



UNIVERSITY OF  
**TORONTO**

**FORM OF AGREEMENT FOR GOODS AND SERVICES**

**Between**

**THE GOVERNING COUNCIL OF THE UNIVERSITY OF TORONTO**

**and**

**[SUPPLIER]**

**History Admin. Offices Refresh 2nd Floor - Reconstruction**

**UOT202517330**

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## SCHEDULES

Schedule 1 – Description of Goods and/or Services and University Locations

**THIS AGREEMENT IS MADE** as of the [●] day of xx, 2025 (the “**Effective Date**”) between

**THE GOVERNING COUNCIL OF THE UNIVERSITY OF TORONTO** (the “**University**”)

and

[●] (“**Supplier**”).

**RECITALS:**

1. The Supplier was a successful proponent in a procurement process conducted by the University to provide the Goods and/or Services (as defined below);
2. The University and Supplier wish to enter into this Agreement to establish the terms and conditions pursuant to which Supplier shall provide the Goods and/or Services (as defined below) to the University.

**NOW THEREFORE** in consideration of the mutual covenants, conditions and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of the Parties), the Parties covenant and agree as follows.

**SECTION 1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

(1) All capitalized terms used but not defined in this Agreement shall have the following meanings:

- (a) “**Agreement**” means this Agreement, including the Schedules to this Agreement, as it or they may be amended or supplemented from time to time.
- (b) “**AODA**” has the meaning ascribed to it in Section 5.3(1)(a).
- (c) “**Applicable Law**” means:
  - (i) any statute, proclamation or any delegated or subordinate legislation, including regulations and by-laws;
  - (ii) any Authority Requirement; and
  - (iii) any judgement or decision of a relevant court of law, board, commission or other tribunal, administrative agency or authority,in each case, in force in Canada, or otherwise binding on the Supplier, any subcontractor or the University.
- (d) “**Authority Requirement**” means any rule, order, regulation, ordinance, direction, form, tariff of costs or fees, letters patent, commission, warrant, proclamation, by-law, resolution, other instrument, policy, administrative interpretation, guideline or rule of or by any governmental authority having jurisdiction over the University, this Agreement or the Goods and/or Services;
- (e) “**Background Intellectual Property**” means any Intellectual Property that is not Third Party Intellectual Property, is not Foreground Intellectual Property, and is owned by either the University or the Supplier prior to the date of this Agreement, and includes concepts, techniques, ideas, information and materials, however recorded (including images and data), provided by one Party to the other pursuant to this Agreement;

- (f) **“Business Day”** means any day of the week other than Saturday, Sunday, a statutory holiday in the Province of Ontario or any other day that the University has elected to be closed for business.
- (g) **“Canadian Sales Taxes”** has the meaning ascribed to it in Section 6.1(7).
- (h) **“Change of Control”** has the meaning ascribed to it in Section 17.3(1).
- (i) **“COVID-19 Pandemic”** means the outbreak of COVID-19 (the disease caused by SARS-CoV-2) characterized as a pandemic by the World Health Organization on March 11, 2020.
- (j) **“Defective Goods and/or Services”** has the meaning ascribed to it in Section 5.1(3).
- (k) **“FIPPA”** means the *Freedom of Information and Protection of Privacy Act* (Ontario) as may be amended or supplemented from time to time.
- (l) **“Force Majeure”** has the meaning ascribed to it in Section 16.1.
- (m) **“Foreground Intellectual Property”** means any Intellectual Property created, conceived, developed or reduced to practice by or on behalf of the Supplier pursuant to or in relation to this Agreement;
- (n) **“GLC Provision”** has the meaning ascribed to it in Section 5.4(3).
- (o) **“Goods and/or Services”** has the meaning ascribed to it in Section 3.1.
- (p) **“Goods”** has the meaning ascribed to it in Section 3.1.
- (q) **“includes”** and **“including”** means “includes without limitation” and “including without limitation” respectively.
- (r) **“Initial Term”** has the meaning ascribed to it in Section 2.1(1).
- (s) **“Intellectual Property”** means any intellectual, industrial or other proprietary right of any type in any form protected or protectable under the laws of Canada, any foreign country, or any political subdivision of any country, including, without limitation, any intellectual, industrial or proprietary rights protected or protectable by legislation, by common law or at equity.
- (t) **“Losses”** means all claims, damages, losses, liabilities, demands, judgments, causes of action, legal proceedings, economic loss (including lost profits), penalties or other sanctions and any and all costs and expenses arising in connection therewith (including legal fees and disbursements on a substantial indemnity basis).
- (u) **“Material Default”** has the meaning ascribed to it in Section 10.1(2).
- (v) **“Party”** means either the University or the Supplier and **“Parties”** means both of them collectively.
- (w) **“Permits”** has the meaning ascribed to it in Section 7.1(2)(a).
- (x) **“Personal Information”** has the meaning ascribed to it in Section 8.3(1).
- (y) **“Privacy Laws”** means the *Personal Information Protection and Electronic Documents Act* (Canada), as amended or supplemented from time to time, and any other Applicable Law now in force or that may in the future come into force governing the collection, use, disclosure and protection of personal information applicable to either Party or to any

information collected, used or disclosed in the course of providing or receiving the Goods and/or Services.

- (z) **"Rates"** has the meaning ascribed to it in Section 6.1.
- (aa) **"Record"** means any recorded information, including any Personal Information, in any form: (i) provided by the University to Supplier, or provided by Supplier to the University, for the purposes of this Agreement; or (ii) created by Supplier in the performance of this Agreement.
- (bb) **"Renewal Term"** has the meaning ascribed to it in Section 2.1(1).
- (cc) **"Restricted Country"** means, at any particular time, any country subject to Sanctions at such time;
- (dd) **"Sanctions"** means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by:
  - (i) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of Treasury or the U.S. Department of State;
  - (ii) the Canadian government;
  - (iii) the United Nations Security Council;
  - (iv) the European Union; or
  - (v) Her Majesty's Treasury of the United Kingdom;
- (ee) **"Services"** has the meaning ascribed to it in Section 3.1.
- (ff) **"Supplier IP"** has the meaning ascribed to it in Section 9.2(2).
- (gg) **"Term"** has the meaning ascribed to it in Section 2.1(1).
- (hh) **"Third Party Intellectual Property"** means any Intellectual Property owned by a party other than the University or Supplier.
- (ii) **"University Confidential Information"** has the meaning ascribed to it in Section 8.1(1).
- (jj) **"University Locations"** means all locations of the University unless specified in Schedule 1.
- (kk) **"Warranty Period"** has the meaning ascribed to it in Section 5.1(2).

## 1.2 Interpretation

(1) This Agreement shall be read with all changes in gender and number required by the context. The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

(2) Except as expressly provided for herein, if any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day.

(3) The wording of this Agreement shall be deemed to be mutually chosen by the Parties and no rule of strict construction shall be applied against any Party.

(4) In the event of ambiguities, conflicts or inconsistencies between or among any of the provisions of this Agreement, including any provisions contained in schedules or addenda attached hereto or made a part hereof, the provisions set out in the body of this Agreement shall prevail provided that,

- (a) to the extent a Schedule provides a more specific description of a matter dealt with elsewhere in this Agreement, this Agreement shall be interpreted in a manner so as to give effect to the specification provided in the Schedule; and
- (b) any provision establishing a higher standard of performance or service shall take precedence over a provision establishing a lower standard of performance or service.

