

CSA #: \_\_\_\_\_

**CORPORATE SUPPLY ARRANGEMENT -  
OPEN FRAMEWORK  
For  
Precast Reinforced Concrete Barriers**

BETWEEN

**HER MAJESTY THE QUEEN IN RIGHT OF  
THE PROVINCE OF BRITISH COLUMBIA,  
as represented by the  
Minister of Citizens' Services**

AND

**Supplier name**

**CORPORATE SUPPLY ARRANGEMENT –  
OPEN FRAMEWORK  
For  
Precast Reinforced Concrete Barriers**

**CONTENTS**

|  |    |
|--|----|
| ARTICLE 1 – INTERPRETATION .....                                     | 3  |
| 1.1    Definitions .....   | 3  |
| 1.2    Calculation of Time .....                                     | 5  |
| 1.3    Interpretation .....  | 5  |
| 1.4    No Fetter .....   | 5  |
| 1.5    Conflicts between Parts of CSA .....                          | 5  |
| ARTICLE 2 – APPOINTMENT AND TERM .....                               | 6  |
| 2.1    Appointment .....   | 6  |
| 2.2    Term .....  | 6  |
| 2.3    Extensions .....  | 6  |
| 2.4    Effect of Extension of CSA Term on Orders .....               | 6  |
| ARTICLE 3 – CORPORATE SUPPLY ARRANGEMENT – OPEN FRAMEWORK .....      | 6  |
| 3.1    Corporate Supply Arrangement – Open Framework - General ..... | 6  |
| 3.2    Purchasers .....  | 6  |
| 3.3    Verification of Purchasers .....                              | 6  |
| 3.4    Competitive Order Process .....                               | 6  |
| 3.5    Purchaser - Public Sector Entity .....                        | 7  |
| 3.6    Maximum Order Term within Scope .....                         | 7  |
| 3.7    Scope of Order not to Exceed this CSA .....                   | 7  |
| 3.8    No Guarantee .....  | 7  |
| ARTICLE 4 - ADMINISTRATION FEES AND PROCEDURES .....                 | 7  |
| 4.1    Administration Fees .....                                     | 7  |
| 4.2    Procedure for Remission of Administrative Fee .....           | 7  |
| 4.3    Administrative Reporting Requirements and Procedures .....    | 8  |
| ARTICLE 5 – QUALIFICATION CRITERIA .....                             | 8  |
| 5.1    Qualification Criteria .....                                  | 8  |
| ARTICLE 6 – SUBCONTRACTORS AND QC MANAGER AND QC PLAN .....          | 9  |
| 6.1    Subcontractors .....  | 9  |
| ARTICLE 7 – CONFIDENTIALITY .....                                    | 9  |
| 7.1    Records subject to legislation .....                          | 9  |
| 7.2    Confidentiality .....   | 10 |

|  |    |
|--|----|
| ARTICLE 8 –REPRESENTATIONS AND WARRANTIES .....    | 10 |
| 8.1    General Representations .....               | 10 |
| ARTICLE 9 – INDEMNIFICATION .....                  | 11 |
| 9.1    Indemnity .....                             | 11 |
| ARTICLE 10 – DISPUTE RESOLUTION.....               | 11 |
| 10.1   Dispute Resolution Process.....             | 11 |
| ARTICLE 11 – SUSPENSION AND EFFECT .....           | 11 |
| 11.1   Suspension .....                            | 11 |
| 11.2   Suspension period.....                      | 12 |
| 11.3   Effect of suspension .....                  | 12 |
| ARTICLE 12 – TERMINATION AND EFFECT .....          | 12 |
| 12.1   Termination for Convenience .....           | 12 |
| ARTICLE 13 – MISCELLANEOUS.....                    | 13 |
| 13.4    PROHIBITION AGAINST COMMITTING MONEY ..... | 14 |
| 13.5    Assignment by the CSA Holder .....         | 14 |
| 13.6    Further Assurances .....                   | 14 |
| 13.8    SEVERABILITY.....                          | 14 |
| 13.14   Tax Verification .....                     | 14 |
| APPENDIX A – GOODS AND ASSOCIATED SERVICES .....   | 1  |
| PART 1: GOODS.....                                 | 1  |
| PART 2: ASSOCIATED SERVICES .....                  | 1  |
| APPENDIX B – COMPETITIVE ORDER PROCESS .....       | 2  |
| APPENDIX C –ORDER TERMS AND CONDITIONS .....       | 3  |
| APPENDIX D –SUBCONTRACTORS AND QC MANAGER.....     | 13 |
| APPENDIX E –TAX VERIFICATION SCHEDULE .....        | 14 |

# CORPORATE SUPPLY ARRANGEMENT - OPEN FRAMEWORK

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This CSA is made to be effective as of the 21<sup>st</sup> day of April 2021 (the “**Effective Date**”):

BETWEEN:

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

AND:

<<<insert **LEGAL NAME OF CSA HOLDER**, doing business as name if different, type of business association  
and jurisdiction of formation or continuance, registration details, including any extraterritorial  
registration in British Columbia, and street address>>>  
(the “**CSA Holder**”)

**RECITALS:**

- A. Acting under the *Procurement Services Act* (British Columbia), the Province, through Procurement Services Branch in the Ministry of Citizens’ Services, issued a Request for Corporate Supply Arrangement - Open Framework, for Precast Reinforced Concrete Barriers, under solicitation number ON-003702, as subsequently amended by Addenda 1 (the “Request for Corporate Supply Arrangement - Open Framework” or “RCSA”);
- B. The CSA Holder submitted a response dated **February 28, 2022** to the RCSA (the “Response”) and was selected pursuant to the terms of the RCSA, to enter into a non-exclusive Corporate Supply Arrangement - Open Framework” (the “CSA”) governing eligibility to compete in second stage competitions for awards of Orders; and
- C. The Province and the CSA Holder now wish to enter into this CSA to set forth the terms and conditions governing the Competitive Order Process and upon which a CSA Holder will be engaged through an Order to provide the Goods and any Associated Services, as described in this CSA.

**IN CONSIDERATION** of the mutual premises set out in this CSA and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

## ARTICLE 1 – INTERPRETATION

### 1.1 Definitions

In this CSA, including the recitals, unless the context otherwise requires:

“**Access Agreement**” means the agreement between a Public Sector Entity and the Province, which enables the Public Sector Entity to engage in a Competitive Order Process under this CSA;

“**Associated Services**” means the services as described in Part 2 of Appendix A of this CSA;

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

**“Competitive Order Process”** or **“COP”** means the second stage competitive solicitation process issued by a Purchaser to the CSA Holders on the form set out in Appendix B in accordance with Article 3.4;

**“Contractor”** means the successful CSA Holder of a COP who has entered into an Order with a Purchaser;

**“CSA Term”** means the term of the CSA, as further described in sections 2.2 and 2.3 of this CSA;

**“Goods”** means the goods as described in Part 1 of Appendix A of this CSA;

**“Insolvency Event”** means any of the following:

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

**“Ministry”** means any ministry or agency of the Province;

**“Order”** means a contract between a Purchaser and the successful CSA Holder under a Competitive Order Process and includes a fully executed Quotation, the terms and conditions set out in Appendix C and any other documents or Appendices to the CSA as may be incorporated by reference within the Order;

**“Order Term”** means the period set out in an Order during which Goods and Associated Services are to be provided by the Contractor to the Purchaser;

**“Pacific Time”** means the time in effect at the applicable time pursuant to section 26 of the *Interpretation Act* (British Columbia), as may be amended;

**“Public Sector Entity”** means a government organization, local public body or participating jurisdiction, each as defined in the *Procurement Services Act* and includes a person, other than the government, a government organization, a local public body or a participating jurisdiction, provided the requirements set out in section 2(2) of the *Procurement Services Act* have been met, that has entered into an Access Agreement with the Province and appears on the Province's list of eligible Purchasers;

**“Purchaser”** means a Ministry or Public Sector Entity;

**“QC Manager”** means the quality contractor manager identified in Appendix D who will be responsible for the implementation of the quality control plan further described in Appendix C;

**“Qualification Criteria”** means the qualification criteria set out in Schedule C of the RCSA; and

**“Specifications”** means Section 941 - Precast Reinforced Concrete Barriers, (SS 941), in the most current version of the BC Ministry of Transportation and Infrastructure's Standard Specifications for Highway Construction, as may be amended from time to time. The Specifications can be viewed online at:

<https://www2.gov.bc.ca/gov/content/transportation/transportation-infrastructure/engineering->

## [standards-guidelines/standard-specifications-for-highway-construction](#)

### 1.2 Calculation of Time

In this CSA, unless specified otherwise:

- a. a reference to time is to Pacific Time;
- b. time is of the essence with regard to times, dates and periods specified in this CSA and any later times, dates and periods substituted by agreement in writing; and
- c. in calculating a period of time expressed as days, weeks, months or years, the first day must be excluded and the final day included.

### 1.3 Interpretation

In this CSA, unless specified otherwise:

- a. attached Appendices (including their Schedules, if any), are made part of this CSA;
- b. headings do not form part of this CSA;
- c. use of the singular includes the plural and vice versa;
- d. “includes” and “including” are not intended to be limiting;
- e. unless otherwise specified, a reference to a statute by name means the statute of British Columbia by that name, as amended or replaced from time to time;
- f. nothing operates as a permit, license, approval or other statutory authority the CSA Holder may be required to obtain from the Province or any of its agencies or any Purchasers to provide the Goods and Associated Services;
- g. a reference to this CSA or an Order refers to it as duly amended, assigned and novated by the parties at the applicable time and a reference to any other document or to a URL refers to it as novated, altered or replaced at the applicable time; and
- h. all references to money are to Canadian dollars.

### 1.4 No Fetter

Nothing in or under this CSA, including any requirement to use reasonable or best efforts, act reasonably or in good faith, or not unreasonably withhold consent or approval, will require the Province to act contrary to or interfere with or otherwise fetter the exercise by the Province or its agencies of any statutory, prerogative, executive or legislative power or duty.

### 1.5 Conflicts between Parts of CSA

No Order made pursuant to this CSA forms part of this CSA. Subject to the foregoing, this CSA consists of the following parts, which prevail in the following order to the extent of any conflict:

- a. the body of this CSA;
- b. the Appendices attached to this CSA, with the body of an Appendix prevailing over any Schedules to the Appendix, except as specified otherwise in the Appendix or Schedule; and then
- c. any documents incorporated by reference into this CSA.

