

CSA OF #: _____

**CORPORATE SUPPLY ARRANGEMENT -
OPEN FRAMEWORK
For
Pit Toilet Buildings**

BETWEEN

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

AND

<<<insert LEGAL NAME OF CSA HOLDER>>>

**CORPORATE SUPPLY ARRANGEMENT –
OPEN FRAMEWORK
For
Pit Toilet Buildings**

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CORPORATE SUPPLY ARRANGEMENT - OPEN FRAMEWORK for **Pit Toilet Buildings**

This CSA OF is made to be effective as of the <<<insert day>>> day of <<<insert month and year>>> (the “Effective Date”):

BETWEEN:

HIS MAJESTY THE KING 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, <<<insert goods being procured>>>, under Opportunity ID <<<insert>>>, as subsequently amended by Addenda 1 though <<<insert or delete phrase if none>>> (<<<as amended>>>), the “Request for Corporate Supply Arrangement - Open Framework” or “RCSA OF”;
- B. The CSA Holder submitted a response dated <<<insert>>> to the RCSA OF (the “Response”) and was selected pursuant to the terms of the RCSA OF, to enter into a non-exclusive Corporate Supply Arrangement - Open Framework” (the “CSA OF”) 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 OF 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 OF.

IN CONSIDERATION of the mutual premises set out in this CSA OF 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 OF, 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 OF;

“Associated Services” means any one or more of the services as described in Appendix A of this CSA OF;

“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 section 3.4 of this CSA OF;

“Concrete Vault” has the meaning set out in Appendix A to this CSA OF;

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

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

“Goods” means the goods as described in Appendix A of this CSA OF, and includes the Pit Toilet Buildings, Concrete Vaults and Vestibules;

“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 proposal 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 OF as may be incorporated by reference within the Order;

“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;

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

“Pit Toilet Building” has the meaning set out in Appendix A to this CSA OF; and

“Vestibule” has the meaning set out in Appendix A to this CSA OF.

1.2 Calculation of Time

In this CSA OF, 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 OF 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 OF, unless specified otherwise:

- a. attached Appendices (including their Schedules, if any), are made part of this CSA OF;
- b. headings do not form part of this CSA OF;
- 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 OF 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 OF, 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 OF

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

- a. the body of this CSA OF;
- b. the Appendices attached to this CSA OF, 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 OF.

ARTICLE 2 – APPOINTMENT AND TERM

2.1 Appointment

Subject to the terms and conditions in this CSA OF, the Province appoints, and the CSA Holder accepts the appointment of, the CSA Holder as a non-exclusive CSA Holder eligible during the CSA OF Term to bid on and be considered for awards of Orders pursuant to Competitive Order Processes. The CSA Holder is eligible during the CSA OF Term to bid on and be considered for awards of Orders containing the categories of Goods as set out in Appendix A1 to this CSA OF.

2.2 Term

Unless terminated earlier in accordance with this CSA OF, including Article 12, or by operation of law, or extended pursuant to subsection 2.3 of this Article 2, the term of this CSA OF begins as of the Effective Date and continues in effect until it expires on <<<insert date>>>.

2.3 Extensions

The Province may, at its sole discretion, offer to extend this CSA OF on the same terms and conditions for <<<insert number>>> additional <<<insert number>>> year periods by providing the CSA Holder with written notice <<<30 days>>> prior to the end of the CSA OF 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 OF Term on Orders

Any extension of the CSA OF 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 OF 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 any Associated Services, if applicable.