(5) Where a purchase order is issued by the University in respect of the Goods and/or Services, the provisions of this Agreement shall prevail in the event of any ambiguities, conflicts or inconsistencies between this Agreement and the terms and conditions of any such purchase order.

### **1.3 Schedules**

(1) The following Schedule whether attached hereto or acknowledged as a separate document shall form a part of this Agreement:

Schedule 1 – Description of Goods and/or Services and University Locations.

## **SECTION 2 TERM**

### **2.1 Term**

(1) This Agreement shall commence on the Effective Date set forth above and, subject to earlier termination as provided for in this Agreement, continue in effect for a term of **three months** (the “**Initial Term**”).

## **SECTION 3 PROVISION OF GOODS AND/OR SERVICES**

### **3.1 Process for Provision of Goods and/or Services**

(1) During the Term, Supplier shall provide to the University the goods and/or services set out in Schedule 1 attached hereto together with all other services, functions and responsibilities described in this Agreement (the “**Goods**” and the “**Services**” and collectively, the “**Goods and/or Services**”).

(2) Supplier acknowledges and agrees that the Goods and/or Services shall be provided to the University on a non-exclusive basis, and that the University may choose to retain other providers of services similar to the Goods and/or Services during the Term.

(3) The University, in its sole discretion, shall have the right at any time to suspend the performance of the Goods and/or Services by providing 30 days’ notice to the Supplier. For greater certainty, if the University suspends performance of the Goods and/or Services, any timeframes set out in Schedule 1 or otherwise specified by the University shall be extended for a period equal to the length of time that such Services are suspended.

(4) If the University suspends the performance of the Goods and/or Services, then provided that such suspension is not the result of the Supplier’s failure to perform any of its obligations under this Agreement or is not a result of any act or omission or Material Default of the Supplier, the University and Supplier shall determine, in good faith, the reasonable costs incurred by Supplier in relation to the exercise of the University’s rights under Section 3.1(3) for which the University shall reimburse the Supplier.

## **SECTION 4 DELIVERY AND ACCEPTANCE**

### **4.1 Title and Risk**

(1) Notwithstanding the provisions of any applicable sale of goods legislation, including the *Sale of Goods Act* (Ontario), or any similar legislation of any jurisdiction whatsoever applicable to the supply of the Goods, title to the Goods supplied by Supplier to the University shall remain with Supplier until Acceptance by the University. All risk for losses, and all obligations for insurance coverage, shall pass from Supplier to the University only upon transfer of title to the University. ***[NTD: If the Agreement is for Services only, insert "Intentionally Deleted" in the title of Section 4.1 and delete the content in (1).]***

### **4.2 Delivery**

(1) Goods shall be delivered by Supplier to the University Locations by the delivery dates specified by the University. For the purpose of certainty, except as expressly agreed by the University, the Rates shall include, and Supplier shall otherwise bear the responsibility for, all transportation, insurance and other carriage charges. The University shall have no obligation in respect of the loading of Goods upon a carrier at Supplier's facilities or the insurance of Goods during such loading or for transportation of any person providing the Goods and/or Services.

(2) Where applicable to the Goods being provided, Supplier shall comply with Applicable Law and industry standards respecting the safe and proper handling, packaging, transportation, delivery and use of the Goods. Supplier shall identify hazardous or toxic Goods with warning labels and shall provide the University with written instructions concerning potential hazards in connection with the Goods and recommend procedures for the handling, transportation and maintenance of such Goods. Where applicable, Supplier shall ensure that the Goods are properly classified in accordance with Workplace Hazardous Materials Information System legislation and shall provide health and safety data for such Goods.

### **4.3 Schedule**

(1) Time is of the essence for the shipment and delivery of Goods and the performance of Services. Times and schedules for delivery of Goods and for completion of Services shall be set out in the Schedule 1 or as expressly agreed to by the University and Supplier in writing. The University may from time to time change shipping schedules, or direct temporary suspensions of any scheduled shipments by giving prior notice to Supplier.

(2) Without limiting any of the University's other rights pursuant to this Agreement or at law or in equity, the Supplier shall immediately advise the University as to any delays being encountered, the reasons therefore, and the action being taken to recover from such delays.

(3) If the Supplier becomes aware that it cannot meet an agreed upon delivery date, Supplier shall deliver to the University a remediation plan within a reasonable period of time detailing Supplier's plan, which plan shall ensure that the delivery of Goods or performance of Services occurs no later than 30 Business Days from the original delivery date. If the University does not accept such plan, the University may, at its option, cancel the purchase and delivery with respect to those Goods or cancel the Services, without incurring any charges or other costs and without prejudice to any of its other rights under this Agreement, at law or in equity if the delivery or performance is late by more than 30 Business Days from the delivery date specified by the University.

### **4.4 Inspection and Acceptance**

(1) All Goods and Services shall be subject to the University's inspection and final acceptance ("**Acceptance**"). Without limiting any other rights or remedies of the University under this Agreement or at law or in equity, the University shall have the right to reject Goods and/or Services supplied under this Agreement to the extent they do not comply with the Agreement or Applicable Law. If

any Goods and/or Services are rejected by the University on the basis that they do not comply with the Agreement or Applicable Law, all expenses and risks of loss or damage incidental to the return or disposal of such Goods by or on behalf of the University shall be borne and paid for by Supplier and the cost of any re-supply of such Services shall be borne and paid for by Supplier.

## **SECTION 5 WARRANTY, STANDARDS AND POLICIES**

### **5.1 Warranty**

(1) Supplier represents, warrants and covenants to the University that, as of the date of this Agreement and upon each delivery of Goods and completion of the Services:

- (a) the Goods will be of the type and quality specified in the Agreement (including performance criteria) or otherwise specified by the University or, if no quality is specified, of the best grade of their respective kinds, conform to the specifications, drawings, samples or other descriptions furnished by the University, and be free from defect;
- (b) if Supplier gave the University a sample of the Goods before University entered into this Agreement, the Goods correspond with the sample;
- (c) the Goods comply with and the Services will be performed in compliance with Applicable Law, any relevant government or industry standards and any other standards specified in this Agreement. All electrical/electronic components or equipment must have Ontario provincial approvals such as the Electrical Safety Authority, CSA or ULC requirements and conform to the industry standards and all other applicable legislative requirements;
- (d) the Goods are fit for the purpose for which Goods of the same kind are commonly supplied and for any other purpose described in this Agreement;
- (e) the Services match the description of the Services in this Agreement;
- (f) unless otherwise specified by the University, the Goods are new and of merchantable quality; and
- (g) the University has the full benefit of any manufacturer's warranties that may be applicable to the Goods (and Supplier must pursue any manufacturer's warranties on the University's behalf if the University so requests).

(2) The warranties set out in Section 5.1(1) expire one year from the date of final Acceptance of the Goods and/or Services by the University and apply only to defects that are evident or the symptoms of which are evident prior to expiration of the warranties unless otherwise specified by the University (the "**Warranty Period**").