## ARTICLE 2 – APPOINTMENT AND TERM

### 2.1 Appointment

Subject to the terms and conditions in this CSA, the Province appoints, and the CSA Holder accepts the appointment of, the CSA Holder as a non-exclusive CSA Holder eligible during the CSA Term to bid on and be considered for awards of Orders pursuant to Competitive Order Processes.

### 2.2 Term

Unless terminated earlier in accordance with this CSA or by operation of law or extended pursuant to subsection 2.3 of this section 2, the term of this CSA begins as of the Effective Date and continues in effect until it expires on April 3rd, 2026.

### 2.3 Extensions

The Province may, at its sole discretion, offer to extend this CSA on the same terms and conditions for two additional one-year periods by providing the CSA Holder with written notice **30 days** prior to the end of the CSA Term. The CSA Holder acknowledges that the Province gives no assurance, express or implied, that the Province will exercise its extension rights.

### 2.4 Effect of Extension of CSA Term on Orders

Any extension of the CSA Term will not have the effect of automatically extending the term of any Order, which may be extended only in accordance with its terms.

## ARTICLE 3 – CORPORATE SUPPLY ARRANGEMENT – OPEN FRAMEWORK

### 3.1 Corporate Supply Arrangement – Open Framework - General

This CSA is an agreement between the Province and the CSA Holder governing the process and the terms and conditions upon which a CSA Holder will be engaged by a Purchaser through a Competitive Order Process, followed by, if successful, an Order, to provide the Goods and Associated Services.

### 3.2 Purchasers

Any COP issued under this CSA will indicate the potential Purchaser. Purchasers may include any Ministry or any Public Sector Entity.

### 3.3 Verification of Purchasers

If the Purchaser is not a Ministry, the CSA Holder is responsible for checking the list of eligible Public Sector Entities or otherwise verifying that the entity issuing a COP pursuant to this CSA is on the list of eligible Public Sector Entities before participating in a COP or entering into an Order. If the CSA Holder receives a COP from an entity other than an eligible Public Sector Entity the CSA Holder will promptly notify the Province.

### 3.4 Competitive Order Process

The CSA Holder agrees that:

- a. Orders may be formed only with Purchasers and only in accordance with Appendix B- Competitive Order Process;
- b. the Purchaser will issue a COP in the form set out in Appendix B to all CSA Holders;
- c. posting times for COPs may vary, but will not be less than 10 calendar days;
- d. the successful CSA Holder under a COP will become the Contractor for an Order substantially on the terms and conditions set out in Appendix C –Order Terms and Conditions; and
- e. any Order will be between the CSA Holder and the Purchaser named in the Order only and not with the Province as a party or guarantor by reason of the Province being a party to this CSA.

### 3.5 Purchaser - Public Sector Entity

The CSA Holder agrees that:

- a. Public Sector Entities are solely responsible for all payments and other obligations to the Contractor incurred through entering into an Order; and
- b. nothing in this CSA or any resulting Order will impose any liability whatsoever on the Province in respect of any obligation of a Public Sector Entity to the Contractor, and the Province disclaims any and all liability in respect of any Order made by a Public Sector Entity.

### 3.6 Maximum Order Term within Scope

If applicable, nothing in this CSA prevents the CSA Holder from:

- a. entering into an Order having an Order Term that will expire after the CSA Term is expected to expire; or
- b. from agreeing to any Order extension after this CSA expires or terminates, if such extension was contemplated in the COP and reflected in the Order.

### 3.7 Scope of Order not to Exceed this CSA

Nothing in this CSA is to be construed as permitting any goods to be included in an Order with the CSA Holder that would exceed the scope of the Goods and Associated Services as described in the RCSA.

### 3.8 No Guarantee

The CSA Holder further acknowledges and agrees that:

- a. this CSA does not oblige the Province or any individual Purchaser to issue any Competitive Order Process or to award an Order for any Goods and Associated Services;
- b. the Province makes no representation, warranty or condition as to the nature, timing, quality or volume of COPs or Orders that may result from this CSA;
- c. no obligation of exclusivity is imposed on the Province by this CSA, and the Province reserves the right to procure the Goods and Associated Services by any other means, including the use of other corporate supply arrangements, or by other procurement or contracting methods;
- d. the Public Sector Entities will not be under any obligation to use this CSA, and may procure the Goods and Associated Services by any other means, including other procurement or contracting methods;
- e. the liability of a Purchaser will be limited to that which arises from an Order; and
- f. the Province reserves the right to set aside this CSA, for whatever reason, and not make it available for any COP or Order.

## ARTICLE 4 - ADMINISTRATION FEES AND PROCEDURES

### 4.1 Administration Fees

The CSA Holder acknowledges that a Contractor under any Order will be required to remit to the Province an administration fee of one percent (1%) of all fees under such Order as further described in this Article 4.

### 4.2 Procedure for Remission of Administrative Fee

The CSA Holder agrees to submit to the Province at the contact below a cheque for one percent of all fees under each Order (exclusive of taxes), payable to the Minister of Finance, for Orders placed during the relevant reporting period as set out in below:

**Procurement Services Branch  
PO BOX 9451 Stn Prov Gov  
Victoria BC V8W 9V7**



The cheque must clearly identify the CSA, the Orders under the CSA and the relevant quarter and must be submitted no later than 1 month following the end of each quarter as follows:

| <b>The fee for:</b>                     | <b>Is due:</b> |
|---|----------------|
| Quarter 1 (April, May, June)            | July 31        |
| Quarter 2 (July, August, September)     | October 31     |
| Quarter 3 (October, November, December) | January 31     |
| Quarter 4 (January, February, March)    | April 30       |

#### **4.3 Administrative Reporting Requirements and Procedures**

The CSA Holder agrees to submit to the Province a quarterly report setting out the CSA, all Orders placed during the relevant quarter and the administrative fees remitted. The following will apply to the quarterly reports:

- a. the quarterly reports will be submitted to **CSA@gov.bc.ca** and include the CSA # in the subject line by the due dates set out in section 4.2;
- b. the quarterly reports will identify each Order placed, and will identify the Purchaser, the Goods and Associated Services purchased, and the fees;
- c. the quarterly reports may be checked by the Province against provincial financial records to verify accuracy and the Province will notify the CSA Holder of any discrepancy;
- d. in the case of any discrepancy between the quarterly reports and the Province's financial records as described in subparagraph (c) of this section, the CSA Holder will have 30 calendar days to respond to or rectify the report;
- e. the quarterly reports will be in MS Excel format, or as otherwise directed in writing by the Province, and completed in the form of the CSA quarterly report template as provided and updated from time-to-time by the Province; and
- f. for greater certainty the CSA Holder will provide a quarterly report whether or not any Orders are received in that quarter.

### **ARTICLE 5 – QUALIFICATION CRITERIA**

#### **5.1 Qualification Criteria**

The CSA Holder must meet and maintain all Qualification Criteria throughout the CSA Term, including, as applicable, any qualification criteria relating to the QC Manager or any named subcontractors. For greater certainty, Qualification Criteria are set out in Schedule C to the RCSA.

#### **5.2 Self-Reporting of Changes in Ability to Meet Qualification Criteria**

Upon becoming aware that the CSA Holder will not be able to continue to comply with all Qualification Criteria, the CSA Holder will notify the Province.

#### **5.3 Province Verification Rights**

The Province may, at any time during the CSA Term, verify the CSA Holder's compliance with any aspect of this CSA, including whether any information provided by the CSA Holder in response to the RCSA is accurate or remains accurate and whether the CSA Holder remains qualified under the Qualification Criteria.

The Province may use any relevant information made available by the CSA Holder online to the public or may request confirmation that the CSA Holder continues to meet the Qualification Criteria. The CSA Holder must, at its own expense, promptly provide such information, copies of third-party certifications or audit reports, or other evidence of compliance as the Province reasonably requests for the purpose of verifying compliance.

The Province's rights in this section do not limit any power or duty of inspection or audit the Province may have under statute or otherwise, including as a Purchaser to an Order.

#### 5.4 Changes in Ability to Meet Qualification Criteria

If a CSA Holder is not able to continue to meet and maintain all Qualification Criteria, the Province may, in its sole discretion, either:

- a. temporarily suspend the CSA Holder from competing in any COP and by written notice to the CSA Holder, require that the CSA Holder remedy any failure to meet and maintain the Qualification Criteria within a time period specified in the notice; or
- b. by written notice to the CSA Holder, terminate the CSA with immediate effect or on a future date specified in the notice.

### ARTICLE 6 – SUBCONTRACTORS AND QC MANAGER AND QC PLAN

#### 6.1 Subcontractors

All subcontractors, including affiliates of the CSA Holder, that are evaluated under the RCSA, must be named in Appendix D to the CSA.

#### 6.2 Changes to Subcontractors

No additional subcontractors may be added, and no subcontractors may be changed, without first obtaining the written approval of the Province. Such approvals will be subject to the additional or revised subcontractors meeting any relevant qualification criteria.

#### 6.3 Responsibility for Subcontractors

The CSA Holder is responsible for the acts, errors and omissions of its subcontractors, whether named in Appendix D - Subcontractors or not. The CSA Holder is responsible for ensuring that it has appropriate contractual provisions in place with any subcontractors to enable the CSA Holder to fully comply with the obligations of the CSA Holder. No subcontract whether consented to or not, relieves the CSA Holder from any obligations of the CSA Holder under this CSA or any Orders that may be formed.

#### 6.4 QC Manager

The QC Manager evaluated under the RCSA must be named in Appendix D to the CSA.

#### 6.5 Changes to QC Manager

The QC Manager may not be changed without first obtaining the written approval of the Province. Such approval will be subject to the proposed replacement QC Manager meeting the relevant qualification criteria in section 3.3 of Schedule C to the RCSA.

#### 6.6 Changes to QC Plan

The QC Plan evaluated under the RCSA will be appended to Schedule 1 of Appendix C to the CSA and may not be changed without first obtaining the written approval of the Province. Such approval will be subject to the proposed amended QC Plan meeting the relevant qualification criteria in section 3.3 of Schedule C to the RCSA.

### ARTICLE 7 – CONFIDENTIALITY

#### 7.1 Records subject to legislation

The CSA Holder acknowledges that all records in the custody or under the control of a public body, which includes this CSA, and all records collected, posted to or otherwise generated in the operation of the CSA, are subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia) except as that Act may provide otherwise, and may be subject to the *Information Management Act* (British Columbia)). Orders are under the control of the respective Purchaser entering them.

