

Terms and Conditions

Edmonton

- 1. DEFINITIONS.** The following definitions apply to all Contract Documents: **Applicable Laws** means all statutes, laws, bylaws, regulations, ordinances, orders and requirements of governmental or other public authorities having jurisdiction, and all amendments and successors thereto, relating to the Work; **City** means the City of Edmonton; **Contract** means these Terms and Conditions and the Purchase Order; **Contractor** means the supplier of the Goods and Services named in the Purchase Order; **Goods** means goods to be provided by the Contractor as described in the Purchase Order; **Services** means services to be performed by the Contractor as described in the Purchase Order; **Subcontractor** means a person, firm, or corporation not contracting with or employed directly by the City but contracting with or employed by the Contractor or by another subcontractor of the Contractor to perform the Work or a portion thereof; **Violent or Harassing Behaviour** means any behaviour described in the definition of either "harassment" or "violence" in the Occupational Health and Safety Act, SA 2017, c O-2.1, and also includes any behaviour described in the definitions of "harassment" or "violence" directed towards a member of the public; **"Work"** means the provision of Services and Goods as set out in the Purchase Order, and includes anything necessary or incidental to the performance of the Contract; and **"Working Day"** means days other than Saturdays, Sundays, and statutory holidays observed in Alberta.
- 2. GENERAL.** The Contract supersedes all prior negotiations, representations or agreements, either written or oral, relating in any manner to the Work. The Contractor agrees time is of the essence. The Contractor shall provide the Goods and Services within the timeframes stated in the Purchase Order. Failure to meet this completion date shall be deemed a fundamental breach. The City may set off from amounts owing to the Contractor any costs or damages that the City has suffered as a result of the failure to meet the delivery or completion dates. Failure by either party to exercise any of its rights, powers or remedies hereunder or its delay to do so does not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power, or remedy does not prevent its subsequent exercise or the exercise of any other right, power, or remedy. The Contractor shall not, without the prior written consent of the City, assign or transfer in any manner whatsoever the rights, liabilities, obligations, and benefits of the Contract. Any amendments to this Contract must be in writing and signed by both parties. The Contract shall be construed in accordance with the laws of the Province of Alberta, and the Courts of Alberta shall have the exclusive jurisdiction to entertain any action arising under the Contract. Notwithstanding the foregoing, disputes falling under this Contract's Disputes Section are to be exclusively dealt with in accordance with the Disputes Section, without appeal to the Courts. If any provisions of the Contract in any way contravene the laws of the Province of Alberta, such provisions shall be severed from the Contract and the remaining provisions shall continue in force and effect. The Contract shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, executors, administrators, successors, and assigns. All remedies which the Contract confers upon the City shall be deemed cumulative and no one exclusive of the other, or of any remedy conferred by law. Any notices or correspondence in connection with this Contract shall be deemed to be adequately given if sent: (a) to the City, by email as a reply to the Purchase Order; and (b) to the Contractor, by prepaid certified mail, courier, fax, or email to the contact information contained in the Purchase Order. The Contractor acknowledges that it has read this Contract, understands it, and agrees to be bound by it. The General, Warranties and Import Fees, Payment, Audits, Applicable Laws, Freedom of Information and Protection of Privacy, Foreign Workers, Confidentiality, Indemnification, Disputes, and Intellectual Property Sections survive the expiry or termination of this Contract.
- 3. THE WORK.** The Contractor shall diligently perform the Work and all other obligations under this Contract. Descriptions of Goods or Services in words that have well-known technical or trade meanings shall be held to refer to such meanings. Any references to recognized standard specifications shall be to the then current edition unless specifically noted in the reference. The Contractor shall provide effective and efficient supervision to the Work. Unless specified otherwise in the Purchase Order, Goods provided by the Contractor shall be new. The Goods shall be transported DDP (Place specified in Purchase Order under "Ship All Items To") Incoterms® 2010. The City shall examine the Goods at the time and place of delivery to the "Ship All Items To" location, and shall note the value of delivered Goods and reject any Goods that do not comply with the Contract. The Contractor shall deliver to the City any documentation, including but not limited to bills of sale, which the City may reasonably require to evidence the transfer of title in and to the Goods, free and clear of all liens, charges, and encumbrances.
- 4. WARRANTIES AND IMPORT FEES.** The Contractor warrants and guarantees that all Goods and Services supplied under this Contract shall conform with the requirements outlined in the Purchase Order as well as all applicable legislation in place for such Goods and Services. Breach of this term shall be deemed a fundamental breach of this Contract. The Contractor represents and warrants that Services provided under this Contract will be performed in a competent, diligent, professional, and workmanlike manner consistent with standards in accordance with generally accepted industry practice or trade custom observed in the industry for similar services, with all due skill,