(3) During the Warranty Period, Supplier shall repair or replace any Goods and complete or re-perform any Services which are determined by the University, in its sole discretion acting reasonably, to be in breach of the warranties set forth in Section 5.1(1) ("**Defective Goods and/or Services**") and Supplier shall be solely responsible for paying all costs associated with such repair, replacement or performance or, at the University's option, Supplier will refund in full the price paid for such Defective Goods and/or Services.

(4) Defective Goods and/or Services returned during the Warranty Period for repair, replacement, completion or re-performance shall be repaired, replaced, completed or re-performed by Supplier and returned to the University within a turnaround time of five Business Days or such other time period as may be mutually agreed between the Parties. Supplier shall be solely responsible for paying the associated shipping and packaging costs of any such repair or replacement.



(5) In the event Supplier is unable to repair or replace or complete or re-perform the Defective Goods and/or Services within such turnaround time, the University may,

- (a) at Supplier's sole cost, return the Goods to Supplier and Supplier shall refund the University in full for the Goods and any other related costs; or
- (b) terminate this Agreement immediately upon notice to the Supplier, and the University shall thereupon be relieved of all liability under this Agreement.

(6) Any repaired or replaced Goods or completed or re-performed Services shall be subject to the acceptance right set out in Section 4.4 and the Warranty Period shall recommence from the date of acceptance of such Goods and/or Services.

(7) Additional warranty provisions, including optional after-sales warranties, may be set out in Schedule 1 or otherwise specified by the University.

(8) The provisions of this Section 5.1 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

## 5.2 Performance Standards

(1) Without limitation to Section 7 of this Agreement, Supplier covenants and agrees to perform its obligations under this Agreement with the degree of care, skill and diligence consistent with the highest industry standards for Supplier's industry and in compliance with Applicable Law. Without limiting the generality of the foregoing, Supplier covenants and agrees to diligently deliver the Goods and/or Services in a discrete, professional, skillful and timely manner and to meet all requirements for the Goods and/or Services as set out in this Agreement including all applicable requirements for the Goods and/or Services described in Schedule 1.

## 5.3 University Policies

(1) Supplier acknowledges and agrees that it shall at all times comply with the University of Toronto Code of Ethics and the commitments set out in all University policies (available on the University's website) including the following:

- (a) In performing the Goods and/or Services, Supplier shall at all times comply with the *Accessibility for Ontarians with Disabilities Act, 2005*, and all regulations made thereunder ("**AODA**"). Without limiting the generality of the foregoing, Supplier shall have in place all accessibility plans, policies, practices and procedures required by AODA and shall ensure that all personnel of Supplier engaged in providing the Goods and/or Services, including without limitation those personnel of Supplier who may deal with members of the public or other third parties on behalf of the University, have received all training required by AODA. The University shall have the right, upon request, to inspect and obtain copies of the accessibility plans, policies, practices and procedures maintained by Supplier in relation to AODA, as well as reasonable evidence that personnel of Supplier performing the Goods and/or Services have received all training required by AODA. In providing the Goods and/or Services, Supplier shall provide information and communications in accessible formats and with communication supports, upon request by the University, members of the public or other third parties, in accordance with the requirements of AODA. **[NTD: This Section 5.3(1)(a) will not be applicable to those Suppliers providing Goods and/or Services outside of Ontario.]**

## 5.4 Labour Agreements

(1) Supplier acknowledges and agrees that any part of the work performed by Supplier on behalf of the University that falls under the provisions of the current provincial agreement covering construction work in the industrial commercial and institutional sector of the construction industry in the

Province of Ontario between the Carpenters' Employer Bargaining Agency and the Carpenters' District Council of Ontario, United Brotherhood of Carpenters and Joiners of America, and its affiliated locals including Carpenters Local 27 and Carpenters Local 675 (the "**Carpenters ICI Collective Agreement**") shall be performed by employees covered by the Carpenters ICI Collective Agreement.

(2) Supplier further acknowledges and agrees that general contractors working on projects at all University campuses with a value below One Hundred Thousand Dollars (\$100,000.00) and above Five Million Dollars (\$5,000,000.00) must be bound to the provincial agreement between the Carpenters' Employer Bargaining Agency and the Carpenters' District Council of Ontario, United Brotherhood of Carpenters and Joiners of America, and its affiliated locals, including Carpenters Local 27 and Carpenters Local 675, and to the extent that the Supplier is considered a general contractor for the purposes of this Section 5.4(2), it will comply with these requirements.

(3) This Section 5.4 (the "**GLC Provision**") shall apply to each subcontractor *mutatis mutandis* and the Supplier shall include this GLC Provision, with all necessary changes, in each of its contracts with subcontractors for any applicable part of the delivery or performance of the Goods and/or Services.

(4) Supplier shall indemnify and save the University harmless from and against all loss, claim, expense or damage suffered by the University arising from the failure of the Supplier or any subcontractor to comply with the requirements of these GLCs and agrees that the University may set-off against the Supplier's payables an amount equal to said loss, claim, expense. This indemnity is in addition to, and not limited by, the indemnity of the Supplier in Section 12 INDEMNITY.

## **SECTION 6 PROCESS FOR INVOICES**

### **6.1 Invoices**

(1) In consideration for Goods accepted and/or Services properly performed by Supplier, the University agrees to pay to Supplier the rates that are set out in Schedule 1 or otherwise agreed between the Parties (the "**Rates**"). Such Rates shall include payment for the provision of the Goods and/or Services under this Agreement.

(2) If the rates payable by the University are on a time-and-materials basis, Supplier shall maintain daily time records of all activities undertaken in connection with the Goods and/or Services, in sufficient detail to permit the University to reasonably verify the work performed and the value of the deliverables. In no event shall the rate charged by Supplier for personnel providing the Goods and/or Services be greater than any pricing arrangement set forth in Schedule 1 or as otherwise specified by the University.

(3) Each invoice shall include:

- (a) properly invoiced Taxes;
- (b) Supplier's tax identification number; and
- (c) all other details as the University may from time to time reasonably require by delivery of notice to that effect to Supplier.

(4) All invoices will be paid by the University within 35 days from the invoice date; provided that no invoice shall be required to be paid if it contains errors or deficiencies.

(5) The University shall be entitled to set off any monies owing to it by Supplier under this agreement against any monies it may then owe to Supplier.

(6) Any change in the Rates payable pursuant to this Agreement must be approved in advance by the University in writing. Except as expressly set forth in this Section 6, Supplier

acknowledges and agrees that no charges, fees, costs, expenses or any other amounts shall be payable by the University in connection with the Goods and/or Services, the deliverables or this Agreement.