## 7.2 Confidentiality

The CSA Holder must treat as confidential all information received by the CSA Holder and all other information accessed or obtained (whether verbally, electronically or otherwise) as a result of this CSA, and not permit its disclosure or use without the Province's prior written consent except:

- a. as required to perform the obligations under this CSA or to comply with applicable laws, or
- b. if it is information that is generally known to the public other than as a result of a breach of this CSA or any similar obligation that a third party may owe to the Province.

## ARTICLE 8 – REPRESENTATIONS AND WARRANTIES

### 8.1 General Representations

The CSA Holder represents and warrants to the Province at the time, unless specified otherwise in this section, of its execution of this CSA and throughout the CSA Term that:

- a. if the CSA Holder is not a natural person, the CSA Holder is duly formed as a corporation and validly existing and in good standing under the laws of its jurisdiction of formation or continuance and, if necessary to lawfully provide the Goods and Associated Services contemplated under this CSA, has the legal power and capacity to own and lease its assets and to carry on business in British Columbia;
- b. the CSA Holder has the legal power and capacity to enter into this CSA and to observe, perform and comply with the terms of this CSA and all necessary corporate or other proceedings have been taken and done to authorize the execution and delivery of this CSA by, or on behalf of, the CSA Holder;
- c. this CSA has been duly executed and delivered by, or on behalf of, the CSA Holder and is legally binding upon and enforceable against the CSA Holder in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the rights of creditors generally, economic sanctions or export control laws, and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction;
- d. except to the extent the CSA Holder has previously disclosed otherwise in writing to the Province,
  - i. the CSA Holder holds all permits, licenses, approvals, registrations and statutory authorities that are specified or are otherwise necessary for the performance of the CSA Holder's obligations under this CSA and any Order;
  - ii. all information, statements, documents and reports, submitted by or on behalf of the CSA Holder to the Province as part of the RCSA resulting in this CSA being entered into or otherwise in connection with this CSA are in all material respects, at the time submitted to the Province, true, accurate and complete;
  - iii. the CSA Holder has sufficient trained, skilled and experienced personnel and sufficient facilities, systems, equipment and material in place and available to enable the CSA Holder to fully comply with its obligations and grant any licenses under this CSA and any Order;
  - iv. the provision by or on behalf of the CSA Holder of any Goods and Associated Services does not and will not infringe or induce the infringement (including breach or misappropriation) of the intellectual property rights of any third party; and
  - v. the CSA Holder is under no obligation or restriction when it enters this CSA, and will not knowingly assume during the CSA Term any obligation or restriction, that interferes with or conflicts with, or could present a conflict of interest concerning, the performance of the CSA Holder's obligations under this CSA;
- e. the CSA Holder meets all Qualification Criteria and at the times required has all third-party reports, accreditations, assurances and certifications in support of the achievement and maintenance of those Qualification Criteria;

- f. at the time of its execution of this CSA, there are no actions, causes of action, grievances, judgments, or orders outstanding or, to the knowledge of the CSA Holder, threatened against or affecting the CSA Holder or any of its assets that would, if adversely determined, have a material adverse effect on, or materially adversely restrict or impair its appointment in relation to the Goods and Associated Services or entry into any Order formed in accordance with this CSA;
- g. the CSA Holder is not insolvent or at the brink of insolvency and is able to pay its debts as they become due in the ordinary course of business; and
- h. the CSA Holder has no knowledge of any material fact or matter that would reasonably be expected to deter the Province from entering into this CSA.

## **ARTICLE 9 – INDEMNIFICATION**

### **9.1 Indemnity**

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

- a. any act or omission by the CSA Holder or by any of the CSA Holder’s agents, employees, officers, directors, or subcontractors in connection with this CSA; or
- b. any representation or warranty by or on behalf of the CSA Holder being or becoming untrue or incorrect.

## **ARTICLE 10 – DISPUTE RESOLUTION**

### **10.1 Dispute Resolution Process**

In the event of any dispute between the parties arising out of or in connection with this CSA, 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;
- b. if the dispute is not resolved through collaborative negotiation within 15 Business Days of the dispute must be referred to and finally resolved by arbitration under the *International Commercial Arbitration Act* (BC), administered by the *Vancouver International Arbitration Centre* pursuant to its applicable rules.

### **10.2 Location of Arbitration**

Unless the parties otherwise agree in writing, an arbitration under section 10.1 will be held in Victoria, British Columbia.

### **10.3 Costs of Arbitration**

Unless the parties otherwise agree in writing or the arbitrator otherwise orders, the parties must share equally the costs of arbitration under section 10.1 other than those costs relating to the production of expert evidence or representation by counsel.

## **ARTICLE 11 – SUSPENSION AND EFFECT**

### **11.1 Suspension**

The Province may, at its sole discretion, as an alternative option before exercising any right of termination, suspend the CSA Holder’s eligibility to participate in any COP, on written notice to the CSA Holder, if any:

- a. Purchaser terminates an Order for material breach; or
- b. event in section 12.2 occurs.

### 11.2 Suspension period

The period of suspension will continue until the CSA Holder satisfies the Province that the deficiency giving rise to the suspension has been rectified, unless this CSA ends earlier. For greater certainty, the rescission of the suspension will not result in the CSA Term being extended for the same number of days as the period of suspension.

### 11.3 Effect of suspension

Suspension of this CSA under section 11.1 will not have the effect of automatically suspending any then existing Order.

## ARTICLE 12 – TERMINATION AND EFFECT

### 12.1 Termination for Convenience

Either party may terminate this CSA for convenience (for any reason or for no reason), without liability to the other, on 30 days written notice to the other.

### 12.2 Termination for Cause

The Province, at its sole discretion, may terminate this CSA with immediate effect by giving written notice to the CSA Holder of the particulars, if the CSA Holder:

- a. makes any un-remediable or fraudulent misrepresentation in this CSA or its Response to the RCSA leading to this CSA;
- b. makes any other misrepresentation (including negligent or innocent) in this CSA and that is not remedied within 30 days of written request;
- c. fails to meet or maintain any particular Qualification Criteria and the failure is not remedied within 30 days of a written request;
- d. provides information to Purchasers that conflicts with any terms and conditions of this CSA;
- e. has had any Order terminated by any Purchaser for material breach within a 12 month period;
- f. directly or indirectly assigns this CSA without consent under section 13.5;
- g. experiences an Insolvency Event, but only to the extent such termination is not prohibited by the laws of Canada;
- h. ceases or threatens to cease to carry on business;
- i. fails to remit the administrative fee or any reports pursuant to Article 4, or fails to rectify any deficiencies in accordance with Article 4; or
- j. commits any material breach of this CSA not described in this section and that is not remedied within 30 days of written request.

### 12.3 Termination where RCSA Expires or Otherwise Terminates

The RCSA is an open procurement process, which will be made available during the RCSA Term. Upon expiry or earlier termination of the RCSA Term, this CSA will automatically terminate as of the same date as the RCSA.

### 12.4 Effect on Expiration or Termination

Upon the expiration or earlier termination of this CSA, the CSA Holder will no longer be eligible to receive any new COPs or Orders.

The CSA Holder acknowledges that early termination of this CSA will not automatically terminate any existing Orders, which may continue in accordance with their respective terms.

### 12.5 Accrued Rights and Obligations

The expiration or termination of this CSA is without prejudice to any rights, obligations or remedies of either party accrued under this CSA before its expiration or termination.

### 12.6 Survival

Any unpaid collection and payment obligations and any other provisions of this CSA, which by their terms or nature, are intended to survive the end of this CSA or the completion of all Orders, will survive, including those provisions that are necessary for their proper interpretation. For greater certainty, any cross-references in the defined terms of Orders to the definitions in this CSA will survive.

## ARTICLE 13 – MISCELLANEOUS

### 13.1 Electronic Signature

An electronic signature in or attached to or associated with an email will not satisfy a requirement that a document be in writing be executed or signed unless:

- a. either:
  - i. the signatory for or on behalf of the party signs by hand the writing that is then scanned and emailed as an attachment in PDF; or
  - ii. the email or writing specifies that it constitutes the electronic signature of the signatory for and on behalf of the party;
- b. it reasonably appears to be reliable for purposes of identifying the signatory; and
- c. it complies with all applicable requirements for an electronic signature under the *Electronic Transactions Act* (British Columbia).

### 13.2 Notices

Any notice, consent, approval, demand or specified written communication given by either party to the other under this CSA must be in English and in writing unless otherwise set out and, if expressly required in this CSA, be signed, and will be deemed received on the date of delivery, if:

- a. delivered personally;
- b. delivered by pre-paid, recorded courier or equivalent postal delivery service and left with a receptionist or responsible employee of the party; or
- c. emailed in a form capable of being stored indefinitely and printed and, if the notice is in an attachment, is capable of being stored indefinitely and printed and in PDF or other format acceptable to the receiving party, and verified received by written or automated receipt or electronic log,

to the address and for the attention of:

in the case of the Province

**Procurement Services Branch  
PO Box 9476 Stn Prov Govt  
Victoria BC V8W 9W6  
Procurement@gov.gc.ca**

and

in the case of the CSA Holder

**[ADD ADDRESS AND CONTACT HERE]**

Despite the foregoing, if deemed receipt is not within 0830 to 1630 hours on a day other than a Saturday, Sunday or statutory holiday (“Business Hours”) in the place of receipt, receipt will be deemed when Business Hours next resume in the place of receipt.

### 13.3 No Partnership or Agency

Nothing in this CSA authorizes or creates any employment, partnership, fiduciary or joint venture relationship, or any agency relationship between the CSA Holder and Province. Neither party may act contrary to this section.

#### **13.4 Prohibition Against Committing Money**

The CSA Holder must not in relation to its rights or obligations under this CSA commit or purport to commit the Province to any obligation or liability, including to pay any money, to any person, except as this CSA may specify.

#### **13.5 Assignment by the CSA Holder**

The CSA Holder must not novate, assign or transfer in whole or in part this CSA without the prior written consent of the Province.

#### **13.6 Further Assurances**

Each party will execute and deliver all such further documents and do all such further acts and things as the other party may reasonably require to give full effect to this CSA.

#### **13.7 Transaction Costs**

Each party is solely responsible for its own costs and expenses (including legal and accounting) incurred in connection with the negotiation, preparation, execution and delivery of this CSA, and all other documents prepared, executed or delivered under or pursuant to this CSA, including COPs, responses to COPs and Orders.

#### **13.8 Severability**

If any part of this CSA or its application to any person or circumstance is illegal, invalid or unenforceable, the application of such part to any other persons or circumstances and the remaining parts will remain in effect provided the modified CSA remains operable.

