

## Appendix D – Order Terms and Conditions

### RECITALS:

A. Acting under the *Procurement Services Act* (British Columbia), the Province issued a Request for Corporate Supply Arrangement – Closed Framework, for Information Schedule Development Consultant Services under solicitation number **ON-003790**, as subsequently amended by Addenda 1 through (as amended, the “Request for Corporate Supply Arrangement - Closed Framework” or “RCSA”);

The Contractor submitted a Response dated **July 20, 2022** to the RCSA and was selected as a CSA Holder pursuant to the terms of the RCSA, to enter into a separate, non-exclusive Corporate Supply Arrangement - Closed Framework (the “CSA”) governing eligibility to receive Service Requests pursuant to Ordering Processes for awards of Orders;

The Contractor has been selected further to an Ordering Process to enter into an Order; and

The Purchaser and the Contractor now wish to enter into this Order to set forth the terms and conditions upon which the Contractor will provide the Information Schedule Development Consultant Services.

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

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

### **1 DEFINITIONS**

#### General

1.1 In this Order, including the Recitals, unless the context otherwise requires:

- (a) “Business Day” means a day, other than a Saturday or Sunday, on which Provincial government offices are open for normal business in British Columbia;
- (b) “Contractor” means the entity identified as the contractor on the Service Request;
- (c) “CSA Holder” means a successful Respondent to the RCSA that has entered into a CSA with the Province;
- (d) “Effective Date” means the Effective Date set out in the applicable Service Request;
- (e) “Consultant” means the Consultant named in the Service Request;
- (f) “Information Schedule Development Consultant Services” means the services set out in the Service Request, as more particularly described in Part 1 of Appendix A to the CSA;
- (g) “Incorporated Material” means any material in existence prior to the start of the Term or developed independently of this Order, and that is incorporated or embedded in the Produced Material by the Contractor or a Subcontractor;
- (h) “Material” means the Produced Material and the Received Material;
- (i) “Ministry” means any ministry or agency of the government of British Columbia;
- (j) “Order” means this contract between the Purchaser and Contractor, which includes the Service Request, these terms and conditions, and any other documents or appendices incorporated by reference within these terms and conditions and the Service Request;
- (k) “Ordering Process” means the second stage call off process by which a Contractor is selected by a Purchaser to enter into an Order further to section 3.5 of the CSA;
- (l) “Order Term” means the term of the Order as described in the Service Request.
- (m) “Produced Material” means records, software and other material, whether complete or not, that, as a result of this Order, are produced or provided by the Contractor or a Subcontractor and includes the Incorporated Material;
- (n) “Purchaser” means the Ministry identified as the purchaser on the Service Request;
- (o) “Received Material” means records, software and other material, whether complete or not, that, as a result of this Order, are received by the Contractor or a Subcontractor from the Purchaser or any other person;

- (p) "Response" means the written Response to the RCSA submitted by the Contractor;
- (q) "Service Request" means the accepted written request on the form set out in Appendix C to the CSA issued by the Purchaser to the Contractor for the Information Schedule Development Consultant Services; and
- (r) "Subcontractor" means a person described in paragraph (a) or (b) of section 13.4.

All capitalized terms used herein and not otherwise defined in this section will have the meanings set forth in the RCSA or the CSA, as applicable.

#### Meaning of "record"

- 1.2 The definition of "record" in the *Interpretation Act* is incorporated into this Order and "records" will bear a corresponding meaning.

## **2 INFORMATION SCHEDULE DEVELOPMENT CONSULTANT SERVICES**

### Provision of Information Schedule Development Consultant Services

- 2.1 The Contractor must provide the Information Schedule Development Consultant Services in accordance with this Order.

#### Order Term

- 2.2 Regardless of the date of execution or delivery of this Order, the Contractor must provide the Information Schedule Development Consultant Services during the Order Term.