diligence, prudence, efficiency, and foresight which would be reasonably expected from a service provider skilled and experienced in similar services. If any additional warranties, such as manufacturers' warranties, apply to the Goods or Services, the Contractor shall supply copies of all applicable warranties. In addition to any other warranties set out under this Contract, the Contractor shall offer and provide to the City for no additional charge any additional warranty services the Contractor customarily provides to its customers. For technology-related Goods, the Contractor warrants, represents, and covenants that the Goods supplied by the Contractor with respect to the Work contain no contaminants or viruses including any code or instructions that may be used to access, modify, delete, damage or disable the City's operations. The Goods shall be free and clear of all liens, charges, and encumbrances of any kind. The Contractor shall undertake all needed operations, and pay all relevant fees, charges, penalties, or duties levied in importing any equipment, Services or Goods in order to supply the Goods and Services to the City. The Contractor shall indemnify the City for any fees, charges, penalties, or duties that may be levied by the proper authorities relating to any equipment, Services, or Goods imported by the Contractor. If any import duties or other taxes relating to products increase or decrease subsequent to the date of the Purchase Order, any resulting change in the cost shall constitute a corresponding change in the prices payable by the City. The Contractor shall co-operate fully with the City and the proper authorities in seeking to obtain all refunds of all fees, charges, penalties or duties to which the City may be entitled.

- 5. PAYMENT.** If the Contractor promptly and properly fulfils the requirements of the Contract to the satisfaction of the City, the City shall pay the Contractor in accordance with the Purchase Order. Notwithstanding the Audits Section, in the event that payment to the Contractor is facilitated by the City's evaluated receipt settlement payment process (which may be used in the City's sole discretion), the Contractor agrees to maintain its source invoices for a period of seven years. Unless otherwise indicated in the Purchase Order, all dollar amounts referred to in this Contract are in Canadian Dollars. The Contractor agrees that the pricing set out in the Purchase Order includes all of the Contractor's costs, including but not limited to storage, labour, overhead, equipment, suppliers, materials, permits, licenses and any other fees related to the Goods and Services, except as otherwise explicitly addressed in this Contract. If the City determines that a non-resident withholding tax is applicable to any Services being provided under this Contract, the City may withhold and remit the withholding tax to the relevant government authority. This remission is considered payment to the Contractor under this Contract. The Contractor will not be reimbursed by the City for any expenditures incurred by the Contractor when carrying out any Services under this Contract, unless previously approved by the City and specifically set out in the Purchase Order. The Contractor shall ensure that its Subcontractor fees are invoiced directly to the Contractor. The Contractor shall then invoice the City without any mark-up. If the City is not using electronic receipt settlement for this Purchase Order, application for payment may be made by the Contractor to the City at the "Bill To" address in the Purchase Order upon full delivery the Goods and Services. Each application for payment shall be accompanied by: a) a reference to the Purchase Order number; b) a statement of amounts claimed, with GST shown as a separate amount; c) an itemized list of the Services, Goods, and disbursements for which payment is being claimed; d) such evidence as the City may direct showing the Contractor's entitlement to the payment claimed; e) notification of any liability which may fall upon the City if not paid for by the Contractor; and f) the number of hours spent and the various rates used to calculate the invoice. The City will, within twenty Working Days of receiving an application for payment, approve the payment, or advise the Contractor promptly in writing why it is amended or rejected. Each application for payment shall become due and payable by the City within ten Working Days of approval. The acceptance by the Contractor of payment shall constitute a waiver of all further claims against the City under this Contract. Whenever the City is obligated to make a payment to the Contractor under the Contract, the City may, at its sole discretion, transfer funds electronically from the City directly to the Contractor's account at a financial institution (an "Electronic Payment Method"). If the City gives the Contractor notice in writing of its intention to use an Electronic Payment Method, the Contractor shall provide the City with all information that the City may reasonably require to carry out an Electronic Payment Method, including the name and address of the Contractor's financial institution and the appropriate account numbers. Notwithstanding any other term of the Contract, no payment or waiver of claims shall relieve the Contractor from liability arising out of the Contractor's failure to comply with the Contract. No approval of payment, payment, nor any partial or entire use of the Work by the City shall constitute acceptance of the Work. The City may review its records with respect to business licensing, taxation and assessment and other accounts receivables prior to making any payment to the Contractor. The City may set off any overdue accounts owed by the Contractor to the City against any amounts otherwise payable to the Contractor pursuant to this Contract.
- 6. SUBCONTRACTORS.** The Contractor may only use Subcontractors to which the City has given prior written approval. The Contractor shall be responsible to the City for the acts and omissions of Subcontractors and persons directly or indirectly employed by them.
- 7. AUDITS.** The City may audit all financial and related records associated with the terms of this Contract. The Contractor shall for a period of six years after the delivery of any Goods or Services, keep and maintain records of the Work. This shall include quotations, contracts, correspondence, invoices, vouchers, timesheets, and other documents that support actions taken by the Contractor. All such records shall be maintained in accordance with generally accepted accounting principles. The Contractor shall at its own expense make such records available for inspection (including copies and extracts of records as required) by the City at all reasonable times and without prior notice. The obligations of this Section shall be explicitly included in any subcontracts formed between the