#### **13.9 Amendments**

No amendment of this CSA is effective unless in writing and signed and delivered by, or on behalf of, the parties.

#### **13.10 Waiver**

A waiver of any right or remedy under this CSA is effective only if in writing signed by or on behalf of the waiving party and applies only to the party to which the waiver is addressed and the circumstances for which it is given and will not constitute a continuing waiver unless expressly stated in the writing.

#### **13.11 Remedies**

Unless specified otherwise, remedies are cumulative and remedies arising under this CSA do not exclude remedies provided by law.

#### **13.12 Entire Agreement**

This CSA, including its Appendices and their schedules, and any documents incorporated by reference in it (excluding any and all Orders referencing this CSA), contains the entire agreement between the parties with respect to its subject matter, and supersedes any prior written or oral agreements, representations, warranties or undertakings between them with respect to its subject matter. Despite the foregoing, nothing in this section operates to limit or exclude liability for fraud or fraudulent misrepresentation, including in the CSA Holder's Response to the RCSA leading to this CSA.

#### **13.13 English Language**

This CSA is made only in the English language. Each document referred to in or referencing this CSA or to be delivered under it will be in the English language. If any document of a party requires translating into English, the party referencing or providing it will at its expense provide an English translation, which will prevail in case of any conflict over the other language version.

#### **13.14 Tax Verification**

Any terms set out in the attached Appendix E apply to this CSA.

#### **13.15 Governing Law and Jurisdiction**

This CSA, including any modification made pursuant to it, and any disputes or claims arising out of in connection with its subject matter are governed by, and to be interpreted and construed in accordance with the laws of the province of British Columbia and the federal laws of Canada applicable in the province, notwithstanding any choice of law rules.

The CSA Holder irrevocably consents to jurisdiction and venue in the courts of British Columbia.

**13.16 Counterparts**

This CSA and any modification that requires both parties to sign may be executed in any number of counterparts, each of which, when executed and delivered by a method provided for delivering notices under this CSA and actually received, is an original, and all of which together have the same effect as if each party had signed the same document.

**AGREED** by the parties through their duly authorized signatories on the dates below.

For, and on behalf of *<insert Full Legal Name of CSA Holder>*

For, and on behalf of **Her Majesty the Queen in right of the Province of British Columbia**, as represented by the Minister of Citizens' Services

By: \_\_\_\_\_  
Sign

By: \_\_\_\_\_  
Sign

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## APPENDIX A – GOODS AND ASSOCIATED SERVICES

### Part 1: Goods

The following Goods may be procured by a Purchaser through the issuance of a COP in accordance with Appendix B of this CSA:

- Precast Concrete Bull-Nose;
- Precast Concrete Low Barrier;
- Precast Concrete Roadside Barrier;
- Precast Concrete Drainage Barrier;
- Precast Concrete Median Barrier;
- Precast Concrete Pier Barrier;
- Precast CRB-H modifications for tight curvature installation;
- Precast CRB-E modifications for tight curvature installation;
- Precast Concrete Median Drainage Barrier;
- Precast Concrete Transition Barrier;
- Standard Bridge Parapet 810 mm High Transition; and
- Other reinforced concrete barrier.

All Goods must be made and conform to the relevant Specifications.

### Part 2: Associated Services

The provision of Associated Services may be procured with Goods through the issuance of a COP in accordance with Appendix B of this CSA. The Associated Services may include services such as:

- Additional delivery requirements;
- Unloading, layout and placement in final location of the Goods; and
- Removal and disposal of existing barriers, as instructed by the Purchaser. Disposal may be to a location provided by the Purchaser or a disposal location provided by the CSA Holder.

## APPENDIX B – COMPETITIVE ORDER PROCESS

*Note: The Province reserves the right to modify this Competitive Order Process by written notice to the CSA Holders.*

### CORPORATE SUPPLY ARRANGEMENT – OPEN FRAMEWORK COMPETITIVE ORDER PROCESS

**PURCHASER:** <<<ENTER FULL LEGAL DESCRIPTION OF PROVINCE OR PUBLIC SECTOR ENTITY ISSUING THIS COP,  
THIS SHOULD BE THE ENTITY ENTERING INTO THE ORDER>>>

**COP #:** <<<#>>>

This Competitive Order Process is issued on: <<<Date>>> pursuant to the CSAs established under RCSA ON-003702 for Precast Reinforced Concrete Barriers (the “RCSA”).

**Only CSA Holders (as defined below) may submit a Quotation.**

Quotations must be in English, must be submitted by email to <<<address>>> (“Closing Location”) and must be received before 2:00 PM Pacific Time on: <<<Insert Date – this date should not be less than 10 calendar days from the issue date for the COP>>> (the “Closing Time”) to be considered.

#### SUMMARY OF THE COP PROCESS

All capitalized terms will have the meanings set out in section 1.1 Definitions, and any term not defined in this COP will have the meanings set out in the CSA.

The COP is a second stage procurement process under the CSA. Only CSA Holders are eligible to compete in the COP. The COP involves the issuance of this Competitive Order Process by a Purchaser to CSA Holders, the receipt of Quotations from the CSA Holders and the selection of the lowest priced CSA Holder under this COP to enter into an Order.

Submitting a Quotation indicates acceptance of all the terms and conditions of this COP, including all appendices, Addenda and these COP process rules, and without limiting the foregoing further indicates acceptance of the Order terms set out in Appendix C to the CSA.

A Quotation must be signed by a person authorized to sign on behalf of the CSA Holder with the intent to bind the CSA Holder to the COP and to the statements and representations in the CSA Holder’s Quotation.

#### 1. COP PROCESS RULES

##### 1.1 Definitions

Throughout this Competitive Order Process, the following definitions apply (and the singular is interchangeable with the plural):

“Addenda” means all additional information regarding this COP including amendments to the COP.

“Associated Services” means those services set out in Part 2 of Appendix A to the CSA, as further described in section 2.2 to this COP and reproduced in the Quotation;

“Closing Location” means the email address to which Quotations must be submitted as set out on the first page of this COP;

“Closing Time” means the closing time and date for this COP as set out on the first page of this COP;

“Competitive Order Process” or “COP” means the solicitation described in this document, including any attached or referenced appendices, linked documents, schedules or exhibits and as may be modified in writing from time to time by the Purchaser by Addenda;

“CSA” means a Corporate Supply Arrangement – Open Framework agreement between the Province and a CSA Holder governing the CSA Holder’s participation in this COP.

“CSA Holder” means a respondent under the RCSA that has entered into a CSA with the Province and is eligible to participate in this COP;

“Goods” means the goods set out in a Quotation and as described in this COP as further described in Part 2 of Appendix A of the CSA;

“Order” means the contract resulting from the COP between the Purchaser and the successful CSA Holder on the terms and conditions set out in Appendix C of the CSA and which incorporates the Quotation of the successful CSA Holder;

“must” or “mandatory” means a requirement that must be met in order for a Quotation to receive consideration;

“Purchaser” means the Purchaser identified on the first page of this COP; and

“Quotation” means a written response to the COP that is submitted by a CSA Holder in substantially the same form as Schedule 1 to the COP;

## 1.2 Enquiries

Enquiries related to this COP, including any requests for information or clarification should be directed in writing to [<<<Enter contact details here>>>](#), who will respond if time permits before the Closing Time. Information obtained from any other source is not official and should not be relied upon. Enquiries and any responses providing new information will be recorded and distributed to CSA Holders. The Purchaser may choose in its sole discretion not to respond, to respond in whole or in part, or to reformulate enquiries. Enquiries and any responses will be provided to all CSA Holders. Enquiries will be accepted up to two (2) business days prior to Closing Time.

## 1.3 Additional Information

All Addenda will be distributed to CSA Holders in accordance with section 13.2 of the CSA.

## 1.4 Acceptance of Terms and Conditions

Submitting a Quotation indicates acceptance of all the terms and conditions set out in the COP, including all appendices, Addenda and these COP process rules, and

without limiting the foregoing further indicates acceptance of the Order terms set out in Appendix C to the CSA.

A Quotation must be signed by the CSA Holder or a person authorized to sign on behalf of the CSA Holder with the intent to bind the CSA Holder to the COP and to the statements and representations in the Quotation.

## 1.5 Submission of Quotations

- a) Quotations must be received before the Closing Time at the email address set out on the first page of the COP. The CSA Holder is solely responsible for ensuring that the Purchaser receives a complete Quotation, including all attachments or enclosures, if applicable, before the Closing Time.
- b) The maximum size of each attachment must be 35 MB or less. If the file size of an electronic submission exceeds the applicable maximum size, the CSA Holder may make multiple submissions to reduce attachment file size to be within the maximum applicable size.
- c) Attachments must not be compressed, must not contain a virus or malware, must not be corrupted and must be able to be opened. CSA Holders submitting by electronic submission are solely responsible for ensuring that any attachments are not corrupted. The Purchaser may reject Quotations that are compressed, cannot be opened or that contain viruses or malware or corrupted attachments.
- d) The Purchaser strongly encourages CSA Holders to submit Quotations with sufficient time to complete the upload and transmission of the complete Quotation and any attachments before Closing Time.
- e) The CSA Holder bears all risk associated with delivering its Quotation by email submission, including but not limited to delays in transmission between the CSA Holder’s computer and that of the Purchaser.
- f) An alternate submission method may be made available, at the Purchaser’s discretion, commencing one half hour before the Closing Time, and it is the CSA Holder’s sole responsibility for ensuring that a complete Quotation (and all attachments) submitted using an approved alternate submission method is received by the Purchaser before the Closing Time. The Purchaser makes no guarantee that an alternative submission method will be available or that the method available will ensure that a CSA Holder’s Quotation is received before Closing Time.

## 1.6 Late Quotations

Quotations will be marked with their receipt time at the Closing Location. Only Quotations received and marked before the Closing Time will be considered to have been received on time. Quotations received late will be marked late and not considered or evaluated. In case of a dispute, the Quotation receipt time as recorded by the Purchaser at the Closing Location will prevail whether accurate or not.

### **1.7 Changes to Quotations**

By submitting a clear and detailed written notice to the Purchaser at the email address set out on the first page, the CSA Holder may amend or withdraw its Quotation before the Closing Time. The CSA Holder will not change any part of its Quotation after the Closing Time.

### **1.8 Quotation Irrevocability**

Quotations will be open for acceptance and irrevocable for at least 90 days after the Closing Time.