#### Supply of various items

- 2.3 Unless the parties otherwise agree in writing, the Contractor must supply and pay for all labour, materials, equipment, tools, facilities, approvals and licenses necessary or advisable to perform the Contractor's obligations under this Order, including the license under section 6.4.

#### Standard of care

- 2.4 Unless otherwise specified in this Order, the Contractor must perform the Information Schedule Development Consultant Services to a standard of care, skill and diligence maintained by persons providing, on a commercial basis, services similar to the Information Schedule Development Consultant Services.

#### Standards in relation to persons performing Information Schedule Development Consultant Services

- 2.5 The Contractor must ensure that all persons employed or retained to perform the Information Schedule Development Consultant Services are qualified and competent to perform them and are properly trained, instructed and supervised.

#### Instructions by Purchaser

- 2.6 The Purchaser may from time to time give the Contractor reasonable instructions (in writing or otherwise) as to the performance of the Information Schedule Development Consultant Services. The Contractor must comply with those instructions but, unless otherwise specified in this Order, the Contractor may determine the manner in which the instructions are carried out.

#### Confirmation of non-written instructions

- 2.7 If the Purchaser provides an instruction under section 2.6 other than in writing, the Contractor may request that the instruction be confirmed by the Purchaser in writing, which request the Purchaser must comply with as soon as it is reasonably practicable to do so.

#### Effectiveness of non-written instructions

- 2.8 Requesting written confirmation of an instruction under section 2.7 does not relieve the Contractor from complying with the instruction at the time the instruction was given.

#### Applicable laws

- 2.9 In the performance of the Contractor's obligations under this Order, the Contractor must comply with all applicable laws.

### 3 PAYMENT

#### Fees and expenses

- 3.1 If the Contractor complies with this Order, then the Purchaser must pay to the Contractor:
- (a) the fees described in Appendix A – Part 2 of the CSA for the Information Schedule Development Consultant Services identified in the Service Request;
  - (b) the expenses, if any, described in Appendix A – Part 2 of the CSA if they are supported, where applicable, by proper receipts and, in the Purchaser's opinion, are necessarily incurred by the Contractor in providing the Information Schedule Development Consultant Services; and
  - (c) any applicable taxes payable by the Purchaser under law or agreement with the relevant taxation authorities on the fees and expenses described in paragraphs (a) and (b).

The Purchaser is not obliged to pay to the Contractor any fees and expenses that exceed the "Maximum Amount" specified in the Service Request.

#### Statements of accounts

- 3.2 In order to obtain payment of any fees and expenses under this Order, the Contractor must submit to the Purchaser a written statement of account in a form satisfactory to the Purchaser including the information set out Schedule 1 upon completion of the Information Schedule Development Consultant Services or at such other times as described in the Service Request.

#### Withholding of amounts

- 3.3 Without limiting section 9.1, the Purchaser may withhold from any payment due to the Contractor an amount sufficient to indemnify, in whole or in part, the Purchaser and its employees and agents against any liens or other third-party claims that have arisen or could arise in connection with the provision of the Information Schedule Development Consultant Services. An amount withheld under this section must be promptly paid by the Purchaser to the Contractor upon the basis for withholding the amount having been fully resolved to the satisfaction of the Purchaser.

## Appropriation

- 3.4 The Purchaser's obligation to pay money to the Contractor is subject to the *Financial Administration Act*, which makes that obligation subject to an appropriation being available in the fiscal year of the Purchaser during which payment becomes due.

## Currency

- 3.5 Unless otherwise specified in this Order, all references to money are to Canadian dollars.

## Non-resident income tax

- 3.6 If the Contractor is not a resident in Canada, the Contractor acknowledges that the Purchaser may be required by law to withhold income tax from the fees payable under this Order and then to remit that tax to the Receiver General of Canada on the Contractor's behalf.

