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1. Interpretation

In the Contract, unless the context otherwise requires:

"Applicable Taxes" means the Goods and Services Tax (GST), the Harmonized Sales Tax (HST), and any provincial tax, by law, payable by NPP such as, the Quebec Sales Tax (QST).

"Articles of Agreement" means the clauses and conditions incorporated in full text or incorporated by reference to form the body of the Contract; it does not include these general conditions, any supplemental general conditions, annexes, the Contractor's bid or any other document;

"Background Information" means all Intellectual Property that is not Foreground Information that is incorporated into the Work or necessary for the performance of the Work and that is proprietary to or the confidential information of the Contractor, its subcontractors or any other third party'

"NPP" means His Majesty the King in right of Canada as represented by the [Chief of Defence Staff or Base/Wing/Unit Commander] in [his/her/their] Non-Public Property capacity through [Canadian Forces Morale and Welfare Services or Canadian Forces Base/Wing/Unit name as appropriate];

"Contract" means the Articles of Agreement, these general conditions, any supplemental general conditions, annexes and any other document specified or referred to as forming part of the Contract, all as amended by agreement of the Parties from time to time;

"Contracting Authority" means the person designated by that title in the Contract, or by notice to the Contractor, to act as NPP's representative to manage the Contract;

"Contractor" means the person, entity or entities named in the Contract to supply goods, services or both to NPP;

"Contract Price" means the amount stated in the Contract to be payable to the Contractor for the Work, exclusive of Goods and Services Tax and Harmonized Sales Tax;

"Foreground Information" means all Intellectual Property first conceived, developed, produced or reduced to practice as part of the Work under the Contract;

"Intellectual Property" means any information or knowledge of an industrial, scientific, technical, commercial, literary, dramatic, artistic or otherwise creative nature relating to the Work;

"NPP Property" means anything supplied to the Contractor by or on behalf of NPP for the purposes of performing the Contract and anything acquired by the Contractor in any manner in connection with the Work, the cost of which is paid by NPP under the Contract;

"Party" means NPP, the Contractor, or any other signatory to the Contract and "Parties" means all of them;

"Preliminary Works" means all creative content including, but not limited to, concepts, sketches, visual presentations, or the alternate or preliminary designs and documents developed by the Contractor which may or may not be shown or delivered to NPP for consideration but do not form part of the final Work;

"Work" means all the activities, services, goods, equipment, matters and things required to be done, delivered or performed by the Contractor under the Contract.

2. Status of the Contractor

The Contractor is an independent Contractor engaged by NPP to perform the Work. Nothing in the Contract is intended to create a partnership, a joint venture or an agency between NPP and the other Party or Parties. The Contractor must not represent itself as an agent or representative of NPP to anyone. Neither the Contractor nor any of its personnel is engaged as an employee or agent of NPP. The Contractor is responsible for all deductions and remittances required by law in relation to its employees.

3. Inspection, acceptance and warranty

- 3.1. The Contractor must perform the Work efficiently in accordance with standards of quality acceptable to NPP and in full conformity with all the requirements of the Contract.
- 3.2. All the Work is subject to inspection and acceptance by NPP. Inspection and acceptance of the Work by NPP do not relieve the Contractor of its responsibility for defects or other failures to meet the requirements of the Contract. NPP will have the right to reject any work that is not in accordance with the requirements of the Contract and require its correction or replacement at the Contractor's expense.

4. Invoice submission

- 4.1. Invoices must be submitted in the Contractor's name. The Contractor must submit invoices for each delivery or shipment; invoices must only apply to the Contract. Each invoice must indicate whether it covers partial or final delivery.
- 4.2. Invoices must show:
 - a. the date, the name and address of the organization, item or reference numbers, deliverable and/or description of the Work, contract number;
 - b. details of expenditures, exclusive of Applicable Taxes (such as item, quantity, unit of issue, unit price, fixed time labour rates and level of effort, subcontracts, as applicable);
 - c. deduction for holdback, if applicable;
 - d. the extension of the totals, if applicable; and

- e. if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges.
- 4.3. Applicable Taxes must be specified on all invoices as a separate item. All items that are zero-rated, exempt or to which the Applicable Taxes do not apply, must be identified as such on all invoices.
 - 4.4. By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work delivered and is in accordance with the Contract.