### **1.9 Firm Pricing**

Without limiting any terms or conditions set by the Purchaser in this COP, including the Quotation, the following terms and conditions apply to pricing for the Goods and Associated Services, if any, indicated in a Quotation:

- a) Pricing will be firm for the entire Order period unless the COP specifically states otherwise;
- b) pricing must be in Canadian dollars; and
- c) pricing will be unconditional and inclusive of all expenses, including any expenses associated with shipping the Goods or risk of loss in respect of the Goods up until the time at which the Purchaser takes title to and possession of the Goods, but excepting any amounts payable in respect of applicable taxes.

### **1.10 Conflict of Interest/No Lobbying**

- a) A CSA Holder may be disqualified if the CSA Holder's current or past corporate or other interests, or those of a subcontractor, may, in the Purchaser's opinion, give rise to an actual or potential conflict of interest in connection with the Goods or Associated Services described in the COP. This includes, but is not limited to, involvement by a CSA Holder in the preparation of the COP or a relationship with any employee, contractor or representative of the Purchaser involved in preparation of the COP, participating on the evaluation committee or in the administration of the Order. If a CSA Holder is in doubt as to whether there might be a conflict of interest, the CSA Holder should consult with the Purchaser, in accordance with section 1.2, prior to submitting a Quotation. By submitting a Quotation, the CSA Holder represents that it is not aware of any circumstances that would give rise to a conflict of interest that is actual or potential, in respect of the COP.
- b) A CSA Holder must not attempt to influence the outcome of the COP process by engaging in lobbying activities. Any attempt by the CSA Holder to communicate for this purpose directly or indirectly with any employee, contractor or representative of the Purchaser, including members of the evaluation committee and any elected officials of the Purchaser, or with the media, may result in disqualification of the CSA Holder.

### **1.11 Evaluation**

Quotations will be assessed in accordance with the terms and conditions of the COP.

- a) The Purchaser will be under no obligation to receive further information, whether written or oral, from any CSA Holder. The Purchaser is under no obligation to perform any investigations or to otherwise verify any statements or representations made in a Quotation.
- b) Quotations from not-for-profit agencies will be evaluated against the same criteria as those received from any other CSA Holders.
- c) The Purchaser may consider and evaluate any Quotations from other jurisdictions on the same basis that the government purchasing authorities in those jurisdictions would treat a similar Quotation from a British Columbia supplier.

### **1.12 Tie Breaker**

In the event that two or more CSA Holders propose the same lowest price, the Purchaser will enter the names of those CSA Holders into the electronic "List Randomizer" function of the website "random.org" found at <https://www.random.org/lists/> and select the button "randomize" once. The order returned will be used to rank those CSA Holders and the first ranked CSA Holder will be awarded the Order.

### **1.13 Order Finalization Delay**

If an Order as described in this COP cannot be finalized to the satisfaction of the Purchaser within thirty days of notification of the successful CSA Holder, the Purchaser may, at its sole discretion at any time thereafter, terminate discussions with that CSA Holder and either commence finalization of an Order with the next lowest price CSA Holder or choose to terminate the COP process and not enter into an Order with any of the CSA Holders.

### **1.14 Limitation of Liability and Proponents Expenses**

By submitting a Quotation, the CSA Holder agrees on behalf of itself and its predecessors, successors, parent companies, subsidiary companies, affiliates, successors or assigns, that they will not make claims for and otherwise irrevocably waives any claims whatsoever (whether arising under contract law, tort law, administrative law or otherwise) and howsoever arising, including claims for compensation, costs, damages, expenses, losses, and loss of profits, relating to the COP or with respect to the COP competitive process, including claims for costs, expenses and loss of profits if no Order is made with the CSA Holder, including any other CSA Holder.

Notwithstanding the foregoing, nothing in this section shall limit the right of a CSA Holder to access and utilize the Bid Protest Mechanism established under the New West Partnership Trade Agreement.

Proponents are solely responsible for their own expenses in participating in the COP process, including costs in preparing a Quotation and for subsequent finalizations, if any, with the Purchaser. Notwithstanding and without any waiver of the foregoing provisions of this section, at the sole discretion of the Purchaser, the Purchaser reserves the right to pay a CSA Holder an amount equivalent to the reasonable costs incurred by the CSA Holder in preparing its Quotation.

#### **1.15 COP Information Disclaimer**

While the Purchaser has used considerable efforts to ensure information in the COP is accurate, the information contained in the COP is supplied solely as a guideline for CSA Holders. The information is not guaranteed or warranted to be accurate by the Purchaser, nor is it necessarily comprehensive or exhaustive. Nothing in the COP is intended to relieve CSA Holders from forming their own opinions and conclusions with respect to the matters addressed in the COP.

#### **1.16 No Commitment**

The COP is an invitation to CSA Holders to submit Quotations offering to provide the Goods and Associated Services, if any. The COP should not be construed as an agreement to purchase the Goods or Associated Services described in the COP. A COP does not commit the Purchaser to purchase any Goods from any CSA Holder or engage any CSA Holder for the Associated Services described in the COP, and a COP may be withdrawn or otherwise cancelled at any time. The lowest priced or any Quotation will not necessarily be accepted. The COP does not commit the Purchaser in any way to award an Order.

#### **1.17 Legal Entities**

The Purchaser reserves the right in its sole discretion to:

- a) disqualify a Quotation if the Purchaser is not satisfied that the CSA Holder is clearly identified;
- b) not to enter into an Order with a CSA Holder that submitted a Quotation if that CSA Holder cannot satisfy the Province that it is the same legal entity named in a CSA; and
- c) require security screenings for a CSA Holder who is a natural person, subcontractors and key personnel before entering into an Order and decline to enter into an Order with a CSA Holder or to approve a subcontractor or key personnel that fail to pass the security screenings to the Purchaser's satisfaction.

#### **1.18 Reservation of Rights**

In addition to any other reservation of rights set out in the COP, the Purchaser reserves the right, in its sole discretion:

- a) to modify the terms of the COP at any time prior to the Closing Time, including the right to cancel the COP at any time prior to entering into an Order with a CSA Holder;

- b) in accordance with the terms of the COP, to accept the Quotation or Quotations that it deems most advantageous to itself;
- c) to waive any non-material irregularity, defect or deficiency in a Quotation;
- d) to request clarification(s) from a CSA Holder with respect to its Quotation, including clarification(s) with respect to its Quotation on non-material administrative matters (i.e. a matter that is not scored) or where Quotation provisions are ambiguous, without any obligation to make such a request to any other CSA Holders, and consider such clarification(s) in evaluating the Quotation;
- e) to reject any Quotation due to unsatisfactory past performance under contracts with the Purchaser, or any material error, omission or misrepresentation in the Quotation;
- f) at any time, to reject any or all Quotations;
- g) at any time, to terminate the competition without award and obtain the Goods and Associated Services, if any, described in the COP by other means (including, a future solicitation) or do nothing; and
- h) to exclude a CSA Holder from participation in the COP, at any point in the COP process, where there is supporting evidence, on grounds of CSA Holder:
  1. bankruptcy;
  2. false declarations;
  3. significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contractor contracts with the Province, including an Order;
  4. final judgments in respect of serious crimes or other serious offences;
  5. professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the CSA Holder;
  6. engaging in conduct prohibited by the *Competition Act* such as bid rigging as described in section 47 of the *Competition Act*, or engaging in conspiracies, agreements or arrangements between competitors as described in section 45 of the *Competition Act*; or
  7. failure to pay taxes.

#### **1.19 Order**

By submitting a Quotation, a CSA Holder is submitting an irrevocable offer to supply the Goods and Associated Services in accordance with the Order, which offer will remain open to the Purchaser for acceptance for 90 days after the Closing Time. By submitting a Quotation, the CSA Holder agrees that should its Quotation be successful, the CSA Holder will have entered into an Order with the Purchaser on the Order terms and conditions attached as Appendix C to the CSA.

Written, unconditional notice to a CSA Holder that it is the successful CSA Holder will confirm the creation an Order for the Goods and Associated Services in accordance with the Order terms and conditions in Appendix C to the CSA. No Proponent will acquire any legal or equitable rights or privileges relative to providing the Goods or Associated Services until written, unconditional notice is provided by the Purchaser or all the conditions set out in a written notice provided by the Purchaser are satisfied.

#### **1.20 No Counter Offers**

CSA Holders should avoid adding content or text to their Quotations that means, or could be construed to mean, that the CSA Holder does not accept the terms set out in Appendix C to the CSA (or any associated content, schedules, etc.).

If a Quotation contains content or text that means, or could be construed to mean, that the CSA Holder does not accept the terms set out in Appendix C to the CSA (or any associated content, schedules, etc.), such Quotation content or text may result in the Quotation being noncompliant and eliminated from the COP process. CSA Holders should carefully review the entire COP.

#### **1.21 Debriefing**

At the conclusion of the COP process, all CSA Holders that submitted a Quotation will be notified. CSA Holders who submitted a Quotation may request a debriefing meeting with the Purchaser. At the option of the Purchaser, any debriefing meeting will be held by telephone conference or in person meeting.

#### **1.22 No Implied Approvals**

Neither acceptance of a Quotation nor providing notice to a CSA Holder that it is the successful CSA Holder will constitute approval of any activity or development contemplated in any Quotation that requires any approval, permit or license pursuant to any federal, provincial, regional district or municipal statute, regulation or by-law.

#### **1.23 Ownership of Quotations**

All Quotations and other records submitted to the Purchaser in relation to the COP become the property of the Purchaser and, subject to the provisions of the Freedom of Information and Protection of Privacy Act and the ITQ, will be held in confidence. For more information on the application of the Act, go to [http://www.cio.gov.bc.ca/cio/priv\\_leg/index.page](http://www.cio.gov.bc.ca/cio/priv_leg/index.page).

#### **1.24 Copyright**

This document is subject to copyright and may be used, reproduced, modified and distributed to the extent necessary for the CSA Holder to prepare and submit a Quotation.

#### **1.25 Confidentiality Agreement**

The CSA Holder acknowledges that prior to the Closing Time it may be required to enter into a confidentiality agreement with the Purchaser in order to obtain access to confidential materials relevant to preparing a Quotation.

#### **1.26 Collection and Use of Personal Information**

CSA Holders are solely responsible for familiarizing themselves, and ensuring that they comply, with the laws applicable to the collection and dissemination of information, including resumes and other personal information concerning employees and employees of any subcontractors. If the COP requires CSA Holders to provide the Purchaser with personal information of employees who have been included as resources in response to the COP, CSA Holders will ensure that they have obtained written consent from each of those employees before forwarding such personal information to the Purchaser. Such written consents should specify that the personal information may be forwarded to the Purchaser for the purposes of responding to the COP and used by the Purchaser for the purposes set out in the COP. The Purchaser may, at any time, request the original consents or copies of the original consents from CSA Holders, and upon such request being made, CSA Holders will immediately supply such originals or copies to the Purchaser.