3.2 Purchasers

Any COP issued under this CSA OF 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 OF 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. despite section 13.9, the Province may modify any provisions in Appendix B at any time during the term, by giving notice to the CSA Holder, whether or not verified received in the case of notice given by email, and the modified Appendix B will be effective the date indicated in the notice;
- c. the Purchaser will issue a COP by email in the form set out in Appendix B to all CSA Holders eligible to bid on and be considered for awards of Orders containing the applicable category (or categories) of Goods (namely Pit Toilet Buildings, Concrete Vaults, or Vestibules) contained within the COP. For clarity, the Purchaser may issue a COP to only those CSA Holders who have qualified to provide multiple categories of Goods, if the Purchaser, in its sole discretion, desires to purchase Goods within two or more categories of Goods. The COP may be revised by a Public Sector Entity further to section 3.5 below. The COP will be issued to the CSA Holder's email address set out for each CSA Holder in section 13.2 of this CSA OF;
- d. posting times for COPs may vary, but will not be less than 10 calendar days;

- e. 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
- f. 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 OF.

3.5 Purchaser – Public Sector Entity

The CSA Holder acknowledges and agrees that:

- a. where a COP is issued by a Public Sector Entity, the Public Sector Entity will have the option of modifying the terms and conditions set out in Appendix C to the extent necessary to address the Public Sector Entity's specific travel reimbursement and payment of account policies, insurance, indemnification, limitation of liability, privacy, confidentiality and security requirements, and any governmental authority directives binding the Public Sector Entity;
- b. further to subsection (a) above, any revision to the terms and conditions set out in Appendix C will be requested by setting out such revisions in the applicable COP;
- c. if the CSA Holder submits a Quotation in response to a COP that has modified terms and conditions as described in subparagraphs (a) and (b) above, as reflected in the COP, the CSA Holder will be deemed to have accepted the revised terms and conditions to Appendix C;
- d. each Public Sector Entity is solely responsible for complying with its obligations, including with respect to payment, in Order(s) between it and the Contractor; and
- e. nothing in this CSA OF 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 Intentionally Deleted

3.7 Scope of Order not to Exceed this CSA OF

Nothing in this CSA OF is to be construed as permitting any goods or services 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 OF.

3.8 No Guarantee

The CSA Holder further acknowledges and agrees that:

- a. this CSA OF 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 OF;
- c. no obligation of exclusivity is imposed on the Province by this CSA OF, 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 OF, 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 OF, 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:

<<<Author – insert contact information>>>

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

The fee for:	Is due:
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 OF, 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 the contact set out in section 4.2 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 I 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 OF 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 – INTENTIONALLY OMITTED

ARTICLE 6 – SUBCONTRACTORS

6.1 Subcontractors

If an Order contains Associated Services, the CSA Holder may use subcontractors to perform such Associated Services as set out under that Order, provided the CSA Holder names the subcontractors in the Quotation of that Order, or unless otherwise consented to by the Purchaser pursuant to the terms and conditions of that Order.

6.2 Responsibility for Subcontractors

The CSA Holder is responsible for the acts, errors and omissions of its subcontractors, whether named in an Order 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 OF or any Orders that may be formed.

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 OF, and all records collected, posted to or otherwise generated in the operation of the CSA OF, 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 OF, 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 OF 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 OF 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 OF and throughout the CSA OF 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 OF, 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 OF and to observe, perform and comply with the terms of this CSA OF and all necessary corporate or other proceedings have been taken and done to authorize the execution and delivery of this CSA OF by, or on behalf of, the CSA Holder;
- c. this CSA OF 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 OF 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 OF resulting in this CSA OF being entered into or otherwise in connection with this CSA OF 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 OF 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 OF, and will not knowingly assume during the CSA OF 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 OF;
- e. at the time of its execution of this CSA OF, 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 OF;
- f. 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
- g. 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 OF.

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 OF 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 OF; 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 OF, 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. an 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 OF ends earlier. For greater certainty, the rescission of the suspension will not result in the CSA OF Term being extended for the same number of days as the period of suspension.

