The Province will acquire no rights to any Supplier IP other than the license rights expressly granted under or in respect of this Agreement. To the extent ownership of the Supplier IP does not vest in the Supplier, the Province agrees to assign, or cause to be assigned, to Supplier all right, title and interest in the Supplier IP, and to waive, and cause all authors to waive, in favour of the Supplier all moral rights in the Supplier IP.

9.3 No Jointly-Owned IP. It is the intention of the Parties that no Intellectual Property Rights created or developed by them or their subcontractors jointly in the performance of this Agreement be jointly-owned Intellectual Property Rights. Accordingly, (a) any feedback, suggestions or comments provided by a Party or its subcontractors to the other Party or its subcontractors concerning the Intellectual Property Rights or technology of the other Party or its subcontractors shall be deemed between the Parties to be the Intellectual Property Rights of the other Party, and (ii) and Intellectual Property Rights that are jointly developed by the Parties shall be (A) to the extent they are updates, modifications, improvements, enhancements of or otherwise principally related to the Supplier IP, the property of the Supplier, and (B) to the extent they are updates,

modifications, improvements, enhancements of or otherwise principally related to the Province IP, the property of the Province. Notwithstanding the foregoing, all Custom Developments, whether or not created or developed jointly by the Parties, will be Province IP. To the extent ownership of the Intellectual Property Rights described in this Section 9.3 do not by law vest in the applicable Party, the other Party agrees to assign, or cause to be assigned, to the Party all right, title and interest in such Intellectual Property Rights, and to waive, and cause all authors to waive, in favour of the Party all moral rights in such Intellectual Property Rights.

- 9.4 Grant of Licenses by Province to Supplier. The Province hereby grants to Supplier, during the Term, a non-exclusive, non-transferable, royalty-free license to: (a) access, use, copy, support, maintain and, to the extent reasonably necessary to provide the Services, modify, the Province IP, solely for the purpose of fulfilling Supplier's obligations under this Agreement; and sublicense the rights referred to in (a) of this Section to Supplier Subcontractors solely to the extent necessary to enable the Supplier Subcontractors to fulfil Supplier's obligations under this Agreement.
- 9.5 Grant of Licenses by Supplier to Province. Supplier hereby grants to the Province: (a) a perpetual, irrevocable, fully paid-up, royalty-free, worldwide, non-exclusive licence to access, use, copy, support, maintain, modify, sublicense, assign, distribute or otherwise exploit any Supplier IP, in source code and executable formats where applicable, that is integrated with, embedded in, forms part of, or is otherwise required in order to access, use, copy, support, maintain, modify, sublicense, assign, distribute or otherwise exploit, any Deliverable or any Province IP that has been procured, created or developed in connection with this Agreement; and (b) for the Term and any Transition Assistance Period, and subject to the terms and conditions of this Agreement, to the extent that the Supplier otherwise delivers or provides to the Province any Supplier IP in connection with this Agreement (including through the performance of Services), the Supplier hereby grants and agrees to grant to the Province a limited, non-exclusive, non-transferable, non-sublicensable (other than to Other Service Providers engaged by the Province for the purpose of performing its obligations or receiving Services or Transition Assistance Services hereunder and to Service Recipients) license to use and copy such Supplier IP solely for the purpose of receiving Services and Transition Assistance Services and performing its obligations under this Agreement (including any SOW) and for no other purpose whatsoever, provided that unless such Supplier IP is to be delivered or provided to the Province in source code form, the Province shall have no right to reverse-engineer or otherwise discover the source code form of any such Supplier IP.
- 9.6 Grant of PAN License by Supplier to Province. Supplier hereby grants to the Province, a perpetual, irrevocable, fully paid-up, royalty-free, worldwide, non-exclusive licence to access, use, copy, support, maintain, sublicense, assign and distribute each PAN provided to it by Supplier (the "**Supplier Provided PANs**"), for the life of the applicable Services Card, solely for the purposes contemplated under this Agreement. The Province must comply with the PAN Security Requirements in the use of the Supplier Provided PANs.
- 9.7 Grant of Transition Materials License by Supplier to Province. Upon the requirement arising to deliver the Transition Materials to the Province in accordance with this Agreement and to the extent such Transition Materials are not Province IP, Supplier hereby grants to the Province, a perpetual, irrevocable, fully paid-up, royalty-free, worldwide, non-exclusive licence to access, use, copy, support, maintain, modify, sublicense, assign, distribute or otherwise exploit the Transition Materials, solely for the purposes contemplated under this Agreement.
- 9.8 Residual Rights. Subject to the terms and conditions of this Agreement, the Parties agree that either Party may use general ideas, concepts, know-how, methodologies, processes, technologies,

algorithms or techniques which were developed or created in the course of performing or receiving the Services and which may be retained in the unaided memory of the Party's personnel; provided, however, that in doing so the Party does not breach its obligations set out in Section 10 or infringe any Intellectual Property Rights of the other Party or any third person.

## **10 CONFIDENTIALITY AND PRIVACY**

10.1 Confidentiality Covenant. Each Party agrees that, in its capacity as a Receiving Party, it will: (a) not use Confidential Information of the Disclosing Party for any purpose, other than as and to the extent expressly permitted under this Agreement or as may be reasonably necessary for the exercise of its rights or the performance of its obligations set out in this Agreement; (b) not disclose any Confidential Information of the Disclosing Party or provide access to any Confidential Information of the Disclosing Party to any third party except as expressly permitted in this Agreement; (c) take all measures reasonably required to maintain the confidentiality and security of all Confidential Information of the Disclosing Party that it receives, collects, uses, stores, processes, records, discloses, manages or otherwise handles, which, in the case of Supplier, will include compliance with the Security Obligations and the Privacy Obligations, and any additional measures required to protect Confidential Information of the Province from loss, theft, unauthorized access, copying, modification, use or disclosure during handling, using technology, physical protection measures, processes and standards of practice that are consistent with industry accepted best practices used or observed by comparable suppliers of similar services in North America; and (d) if it suspects or becomes aware of any unauthorized access, copying, use or disclosure of any Confidential Information of the Disclosing Party: (i) immediately notify the Disclosing Party that it suspects or is aware of any unauthorized access, copying, use or disclosure and provide along with the notice any details of the activities or suspected activities of which it is aware; and (ii) take all commercially reasonable steps to enforce against any Person that is or may be engaging in the unauthorized access, copying, use or disclosure any rights that the Receiving Party has to require that Person to comply with any obligation of confidence to the Receiving Party and to cease the unauthorized activities. The Province shall use the Supplier Provided PANs in accordance with the PAN Security Requirements.

10.2 Permitted Disclosures. Subject to the Privacy Obligations, a Receiving Party may disclose Confidential Information of the Disclosing Party: (a) if and to the extent required by a Governmental Authority or otherwise as required by Applicable Law (including FOIPPA); provided, however, that the Receiving Party must first give the Disclosing Party notice of the compelled disclosure (except where prohibited by Applicable Law from doing so) and must use commercially reasonable efforts to provide the Disclosing Party with an opportunity to take the steps as it desires to challenge or contest the disclosure or seek a protective order. Thereafter, the Receiving Party may disclose the Confidential Information of the Disclosing Party, but only to the extent required by Applicable Law and subject to any applicable protective order; and (b) to: (i) its regulators, accountants, internal and external auditors and other professional advisors if and to the extent that those persons need to know the Confidential Information in order to provide the applicable professional advisory services relating to the Receiving Party's business; (ii) potential permitted assignees or successors, investors or lenders if and to the extent that those persons need to know the Confidential Information in connection with a potential sale, merger, amalgamation, financing or other corporate transaction involving the business or assets of the Receiving Party; and (iii) employees of the Receiving Party, its Affiliates and third party service providers and suppliers if and to the extent that those persons need to know the Confidential Information to perform their respective obligations under this Agreement or, in the case where the Receiving Party is the Province, to provide services to the Province in connection with this Agreement; provided, however, that any such Person has entered into an agreement with the Receiving Party

that includes confidentiality obligations in respect of the Confidential Information of the Disclosing Party that no less stringent than those contained in this Section 10. Notwithstanding anything else in this Agreement, unless the Supplier has expressly approved such disclosure in advance (which approval it may decline to provide for any reason), and except as may be required by Applicable Law or the Privacy Obligations, the Province may not disclose any Supplier Confidential Information to any Supplier Competitor other than the Personalization Service Provider, the Services Card Engraver and the Insurance Corporation of British Columbia as required in connection with receipt of the Services under this Agreement.

- 10.3 Privacy Requirements. Supplier will comply with the obligations and requirements set out in Schedule 10.3 (the “**Privacy Obligations**”).
- 10.4 Consent to Injunctive Relief. Supplier acknowledges that its failure to comply with the provisions of this Section 10 may cause irreparable harm to the Province, which cannot be adequately compensated for in damages, and accordingly acknowledges that the Province will be entitled to claim, in addition to any other remedies available to it, interlocutory and permanent injunctive relief to restrain any anticipated, present or continuing breach of this Section 10.
- 10.5 Return of Confidential Information. Upon expiration or termination of this Agreement or upon the other Party’s request, subject to Applicable Law each Party will promptly return or destroy all Confidential Information of the other Party in accordance with the other Party’s instructions. If a Party requests the destruction of any Confidential Information of the Party, then the other Party will promptly complete the destruction requested in a confidential manner and provide the Party with written confirmation of the requested destruction. If a Party requests that the other Party return or destroy Confidential Information that is reasonably required by the other Party in the performance of this Agreement, the other Party shall thereafter be excused from such performance.
- 10.6 FOIPPA Disclosures and Inspections. The Parties acknowledge and agree that the contents of this Agreement (other than Sections 8.11, 8.13, 8.14, 12.9, 12.10 and 13.4, Schedule 8.12 and the Fees set out in SOWs (the “**Supplier Financial Information**”)) are Province Confidential Information. Supplier expressly advises the Province that the Supplier Financial Information contains trade secret, commercial and technical information of a highly sensitive nature, such Supplier Financial Information has been supplied to the Province in confidence and the disclosure of the Supplier Financial Information would harm significantly the competitive position of Supplier, provide an unfair competitive advantage to its competitors and cause financial loss to Supplier. Supplier acknowledges that: (a) the Province may be requested to disclose the contents of this Agreement or of other information relating to this Agreement; (b) as a result of any such request and the Province’s obligations under FOIPPA and the FAA, the content of this Agreement will likely not remain confidential. The Province will, to the extent permitted under FOIPPA, redact the Supplier Financial Information from any copy of this Agreement disclosed in compliance with FOIPPA. Supplier further acknowledges that under FOIPPA the Commissioner (as defined thereunder) has the power to obtain information and evidence in the course of conducting an investigation or an inquiry under FOIPPA. Accordingly, Supplier will provide reasonable cooperation to the Province with respect to investigations or inquiries of the Commissioner under FOIPPA in connection with any information related to this Agreement which the Commissioner is entitled to obtain under such FOIPPA.

## **11 REPRESENTATIONS, WARRANTIES, COVENANTS AND INDEMNITIES**

- 11.1 Supplier Representations, Warranties and Covenants. Supplier represents and warrants to and covenants with the Province that:

- (a) Supplier and Supplier Personnel and all Supplier Subcontractors will have and maintain throughout the Term all skills, qualifications, expertise and experience necessary to perform the Services in an efficient, cost-effective manner with a high degree of quality and responsiveness, at all times consistent with industry standards applicable to top tier providers of similar services and otherwise in accordance with the terms of this Agreement;
- (b) Supplier will conduct its business in relation to the Services in a professional manner that will reflect favourably on the good name and reputation of the Province;
- (c) Supplier will comply with all Applicable Laws in its dealings with the Province and in performing its obligations under this Agreement (including ensuring that all Services comply with Applicable Law) and will refrain from engaging in any unfair or deceptive trade practice, or unethical business practice whatsoever, or any other practice that could unfavourably reflect upon the Province;
- (d) Supplier has all necessary rights to grant to the Province and Other Service Providers the rights and permissions granted pursuant to this Agreement;
- (e) the performance by Supplier and Supplier Subcontractors of their obligations under this Agreement, and the possession and use of any Deliverables and the Services by the Province or Other Service Providers (in each case, whether separately or together in combination) as permitted or required under this Agreement, do not and will not infringe, violate or constitute a misappropriation of any Intellectual Property Right of any Person;
- (f) subject to Section 4.5, Supplier and Supplier Subcontractors have entered into, and Supplier will and will cause Supplier Subcontractors to enter into, agreements with all Supplier Personnel for the assignment and waiver of Intellectual Property Rights and the treatment of Confidential Information in accordance with the terms hereof;
- (g) Supplier will not insert or permit any third party to insert any Disabling Code into any Deliverable delivered to the Province;
- (h) Supplier has obtained all authorizations, approvals or orders by, consents of, notices to, filings with or other acts by or in respect of any Governmental Authority or any other Person for the operation of its business that pertains to the provision of the Services, including all Regulatory Authorizations;
- (i) Supplier has not given and will not give commissions, payments, kickbacks, gifts, lavish or extensive entertainment, or other inducements of more than minimal value to any employee or agent of the Province in connection with this Agreement and, to the best of its knowledge, no officer, director, employee, agent or representative of Supplier has given any such inducements to any employee or agent of the Province;
- (j) all information provided by Supplier to the Province as part of the Services will not be misleading in any material respect, and Supplier will not fail to disclose any further information that would make such information disclosed misleading; and
- (k) Supplier has no knowledge of any material fact or matter not disclosed to the Province by Supplier that, if known by the Province, might reasonably be expected to deter the Province from entering into this Agreement or completing the transactions contemplated

in this Agreement or that might materially adversely affect the ability of Supplier to perform its obligations under this Agreement.

- 11.2 Disclaimer. EXCEPT AS SPECIFICALLY SET OUT OR REFERENCED IN THIS AGREEMENT, THERE ARE NO REPRESENTATIONS, WARRANTIES, OR CONDITIONS OF EITHER PARTY, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER, INCLUDING ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 11.3 Indemnification by Supplier. Subject to Sections 4.5 and 12.4, the Supplier will indemnify, defend and hold harmless Province Indemnitees from and against any and all Claims, damages, fines, penalties, deficiencies, losses, liabilities (whether accrued, actual, contingent, latent or otherwise), costs, fees and expenses (including interest, court costs and reasonable fees and expenses of lawyers, accountants and other experts and professionals) (each a “Loss”) suffered or incurred by any of them directly or indirectly arising from or in connection with or relating to the following:
- (a) any breach by Supplier of any of its representations, warranties, covenants, responsibilities or obligations set out in this Agreement;
  - (b) any death, bodily injury, sickness, disease or injury of any kind, of any Person, to the extent caused by any act or omission of Supplier or Supplier Subcontractor;
  - (c) any damage, loss or destruction of any tangible, real, personal or intangible property, including any Province IP, to the extent caused by any act or omission of Supplier or Supplier Subcontractor;
  - (d) any amounts (including without limitation taxes) assessed against the Province that are the obligation of Supplier;
  - (e) any Claim by a third party alleging that (i) the Services; (ii) Supplier’s performance or the receipt by the Province or Other Service Providers of the Services under this Agreement; (iii) any Supplier IP or Deliverable, or the use thereof by Supplier to provide the Services; or (iv) the access to or use by the Province or Other Service Provider of any Service, Supplier IP or Deliverable as permitted pursuant to this Agreement, infringes, violates or misappropriates any Intellectual Property Right of any Person (but excluding any Claim arising out of or relating to the EMV technology described in Section 12.4 for which the Supplier is not at fault); or
  - (f) any negligence or wilful misconduct on the part of Supplier, whether as a result of an act or an omission of Supplier or of any Person for whom Supplier is responsible hereunder, including any crime, fraudulent or dishonest acts committed by any current or former Supplier Personnel, acting alone or in collusion with others.
- 11.4 Infringement Claim Procedure. Without limiting the Supplier’s liability or obligations under Section 11.3, and subject also to Section 12.4, if all or any part of any Supplier IP, Deliverable or Service becomes, or in the reasonable opinion of Supplier is likely to become, the subject of a Claim described in Section 11.3(e), Supplier (at its own expense and without prejudice to the other rights the Province may have under this Agreement) will promptly: (a) procure for the Province the right to use the applicable Supplier IP, Deliverable or Service; or (b) modify or replace the applicable Supplier IP, Deliverable or Service so that it is non-infringing without the loss of the quality, performance or functionality of the same.

