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Framework Agreement

This Framework Agreement (the “Agreement”), made in duplicate, for **[**insert name of Deliverables**]** is effective as of the **[**insert start date for the Term**]**

Between:

Interuniversity Services Inc.

(referred to as the “Coordinating Entity”)

on behalf of the purchasing institutions in its purchasing group

(each referred to in the singular as the “Purchaser”)

And:

[*Legal Name of Supplier*]

(referred to as the “Supplier”)

Whereas the Coordinating Entity has selected the Supplier to provide the Deliverables to Purchasers pursuant to Adoption Agreements that will set out the particulars of each specific assignment between each specific Purchaser and the Supplier, in consideration of their respective agreements set out below, the parties covenant and agree as follows:

1. Interpretation

1.1. Defined Terms - When used in the Agreement, the following words or expressions have the following meanings:

1.1.1. "Adoption Agreement" is a sub-agreement entered into between the Supplier and each separate Purchaser for the provisions of Deliverables under the Contract;

1.1.2. "Authority" means any government authority, agency, body or department, whether federal, provincial or municipal, having or claiming jurisdiction over the Contract; and "Authorities" means all such authorities, agencies, bodies and departments;

1.1.3. "Coordinating Entity Address" and "Coordinating Entity Representative" mean: **[**insert address and insert name, title, telephone and facsimile number for Coordinating Entity, as well as same information for back-up person if available**]**

1.1.4. "Business Day" means any working day, Monday to Friday inclusive, but excluding statutory holidays and other days on which the Coordinating Entity or Purchaser has elected to be closed for business;

1.1.5. "Conflict of Interest" includes, but is not limited to, any situation or circumstance where

1.1.5.1. in relation to the procurement process, the proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to

1.1.5.1.1. having or having access to information in the preparation of the Supplier's Submission that is confidential to the Coordinating Entity or Purchaser and not available to other proponents;

1.1.5.1.2. communicating with any person with a view to influencing preferred treatment in the procurement process; or

1.1.5.1.3. engaging in conduct that compromises or could be seen to compromise the integrity of the open and competitive procurement process and render that process non-competitive and unfair; or

1.1.5.2. in relation to the performance of its contractual obligations, the Supplier's other commitments, relationships or financial interests

1.1.5.2.1. could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or

1.1.5.2.2. could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations;

1.1.6. "Contract" means the aggregate of:

1.1.6.1. the Agreement, including Schedule 1 (Schedule of Deliverables, Rates and Supplementary Provisions) and Schedule 2 (Form of Adoption Agreement), and any other schedule attached at the time of execution;

1.1.6.1.1. the Solicitation Document under which the Supplier was selected by the Coordinating Entity, including any addenda;

1.1.6.2. the Supplier's Submission;

- 1.1.6.3. the Adoption Agreement entered into between the Purchaser and Supplier for each discrete assignment under the Contract; and
- 1.1.6.4. any amendments executed in accordance with the terms of the Contract;
- 1.1.7. **“Deliverables”** means everything developed for or provided to the Purchaser in the course of performing under the Contract or agreed to be provided to the Purchaser under the Contract by the Supplier or its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors, as further defined, but not limited by Schedule 1, including but not limited to any goods or services or any and all Intellectual Property and any and all concepts, techniques, ideas, information, documentation and other materials, however recorded, developed or provided;
- 1.1.8. **“Expiry Date”** means [**insert date**] or, if the original term is extended, the final date of the extended term;
- 1.1.9. **“FOIP”** means the access to information and protection of privacy statutes in effect in the provinces to which the Supplier provides the Deliverables to the Purchasers;
- 1.1.10. **“Indemnified Parties”** means the Purchaser and the Purchaser’s directors, officers, agents, employees and volunteers as well as the Coordinating Entity and its directors, officers, agents, employees and volunteers;
- 1.1.11. **“Industry Standards”** include, but are not limited to
 - 1.1.11.1. the provision of any and all labour, supplies, equipment and other goods or services that are necessary and can reasonably be understood or inferred to be included within the scope of the Contract or customarily furnished by Persons providing Deliverables of the type provided hereunder in similar situations in Canada and;
 - 1.1.11.2. adherence to commonly accepted norms of ethical business practices, which shall include the Supplier establishing, and ensuring adherence to, precautions to prevent its employees or agents from providing or offering gifts or hospitality of greater than nominal value to any person acting on behalf of or employed by the Purchaser;
- 1.1.12. **“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;
- 1.1.13. **“Newly Created Intellectual Property”** means any Intellectual Property created by the Supplier in the course of performance of its obligations under the Contract;
- 1.1.14. **“Person”** if the context allows, includes any individuals, persons, firms, partnerships or corporations or any combination thereof;
- 1.1.15. **“Personal Information”** means recorded information about an identifiable individual or that may identify an individual;
- 1.1.16. **“Purchaser Confidential Information”** means all information of the Purchaser that is of a confidential nature, including all confidential information in the custody or control of the Purchaser, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed or embodied, which comes into the

knowledge, possession or control of the Supplier in connection with the Contract. For greater certainty, Purchaser Confidential Information shall:

1.1.16.1. include:

1.1.16.1.1. all new information derived at any time from any such information whether created by the Purchaser, the Supplier or any third-party;

1.1.16.1.2. all information (including Personal Information) that the Purchaser is obliged, or has the discretion, not to disclose under provincial or federal legislation or otherwise at law; but