11.3 Effect of suspension

Suspension of this CSA OF 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 OF 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 OF 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 OF or its Response to the RCSA OF leading to this CSA OF;
- b. makes any other misrepresentation (including negligent or innocent) in this CSA OF that is not remedied within 30 days of written request;

- c. provides information to Purchasers that conflicts with any terms and conditions of this CSA OF;
- d. has had any Order terminated by any Purchaser for material breach within a 12-month period;
- e. directly or indirectly assigns this CSA OF without consent under section 13.5;
- f. experiences an Insolvency Event, but only to the extent such termination is not prohibited by the laws of Canada;
- g. ceases or threatens to cease to carry on business;
- h. 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
- i. commits any material breach of this CSA OF not described in this section and that is not remedied within 30 days of written request.

12.3 Termination where RCSA OF Expires or Otherwise Terminates

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

12.4 Effect on Expiration or Termination

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

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

12.6 Survival

Any unpaid collection and payment obligations and any other provisions of this CSA OF, which by their terms or nature, are intended to survive the end of this CSA OF 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 OF 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 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.

13.2 Notices

Any notice, consent, approval, demand or specified written communication given by either party to the other under this CSA OF must be in English and in writing unless otherwise set out and, if expressly required in this CSA OF, 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:
 - i. in a format capable of being accessible and retained by the receiving party, without needing additional software, in a manner usable for subsequent reference, including being forwarded and printed; and
 - ii. verified received by written or automated receipt or electronic log;

to the address and for the attention of:

in the case of the Province

<<<ADD ADDRESS AND CONTACT HERE>>>

<<<EMAIL>>>

and

in the case of the CSA Holder

<<<ADD ADDRESS AND CONTACT HERE>>>

<<<EMAIL>>>

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 OF 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 OF commit or purport to commit the Province to any obligation or liability, including to pay any money, to any person, except as this CSA OF 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 OF 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 OF.

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 OF, and all other documents prepared, executed or delivered under or pursuant to this CSA OF, including COPs, responses to COPs and Orders.

13.8 Severability

If any part of this CSA OF 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 OF remains operable.

13.9 Amendments

No amendment of this CSA OF 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 OF 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 OF do not exclude remedies provided by law.

13.12 Entire Agreement

This CSA OF, including its Appendices and their schedules, and any documents incorporated by reference in it (excluding any and all Orders referencing this CSA OF), 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 OF leading to this CSA OF.

13.13 English Language

This CSA OF is made only in the English language. Each document referred to in or referencing this CSA OF 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 D apply to this CSA OF.

13.15 Governing Law and Jurisdiction

This CSA OF, 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.

The following page contains section 13.16

13.16 Counterparts

This CSA OF 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 OF 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 **HIS MAJESTY THE KING 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

Notwithstanding the Goods set out within this Appendix A, the CSA Holder is only qualified to be eligible to bid on and be considered for awards of Orders containing the categories of Goods as set out in Appendix A1 to this CSA OF.

Pit Toilet Building:

Pit toilet buildings will be single or multiple user, wheelchair accessible that accommodates an obstacle-free 1525 mm circle at minimum, with precast concrete walls, roof, and floor and stainless-steel fixtures and a minimum interior height of 2.15 m;

Goods will be manufactured to the following standards and specifications as applicable:

Minimum Specifications (General)

Pit Toilet Building:

- a) Wheelchair accessible;
- b) Interior surfaces painted with 100% acrylic latex paint;
- c) Exterior surfaces painted with exterior-grade paint, colour to be confirmed at COP;
- d) Barrier-free vault toilet riser and seat complete with all fittings;
- e) Heavy duty plastic toilet seat and cover assembly;
- f) I-026 Signs (which may include one or more of the following: Men/Women/Barrier-Free/Both) secured with positive mechanical vandal resistant tamper proof components;
- g) 10-inch (min.) vent pipe in back to promote odour removal;
- h) Two or more stainless steel lockable double roll heavy duty toilet paper holders; and
- i) Drain slots within the wall along the floor for power washing purposes.