11.5 Indemnification Procedures. Subject to any restrictions or other limitations contained in the *Crown Proceeding Act* or other Applicable Laws:

- (a) If a Province Indemnitee intends to seek indemnification under this Agreement from Supplier in respect of any third party Claims, then the Province Indemnitee will promptly give Supplier written notice of the Claims for indemnification, such notice to be given as soon as practicable following the commencement of any action by a third party; provided, however, that the failure of the Province Indemnitees to give Supplier such prompt notice will not relieve Supplier of its obligations under this Agreement, except to the extent that such failure results in a material prejudice to the Supplier's defence to such Claims.
- (b) The Province will cooperate, and make reasonable efforts to cause other Province Indemnitees to cooperate, with Supplier and, where appropriate and in the discretion of the Province, will allow Supplier to control the defence of the Claim and any related settlement, at Supplier's sole cost and expense, it being acknowledged and agreed that where the Province determines that it is not so appropriate, then the Province will control the defence of the Claim and any related settlement. If the Province allows Supplier to control the defence of the Claim and the defendants in any such action include any of the Province Indemnitees and Supplier, and the Province reasonably concludes that there may be legal defences available to it which are different from or additional to those available to Supplier, then the Province will have the right to select separate counsel, the cost of which will be at the Province's expense (without reimbursement by Supplier under an indemnity or otherwise) to assert such legal defences or to otherwise participate in the defence of such action on behalf of the Province Indemnitees.
- (c) If the Province is entitled to indemnification under this Agreement as a result of a Claim by a third party, and if Supplier fails or chooses not to assume the defence of such Claim, or fails to proceed, then the Province may, at the expense of Supplier, contest (or, with or without the prior consent of Supplier, settle) such Claim. The Province will not otherwise settle any Claim with respect to which it has sought or intends to seek indemnification pursuant to this Agreement without the prior written consent of Supplier, which consent will not be unreasonably withheld or delayed.
- (d) If Supplier settles any Claims that it may be liable to provide indemnification pursuant to this Section without the prior written consent of the applicable Province Indemnitees, which consent will not be unreasonably conditioned, withheld or delayed (acknowledging that pursuant to the *Crown Proceeding Act*, the Province is not required to obtain or provide such consent, and will not be required to do so pursuant to this provision); then if Supplier has reached a bona fide full and final settlement in respect of all Claims involving the Province Indemnitees and such plaintiff(s) in any such action with the plaintiff(s), and the applicable Province Indemnitees does not (or is not asked to) consent to such settlement, the dollar amount specified in the settlement will act as an absolute maximum limit on the indemnification obligation of Supplier.

11.6 Indemnification by Province. The Province will indemnify, defend and hold harmless Supplier and its employees, independent contractors, advisors, agents and representatives ("**Supplier Indemnities**") from and against any and all Losses suffered or incurred by any of them arising from or in connection with or relating to the following:

- (a) any use of the Supplier Provided PANs by the Province or any of its Other Service Providers in material non-compliance with the PAN Security Requirements;

- (b) the Province or any of its Other Service Providers ceasing to have the third party granted rights or certifications specified as required under this Agreement for the delivery or use of the Services with respect to the use of the PANs and the EMV technology embedded in the Services Cards;
- (c) any Claim by a third party alleging that the Province, the Personalization Service Provider or the Services Card Engraver infringes, violates or misappropriates any Intellectual Property Rights or license rights of a third party in connection with the provision of Services under this Agreement (other than arising from Supplier IP which infringes the Intellectual Property Rights of a third party or a Claim described in Section 11.3(e)); or
- (d) any disclosure by the Province of Supplier Confidential Information contrary to the terms of this Agreement.

11.7 Limitations. Subject to Section 11.8, (a) each Party will be liable to the other with respect to this Agreement for an amount that will not exceed the greater of (i) \$4,000,000 and (ii) an amount equal to the Fees paid in the 18 month period preceding the Claim; and (b) in no event will either Party be liable for indirect or consequential, exemplary, punitive or special damages under this Agreement, even if such Party has been advised of the possibility of such damages in advance. The limitation of liability in clause (a) shall not apply to, and will not limit the liability of the Province for, Fees due hereunder or amounts determined by a court to be Fees, provided, however, that the Province's liability for Fees due hereunder at any particular time shall not exceed the total amount payable under Section 12.2(g) if this Agreement were terminated for convenience by the Province at such time.

11.8 Exclusions to Limitations. Section 11.7 will not apply to limit: (a) the liability of either Party for a breach of Section 10; (b) Supplier's liability or obligations under Sections 5.5 and 11.3(b), (c), (d), (e) and (f); (c) the Province's obligations under Section 11.6(c) and (d) and the Province's obligations under Section 11.6(a) if and to the extent such non-compliance is related to security or confidentiality; or (d) Losses suffered or incurred by the Province as a result of any deliberate and sustained cessation of a material portion of the Services provided under a SOW without a *bona fide* attempt to resume such portion of the Services or to remedy the cause of such cessation (other than a suspension of Services expressly provided for in this Agreement), provided that unless caused by Supplier's negligence, Supplier's liability under this Agreement for the wilful misconduct (whether as a result of an act or an omission) of any Person for whom Supplier is responsible hereunder, including any crime, fraudulent or dishonest acts committed by any current or former Supplier Personnel, acting alone or in collusion with others, shall be limited to the amount set forth in Section 11.7.

## 12 TERM AND TERMINATION; SUSPENSION

12.1 Term. This Agreement will begin on the Effective Date and will continue until the later of: (a) March 31, 2018; and (b) the termination or expiration of the last SOW then in effect (the "**Term**"); unless terminated earlier in accordance with this Agreement.

12.2 Termination by Province. The Province may terminate this Agreement or any SOW by providing notice to Supplier of termination at any time after any of the circumstances set out below:

- (a) if Supplier commits a breach of an obligation under Section 10 or any other material obligation set out in this Agreement and, if the breach is capable of being cured, fails to cure the breach within 30 days of receipt of notice of the breach by Supplier;

- (b) if any representation or warranty made by Supplier in this Agreement is untrue or incorrect in any material respect;
- (c) if a right on the part of the Province to terminate this Agreement or any SOW set out in another provision of this Agreement arises;
- (d) if there is a change of control of Supplier, whether through the ownership of securities, by contract or otherwise and the Province does not consent in writing to such change of control, such consent not to be unreasonably withheld;
- (e) if there is a Key Service Failure or the Province reasonably anticipates that a Key Service Failure may occur;
- (f) if Supplier ceases to do business as a going concern, admits in writing its inability to pay debts as they become due, files or becomes the subject of a petition in bankruptcy, appoints a receiver, acquiesces in the appointment of a receiver or trustee, becomes insolvent, makes an assignment for the benefit of creditor, goes into liquidation or receivership or otherwise loses legal control of its business;
- (g) in its discretion upon 30 days notice to Supplier; provided, however, that upon the exercise of this termination right, the Province will pay to Supplier, if applicable: (i) for the termination of any SOW, a termination for convenience payment (if any) calculated in accordance with the applicable SOW; or (ii) for the termination of this Agreement as a whole, the sum of the termination for convenience payments (if any) calculated in accordance with all SOWs in effect at the time of termination;
- (h) if:
  - (i) Supplier's aggregate liability to the Provinces for damages in connection with this Agreement would, in the absence of anything in this Agreement, exceed the dollar limit on Supplier's liability set out in Section 11.7; or
  - (ii) in the course of any dispute, Supplier pleads or submits that its aggregate liability to the Province for damages in connection with this Agreement is limited to the dollar limit on Supplier's liability set out in Section 11.7,

and Supplier fails to execute and deliver to the Province, within 10 days of the occurrence of either of the events described in paragraphs (i) or (ii) above:

- A. a binding commitment to pay to the Province all damages for which it is liable to the Province in connection with this Agreement as of the date of such event; and
- B. an amendment to this Agreement increasing the dollar limit on Supplier's liability set out in Section 11.7 to an amount equal to the sum of all damages for which Supplier is then liable to the Province in connection with this Agreement as of the date of such event plus the dollar limit on liability set out in Section 11.7 as of the Effective Date; or
- (i) if all or any part of any Supplier IP, Deliverable or Service becomes, or in the reasonable opinion of the Province is likely to become, the subject of a Claim described in Section 11.3(e).

Subject to Section 12.2(g), the Province will not be liable, by reason of any termination of this Agreement, for compensation, reimbursement or damages on account of the loss of prospective profits or on account of expenditures, investments or commitments whatsoever in connection with the business or goodwill of Supplier.

12.3 Termination or Suspension by Supplier for Non-Payment. Subject to Section 8.10, if the Province fails to pay any material amounts payable under this Agreement by the Province when properly due and payable under this Agreement, and does not remedy that failure within 60 days after demand by Supplier that the Province do so, Supplier may at its option either: (a) terminate either this Agreement or the SOW under which such payment was due effective upon notice of termination to the Province; or (b) effective upon notice to the Province, suspend all Services deliverable to the Province until the Province has remedied that failure.

12.4 Resolution of Certain Matters Pertaining to the Use of EMV Technology

(a) If:

- (i) either the Supplier or the Province (or its subcontractors or agents, as the case may be, which in the case of the Province are initially the Personalization Service Provider and Services Card Engraver), ceases to have the EMV technology rights or certifications required for the delivery or use of Services hereunder with respect to the use of such EMV technology embedded in the Services Cards or the Key Supplier Subcontractor providing the Services required to provide Chip-based Cryptogram Authentication as approved by the Province as of the Effective Date (or any successor provider under this Agreement, such provider or successor being described herein as the “**EMV Licensor**”) terminates such rights;
- (ii) there is a Claim alleging that the use by either of them of such EMV technology licensed by the EMV Licensor in relation to the delivery or receipt of Services under this Agreement infringes, violates or misappropriates any material Intellectual Property Rights or license rights of a third party; or
- (iii) there occurs or exists any other fact or circumstance that reasonably leads, or should reasonably lead, either Party to believe that such an event could occur (an event described in (i) or (ii) above or this (iii) each an “**EMV Event**”),

the applicable Party shall immediately notify the other Party of the EMV Event and shall provide the other Party with all reasonable particulars relating thereto.

- (b) The Parties shall each after the occurrence of a EMV Event and until the EMV Event has been resolved in accordance with this Section consult and cooperate with each other in relation to the EMV Event and the appropriate resolution thereof, including the resolution of any Claims, the procurement of any additional Intellectual Property Rights or any changes to the Services, switching to an alternate provider of EMV technology for go-forward card issuance, or any other matter necessary or advisable to ensure the proper and uninterrupted delivery of the Services in accordance with this Agreement. In particular, each Party shall provide to the other full particulars of any developments in relation to the EMV Event as soon as possible (subject to any contractual obligations of confidentiality in relation thereto).

- (c) Each Party shall, to the extent within its control, use its best efforts to resolve the EMV Event or provide a workaround or alternative solution in a timely, diligent, orderly, effective and efficient manner, including by complying with applicable business continuity policies, to ensure the continued delivery of the Services in accordance with this Agreement (for clarity, including the actions described in Section 12.4(b) that are within its control). The Parties shall co-operate, each acting reasonably and in good faith, to resolve any aspect of the EMV Event that is outside each of their control. Any Dispute between the Parties over the appropriate resolution of the EMV Event shall be subject to Section 7.
- (d) If (i) there is an EMV Event that has arisen for reasons outside Supplier's control and not because of Supplier's fault (for clarity, fault includes failure by Supplier to pay or otherwise comply with the terms of its agreement with the EMV Licensor) and such EMV Event is an event described in Section 12.4(a)(i) or a Claim described in 12.4(a)(ii), and (ii) Supplier reasonably believes that during the period of time required to complete the resolution of such EMV Event as contemplated under Sections 12.4(b) and 12.4(c) it is or could be subject to material costs or liability if it continues to perform the Services impacted by such EMV Event (excluding the Services under Sections 12.4(b) and 12.4(c)) despite such EMV Event, it may give notice to the Province that it proposes to suspend delivery of such Services to the extent required to mitigate such costs or liability, or, in the case of an EMV Event that is an injunction or other binding order, to the extent required to comply therewith. The Province may within thirty (30) days of receipt of such notice give Supplier notice requiring it to continue performing the Services proposed by Supplier to be suspended (the "**Specified Suspended Services**") provided that (A) the Province promptly reimburses Supplier for any such material costs and indemnifies Supplier from any such material liability (for clarity, promptly upon Supplier incurring or becoming subject to them), and (B) Supplier shall have no obligation to continue performing Services that would require it to contravene such an injunction or other order unless and until the injunction or order is terminated. If the Province does not give Supplier such notice within such period, Supplier may thereafter on notice immediately suspend providing the Specified Suspended Services.
- (e) Supplier shall have no obligation under this Section 12.4 or otherwise in relation to an EMV Event:
- (i) to pay any costs, expenses or other amounts related to the replacement of active Services Cards with, or the go-forward issuance of Services Cards that would not be subject to an EMV Event; or
  - (ii) to indemnify the Province Indemnities under Section 11.3 or otherwise for any other Loss arising from or in connection with or relating to the EMV Event, except upon an EMV Event caused by Supplier's fault (for clarity, fault includes failure by Supplier to pay or otherwise comply with the terms of its agreement with the EMV Licensor) or if from Supplier's failure to comply with this Section 12.4; or
  - (iii) for any Losses described in Section 11.6(b) or 11.6(c).
- (f) The Province shall have no obligation under this Section 12.4 or otherwise in relation to an EMV Event, unless expressly set forth in this Section 12.4:

- (i) to pay any costs, expenses or other amounts of Supplier in respect of or related to an EMV Event or Supplier's obligations under this Section 12.4; or
- (ii) to indemnify the Supplier Indemnitees under Section 11.6 or otherwise for any other Loss arising from or in connection with or relating to the EMV Event.