5. Taxes

- 5.1. Applicable Taxes will be paid by NPP as provided in the Invoice Submission section. It is the sole responsibility of the Contractor to charge Applicable Taxes at the correct rate in accordance with applicable legislation. The Contractor agrees to remit to appropriate tax authorities any amounts of Applicable Taxes paid or due.
- 5.2. The Contractor is not entitled to use NPP's exemptions from any tax, such as provincial sales taxes, unless otherwise specified by law. The Contractor must pay applicable provincial sales tax, ancillary taxes, and any commodity tax, on taxable goods or services used or consumed in the performance of the Contract (in accordance with applicable legislation), including for material incorporated into real property.
- 5.3. In those cases where Applicable Taxes, customs duties, and excise taxes are included in the Contract Price, the Contract Price will be adjusted to reflect any increase, or decrease, of Applicable Taxes, customs duties, and excise taxes that will have occurred between bid submission and contract award. However, there will be no adjustment for any change to increase the Contract Price if public notice of the change was given before bid submission date in sufficient detail to have permitted the Contractor to calculate the effect of the change.
- 5.4. Tax Withholding of 15 Percent – Canada Revenue Agency

Pursuant to the Income Tax Act, 1985, c. 1 (5th Supp.) and the Income Tax Regulations, NPP must withhold 15 percent of the amount to be paid to the Contractor in respect of services provided in Canada if the Contractor is not a resident of Canada, unless the Contractor obtains a valid waiver from the Canada Revenue Agency. The amount withheld will be held on account for the Contractor in respect to any tax liability which may be owed to NPP.

6. Changes to Taxes and Duties

If there is any change to any tax or duty payable to any level of government in Canada after the bid submission date that affects the costs of the Work to the Contractor, the Contract Price will be adjusted to reflect the increase or decrease in the cost to the Contractor. However, there will be no adjustment for any change that increases the cost of the Work to the Contractor if public notice of the change was given before bid submission date in sufficient detail to have permitted the Contractor to calculate the effect of the change on its cost. There will be no adjustment if the change takes effect after the date required by the Contract for delivery of the Work.

7. Payment period

- 7.1. NPP's standard payment period is 30 days. The payment period is measured from the date an invoice in acceptable form and content is received in accordance with the Contract or the date the Work is delivered in acceptable condition as required in the Contract, whichever is later. A payment is considered overdue on the 31st day following that date and interest will be paid automatically in accordance with section "Interest on overdue accounts".
- 7.2. If the content of the invoice and its substantiating documentation are not in accordance with the Contract or the Work is not in acceptable condition, NPP will notify the Contractor within 15 days of receipt. The 30-day payment period begins upon receipt of the revised invoice or the replacement or corrected Work.

Failure by NPP to notify the Contractor within 15 days will only result in the date specified in subsection 1 to apply for the sole purpose of calculating interest on overdue accounts.

8. Interest on overdue accounts

8.1. For the purpose of this section:

"Average Rate" means the simple arithmetic mean of the Bank Rates in effect at 4:00 p.m. Eastern Time each day during the calendar month immediately before the calendar month in which payment is made;

"Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association;

"Date of payment" means the date of the negotiable instrument drawn by the Receiver General for Canada to pay any amount under the Contract;

an amount becomes "overdue" when it is unpaid on the first day following the day on which it is due and payable according to the Contract.

8.2. NPP will pay to the Contractor simple interest at the Average Rate plus 3 percent per year on any amount that is overdue, from the date that amount becomes overdue until the day before the date of payment, inclusive. The Contractor is not required to provide notice to NPP for interest to be payable.