Pit Toilet Building accessories:

- a) Steel Doors
 - i. Doors will have welded seams, 1 ½" thick, minimum 18 gauge prime coated steel panels with honeycomb core;
 - ii. Door frames will be welded type 16 gauge minimum prime-coated steel encased in concrete.;
- b) Door Hinges
 - i. Door hinges will be 3 per door 4 ½" x 4" ball bearing stainless steel;
- c) Lockset
 - i. Lockset will meet ANSI A156.2 Series 4000, Grade 1 cylindrical lockset for exterior door;
 - ii. Stainless pull handle (exterior) and push plate (interior);
 - iii. U.S. 26D finish;
- d) Brush type door sweep;
- e) Rubber door stop;
- f) Hydraulic door self-closer;
- g) vandal-resistant tamper-proof components;
- h) Stainless steel coat hook, located on inside of door;
- i) Stainless steel hospital style door frame stop;
- j) Cast metal door stop;
- k) 18-gauge, type 304 stainless steel grab bar with 1 ½" clearance; and
- l) Steel Doors.

Concrete Vault:

Vaults are to be precast concrete and to have a perimeter that matches the building size, have minimum capacity of 3,500 litres, with the floor sloped to a secured exterior access hatch for cleanout. The vault will be a single vault to match Pit Toilet have a pump-out at exterior of building to be lockable with aluminium hatch

Vestibule:

A Vestibule is a concrete wall screening the front and one side and is the full width of the front of the building which accommodates an obstacle-free 1525 mm circle at minimum. The vestibule may have a flat concrete roof or, optionally, a sloping concrete roof to match the building roof, have a minimum interior height of 2.15m and may have a concrete slab floor. The Vestibule will be wheelchair accessible, accommodating an obstacle-free 1525 mm circle at minimum

Part 2 – Associated Services

The following Associated Services may be procured with Goods through the issuance of a COP in accordance with Schedule C of the CSA (attached as Schedule A to the RCSA):

- a) Transportation of Goods;
- b) Offloading Goods at a site; and
- c) Installation and assembly of the Goods.

APPENDIX A1 – CSA HOLDER’S ELIGIBLE GOODS CATEGORIES

The CSA Holder is eligible to bid on and be considered for awards of Orders of the following categories of Goods:

<<<select the categories that the CSA Holder is qualified to provide>>>

Pit Toilet Buildings

Concrete Vaults

Vestibules

APPENDIX B – COMPETITIVE ORDER PROCESS

Note: The Province may modify this Competitive Order Process by giving written notice to the CSA Holders.

CORPORATE SUPPLY ARRANGEMENT – OPEN FRAMEWORK COMPETITIVE ORDER PROCESS

PURCHASER: <<<ENTER MINISTRY or FULL LEGAL DESCRIPTION OF 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 CSA OFs established under RCSA OF <<<insert number here>>> for Pit Toilet Buildings (the “RCSA OF”).

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 OF.

The COP is a second stage procurement process under the CSA OF. Only CSA Holders are eligible to compete in the COP. The COP involves:

- (a) the issuance of this Competitive Order Process by a Purchaser to CSA Holders that are eligible to bid on and be considered for awards of Orders containing the applicable category or categories of Goods (namely Pit Toilet Buildings, Concrete Vaults, or Vestibules) set out in this COP; for clarity, the Purchaser may issue this COP to only those CSA Holders who have qualified to provide multiple categories of Goods, if the Purchaser, in its sole discretion, desires to purchase Goods within two or more categories of Goods;
- (b) the receipt of Quotations from the CSA Holders, and
- (c) 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 OF <<<if the Purchaser is a Public Sector Entity and the Public Sector Entity seeks to revise the terms and conditions set out in Appendix C in accordance with section 3.5 of the CSA, include the following<<<as revised in section 4 of the COP.>>>

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 the services described in section 2.2 to this COP, if any, and reproduced in the Quotation, which includes any one or more of the services set out in Part 2 of Appendix A to the CSA OF;

“**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 OF**” 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 OF that has entered into a CSA OF 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 and as further described in Appendix A of the CSA OF, and may include any or all of Pit Toilet Buildings, Concrete Vaults, and Vestibules;

“**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 OF 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;

“**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 by email to CSA Holders to the email address for the CSA Holder set out in section 13.2 of the CSA OF.