## Prohibition against committing money

- 3.7 Without limiting section 13.10(a), the Contractor must not in relation to performing the Contractor's obligations under this Order commit or purport to commit the Purchaser to pay any money except as may be expressly provided for in this Order.

## Refunds of taxes

- 3.8 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.

## 4 REPRESENTATIONS AND WARRANTIES

- 4.1 As at the date this Order is executed and delivered by, or on behalf of, the parties, the Contractor represents and warrants to the Purchaser as follows:
- (a) except to the extent the Contractor has previously disclosed otherwise in writing to the Purchaser,
    - (i) all information, statements, documents and reports furnished or submitted by the Contractor to the Purchaser in connection with this Order (including as part of any Response to the RCSA or in connection with the CSA) are in all material respects true and correct,
    - (ii) the Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved subcontractual or other agreements in place and available to enable the Contractor to fully perform the Information Schedule Development Consultant Services and to grant any licenses under this Order, and
    - (iii) the Contractor holds all permits, licenses, approvals and statutory authorities issued by any government or government agency that are necessary for the performance of the Contractor's obligations under this Order; and
  - (b) if the Contractor is not an individual,
    - (i) the Contractor has the power and capacity to enter into this Order and to observe, perform and comply with the terms of this Order and all necessary corporate or other proceedings have been taken and done to authorize the execution and delivery of this Order by, or on behalf of, the Contractor, and
    - (ii) this Order has been legally and properly executed by, or on behalf of, the Contractor and is legally binding upon and enforceable against the Contractor in accordance with its terms except as

enforcement may be limited by bankruptcy, insolvency or other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

## **5 PRIVACY, SECURITY AND CONFIDENTIALITY**

### Privacy

5.1 The Contractor must comply with the Privacy Protection Schedule attached as Schedule 3.

### Security

5.2 The Contractor must:

- (a) make reasonable security arrangements to protect the Material from unauthorized access, collection, use, disclosure, alteration or disposal; and
- (b) comply with the Security Schedule attached as Schedule 4.

### Confidentiality

5.3 The Contractor must treat as confidential all information in the Material and all other information accessed or obtained by the Contractor or a Subcontractor (whether 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;
- (b) if it is information that is generally known to the public other than as result of a breach of this Order; or
- (c) if it is information in any Incorporated Material.

### Public announcements

5.4 Any public announcement relating to this Order will be arranged by the Purchaser and, if such consultation is reasonably practicable, after consultation with the Contractor.

### Restrictions on promotion

5.5 The Contractor must not, without the prior written approval of the Purchaser, refer for promotional purposes to the Purchaser being a customer of the Contractor or the Purchaser having entered into this Order.

## **6 MATERIAL AND INTELLECTUAL PROPERTY**

### Access to Material

6.1 If the Contractor receives a request for access to any of the Material from a person other than the Purchaser, and this Order does not require or authorize the Contractor to provide that access, the Contractor must promptly advise the person to make the request to the Purchaser.

### Ownership and delivery of Material

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

### Matters respecting intellectual property

6.3 The Purchaser exclusively owns all intellectual property rights, including copyright, in:

- (a) Received Material that the Contractor receives from the Purchaser; and
- (b) Produced Material, other than any Incorporated Material.

Upon the Purchaser's request, the Contractor must deliver to the Purchaser documents satisfactory to the Purchaser that irrevocably waive in the Purchaser's favour any moral rights which the Contractor (or employees of the Contractor) or a Subcontractor (or employees of a Subcontractor) may have in the Produced Material and that confirm the vesting in the Purchaser of the copyright in the Produced Material, other than any Incorporated Material.

#### Rights in relation to Incorporated Material

- 6.4 Upon any Incorporated Material being embedded or incorporated in the Produced Material and to the extent that it remains so embedded or incorporated, the Contractor grants to the Purchaser:
- (a) a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to exercise, in respect of that Incorporated Material, the rights set out in the *Copyright Act* (Canada), including the right to use, reproduce, modify, publish and distribute that Incorporated Material; and
  - (b) the right to sublicense or assign to third-parties any or all of the rights granted to the Purchaser under section 6.4(a).