1.1.16.2. not include information that:

1.1.16.2.1. is or becomes generally available to the public without fault or breach on the part of the Supplier of any duty of confidentiality owed by the Supplier to the Purchaser or to any third-party;

1.1.16.2.2. the Supplier can demonstrate to have been rightfully obtained by the Supplier, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the Supplier free of any obligation of confidence;

1.1.16.2.3. the Supplier can demonstrate to have been rightfully known to or in the possession of the Supplier at the time of disclosure, free of any obligation of confidence when disclosed; or

1.1.16.2.4. is independently developed by the Supplier; but the exclusions in this subparagraph shall in no way limit the meaning of Personal Information or the obligations attaching thereto under the Contract or at law; and for greater certainty, Purchaser Confidential Information shall also include any confidential information of the Coordinating Entity;

1.1.17. "Proceeding" means any action, claim, demand, lawsuit, or other proceeding;

1.1.18. "Rates" means the applicable price, in Canadian funds, to be charged for the applicable Deliverables, as set out in the Contract, representing the full amount chargeable by the Supplier for the provision of the Deliverables, including but not limited to:

1.1.18.1. all applicable duties and taxes (except applicable sales tax, which should be itemized separately),

1.1.18.2. all labour and material costs;

1.1.18.3. all travel and carriage costs;

1.1.18.4. all insurance costs; and

1.1.18.5. all other **overhead including any fees or other charges required by law**;

1.1.19. "Record" for the purposes of the Contract, means any recorded information, including any Personal Information, in any form:

1.1.19.1. provided by the Purchaser or Coordinating Entity to the Supplier, or provided by the Supplier to the Purchaser, for the purposes of the Contract; or

1.1.19.2. created by the Supplier in the performance of the Contract;

1.1.20. "Requirements of Law" mean all applicable requirements, laws, statutes, codes, acts, ordinances, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licenses, authorizations, directions, and agreements with all Authorities that now or at any time hereafter may be applicable to either the Contract or the Deliverables or any part of them;

1.1.21. “Solicitation Document” means the solicitation document dated **[**insert date**]** for **[**insert name of Solicitation Document**]**, reference number **[**insert reference number**]** issued by the Purchaser for the Deliverables and any addenda to it;

1.1.22. “Supplier Address” and **“Supplier Representative”** mean:

[insert Supplier’s mailing address **]**

[insert name and title, telephone and email for Supplier representative, as well as same information for back-up person if available**]**

1.1.23. “Supplier’s Intellectual Property” means Intellectual Property owned by the Supplier prior to its performance under the Contract or created by the Supplier during the Term of the Contract independently of the performance of its obligations under the Contract;

1.1.24. “Supplier’s Submission” means all the documentation submitted by the Supplier in response to the Solicitation Document;

1.1.25. “Term” means the period of time from the effective date first above written up to and including the earlier of:

1.1.25.1. the Expiry Date or

1.1.25.2. the date of termination of the Contract in accordance with its terms;

1.1.26. “Third-Party Intellectual Property” means any Intellectual Property owned by a party other than the Purchaser or the Supplier;

2. General Terms

2.1. No Indemnities from the Purchaser or Coordinating Entity

2.1.1. Notwithstanding anything else in the Contract, any express or implied reference to the Purchaser or Coordinating Entity providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of the Purchaser or Coordinating Entity, whether at the time of execution of the Agreement or at any time during the Term, shall be void and of no legal effect.

2.2. Entire Contract

2.2.1. The Contract embodies the entire agreement between the parties with regard to the provision of Deliverables and supersedes any prior understanding or agreement, collateral, oral or otherwise with respect to the provision of the Deliverables, existing between the parties at the date of execution of the Agreement.

2.3. Severability

2.3.1. If any term or condition of the Contract, or the application thereof to the parties or to any Persons or circumstances, is to any extent invalid or unenforceable, the remainder of the Contract, and the application of such term or condition to the parties, Persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

2.4. Interpretive Value of Contract Documents

2.4.1. In the event of a conflict or inconsistency in any provisions in the Contract:

2.4.1.1. the main body of the Agreement shall govern over the Schedules to the Agreement;

2.4.1.2. the Agreement (including its Schedules) shall govern over the Solicitation Document and the Supplier's Submission;

2.4.1.3. the Solicitation Document shall govern over the Supplier's Submission; and

2.4.1.4. the Adoption Agreement shall govern over all other documents.

2.5. Force Majeure

2.5.1. Neither party shall be liable for damages caused by delay or failure to perform its obligations under the Contract where such delay or failure is caused by an event beyond its reasonable control. The parties agree that an event shall not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under this Contract due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the Contract by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the Contract, at law or in equity.

2.6. Notices by Prescribed Means

2.6.1. Notices relating to the Agreement shall be in writing and shall be delivered by postage-prepaid envelope, personal delivery or email and shall be addressed to, respectively, the Coordinating Entity to the attention of the Coordinating Entity Representative and to the Supplier Address to the attention of the Supplier Representative. Notices shall be deemed to have been given:

2.6.1.1. in the case of postage-prepaid envelope, five (5) Business Days after such notice is mailed; or

2.6.1.2. in the case of personal delivery or email one (1) Business Day after such notice is received by the other party. In the event of a postal disruption, notices must be given by personal delivery or email. Unless the parties expressly agree in writing to additional methods of notice, notices may only be provided by the methods contemplated in this paragraph. Notices pertaining to a discrete Adoption Agreement shall be made by the above-noted means and shall be communicated between the Supplier Representative and Purchaser Representative with a copy to the Coordinating Entity Representative.