(7) Supplier will register itself, as required by Applicable Law, for any Canadian federal or provincial sales, goods and services, value added and other similar taxes ("**Canadian Sales Taxes**") applicable from time to time with respect to any payment by the University under this Agreement and will be responsible for ensuring that the University is properly invoiced for such Canadian Sales Taxes as and when due. Supplier will promptly provide evidence of such registration from time to time as may reasonably be required. The University will pay the amount of such Canadian Sales Taxes to Supplier in addition to amounts payable under this Agreement on the date that it is required to make the payment to which such Canadian Sales Taxes apply. In the event that Supplier is not registered to collect and remit applicable Canadian Sales Taxes, the University shall be entitled (but not required) to withhold from the Rates all amounts in respect of applicable Canadian Sales Taxes and remit such withheld Canadian Sales Taxes to the proper taxing authorities. Supplier shall indemnify and hold harmless the University against any claims or assertions, including interest and penalty, by any relevant taxing authority in respect of Canadian Sales Taxes owed in connection with the Goods and/or Services rendered by Supplier pursuant to this Agreement, except with respect to any Canadian Sales Taxes properly invoiced to the University as and when due. The provisions of this Section 6.1(7) shall survive and remain in full force and effect following expiry or termination of this Agreement.

(8) If the University is required to retain a holdback from payments to Supplier in respect of the Goods and/or Services pursuant to Applicable Law, the University shall be entitled to retain such holdbacks and pay to Supplier such holdback amount in accordance with Applicable Law.

## **SECTION 7 REPRESENTATIONS AND WARRANTIES**

### **7.1 Supplier Representations and Warranties**

- (1) Supplier represents and warrants to the University that,
  - (a) Supplier is duly formed and validly existing under the laws of its jurisdiction of formation and has all necessary corporate power, authority and capacity to enter into this Agreement and to carry out its obligations under this Agreement. The execution and delivery of this Agreement and the performance of Supplier's obligations under this Agreement have been duly authorized by all necessary corporate action on the part of Supplier.
  - (b) Supplier is not a party to, bound or affected by, or subject to, any indenture, mortgage, lease, agreement, collective agreement, obligation, instrument, charter or by-law provision, statute, regulation, order, judgment, decree, licence, permit or law which would be violated, contravened or breached as a result of the execution and delivery of this Agreement, or the performance by Supplier of any of its obligations under this Agreement.
- (2) Supplier represents and warrants, which representations and warranties shall remain true and accurate throughout the Term, that Supplier and all subcontractors, employees or other persons retained by it in connection with the Goods and/or Services and/or the performance of its obligations pursuant to this Agreement shall (at Supplier's sole cost and expense):
  - (a) procure and maintain all applicable permits, licenses and approvals of any governmental authority relating to the Goods and/or Services and/or business operations of Supplier ("**Permits**") (and provide evidence of same to the University upon request). Supplier shall notify the University immediately in writing if any Permit or any portion thereof is suspended, cancelled, terminated, withdrawn, modified or transferred in any way and if requested by the University shall immediately cease to provide Services and shall relinquish control over all equipment or property (tangible or intangible) owned by the University and in its possession and under its control on such date;

- (b) comply with all applicable statutes, regulations and other legal stipulations or guidelines of any governmental authority having jurisdiction over the Goods and/or Services or business operations of Supplier (including Privacy Laws);
- (c) conduct its activities and perform the Goods and/or Services in a safe, ethical and professional manner and in compliance with the *Occupational Health and Safety Act* (Ontario) (as amended or supplemented from time to time) and all equivalent municipal, provincial or federal legislation and all applicable the University policies and procedures, including health and safety policies and security and other rules and regulations (as amended from time to time) while working in or attending at any University Location;
- (d) not take any action or make any omission that may injure or damage the University's reputation or operations; and

## 7.2 Supplier Covenants

(1) Supplier covenants and agrees that it shall be solely responsible for the control and management of its operations, employment practices and labour relations. Supplier covenants and agrees that it shall be solely responsible for the payment of all compensation, including wages, salary, benefits and expenses and for all withholding and other taxes, including Canada Pension Plan, employment insurance, and workers' compensation or workplace safety and insurance in respect of each of its employees and other persons rendering services to on behalf of Supplier (including subcontractors retained by Supplier) in connection with the Goods and/or Services in each jurisdiction where the Goods and/or Services are performed.

(2) Supplier has registered, and covenants and agrees that it shall be solely responsible for registering, itself and all persons engaged for service by it under the *Workplace Safety and Insurance Act* (Ontario), as amended or supplemented from time to time, and has paid and shall pay all applicable workers' compensation premiums and maintain such registrations and workers' compensation coverage throughout the Term. Supplier further agrees to provide the University with evidence of its compliance with this Section 7.2(2) in form satisfactory to the University upon request by the University.

(3) Supplier covenants and agrees that throughout the Term all persons engaged by it to perform the Goods and/or Services are and shall be at all times legally able to work in the jurisdiction in which the Goods and/or Services are performed in the specific occupation that such person performs.

## SECTION 8 CONFIDENTIALITY AND PRIVACY

### 8.1 Confidential Information

(1) For the purposes of this Section 8.1, "**Confidential Information**" means all information of a Party that is of a confidential, proprietary, or commercially sensitive nature (as determined with reference to its treatment by the University and the Supplier) which is provided, disclosed, or made available (orally, electronically, or in writing) by a Party (or its representatives) to the other Party (including to employees, contractors, or other representatives thereof). For greater certainty, all Personal Information and anything else specifically marked or identified by a Party as confidential or proprietary are "Confidential Information".

(2) Subject to Section 8.1(3), a Party in receipt of Confidential Information shall maintain (and shall ensure that its officers, employees, consultants, advisors, and contractors maintain) the confidentiality of the Confidential Information, with the exception of information that:

- (a) at the time of the disclosure to the receiving Party, was in the public domain;
- (b) after disclosure to the receiving Party became part of the public domain without fault or breach on the part of the receiving Party or those for whom it is responsible at law of any

duty of confidentiality owed by the receiving Party to the disclosing Party or to any third party;

- (c) was in the possession of the receiving Party at the time of disclosure to it, as demonstrated by written records;
- (d) was received by the receiving Party from a third party who had a lawful right to disclose the information;
- (e) is independently developed by the receiving Party without reference to any Confidential Information of the disclosing Party,

unless such information is Personal Information, in which case the exclusions set out in this Section 8.1(2) shall not apply to such Personal Information and shall in no way limit the meaning of Personal Information or the obligations attaching to Personal Information under this Agreement or Applicable Law.

- (3) Neither Party shall use or disclose Confidential Information delivered by the other except:
  - (i) to such of its officers, employees, consultants, advisors, and contractors who reasonably require access to the Confidential Information for the performance of this Agreement;
  - (ii) as required by Applicable Law, or (for the University) as required or authorized by FIPPA; or
  - (iii) where the other Party consents to the use or disclosure.

## **8.2 Confidentiality and Promotion Restrictions**

(1) Any publicity or publications related to this Agreement shall be at the sole discretion of the University. The University may, in its sole discretion, acknowledge the Goods and/or Services provided by the Supplier in any such publicity or publication. Supplier shall not make use of its association with the University without the prior written consent of the University. Without limiting the generality of this Section 8.2, Supplier shall not, among other things, at any time directly or indirectly communicate with the media in relation to this Agreement unless it has first obtained the express written authorization to do so by the University.