12.5 Transition Assistance Services and Services performed During the Transition Assistance Period.

- (a) Supplier will provide (collectively, "**Transition Assistance Services**"): (i) in anticipation of and thereafter upon the expiration or termination of this Agreement (the "**Transition Assistance Period**"), reasonable cooperation and all necessary assistance to the Province for as long as required by the Province to facilitate the transfer of the Services to the Province or a new service provider (through the replacement of Supplier as the provider of the Services) in a timely, diligent, orderly, effective and efficient manner without delay (for clarity, the Parties acknowledge that the Transition Assistance Period shall be only as long as is required to permit the Province to effect such transition as soon as is reasonably practicable in the circumstances), and (ii) upon request by the Province, any other transition assistance services set out in a SOW. For clarity, the provision of Transition Assistance Services by Supplier will be subject to any applicable Flow Down Exceptions acknowledged and approved by the Province in writing as part of its approval of Key Supplier Subcontractors.
- (b) The quality and level of performance of the regular Services during the Transition Assistance Period will not be degraded. Without limiting the generality of the foregoing, during the Transition Assistance Period, (i) Supplier will perform the regular Services with at least the same degree of accuracy, quality, completeness, timeliness, responsiveness and cost-effectiveness as it provided and was required to provide the same or similar Services during the Term and (ii) Supplier will continue to provide the regular Services (and any replacements thereof or substitutions therefor), unless the Province explicitly requests the discontinuation (or a partial, phased elimination) of such Services during the Transition Assistance Period.
- (c) Supplier will provide Transition Assistance Services to the Province or its designee regardless of the reason for the expiration or termination of the Agreement, the partial termination of the Agreement or the Services, or the repatriation of Services (but not during any suspension of Services by Supplier expressly provided for in this Agreement unless the suspension is ended as provided for in this Agreement).
- (d) As part of the Transition Assistance Services, Supplier will, unless otherwise requested by the Province:
  - (i) in a timely manner transfer the control and responsibility for all Services previously performed by or for Supplier to the Province or its designees;
  - (ii) provide any and all reasonable assistance requested by the Province to allow the orderly transfer of the Services to the Province or its designees;
  - (iii) perform consulting services as reasonably requested to assist in implementing the transition plan;

- (iv) assist in the execution of a parallel operation, data migration and testing process until the transition to the Province or the Province's designee has been successfully completed;
  - (v) co-operate and assist the Province and its agents and designees as reasonably required; and
  - (vi) provide other technical assistance as reasonably requested by the Province.
- (e) Supplier will provide Transition Assistance Services, and any Services provided during a Transition Assistance Period, as follows:
- (i) Transition Assistance Services upon a termination by the Province for cause because of a material breach of the Agreement by Supplier will be provided at no additional charge for the first nine months after the effective termination date, and thereafter will be provided on a time and materials basis at the rates set out in Schedule 8.12;
  - (ii) Transition Assistance Services upon an expiration or a termination for any other reason will be provided on a time and materials basis at the rates set out in Schedule 8.12;
  - (iii) with respect to any Services under a SOW provided by Supplier as part of Transition Assistance Services, any Fees specified in the SOW as being payable by the Province if such Services are provided as part of Transition Assistance Services;
  - (iv) Supplier shall not be required to provide any Transition Assistance Services, or Services during a Transition Assistance Period, after a termination by Supplier for non-payment by the Province under Section 12.3, until such non-payment has been cured; and
  - (v) notwithstanding clauses (i) through (iv) above, the Province will not be charged fees for Transition Assistance Services to the extent the resources included in the Fees paid for the Services by the Province can be used to provide such Transition Assistance Services without impacting Supplier's ability to perform the Services.
- (f) As part of the Transition Assistance Services, in the event of (i) a termination of this Agreement by the Supplier or by the Province, the Supplier shall deliver the Transition Materials to the Province, (ii) a termination of this Agreement by the Province because of a Key Service Failure, the Supplier shall deliver to the Province the Transition Materials, and (iii) an expiration of this Agreement the Supplier shall deliver to the Province the Transition Materials, and at the option of the Province, during the Transition Assistance Period the Province and the Supplier shall in good faith negotiate a new agreement between them to allow the Province to continue after the Transition Assistance Period to service Services Cards that are held by users on the date of such expiration, which shall include the delivery by the Supplier to the Province of trusted service manager and Terminal management services at pricing no greater than the Supplier's then current rates for customers with a similar installed terminal base.
- (g) References in this Agreement to the delivery by Supplier of Transition Assistance Services, including "transfer of the Services", "replacement of Supplier as the provider of

the Services”, “transfer the control and responsibility for all Services” and words and phrases of similar import mean and refer to the replacement of Supplier with another service provider, or with the Province, as the provider of services to replace the applicable Services, and do not mean or refer to the transfer to any other Person of control or responsibility or ownership over any Supplier IP or any other hardware, software or other resources of Supplier used to provide the Services, except as otherwise expressly set out in this Agreement.

- 12.6 Key Service Failure. If Supplier suspects or becomes aware of any circumstance or event that could reasonably give rise to a Key Service Failure or reasonably believes that a Key Service Failure may occur, Supplier will immediately notify the Province of the same. Upon a Key Service Failure, Supplier will deliver to the Province or its designee the Transition Materials.
- 12.7 Encryption Key Escrow. Within sixty (60) days of the Effective Date, the Parties and an escrow agent (the “**Escrow Agent**”) mutually acceptable to the Parties will enter into a technology escrow agreement (the “**Escrow Agreement**”) governing the deposit and release of the Encryption Keys. The Escrow Agreement will provide that during the Term that: (a) Supplier will (i) promptly deposit the Encryption Keys with the Escrow Agent, and (ii) keep the deposited Encryption Keys up to date by promptly depositing the latest version of each upon creation; and (b) the Escrow Agent will (i) hold and safeguard the Encryption Keys during the Term, and (ii) release the Encryption Keys to the Province upon a (A) Key Service Failure, (B) a refusal by Supplier to maintain the Failover Security, or (C) the termination of this Agreement.
- 12.8 Transition File Creation and Access. Supplier will: (a) produce a file (the “**Transition File**”) daily with the information for all active Services Cards in the following four fields: (i) PAN; (ii) sequence number; (iii) Card Identifier; and (iv) current state; (b) store an encrypted version of the latest produced Transition File at a secure and suitable location at the facilities of the Hosting Provider; and (c) archive each Transition File for at least 20 Business Days. For clarity, the Province may exercise its audit rights under Section 5.2 to verify Supplier’s compliance with this Section 12.8.
- 12.9 *[Redacted]*
- 12.10 *[Redacted]*
- 12.11 Redundant Service Requirement. Supplier will ensure that the Hosting Services and Card Management Services (as defined in Schedule 1.5) are provided to the Province on a Fully Redundant Basis.
- 12.12 Survival. Neither the expiration nor the earlier termination of this Agreement will release either of the Parties from any obligation or liability that accrued prior to the expiration or termination. The provisions of this Agreement requiring performance or fulfilment after the expiration or earlier termination of this Agreement, including Sections 1, 4.3, 5.1, 5.2, 5.6, 7, 8.3, 8.6, 8.7, 8.8, 8.9, 9, 10, 11, 12.2, 12.5, 12.6, 12.7, 12.8, 12.9, 12.10 and 13, Schedules 1.1, 5.5, 5.6 and 10.3, this Section 12.12, such other provisions as are necessary for the interpretation thereof, and any other provisions hereof, the nature and intent of which is to survive termination or expiration of this Agreement, will survive the expiration or earlier termination of this Agreement.
- 12.13 Payments on Early Termination. On any early termination of this Agreement, subject to any remedies either Party may have in respect of such termination, the Fees due to the Supplier for Services performed prior to such termination shall be prorated to the date of termination.

### 13 MISCELLANEOUS

- 13.1 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any other understandings and agreements between the Parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties other than as expressly set out in this Agreement.
- 13.2 Amendment or Waiver. Except as otherwise expressly permitted or specified herein, this Agreement will not be amended except by a SOW or other written agreement that: (a) is signed by the authorized signing representatives of each of the Parties; and (b) expressly states that it is intended to amend this Agreement. No waiver of any obligation or any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, will be limited to the specific obligation or breach waived.
- 13.3 Non-Solicitation. Subject to Section 12.9, during the Term and for a period of twelve months thereafter, neither Party will directly or indirectly solicit for employment any employee of the other Party whose employment with that Party is related to the matters addressed by this Agreement (and for such purpose, employment will be deemed to include hiring a Person as an independent contractor where the independent contractor is hired to perform services or to work on a basis substantially equivalent to that of a full time employee), unless the soliciting Party has obtained the prior written approval of the other Party to do so. This restriction will not apply to individuals who independently respond to indirect solicitations (such as general newspaper advertisements, employment agency referrals and internet postings) not targeting them.
- 13.4 *[Redacted]*
- 13.5 Severability. If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to either of the Parties.
- 13.6 Relationship of the Parties. Except where this Agreement expressly provides to the contrary, nothing contained in this Agreement will be deemed or construed by the Parties hereto, or by any third party, to create the relationship of partnership or joint venture or a relationship of principal and agent, employer-employee, master-servant, or franchisor-franchisee between the Province and Supplier and no provision contained herein will be deemed to create any relationship between the Parties hereto other than the relationship of independent parties contracting for services.
- 13.7 Force Majeure. If either Party is prevented from performing or is unable to perform any of its obligations under this Agreement due to any event of Force Majeure, and has given prompt written notice to the other Party, then the affected Party's failure to perform will be excused and the time for performance will be extended for the period of delay or inability to perform due to the Force Majeure. The Party subject to the Force Majeure will: (a) promptly notify the other Party of the circumstances creating the failure or delay; (b) provide reasonably sufficient documentation to establish the impact of the Party's failure or delay; and (c) use commercially reasonable efforts to re-commence performance whenever and to whatever extent possible without delay, including workaround plans, implementation of a disaster recovery plan or other means. If Supplier fails to perform some or all of its obligations hereunder, during any consecutive period of more than 30 days due to a Force Majeure, the Province will have the right

to terminate this Agreement without payment of any termination fee or amount. Where Services are partially performed or provided, the Fees for the period of the Force Majeure will be adjusted on an equitable basis taking into account, among other things, the duration and level of Services degradation and Supplier will refund any Fees overpaid by the Province as result of the adjustment.

- 13.8 Assignment. This Agreement and the rights granted hereunder will not be assigned by Supplier without the prior written consent of the Province, not to be unreasonably withheld. The Province may assign this Agreement at any time; provided, however, that prior notice of assignment is provided to Supplier.
- 13.9 Benefit of the Agreement. This Agreement will enure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.
- 13.10 Notices. Any notice contemplated by this Agreement, to be effective, must be in writing and delivered as follows: (a) by fax to the addressee's fax number specified on the first page of this Agreement, in which case it will be deemed to be received on the day of transmittal unless transmitted after the normal business hours of the addressee or on a day that is not a Business Day, in which cases it will be deemed to be received on the next following Business Day; (b) by hand to the addressee's address specified on the first page of this Agreement, in which case it will be deemed to be received on the day of its delivery; or (c) by prepaid post to the addressee's address specified on the first page of this Agreement, in which case if mailed during any period when normal postal services prevail, it will be deemed to be received on the fifth Business Day after its mailing. Either Party may from time to time give notice to the other Party of a substitute address or fax number, which from the date such notice is given will supersede for purposes of this Section any previous address or fax number specified for the Party giving the notice.
- 13.11 Conflict of Interest. Supplier will not provide any services to any Person in circumstances which, in the Province's reasonable opinion, could give rise to a conflict of interest between the Supplier's duties to that Person and Supplier's duties to the Province under this Agreement.
- 13.12 Agreement not Permit nor Fetter. This Agreement does not operate as a permit, license, approval or other statutory authority which Supplier may be required to obtain from the Province or any of its agencies in order to provide the Services. Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by the Province or its agencies of any statutory, prerogative, executive or legislative power or duty.
- 13.13 Public Disclosures. All media releases, public announcements or external disclosures of any nature (including any other disclosure of the name or trade marks of the Province that indicate a relationship between the Parties) by Supplier relating to this Agreement or its subject matter will be coordinated with and must be approved in advance by the Province prior to the release thereof.
- 13.14 Further Assurances. The Parties agree to do all things and to execute all further documents as may reasonably be required to give full effect to this Agreement.
- 13.15 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
- 13.16 Counterparts and Electronic Execution. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which taken together will be deemed to constitute one and the same instrument. Delivery of an executed signature page to

this Agreement by any Party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by that Party.

EXECUTED by the Parties as of the Effective Date.

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 Labour, Citizens' Services )  
and Open Government )  
in the presence of: )  
)  
)  
)  
\_\_\_\_\_)  
(Witness)

\_\_\_\_\_  
For the Minister

**SECUREKEY TECHNOLOGIES INC.**

By: \_\_\_\_\_  
Name:  
Title:

## SCHEDULE 1.1 DEFINITIONS

“**Acceptance**” has the meaning given to it in Schedule 3.2.

“**Acceptance Deadline**” has the meaning given to it in Schedule 3.2.

“**Acceptance Notice**” has the meaning given to it in Schedule 3.2.

“**Acceptance Testing**” has the meaning given to it in Schedule 3.2.

“**Acceptance Testing Period**” has the meaning given to it in Schedule 3.2.

“**Affiliate**” means an affiliated body corporate as defined in the *Business Corporations Act*.

“**Amount At Risk**” has the meaning given to it in the applicable SOW.

“**Applicable Law**” means all applicable laws, including any statute, regulation or by-law, treaty, directive, policy having the force of law, order, judgment, injunction, award or decree of any Canadian or Provincial Governmental Authority, in Canada or in any Province in Canada, which is binding on the Parties (or on one Party as applicable), and in effect from time to time or are otherwise applicable to the performance of the Services, but does not include any law, statute, regulation or by-law, treaty, directive, policy having the force of law, order, judgment, injunction, award or decree of a foreign jurisdiction outside of Canada.

“**Audit Representative**” means any internal or external Person designated by the Province from time to time, in its discretion, to conduct audits on its behalf.

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

“**Business Hour**” means any hour during a Business Day.

“**Business Continuity Plan**” has the meaning given to it Schedule 5.7.

“**Business Interruption**” means any Priority Level 1 Incident or other event, whether anticipated or unanticipated, including an event of Force Majeure, that has the potential to have a material impact on Supplier’s ability to provide any material part of the Services for any material period of time.

“**Card Identifier**” means a permanent unique anonymous identifier associated with the individual to whom the applicable Services Card was issued.

“**Catastrophic Business Interruption**” means a Business Interruption resulting from a Force Majeure Event that the Province reasonably anticipates cannot be cured within 14 days.

“**Change**” has the meaning given to it in Section 6.2.

“**Change Order**” has the meaning given to it in Section 6.4

“**Change Response**” has the meaning given to it in Section 6.2.

“**Change Request**” has the meaning given to it in Section 6.2.

“**Chip-based Cryptogram Authentication**” has the meaning given to it in the Effective Date SOW.

“**Claim**” means any actual or threatened civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim or demand resulting therefrom or any other claim or demand of whatever nature of kind.

“**Clock Start Time**” means, in respect of an Incident, the earlier of the time when: (i) the Province notifies Supplier of the Incident; or (ii) Supplier identifies the Incident or ought to have identified the Incident.

“**Clock Stop Time**” means, the time when it is confirmed by the Province that the Incident has been Restored or Resolved and it is so noted in the Trouble Ticket system.

“**Confidential Information**” of a Party means any and all information of a Party or any of its Affiliates or licensors and, in the case of the Province, its Other Service Providers (the “**Disclosing Party**”) that has or will come into the possession or knowledge of the other Party or any of its Affiliates or, in the case of Supplier, Supplier Subcontractors (the “**Receiving Party**”) in connection with or as a result of entering into this Agreement, including information concerning the Disclosing Party’s past, present or future customers, suppliers, technology, or business. Notwithstanding the foregoing, “Confidential Information” does not include information that is: (a) publicly available when it is received by or becomes known to the Receiving Party or that subsequently becomes publicly available through no fault of the Receiving Party (but only after it becomes publicly available); (b) is established by evidence to have been already known to the Receiving Party at the time of its disclosure to the Receiving Party and is not known by the Receiving Party to be the subject of an obligation of confidence of any kind; (c) independently developed by the Receiving Party without any use of or reference to the Confidential Information of the Disclosing Party as established by evidence that would be acceptable to a court of competent jurisdiction; or (d) received by the Receiving Party in good faith without an obligation of confidence of any kind from a third party who the Receiving Party had no reason to believe was not lawfully in possession of the information free of any obligation of confidence of any kind, but only until the Receiving Party subsequently comes to have reason to believe that the information was subject to an obligation of confidence of any kind when originally received; provided, however, that, for the purposes of this Agreement, all personal information (as defined in Schedule 10.3) will constitute Confidential Information of the Province, whether or not it falls into one of the exceptions set out in (a) through (d) of this definition. For clarity, the Supplier Provided PANs are the Confidential Information of the Supplier.