2.6.2. Governing Law

2.6.2.1. The Contract shall be governed by and construed in accordance with the laws of the Province where the Deliverables are provided to the Purchaser and the federal laws of Canada applicable therein.

3. Nature of Relationship Between Purchaser and Supplier

3.1. Supplier's Power to Contract – Coordinating Entity Not the Purchaser

3.1.1. The Supplier represents and warrants that it has the full right and power to enter into the Contract and there is no agreement with any other Person which would in any way interfere with the rights of the Coordinating Entity or Purchaser under this Contract. While the Coordinating Entity is entering into this Framework Agreement to facilitate a group purchasing arrangement, the execution of this Framework Agreement shall not in any way create any legal duties, obligations or liabilities on the part of the Coordinating Entity. Any contract for the sale of any Deliverables shall be between the Supplier and each discrete Purchaser in accordance with the terms of each specific Adoption Agreement. The Supplier and Purchaser acknowledge that the Coordinating Entity shall not be responsible for the payment of any Deliverables or for any liability arising out of the provision of the Deliverables or failure to provide any Deliverables. Purchasers using the Framework Agreement to purchase any Deliverables are responsible for performing their own due diligence to ensure the adequacy of the Deliverables and the suitability of the Supplier for their specific purposes.

3.2. Representatives May Bind the Parties

3.2.1. The parties represent that their respective representatives have the authority to legally bind them to the extent permissible by the Requirements of Law.

3.3. Supplier Not a Partner, Agent or Employee

3.3.1. The Supplier shall have no power or authority to bind the Coordinating Entity or Purchaser or to assume or create any obligation or responsibility, express or implied, on behalf of the Coordinating Entity or Purchaser. The Supplier shall not hold itself out as an agent, partner or employee of the Coordinating Entity or Purchaser. Nothing in the Contract shall have the effect of creating an employment, partnership or agency relationship between the Coordinating Entity or Purchaser and the Supplier (or any of the Supplier's directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors).

3.4. Responsibility of Supplier

3.4.1. The Supplier agrees that it is liable for the acts and omissions of its directors, officers, employees, agents, partners, affiliates, volunteers and subcontractors. This paragraph is in addition to any and all of the Supplier's liabilities under the Contract and under the general application of law. The Supplier shall advise these individuals and entities of their obligations under the Contract and shall ensure their compliance with the applicable terms of the Contract. In addition to any other liabilities of the Supplier pursuant to the Contract or otherwise at law or in equity, the Supplier shall be liable for all damages, costs, expenses, losses, claims or actions arising from any breach of the Contract resulting from the actions of the above-mentioned individuals and entities. This paragraph shall survive the termination or expiry of this Contract.

3.5. No Subcontracting or Assignment

3.5.1. The Supplier shall not subcontract or assign the whole or any part of the Contract (or any particular Adoption Agreement) or any monies due under it without the prior written consent of the Coordinating Entity and of each Purchaser that has entered into an Adoption Agreement that may be impacted by any such subcontract or assignment. Such

consent shall be in the sole discretion of the Coordinating Entity and Purchaser and subject to the terms and conditions that may be imposed by the Coordinating Entity and Purchaser. Without limiting the generality of the conditions which the Coordinating Entity and Purchaser may require prior to consenting to the Supplier's use of a subcontractor, every contract entered into by the Supplier with a subcontractor shall adopt all of the terms and conditions of this Contract as far as applicable to those parts of the Deliverables provided by the subcontractor. Nothing contained in the Contract shall create a contractual relationship between any subcontractor or its directors, officers, employees, agents, partners, affiliates or volunteers and the Coordinating Entity or any Purchaser.

3.6. Duty to Disclose Change of Control

3.6.1. In the event that the Supplier undergoes a change in control the Supplier shall immediately disclose such change in control to the Coordinating Entity and Purchaser and shall comply with any terms and conditions subsequently prescribed by the Coordinating Entity and Purchaser resulting from the disclosure.

3.7. Conflict of Interest

3.7.1. The Supplier shall:

3.7.1.1. avoid any Conflict of Interest in the performance of its contractual obligations;

3.7.1.2. disclose to the Coordinating Entity and Purchaser without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and

3.7.1.3. comply with any requirements prescribed by the Coordinating Entity and Purchaser to resolve any Conflict of Interest. In addition to all other contractual rights or rights available at law or in equity, the Coordinating Entity and Purchaser may immediately terminate the Contract upon giving notice to the Supplier where:

3.7.1.3.1. the Supplier fails to disclose an actual or potential Conflict of Interest;

3.7.1.3.2. the Supplier fails to comply with any requirements prescribed by the Coordinating Entity and Purchaser to resolve a Conflict of Interest; or

3.7.1.3.3. the Supplier's Conflict of Interest cannot be resolved. This paragraph shall survive the termination or expiry of the Contract.

3.8. Contract Binding

3.8.1. The Contract can be enforced by and is binding upon the parties and their successors, executors, administrators and their permitted assigns.

4. Performance by Supplier

4.1. Commencement of Performance

4.1.1. The Supplier shall commence performance upon receipt of written instructions from the Purchaser pursuant to the terms set out in each specific Adoption Agreement.