Contractor and any Subcontractors to the extent that those subcontracts relate to fulfilment of the Contractor's obligations to the City. Costs of any inspections conducted under this Section will be borne by the City unless the audit identifies significant findings that would benefit the City. The Contractor shall reimburse the City for the total costs of an audit that identifies significant findings that would benefit the City. This Section shall not be construed to limit any other rights, powers, or obligations relating to audit which the City may have under Federal, Provincial, or Municipal law, whether those rights, powers, or obligations are express or implied.

- 8. APPLICABLE LAWS.** The Contractor shall apply and pay for necessary permits or licenses required for the Work. Where there are two or more Applicable Laws governing the Work, the more restrictive shall apply. The Contractor is responsible for performing the Work in compliance with Applicable Laws, as well as City policies, directives, procedures, standards and operating procedures. In the event the Contractor fails to comply with Applicable Laws and the City is required to take any steps or pay any sums to rectify non-compliance, the City may set-off the cost of rectification from any money owing to the Contractor. Such action shall not be deemed a waiver of any action that the City may pursue to collect any monies paid that exceed the monies owed to the Contractor.
- 9. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY.** The Contractor acknowledges that the City is subject to the Freedom of Information and Protection of Privacy Act, R.S.A 2000, c. F-25 ("FOIP"). FOIP applies to all records relating to, or obtained, created or collected under this Contract which are in the custody or under the control of the City and the Contractor. The Contractor agrees to comply with the provisions of FOIP. Notwithstanding anything else in this Contract, the Contractor agrees that, subject to the City's obligations under FOIP, all documents relating to this Contract may be published and made public by the City. If there are any documents the disclosure of which would constitute a disclosure harmful to the Contractor's business interests or a disclosure harmful to personal privacy, as defined in FOIP, the Contractor must notify the City in writing which portions of the documents should not be disclosed. The City will make reasonable efforts to redact any portions of the documents which the City agrees should not be disclosed pursuant to FOIP.
- 10. ENVIRONMENT.** The Contractor shall comply with all Applicable Laws dealing with the environment including the Environmental Protection and Enhancement Act, R.S.A. 2000, c. E-12 and its regulations. Without limiting the generality of the foregoing, the Contractor will be responsible for complying with the City's Environmental Policy C512. The Contractor shall comply with all reasonable requirements that are established by the City for the provision of the Goods and Services including environmental and emergency procedures and access.
- 11. FOREIGN WORKERS.** If any employees, directors, or officers of the Contractor or any Subcontractors are entering into Canada to perform the Work or any portion thereof, the City shall not be liable to the Contractor in the event that any employees, directors, or officers of the Contractor or any Subcontractors do not receive admission into Canada to perform any of the Contractor's obligations under this Contract. The City shall not be liable for any consequences arising from such failure to gain entry to Canada. Without limiting anything else in this Contract, the Contractor shall indemnify the City for any damages, losses, or expenses the City incurs as a result of such failure to gain entry to Canada. If any employees, directors, or officers of the Contractor or any Subcontractors performing Work under this Contract are performing the Work in Canada under the International Mobility Program, the Contractor agrees to provide full cooperation to the City in the event of an employer compliance inspection, which cooperation includes but is not limited to promptly providing any records or information requested by the City or the inspectors. The Contractor hereby consents, for the purposes of the employer compliance inspection, to allow the City to provide inspectors conducting the employer compliance inspection with any Contractor records or information in the City's custody.
- 12. WORKERS' COMPENSATION.** When requested by the City, the Contractor shall provide evidence of compliance with all requirements of the Workers' Compensation Act, R.S.A. 2000, c. W-15 ("WCB"), including payments due thereunder by the Contractor or Subcontractors. If directors, partners, or owners of the Contractor will be actively providing services under this Contract, then the Contractor must provide WCB coverage for those directors, partners, and owners. The Contractor shall provide evidence of such coverage to the City upon request.
- 13. OCCUPATIONAL HEALTH AND SAFETY.** Without limiting anything under the Applicable Laws Section, the Contractor shall ensure compliance with Applicable Laws relating to safety for both itself and Subcontractors. The Contractor shall be familiar with and bring to the attention of Subcontractors all relevant provisions of the Occupational Health and Safety Act, SA 2017, c O-2.1 ("OH&S Act"), Regulation, and Occupational Health and Safety Code.
- 14. CONFIDENTIALITY.** Each party agrees that all data, information, and material provided to that party by the other party or obtained on behalf of the other party in providing any Services is confidential, both during and after the completion of this Contract. Each party agrees that it will use information disclosed to it by the other party only for the purposes of performing its obligations under this Contract. Neither party has any obligations with respect to confidential information of the other party that the party receiving the confidential information: a) already possesses or receives from another without obligation of confidentiality; b) develops independently; or c) has been ordered to disclose by a court or other governmental authority or is otherwise required by law to disclose. Neither party has any obligations with respect to confidential information of the other party that is or becomes publicly available without breach of this Section.
- 15. INDEMNIFICATION.** The Contractor agrees to indemnify and hold harmless the City and its employees from and against all actions, losses, claims, fines, demands, judgments, costs, or expenses arising out of the Work. This shall include damages because of bodily injury, including death, sustained by any person or persons, or on account of