“**Critical Threshold**” has the meaning given to it in Schedule 3.4.

“**Custom Development**” means: (a) any hardware, software, systems, documentation, trade-marks, Confidential Information or other information or intellectual property (including business rules and business processes) that is or has been created or developed by Supplier (whether alone or jointly with one or more Persons) or created or developed for Supplier by another Person, in the performance of Supplier’s obligations set out in this Agreement and at the request of the Province pursuant to a SOW that states that such materials are to be the property of the Province, including all modifications or other Changes made thereto; and (b) any modifications, improvement, enhancements or other changes to or derivative works created or developed from a Custom Development referred to in (a) or from any other Province IP; provided in each case, however, that the Province has paid directly or indirectly for such intellectual property other than through the payment of Base Fees and Usage Fees (as such terms are defined in the Effective Date SOW).

“**Deficiencies**” has the meaning given to it in Schedule 3.2.

“**Deliverable**” means any deliverable (including software, hardware, systems, and documentation and Procured Equipment) provided by Supplier as part of the Services and any modifications or changes to or derivative works created or developed from any such deliverable.

“**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 hardware, software or systems or any data or files on or used in conjunction with any of the aforementioned.

“**Effective Date**” has the meaning given to it in the preamble to this Agreement.

“**Effective Date SOW**” has the meaning given to it in Section 1.5.

“**EMV Event**” has the meaning given to it in Section 12.4(a).

“**EMV Licensor**” has the meaning given to it in Section 12.4(a).

“**Encryption Keys**” means the Master Key and the encryption key for the Transition File.

“**Escrow Agent**” has the meaning given to it in Section 12.7.

“**Escrow Agreement**” “has the meaning given to it in Section 12.7.

“**Excusable Event**” has the meaning given to it in Schedule 3.4.

“**EMV**” means the standards, specifications and processes for integrated circuit cards approved from time to time by EMVCo, LLC or any successor entity.

“**FAA**” means the *Financial Administration Act*.

“**Failover Event**” has the meaning given to it in Section 12.11.

“**Failover Security**” has the meaning given to it in Section 12.11.

“**Failover Service Provider**” has the meaning given to it in Section 12.11.

“**Failure Notice**” has the meaning given to it in Schedule 3.2.

“**Fee Cap**” has the meaning given to it in Section 8.11.

“**Fees**” has the meaning given to it in Section 8.1.

“**Flow Down Exceptions**” has the meaning given to it in Section 4.5.

“**FOIPPA**” means the *Freedom of Information and Protection of Privacy Act*.

“**Force Majeure**” means an act of God, fire, casualty, flood, war, terrorism, failure of public utilities, or any act, exercise, assertion or requirement of any Governmental Authority, epidemic or public health emergency, but expressly excludes any cause or failure that result from the negligence, fault or intentional wrongdoing of a Party (including, in the case of Supplier, any Supplier Group Personnel or Supplier Subcontractor) and any cause or failure that could have been prevented by reasonable foresight or precautions (including proper business continuity planning and the implementation of the Business Continuity Plan) or circumvented through the use of alternate sources, work-around plans or other means.

“**Fully Redundant Basis**” means, with respect to a Service, the duplication of critical components or functions of the systems used to provide such Services to increase reliability of such systems, ensure continuity of the Services in the event of a Business Interruption impacting such Services and provide a backup or fail-safe.

“**Governmental Authority**” means any court or governmental department, commission, board, bureau, agency, or instrumentality of Canada, or of any province, state, territory, county, municipality, city, town, or other political jurisdiction whether domestic or foreign and whether now or in the future constituted or existing having or purporting to have jurisdictions over the business that is the subject of the Services or over any Party.

“**Hosting Failover Agreement**” has the meaning given to it in Section 12.10.

“**Hosting Service Provider**” means the Supplier Subcontractor providing Hosting Services.

“**Hosting Services**” means the hosting of Supplier’s live production and commercial environments and all related services required to provide the Services.

“**Incidents**” has the meaning given to it in Section 3.5.

“**Intellectual Property Rights**” means: (a) any and all proprietary rights anywhere in the world provided under: (i) patent law; (ii) copyright law (including moral rights); (iii) trade-mark law; (iv) design patent or industrial design law; (v) semi-conductor chip or mask work or integrated circuit topography law; or (vi) any other statutory provision or common law principle applicable to this Agreement, including trade

secret law, that may provide a right in either hardware, software, documentation, Confidential Information, trade-marks, logos, trade names, ideas, formulae, algorithms, concepts, inventions, processes or know-how generally, or the expression or use of such hardware, software, documentation, Confidential Information, trade-marks, logos, trade names, ideas, formulae, algorithms, concepts, inventions, processes or know-how; (b) any and all applications, registrations, licences, sub-licences, franchises, agreements or any other evidence of a right in any of the foregoing; and (c) all licences and waivers and benefits of waivers of the intellectual property rights set out in (a) and (b) above, all future income and proceeds from the intellectual property rights set out in (a) and (b) above, and all rights to damages and profits by reason of the infringement or violation of any of the intellectual property rights set out in (a) and (b) above.

“**Joint Executive Committee**” has the meaning given to it in Schedule 4.1.

“**Joint Operations Committee**” has the meaning given to it in Schedule 4.1.

“**Key Personnel**” means any and all Supplier Personnel identified in each SOW as Key Personnel and any Supplier Personnel who replaces any Supplier Personnel.

“**Key Service Failure**” means, in respect of any Services provided under the Effective Date SOW, (a) any Priority Level 1 Incident, or any Incident that results in a failure to process Services Cards status updates, lasting greater than 5 days; (b) any deliberate cessation of a material portion of the Services for a period lasting greater than 6 hours without a *bona fide* attempt to resume such portion of the Services or to remedy the cause of such cessation (other than a suspension of Services expressly provided for in this Agreement); (c) Supplier ceases to do business as a going concern, is unable to pay its debts as they become due, files or becomes the subject of a petition in bankruptcy, appoints a receiver, acquiesces in the appointment of a receiver or trustee, becomes insolvent, makes an assignment for the benefit of creditor, goes into liquidation or receivership or otherwise loses legal control of its business; or (d) the Province reasonably anticipates that any one or more of the events described in paragraph (a), (b) or (c), above, may occur.

“**Key Subcontractor Services**” means the following Services: (a) Services required to provide Chip-based Cryptogram Authentication; and (b) the Hosting Services.

“**Key Supplier Subcontractor**” has the meaning given to it in Section 4.5.

“**Loss**” has the meaning given to it in Section 11.3

“**Master Key**” means the Supplier master cryptographic key used for diversified key generation and cryptogram verification necessary to facilitate interoperability between a Services Card and a Terminal (as defined in the Effective Date SOW).

“**Material Deficiency**” means a Deficiency that does or if the Services were operational would cause a Priority Level 1 or 2 Incident.

“**Material Milestone**” means, unless otherwise provided in a SOW, any Milestone to which the payment of Fees are attached.

“**Measured Services**” means Services to which Service Levels will apply and, for greater certainty, Measured Services under a SOW will include any Services under this Agreement (whether set out in the SOW or elsewhere in this Agreement) to which Service Levels set out in the SOW apply.

“**Measurement Period**” means with respect to a Measured Service, the period of time identified as the “Measurement Period” for the Service set out in the SOW under which the Service is provided.

“**Milestone**” has the meaning given to it in Schedule 3.1.

“**Milestone Deadline**” has the meaning given to it in Schedule 3.1.

“**Monthly Performance Report**” has the meaning given to it in Schedule 3.4.

“**Notice of Readiness**” has the meaning given to it in Schedule 3.2.

“**Ordinary Course Changes**” has the meaning given to it in Section 6.1.

“**Other Service Provider**” has the meaning given to it in Section 4.6.

“**Other Service Recipient**” has the meaning given to it in Section 2.3.

“**PAN**” means a permanent unique account number for use with a unique Services Card.

“**PAN Security Requirements**” means the requirements with respect to use of the Supplier Provided PAN mutually agreed to by the Parties, as set out in a document to be developed and agreed to by the Parties under the Effective Date SOW (which will expressly identify the PAN Security Requirements for purposes of this Agreement).

“**Party**” has the meaning given to it in the consideration recital.

“**Person**” means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate or Governmental Authority, and where the context requires, any of the foregoing when they are acting as trustee, executor, administrator or other legal representative.

“**Personalization Service Provider**” means the one or more service providers engaged directly or indirectly by the Province to provide Personalization (as defined in the Effective Date SOW) services, as designated by the Province and may change from time to time during the Term and any Transition Assistance Period. As of the Effective Date, the Personalization Service Provider is IRIS Corporation Berhad.

“**Policies**” has the meaning given to it in Section 5.4

“**Pool Percentage Available for Allocation**” means, in respect of a SOW, 250%, which represents the maximum aggregate amount of percentage points available for allocation by the Province as Weighting Factors under a particular SOW.

“**Priority Level**” has the meaning given to it in Schedule 3.5.

“**Privacy Obligations**” has the meaning given to it in Section 10.3.

“**Problem**” means the underlying root cause or causes of an Incident.

“**Procured Equipment**” has the meaning given to it in Section 5.8.

“**Program**” means any planned use of Services Cards outside the private sector that is authorized by the Province, but excludes use by a municipality (as defined in the *Local Government Act*) in respect of municipal services.

“**Project Plan**” means any plan and time line for the delivery of certain Deliverables or the performance of certain Services, including a list of the activities, resources, interdependencies between activities, Services to be performed, the Milestones that Supplier will be required to meet and the Milestone Deadline for each Milestone (including, where applicable, the Test Component Completion Deadline and the Acceptance Deadline), set out in a SOW.

“**Project-Related Services**” means any Services set out in a SOW involving non-recurring work that is not an inherent, necessary or customarily part of the day-to-day Services and is project-related.

“**Province**” has the meaning given to it in the preamble to this Agreement.

“**Province Data**” means: any and all information relating to the Province, customers of the Province or an Other Service Provider that: (a) was provided, collected or generated as part of the use or operation of any Deliverables or the provision or receipt of the Services (including, for clarity, cardholder information provided to or on behalf of the Supplier or Supplier Subcontractors in the performance of the Services); or

(b) otherwise became known to either Party as a result of any actions under or solely in respect of this Agreement. For clarity, Province Data does not include any information relating to the Province, customers of the Province or Other Service Providers that became known to Supplier through the provision of a service of the same type as any of the Services and would have become known to Supplier notwithstanding the existence of this Agreement.

**“Province Dependency”** means (a) an activity identified as such in the applicable SOW or in this Agreement and (b) any activity ordinarily and customarily performed by a Person performing the functions and services of the Personalization Service Provider or the Services Card Engraver, and includes any activities, functions and responsibilities that are inherent, necessary or customarily provided or performed as part of such activities.

**“Province Dependency Target Date”** has the meaning given to it in Schedule 3.1.

**“Province Indemnitees”** means the Province, and its employees, independent contractors, advisors, agents and representatives.

**“Province IP”** has the meaning given to it in Section 9.1.

**“Regulatory Authorization”** means any permit and other legal or regulatory consent, approval or permission, under any and all Applicable Laws that may be required as a condition for a Party to perform any of its obligations hereunder.

**“Resolution”** means the Problem underlying the Incident has been eliminated, all Services affected by the Incident are in a full and complete operational state in accordance with the Specifications for the Services and the Trouble Ticket in respect of the Incident has been closed, and **“Resolve”** has a similar meaning.

**“Restoration Time”** has the meaning given to it in Schedule 3.5.

**“Restore”** means in respect of an Incident, that all Services affected by the Incident have been restored or repaired through a Workaround, but the underlying Problem causing the Incident has not yet been Resolved, and **“Restored”** and **“Restoration”** have similar meanings.

**“Security Obligations”** has the meaning given to it in Section 5.5.

**“Service Level Credit”** means the amount calculated pursuant to Section 9 of Schedule 3.4.

**“Service Level Failure”** has the meaning given to it in Schedule 3.4.

**“Service Levels”** has the meaning given to it in Section 3.4.

**“Services”** has the meaning given to it in Section 2.1.

**“Services Card”** means an identification card that includes an EMV contact-less enabled integrated circuit (**“Chip”**) issued to an individual by or on behalf of the Province.

**“Services Card Engraver”** means the one or more direct or indirect service providers of the Province that provide personalization for the laser engraved surface of the Services Cards in connection with this Agreement, as designated by the Province and may change from time to time during the Term and any Transition Assistance Period. As of the Effective Date, the Services Card Engraver is IBM Canada Ltd.

**“SOW”** means any statement of work prepared and executed in accordance with Section 2.2, as amended from time to time in accordance with this Agreement.

**“Specifications”** means, in respect of any Deliverable or Service, the technical, functional, physical, design, environmental, operational, performance or other relevant specifications or requirements therefor set out in this Agreement or as otherwise inherent, necessary or customarily included as part of any specifications or requirements specifically set out herein.

**“Specified Suspended Services”** has the meaning given to it in Section 12.4(d).

**“Supplier”** has the meaning given to it in the preamble to this Agreement.

**“Supplier Competitor”** means a Person that designs, develops, commercializes or markets technology that enables authentication of users wishing to make online payments or access secure on-line services.

**“Supplier Financial Information”** has the meaning given to it in Section 10.6.

**“Supplier Indemnities”** has the meaning given to it in Section 11.6.

**“Supplier IP”** has the meaning given to it in Section 9.2.

**“Supplier Personnel”** means the employees, agents and independent contract personnel of Supplier or Supplier Subcontractor who perform any of the Services for or on behalf of Supplier.

**“Supplier Provided PANs”** has the meaning given to it in Section 9.6.

**“Supplier Service Centre”** has the meaning given to it in Schedule 3.5.

**“Supplier SPOC”** has the meaning given to it in Schedule 4.1.

**“Supplier Subcontractor”** means any Affiliate of Supplier, or subcontractor to or agent of Supplier, that performs Services hereunder, even if not approved by the Province to perform the Services as required pursuant to Section 4.4 or Section 4.5, as applicable.

**“Term”** has the meaning given to it in Section 12.1.

**“Test Materials”** has the meaning given to it in Schedule 3.2.

**“Transition Assistance Period”** has the meaning given to it in Section 12.5.

**“Transition Assistance Services”** has the meaning given to it in Section 12.5.

**“Transition File”** has the meaning given to it in Section 12.8.

**“Transition Materials”** means: (a) the Master Key to the Services Cards; (b) all information necessary to accurately map all Card Identifiers to the corresponding Supplier Provided PANs on a one-to-one basis; and (c) all current state information for each Card Identifier.

**“Trouble Tickets”** has the meaning given to it in Schedule 3.5.

**“Weighting Factor”** means the number, expressed as a percentage, allocated to a Measured Service; provided that, in respect of a SOW, the aggregate of all such numbers allocated to Measured Services under the SOW does not exceed the Pool Percentage Available for Allocation for the SOW.