4.2. Deliverables Warranty

4.2.1. The Supplier hereby represents and warrants that the Deliverables

4.2.1.1. shall be provided fully and diligently in a professional and competent manner by persons qualified and skilled in their occupations; and

4.2.1.2. shall be free from defects in material, workmanship and design, suitable for the purposes intended, in compliance with all applicable specifications and free from liens or encumbrance on title; and furthermore that all Deliverables shall be provided in accordance with:

- 4.2.1.2.1.** the Contract;
- 4.2.1.2.2.** Industry Standards; and
- 4.2.1.2.3.** Requirements of Law. If any of the Deliverables, in the opinion of the Purchaser, are inadequately provided or require corrections, the Supplier shall forthwith make the necessary corrections at its own expense as specified by the Purchaser in a rectification notice.

4.3. Use and Access Restrictions

4.3.1. The Supplier acknowledges that unless it obtains specific written preauthorization from the Purchaser, any access to or use of the Purchaser property, technology or information that is not necessary for the performance of its contractual obligations with the Purchaser is strictly prohibited. The Supplier further acknowledges that the Purchaser may monitor the Supplier to ensure compliance with this paragraph. This paragraph is in addition to and shall not limit any other obligation or restriction placed upon the Supplier.

4.4. Notification by Supplier to the Purchaser

4.4.1. During the Term, the Supplier shall advise the Coordinating Entity and Purchaser promptly of:

- 4.4.1.1.** any contradictions, discrepancies or errors found or noted in the Contract;
- 4.4.1.2.** supplementary details, instructions or directions that do not correspond with those contained in the Contract; and
- 4.4.1.3.** any omissions or other faults that become evident and should be corrected in order to provide the Deliverables in accordance with the Contract and Requirements of Law.

4.5. Failure to Enforce Not a Waiver

4.5.1. Any failure by the Coordinating Entity and Purchaser to insist in one or more instances upon strict performance by the Supplier of any of the terms or conditions of the Contract shall not be construed as a waiver by the Coordinating Entity or Purchaser of the right to require strict performance of any such terms or conditions, and the obligations of the Supplier with respect to such performance shall continue in full force and effect.

4.6. Changes by Written Amendment Only

4.6.1. Any changes to the Contract shall be by written amendment signed by the parties. No changes shall be effective or shall be carried out in the absence of such an amendment. Any such written changes shall be included in the definition of Contract. For greater certainty, any changes pertaining to the Agreement shall be between the Coordinating Entity and the Supplier and any changes pertaining to a discrete Adoption Agreement shall be as between the specific Purchaser and the Supplier.

4.7. Supplier to Comply with Reasonable Change Requests

4.7.1. The Coordinating Entity or Purchaser may, in writing, request changes to the Contract, which may include altering, adding to, or deleting any of the Deliverables. The Supplier shall comply with all reasonable Coordinating Entity or Purchaser change requests and the

performance of such request shall be in accordance with the terms and conditions of the Contract. If the Supplier is unable to comply with the change request, it shall promptly notify the Coordinating Entity or Purchaser and provide reasons for such non-compliance. In any event, any such change request shall not be effective until a written amendment reflecting the change has been executed by the parties.

4.8. Pricing for Requested Changes

4.8.1. Where a Purchaser change request includes an increase in the scope of the previously contemplated Deliverables under a particular Adoption Agreement, the Purchaser shall set out, in its change request, the proposed prices for the contemplated changes. Where the Rates in effect at the time of the change request

4.8.1.1. include pricing for the particular type of goods or services contemplated in the change request, the Supplier shall not unreasonably refuse to provide those goods or services at prices consistent with those Rates; or

4.8.1.2. are silent to the applicable price for the particular goods or services contemplated in the change request, the price shall be negotiated between the Purchaser and the Supplier within a reasonable period of time and in any event, such change request shall not become effective until a written amendment reflecting the change has been executed by the parties.

4.9. Non-Exclusive Contract, Work Volumes

4.9.1. The Supplier acknowledges that it is providing the Deliverables to each Purchaser on a non-exclusive basis. The Coordinating Entity and Purchaser makes no representation regarding the volume of goods and services required under the Contract. The Coordinating Entity and Purchaser reserve the right to contract with other parties for the same or similar goods and services as those provided by the Supplier and reserve the right to obtain the same or similar goods and services internally.

4.10. Performance by Specified Individuals Only

4.10.1. The Supplier agrees that to the extent that specific individuals are named in the Contract as being responsible for the provision of the Deliverables, only those individuals shall provide the Deliverables under the Contract. The Supplier shall not replace or substitute any of the individuals named in the Contract without the prior written approval of the Coordinating Entity (to the extent that the individuals are named in the Agreement or its Schedules) or of the Purchaser (where the individuals are named only in the discrete Adoption Agreement), which may not arbitrarily or unreasonably be withheld. Should the Supplier require the substitution or replacement of any of the individuals named in the Contract, it is understood and agreed that any proposed replacement must possess similar or greater qualifications than the individual named in the Contract. The Supplier shall not claim fees for any replacement individual greater than the Rates established under the Contract.

4.11. Volume Usage Reporting

4.11.1. The Supplier will be responsible for providing volume reports to the Coordinating Entity reflecting the individual transactions of the Purchasers. These reports should be sent to the Coordinating Entity at six-month intervals. Reports for the period January 1st through June 30th will be due August 15th of the same year and reports for the period of July 1st

through December 31st will be due February 15th of the following year. The information shall be provided in an Excel format and shall be transmitted electronically. The failure to provide these reports shall constitute a substantial failure of performance and may result in the immediate termination of the Contract.