#### **1.27 Trade Agreements**

This COP is covered by the following trade agreements <<delete those that are not applicable>>:

- a) Canadian Free Trade Agreement;
- b) Canada-UK Trade Continuity Agreement;
- c) New West Partnership Trade Agreement;
- d) Trade, Investment and Labour Mobility Agreement;
- e) World Trade Organization Agreement on Government Procurement;
- f) Canada-European Union Comprehensive Economic and Trade Agreement; and
- g) Comprehensive and Progressive Agreement for Trans-Pacific Partnership.

#### **1.28 CSA Holder Representation**

By submitting a Quotation, CSA Holder represent to the Purchaser that they:

- a) have carefully read and examined the entire COP; and
- b) have made such enquiries and conducted such other investigations as are prudent and reasonable in preparing their Quotation.

## 2. OPPORTUNITY

### 2.1 Background:

<<<Provide a brief overview of the project and any Goods and Associated Services required, include any relevant site details and any other variables that may affect the pricing of the Goods and Associated Services. Be sure to include any disclosures relevant to the Goods and Associated Services.>>>

### 2.2 Scope:

<<<Identify the Goods(s) required, including quantities, and any Associated Services, as described in Appendix A of the CSA>>>

Goods:

<<insert here based on Part 1 of Appendix A>>>

Associated Services

<<insert here based on Part 2 of Appendix A>>>

## 3. Requirements:

The Purchaser is seeking a CSA Holder that can provide the Goods and Associated Services described in Section 2.2 above in accordance with the following:

Delivery Date: <<<insert timeframe in which the Goods and Associated Services are to be delivered/work complete>>>

Delivery Location: <<<insert location of where the Goods and Associated Services are to be delivered/work complete>>>

<<<insert any other specifications that will be included in the Order and may be relevant to pricing of the Goods and Associated Services, for example site requirements, location for disposal of existing barriers, vaccine requirement to enter government workplace, etc. Please note these specifications will also need to appear in section 2 of the Quotation in order to form part of the Order>>>

## 4. Order

The CSA Holder should carefully review the terms and conditions set out in the Order attached as Appendix C of the CSA. In accordance with section 1.19 of the COP, by submitting a Quotation, the CSA Holder agrees that should its Quotation be successful, the CSA Holder will have entered into an Order with the Purchaser on the Order terms and conditions set out in Appendix C of the CSA.

## 5. Quotation

CSA Holders should submit Quotations using the attached Appendix 1 - "Quotation" or a form substantially similar. All requested information should be provided in the attached Quotation. CSA Holders should not include additional attachments or URLs.

## 6. Evaluation

Pricing will be evaluated using the following formula:

<<add formula for price evaluation here>>>

The lowest price CSA Holder will be the successful CSA Holder.

**SCHEDULE 1 - QUOTATION**

**CSA Holder:** <<<insert CSA Holder name as it appears on the CSA>>>  
**Order Number:** <<<insert if applicable>>>

**1. Goods and Associated Services:**

<<<Copy from section 2.2 of the COP - Identify the Goods(s) required, including quantities, and any Associated Services, as described in Appendix A of the CSA>>>

**2. Requirements:**

The CSA Holder agrees to provide the Goods and Associated Services described in section 1 above in accordance with the following:

**Delivery Date:** <<<copy from section 3 of the COP - insert timeframe in which the Goods and Associated Services are to be delivered/work complete>>>

**Delivery Location:** <<<copy from section 3 of the COP - insert location of where the Goods and Associated Services are to be delivered/work complete>>>

<<<copy from section 3 of the COP - insert any other specifications relevant to the Goods and Associated Services, for example site requirements, location for disposal of existing barriers, vaccine requirement to enter government workplace, etc.>>>

**3. Price:**

The CSA Holder agrees to provide the Goods and Associated Services described in section 1 in accordance with the requirements set out in section 2 at the following price(s):

<<insert table or other pricing template for CSA Holder to complete here. The Quotation will form part of the Order, so ensure this table is structured so as to elicits all the elements of price required for evaluation as described in the COP. This section will become the contract pricing section.>>>

The CSA Holder agrees to the Order terms set out in Appendix C to the CSA and agrees that if successful this Quotation will form part of the Order. The Purchaser signing and returning the Quotation to the CSA Holder constitutes the written, unconditional notice to the CSA Holder that the CSA Holder is the successful CSA Holder in accordance with section 1.19 of the COP.

|  |  |
|--|--|
| <b>For and on behalf of the CSA Holder by:</b> | <b>For or and on behalf of the Purchaser by:</b> |
| Name: _____                                    | Name: _____                                      |
| Title: _____                                   | Title: _____                                     |
| Address: _____                                 | Address: _____                                   |
| Email: _____                                   | Email: _____                                     |



## APPENDIX C –ORDER TERMS AND CONDITIONS

The following terms and conditions will apply to each Order formed in accordance with the provisions of the CSA and the applicable COP.

### 1. Definitions.

In this Order the following definitions apply:

- (a) “Acceptance” is defined section 4;
- (b) “Associated Services” means any services described in Part 2 of Appendix A of the CSA as identified in the COP and reproduced in Quotation to be provided by the Contractor to the Purchaser pursuant to an Order;
- (c) “COP” or “Competitive Order Process” means the second stage competitive solicitation process issued by the Purchaser to the CSA Holders by which a CSA Holder is selected by the Purchaser to enter into an Order;
- (d) “Contractor” means the CSA Holder with the successful Quotation to the COP who enters into an Order with the Purchaser;
- (e) “CSA Holder” means a respondent under the RCSA that has entered into a CSA with the Province and is eligible to participate in the COP;
- (f) “Delivery Date” means the date of delivery for Goods specified in the COP and reproduced in the Quotation;
- (g) “Delivery Location” means the location identified by Purchaser in the COP and reproduced in the Quotation to which the Contractor is to deliver Goods, or such other delivery area or point which is specified in writing by Purchaser;
- (h) “Goods” means the goods, described in Part 1 of Appendix A of the CSA as identified in the COP and reproduced in the Quotation, that are required to be delivered by the Contractor pursuant to an Order, and include all materials, component parts, data, documentation packaging and labelling of such goods, if applicable;
- (i) “Inspection Period” is defined in section 4;
- (j) “Intellectual Property Rights” means all intellectual and industrial property rights and rights of a similar nature including all rights in and to, patents including all issued patents and pending applications therefore and patents which may be issued therefrom (including divisions, reissues, re-examinations, continuations and continuations-in-part); trade-marks; copyrights; industrial design rights; rights pertaining to trade secrets and confidential information; publicity rights; personality rights; moral rights; and other intellectual property rights whether registered or not and all applications, registrations, renewals and extensions pertaining to the foregoing;
- (k) “Order” means this agreement for the purchase and sale of Goods and may include the purchase of Associated Services between the Purchaser and a Contractor as a result of the COP;
- (l) “Ministry” means any ministry or agency of the government of British Columbia;
- (m) “Public Sector Entity” means a government organization, local public body or participating jurisdiction, each as defined in the Procurement Services Act and includes a person, other than the government, a government organization, a local public body or a participating jurisdiction, provided the requirements set out in section 2(2) of the Procurement Services Act have been met, that has entered into an access agreement with the Province and appears on the Province’s list of eligible Purchasers;

- (n) "Purchaser" means the Ministry or Public Sector Entity identified on the COP as the Purchaser and which is a party to this Order;
- (o) "Purchaser Indemnified Parties" is defined in section 15;
- (p) "Quotation" means a written response to the COP and includes the Specifications and other requirements, information and documentation, if any, required by the Quotation that is submitted by a CSA Holder; and
- (q) "Specifications" means Section 941 - Precast Reinforced Concrete Barriers, (SS 941), in the most current version of the BC Ministry of Transportation and Infrastructure's Standard Specifications for Highway Construction, as may be amended from time to time. The Specifications can be viewed online at:

<https://www2.gov.bc.ca/gov/content/transportation/transportation-infrastructure/engineering-standards-guidelines/standard-specifications-for-highway-construction>

## **2. Order.**

The Order consists only of: (a) these Order terms and conditions, including any Specifications incorporated by reference or otherwise within the Order terms and conditions; (b) the Quotation, including any Specifications or other documents expressly referenced in the Quotation; (c) the pricing as proposed in the Quotation; and (d) other documents expressly referenced by a CSA Holder in the Quotation to the extent they are not in conflict with, but contemplated by the COP requirements and reproduced in the Quotation. The Purchaser's acceptance of, or payment for, the Goods and Associated Services will not constitute Purchaser's acceptance of any additional or different terms in any Quotation, unless otherwise accepted in writing by the Purchaser. If there is any conflict or inconsistency between the documents constituting this Order, then unless otherwise expressly provided, the documents will rank in the order of precedence in accordance with the order in which they are listed in this Section 2.

## **3. Delivery of Goods and Associated Services.**

- a. The Contractor agrees to supply and deliver the Goods to the Purchaser and to perform the Associated Services, as applicable, on the terms set out in this Order.
- b. The Contractor shall, at its own expense, pack, load, and deliver Goods to the Delivery Location and in accordance with the invoicing, delivery terms, shipping, packing, and other instructions set out in the Order or otherwise provided to the Contractor by the Purchaser in writing. No charges will be allowed for freight, transportation, insurance, shipping, storage, handling, demurrage, cartage, packaging or similar charges unless provided for in the applicable COP or otherwise agreed to in writing by Purchaser.
- c. Time is of the essence with respect to delivery of the Goods and performance of Associated Services, if any. Goods shall be delivered by the applicable Delivery Date. The Contractor must immediately notify the Purchaser if the Contractor is likely to be unable to meet a Delivery Date. At any time prior to the Delivery Date, the Purchaser may, upon notice to the Contractor, cancel or change an Order, or any portion thereof, for any reason, including, without limitation, for the convenience of the Purchaser or due to failure of the Contractor to comply with this Order, unless otherwise noted.
- d. Title and risk of loss or damage shall pass to the Purchaser upon receipt of Goods at the Delivery Location, unless otherwise agreed to by the Purchaser in writing. The Purchaser has no obligation to obtain insurance while Goods are in transit from the Contractor to the Delivery Location.
- e. The Contractor shall follow all instructions of the Purchaser and cooperate with the Purchaser's customs broker as directed by the Purchaser (including by providing requested shipping

documentation) with respect to all Goods that originate from sources or suppliers based outside Canada. The Contractor shall comply with all the requirements of the Canada Border Services Agency (or any successor organization) with respect to the importation of Goods from outside Canada.