**“Workaround”** means a temporary solution for a Service affected by an Incident that is acceptable to the Province and results in the Service operating in accordance with the Specifications for the Service.

**“24/7”** has the meaning given to it in Schedule 3.5.

**SCHEDULE 2.2  
FORM OF SOW**

**● SERVICES  
STATEMENT OF WORK**

THIS STATEMENT OF WORK (“**SOW**”) forms part of the Master Services Agreement between SECUREKEY TECHNOLOGIES INC. (“**Supplier**”) and HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA (the “**Province**”), as represented by the Minister of Labour, Citizens’ Services and Open Government made as of April ●, 2012, as amended from time to time (the “**Agreement**”) and is entered into as of ●,● (the “**SOW Effective Date**”) between Supplier and the Province in accordance with Section 2.2 of the main body of the Agreement.

**1 INTERPRETATION**

1.1 Definitions. All capitalized terms used in this SOW and not otherwise defined will have the meaning given to them in the Agreement. In this SOW:

“**SOW Business Continuity Planning Services**” has the meaning given to it in Section 4.1.

“**SOW Initial Term**” has the meaning given to it in Section 8.1.

“**SOW Renewal Term**” has the meaning given to it in Section 8.1.

“**SOW Transition Assistance Services**” has the meaning given to it in Section 6.4.

“**SOW Services**” has the meaning given to it in Section 2.1.

“**SOW Term**” means the SOW Initial Term and any SOW Renewal Terms.

“**[X] Project Plan**” means, for the purposes of this SOW, the plan for the performance of the [X] Services set out in Appendix 2.3.

“**[X] Services**” has the meaning given to it in Section 2.2.

“**[X] Specifications**” means the Specifications for the [X] Services set out in Appendix 2.2 and all fixes, enhancements or other changes thereto made in accordance with this SOW.

1.2 Appendices. The following are the Appendices to this SOW as of the SOW Effective Date:

- Appendix 2.2 – [X] Services
- Appendix 2.3 – Service Levels for [X] Services
- Appendix 4.1 – SOW Business Continuity Planning
- Appendix 4.7 – SOW Procured Equipment Requirements
- Appendix 5.1 – Fees
- Appendix 6.4 – SOW Transition Assistance Services

References to this SOW to include Appendices. Unless the context requires otherwise, references in this SOW to “this SOW”, “herein”, “hereof”, “hereunder” and “hereto” will include this SOW and the Appendices to this SOW, collectively.

1.3 Deemed Incorporation of Agreement Terms. In accordance with Section 2.2 of the main body of the Agreement, this SOW will be deemed to incorporate by reference the terms and conditions of the Agreement (excluding other SOWs) except to the extent otherwise expressly stated herein. For the purposes of this Statement of Work, all such terms and conditions incorporated by

reference herein will survive until the termination or expiry of the SOW Term or as otherwise provided in Section 6.3.

- 1.4 Order of Priority. In the event of any inconsistency between any of the provisions of the main body of this SOW and the Appendices, the inconsistency will be resolved by reference to the following descending order of priority: (a) the main body of this SOW, and (b) the Appendices, with equal priority.

## 2 SOW SERVICES

- 2.1 SOW Services. Supplier will provide, on the terms and conditions set out in the Agreement as supplemented and modified by the terms and conditions of this SOW, the following Services (the “**SOW Services**”): (a) the [X] Services, as described in Section 2.2; and (b) all other services and obligations of Supplier set out in this SOW (including the SOW Business Continuity Planning Services and SOW Transition Assistance Services).
- 2.2 [X] Services. Commencing on the SOW Effective Date, Supplier will provide the Services described in Appendix 2.2 (the “[**X**] Services”). Supplier will, at all times, provide the [X] Services in accordance with the Specifications and other requirements set out in Appendix 2.2. The requirements and schedule for Supplier’s performance of the [X] Services are set out in this Section 2.2 and the [X] Project Plan (set out in Appendix 2.2).
- 2.3 Performance Standards. Supplier will perform each SOW Service in a manner that meets or exceeds the applicable Service Levels set out in Appendix 2.3. Subject to the additional or modified terms and conditions set out in Appendix 2.3, the terms and conditions set out in Schedule 3.4 of the Agreement will apply to all Service Levels. If Supplier fails to meet any Service Level set out in Exhibit A to Appendix 2.3, the Province will be entitled to the applicable remedies set out in Schedule 3.4 of the Agreement, as may be modified or supplemented by Appendix 2.3.

## 3 SOW ENGAGEMENT MANAGEMENT

- 3.1 SOW Governance. In addition to the contract governance provisions set out in Schedule 4.1 of the Agreement, in order to facilitate the proper management and control of the relationship of the Parties in connection with this SOW on a day-to-day basis, each Party will: (a) provide the following resources which will be responsible for the matters described as follows: ● who will have the following functions and responsibilities under this SOW: ●; and (b) form the following committee[s] which will be responsible for the matters described as follows: ●, all of which may be amended during the SOW Term as mutually agreed in writing by the Parties.
- 3.2 Key Personnel. For the purposes of this SOW, the individuals set out in the following table will be Key Personnel as of the SOW Effective Date for the applicable period specified therein.

Key Personnel	Applicable Period
●	●

- 3.3 Supplier Subcontractors. For the purposes of this SOW, the third party suppliers set out in the following table will be deemed Supplier Subcontractors approved by the Province in accordance with Section 4.4 of the main body of the Agreement for the specific SOW Services specified therein.

Approved Supplier Subcontractor	Applicable SOW Service
•	•

#### 4 OPERATIONAL REQUIREMENTS

4.1 SOW Business Continuity Planning and Disaster Recovery. During the SOW Term, Supplier will provide the disaster recovery and other business continuity planning services relating specifically to this SOW described in Appendix 4.1 (the “**SOW Business Continuity Planning Services**”).

4.2 SOW Reporting Requirements. In addition to Supplier’s other reporting obligations under the Agreement, Supplier will comply with the following reporting requirements relating specifically to this SOW:

<b>Report Name:</b>	•
<b>Report Description:</b>	•
<b>Report Recipient:</b>	•
<b>Delivery Method:</b>	•
<b>Due Date:</b>	•
<b>Report Content:</b>	•

4.3 SOW Service Restrictions. Supplier will comply with the following SOW Services restrictions:  
•.

4.4 Supplier Technology Platform. At the request of the Province, Supplier will provide a list and descriptions of all licences, contracts, commitments, technology, hardware, software, systems, materials, documentation, facilities, personnel, Intellectual Property Rights and other materials or resources of the Supplier used by Supplier to provide the SOW Services.

4.5 SOW Training Requirements. In addition to Supplier’s other training obligations under the Agreement, Supplier will comply with the following training requirements relating specifically to this SOW: •.

4.6 SOW Insurance Requirements. In addition to Supplier’s other insurance obligations under the Agreement, Supplier will comply with the following insurance requirements relating specifically to this SOW: •.

4.7 SOW Procured Equipment Requirements. In addition to Supplier’s other procurement obligations under the Agreement, Supplier will comply with the procurement requirements set out in Appendix 4.7.

#### 5 FEES

5.1 Fees. The Fees payable by the Province for the performance by Supplier of the SOW Services are set out in Appendix 5.1.

5.2 Invoices. In addition to Supplier's other invoicing obligations under the Agreement, Supplier will comply with the following invoicing requirements relating specifically to this SOW: ●.

## 6 TERM AND TERMINATION

6.1 SOW Term and Renewal. The term of this SOW will begin on the SOW Effective Date and continue until the date that is ● years thereafter (the "**SOW Initial Term**"), unless terminated earlier in accordance with the Agreement. The Province may renew this SOW on the terms and conditions (including pricing) contained herein for ● additional terms of ● year[s] (each, a "**SOW Renewal Term**") by providing notice to Supplier that it elects to renew this SOW at least [30] days prior to the end of the SOW Initial Term or the then-current SOW Renewal Term.

6.2 SOW Termination by the Province. In addition to termination rights of the Province set out in Section 12.2 of the main body of the Agreement, the Province may terminate this SOW or any SOW Service (in whole or part) by providing notice to Supplier of termination in the following circumstances: ●.

6.3 Survival. The provisions of the Agreement identified in Section 12.12 of the main body of the Agreement and incorporated by reference herein and the provisions of this SOW requiring performance or fulfilment after the expiration or earlier termination of this Agreement, including Sections [●], this Section 6.3, such other provisions as are necessary for the interpretation thereof, and any other provisions hereof, the nature and intent of which is to survive termination or expiration of this Agreement, will survive the expiration or earlier termination of this SOW.

6.4 SOW Transition Assistance Services. If the Province provides notice to Supplier requesting that Supplier commence the provision of Transition Assistance Services relating to this SOW in accordance with Section 12.5 of the main body of the Agreement, Supplier will provide the transition assistance services relating specifically to this SOW described in Appendix 6.4 (the "**SOW Transition Assistance Services**") and such Services will be in addition to the general Transition Assistance Services set out in Section 12.5 of the main body of the Agreement.

## 7 GENERAL

7.1 Notice. Any notice, consent, authorization or other communication required or permitted to be given hereunder will be required to be provided in accordance with Section 13.10 of the main body of the Agreement.

7.2 Counterparts and Electronic Execution. This SOW may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which taken together will be deemed to constitute one and the same instrument. Delivery of an executed signature page to this SOW by any Party by electronic transmission will be as effective as delivery of a manually executed copy of the SOW by that Party.

EXECUTED by the Parties as of the SOW Effective Date.

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 Labour, Citizens' Services )  
and Open Government )  
in the presence of: )  
)  
)  
)  
\_\_\_\_\_)  
(Witness) )

\_\_\_\_\_)  
For the Minister

**SECUREKEY TECHNOLOGIES INC.**

By: \_\_\_\_\_  
Name:  
Title:

**APPENDIX 2.2 TO SCHEDULE 2.2**  
**[X] SERVICES**

1. Description of [X] Services. This Sections describes certain services, functions, processes and responsibilities that form part of the [X] Services to be provided by the Supplier to the Province pursuant to this SOW.

(a) ●

2. [X] Specifications. This Sections sets out the Specifications and other requirements for the [X] Services.

(a) ●

3. [X] Project Plan. This Section sets out the, as of the SOW Effective Date: (1) Supplier’s responsibilities in managing and performing the activities necessary to implement the [X] Services; (2) the Milestones that Supplier will meet in its performance of such activities on or before the deadline designated for each Milestone; and (3) the Province Dependencies applicable to the activities that are subject to Schedule 3.1 of the Agreement. Supplier will be responsible for the management and completion of the activities and tasks described in the [X] Project Plan, other than the Province Dependencies.

(a) Test Components, User Acceptance Testing Periods and Acceptance Deadlines. The Test Components and the corresponding User Acceptance Testing Periods and Acceptance Deadlines are set out in the table below for the purposes of this SOW.

No.	Test Component	User Acceptance Testing Period	Acceptance Deadline
1	●	●	●
2	●	●	●

(b) Additional or Alternative Testing Requirements. ●

(c) Milestones. On or before each of the dates set out in the table below in the column under the heading “Milestone Deadline”, Supplier will complete the corresponding Milestone described in the column under the heading “Completed Milestone”.

No.	Completed Milestone	Milestone Deadline
1	●	●
2	●	●

(d) Province Dependencies. The Province Dependencies for the purposes of this Appendix 2.2 are as set out in the table below. Each Province Dependency will include all functions and responsibilities that are inherent, necessary or customarily provided as part of the Province Dependency, or that are reasonably required for the proper performance of the Province Dependency.

No.	Province Dependency	Milestone Affected	Province Dependency Target Date
1	●	●	●
2	●	●	●

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(e) Remedies for Failure to Meet Milestone Deadlines.•

**APPENDIX 2.3 TO SCHEDULE 2.2**  
**SERVICE LEVELS FOR [X] SERVICES**

1. Definitions. For the purposes of this Appendix:

“●” means ●.

2. Service Levels for Measured SOW Services. The Service Levels for the SOW Services are as set out in separate tables below. Each table sets out the definitions, formula and methodology to be used to calculate the performance of the SOW Services to which applicable Service Level applies, and to determine whether or not a Service Level Credit is payable and whether or not a Critical Threshold has occurred. Each SOW Service to which a Service Levels relates will be a Measured Service.

<b>Reference Number:</b>	●-01
<b>Service Level Name:</b>	●
<b>Service Level Requirement:</b>	● ≥ ●%
<b>Definitions:</b>	“●” means ●
<b>Measurement Methodology:</b>	●
<b>Measurement Period:</b>	Monthly
<b>Measurement Calculation:</b>	● = ●
<b>Special Reporting Requirements:</b>	●
<b>Critical Threshold:</b>	●
<b>Initial Weighting Factor:</b>	●

**APPENDIX 4.1 TO SCHEDULE 2.2**  
**SOW BUSINESS CONTINUITY PLANNING**

1. •

**APPENDIX 4.7 TO SCHEDULE 2.2**  
**SOW PROCURED EQUIPMENT REQUIREMENTS**

2. •

**APPENDIX 5.1 TO SCHEDULE 2.2**  
**FEES**

1.  Services Fees. ●

**APPENDIX 6.4 TO SCHEDULE 2.2**  
**SOW TRANSITION ASSISTANCE SERVICES**

1. •

## SCHEDULE 3.1 PROJECT PLANNING

1. Project Plan, Milestones and Milestone Deadlines. Supplier will perform the Services under a SOW in accordance with any Project Plan set out in the applicable SOW or as otherwise described in this Agreement, including the completion of each Deliverable, Service or other performance obligation or objective of Supplier identified as a “**Milestone**” in the applicable SOW or as otherwise described in this Agreement on or before the target date for the completion by the Supplier of that Milestone (the “**Milestone Deadline**”).
  
2. Province Dependencies. If the Province or its subcontractor, Other Service Provider or agent, as applicable, fails to complete any Province Dependency on or prior to the target date for the completion by them of that Province Dependency (the “**Province Dependency Target Date**”), then any obligation of Supplier that is dependent on the Province Dependency will be extended by the number of Business Days that the day on which the Province actually performs the Province Dependency following the Province Dependency Target Date; provided, however, that Supplier: (a) notifies the Province promptly of any such failure, and (b) will continue to use commercially reasonable efforts to meet the original deadline set out for the obligation, unless to do so would impose additional, uncompensated material costs on the Supplier. If Supplier fails to notify the Province of such failure within 10 Business Days of first learning of it, Supplier will be precluded from subsequently citing the Province’s failure as a reason for Supplier’s own subsequent failure to perform and from claiming additional costs for the Province failure. If any obligation of Supplier is extended for more than 30 Business Days under this Section due to a failure of the Province to complete any Province Dependency, Supplier may deliver to the Province a Change Request that sets out any proposed extensions to the applicable Milestone Deadlines and any increases in the Fees, that Supplier reasonably requires solely and directly as a result of the failure of the Province; provided, however, that Suppliers continue to use commercially reasonable efforts to meet the original deadline without extension at the corresponding Fees set out for the original obligation. The remedies set out in this Section 2 are Supplier’s sole remedies in the event of a failure on the part of the Province to complete any one or more Province Dependencies on or prior to the applicable Province Dependency Target Date.
  