4.11.2. The Supplier's obligations under this paragraph shall survive any termination or expiry of the Contract.

4.12. Performance Reporting

4.12.1. The Supplier will be responsible for providing Key Performance Indicator reports to the Coordinating Entity reflecting the Key Performance measures requested by the Coordinating Entity and agreed to by the Supplier. These reports should be sent to the Coordinating Entity at six-month intervals. Reports for the period January 1st through June 30th will be due August 15th of the same year and reports for the period of July 1st through December 31st will be due February 15th of the following year. More frequent reporting may be required during the implementation period or to address a specific performance objective. The failure to provide these reports shall constitute a substantial failure of performance and may result in the immediate termination of the Contract.

4.12.2. The Supplier's obligations under this paragraph shall survive any termination or expiry of the Contract.

4.13. Document Retention and Audit

4.13.1. For seven (7) years after the Expiry Date or any date of termination of the Contract, the Supplier shall maintain all necessary records to substantiate

4.13.1.1. all charges and payments under the Contract and

4.13.1.2. that the Deliverables were provided in accordance with the Contract and with Requirements of Law.

4.13.1.3. During the Term, and for seven (7) years after the Term, the Supplier shall permit and assist the Coordinating Entity and Purchaser in conducting audits of the operations of the Supplier to verify 4.13.1.1. and 4.13.1.2. The Coordinating Entity and Purchaser shall provide the Supplier with at least ten (10) Business Days prior notice of its requirement for such audit. The Supplier's obligations under this paragraph shall survive any termination or expiry of the Contract.

4.14. Purchaser Rights and Remedies and Supplier Obligations Not Limited to Contract

4.14.1. The express rights and remedies of the Coordinating Entity and Purchaser and obligations of the Supplier set out in the Contract are in addition to and shall not limit any other rights and remedies available to the Coordinating Entity and Purchaser or any other obligations of the Supplier at law or in equity.

5. Payment for Performance

5.1. Payment According to Contract Rates

5.1.1. The Purchaser shall, subject to the Supplier's compliance with the provisions of the Contract, pay the Supplier for the Deliverables provided at the Rates established under the

Contract. For greater certainty, the Coordinating Entity shall not be responsible for the payment of any Deliverables under the Contract.

5.2. Hold Back or Set Off

5.2.1. The Purchaser may hold back payment or set off against payment if, in the opinion of the Purchaser acting reasonably, the Supplier has failed to comply with any requirements of the Contract under any Adoption Agreement.

5.3. No Expenses or Additional Charges

5.3.1. There shall be no other charges payable by the Purchaser under the Contract to the Supplier other than the Rates established under the Contract.

5.4. Payment of Taxes and Duties

5.4.1. Unless otherwise stated, the Supplier shall pay all applicable taxes, including excise taxes incurred by or on the Supplier's behalf with respect to the Contract.

5.5. Withholding Tax

5.5.1. The Purchaser shall withhold any applicable withholding tax from amounts due and owing to the Supplier under the Contract and shall remit it to the appropriate government in accordance with applicable tax laws. This paragraph shall survive any termination or expiry of the Contract.

5.6. Interest on Late Payment

5.6.1. If a payment is in arrears through no fault of the Supplier, the interest charged by the Supplier, if any, for any late payment shall not exceed the Bank of Canada's prime rate, in effect on the date that the payment went into arrears.

6. Confidentiality

6.1. Confidentiality and Promotion Restrictions

6.1.1. Any publicity or publications related to the Contract shall be at the sole discretion of the Coordinating Entity and, to the extent that any such communication pertains to a particular Adoption Agreement, or to a specific Purchaser, the approval of the Purchasing Institution is required. The Coordinating Entity and the Purchasers may, at their sole discretion, acknowledge the Deliverables provided by the Supplier in any such publicity or publication. The Supplier shall not make use of its association with the Coordinating Entity or Purchasers without the prior written consent of those parties. Without limiting the generality of this paragraph, the Supplier shall not, among other things, at any time directly or indirectly communicate with the media in relation to the Contract unless it has first obtained the express written authorization to do so by the Coordinating Entity and Purchasers.

6.2. Purchaser Confidential Information

6.2.1. During and following the Term, the Supplier shall:

6.2.1.1. keep all Purchaser Confidential Information confidential and secure;

6.2.1.2. limit the disclosure of Purchaser Confidential Information to only 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 Deliverables and who have been specifically authorized to have such disclosure;

6.2.1.3. not directly or indirectly disclose, destroy, exploit or use any Purchaser Confidential Information (except for the purpose of providing the Deliverables, or except if required by order of a court or tribunal), without first obtaining:

6.2.1.3.1. the written consent of the Purchaser and

6.2.1.3.2. in respect of any Purchaser Confidential Information about any third-party, the written consent of such third-party;

6.2.1.4. provide Purchaser Confidential Information to the Purchaser on demand; and

6.2.1.5. return all Purchaser Confidential Information to the Purchaser before the end of the Term, with no copy or portion kept by the Supplier. For greater certainty, Purchaser Confidential Information is defined herein to include any confidential information of the Coordinating Entity that may come into the possession of the Supplier in its performance of the Contract.