### **7 RECORDS AND REPORTS**

#### Work reporting

- 7.1 Upon the Purchaser's request, the Contractor must fully inform the Purchaser of all work done by the Contractor or a Subcontractor in connection with providing the Information Schedule Development Consultant Services.

#### Time and expense records

- 7.2 If the Contractor is to be paid fees at a daily or hourly rate or for the Contractor is to be paid or reimbursed for expenses, the Contractor must maintain time records and books of account, invoices, receipts and vouchers of expenses in support of those payments, in form and content satisfactory to the Purchaser. Unless otherwise specified in this Order, the Contractor must retain such documents for a period of not less than seven years after this Order ends.

### **8 AUDIT**

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

### **9 INDEMNITY AND INSURANCE**

#### Indemnity

- 9.1 The Contractor must indemnify and save harmless the Purchaser and the Purchaser's employees and agents from any loss, claim (including any claim of infringement of third-party intellectual property rights), damage award, action, cause of action, cost or expense that the Purchaser or any of the Purchaser's employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Order ends, (each a "Loss") to the extent the Loss is directly or indirectly caused or contributed to by:
- (a) any act or omission by the Contractor or by any of the Contractor's agents, employees, officers, directors, subcontractors or in connection with this Order; or
  - (b) any representation or warranty of the Contractor being or becoming untrue or incorrect.

#### Insurance

- 9.2 The Contractor must comply with the Insurance Schedule attached as Schedule 2.

#### Workers compensation

- 9.3 Without limiting the generality of section 2.9, the Contractor must comply with, and must ensure that any Subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of the Contractor's obligations under this Order, including the *Workers Compensation Act* in British Columbia or similar laws in other jurisdictions.

#### Personal optional protection

- 9.4 The Contractor must apply for and maintain personal optional protection insurance (consisting of income replacement and medical care coverage) during the Term at the Contractor's expense if:
- (a) the Contractor is an individual or a partnership of individuals and does not have the benefit of mandatory workers compensation coverage under the *Workers Compensation Act* or similar laws in other jurisdictions; and
  - (b) such personal optional protection insurance is available for the Contractor from WorkSafeBC or other sources.

#### Evidence of coverage

- 9.5 Within 10 Business Days of being requested to do so by the Purchaser, the Contractor must provide the Purchaser with evidence of the Contractor's compliance with sections 9.3 and 9.4.

### **10 FORCE MAJEURE**

#### Definitions relating to force majeure

- 10.1 In this section and sections 10.2 and 10.3:
- (a) "Event of Force Majeure" means one of the following events:
    - (i) a natural disaster, fire, flood, storm, epidemic or power failure,
    - (ii) a war (declared and undeclared), insurrection or act of terrorism or piracy,
    - (iii) a strike (including illegal work stoppage or slowdown) or lockout, or
    - (iv) a freight embargoif the event prevents a party from performing the party's obligations in accordance with this Order and is beyond the reasonable control of that party; and
  - (b) "Affected Party" means a party prevented from performing the party's obligations in accordance with this Order by an Event of Force Majeure.

#### Consequence of Event of Force Majeure

- 10.2 An Affected Party is not liable to the other party for any failure or delay in the performance of the Affected Party's obligations under this Order resulting from an Event of Force Majeure and any time periods for the performance of such obligations are automatically extended for the duration of the Event of Force Majeure provided that the Affected Party complies with the requirements of section 10.3.

#### Duties of Affected Party

- 10.3 An Affected Party must promptly notify the other party in writing upon the occurrence of the Event of Force Majeure and make all reasonable efforts to prevent, control or limit the effect of the Event of Force Majeure so as to resume compliance with the Affected Party's obligations under this Order as soon as possible.