## **8.3 Personal Information and FIPPA**

(1) Supplier acknowledges that in the course of providing the Goods and/or Services contemplated under this Agreement, it may be privy to personal information, which includes factual or subjective information (recorded or not) about an identifiable individual ("**Personal Information**"). Supplier agrees that all right, title and interest to such Personal Information, as between Supplier and the University, is the exclusive property of the University. In handling the Personal Information, Supplier shall:

- (a) comply with applicable Privacy Laws and all policies and procedures of the University relating to privacy and the protection of Personal Information, as provided to Supplier in writing by the University from time to time;
- (b) use appropriate security measures to protect all Records from unauthorized access or use and give the University access to and the right to audit Supplier's security measures for the Personal Information;
- (c) not directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the University;

- (d) limit the use of Personal Information to the purposes specified and necessary to carry out this Agreement or as prescribed by Applicable Law, including restricting access to Personal Information to those of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors who have a need to know it for the purpose of providing the Goods and/or Services and who have been specifically authorized by a University representative to have such access for the purpose of providing the Goods and/or Services;
- (e) limit disclosure of Personal Information to what is authorized in writing by the University or required by Applicable Law;
- (f) promptly refer any persons seeking access to their Personal Information to the University;
- (g) return to the University or, at the University's request, dispose of the Personal Information upon completion or termination of this Agreement;
- (h) to provide Records to the University no later than 7 days of being directed to do so by the University for any reason including an access request or privacy issue;
- (i) notify the University in writing immediately upon becoming aware of any non-compliance with, or breach of, the Supplier's obligations under this Section 8.3 or under Privacy Laws, in which case Supplier shall consult with the University regarding the actions that it intends to take to remedy the breach and shall subsequently implement such actions as may be approved by the University in writing in connection therewith.

(2) The Parties acknowledge and agree that FIPPA applies to and governs all Records, including Confidential Information and the terms of this Agreement, and such Records may be disclosed by the University where it is obligated to do so under FIPPA, by an order of a court or tribunal or pursuant to a legal proceeding.

(3) The University agrees that, except where it is legally prohibited from doing so, it will provide the Supplier with prompt notice for any requests for disclosure of any Confidential Information pursuant to FIPPA so that Supplier can review such request and determine whether any exemptions to required disclosure are applicable in the context of such request. In the event the Supplier determines that an exemption under FIPPA is applicable to a request for information, the University shall reasonably cooperate with the Supplier in responding to such request.

(4) Where any disclosure of Confidential Information of the Supplier is ultimately required under FIPPA, the University will disclose only that portion of Supplier's Confidential Information which the University is legally compelled to disclose.

#### **8.4 Remedies**

(1) The Parties acknowledge and agree that the University will be irreparably harmed by any breach or threatened breach of Supplier or any of its representatives' obligations under this Section 8, that money damages would not be a sufficient remedy for any such breach or threatened breach of this Section 8, and that in the event of any breach or threatened breach of this Section 8, the University shall be entitled to specific performance, injunctive and/or other equitable relief as a remedy for any such breach, without the necessity of proving actual damages or posting any bond or other security.

#### **8.5 Survival**

(1) The provisions of this Section 8 shall survive and remain in full force and effect following the expiry or termination of this Agreement.

## **SECTION 9 INTELLECTUAL PROPERTY**

### **9.1 No Use of University Insignia**

(1) Supplier shall not use any insignia or logo of the University except where required to provide the Goods and/or Services, and only if it has received the prior written permission of the University to do so.

### **9.2 Ownership of Intellectual Property**

(1) The University shall be the sole owner of any Foreground Intellectual Property and all of the University's Background Intellectual Property. The Supplier irrevocably assigns to and in favour of the University and the University accepts every right, title and interest in and to the Foreground Intellectual Property, immediately following the creation thereof, for all time and irrevocably waives in favour of the University all rights of integrity and other moral rights to the Foreground Intellectual Property, immediately following the creation thereof, for all time. Supplier shall execute and deliver, and shall cause its employees and subcontractors to execute and deliver, to or to the order of the University, any further or other documents pertaining to the Foreground Intellectual Property which the University may reasonably request to confirm, effectuate, better evidence or record the rights possessed by the University and in the form as the University may reasonably prescribe.

(2) The Supplier is and will be the exclusive owner of all of the Supplier's Background Intellectual Property and any and all improvements to the foregoing (other than Foreground Intellectual Property) (the "**Supplier IP**"). All right, title and interest in the Supplier IP will vest in Supplier, immediately upon creation and regardless of the state of completion of such Supplier IP. The University will acquire no rights to any Supplier IP other than the license rights expressly granted under or in respect of this Agreement.

### **9.3 Grant of Licence**

(1) The University grants to Supplier, during the Term, a limited, revokable, non-exclusive, non-transferable, royalty free license to access, use, copy, support, maintain and, to the extent reasonably necessary to perform the Services, modify, the Foreground Intellectual Property solely for the purpose of fulfilling Supplier's obligations under this Agreement.

(2) The Supplier grants to the University a perpetual, world-wide, non-exclusive, irrevocable, transferable, royalty free, fully paid-up right and licence:

- (a) to access, use, copy, support, maintain or otherwise exploit such Supplier Intellectual Property that is integrated with, embedded in, forms part of, or is otherwise required in order to access, use, copy, support, maintain or otherwise exploit the Goods and/or Services; and
- (b) to authorize other persons, including agents, contractors or sub-contractors, to do any of the former on behalf of the University.

(3) Supplier shall not incorporate into any Goods and/or Services anything that would restrict the right of the University to modify, further develop or otherwise use the Deliverables, Goods and/or Services in any way that the University deems necessary, or that would prevent the University from entering into any contract with any contractor other than Supplier for the modification, further development of or other use of the Deliverables, Goods and/or Services.

### **9.4 Supplier Representation and Warranty Regarding Third-Party Intellectual Property**

(1) Supplier represents and warrants that the provision of the Goods and/or Services shall not infringe or induce the infringement of any Third Party Intellectual Property rights. Supplier further represents and warrants that it has obtained assurances with respect to any Supplier IP and Third Party

Intellectual Property that any rights of integrity or any other moral rights associated therewith have been waived.

(2) If the event that the provision of the Goods and/or Services infringes or induces the infringement of any Third Party Intellectual Property rights, the Supplier shall use reasonable efforts to ensure that the University is granted a license in respect of such Third Party Intellectual Property on terms that include all rights, are not less restrictive, and are not less favourable to the University in all respects than the license granted by the Supplier pursuant to Section 9.3(2).

## **9.5 Survival**

(1) The provisions of this Section 9 shall survive and remain in full force and effect following the expiry or termination of this Agreement.

## **SECTION 10 DEFAULT AND TERMINATION**

### **10.1 Termination for Supplier Default**

(1) If a Material Default occurs, the University shall be entitled at any time thereafter to terminate this Agreement by the delivery of written notice to Supplier, and upon the effective date of termination specified by the University in any such written notice this Agreement shall terminate, subject to any other provision contained herein that is expressed to survive termination or expiry of this Agreement. The Parties acknowledge and agree that the occurrence of a Material Default shall be incapable of rectification by Supplier.