6.3. Restrictions on Copying

6.3.1. The Supplier shall not copy any Purchaser Confidential Information, in whole or in part, unless copying is essential for the provision of the Deliverables. On each copy made by the Supplier, the Supplier must reproduce all notices which appear on the original.

6.4. Injunctive and Other Relief

6.4.1. The Supplier acknowledges that the breach of any provisions of this Article may cause irreparable harm to the Coordinating Entity and Purchasers or to any third-party to whom the Coordinating Entity and Purchasers owe a duty of confidence, and that the injury to the Coordinating Entity and Purchaser or to any third-party may be difficult to calculate and inadequately compensable in damages. The Supplier agrees that the Coordinating Entity and Purchasers are entitled to obtain injunctive relief (without proving any damage sustained by it or by any third-party) or any other remedy against any actual or potential breach of the provisions of this Article.

6.5. Notice and Protective Order

6.5.1. If the Supplier or any of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors become legally compelled to disclose any Purchaser Confidential Information, the Supplier will provide the Purchaser with prompt notice to that effect in order to allow the Purchaser to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it shall co-operate with the Purchaser and its legal counsel to the fullest extent. If such protective orders or other remedies are not obtained, the Supplier will disclose only that portion of Purchaser Confidential Information which the Supplier is legally compelled to disclose, only to such person or persons to which the Supplier is legally compelled to disclose, and the Supplier shall provide notice to each such recipient (in co-operation with legal counsel for the Purchaser) that such Purchaser Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in the Agreement and, if possible, shall obtain each recipient's written agreement to receive and use such Purchaser Confidential Information subject to those terms and conditions. For greater certainty, this protocol shall also apply to any confidential information of the Coordinating Entity, which

shall be understood to fall within the meaning of Purchaser for the purposes of this paragraph and Article.

6.6. FOIP Records and Compliance

6.6.1. The Supplier and the Coordinating Entity and Purchaser acknowledge and agree that FOIP applies to and governs all Records and may require the disclosure of such Records to third parties. Furthermore, the Supplier agrees:

- 6.6.1.1.** to keep Records secure;
- 6.6.1.2.** to provide Records to the Coordinating Entity or Purchaser within seven (7) calendar days of being directed to do so by the Coordinating Entity and Purchaser for any reason including an access request or privacy issue;
- 6.6.1.3.** not to access any Personal Information unless the Coordinating Entity or Purchaser determines, in its sole discretion, that access is permitted under FOIP and is necessary in order to provide the Deliverables;
- 6.6.1.4.** not to directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the Coordinating Entity or Purchaser;
- 6.6.1.5.** to ensure the security and integrity of Personal Information and keep it in a physically secure and separate location safe from loss, alteration, destruction or intermingling with other records and databases and to implement, use and maintain the most appropriate products, tools, measures and procedures to do so;
- 6.6.1.6.** to restrict 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 Deliverables and who have been specifically authorized by a Coordinating Entity or Purchaser representative to have such access for the purpose of providing the Deliverables;
- 6.6.1.7.** to implement other specific security measures that in the reasonable opinion of the Coordinating Entity or Purchaser would improve the adequacy and effectiveness of the Supplier's measures to ensure the security and integrity of Personal Information and Records generally; and
- 6.6.1.8.** that any confidential information supplied to the Coordinating Entity or Purchaser may be disclosed by the Purchaser where it is obligated to do so under FOIP, by an order of a court or tribunal or pursuant to a legal proceeding and the provisions of this paragraph shall prevail over any inconsistent provisions in the Contract. For greater certainty, neither the Coordinating Entity nor the Purchasers may provide any authorizations under this paragraph for any information that is outside of their scope of control and responsibility. The Supplier shall ensure that it is obtaining all necessary permissions from the Coordinating Entity and from each Purchaser as may be required in each particular situation.

6.7. Survival

6.7.1. The provisions of this Article shall survive any termination or expiry of the Contract.

7. Intellectual Property

7.1. Purchaser Intellectual Property

7.1.1. The Supplier agrees that all Intellectual Property and every other right, title and interest in and to all concepts, techniques, ideas, information and materials, however recorded, (including images and data) provided by the Coordinating Entity or Purchaser to the Supplier shall remain the sole property of the Coordinating Entity or Purchaser at all times.

7.2. No Use of the Purchaser Insignia

7.2.1. The Supplier shall not use any insignia or logo of the Coordinating Entity or Purchaser except where required to provide the Deliverables, and only if it has received the prior written permission of the Coordinating Entity or Purchaser to do so.

7.3. Ownership of Intellectual Property

7.3.1. The Purchaser shall be the sole owner of any Newly Created Intellectual Property. The Supplier irrevocably assigns to and in favour of the Purchaser and the Purchaser accepts every right, title and interest in and to all Newly Created Intellectual Property in the Deliverables, immediately following the creation thereof, for all time and irrevocably waives in favour of the Purchaser all rights of integrity and other moral rights to all Newly Created Intellectual Property in the Deliverables, immediately following the creation thereof, for all time. To the extent that any of the Deliverables include, in whole or in part, the Supplier's Intellectual Property, the Supplier grants to the Purchaser a license to use that Supplier Intellectual Property in the manner contemplated in this Article, the total consideration for which shall be payment of the Rates to the Supplier by the Purchaser.