## 11 DEFAULT AND TERMINATION

Definitions relating to default and termination

11.1 In this section and sections 11.2 to 11.4:

- (a) "Event of Default" means any of the following:
  - (i) an Insolvency Event,
  - (ii) the Contractor fails to perform any of the Contractor's obligations under this Order, or
  - (iii) any representation or warranty made by the Contractor in this Order is untrue or incorrect; and
- (b) "Insolvency Event" means any of the following:
  - (i) an order is made, a resolution is passed or a petition is filed, for the Contractor's liquidation or winding up,
  - (ii) the Contractor commits an act of bankruptcy, makes an assignment for the benefit of the Contractor's creditors or otherwise acknowledges the Contractor's insolvency,
  - (iii) a bankruptcy petition is filed or presented against the Contractor or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by the Contractor,
  - (iv) a compromise or arrangement is proposed in respect of the Contractor under the *Companies' Creditors Arrangement Act* (Canada),
  - (v) a receiver or receiver-manager is appointed for any of the Contractor's property, or
  - (vi) the Contractor ceases, in the Purchaser's reasonable opinion, to carry on business as a going concern.

Purchaser's options on default

- 11.2 On the happening of an Event of Default, or at any time thereafter, the Purchaser may, at its option, elect to do any one or more of the following:
- (a) by written notice to the Contractor, require that the Event of Default be remedied within a time period specified in the notice;
  - (b) pursue any remedy or take any other action available to it at law or in equity; or
  - (c) by written notice to the Contractor, terminate this Order with immediate effect or on a future date specified in the notice, subject to the expiration of any time period specified under section 11.2(a).

Delay not a waiver

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

Purchaser's right to terminate other than for default

- 11.4 In addition to the Purchaser's right to terminate this Order under section 11.2(c) on the happening of an Event of Default, the Purchaser may terminate this Order for any reason by giving at least 10 days' written notice of termination to the Contractor.

Payment consequences of termination

- 11.5 Unless Schedule B otherwise provides, if the Purchaser terminates this Order under section 11.4:
- (a) the Purchaser must, within 30 days of such termination, pay to the Contractor any unpaid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Information Schedule Development Consultant Services that was completed to the Purchaser's satisfaction before termination of this Order; and
  - (b) the Contractor must, within 30 days of such termination, repay to the Purchaser any paid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Information Schedule



Development Consultant Services that the Purchaser has notified the Contractor in writing was not completed to the Purchaser's satisfaction before termination of this Order.

#### Discharge of liability

- 11.6 The payment by the Purchaser of the amount described in section 11.5(a) discharges the Purchaser from all liability to make payments to the Contractor under this Order.

#### Notice in relation to Events of Default

- 11.7 If the Contractor becomes aware that an Event of Default has occurred or anticipates that an Event of Default is likely to occur, the Contractor must promptly notify the Purchaser of the particulars of the Event of Default or anticipated Event of Default. A notice under this section as to the occurrence of an Event of Default must also specify the steps the Contractor proposes to take to address, or prevent recurrence of, the Event of Default. A notice under this section as to an anticipated Event of Default must specify the steps the Contractor proposes to take to prevent the occurrence of the anticipated Event of Default.

## 12 DISPUTE RESOLUTION

#### Dispute resolution process

- 12.1 In the event of any dispute between the parties arising out of or in connection with this Order, 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 arising, the parties must then attempt to resolve the dispute through mediation under the rules of the Mediate BC Society; and
  - (c) if the dispute is not resolved through mediation within 30 Business Days of the commencement of mediation, the dispute must be referred to and finally resolved by arbitration under the *Arbitration Act*.

#### Location of arbitration or mediation

- 12.2 Unless the parties otherwise agree in writing, an arbitration or mediation under section 12.1 will be held in Victoria, British Columbia.