(2) For the purposes of this Agreement, a material default ("**Material Default**") means:

- (a) any Change of Control in the ownership of the Supplier that materially adversely affects a factor listed in Section 17.3, as determined by the University in its sole discretion;
- (b) failure of Supplier to fully comply with its obligations under Sections 7, 8, 11 and 17.2 or breach of any other obligation that is incapable by its nature of rectification;
- (c) if Supplier shall:
  - (i) generally not pay its debts as they fall due;
  - (ii) admit in writing its inability to pay its debts generally, or make a general assignment for the benefit of creditors;
  - (iii) institute or have instituted against it any proceeding seeking
    - (A) to adjudicate it bankrupt or insolvent;
    - (B) any liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under Applicable Law relating to bankruptcy, insolvency or re-organization or relief of debtors or otherwise; or
    - (C) the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or any substantial part of its assets; or
  - (iv) take any corporate action to authorize any of the foregoing; or
- (d) the failure of Supplier to fully comply with any obligation under this Agreement, other than the requirement to give notice pursuant to Section 17.3, the result of which, in the



University's sole discretion, could have a material adverse effect on the University's operations or reputation.

(3) Without limiting the University's rights under Section 10.1(1), in the event that Supplier shall at any time fail to fully perform or comply with any provision contained in this Agreement, other than one giving rise to a Material Default, and the University shall have delivered written notice to Supplier requiring the rectification of same, such rectification must be made to the satisfaction of the University in its sole discretion, by the date that is 30 days following the date of delivery of such notice to Supplier to the satisfaction of the University in its sole discretion. If such rectification is not made within such 30 day period, the University shall be entitled at any time thereafter to terminate this Agreement by the delivery of written notice to that effect to Supplier. Upon the effective date of termination specified by the University in any such written notice this Agreement, shall terminate, subject to any other provision contained herein that is expressed to survive termination or expiry of this Agreement.

## **10.2 Termination for the University's Convenience**

(1) Notwithstanding Section 2.1(1), the University shall be entitled at any time, for any or no reason, to,

- (a) terminate this Agreement by the delivery of at least thirty days' prior written notice to that effect to Supplier, and upon the effective date of termination specified by the University in any such notice this Agreement shall terminate, subject to any other provision contained herein that is expressed to survive termination or expiry of this Agreement.

## **10.3 Consequences of Termination and Expiration**

(1) If the University terminates this Agreement, Supplier shall immediately cease any work and shall invoice the University for the portion of the Goods and/or Services performed up to the effective date of such termination.

(2) Upon termination or expiry of this Agreement, as the case may be, or otherwise upon request from time to time by the University, Supplier shall,

- (a) return all the University property and equipment in its (or its employees' or representatives') possession, including badges and security identification;
- (b) remove all of its property and equipment (including that of its employees and representatives) from any University Locations and any other location where Services were being provided; and
- (c) co-operate with, and provide such assistance as may be requested by, the University in order to facilitate the orderly termination and/or transition of the Goods and/or Services with the least amount of inconvenience and disruption to the University's business as is reasonable in the circumstances.

(3) Supplier agrees that the University may perform or arrange to be performed any work necessary to remove Supplier's property and equipment from the University Locations and bill Supplier for all expenses incurred. If Supplier does not remove its property and/or equipment from any University Location within seven calendar days following any such termination or request, the University may (without further notice) retain such property and equipment for its own use and/or sell any such property and equipment and retain the proceeds therefrom.

(4) The rights and remedies in Sections 10.1, 10.2 and 10.3 are cumulative and in addition to any other right or remedy available under this Agreement, at law or equity.

## SECTION 11 INSURANCE

(1) Supplier shall, at its sole cost and expense, take out and keep in full force and effect at all times during the Term, with an insurer acceptable to the University:

- (a) occurrence based comprehensive commercial general liability insurance with a limit in an amount of not less than \$2,000,000 per occurrence. Such insurance will include coverage for personal injury liability, bodily injury liability, advertising injury liability, products and completed operations liability, blanket contractual liability (including liability for damage to or losses relating to performance by Supplier of its obligations set forth herein), property damage liability (including liability for damage to or losses relating to a University Location and any University or other third party chattels, property, merchandise, trade fixtures, or monies), and business interruption relating to the University's operations.
- (b) all risk property insurance reflecting full replacement values and including full business interruption values. Such insurance will include coverage for damage to or losses of chattels, property, merchandise, trade fixtures, or monies that are owned by Supplier or that it is responsible to insure (including those located within any University store or other University Location from time to time, and any University owned or leased property for which Supplier has agreed to be responsible) and business interruption relating to the business operations conducted by Supplier.
- (c) a commercial automobile liability insurance policy for all owned, non-owned and hired vehicles with a minimum of \$2,000,000 combined single limit for bodily injury and property damage. Non-owned and hired vehicle coverage may be included within the commercial general liability coverage above.
- (d) professional liability (errors and omissions) insurance in an amount of not less than \$1,000,000 per occurrence.
- (e) privacy and data security (also known as "cyber liability", "network security" or "technology errors and omissions") in an amount of not less than \$2,000,000 per occurrence.

(2) All such policies of insurance shall include an endorsement providing that no cancellation of any such policy will be effective unless the University received at least 30 days' prior written notice of such cancellation.

(3) Supplier shall cause its commercial general liability insurance referred to in subsection Section 11(1)(a) to name the University as an additional insured and to be endorsed with a waiver of subrogation in favour of the University.

(4) Supplier shall cause a certificate(s) of insurance executed by the insurer named in the applicable policies described above (or by an authorized insurance broker) to be delivered to the University concurrently with Supplier's execution of this Agreement, upon annual renewal of said insurance, and from time to time following the receipt of a written request therefor from the University.

(5) The University does not in any way represent or warrant that the coverage or limits of insurance specified in this Section 11 are sufficient or adequate to protect Supplier's interests or liabilities.

(6) Supplier shall not, without the University's prior written consent, which may be withheld for any or no reason whatsoever, keep anything within a University Location or use a University Location for any activity that increases the insurance premium cost or invalidates any insurance policy carried by any person with respect to a University Location or any part thereof. All property kept, stored or maintained within a University Location by or on behalf of Supplier shall be at Supplier's sole risk.

## **SECTION 12 INDEMNITY**

### **12.1 Supplier Indemnity**

(1) Supplier shall indemnify and save the University, its directors, officers, employees and agents, harmless from and against any and all Losses that may, directly or indirectly, result from, arise out of or be in relation to (a) the performance by Supplier, or by any of its employees, subcontractors or other persons for whom it is responsible, of the Goods and/or Services; (b) any breach, violation or non-performance by Supplier, or by any of its employees, subcontractors or other persons for whom it is responsible, of any term, condition, representation, warranty or covenant contained in this Agreement; (c) any failure or delay by Supplier to make or maintain any registration, coverage or payments or file any return or information required by Applicable Law; (d) any negligent act or omission of Supplier or any of its employees, subcontractors or other persons for whom it is responsible at law or in equity; (e) any claim that the Goods and/or Services, or their use by the University, directly or indirectly, violate or infringe any intellectual property right or other proprietary right of any person; and/or (f) any failure of the Supplier or any subcontractor to comply with the requirements of the GLC Provision, except to the extent that such Losses are caused, or contributed to, by the breach of this Agreement by the University or by any act or omission of the University.