damage to property, including loss of use of the said property. In the event that any action, claim, or demand is brought or made against the City or its employees in connection with the Work (the "Claim"), the City will give notice in writing of the Claim to the Contractor and the Contractor shall have the option of contesting or resolving the Claim on behalf of the City. If the Contractor elects to contest or resolve the Claim on behalf of the City, the Contractor will give the City notice of the Contractor's election within 7 calendar days of the City's notice. The Contractor shall then bear all costs in relation to contesting or settling the Claim, including any costs that the City incurred or may incur in relation to the Claim. On conclusion of the Claim, the Contractor shall pay all judgments and orders as against the City or its employees, or any settlement entered into on behalf of the City or its employees. In the event that the Contractor does not elect within 7 calendar days of the City's notice or the Contractor elects not to contest or resolve the Claim, the City may in its sole discretion settle the Claim on such terms as the City deems reasonable, and the Contractor shall pay to the City immediately upon demand by the City any sums or costs paid or incurred by the City in relation to the Claim. Without restricting the generality of the foregoing, for the purposes of this Section "costs" include party-party costs, solicitor-client costs, and solicitor and his/her own client costs, whether the City retains in house or external counsel. The obligations of the Contractor under this Section shall not extend to the liability of the City or its employees where such liability arises from the act or omission of the City or its employees, and where the Contractor, by the exercise of reasonable diligence, could not have prevented such a course of action from arising. In the event that the Contractor intends to rely on the foregoing sentence, within 7 calendar days of the City's notice of the Claim, the Contractor must provide to the City detailed particulars of the acts or omissions on the part of the City or its employees that the Contractor alleges excludes the Contractor's obligation to indemnify the City. The Contractor must also give detailed particulars of the Contractor's diligence in relation to the alleged acts or omissions by the City or its employees. In the event that the Contractor fails or declines to provide the City with the particulars specified above, the Contractor will be deemed to have admitted that the City bears no liability in relation to the Claim and will be deemed to have not elected to contest or resolve the Claim. In the event that the Contractor provides the particulars specified above but the City disputes that those particulars operate to exclude the Contractor's obligation to indemnify the City, the dispute shall be resolved in accordance with the Disputes Section.