3. Right to Suspend Project-Related Services. Upon 10 Business Days prior written notice to Supplier, the Province may, in its discretion, require Supplier to suspend its performance of all or any portion of any Project-Related Services that then remain unperformed for up to 12 months. The Province will use commercially reasonable efforts to include in the notice an estimate of the number of days’ suspension it requires and to keep Supplier up to date regarding any changes to the estimate. Upon receipt of the notice, Supplier will suspend its performance of the applicable Project-Related Services, commencing on the date for suspension specified in the notice, and will minimize all costs incurred by Supplier as a result of the suspension. Within 10 Business Days following receipt of a suspension notice, Supplier may deliver to the Province a Change Request that sets out any proposed extensions to the applicable Milestone Deadlines and any increases in the Fees, that Supplier reasonably requires solely and directly as a result of the suspension requested by the Province; provided, however, that Supplier continues to use commercially reasonable efforts to meet the original deadline without extension at the corresponding Fees set out for the original obligation. If Supplier fails to deliver a Change Request within the 10 Business Day period, then no Changes will be made as a result of the suspension. Upon the earlier of: (a) the expiration of the period of time during which the Province has required Supplier to suspend performance, and (b) the receipt by Supplier of notice from the Province terminating the suspension requirement, Supplier will take steps to resume the provision of the suspended Project-Related Services, and will resume the provision of the suspended Project-Related Services as soon as reasonably possible. The remedies set out in this Section are Supplier’s sole

remedies in the event of a requirement by the Province that Supplier suspend its performance of all or any portion of any Project-Related Services.

4. Remedies for Failure to Meet Milestone Deadlines. Without limiting the Province's rights or remedies under this Agreement, if either Party becomes aware that a Milestone Deadline will likely not be met, it will immediately notify the other Party of such likely failure, which notice will be escalated immediately to the Joint Executive Committee for consideration. If Supplier becomes aware that a Milestone Deadline will likely not be met and fails to notify the Province of the same within three days, such failure to notify the Province will be deemed to be an incurable, material breach of this Agreement, with an immediate right by the Province to terminate this Agreement. Any notice provided by Supplier will include the reasons for Supplier's failure, the potential effect of the failure on the ability of Supplier to perform the Services in accordance with the applicable Project Plan, the steps that Supplier proposes to take in order to remedy the failure and mitigate the effect of the failure, and the anticipated date by which Supplier will complete the Milestone and any other affected Milestones. If Supplier fails to complete any Milestone on or prior to the applicable Milestone Deadline, then the Province will be entitled to all applicable remedies set out in the applicable Statement of Work, or if the Milestone is a Material Milestone, then without limiting the Province's rights or remedies under this Agreement, the Province may immediately terminate this Agreement upon notice to Supplier if such Material Milestone is not completed within 30 days of the corresponding Milestone Deadline. If the Province so terminates in respect of a Material Milestone, Supplier will be entitled to be compensated by the Province on a time and materials basis (consistent with the rates set out in Schedule 8.12) for the actual Project-Related Services performed by Supplier for the corresponding Material Milestone up to the effective date of such termination.

## SCHEDULE 3.2 TESTING

1. Readiness. For each Test Component, on or prior to the date set out in the applicable SOW by which Supplier must deliver the Test Component to the Province, Supplier will complete all applicable internal testing (including system, component, integration, capacity, performance, operability, stress, volume, failover and disaster recovery testing) that is sufficient to ensure that the Test Component meets the following criteria: (a) the Test Component conforms to and performs in accordance with the applicable Specifications, and (b) the Test Component is ready for the Province to conduct the review and testing referred to in Sections 4 to 8, inclusive, below (“**Acceptance Testing**”).
2. Test Materials. Following Supplier’s completion of the obligations set out in Section 1 above, Supplier will provide to the Province for the purpose of the Acceptance Testing (the “**Test Materials**”): (a) the Test Component; (b) a signed notice that stating the criteria in Section 1, above, have been satisfied by Supplier (a “**Notice of Readiness**”); (c) copies of all reasonable supporting information, including all design documents, test results, implementation readiness reviews, and other material that the Province reasonably requests in order for the Province to perform the Acceptance Testing; (d) a test environment (including establishing, hosting, supporting and maintaining the test environment) along with physical or remote access by the Province to the test environment; and (e) all installation and training required by the Province to enable it to conduct the Acceptance Testing. Supplier will provide a single production grade integration and user acceptance test environment that supports multiple test instances to enable the Province to test its own different identity environments.
3. Intake into Acceptance Testing. Following receipt by the Province of a Notice of Readiness, the Province will within ten (10) Business Days (or such other applicable period specified in the applicable SOW) notify Supplier whether it accepts or rejects the Notice of Readiness. The Province will have the right to reject a Notice of Readiness if, acting reasonably, the Province determines that: (a) Supplier has not complied with all of the obligations set out in Sections 1 and 2 above (including if the Province determines that the Supplier’s internal testing was insufficient); or (b) the Test Materials indicate that the Test Component fails to conform to or perform in accordance with the applicable Specifications. If the Province rejects a Notice of Readiness, Supplier will correct the testing and the Test Component and re-perform the obligations set out in Sections 1 and 2 above. The procedure described in this Section 3 for acceptance of the Notice of Readiness will continue until such time as the Province notifies Supplier that it accepts the applicable Notice of Readiness.
4. Acceptance Testing Period. Following the acceptance by the Province of a Notice of Readiness, the Province will have the period of time described as the “**Acceptance Testing Period**” for the Test Component in the applicable SOW (or such longer period as the Parties may mutually agree) to determine, in its discretion, whether or not the Test Component conforms to the applicable Specifications. Acceptance Testing may include, at the Province’s option: (a) the operation of the Test Component in a live production or commercial environment (including the integration and operation of the Test Component in a live production or commercial environment with the systems of the Province and Other Service Providers); and (b) the performance by Supplier of all Services relating to the Test Component to the extent required in order to determine whether the Test Component conforms to and performs in accordance with the applicable Specifications, Services description and Service Levels, and that Supplier is capable of providing the Test Component and related Services in accordance with this Agreement. Except as expressly set out in any SOW, the Province will not be required to pay to Supplier any Fees payable in respect of the performance of the Services during Acceptance Testing.

5. Deficiencies. Promptly after or during the Testing Period, the Province may provide to Supplier a notice of any failure (a “**Failure Notice**”) of the Test Component (or, if applicable, any previously delivered Test Component or previously performed Service tested as part of the Acceptance Testing for the Test Component) to conform to the applicable Specifications (“**Deficiencies**”). Supplier will use commercially reasonable efforts to promptly correct the Deficiencies. After Supplier has completed its corrective efforts and acceptance by the Province of a new Notice of Readiness, the Province will resume Acceptance Testing in accordance with Section 4 above to verify if there are any Deficiencies (including those that have been corrected) and the provisions of Sections 3 and 4 above will apply to any additional Acceptance Testing.
6. Acceptance. Acceptance of a Test Component (“**Acceptance**”) (if any) will occur only upon the delivery of a signed notice by the Province to Supplier (an “**Acceptance Notice**”) stating that the Test Component is accepted. For greater certainty, the use by the Province of all or any part of any Test Component in a live production or commercial environment will not constitute Acceptance and the Province may so use all or any part thereof without waiving or otherwise affecting any rights that it has hereunder. The Province will promptly deliver an Acceptance Notice to Supplier in respect of a Test Component if the Province determines, in its discretion, that (a) the Test Component conforms to and performs in accordance with the applicable Specifications, Service description and Service Levels; (b) is integrated with the processes, controls, interfaces and systems of the Province and Other Service Providers and, where applicable, is fully documented so that the anticipated end user can utilize the functionality of the Test Component; and (c) meets any other criteria mutually agreed to by the Parties. The Acceptance by the Province of a Test Component will not preclude the Province from delivering a Failure Notice or otherwise refusing to provide Acceptance of any subsequently delivered Test Component on the basis that any Test Component in respect of which the Province has provided its Acceptance does not meet the applicable criteria for Acceptance set out in this Section when tested as part of the subsequently delivered Test Component.
7. Repeated Failures. If the Province delivers to Supplier a second Failure Notice relating to the same Test Component and the failure described in the Failure Notice would cause a Priority Level 1 or 2 service impact as defined in Exhibit A to Schedule 3.5, then Supplier will reimburse the Province for all internal and external costs and expenses incurred by the Province in connection with any subsequent Acceptance Testing conducted in respect of the Test Component.
8. Acceptance Deadlines. If Acceptance of a Test Component has not occurred on or before the date that is identified in the SOW as the “**Acceptance Deadline**” for that Test Component, the Province shall permit Supplier to continue its attempts to correct the Deficiencies for a reasonable period of time, but in any event not less than thirty (30) days, in which case the Province will have another Testing Period to verify if there are any Deficiencies (including those that have been corrected). If at the end of the permitted time period, (i) the Test Component contains Material Deficiencies, the Province may terminate this Agreement immediately, or (ii) the Test Component contains Deficiencies that are not Material Deficiencies, the Province and the Supplier shall promptly work together in good faith to prepare and execute a plan to correct such Deficiencies in a diligent and timely manner, minimizing delay and disruption to the orderly delivery of the Services.
9. Failure to Provide Notice of Acceptance or Failure. If the Province fails to deliver a Notice of Acceptance or Notice of Failure within a required period specified in this Agreement (including a SOW), the Test Component to which such Notice of Acceptance or Notice of Failure relates will be deemed accepted by the Province for the sole purpose of determining whether any payments by the Province that are contingent upon Acceptance of the Test Component are payable to Supplier (but subject to the satisfaction of any other applicable conditions of payment set out in this Agreement).

For clarity, this Section 9 will in no way operate to relieve Supplier from any obligation under this Schedule to remedy Deficiencies with respect to a Test Component.

## SCHEDULE 3.4 SERVICE LEVELS

1. Monitoring. Supplier will continuously monitor the Services to ensure that Supplier is meeting or exceeding the Service Levels. Supplier will give notice to the Province immediately if Supplier knows or ought to know that Supplier has failed or will fail to achieve a Service Level.
2. Measurement. Supplier will (a) measure all data reasonably required by the Province to determine Supplier's performance of the Measured Services against the applicable Service Levels set out in each SOW; (b) use, for each Service Level and the reports described below, the measurement methodologies identified for that Service Level or such other means as reasonably required by the Province to confirm Supplier's compliance with the Service Level; and (c) upon request, provide the Province with all Service Level data contemplated by Sections 2, 3 and 4 of this Schedule in an electronic form and format that will enable the Province to use, copy, sort, manipulate, modify, analyze, extract, and translate the data. Without limiting the foregoing, Supplier will keep complete and accurate logs of all such data for no less than 2 years after the year in which they were collected, and will provide the Province with access to the logs promptly upon the Province's request.
3. Monthly Performance Report. On or before the tenth calendar day of each calendar month, Supplier will deliver to the Province a report, in a form and format approved by the Province, containing (a "**Monthly Performance Report**"): (a) for each Measured Service and with respect to the immediately preceding calendar month, all data relating to the provision of the Service during the applicable month; (b) for each Measured Service during the immediately preceding calendar month, details of Supplier's performance as measured against the Service Levels for the Service during the applicable month; (c) details of any Excusable Event that Supplier believes has impacted the Measured Services during the applicable month; and (d) any other information reasonably requested by the Province.
4. Specific Period Report. Upon the Province's request, Supplier will provide to the Province a report, in a form and format approved by the Province, containing, for each Measured Service: (a) all data relating to the provision of the Measured Service during the applicable period (which may be for a single day), and (b) details of Supplier's performance as measured against the Service Levels during the applicable period (including details of any Measured Services that were supposed to be performed during the applicable day that were not fully performed as required).
5. Assignment and Adjustment of Weighting Factors. In respect of each Statement of Work, the Province may, at any time during the term of the Statement of Work, and in its sole discretion, assign one or more percentage points to any one or more of the Measured Services under the Statement of Work to be the Weighting Factor for the Measured Services by providing notice of the assignment to Supplier, which may include specifying the initial Weighting Factors in the SOW. If the Province does not assign any Weighting Factors to the Measured Services under a SOW, then each Measured Service under the SOW will be deemed to have an equal Weighting Factor. The Province will have the right, on 90 days notice, but no more than twice in its fiscal year, to adjust, in its discretion, the Weighting Factors for the Measured Services under a SOW. Any adjustment made under this Section to any Weighting Factors will be deemed to be an Ordinary Course Change.
6. Service Level Failures. Subject to Section 9 below, if Supplier fails to deliver any Measured Service, including with respect to each Serviceable Entity, at a level which meets or exceeds the applicable Service Level (a "**Service Level Failure**"), then Supplier will refund or credit, as applicable, to the Province the Service Level Credit calculated pursuant to Section 9 below in

order to compensate the Province in part for the reduced value of the Services actually provided by Supplier (and not as a penalty or exclusive liquidated damages). Service Level Credits will be aggregated for all missed Service Levels in the applicable Measurement Period. Service Level Credits will not be deducted from damages to which the Province is entitled under this Agreement, nor will Service Level Credits be included in calculating the limitation of liability amount under Section 11.7 of this Agreement.

7. Incident Management. If Supplier commits a Service Level Failure in respect of a Measured Service, without limiting the other requirements set out in this Agreement, Supplier will comply with Schedule 3.5 of this Agreement.
8. Excusable Events. Supplier will not be responsible for any Service Level Failure to the extent that the Parties agree that the Service Level Failure is attributable to the Province or its Other Service Providers acting on behalf of the Province (excluding Supplier and any Supplier Subcontractors) (an “**Excusable Event**”). If Supplier believes that an Excusable Event has occurred, Supplier will advise the Province of this belief and of its reasons for this belief in the next Monthly Performance Report and at the next meeting of the Joint Operational Committee the Parties will discuss whether or not an Excusable Event did in fact occur and, if the Parties agree that an Excusable Event did occur, what adjustments will be made (if any) to the calculation of Supplier’s performance of the affected Measured Services.
9. Calculation of Service Level Credits. For each Service Level Failure that occurs for which the Province is entitled to a Service Level Credit, the amount of the corresponding Service Level Credit will be calculated by the Province in accordance with the following formula:  
  
Service Level Credit = A x B, where A = the Measured Service Weighting Factor for the Measured Service in respect of which the Service Level Failure occurred, under the applicable SOW; and B = The Amount At Risk for that SOW.
10. Critical Thresholds. The Province may designate any one or more of the Measured Services to be subject to a “**Critical Threshold**” and for that Measured Service, the levels of performance or other performance by Supplier that will give rise to the corresponding remedies will be set out in the Service Level under the applicable SOW, including by way of example, immediate escalation to a particular level of the governance process or termination rights arising under this Agreement upon the occurrence of the Critical Threshold. If a Critical Threshold occurs in respect of a Measured Service, then the Province will be entitled to exercise the express remedies applicable to the Critical Threshold.
11. Remedy for Failure to Meet Service Levels. Supplier recognizes that its failure to meet a Service Level may have a material adverse impact on the business and operations of the Province and that damages resulting from Supplier’s failure to meet a Service Level may not be capable of precise determination. If Supplier fails to meet any Service Level for which a remedy is expressly provided in this Agreement, then the Province will be entitled to such remedies. Supplier agrees that it is obligated to meet all Service Levels, even if no remedy for a failure to meet the Service Level is expressly provided in this Agreement. For greater certainty, the Province’s express remedies pursuant to Section 3.4 and this Schedule, including in respect of Service Level Credits and Critical Thresholds) constitute only partial compensation (and not a penalty or exclusive liquidated damages) for the damage that the Province may suffer as a result of Supplier’s failure to meet Service Levels and such remedies will be without prejudice to any other rights or remedies to which the Province may be entitled under this Agreement, at law or in equity or otherwise.