(2) The provisions of this Section 12 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

## **SECTION 13 LIMITATION OF LIABILITY**

### **13.1 Limitation on University Liability**

(1) In no event shall the University be liable for any indirect, special, punitive or consequential damages related in any way to this Agreement and/or the provision of services, regardless of the legal theory upon which any such damage claim is based, even upon the fault, tort (including negligence), breach of contract, statute, regulation, or any other theory of law or breach of warranty by, or strict liability of, the University. This exclusion applies even if the University has been advised of the possibility of such damages in advance and even if any available remedy fails of its essential purpose except to the extent caused by willful misconduct of the University.

(2) The provisions of this Section 13 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

## **SECTION 14 NOTICES**

(1) Any notice to be given by this Agreement shall be in writing and effectively given if (a) delivered personally, (b) sent by prepaid courier service or certified/registered mail with a copy by email:

(a) in the case of notice to the University at:

**[Insert address]**

Attention: ●

Email.: ●

(b) in case of notice to the Supplier at:

**[Insert address]**

Attention: ●

Email.: ●

or at such other address as the Party to whom such notice or other communication is to be given shall have advised the Party giving same in the manner provided in this Section 14.

(2) Any notice or other communication delivered personally or by prepaid courier service shall be deemed to have been given and received on the day it is so delivered, provided that if such day is not a Business Day such notice or other communication shall be deemed to have been given and received on the next following Business Day. Any notice or other communication sent by registered mail shall be deemed to have been given and received on the third Business Day following the date of mailing. Regardless of the foregoing, if there is a mail stoppage or labour dispute or threatened labour dispute which has affected or could affect normal mail delivery by the applicable postal service, then no notice or other communication may be delivered by registered mail.

## **SECTION 15 AUDIT RIGHTS**

### **15.1 Access to Records**

(1) For seven years following the expiry or termination of this Agreement, the Supplier shall maintain all necessary records to substantiate:

- (a) all charges and payments under the Agreement; and
- (b) that the Goods and/or Services were provided in accordance with the Agreement and with Applicable Law.

(2) During the Term, and for seven years after the Term, the Supplier shall permit and assist the University in conducting audits of the operations of the Supplier to verify:

- (a) all charges and payments under the Agreement; and
- (b) that the Goods and/or Services were provided in accordance with the Agreement and with Applicable Law.

The University may conduct an audit of the Supplier's operations once a year unless the previous year's audit revealed concerns or issues, in which case the University may conduct more than one audit per year. The University shall provide the Supplier with at least 10 Business Days' prior notice of its requirement for such an audit.

- (3) If any such audit or inspection,
  - (a) reveals the Rates paid by the University to be incorrect, so that such error resulted in an overpayment by the University equal to or greater than three percent of Rates required to be paid by the University in accordance with this Agreement; or
  - (b) reveals any breach, violation or non-performance by Supplier of any term, condition, representation, warranty or covenant contained in this Agreement,

then Supplier shall (in addition to forthwith reimbursing the University for any overpayment) pay all costs incurred by the University with respect to any audit(s) and/or inspection(s) that uncovered such error, including the costs of any internal and external auditors, accountants and associates of the University directly involved with such process.

(4) The provisions of this Section 15.1 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

## **SECTION 16 FORCE MAJEURE**

### **16.1 General**

- (1) For the purposes of this Agreement, "Force Majeure" means an event that is,
  - (a) beyond the reasonable control of a Party; and

- (b) makes a Party's performance of its obligations under this Agreement impossible or so impractical as reasonably to be considered impossible in the circumstances.
- (2) Force Majeure includes,
  - (a) war, riots and civil disorder;
  - (b) pandemics and epidemics;
  - (c) storm, flood, earthquake or other severely adverse weather conditions; and
  - (d) confiscation, expropriation or other similar action by a government body,  
if such events meet the test set out in Section 16.1(1)(b).
- (3) Force Majeure shall not include,
  - (a) any event that is caused by the negligence or intentional action of a Party or such Party's subcontractors or agents or employees;
  - (b) strikes, lockouts or similar labour actions;
  - (c) insufficiency of funds or failure to make any payment required hereunder; or
  - (d) any event that a diligent Party could reasonably have been expected to,
    - (i) take into account at the time of the execution of this Agreement; and
    - (ii) avoid or overcome in the carrying out of its obligations under this Agreement.

For clarity, the COVID-19 Pandemic shall not be considered Force Majeure for the purposes of this Agreement.

## **16.2 No Breach of Contract**

(1) The failure of a Party to fulfill any of its obligations under this Agreement shall not be considered to be a breach of, or default under, this Agreement to the extent that such failure to fulfill the Agreement obligation arose from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Agreement.

## **16.3 Measures to be Taken**

(1) A Party affected by an event of Force Majeure shall take all reasonable measures to fulfill its obligations under this Agreement with a minimum of delay.

(2) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than 14 days after the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

(3) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

## **16.4 Payments**

(1) During the period of the Supplier's inability to deliver or perform the Goods and/or Services as a result of an event of Force Majeure, the University shall continue to pay the Supplier under

the terms of this Agreement for any of the Goods and/or Services that it completes pursuant to this Agreement and in accordance with this Agreement.

#### **16.5 Consultation**

(1) Not later than 30 days after the Supplier, as the result of an event of Force Majeure, has become unable to deliver or perform a material portion of the Goods and/or Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

#### **16.6 Alternative Arrangements**

(1) Notwithstanding any other rights that the University may have under this Agreement, the University may, during the period that the Supplier is unable to provide any or all of the Goods and/or Services due to an event of Force Majeure, seek alternative sources of goods or service, provided that such alternative sources are in respect of only those Goods and/or Services that the Supplier is not able to deliver and shall be used only for the period that the Supplier is not able to deliver those Goods and/or Services.

#### **16.7 Termination**

(1) If the event of Force Majeure exists for a period of more than 90 days and the Supplier is unable, during that period, to provide, the majority or all of the Goods and/or Services as a result of the event of Force Majeure, the University or the Supplier may terminate this Agreement immediately (without notice).

### **SECTION 17 GENERAL PROVISIONS**

#### **17.1 Entire Agreement**

(1) This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof. It is understood and agreed that there are no agreements, conditions, warranties, terms, representations or arrangements, oral or written, statutory or otherwise, other than those contained herein, and that all prior conversations, understandings, arrangements, statements, communications or agreements, oral or written, with respect to this Agreement are hereby superseded. No change, amendment or supplement to any provision of this Agreement shall be binding unless it is in writing. The Parties agree that any preprinted terms and conditions on any Supplier invoice, work order or similar document shall be of no force and effect, even if signed by both Parties.

#### **17.2 No Assignment**

(1) Neither Party shall assign or otherwise transfer any part of this Agreement without the prior written consent of the other Party, which may be withheld for any or no reason. Subject to any restrictions herein contained, this Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

#### **17.3 Change of Control**

(1) Supplier shall provide written notice to the University immediately upon the occurrence of a change in control in the ownership of the Supplier (each such change, a “**Change of Control**”).

(2) For the purposes of this Section 17.3, the term “**Control**” means with respect to any person at any time,

- (a) holding, whether directly or indirectly, as owner or other beneficiary (other than solely as the beneficiary of an unrealized security interest) securities or ownership interests of that person carrying votes or ownership interests sufficient to elect or appoint fifty percent or

more of the individuals who are responsible for the supervision or management of that person, or

- (b) the exercise of de facto control of that person, whether direct or indirect and whether through the ownership of securities or ownership interests or by contract, trust or otherwise.