16. CONTRACTOR'S LIABILITY INSURANCE. Until the Goods and Services have been delivered, the Contractor shall maintain in full force and effect the following minimum insurance: a) Commercial General Liability Insurance in an amount not less than Two Million Dollars per occurrence for personal injury and/or property damage. Such policy shall be endorsed to include the following: i) Contractual Liability (including this agreement); ii) Non-Owned Automobiles; iii) Independent Contractors; iv) Products and completed operations; v) Excavation, collapse, shoring and pile driving (as applicable); vi) Broad form property damage; vii) Employees as Additional Insureds; viii) Cross Liability; ix) Contingent Employers Liability; and x) City being added as an Additional Insured; and b) Automobile Liability coverage for owned automobiles used in connection with the Work in an amount not less than Two Million Dollars per accident for bodily injury and/or property damage. c) Errors and Omissions or Professional Liability Insurance (if applicable to the Contractor) in an amount not less than Two Million Dollars per claim and in the aggregate. All the insurance coverages maintained by the Contractor shall provide a waiver of subrogation in favour of the City, and endorsed to provide the City with thirty calendar days prior written notice of cancellation, material change, and reduction in coverage, and shall be in a form and with insurers acceptable to the City's Director of Insurance and Claims Management. Evidence of such policies shall be submitted to the City prior to commencement of Work, or at any other time requested by the City, by way of a Certificate of Insurance or certified copies of insurance policies and applicable endorsements, in either case in a form acceptable to the City. The Contractor shall ensure that evidence of renewal of coverage is provided to the City at least 30 days prior to expiry. The Contractor shall be responsible for the payment of all deductibles and uninsured losses. The types and amounts of insurance requested by the City are minimum limits and shall not limit the Contractor's obligations under this Contract. The Contractor consents to the City's release of information about the insurance maintained by the Contractor to party whom the City reasonably believes: a) has a claim against the Contractor, or b) has a claim against the City for which the Contractor is required to indemnify the City pursuant to the Indemnification Section.

17. CITY'S RIGHT TO STOP WORK OR TERMINATE CONTRACT. For the purposes of this Section, "Conflict of Interest Procedures" means the current version of the City's Conflict of Interest after City Employment Procedure, Conflict of Interest of Employees Participating in City Procurements Procedure, and Conflict of Interest related to Members of Civic Agencies Procedure. If: a) the Contractor should be adjudged bankrupt, or makes a general assignment for the benefit of creditors; b) a receiver is appointed on account of the Contractor's insolvency; c) the Contractor, Subcontractor, or any of their employees has any conflict of interest in contravention of the Conflict of Interest Procedures or which may otherwise in the sole opinion of the City adversely affect the Work; or d) the Contractor assigns this Contract without the City's consent, the City may, without prejudice to any other right or remedy the City may have, immediately terminate the Contract by giving to the Contractor written notice. The City may notify the Contractor in writing that the Contractor is in default of its contractual obligations if the Contractor: a) refuses or fails to supply sufficient properly skilled workers or proper workmanship, products or machinery and equipment for the scheduled performance of the Work; b) refuses or fails to supply Goods in compliance with the Purchase Order or changes any Goods manufacturer without prior written permission of the City; c) fails to make payments due to its Subcontractors or its employees; d) disregards any Applicable Law, or the City's written instructions; e) or

any of its representatives, directors, officers, employees, or agents engages in Harassing or Violent Behaviour towards City employees, other City contractors or their employees, or members of the public; f) introduces a virus into the City's desktop computing environment; g) provides Goods that are unstable or otherwise cause difficulty to the City; or h) is otherwise in breach of a provision of the Contract. The written notice from the City will instruct the Contractor to correct the default within five Working Days from receipt of the notice. If the correction of the default cannot be completed within the five Working Days specified, the Contractor shall be considered to be in compliance with the City's instructions if it: a) provides the City with a schedule acceptable to the City for the correction within the five Working Days specified; and b) completes the correction in accordance with such schedule. If the Contractor fails to correct the default as herein required, the City may, without prejudice to any other right or remedy that it may have: a) correct such default and set-off the cost of the correction from any payment due to the Contractor; or b) stop the Work or terminate the Contract. If the Contract is terminated for any of the reasons set out above, the Contractor shall pay the City upon demand an amount equal to all loss or damage suffered, both directly and indirectly by the City as a result of the non-completion of the Work by the Contractor. If the Contractor fails to pay the City for any such loss or damage on demand, the City shall be entitled to deduct the same from any payments due and payable to the Contractor as well as exercise any other remedies available to the City. Subject to the foregoing, the City shall, in the event of termination of this Contract, pay to the Contractor all reasonable fees and disbursements incurred by the Contractor and payable in accordance with this Contract up to the date of termination. The City shall have no further liability of any nature whatsoever to the Contractor for any loss of profit or any other losses suffered, either directly or indirectly, by the Contractor as a result of the termination of this Contract. Without limiting anything in this Section, the City may, at any time and without cause, terminate this Contract upon giving the Contractor thirty days prior written notice. Upon receipt of a notice of termination, the Contractor shall commence the orderly wind down of the Work and prepare its invoice on the basis of the effective date specified in the notice.