#### **4. Inspection; Acceptance and Rejection.**

- a. All shipments of Goods and performance of Associated Services, if applicable, shall be subject to the Purchaser's right of inspection. The Purchaser shall have **sixty (60) calendar days** (the "**Inspection Period**") following the delivery of the Goods at the Delivery Location or performance of the Associated Services, if applicable, to undertake such inspection, and upon such inspection the Purchaser shall either accept the Goods or Associated Services ("**Acceptance**") or reject them. The Purchaser shall have the right to reject any Goods that are delivered in excess of the quantity ordered or are damaged or defective. In addition, the Purchaser shall have the right to reject any Goods that are not in conformance with the Specifications or any term of this Order. Transfer of title to the Purchaser of Goods shall not constitute the Purchaser's Acceptance of those Goods. The Purchaser shall provide the Contractor within the Inspection Period notice of any Goods or Associated Services that are rejected, together with the reasons for such rejection. If the Purchaser does not provide the Contractor with any notice of rejection within the Inspection Period, then the Purchaser will be deemed to have provided Acceptance of such Goods or Associated Services. The Purchaser's inspection, testing, or Acceptance or use of the Goods or Associated Services hereunder shall not limit or otherwise affect the Contractor's warranty obligations hereunder with respect to the Goods or Associated Services, and such warranties shall survive inspection, test, Acceptance and use of the Goods or Associated Services, and shall not limit or otherwise affect the Purchaser's rights under section 5 – Quality Management.
- b. The Purchaser shall be entitled to return rejected Goods to the Contractor at Contractor's expense and risk of loss for, at the Purchaser's option, either: (i) full credit or refund of all amounts paid by the Purchaser to the Contractor for the rejected Goods; or (ii) replacement Goods to be received within the time period specified by the Purchaser. Title to rejected Goods that are returned to the Contractor shall transfer to the Contractor upon such delivery and such Goods shall not be replaced by the Contractor except upon written instructions from the Purchaser. The Contractor shall not deliver Goods that were previously rejected on grounds of non-compliance with this Order, unless delivery of such Goods is approved in advance by the Purchaser, and is accompanied by a written disclosure of the Purchaser's prior rejection(s).
- c. Notwithstanding the Purchaser having received possession of the Goods and without limiting the Purchaser's rights in section 4, the Purchaser will not have accepted the Goods until the Purchaser's Qualified Receiver (as defined in the Purchaser's Core Policy and Procedures Manual) has completed the steps assigned to the Qualified Receiver set out in c. 4.3.2 of the [Purchaser's Core Policy and Procedures Manual](#).
- d. In addition to the foregoing provisions of this section 4, at the request of the Purchaser, the Contractor will enter into an amendment of the Order with the Purchaser to reflect any of the circumstances set out in this section 4.

#### **5. Quality Management.**

The Contractor will maintain and comply with the following:

- a. The quality management provisions set out in Specifications; and
- b. The quality control plan attached as Schedule 1.

## 6. Price/Payment Terms.

Prices for the Goods and Associated Services, if any, will be set out in the applicable Order as incorporated through the Quotation. Price increases or charges not expressly set out in the Order shall not be effective unless agreed to in advance in writing by Purchaser. The Contractor will issue all invoices on a timely basis. In order to obtain payment, all invoices delivered by the Contractor must meet the Purchaser's requirements, and at a minimum shall reference:

- (a) the Contractor's legal name and address;
- (b) the date of the invoice;
- (c) the quantity and price of Goods delivered and for which payment is sought;
- (d) a statement of any credits or deposit amounts to the Purchaser's account which the Purchaser may apply or which may have been applied if previously agreed by the parties to offset amounts owing by the Purchaser in respect of the Goods under the invoice;
- (e) the Contractor's calculation of all applicable taxes payable by the Purchaser in relation to the Goods;
- (f) a reference to the CSA, CSA # and the Order Number;
- (g) an invoice number for identification; and
- (h) any other billing information reasonably requested by the Purchaser.

The price proposed in the Quotation is the maximum amount which the Purchaser is obliged to pay to the Contractor for fees and expenses under this Order (exclusive of any applicable taxes). The Purchaser will pay the undisputed portion of properly rendered invoices sixty (60) calendar days from the invoice date. The Purchaser shall have the right to withhold payment of any invoiced amounts that are disputed in good faith until the parties reach an agreement with respect to such disputed amounts and such withholding of disputed amounts shall not be deemed a breach of this Order nor shall any interest be charged on such amounts. Notwithstanding the foregoing, the Purchaser agrees to pay the balance of the undisputed amounts on any invoice that is the subject of any dispute within the time periods specified herein. If applicable, the Purchaser's obligation to pay money to the Contractor is subject to the *Financial Administration Act* [RSBC 1996] CHAPTER 138, which makes that obligation subject to an appropriation being available in the fiscal year of the Purchaser during which payment becomes due. Unless otherwise specified in this Order, all references to money or price are to Canadian dollars.

## 7. Taxes.

Unless otherwise stated in an Order, all prices or other payments stated in the Order are exclusive of any taxes. The Contractor shall separately itemize all applicable taxes each on each invoice and indicate on each invoice its applicable tax registration number(s). Purchaser will pay all applicable taxes to the Contractor when the applicable invoice is due. The Contractor will remit all applicable taxes to the applicable government authority as required by applicable laws. Notwithstanding any other provision of this Order, the Purchaser may withhold from all amounts payable to the Contractor all applicable withholding taxes and to remit those taxes to the applicable governmental authorities as required by applicable laws. The Contractor must:

- (a) apply for, and use reasonable efforts to obtain, any available refund, credit, rebate or remission of federal, provincial or other tax or duty imposed on the Contractor as a result of this Order that the Purchaser has paid or reimbursed to the Contractor or agreed to pay or reimburse to the Contractor under this Order; and
- (b) immediately on receiving, or being credited with, any amount applied for under paragraph (a), remit that amount to the Purchaser.

## 8. Hazardous Materials.

The Contractor agrees to provide, upon and as requested by the Purchaser, to satisfy any applicable laws governing the use of any hazardous substances either of the following: (a) all reasonably necessary documentation to verify the material composition, on a substance by substance basis, including quantity used of each substance, of any Goods, and/or of any process used to make, assemble, use, maintain or repair any Goods; or (b) all reasonably necessary documentation to verify that any Goods and/or any process used to make, assemble, use, maintain or repair any Goods, do not contain, and the Associated Services do not require the use of, any particular hazardous substances specified by the Purchaser.

## 9. Legal Compliance.

In carrying out its obligations under the Order, the Contractor shall at all times comply with all applicable federal, provincial, and municipal laws, regulations, standards, and codes. The Contractor shall obtain all applicable permits, licences, exemptions, consents and approvals required for the Contractor to manufacture and deliver the Goods and perform the Associated Services.

## 10. Warranties.

- a. **Goods Warranties.** The Contractor warrants to the Purchaser that all Goods provided hereunder shall be: (i) of merchantable quality; (ii) fit for the purposes intended; (iii) unless otherwise agreed to by the Purchaser, new; (iv) free from defects in design, material and workmanship; (v) in strict compliance with the Specifications; (vi) free from any liens or encumbrances on title whatsoever; (vii) in conformance with any samples provided to the Purchaser; and (viii) compliant with all applicable federal, provincial, and municipal laws, regulations, standards, and codes.
- b. **Associated Service Warranties.** The Contractor shall perform all Associated Services: (i) exercising that degree of professionalism, skill, diligence, care, prudence, judgment, and integrity which would reasonably be expected from a skilled and experienced service provider providing services under the same or similar circumstances as the Associated Services under this Order; (ii) in accordance with all Specifications and all the Purchaser policies, guidelines, by-laws and codes of conduct applicable to the Contractor; and (iii) using only personnel with the skills, training, expertise, and qualifications necessary to carry out the Associated Services. The Purchaser may object to any of the Contractor's personnel or any subcontractor(s) engaged in the performance of Associated Services who, in the reasonable opinion of the Purchaser, are lacking in appropriate skills or qualifications, engage in misconduct, constitute a safety risk or hazard or are incompetent or negligent, and the Contractor shall promptly remove such personnel or subcontractor(s) from the performance of any Associated Services upon receipt of such notice, and shall not re-employ the removed person or subcontract the removed subcontractor(s) in connection with the Associated Services without the prior written consent of the Purchaser.
- c. **Intellectual Property Warranty.** The Contractor further warrants to the Purchaser that at all times all Goods and/or Associated Services will not be in violation of or infringe any Intellectual Property Rights of any person.
- d. **Manufacturer Warranties.** The Contractor shall assign to the Purchaser all manufacturer's warranties for Goods, whether or not manufactured by or for the Contractor, and, if the Contractor is not the manufacturer, shall take all necessary steps as required by such third-party manufacturers to effect assignment of such warranties to the Purchaser.

## 11. Warranty Remedies.

- a. In the event of breach of any of the warranties in Section 10 (a) or 10 (b), and without prejudice to any other right or remedy available to the Purchaser (including the Purchaser's indemnification rights hereunder), the Contractor will, at the Purchaser's option and the Contractor's expense, refund the purchase price for, or correct or replace the affected Goods, or re-perform the affected Associated Services, within 10 calendar day(s) after notice by the Purchaser to the Contractor of warranty breach. All associated costs, including costs of re-performance, costs to inspect the Goods and /or Associated Services, transport the Goods from the Purchaser to the Contractor, and return shipment to the Purchaser, and costs resulting from supply chain interruptions, will be borne by the Contractor. If Goods are corrected or replaced or Associated Services are re-performed, the warranties in Section 10 (a) and 10 (b) will continue as to the corrected or replaced Goods. If the Contractor fails to repair or replace the Goods within the time periods required above, the Purchaser may repair or replace the Goods at the Contractor's expense.
- b. In the event that any Goods provided by the Contractor to the Purchaser are subject to a claim or allegation of infringement of Intellectual Property Rights of a third party, the Contractor shall, at its own option and expense, without prejudice to any other right or remedy of the Purchaser (including

the Purchaser's indemnification rights hereunder), promptly provide the Purchaser with a commercially reasonable alternative, including the procurement for the Purchaser of the right to continue using the Goods in question, the replacement of such Goods with a non-infringing alternative satisfactory to the Purchaser, or the modification of such Goods (without affecting functionality) to render them non-infringing.