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 OF.

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 20 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 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:

- i. preparation of the COP;
- ii. participating on the evaluation committee; or
- iii. in the administration of the Order.

Similarly, this would include a relationship of the CSA Holder with any employee, contractor or representative of the Purchaser involved in any the activities in (i)-(iii).

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.

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.

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.

Quotations from not-for-profit agencies will be evaluated against the same criteria as those received from any other CSA Holders.

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 to 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 priced 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 CSA Holder 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.

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.

CSA Holders 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 Purchaser that it is the same legal entity named in a CSA OF; 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:
 - i. bankruptcy;
 - ii. false declarations;
 - iii. significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts with the Purchaser, including an Order;
 - iv. final judgments in respect of serious crimes or other serious offences;
 - v. professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the CSA Holder;
 - vi. 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
 - vii. 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 OF.

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 OF. No CSA Holder 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 OF (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 OF (or any associated content, schedules, etc.), such Quotation content or text may result in the Quotation being noncompliant and being 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. If the COP process resulted in an Order, any 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 COP, 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.

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.

2. OPPORTUNITY

2.1 Background:

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

2.2 Scope:

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

Goods:

<<insert here from Appendix A, including the categories of Goods>>>

<<<if required, Associated Services:

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) World Trade Organization Agreement on Government Procurement;
- e) Canada-European Union Comprehensive Economic and Trade Agreement; and
- f) Comprehensive and Progressive Agreement for Trans-Pacific Partnership.

<<<insert particular Associated Services required here from 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, if applicable, the Associated Services are to be delivered/work complete>>>

<<<Delivery Location:

<<<insert the location of where the Goods and, if applicable, the Associated Services are to be delivered/work complete either as a physical address or as GPS coordinates>>>

<<<insert any other specifications that will be included in the Order and may be relevant to pricing of the Goods and, if applicable, the Associated Services, for example site conditions or vaccine requirements to enter government workplace, etc. >>>

4. Order

<<<select the following if the Province is the Purchaser or if the Purchaser is a Public Sector Entity that is not seeking to revise the terms and conditions of Appendix C in accordance with section 3.5 of the CSA, otherwise delete>>> The CSA Holder should carefully review the terms and conditions set out in the Order attached as Appendix C of the CSA OF. 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 OF.

<<<select the following if the Purchaser is a Public Sector Entity that is seeking to revise the terms and conditions of Appendix C in accordance with section 3.5 of the CSA, otherwise delete>>>In accordance with section 1.19 of the COP and further to section 3.5 of the CSA, 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 terms and conditions as set out in Appendix C of the successful CSA Holders' CSA, which are revised as follows:

<<<Public Sector Entity to indicate which provisions of Appendix C are being revised and set out the revised provisions to be incorporated into the Order here>>>

5. Quotation

CSA Holders should submit Quotations using the attached Schedule 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

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 OF>>>
CSA Holder's Address: <<insert CSA Holder's physical address>>
CSA Holder's Email: <<insert CSA Holder's email address>>
Order Number: <<<insert if applicable>>>

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.