#### Costs of mediation or arbitration

- 12.3 Unless the parties otherwise agree in writing or, in the case of an arbitration, the arbitrator otherwise orders, the parties must share equally the costs of a mediation or arbitration under section 12.1 other than those costs relating to the production of expert evidence or representation by counsel.

## 13 MISCELLANEOUS

#### Delivery of notices

- 13.1 Any notice contemplated by this Order, to be effective, must be in writing and delivered as follows:
- (a) by fax to the addressee's fax number specified on the Service Request, in which case it will be deemed to be received on the day of transmittal unless transmitted after the normal business hours of the addressee or on a day that is not a Business Day, in which cases it will be deemed to be received on the next following Business Day;
  - (b) by hand to the addressee's address specified on the Service Request, in which case it will be deemed to be received on the day of its delivery; or

- (c) by prepaid post to the addressee's address specified on the Service Request, in which case if mailed during any period when normal postal services prevail, it will be deemed to be received on the fifth Business Day after its mailing.

#### Change of address or fax number

- 13.2 Either party may from time to time give notice to the other party of a substitute address or fax number, which from the date such notice is given will supersede for purposes of section 13.1 any previous address or fax number specified for the party giving the notice.

#### Assignment

- 13.3 The Contractor must not assign any of the Contractor's rights or obligations under this Order without the Purchaser's prior written consent. Upon providing written notice to 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*, any of the Purchaser's obligations under this Order.

#### Subcontracting

- 13.4 The Contractor must not subcontract any of the Contractor's obligations under this Order to any person without the Purchaser's prior written consent, excepting persons listed in the attached Schedule B to the CSA. No subcontract, whether consented to or not, relieves the Contractor from any obligations under this Order. The Contractor must ensure that:
  - (a) any person retained by the Contractor to perform obligations under this Order; and
  - (b) any person retained by a person described in paragraph (a) to perform those obligations fully complies with this Order in performing the subcontracted obligations.

#### Waiver

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

#### Modifications

- 13.6 No modification of this Order is effective unless it is in writing and signed by, or on behalf of, the parties.

#### Entire agreement

- 13.7 This Order (including any modification of it) constitutes the entire agreement between the parties as to performance of the Information Schedule Development Consultant Services.

#### Survival of certain provisions

- 13.8 Any section of this Order (including schedules) which, by their terms or nature, are intended to survive the completion of the Information Schedule Development Consultant Services or termination of this Order, will continue in force indefinitely subject to any applicable limitation period prescribed by law, even after this Order ends.

#### Schedules

- 13.9 The schedules to this Order (including any appendices or other documents attached to, or incorporated by reference into, those schedules) are part of this Order.

#### Independent contractor

- 13.10 In relation to the performance of the Contractor's obligations under this Order, the Contractor is an independent contractor and not:

- (a) an employee or partner of the Purchaser; or
- (b) an agent of the Purchaser except as may be expressly provided for in this Order.

The Contractor must not act or purport to act contrary to this section.

#### Personnel not to be employees of Purchaser

- 13.11 The Contractor must not do anything that would result in personnel hired or used by the Contractor or a Subcontractor in relation to providing the Information Schedule Development Consultant Services being considered employees of the Purchaser.

#### Consultants

- 13.12 The individuals specified as Consultants of the Contractor in Appendix B to the CSA and indicated on the Service Request must perform the Information Schedule Development Consultant Services, unless the Purchaser otherwise approves in writing, which approval must not be unreasonably withheld.

#### Pertinent information

- 13.13 The Purchaser must make available to the Contractor all information in the Purchaser's possession which the Purchaser considers pertinent to the performance of the Information Schedule Development Consultant Services.

#### Conflict of interest

- 13.14 The Contractor must not provide any services to any person in circumstances which, in the Purchaser's reasonable opinion, could give rise to a conflict of interest between the Contractor's duties to that person and the Contractor's duties to the Purchaser under this Order.

#### Time

- 13.15 Time is of the essence in this Order and, without limitation, will remain of the essence after any modification or extension of this Order, whether or not expressly restated in the document effecting the modification or extension.