**SCHEDULE 3.5  
INCIDENT MANAGEMENT**

1. **Monitoring.** Supplier will (a) monitor all Services continuously 24 hours a day, 7 days per week (including non-Business Days) throughout the Term (“**24/7**”) in order to identify, investigate, report and remediate all Incidents in accordance with this Schedule and (b) provide the Services set out this Schedule continuously 24/7, unless this Schedule expressly provides otherwise.
2. **Supplier Service Centre.** Supplier will (a) maintain and manage a log (“**Trouble Tickets**”) to document and track each Incident in accordance with this Schedule and (b) provide a single point of contact that is available 24/7 to receive, initiate and escalate Trouble Tickets in accordance with this Schedule (the “**Supplier Service Centre**”) that will be accessible to the Province by a toll free telephone number and electronic mail address. Supplier will also provide secure access to the Province to the Trouble Ticket system online at <https://helpdesk.securekey.net>.
3. **Province Notification.** Upon the discovery of an Incident or potential Incident by the Province, the Province will provide notification to the Supplier Service Centre (including by verbal notification), which will include a detailed description of the Incident or potential Incident, the Province’s determination as to its Priority Level, and any other information that the Province deems applicable.
4. **Supplier Notification.** Upon the discovery of an Incident by Supplier, Supplier will provide written or electronic notice to the Province’s Incident contact for the applicable “**Priority Level**” set out in Exhibit A to this Schedule within the applicable response time set out in this Schedule, which will include a detailed description of the Incident and Supplier’s proposed categorization of the Incident by Priority Level for approval by the Province.
5. **Categorization.** The Province will have the right to categorize or re-categorize the Priority Level of an Incident, in its sole discretion, in accordance with the Province’s criteria for the categorization of the Priority Levels of Incidents set out in Exhibit A to this Schedule. If the Province elects to re-classify the Priority Level of an Incident, then, for the purposes of calculating Supplier’s achievement of a Restoration or Resolution, the following rules will apply: (a) the applicable Restoration Time for the Incident will be that of the re-classified Priority Level; (b) the calculation of the period of time within which Supplier achieves Restoration or Resolution, as the case may be, will commence as of the time that the Province notifies Supplier of the re-classification of the Severity Level of the Incident; and (c) for the purpose of calculating the Province’s entitlement to remedies for Supplier’s failure to meet the applicable Restoration Time, the remedies that will apply will be based on the Restoration Time that applies to the re-classified Priority Level.
6. **Diagnosis and Resolution.** Upon receiving a notice of an Incident from the Province, or after otherwise becoming aware of an Incident, Supplier will, in accordance with applicable Service Levels: (a) assemble the necessary resources; (b) proceed to investigate, diagnose and analyze the Incident in order to identify its root cause; (c) respond to the Incident in accordance with the applicable response target set out in the table below; and (d) achieve Resolution or Restoration of an Incident within the applicable time period set out in the table below (each a “**Restoration Time**”):

<b>Priority Level</b>	<b>Response Target</b>	<b>Restoration Time</b>
1	30 minutes	Within 2 hours of the Clock Start Time of an Incident.
2	60 minutes	Within 4 hours of the Clock Start Time of an Incident.

3	4 hours	Within 2 Business Days of the Clock Start Time of an Incident.
4	1 Business Day	Within 4 Business Days of the Clock Start Time of an Incident.

For the purpose of measuring the Restoration Time for an Incident, the Restoration Time will begin at the Clock Start Time for the Incident and end at the Clock Stop Time for the Incident.

7. **Business Hours.** Supplier's efforts to investigate, diagnose, analyze and Restore or Resolve an Incident will be as follows: (a) with respect to an Incident categorized as Priority Level 1 or 2, Supplier' efforts will be continuous 24/7 until the Incident is Resolved or Restored or its Priority Level is reduced to Priority Level 3 or 4 and Supplier will manage its personnel, including breaks and shift changes, such that a least one Supplier technician is always working on the Incident until it is Resolved or Restored or its Priority Level is reduced to Priority Level 3 or 4; and (b) with respect to an Incident categorized as Priority Level 3 or 4, Supplier' efforts will continue during Business Hours until the Incident is Resolved or Restored.
8. **Escalation.** Supplier will escalate the Restoration and Resolution of Incidents based on elapsed time through notification and involvement of Supplier management as set out in the table below:

Priority Level	Escalation Level	Notification (Elapsed Time from Clock Start Time)
1	Supervisor	Immediately
	Manager	1 hour
	Senior Management	2 hours
2	Supervisor	30 minutes
	Manager	2 hours
	Senior Management	3 hours
3	Supervisor	4 hours
	Manager	8 hours
	Senior Management	N/A
4	Supervisor	1 Business Day
	Manager	4 Business Days
	Senior Management	N/A

Notwithstanding the foregoing, in connection with an Incident, the Province, in its sole discretion, may initiate appropriate escalations when required, including where Supplier fails to meet any Service Levels relating to Supplier's obligations under this Schedule.

9. **Coordination.** Supplier will work with Other Service Providers and other applicable third parties to Restore or Resolve an Incident where a coordinated response is required.
10. **Update Reports.** Until Supplier has achieved Resolution of an Incident, Supplier will provide update reports to the Province in accordance with the frequency set out in the table below, or as frequently as reasonably directed by the Province, updating the Province on the status of the Incident and Supplier's Resolution (or process of Resolution) thereof, including the status of Supplier's implementation of its corrective action plan, and any information reasonably requested by the Province:

Priority Level	Frequency of Providing Update Reports
1	At least once every thirty minutes.
2	At least once every 60 minutes.
3	At least once every 4 hours.
4	Upon issue confirmation and as required.

11. Post Incident Reports. In respect of Priority Level 1 or 2 Incidents, and any Priority Level 3 Incident reasonably designated by the Province to be subject to post-Incident reporting, Supplier will deliver, within three Business Days after achieving Restoration or Resolution of an Incident, a detailed post-Incident report to the Province that will include: (a) a final detailed description of the Incident and its root cause or causes, along with the investigation, diagnosis and analysis undertaken by Supplier in support of its conclusions; (b) the action Supplier took to achieve Resolution of the Incident, including the actions Supplier took, is taking, or will take, to ensure that the Incident and its root cause or causes will not occur again; and (c) any other information relating to the Incident reasonably requested by the Province.
  
12. Records of Incidents. Supplier will keep accurate and up-to-date records of all reports made relating to an Incident, and will keep the records for no less than two years from the date when Restoration or Resolution is achieved for the Incident. Supplier will provide the records to the Province upon request.
  
13. Chronic or Repeat Incidents. Supplier will provide priority attention and efforts under this Schedule with respect to any Problems identified by the Province in writing as resulting in chronic or repeat Incidents. Supplier will designate a senior technical or management personnel resource to co-ordinate testing and resolution of any Problems, and to interface with applicable personnel designated by the Province. The Supplier's designated resource will have the ability to assign technical resources, commit field personnel, change system components and involve manufacturers to Resolve any chronic or repeated Incidents.
  
14. Change Windows. Supplier will only be permitted to perform scheduled or preventative maintenance in respect of the Services upon providing notice to the Province 10 Business Days prior to notice at the following times: (a) where there is moderate risk of an Incident, on Sundays between 1:00 a.m. and 5:00 a.m. PT; (b) where there is minimal risk of an Incident, between 11:00 pm and 7:00 am PT daily; and (c) at any other time specified in advance by the Province in writing.

**EXHIBIT A TO SCHEDULE 3.5  
PRIORITY LEVELS**

<b>Priority Level</b>	<b>Description</b>
1 (Critical)	<p><b>Service Impact</b> – defined as a problem that causes complete loss of service or compromise integrity of the client. The problem has one or more of the following characteristics:</p> <ul style="list-style-type: none"> <li>• Widespread and consistent inability for users to authenticate due to failure of Service;</li> <li>• Severely degraded performance caused by malfunctioning components; and</li> <li>• Security: Application Keys compromised or unauthorized access to production system detected</li> </ul> <p><b>Business impact</b> on the Province :</p> <ul style="list-style-type: none"> <li>• extensive and visible service impact to a material number of service recipients or customers;</li> <li>• impact to the Province’s reputation or financial loss to the Province or its service recipients or customers; or</li> <li>• significant security risk to the province, including any actual or potential security breach or breach of Security Obligations or Privacy Obligations.</li> </ul>
2 (Urgent)	<p><b>Service Impact</b> – this classification applies when processing can proceed but performance is significantly reduced and/or operation of the system is considered severely limited. No workaround is available, however operation can continue in a restricted fashion. Examples of urgent incidents are:</p> <ul style="list-style-type: none"> <li>• Authentication requests failing frequently; and</li> <li>• Failure to process Card Status Updates.</li> </ul> <p><b>Business impact</b> on the Province :</p> <ul style="list-style-type: none"> <li>• significant and serious levels of service disruptions or potential for same;</li> <li>• extensive and visible service impact to a material number of service recipients or customers and the impact is large or growing;</li> <li>• reduced or missed Service Level is expected to deteriorate; or</li> <li>• moderate security risk to the Province.</li> </ul>
3 (Minor)	<p><b>Service Impact</b> – a problem that causes minimal loss of service. The impact of the problem is minor or an inconvenience, or there are acceptable workarounds. Examples of minor incidents are:</p> <ul style="list-style-type: none"> <li>• Isolated and intermittent authentication failures; and</li> <li>• Minimal performance degradation.</li> </ul> <p><b>Business impact</b> on the Province :</p> <ul style="list-style-type: none"> <li>• degraded operations and Service Levels but still processing or providing all service functions;</li> <li>• able to maintain (functional) acceptable levels of customer service;</li> <li>• issues are expected to continue;</li> <li>• some loss of functionality could potentially become serious; or</li> </ul>

Priority Level	Description
	<ul style="list-style-type: none"> <li>• minimal security risk to the Province.</li> </ul>
4 (Non- Impacting)	<p><b>No Service Impact</b> – a problem that causes no loss of service and in no way impedes use of the system. Examples of Incidents with no Service Impact are:</p> <ul style="list-style-type: none"> <li>• failure with delivery and correctness of operational reports; and</li> <li>• failure with delivery and correctness of invoices.</li> </ul> <p><b>Business impact</b> on the Province:</p> <ul style="list-style-type: none"> <li>• able to maintain acceptable levels of service and systems and operations remain stable.</li> </ul>

## SCHEDULE 4.1 GOVERNANCE

1. Engagement Resources. The Parties will provide the following resources which will be responsible for the matters described as follows (as may be amended during the Term as mutually agreed in writing by the Parties):
  - (a) “**Supplier SPOC**” will be a single point of contact for the Province reasonably acceptable to the Province and will have the following functions and responsibilities under this Agreement:
    - (i) act as the first point of contact for any operational and performance issues in respect of this Agreement;
    - (ii) act as interface between the Province and Supplier Personnel, Supplier Subcontractors, and Suppliers providers of Procured Equipment; and
    - (iii) escalate unresolved matters within Supplier and to the Joint Operations Committee as required.
  
2. Governance Committees. The Parties will form the following committees which will be responsible for the matters described as follows (as may be amended during the Term as mutually agreed in writing by the Parties):
  - (a) “**Joint Executive Committee**” will be initially comprised of for members (initially being Dave Nikolejsin and Kevena Bamford for the Province and Greg Wolford and Andre Boysen for Supplier) with equal representation from each Party and the Parties may appoint or change members of the committee as mutually agreed in writing. The Joint Executive Committee will meet on a monthly during the implementation of the Services and quarterly during the operation of the Services and will have the following functions and responsibilities under this Agreement:
    - (i) provide executive oversight and strategic direction;
    - (ii) set priorities for guiding the relationship between the Parties;
    - (iii) maintain effective and positive joint relations at the executive level; and
    - (iv) resolve matters escalated from the Joint Operations Committee.
  - (b) “**Joint Operations Committee**” will be initially comprised of four members (initially being Kevena Bamford and Ian Bailey for the Province and Andre Boysen and Hugh Cumming for Supplier) with equal representation from each Party and the Parties may appoint or change members of the committee as mutually agreed in writing. The Joint Operations Committee will meet every two weeks during the implementation of the Services and on a monthly during the operation of the Services and will have the following functions and responsibilities under this Agreement:
    - (i) operationalize this Agreement;
    - (ii) maintain effective and positive joint relations at the operational level;
    - (iii) monitor Supplier’s performance under this Agreement;

- (iv) review the Monthly Performance Report;
- (v) track Milestones and the delivery of Deliverables;
- (vi) review remediation plans prepared by Supplier in respect of the Services, including in respect of any chronic or repeat Incidents or Problems;
- (vii) escalate unresolved matters to the Joint Executive Committee;
- (viii) resolve operational issues; and
- (ix) resolve escalated matters from ad-hoc working groups.

3. Working Groups. From time to time, the Joint Executive Committee or Joint Operations Committee may form ad-hoc working groups and determine their respective membership, functions and responsibilities, and meeting frequencies and the Joint Executive Committee and Joint Operations Committee may delegate any of their respective functions and responsibilities to any working group they form.

## SCHEDULE 5.5 SECURITY

### Definitions

1. In this Schedule,
  - (a) “**Equipment**” means any equipment, including interconnected systems or subsystems of equipment, software and networks, used or to be used by Supplier to provide the Services;
  - (b) “**Facilities**” means any facilities at which Supplier provides or is to provide the Services;
  - (c) “**Information**” means information
    - (i) in the Deliverables, or
    - (ii) accessed, produced or obtained by Supplier (whether verbally, electronically or otherwise) as a result of the Agreement; For clarity, Information does not include any information that is not Province Data.
  - (d) “**Record**” means a “record” as defined in the *Interpretation Act*;
  - (e) “**Sensitive Information**” means Information that is “personal information” as defined in the *Freedom of Information and Protection of Privacy Act*.
  - (f) “**Services Worker**” means an individual involved in providing the Services for or on behalf of Supplier and, for greater certainty, may include
    - (i) Supplier or a subcontractor if an individual, or
    - (ii) an employee or volunteer of Supplier or of a subcontractor.

### Schedule contains additional obligations

2. The obligations of Supplier in this Schedule are in addition to any other obligation in the Agreement or the Schedules attached to it relating to security including, without limitation, the obligations of Supplier in Schedule 10.3

### Services Worker confidentiality agreements

3. Supplier must not permit a Services Worker who is an employee or volunteer of Supplier to have access to Sensitive Information unless the Services Worker has first entered into a confidentiality agreement with Supplier to keep Sensitive Information confidential on substantially similar terms as those that apply to Supplier under the Agreement.

### Services Worker security screening

4. Supplier may only permit a Services Worker who is an employee or a volunteer of Supplier to have access to Sensitive Information or otherwise be involved in providing the Services if, after having subjected the Services Worker to the personnel security screening requirements consistent with industry standards applicable to top tier providers of similar services and any additional requirements Supplier may consider appropriate, Supplier is satisfied that the Services Worker

does not constitute an unreasonable security risk. Supplier must create, obtain and retain Records documenting Supplier's compliance with the security screening requirements set out in this Section 4.

#### Services Worker activity logging

5. Subject to section 6, Supplier must create and maintain detailed Records logging the activities of all Service Workers in relation to:
  - (a) their access to Sensitive Information; and
  - (b) other matters specified by the Province in writing for the purposes of this section.
6. [Intentionally Deleted]

#### Facilities and Equipment protection and access control

7. Supplier must create, maintain and follow a documented process to:
  - (a) protect Facilities and Equipment of Supplier required by Supplier to provide the Services from loss, damage or any other occurrence that may result in any of those Facilities and Equipment being unavailable when required to provide the Services; and
  - (b) limit access to Facilities and Equipment of Supplier
    - (i) being used by Supplier to provide the Services, or
    - (ii) that may be used by someone to access Information

to those persons who are authorized to have that access and for the purposes for which they are authorized, which process must include measures to verify the identity of those persons.
8. If the Province makes available to Supplier any Facilities or Equipment of the Province for the use of Supplier in providing the Services, Supplier must comply with any policies and procedures provided to it by the Province on acceptable use, protection of, and access to, such Facilities or Equipment.