1. Goods and Associated Services:

<<<Copy from section 2.2 of the COP - Identify the Goods(s) required, including categories of goods, quantities, particulars of additional specifications, and, if applicable, any Associated Services, as described in Appendix A of the CSA OF>>>

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, if applicable, the Associated Services are to be delivered/work complete>>>

<<<Delivery Location:

<<<copy from section 3 of the COP - insert location of where the Goods and, if applicable, the Associated Services are to be delivered/work complete>>>

<<<copy from section 3 of the COP - insert any other specifications relevant to the Goods and, if applicable, the Associated Services, for example site conditions, vaccine requirement to enter government workplace, etc.>>>

<<<include the below provision if any Associated Services are in the COP, otherwise delete>>>

Subcontracting for the provision of Associated Services: The Contractor will use the following subcontractor(s) to provide Associated Services:

<<<Contractor to ENTER Legal Names of subcontractors here OR insert "Not Applicable">>>

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 elicit all the elements of price required for evaluation as described in the COP. This section will become the contract pricing section.>>>

The CSA Holder should note the administrative fee requirement described in Article 4 of the CSA, and include the administration fee in the pricing proposed.

<<<select the following if the Province is the Purchaser or if the Purchaser is a Public Sector Entity that is **not** seeking to revise the terms and conditions of Appendix C in accordance with section 3.5 of the CSA, otherwise delete>>> The CSA Holder agrees to the Order terms set out in Appendix C to the CSA OF 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.

OR <<<select the following if the Purchaser is a Public Sector Entity that is seeking to revise the terms and conditions of Appendix C in accordance with section 3.5 of the CSA, otherwise delete>>>The CSA Holder agrees to the Order terms set out in Appendix C to the CSA, which are revised as follows:

<<<Public Sector Entity to indicate which provisions of Appendix C are being revised and set out the revised provisions to be incorporated into the Order here>>>

The CSA Holder 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. >>>

For and on behalf of the CSA Holder by:	For or and on behalf of the Purchaser by:
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

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 OF and the applicable COP.

1. Definitions. In this Order the following definitions apply:

- (a) “Acceptance” is defined section 4;
- (b) “Associated Services” means the associated services as specified in part 2.2 COP, if any, and reproduced in the Quotation, which includes any one or more of the services set out in Part 2 of Appendix A to the CSA OF;
- (c) “Competitive Order Process” or “COP” means the second stage competitive solicitation process, and includes any amendments, issued by the Purchaser to the CSA Holders by which a CSA Holder is selected by the Purchaser to enter into an Order;
- (d) “Concrete Vault” has the meaning set out in Appendix A of the CSA OF and as further set out by the Purchaser in the COP and the Quotation;
- (e) “Contractor” means the CSA Holder with the successful Quotation to the COP who enters into an Order with the Purchaser;
- (f) “CSA Holder” means a respondent under the RCSA that has entered into a CSA OF with the Province and is eligible to participate in the COP;
- (g) “Delivery Date” means the date of delivery for Goods specified in the Quotation;
- (h) “Delivery Location” means the location identified by Purchaser 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;
- (i) “Goods” means the goods described in Appendix A of the CSA OF and as further set out by the Purchaser in the COP and the Quotation, which may include any or all of Pit Toilet Buildings, Concrete Vaults and Vestibules, 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;
- (j) “Inspection Period” is defined in section 4;
- (k) “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;
- (l) “Order” means this contract resulting from the COP between the Purchaser and the successful CSA Holder on the terms and conditions set out in this Appendix C of the CSA OF and incorporates the Quotation of the successful CSA Holder;
- (m) “Ministry” means any ministry or agency of the government of British Columbia;
- (n) “Pit Toilet Building” has the meaning set out in Appendix A to the CSA OF and as further set out by the Purchaser in the COP and the Quotation;