7.4. Supplier's Grant of License

7.4.1. For those parts of the Deliverables that are Supplier Intellectual Property, the Supplier grants to the Purchaser a perpetual, world-wide, non-exclusive, irrevocable, transferable, royalty free, fully paid up right and license:

7.4.2. to use, modify, reproduce and distribute, in any form, those Deliverables; and

7.4.3. to authorize other Persons, including agents, contractors or sub-contractors, to do any of the former on behalf of the Purchaser.

7.5. No Restrictive Material in Deliverables

7.5.1. The Supplier shall not incorporate into any Deliverables anything that would restrict the right of the Purchaser to modify, further develop or otherwise use the Deliverables in any way that the Purchaser deems necessary, or that would prevent the Purchaser from entering into any contract with any contractor other than the Supplier for the modification, further development of or other use of the Deliverables.

7.6. Supplier Representation and Warranty Regarding Third-Party Intellectual Property

7.6.1. The Supplier represents and warrants that the provision of the Deliverables shall not infringe or induce the infringement of any Third-Party Intellectual Property rights. The Supplier further represents and warrants that it has obtained assurances with respect to any Supplier Intellectual Property and Third-Party Intellectual Property that any rights of integrity or any other moral rights associated therewith have been waived.

7.7. Survival

7.7.1. The obligations contained in this Article shall survive the termination or expiry of the Contract.

8. Indemnities and Insurance

8.1. Supplier Indemnity

8.1.1. The Supplier hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively, "Claims"), by whomever made, sustained, incurred, brought or prosecuted, including for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Supplier, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of performance of the Supplier's obligations under, or otherwise in connection with, the Contract. The Supplier further agrees to indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organization claimed or resulting from such Claims. The obligations contained in this paragraph shall survive the termination or expiry of the Contract.

8.2. Insurance

8.2.1. The Supplier hereby agrees to put in effect and maintain insurance for the Term, at its own cost and expense, with insurers having a secure A.M. Best rating of B + or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person in the business of the Supplier would maintain including, but not limited to, the following:

8.2.1.1. commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than \$5,000,000 per occurrence and including products and completed operations liability.

The policy is to include the following:

8.2.1.1.1. the Purchaser and Coordinating Entity as additional named insureds with respect to liability arising in the course of performance of the Supplier's obligations under, or otherwise in connection with, the Contract

8.2.1.1.2. contractual liability coverage

8.2.1.1.3. cross-liability and severability of interests clause

8.2.1.1.4. employers liability coverage

8.2.1.1.5. 30 day written notice of cancellation, termination or material change

8.2.1.1.6. tenants legal liability coverage (if applicable and with suitable sub-limits)

8.2.1.1.7. non-owned automobile coverage with blanket contractual coverage for hired automobiles

[**Note: Insert 8.2.1.1.8. only if warranted based on the type of work being performed**]

8.2.1.1.8. errors and omissions liability insurance, insuring liability for errors and omissions in the performance or failure to perform the services contemplated in the Contract, in the amount of not less than **[**Insert amount**]** per claim and in the annual aggregate.

8.3. Proof of Insurance

8.3.1. The Supplier shall, on request, provide the Coordinating Entity with proof of the insurance required by this Agreement in the form of valid certificates of insurance that reference this Agreement and confirm the required coverage, before the execution of the Agreement by the Coordinating Entity, and renewal replacements on or before the expiry of any such insurance. Upon the request of the Coordinating Entity or Purchaser, a copy of each insurance policy shall be made available to it. The Supplier shall ensure that each of its subcontractors obtains all the necessary and appropriate insurance that a prudent person in the business of the subcontractor would maintain and that the Coordinating Entity, Purchasers and Indemnified Parties are named as additional insured with respect to any liability arising in the course of performance of the subcontractor's obligations under the subcontract for the provision of the Deliverables.

9. Termination, Expiry and Extension

9.1. Immediate Termination of Contract

9.1.1. The Coordinating Entity may immediately terminate the Contract upon giving notice to the Supplier where:

- 9.1.1.1.** the Supplier is adjudged bankrupt, makes a general assignment for the benefit of its creditors or a receiver is appointed on account of the Supplier's insolvency;
- 9.1.1.2.** the Supplier breaches any provision in Article 6 (Confidentiality) of the Agreement;
- 9.1.1.3.** the Supplier breaches the Conflict of Interest paragraph in **Article 3**(Nature of Relationship Between Purchaser and Supplier) of the Agreement;
- 9.1.1.4.** the Supplier, prior to or after executing the Agreement, makes a material misrepresentation or omission or provides materially inaccurate information to the Coordinating Entity;
- 9.1.1.5.** the Supplier undergoes a change in control which adversely affects the Supplier's ability to satisfy some or all of its obligations under the Contract;
- 9.1.1.6.** the Supplier subcontracts for the provision of part or all of the Deliverables or assigns the Contract without first obtaining the written approval required under the Contract; or
- 9.1.1.7.** the Supplier's acts or omissions constitute a substantial failure of performance and the above rights of termination are in addition to all other rights of termination available at law, or events of termination by operation of law. For greater certainty, the immediate termination rights shall be exercisable by the Coordinating Entity. Each Purchaser shall have the same immediate termination rights in relation to any Adoption Agreement entered into between that Purchaser and the Supplier.