**12. Clear of Liens and Encumbrances.** All Goods shall vest in the Purchaser free and clear of all liens and encumbrances on receipt of payment by the Contractor for the Goods.

**13. Public Announcements.**

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

**14. Insurance.** The Contractor represents and warrants to the Purchaser that it has in place with reputable insurers such insurance policies in coverage amounts that would be maintained by a prudent supplier of services similar to the Associated Services provided hereunder, including, as applicable, professional errors and omissions liability insurance and comprehensive commercial general liability insurance (including product liability coverage, all-risk contractors' equipment insurance, and automobile liability insurance). In addition, the Contractor will take out and maintain, at its own cost, such insurance policies and coverages as may be required by the Purchaser as specified in Schedule 2 and the Contractor will promptly deliver to the Purchaser, as and when requested, written proof of such insurance. If requested, the Purchaser will be named as an additional insured under any such policies. If requested by the Purchaser, such insurance will provide that it cannot be cancelled, or materially changed so as to affect the coverage provided under this Order, without the insurer providing at least 30 calendar days prior written notice to the Purchaser.

**15. Indemnities.** The Contractor shall indemnify, defend (subject to the *Attorney General Act* [RSBC 1996] CHAPTER 22 and the *Crown Proceeding Act* [RSBC 1996] CHAPTER 89) and hold harmless the Purchaser, and its, employees and agents (the "**Purchaser Indemnified Parties**") from and against any claims, fines, losses, actions, damages, expenses, legal fees and all other liabilities brought against or incurred by the Purchaser Indemnified Parties or any of them (each a "Loss") to the extent the Loss is directly or indirectly caused or contributed to by any act or omission by the Contractor or by any of the Contractor's agents, employees, officers, directors, or subcontractors in connection with performing the Associated Services.

**16. Limitation of Liability.** EXCEPT FOR THE CONTRACTOR'S OBLIGATIONS UNDER SECTION 15, AND EXCEPT FOR DAMAGES THAT ARE THE RESULT OF THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF A PARTY, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING ANY LOST PROFITS, DATA, GOODWILL, OR BUSINESS OPPORTUNITY FOR ANY MATTER RELATING TO THIS AGREEMENT.

**17. Independent Contractors.** The Contractor will perform its obligations under the Order as an independent contractor and in no way will the Contractor or its employees be considered employees, agents, partners, fiduciaries, or joint venturers of the Purchaser. The Contractor and its employees will have no authority to represent the Purchaser or its employees or agents or bind the Purchaser or its employees or agents in any way, and neither the Contractor nor its employees or agents will hold themselves out as having authority to act for the Purchaser, its employees or agents.

- 18. Subcontractors.** Except in the case of Associated Services, the Contractor may not subcontract any of its obligations under this Order without the express written consent of the Purchaser excepting where subcontractors are included in Appendix D of the CSA. No subcontract, whether consented to by the Purchaser or not, will relieve the Contractor from any of its obligations under this Order and the Contractor shall ensure that any subcontractor(s) comply with section 10(b).
- 19. Further Assurances.** The parties shall enter into such further and other documents, cause such meetings to be held, resolutions passed and do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Order and every part thereof.
- 20. Severability.** If any provision of this Order is determined to be unenforceable or invalid for any reason whatsoever, in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part thereof and all other provisions shall continue in full force and effect.
- 21. Waiver.** No waiver of any provision of this Order shall be enforceable against that party unless it is in writing and signed by that party.
- 22. Assignment.** The Contractor may not assign or subcontract this Order, in whole or in part, without the Purchaser's prior written consent. The Contractor's permitted assignment or subcontracting of this Order or any part thereof will not release the Contractor of its obligations under this Order, and it will remain jointly and severally liable with the assignee or subcontractor for any obligations assigned or subcontracted. The acts of omissions of any subcontractors of the Contractor will be deemed to be the acts and omissions of the Contractor. The Purchaser may assign to any person any of the Purchaser's rights under this Order and may assign to any "government corporation", as defined in the *Financial Administration Act* [RSBC 1996] CHAPTER 138, any of the Purchaser's obligations under this Order upon providing written notice to the Contractor. This Order shall enure to the benefit of and be binding upon the parties and their respective legal personal representatives, heirs, executors, administrators, assigns or successors.
- 23. Cumulative Remedies.** Subject to Section 16, the rights and remedies of the Purchaser in this Order are cumulative and in addition to any other rights and remedies at law or in equity.
- 24. Survival.** Any provision of this Order which expressly or by implication from its nature is intended to survive the termination or completion of the Order will continue in full force and effect after any termination, expiry or completion of this Order.
- 25. Interpretation.** The headings used in this Order and its division into articles, sections, schedules, exhibits, appendices, and other subdivisions do not affect its interpretation. Unless the context requires otherwise, words importing the singular include the plural and vice versa; words importing gender include all genders. References in this Order to articles, sections, schedules, exhibits, appendices, and other subdivisions are to those parts of this Order. Where this Order uses the word "including," it means "including without limitation," and where it uses the word "includes," it means "includes without limitation."
- 26. Governing Law.** This Order, and any disputes or claims arising out of or in connection with its subject matter are to be governed by, interpreted and construed in accordance with the laws of British Columbia and the federal laws of Canada as they apply in British Columbia, excluding any conflict of law rules providing otherwise and excluding the application of the United Nations Convention on Orders for the International Sale of Goods and the *International Sale Of Goods Act* [RSBC 1996] CHAPTER 236. The parties irrevocably attorn to the jurisdiction of the courts of British Columbia in Victoria, which will have non-exclusive jurisdiction over any matter arising out of this Order.
- 27. Electrical/Electronic Components and Equipment.** All electrical/electronic components or equipment must comply with applicable Province and other applicable regulatory and legislative frameworks regarding devices and electrical safety, e.g., without limitation, CSA or ULC requirements and conform to the industry standards and all other applicable legislative requirements.

- 28. Language.** All communications under this Order and any related documentation are required to be in English.
- 29. Notices.** Any notice contemplated by this Order, to be effective, must be in writing and delivered as follows:
- a. By hand to the addressee's contact address specified in the Quotation, in which case it will be deemed to be received on the day of its delivery; or
  - b. By email to the addressee's contact email address specified in the Quotation, if any, in which case it will be deemed to be received on the day on which it is emailed or transmitted electronically provided the notice must be transmitted in a form: capable of being read without the need to obtain new software, stored indefinitely, forwarded and printed by the addressee contact.
- 30. Confidentiality.** The Contractor must treat as confidential all information obtained by the Contractor; or any of its employees or subcontractors, (whether obtained verbally, electronically or otherwise) as a result of this Order, and not permit its disclosure or use without the Purchaser's prior written consent except:
- (a) as required to perform the Contractor's obligations under this Order or to comply with applicable laws; or
  - (b) if it is information that is generally known to the public other than as result of a breach of this Order.
- 31. Additional Terms.** If the Goods include any items, components or services that require the Purchaser to enter into a license or other type of agreement in any form whatsoever (including click agree or shrink wrap), the Purchaser reserves the right to negotiate any such form of agreement and/or terms and conditions prior to or after forming the Order.
- 32. Schedules.** The following schedules are attached to and form part of the Order. *See next page(s).*



## Schedule 1 – Quality Control Plan

<<<insert Respondent's proposed QC Plan proposed as part of Response to RCSA>>>

## Schedule 2– Insurance

1. The Contractor must, without limiting the Contractor’s obligations or liabilities and at the Contractor’s own expense, purchase and maintain throughout the term of the CSA the following insurances with insurers licensed in Canada in forms and amounts acceptable to the Purchaser:
  - (a) Commercial General Liability in an amount not less than \$5,000,000 inclusive per occurrence against bodily injury, personal injury and property damage and including liability assumed under this Order and this insurance must
    - (i) include the Purchaser as an additional insured,
    - (ii) be endorsed to provide the Purchaser with 30 days advance written notice of cancellation or material change, and
    - (iii) include a cross liability clause.
  - (b) Automobile Liability on all vehicles owned, operated or licensed by the Contractor in an amount not less than \$5,000,000 per occurrence, and where applicable the Contractor may show evidence of this insurance using an ICBC Confirmation of Insurance Coverage (APV-47) form in place of the requirement for the Province of British Columbia Certificate of Insurance.
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 Purchaser.
3. The Contractor must provide the Purchaser with evidence of all required insurance as follows:
  - (a) prior to commencement of the Associated Services, the Contractor must provide to the Purchaser 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 of the CSA, the Contractor must provide to the Purchaser prior to 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 Purchaser at any time, the Contractor must provide to the Purchaser certified copies of the required insurance policies.
4. The Contractor must obtain, maintain and pay for any additional insurance which the Contractor is required by law to carry, or which the Contractor considers necessary to cover risks not otherwise covered by insurance specified in this Schedule in the Contractor’s sole discretion.
5. The Contractor must ensure that any subcontractor(s) carry insurance as set out in this Schedule and must provide to the Purchaser proof of subcontractor(s) insurance in the circumstances and within the timeframes applicable to the Contractor under this Schedule.

## APPENDIX D –SUBCONTRACTORS AND QC MANAGER

### Part 1: Subcontractors

<<<If subcontractors are named and evaluated to meet the Qualification Criteria in the first stage (RCSA) evaluation, include such subcontractors here, otherwise indicate “not applicable”>>>

### Part 2: QC Manager

<<<insert named QC Manager from Response>>>

## APPENDIX E –TAX VERIFICATION SCHEDULE

1. In this Appendix:
  - a) **“Tax Verification Letter”** means a letter issued by the Province of British Columbia’s Ministry of Finance verifying that the CSA Holder meets its applicable B.C. corporate income tax filing obligations and provincial sales tax (PST) filing and payment obligations; and
  - b) **“Valid”** means that the Tax Verification Letter’s period of validity, as indicated on the Tax Verification Letter, has not ended.
2. As a condition of entering into this CSA, the CSA Holder provided to the Province a Valid Tax Verification Letter.
3. Upon request by the Province, the CSA Holder must provide the Province with a new Valid Tax Verification Letter. Notwithstanding any other provision of this CSA, the CSA Holder acknowledges and agrees that any extension or renewal of this CSA is conditional upon the Province having, or receiving from the CSA Holder in response to a request from the Province, a Valid Tax Verification Letter prior to any such extension or renewal.