8.3. NPP will pay interest in accordance with this section only if NPP is responsible for the delay in paying the Contractor. NPP will not pay interest on overdue advance payments.

9. Audit

The amount claimed under the Contract is subject to government audit both before and after payment is made. The Contractor must keep proper accounts and records of the cost of performing the Work and keep all documents relating to such cost for six (6) years after it receives the final payment under the Contract.

10. Compliance with applicable laws

Contractor must comply with all laws applicable to the performance of the Contract. The Contractor must provide evidence of compliance with such laws to NPP at such times as NPP may reasonably request.

The Contractor must obtain and maintain at its own cost all permits, licenses, regulatory approvals and certificates required to perform the Work. If requested by the Contracting Authority, the Contractor must provide a copy of any required permit, license, regulatory approvals or certificate to NPP.

11. Time of the essence

It is essential the Work be delivered within or at the time stated in the Contract.

12. Ownership

Unless provided otherwise in the Contract, the Work or part of the Work belongs to NPP after delivery and acceptance by or on behalf of NPP. Despite any transfer of ownership, the Contractor is responsible for any loss or damage to the Work or any part of the Work until it is delivered to NPP in accordance with the Contract.

13. Intellectual Property

- 13.1. All Intellectual Property Rights in the Foreground Information belong to NPP as soon as they come into existence. The Contractor shall provide a detailed record in writing of the Foreground Information and Background Information.
- 13.2. The Contractor shall incorporate the copyright symbol and one of the following notices, as appropriate into all Foreground Information that is subject to copyright regardless of the form or medium upon which it is recorded: © His Majesty the King in right of Canada, as represented by the CDS in his Non-Public Property capacity (year) or © Sa Majesté le Roi du chef du Canada, telle que représentée par le CEMD en sa qualité de responsable des Biens non publics (année).
- 13.3. The Contractor shall, whenever requested by NPP, execute any documents relating to the Intellectual Property rights in the Foreground Information as NPP may require including documents in a prescribed form acknowledging NPP's ownership of the Foreground Information.
- 13.4. Contractor grants to NPP a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free license to use the Background Information to the extent that it is incorporated into the Work or necessary for the performance of the Work. The license includes the right to disclose the information to third parties in a procurement process and to sublicense the use of the information by any contractor engaged by NPP solely for the purpose of carrying out any resulting contracts.
- 13.5. The Contractor warrants that the Work, to the best of the Contractor's knowledge, will not infringe the intellectual property rights of any third party. However, if such infringement does arise, the Contractor agrees to indemnify NPP and shall hold NPP harmless against and from any and all intellectual property claims of third parties relating to the Foreground Information or Background Information. Further, the Contractor represents and warrants that it has the right to grant to NPP the license and any other rights to use the Background Information as set out in paragraph 13.4.
- 13.6. If requested by NPP, the Contractor shall provide a written permanent waiver of moral rights, as defined in the Copyright Act, R.S., 1985, c. C-42, from every author that contributes to any Foreground Information subject to copyright protection. If the Contractor is an author of the Foreground Information, the Contractor permanently waives the Contractor's moral rights in that Foreground Information.
- 13.7. Any information supplied by NPP to the Contractor for the performance of the Work remains the property of NPP. The Contractor must use NPP's Information only to perform the Contract. The Contractor must obtain a license from NPP for any other use.
- 13.8. The Contractor shall retain all proprietary rights, including property ownership, intellectual property rights and Copyrights, in and to all Preliminary Works, and NPP shall return to the Contractor all Preliminary Works in its possession within thirty (30) business days of completion of the Work.

14. NPP Property

The Contractor must take reasonable and proper care of all NPP Property while it is in its possession or subject to its control. The Contractor is responsible for any loss or damage resulting from its failure to do so other than loss or damage caused by ordinary wear and tear.