#### Sensitive Information access control

9. Supplier must:
  - (a) create, maintain and follow a documented process for limiting access to Sensitive Information to those persons who are authorized to have that access and for the purposes for which they are authorized, which process must include measures to verify the identity of those persons; and
  - (b) [Intentionally Deleted].

#### Integrity of Information

10. Supplier must:

- (a) create, maintain and follow a documented process for maintaining the integrity of Information while possessed or accessed by Supplier; and
  - (b) [Intentionally Deleted].
11. For the purposes of section 10, maintaining the integrity of Information means that, except to the extent expressly authorized by the Agreement or approved in writing by the Province, the Information has:
- (a) remained as complete as when it was acquired or accessed by Supplier; and
  - (b) not been altered in any material respect.

Documentation of changes to processes

12. Supplier must create and maintain detailed Records logging any changes it makes to the processes described in sections 7, 9 and 10.

Notice of security breaches

13. If Supplier becomes aware that:
- (a) unauthorized access, collection, use, disclosure, alteration or disposal of Information or Records containing Information; or
  - (b) unauthorized access to Facilities or Equipment
- has occurred or is likely to occur (whether or not related to a failure by Supplier to comply with this Schedule or the Agreement), Supplier must immediately notify the Province of the particulars of that occurrence or likely occurrence. If Supplier provides a notification under this section other than in writing, that notification must be confirmed in writing to the Province as soon as it is reasonably practicable for Supplier to do so.

Review of security breaches

14. If the Province decides to conduct a review of a matter described in section 13 (whether or not the matter came to the attention of the Province as a result of a notification under section 13), Supplier must, on the request of the Province, participate in the review to the extent that it is reasonably practicable for Supplier to do so.

Retention of Records

15. Unless the Agreement otherwise specifies, Supplier must retain all Records in Supplier's possession that contain Information until directed by the Province in writing to dispose of them or deliver them as specified in the direction.

Storage of Records

16. [Intentionally Deleted]

## Audit

17. 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 Supplier, enter on Supplier's premises to inspect and, at the Province's discretion, copy:
- (a) any Records in the possession of Supplier containing Information; or
  - (b) any of Supplier's Information management policies or processes (including the processes described in sections 7, 9 and 10 and the logs described in sections 5 and 12) relevant to Supplier's compliance with this Schedule

and Supplier must permit, and provide reasonable assistance to, the exercise by the Province of the Province's rights under this section.

## Termination of Agreement

18. 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 Supplier, terminate the Agreement by giving written notice of such termination to Supplier, upon any failure of Supplier to comply with this Schedule in a material respect.

## Interpretation

19. In this Schedule, unless otherwise specified:
- (a) references to sections are to sections of this Schedule; and
  - (b) references to appendices are to the appendices attached to this Schedule.
20. Any reference to the "Supplier" in this Schedule includes any subcontractor retained by Supplier to perform obligations under the Agreement and Supplier must ensure that any such subcontractors comply with this Schedule.
21. Appendix 5.5-1 attached to this Schedule is a part of this Schedule.
22. If there is a conflict between a provision in an appendix attached 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.
23. If there is a conflict between:
- (a) a provision of the Agreement, this Schedule or an appendix attached to this Schedule; and
  - (b) a documented process required by this Schedule to be created or maintained by Supplier
- the provision of the Agreement, Schedule or appendix will prevail to the extent of the conflict.
24. The obligations of Supplier in this Schedule will survive the termination of the Agreement.

**SCHEDULE 5.6**  
**INSURANCE**

1. Supplier must, without limiting Supplier's obligation or liabilities and at Supplier'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 or general umbrella liability coverage or both in a total amount not less than \$10,000,000 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 Supplier's liability resulting from errors or omissions in the performance of the Services in an amount per occurrence, and in the aggregate, calculated as follows:
    - (i) not less than \$2,000,000; and
    - (ii) not less than \$5,000,000.
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. Supplier must provide the Province with evidence of all required insurance as follows:
  - (a) within 10 Business Days of commencement of the Services, Supplier 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, Supplier 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, Supplier 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 Supplier must maintain throughout the Term that alternative in accordance with the terms of the approval.

**SCHEDULE 5.7**  
**BUSINESS CONTINUITY PLANNING AND DISASTER RECOVERY**

1. Compliance with Business Continuity Plan. At Supplier's cost and expense, Supplier will prepare and deliver for the Province's approval on or before September 1, 2012 a business continuity plan that meets the minimum business continuity and disaster recovery requirements set out in this Schedule (the "**Business Continuity Plan**"). Supplier will comply with the Business Continuity Plan.
2. Notice. Supplier will immediately notify the Province upon the occurrence of any event that may cause a Business Interruption including any Incidents or other events that might impact Supplier's performance of the Services in accordance with the Agreement, including the Service Levels.
3. Business Interruption. Upon the occurrence of a Business Interruption, as determined in the Province's discretion, Supplier will restore the Services in accordance the Business Continuity Plan.
4. Maintenance of Business Continuity Plan. Supplier will regularly review and update the Business Continuity Plan, including all required updates in response to any material Change in the Services or delivery of the Services, and no less than once every 12 months, Supplier will conduct a scheduled Business Continuity Plan maintenance review with the Province. Supplier will consult with the Province regarding any updates to the Business Continuity Plan and will not make any changes to the Business Continuity Plan (including the location of any back-up sites) without obtaining the prior written consent of the Province. Supplier will provide the Province with each updated version of the Business Continuity Plan when updated. Where the Province reasonably identifies any areas where improvement in the Business Continuity Plan is required (if any), Supplier will promptly implement the improvements.
5. Testing of Business Continuity Plan. Supplier will implement a Business Continuity Plan testing process as follows: (a) Supplier will test the Business Continuity Plan no less than once every 12 months (or more frequently if required by the Province) and will promptly deliver the test results to the Province; (b) Supplier will, together with the Province, ensure that the breadth and depth of testing activities are commensurate with the importance of the Services being provided to the Province; (c) upon request, Supplier will allow the Province to participate in tests of the Business Continuity Plan; and (d) Supplier will promptly notify the Province as soon as possible of any Business Continuity Plan deficiencies or failures and will promptly remediate the cause of the deficiencies or failures (and the Province may require Supplier to retest to ensure successful remediation).
6. Minimum Requirements. The Business Continuity Plan will be in writing and include, with detail appropriate for the service, complexity of the environment and probability of occurrence the following minimum requirements: (a) a description of the persons, roles, responsibilities, procedures and processes required to: (i) provide a coordinated approach in managing Incident response activities at the time of any Business Interruption; and (ii) recover operations and services (including the Services) at the time of any Business Interruption; (b) a description of the failover capability provided by each Failover Service Provider that is adequate in the event of a Business Interruption to ensure continued provision of the Services provided by such Failover Service Provider; (c) a crisis management plan consisting of communication and escalation processes applicable in the event of a Business Interruption, including Supplier's: (i) internal communication and escalations procedures(s); and (ii) external communication and escalation procedures to the Province; (d) measures for minimizing: (i) the loss or failure of Supplier's required resources, including systems, data, hardware, software, facilities and Supplier Personnel;

(ii) cost; and (iii) duration of a Business Interruption; (e) measures for protecting the Province's business operations and assets and ensuring continuity of the Services in the event of a Business Interruption; (f) measures to ensure that the Province has ready access to its assets and the information and documentation described in Section 12.5 of the main body of the Agreement; and (g) a process for restoring the Services to full functionality in accordance with the Specifications and Service Levels after a Business Interruption has occurred within a time frame provided for therein or as otherwise required by this Agreement.

7. Compatibility with Province Plans. At the Province's request, Supplier will take all steps necessary to ensure that the Business Continuity Plan is compatible with the Province's disaster recovery and business continuity plans.
8. Allocation of Resources. Without limiting Supplier's obligations under this Agreement, whenever a Business Interruption causes Supplier to allocate limited resources among Supplier's customers, Supplier will not take resources used to provide the Services to the Province and re-deploy them to provide services to other Supplier clients without the consent of the Province. When allocating additional resources as a result of a Business Interruption, Supplier will treat the Province no less favourably than any of its other customers in the allocation of such resources.
9. Supplier Emergency Contact Information. Within five Business Days following the Effective Date, Supplier will provide the Province with emergency contact information (including out of office contact information) for Supplier Personnel equipped with the appropriate training and experience to assist the Province in the event of a Business Interruption and keep the contact information up to date and incorporate it into the Business Continuity Plan.

**SCHEDULE 5.8**  
**PROCURED EQUIPMENT REQUIREMENTS**

1. All right, title, benefit and interest in and to any Procured Equipment and risk of loss therein will pass from Supplier to the Province upon the Province providing acceptance with respect to the Procured Equipment in the manner specified in the purchaser order for the Procured Equipment.
2. Any warranty for Procured Equipment will be provided by the Procured Equipment manufacturer or, if software, the third party licensor of the software and will accompany the Procured Equipment.
3. Any warranty provided with Procured Equipment will be between the Province and the third party licensor or the Procured Equipment manufacturer, as the case may be.
4. Subject to section 5, Supplier will be responsible for payment of all fees for transportation to a Province of tangible Procured Equipment under a purchaser order from the point of shipment to a site identified or set out in the purchase order, including all costs arising in connection with loading and unloading the tangible Procured Equipment, mileage charges, insurance charges, duty for the shipment of Procured Equipment to Canada, customs clearance for the shipment of Procured Equipment to Canada and brokerage charges for the shipment of Procured Equipment to Canada.
5. If a Province requests expedited shipping of tangible Procured Equipment or other out of the ordinary special Services under a purchase order, Fees for such out of the ordinary special Services may apply, provided, however, that the Province has agreed to such Fees in the purchase order.
6. Prior to delivery, Supplier will ensure that tangible Procured Equipment is handled, boxed, and loaded in accordance with procedures, and in packaging materials to preserve the value and performance of the tangible Procured Equipment. All packaging materials will be marked with the appropriate order number(s) and will be addressed to the appropriate Province designated shipping contract. Supplier will ensure that enclosed with each shipment of tangible Procured Equipment is a shipping notice setting out a description of the contents and Supplier' name and the relevant order number. Supplier will ensure that each shipment is complete with all required customs documentation.
7. Any license or use agreement provided with software or systems purchased by a Province through the provision of Procured Equipment will be between the Province and the third party licensor or the systems manufacturer, as the case may be. To the extent the vendor or licensor of software or systems purchased by the Province through the provision of Procured Equipment is Supplier, the Province and Supplier will enter into a separate license or use agreement setting out the license terms or terms of use, as the case may be, of such software or systems, including as may be set out in a SOW.

**SCHEDULE 6.4  
FORM OF CHANGE ORDER**

<b>Change Order</b>	
<p>This Change Order (“<b>CO</b>”) is made as of the Effective Date (set out below) under and is subject to the terms and conditions of the forms part of the Master Services Agreement between <b>SECUREKEY TECHNOLOGIES INC.</b> (“<b>Supplier</b>”) and <b>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA</b> (the “<b>Province</b>”), as represented by the Minister of Labour, Citizens’ Services and Open Government made as of April ●, 2012, as amended from time to time (the “<b>Agreement</b>”).</p> <p>All capitalized terms used in this Change Order and not otherwise defined will have the meaning given to them in the Agreement unless otherwise specifically provided for herein.</p>	
<b>CO Number:</b>	CO-●
<b>CO Name:</b>	●
<b>Effective Date:</b>	●
<b>Change Request initiated by:</b>	[the Province] OR [Supplier]
<b>Change Response information:</b>	[Change Response number ●, titled “●” was delivered to the Province on ●]
<b>Change: ●</b>	
<p>This CO may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which taken together will be deemed to constitute one and the same instrument. Delivery of an executed signature page to this CO by any Party by electronic transmission will be as effective as delivery of a manually executed copy of the CO by that Party.</p>	
<p><i>Each CO that amends the terms and conditions of the Agreement must be reviewed and approval by Legal Services Branch, Ministry of Justice.</i></p>	

**Executed by the Parties.**

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 Labour, Citizens' Services )  
and Open Government )  
in the presence of: )

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
For the Minister

**SECUREKEY TECHNOLOGIES INC.**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE 8.12**

*[Redacted]*

**SCHEDULE 10.3**  
**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 Supplier as a result of the Agreement or any previous agreement between the Province and Supplier 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.

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, Supplier is aware of and complies with Supplier'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, Supplier may only collect or create personal information that is necessary for the performance of Supplier’s obligations, or the exercise of Supplier’s rights, under the Agreement.
4. Unless the Agreement otherwise specifies or the Province otherwise directs in writing, Supplier 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, Supplier must tell an individual from whom Supplier 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 Supplier’s collection of personal information.

### Accuracy of personal information

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

### Requests for access to personal information

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

### Correction of personal information

8. Within 5 Business Days of receiving a written direction from the Province to correct or annotate any personal information, Supplier must annotate or correct the information in accordance with the direction.
9. When issuing a written direction under section 8, the Province must advise Supplier of the date the correction request to which the direction relates was received by the Province in order that Supplier may comply with section 10.
10. Within 5 Business Days of correcting or annotating any personal information under section 8, Supplier 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, Supplier disclosed the information being corrected or annotated.
11. If Supplier receives a request for correction of personal information from a person other than the Province, Supplier must promptly advise the person to make the request to the Province and, if the Province has advised Supplier of the name or title and contact information of an official of the Province to whom such requests are to be made, Supplier must also promptly provide that official's name or title and contact information to the person making the request.

### Protection of personal information

12. Supplier 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

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

### Retention of personal information

14. Unless the Agreement otherwise specifies, Supplier 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

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

### Disclosure of personal information

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

### Notice of foreign demands for disclosure

18. In addition to any obligation Supplier 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 Supplier, Supplier:
  - (a) receives a foreign demand for disclosure;
  - (b) receives a request to disclose, produce or provide access that Supplier 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

Supplier 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

19. In addition to any obligation Supplier may have to provide the notification contemplated by section 30.5 of the Act, if Supplier knows that there has been an unauthorized disclosure of personal information in the custody or under the control of Supplier, Supplier 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

20. 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 Supplier, enter on Supplier's premises to inspect any personal information in the possession of Supplier or any of Supplier's information management policies or practices relevant to Supplier's management of personal information or Supplier's compliance with this Schedule, and Supplier must permit and provide reasonable assistance to any such inspection.

### Compliance with the Act and directions

21. Supplier must in relation to personal information comply with:
  - (a) the requirements of the Act applicable to Supplier 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.
22. Supplier 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

23. If for any reason Supplier does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, Supplier 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

24. 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 Supplier, terminate the Agreement by giving written notice of such termination to Supplier, upon any failure of Supplier to comply with this Schedule in a material respect.

### Interpretation

25. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
26. Any reference to the “Contractor” in this Schedule includes any subcontractor or agent retained by Supplier to perform obligations under the Agreement and Supplier must ensure that any such subcontractors and agents comply with this Schedule.
27. The obligations of Supplier in this Schedule will survive the termination of the Agreement.
28. 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.
29. Supplier must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or, subject to section 30, the law of any jurisdiction outside Canada.
30. Nothing in this Schedule requires Supplier to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the Act.