- (o) "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;
 - (p) "Purchaser" means the Ministry or Public Sector Entity identified on the COP as the Purchaser and which is a party to this Order;
 - (q) "Purchaser Indemnified Parties" is defined in section 17;
 - (r) "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;
 - (s) "Vestibule" has the meaning set out in Appendix A to the CSA OF, and as further set out by the Purchaser in the COP and the Quotation; and
 - (t) "Warranty Period" in respect of any Goods, the period commencing on the date of Acceptance of such Goods and ending on a date that is one year from that date.
- 2. Order.** The Order consists only of: (a) these Order terms and conditions, including any and specifications incorporated by reference or otherwise within the Order terms and conditions; (b) the requirements set out by the Purchaser in the Quotation; (c) the pricing as proposed by the Contractor in the Quotation; and (d) other documents expressly referenced in the Quotation to the extent they are not in conflict with, but contemplated by the COP requirements. 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:
 - i. Delivered in excess of the quantity ordered;
 - ii. Damaged or defective;
 - iii. Counterfeit;
 - iv. Short of the quantity ordered; are
 - v. Not in conformance with the requirements set out in Appendix A to the CSA OF, the COP, or the Quotation.
- b. 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.
- c. 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 writing by the Purchaser in advance.
- d. Notwithstanding the Purchaser having received possession of the Goods and without limiting the Purchaser's rights in this 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](#).
- e. In addition to the foregoing provisions of this section 4, the Purchaser may, upon written notice to the Contractor, cancel or change the Order to reflect any of the circumstances set out in this section 4.

5. **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 OF, CSA OF # 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.

6. **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 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. Contractor will remit all applicable taxes to the applicable government authority as required by applicable laws. Notwithstanding any other provision of this Contract, 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.

7. **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.

- 8. Legal Compliance.** In the performance of the Contractor's obligations under this Order, the Contractor shall at all times comply with all applicable laws and rules including federal, state and/or provincial, and municipal laws, and regulations as well as all provincial policies, standards, and codes (including as they may be updated from time to time). Without limiting the generality of the foregoing, the Contractor must comply with, and must ensure that any subcontractors comply with, the *Criminal Records Review Act* in British Columbia and all applicable occupational health and safety laws in relation to the performance of the Contractor's obligations under this Order, or any other regulation or order issued by the Ministry of Health.

The Contractor shall obtain all applicable permits, licences, exemptions, consents, and approvals required for the Contractor to manufacture (if applicable); obtain and deliver the Goods and perform the Associated Services.

9. Warranties.

- a. **Goods Warranties.** The Contractor warrants to the Purchaser that during the Warranty Period 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 requirements set out in Appendix A [Goods and Associated Services] to the CSA OF, the COP and the Quotation; (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 laws and rules, including federal, state and/or 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 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.

10. Warranty Remedies.

- a. In the event of breach of any of the warranties in section 9 (a) or 9 (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 written 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 9(a) and 9(b) will continue as to the corrected or replaced Goods for a further Goods Warranty Period commencing on the date of Acceptance of the corrected or replaced Goods by Purchaser. 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.

11. Clear of Liens and Encumbrances. All Goods and/or Associated Services shall vest in the Purchaser free and clear of all liens and encumbrances on receipt of payment by the Contractor for the Goods.

12. 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.

13. 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 goods and services similar to the Goods and Associated Services provided hereunder. In addition to any insurance deemed prudent to have as referenced above, 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 the attached Schedule 1 to the Order terms and conditions, which is incorporated into this Order.

14. Workers Compensation. Without limiting the generality of section 8 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.