9.2. Dispute Resolution by Rectification Notice

9.2.1. Subject to the above paragraph, where the Supplier fails to comply with any of its obligations under the Contract, the Coordinating Entity or Purchaser (depending on the nature of the breach and whether it pertains to the main Agreement or a discrete Adoption Agreement) may issue a rectification notice to the Supplier setting out the manner and time-frame for rectification. Within seven (7) Business Days of receipt of that notice, the Supplier shall either:

9.2.1.1. comply with that rectification notice; or

9.2.1.2. provide a rectification plan satisfactory to the Coordinating Entity or specific Purchaser. If the Supplier fails to either comply with that rectification notice or provide a satisfactory rectification plan, the Coordinating Entity may immediately terminate the Contract or the specific Purchaser may immediately terminate the specific Adoption Agreement. Where the Supplier has been given a prior rectification notice, the same subsequent type of non-compliance by the Supplier shall allow for immediate termination of the Contract or Adoption Agreement.

9.3. Termination on Notice

9.3.1. The Coordinating Entity may terminate the Contract, without cause, upon thirty (30) calendar days prior notice to the Supplier and a Purchaser may also terminate any Adoption Agreement upon thirty (30) calendar days prior notice to the Supplier.

9.4. Supplier's Obligations on Termination

9.4.1. On termination of the Contract, the Supplier shall, in addition to its other obligations under the Contract and at law:

9.4.1.1. provide the Purchaser with any completed or partially completed Deliverables;

9.4.1.2. provide the Purchaser with a report detailing

9.4.1.2.1. the current state of the provision of Deliverables by the Supplier at the date of termination, and

9.4.1.2.2. any other information requested by the Purchaser pertaining to the provision of the Deliverables and performance of the Contract;

9.4.1.3. execute such documentation as may be required by the Purchaser to give effect to the termination of the Contract; and

9.4.1.4. comply with any other instructions provided by the Purchaser or Coordinating Entity, including but not limited to instructions for facilitating the transfer of its obligations to another Person. This paragraph shall survive the termination of the Contract.

9.5. Supplier's Payment Upon Termination

9.5.1. On termination of the Contract, the Purchaser shall only be responsible for the payment of the Deliverables provided under the Contract up to and including the effective date of any termination. Termination shall not relieve the Supplier of its warranties and other responsibilities relating to the Deliverables performed or money paid. In addition to its other rights of hold back or set off, the Purchaser may hold back payment or set off against any payments owed if the Supplier fails to comply with its obligations on termination.

9.6. Termination in Addition to Other Rights

9.6.1. The express rights of termination in the Contract are in addition to and shall in no way limit any rights or remedies of the Coordinating Entity or Purchaser under the Contract, at law or in equity.

9.7. Expiry and Extension of Contract

9.7.1. The Contract shall expire on the original Expiry Date, unless the Coordinating Entity exercises its option to extend the Contract, such extension to be upon the same terms (including the Rates in effect at the time of extension), conditions and covenants contained in the Contract, excepting the option to renew. The option shall be exercisable by the Coordinating Entity giving notice to the Supplier not less than thirty (30) days prior to the original Expiry Date. The notice shall set forth the precise duration of the extension.

In Witness Whereof the parties hereto have executed the Agreement effective as of the date first above written.

[Coordinating Entity's Full Legal Name**]**

Signature

Name

Title

Date of Signature

[Supplier**]**

Signature

Name

Title

Date of Signature

I have authority to bind the Supplier.

Schedule 2 – Form of Adoption Agreement

Adoption Agreement

This Adoption Agreement (the “Adoption Agreement”), made in duplicate, for **[**insert name of Deliverables**]** effective as of the **[**insert start date for the Term**]** is entered into pursuant to the **[**insert details regarding specific Framework Agreement**]** (“the Framework Agreement”)

Between:

[Insert Full Legal Name of The Purchasing Institution**]**

(referred to as the “Purchaser”)

and:

[Legal Name of Supplier**]**

(referred to as the “Supplier”)

1. Performance and Payment

1.1. The Supplier shall provide the Purchaser with the Deliverables defined under the Framework Agreement for the Rates established under the Framework Agreement, in accordance with the terms of the Contract, as further particularized below in Schedule 1 to the Adoption Agreement. The Supplier and Purchaser acknowledge that the Coordinating Entity, as defined in the Framework Agreement, shall not be responsible for the payment of any Deliverables or for any liability arising out of the provision of the Deliverables or failure to provide any Deliverables. Purchasers using the Framework Agreement to purchase any Deliverables are responsible for performing their own due diligence to ensure the adequacy of the Deliverables and suitability of the Supplier for their specific purposes.

2. Representatives

2.1. The Supplier Representative and Purchaser Representative, as defined below, shall represent the respective parties for the purposes of the Adoption Agreement:

“Purchaser Address” and “Purchaser Representative” mean:

[insert Purchaser’s mailing address **]**

[insert name and title, telephone and facsimile number for Purchaser representative, as well as same information for back-up person if available**]**

“Supplier Address” and “Supplier Representative” mean:

[insert Supplier’s mailing address **]**

[insert name and title, telephone and facsimile number for Supplier representative, as well as same information for back-up person if available**]**

3. Other Provisions

3.1. Unless otherwise set out by the parties below in Schedule 1 to the Adoption Agreement, all other terms and conditions shall be as established under the Framework Agreement and under the Contract as defined therein.

[Coordinating Entity's Full Legal Name**]**

Signature

Name

Title

Date of Signature

[Supplier**]**

Signature

Name

Title

Date of Signature

I have authority to bind the Supplier.

Schedule 1 to the Adoption Agreement

[To be completed at the time of execution of each Adoption Agreement]

3. Description of Deliverables

4. Rates and Disbursements