18. DISPUTES. The parties shall seek to resolve any disputes with regard to this Contract expeditiously and in good faith through negotiation. If a dispute cannot be resolved within a reasonable amount of time through negotiation, the parties shall refer the dispute to arbitration of a single arbitrator. The award and determination of the arbitrator is binding upon the parties and their respective heirs and assigns, with no right of appeal. The arbitration shall be conducted in accordance with the City's Rules of Arbitral Procedure, which can be found on the City's website at: www.edmonton.ca/consultant.

19. SUPPLIER CODE OF CONDUCT. The Contractor acknowledges that it has reviewed and it understands the City's Sustainable Purchasing Policy (C556) and shall adhere to the City's Supplier Code of Conduct, as well as any amended or successor documents. These documents are located at: https://www.edmonton.ca/business_economy/selling_to_the_city/sustainable-purchasing-policy.aspx. The Contractor is responsible for periodically checking the above link for updates to these documents.

20. INTELLECTUAL PROPERTY RIGHTS. The Contractor agrees that all base materials, research results, computer programs, drawings, documents and notes or materials of any type whatsoever developed or prepared by the Contractor, or any subcontractor (the "Documents") in the performance of the Contractor's services under this agreement, shall vest in and become the absolute property of the City, including assignment of all copyright, notwithstanding that the Documents may contain wording to the contrary. For greater certainty, Documents as defined above does not include pre-existing intellectual property or derivatives thereto, owned by the Contractor or subcontractor, and used in the performance of the Work (the "Materials"), which Materials remain the property of the Contractor or Subcontractor, as the case may be. Notwithstanding the foregoing, the Contractor agrees that any of the Materials used in the performance of the Work or incorporated into the Documents may be used by the City for its business purposes and may be shared with the City's other contractors. To the extent that the Materials are included in the deliverables to the City, the City shall receive a perpetual, royalty-free, non-transferable, non-exclusive license to use the deliverables for the purpose for which they were intended. Upon completion of the Work or termination of this Contract, the Contractor shall deliver all of the Documents to the City on demand by the City. The Contractor may keep copies of the Documents. Once the City has possession of the Documents, the City is solely responsible for the use that the City makes of the Documents in other projects. Without prejudice to any rights which may exist in the City by virtue of any prerogative rights and powers or by virtue of the Copyright Act, R.S.C. 1985, c. C-42, the Contractor agrees that all present and future rights in the copyright in the Documents will vest absolutely and immediately in the City. The Contractor warrants that the Contractor is the only person who has or will have moral rights in the Documents and the Contractor waives in favour of the City all of the Contractor's moral rights, as provided for in the law of copyright, in the Documents. The Contractor agrees that acceptance of this Contract constitutes the written assignment of copyright and waiver of moral rights pursuant to this Section. The City agrees to indemnify and hold the Contractor harmless from any claim, liability or cost (including reasonable legal fees) arising out of any modification of the Documents by the City or any person that obtains the Documents from or through the City. The Contractor shall pay all royalties, patent fees and license fees required for the performance of the Work. The Contractor shall indemnify the City for all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor's performance of the Work or the City's use of the Work which are attributable to an infringement or an alleged infringement of any patent, copyright, trade secret, or invention. If the City is legally prevented from using any Good, Contract deliverable, or any portion of a Contract deliverable, the Contractor shall substitute an equally suitable Good, Contract deliverable, or portion of

the Contract deliverable, subject to the approval of the City. If the City or the Contractor receives a claim for an infringement or alleged infringement of any patent or invention, the party receiving such claim shall inform the other party in writing within two Working Days of receiving such claim.

21. FORCE MAJEURE. Neither party is liable for any loss, detention, default, damage or delay in fulfilling the obligations under this Contract caused by or resulting from causes beyond its reasonable control, including, but not limited to, any act of God, fire, flood, acts of any government authority, enemy or hostile actions, sabotage, war, blockades, insurrections, riots, epidemics, washouts, nuclear and radiation activity or fallout, civil disturbances, explosions, or other casualty.