15. Amendment and assignment

The Contract must not be amended or assigned, in whole or in part, without the prior written agreement of the Parties.

16. Default by the Contractor

If the Contractor is in default in carrying out any of its obligations under the Contract, or is bankrupt or insolvent or in receivership, the Contracting Authority may, by giving written notice to the Contractor, terminate for default the Contract or part of the Contract. Upon the giving of such notice, the Contractor will have no claim for further payment and remains liable to NPP for all losses and damages suffered by NPP because of the default, including any increase

in the cost incurred by NPP in procuring the Work from another source.

17. Termination for convenience

- 17.1. At any time before the completion of the Work, the Contracting Authority may, by giving notice in writing to the Contractor, terminate for convenience the Contract or part of the Contract. Once such a notice of termination for convenience is given, the Contractor must comply with the requirements of the termination notice. If the Contract is terminated in part only, the Contractor must proceed to complete any part of the Work that is not affected by the termination notice. The termination will take effect immediately or, as the case may be, at the time specified in the termination notice.
- 17.2. If a termination notice is given pursuant to subsection 1, the Contractor will be entitled to be paid, for costs that have been reasonably and properly incurred to perform the Contract to the extent that the Contractor has not already been paid or reimbursed by NPP. The Contractor agrees that it will only be paid the following amounts:
- a. on the basis of the Contract Price, for all completed work that is inspected and accepted in accordance with the Contract, whether completed before, or after the termination in accordance with the instructions contained in the termination notice;
 - b. the Cost to the Contractor plus a fair and reasonable profit for all work terminated by the termination notice before completion; and
 - c. all costs incidental to the termination of the Work incurred by the Contractor but not including the cost of severance payments or damages to employees whose services are no longer required, except wages that the Contractor is obligated by statute to pay.
- 17.3. NPP may reduce the payment in respect of any part of the Work, if upon inspection, it does not meet the requirements of the Contract.
- 17.4. The total of the amounts, to which the Contractor is entitled to be paid under this section, together with any amounts paid, due or becoming due to the Contractor must not exceed the Contract Price. The Contractor will have no claim for damages, compensation, loss of profit, interest, allowance arising out of any termination notice given by NPP under this section except to the extent that this section expressly provides. The Contractor agrees to repay immediately to NPP the portion of any advance payment that is unliquidated at the date of the termination.

18. Right of set-off

Without restricting any right of set-off given by law, NPP may set-off against any amount payable to the Contractor under the Contract, any amount payable to NPP by the Contractor under the Contract or under any other current contract. NPP may, when making a payment pursuant to the Contract, deduct from the amount payable to the Contractor any such amount payable to NPP by the Contractor which, by virtue of the right of set-off, may be retained by NPP.

19. Conflict of Interest and Values and Ethics Codes for the Public Service, NPF Values and Ethics Policy

The Contractor acknowledges that individuals who are subject to the provisions of the Conflict of Interest Act, 2006, c. 9, s. 2, the Conflict of Interest Code for Members of the House of Commons, the Values and Ethics Code for the Public Service, NPP Conflict of Interest Policy and Values and Ethics Policy, or all other codes of values and ethics applicable within specific organizations cannot derive any direct benefit resulting from the Contract.

20. International sanctions

- 20.1. Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to [economic sanctions](#).
- 20.2. The Contractor must not supply to NPP any goods or services which are subject to economic sanctions.
- 20.3. The Contractor must comply with changes to the regulations imposed during the period of the Contract. The Contractor must immediately advise NPP if it is unable to perform the Work as a result of the imposition of economic sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services. If the Parties cannot agree on a work around plan, the Contract will be terminated for the convenience of NPP in accordance with section "Termination for convenience".

21. Entire agreement

The Contract constitutes the entire and sole agreement between the Parties.