(3) If a Change in Control materially adversely impacts any of the following factors, the University reserves the right to terminate the Agreement:

- (a) the financial standing (as determined by the University) of the Supplier or the person acquiring an interest in the Supplier;
- (b) whether the person acquiring an interest in the Supplier is named on any Sanctions list or has directly or indirectly its principal or controlling office in a Restricted Country; and
- (c) whether the Change in Control materially adversely affects the Supplier in a way which could impair the Supplier's ability to perform its respective obligations under or in connection with this Agreement.

The University reserves the right to request further information regarding any Change in Control.

#### **17.4 Subcontractors**

(1) Supplier may not use any subcontractors or agents in connection with the performance of its obligations under this Agreement without the University's prior written approval. In the event that Supplier performs the Goods and/or Services by use of any subcontractors or agents, Supplier shall be fully responsible for ensuring that such subcontractor and/or agent complies with all of the obligations pursuant to this Agreement. For greater certainty, Supplier shall remain responsible for compliance with all obligations to the University notwithstanding the use of a subcontractor or agent.

#### **17.5 Joint and Several**

(1) Where two or more persons execute this Agreement as the Supplier, the liability under this Agreement of such persons executing this Agreement shall be joint and several.

#### **17.6 Governing Law**

(1) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby irrevocably attorn to the jurisdiction of the courts of the Province of Ontario. The provisions of this Section 17.6 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

#### **17.7 Relationship**

(1) The Supplier shall be an independent contractor with respect to the delivery of the Goods and/or Services. This Agreement shall not create or confer upon the Parties, in any way or for any purpose, any relationship except that of contracting parties, and in particular does not create a partnership, a principal and agent, a joint venture or a landlord and tenant relationship between the University and Supplier or an employer-employee relationship between the University and the employees of and other persons rendering services to Supplier. All dealings by Supplier with its clients, creditors, suppliers, workmen, contractors, agents, employees, and other similar persons shall be conducted exclusively in Supplier's name and Supplier shall not in any manner obligate the University on account thereof, and/or suggest to such persons that the University bears any obligation with respect to same.

#### **17.8 No Waiver**

(1) No condoning or waiver by the University of any default or breach by Supplier at any time or times in respect of any of the obligations, terms, covenants and conditions contained in this Agreement to be performed or observed by Supplier shall be deemed or construed to operate as a waiver of the University's rights under this Agreement in respect of any continuing or subsequent default or breach nor so as to defeat or affect in any way the rights and remedies of the University under this Agreement in respect of any such continuing or subsequent default or breach. Unless expressly waived in writing, the failure of the University to insist in any one or more cases upon the strict performance of any of the obligations, terms, covenants and conditions contained in this Agreement to be performed or observed by Supplier shall not be deemed or construed to operate as a waiver for the future strict performance or observance of such agreements, terms, covenants and conditions.

#### **17.9 Severability**

(1) If for any reason any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term, covenant or condition

- (a) shall be deemed to be independent of the remainder of the Agreement and severable and divisible therefrom, and its invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of the Agreement or any part thereof; and
- (b) shall continue to be applicable to and enforceable to the fullest extent permitted by law against any person and circumstance other than those to which it has been held or rendered invalid, unenforceable or illegal.

#### **17.10 Cumulative Remedies**

(1) The University's rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a Party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that Party may be entitled.

#### **17.11 Currency**

(1) All references herein to currency are to Canadian currency and all payments shall be made in Canadian currency unless otherwise specified by the University.

#### **17.12 Language**

(1) The Parties acknowledge and agree that they have required that this Agreement be prepared in the English language. Les parties reconnaissent avoir exigé que les présentes soient rédigées en langue anglaise.

#### **17.13 Counterparts**

(1) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same agreement. Any counterpart signature transmitted by facsimile or by sending a scanned copy by electronic mail or similar electronic transmission shall be deemed an original signature.

#### **17.14 Further Assurances**

(1) The Parties hereby agree from time to time to execute such further agreements or other documents (whether under corporate seal or otherwise) and do all such other acts and things as may be



necessary or desirable to give effect to the terms of this Agreement and to carry out and effectuate the provisions hereof.

**17.15 Third Parties**

(1) Except as expressly set forth herein, nothing contained in this Agreement is intended to confer upon any person not a party to this Agreement any rights, benefits or remedies of any kind or character whatsoever, and no such person shall be deemed a third-party beneficiary under this Agreement.

***[Signature page to follow]***

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the date set out above.

**THE GOVERNING COUNCIL OF THE  
UNIVERSITY OF TORONTO**

Per:

\_\_\_\_\_

Name:

Title:

I have authority to bind the University.

**[SUPPLIER]**

Per:

\_\_\_\_\_

Name:

Title:

I have authority to bind the corporation.

## SCHEDULE 1

### DESCRIPTION OF GOODS AND/OR SERVICES AND UNIVERSITY LOCATIONS

#### Timetable:

Estimated Commencement date: June **2025**

**Estimated Completion: August 31, 2025**

#### Fees for Services

#### Reporting and Project Management

Supplier Project Leader: [•]

U of T Project Leader: [•]

#### Invoicing Instruction:

ALL invoices must be submitted directly by either mail or email to the attention of the Accounts Payable Department at:

University of Toronto

Facilities & Services OR Via email to: [apfacilities.services@utoronto.ca](mailto:apfacilities.services@utoronto.ca)

Attn: Accounts Payable Dept

Simcoe Hall, 27 King's College Circle, Toronto, Ontario M5S 1A1

The following key requirements need to be complied with in order to process payment of your invoice(s):

1- **Submit invoices that only relate to the Facilities & Services department (F&S).**

Invoices that do not belong to F&S will not be processed for payment. It is your responsibility to submit these invoices directly to the correct department.

2- **Submit the invoice only once.** Do not send the same invoice by mail and by email. Do not re-send the invoice at a later date either. If you send the same invoice multiple times, we will assume that they are all duplicate invoices and will not process any of the invoices.

- 3- **Please do not mail, email or hand deliver invoices directly to your contacts at Facilities & Services.** There will be a delay in processing your invoice if not sent directly by mail or email to the address noted above.
- 4- **Please send only one invoice per PDF attachment** when sending invoice(s) via email. Do not send multiple invoices in one attachment. Do not send invoices using any other format such as Word, Excel, etc. Also, do not include any other attachments such as electronic signatures, vCards, logos, pictures, etc. Such invoices will get rejected and consequently, will not get processed for payment.
- 5- **Make sure that you indicate on the invoice your contact's name at F&S and where applicable, include the correct Service Order # or the Purchase Order #** on the invoice. These details let us know who is responsible for that specific invoice and failure to note these will cause unnecessary delay in processing the invoice.
- 6- **In general, invoices will be paid within 28 days of receipt of invoice - please do not contact Accounts Payable to check payment status during this 28-day window.** This will divert staff time and may delay the processing of invoices.

**Please be informed that failure to adhere to the above requirements may result in a substantial delay or a non-payment of such invoices.**

## **APPENDICES**

### **Appendix 1- Smoke Free Policy**

## **Appendix 2 – Lab Safety Policy**

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