#### Conflicts among provisions

- 13.16 This Order consists of the following parts, which prevail in the following order to the extent of any conflicts:
- (a) the Service Request;
  - (b) these Order terms and conditions; and
  - (b) any Schedule attached to these Order terms and conditions, with the body of the Schedule prevailing over any attachments to the Schedule except as specified otherwise in the Schedule or attachment.

#### Agreement not permit nor fetter

- 13.17 This Order does not operate as a permit, license, approval or other statutory authority which the Contractor may be required to obtain from the Purchaser or any of its agencies in order to provide the Information Schedule Development Consultant Services. Nothing in this Order is to be construed as interfering with, or fettering in any manner, the exercise by the Purchaser or its agencies of any statutory, prerogative, executive or legislative power or duty.

#### Remainder not affected by invalidity

- 13.18 If any provision of this Order or the application of it to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Order and the application of such provision to any other person or circumstance will not be affected or impaired and will be valid and enforceable to the extent permitted by law.

#### Further assurances

- 13.19 Each party must perform the acts, execute and deliver the writings, and give the assurances as may be reasonably necessary to give full effect to this Order.

#### Governing law

- 13.20 This Order is governed by, and is to be interpreted and construed in accordance with, the laws applicable in British Columbia.

### **14 INTERPRETATION**

#### 14.1 In this Order:

- (a) “includes” and “including” are not intended to be limiting;
- (b) unless the context otherwise requires, references to sections by number are to sections of this Order;
- (c) the Contractor and the Purchaser are referred to as “the parties” and each of them as a “party”;
- (d) “attached” means attached to this Order when used in relation to a schedule;
- (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) the headings have been inserted for convenience of reference only and are not intended to describe, enlarge or restrict the scope or meaning of this Order or any provision of it;
- (g) “person” includes an individual, partnership, corporation or legal entity of any nature; and
- (h) unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*.

### **15 EXECUTION AND DELIVERY OF ORDER**

- 15.1 This Order may be entered into by a separate copy of the Service Request being executed by, or on behalf of, each party and that executed copy being delivered to the other party by a method provided for in section 13.1 or any other method agreed to by the parties.

## **Schedule 1 – Invoicing and Statements of Account**

### **1. STATEMENTS OF ACCOUNT:**

**Payment Frequency:** Monthly, being a period from and including the 1st day of a month to and including the last day of that month.

**Statements of Account:** In order to obtain payment of any fees and expenses under this Order, the Contractor must deliver to the Purchaser a written statement of account in a form satisfactory to the Purchaser containing:

- (a) the Contractor's legal name and address;
- (b) the date of the statement, and the billing period to which the statement pertains;
- (c) the Contractor's calculation of all fees claimed for that billing period, in accordance with the pricing under the CSA;
- (d) a chronological listing, in reasonable detail, of any expenses claimed by the Contractor for the billing period with receipts attached, if applicable, and, if the Contractor is claiming reimbursement of any GST or other applicable taxes paid or payable by the Contractor in relation to those expenses, a description of any credits, rebates, refunds or remissions the Contractor is entitled to from the relevant taxation authorities in relation to those taxes;
- (e) the Contractor's calculation of any applicable taxes payable by the Purchaser in relation to the Information Schedule Development Consultant Services for the billing period;
- (f) a description of this Order;
- (g) a statement number for identification; and
- (h) any other billing information reasonably requested by the Purchaser.

### **2. PAYMENTS DUE:**

**Payments Due:** Within 30 days of the Purchaser's receipt of the Contractor's written statement of account delivered in accordance with this Schedule, the Purchaser must pay the Contractor the fees and expenses (plus all applicable taxes) claimed in the statement if they are in accordance with this Schedule. Statements of account or contract invoices offering an early payment discount may be paid by the Purchaser as required to obtain the discount.