15. Personal optional protection. The Contractor must apply for and maintain personal optional protection insurance (consisting of income replacement and medical care coverage) for the period in which the Contractor performs work under this Order, at 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.
- 16. Evidence of coverage.** 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 14 and 15.
- 17. 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 arising out of:
- a. death, bodily injury, or loss or damage to real or tangible personal property resulting from the use of or any actual or alleged defect in the Goods, or from the failure of the Goods to comply with the warranties hereunder;
 - b. any claim that the Goods infringe or violate the Intellectual Property Rights or other rights of any person;
 - c. any intentional, wrongful or negligent act or omission of Contractor or any of its agents, employees or subcontractors;
 - d. Contractor's breach of any of its obligations under this Contract; or
 - e. any liens or encumbrances relating to any Goods or Associated Services.
- 18. Limitation of Liability.** WITHOUT LIMITING THE CONTRACTOR'S OBLIGATIONS UNDER SECTION 17, IN NO EVENT WILL THE PURCHASER 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 ORDER.
- 19. 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.
- 20. Subcontractors.** Unless the Purchaser has otherwise given its written consent, the Contractor shall not subcontract any of its obligations under this Order except (a) to subcontractors listed in the Quotation, and only to provide the Associated Services. No subcontract, whether consented to by the Purchaser or not, will relieve the Contractor from any of its obligations under this Order. The Contractor is responsible for ensuring that it has appropriate contractual provisions in place with any subcontractors to enable the Contractor to fully comply with the obligations of the Order. The Contractor is responsible for ensuring that none of its subcontractors' current or past corporate or other interests may give rise to an actual or potential conflict of interest with the Purchaser in connection with the Goods or any Associated Services described in the Order, and this includes but is not limited to involvement by a subcontractor in preparation of the COP, participating in an evaluation committee or in the administration of an Order.
- 21. 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.

- 22. 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.
- 23. 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.
- 24. 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 or 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.
- 25. Termination of Order for Convenience.** Without limiting any other right of the Purchaser to terminate the CSA OF or this Order, the Purchaser may terminate this Order for any reason by giving at least 10 day's written notice to the Contractor and in such case:
- a. the Purchaser must, within 60 days of such termination, pay to the Contractor any unpaid portion of the fees and expenses described in Quotation which corresponds with the portion of the Goods that were delivered and Associated Services performed in accordance with this Order before termination of this Order; and
 - b. the Contractor must, within 60 days of such termination, repay to the Purchaser any paid portion of the Price and any other fees and expenses described in Quotation which corresponds with the portion of Goods and/or Associated Services that were not delivered or performed before termination of this order.

For greater certainty, the Purchaser's termination of an Order in accordance with this section 25 will not result in termination of the CSA OF.

- 26. Cumulative Remedies.** Subject to section 18, 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.
- 27. 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.
- 28. 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."
- 29. 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.

30. Language. All communications under this Order and any related documentation are required to be in English.

31. Notices. Any notice contemplated by this Order, to be effective, must be in writing and delivered as follows:

- a. By hand, to the following address, in which case it will be deemed to be received on the day of its delivery:
 - i. If to the Purchaser, at <<set out mailing address of Purchaser>>, and
 - ii. If to the Contractor, at the address set out in the Quotation; or
- b. By email to the following email address, 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:
 - i. If to the Purchaser, at <<set out email address of Purchaser>>, and
 - ii. If to the Contractor, at the email address set out in the Quotation.

32. Address Changes. Either party may update its addresses for notices as set out in section 31 or the Quotation, as applicable, at any time by providing written notice to the other party.

33. 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.

34. Schedules. The following Schedule 1 to the Order terms and conditions is attached to and forms part of the Order. *See next page(s).*

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Schedule 1 to the Order Terms and Conditions

Insurance

1. The Contractor must, without limiting the Contractor's obligation or liabilities and at the Contractor's own expense, purchase and maintain throughout the Term the following insurances with insurers licensed in Canada in forms and amounts acceptable to the Purchaser:
 - a) Commercial general liability in an amount not less than \$2,000,000 inclusive per occurrence against bodily injury, non-owned automobile liability, 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; and
 - b) Automobile Liability on all vehicles owned, operated, or licensed by the Contractor in an amount not less than \$2,000,000 per occurrence.
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:
 - b) prior to the commencement of 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, or if the Purchaser is a Public Sector Entity, in a form acceptable to such Public Sector Entity;
 - b) if any required insurance policy expires before the end of the Term, 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, or if the Purchaser is a Public Sector Entity, in a form acceptable to such Public Sector Entity; 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 –TAX VERIFICATION APPENDIX

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 OF, 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 OF, the CSA Holder acknowledges and agrees that any extension or renewal of this CSA OF 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.