22. Access to information

Records created by the Contractor, and under the control of NPP, are subject to the [Access to Information Act](#). The Contractor acknowledges the responsibilities of NPP under the [Access to Information Act](#) and must, to the extent possible, assist NPP in discharging these responsibilities. Furthermore, the Contractor acknowledges that section 67.1 of the [Access to Information Act](#) provides that any person, who destroys, alters, falsifies or conceals a record, or directs anyone to do so, with the intent of obstructing the right of access that is provided by the [Access to Information Act](#) is guilty of an offence and is liable to imprisonment or a fine, or both.

23. Confidentiality

- 23.1. The Contractor must keep confidential all information provided to the Contractor by or on behalf of NPP in connection with the Work and all information conceived, developed or produced by the Contractor as part of the Work. Information provided to the Contractor by or on behalf of NPP must be used solely for the purpose of the Contract and remains the property of NPP.
- 23.2. Subject to the Access to Information Act, R.S.C. 1985, c. A-1, and to any right of NPP under the Contract to release or disclose, NPP agrees not to release or disclose outside the Government of Canada any information delivered to NPP under the Contract that is proprietary to the Contractor or a subcontractor.
- 23.3. The obligations of the Parties set out in this section do not apply to any information where the same information:
 - a. is publicly available from a source other than the other Party; or
 - b. is or becomes known to a Party from a source other than the other Party, except any source that is known to be under an obligation to the other Party not to disclose the information, or
 - c. is developed by a Party without use of the information of the other Party.
- 23.4. The Contractor acknowledges that NPP is bound by the Privacy Act, R.S.C. 1985, c. P-21, with respect to the protection of personal information as defined in that Act. The Contractor shall keep private and confidential any such personal information collected, created or handled by the Contractor under the Contract, and shall not use, copy, disclose, dispose of or destroy such personal information except in accordance with this clause and the delivery provisions of the Contract. All such personal information is the property of NPP, and the Contractor shall have no right in or to that information. The Contractor shall deliver to NPP all such personal information in whatever form, including all working papers, notes, memoranda, reports, data in machine-readable format or otherwise, and documentation which have been made or obtained in relation to this Contract, upon the completion or termination of the Contract, or at such earlier time as the NPP may request. Upon delivery of the personal information to NPP, the Contractor shall have no right to retain that information in any form and shall ensure that no record of the personal

information remains in the Contractor's possession.

- 23.5. The contractor shall ensure that all the Contractor Personnel having a need to access Confidential Information identified by NPP as a "Protected" or "Secret" (including summaries of or reports based on such information) obtain security clearance at the appropriate level prior to receiving access to such information, and maintain such security clearance for the duration of the Contract. Contractor shall not take any documents containing Confidential Information identified by NPP as "Secret" off-site from NPP premises, unless expressly permitted by NPP in writing. All documents containing any Confidential Information identified by NPP as "Protected" or "Secret" which are taken off-site from NPP's premises must be protected in a manner consistent with Government Security Policy ("GSP"), and must be stored and otherwise protected as set out in the NPP "Document Protection Procedures". NPP shall identify all such Confidential Information as "Protected" or "Secret", as applicable. In the event that Confidential Information is identified as "Protected" but not as "Protected A" or "Protected B", such Confidential Information shall be deemed to be "Protected B". In the event of a conflict between the NPP policies on the one hand, and a GSP classification on the other (including related disclosure, storage or handling requirements), the latter shall govern. The Contractor shall immediately notify NPP of any suspected or actual breach of security/privacy.
- 23.6. The Contractor shall assume full responsibility and shall indemnify and hold NPP harmless for the unauthorized disclosure or use of any Confidential Information by its employees, contractors or any other party to whom the Contractor is authorized to disclose Confidential Information pursuant to this article.
- 23.7. The Contractor must obtain from its employee(s) or subcontractor(s) the completed and signed non-disclosure agreement to the Contracting Authority before they are given access to information by or on behalf of NPP in connection with the Work.