

Note to Agreement Terms and Conditions:

The terms set out in this Part 2 – Agreement Terms and Conditions shall be incorporated into any Agreement entered into with the Successful Supplier substantially in the form as presented in this Part 2. These terms are mandatory and are not negotiable. Any Supplier wishing to request that the City consider any changes to the terms and conditions set out in Part 2 – Agreement Terms and Conditions must follow the process outlined in Section 1.6 (Addenda) of Part 1 – RFP Process Terms and Conditions.

These Part 2 Agreement Terms and Conditions are deemed to be incorporated into and take precedence over the terms of any purchase order issued in connection with this RFP.

SOFTWARE LICENSE AND MAINTENANCE SERVICES AGREEMENT

This Software License and Maintenance Services Agreement agreed to as of as of this [insert date] (the "Effective Date"),

B E T W E E N:

CITY OF TORONTO

(Hereinafter referred to as the "City")

- and -

[Insert supplier name]

(Hereinafter referred to as (the "Supplier")

Each, a Party, and collectively the Parties.

Background:

Supplier is engaged in the business of providing Products and Services (as defined below) and represents that it has the skill, knowledge and resources to provide the Products and Services.

On [Insert date of RFP Issuance] the City issued the following Request for Proposal Doc5605278085. That Request for Proposal including all amendments made to it by the City shall be referred to as the "RFP". On or about [Insert date] Supplier submitted to the City a response to the RFP (the "Proposal").

Using the evaluation process set out in the RFP and the information set out in the Proposal, under the authority of Municipal Code – Chapter 195 Section 8.1 as approved by City Council as per Item Number [Insert details], the City has decided to enter into an agreement with Supplier. Although not appended hereto, the RFP is incorporated into this Agreement as Schedule C, and the Proposal is incorporated into this Agreement as Schedule D.

The Supplier and the City agree that the following terms and conditions shall govern the relationship between the City and the Supplier with respect to the City's use of and the Supplier's provision of the Products and Services.

DEFINITIONS

"Agreement" means this Software License and Maintenance Services Agreement and any Schedules appended to it or Statements of Work ("SOW") made pursuant to it.

"City" means the City of Toronto.

"Change Order" means a change to the terms for providing the Products or Services, or scope of any of the Services or Products, and such change that has been approved by an authorized representative of both the Parties. A change for request form is attached hereto as Appendix 1 in the SOW.

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

- (a) in relation to the RFP 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 (i) having or having access to information in the preparation of its proposal or bid that is confidential to the City and not available to other proponents; (ii) communicating with any person with a view to influencing preferred treatment in the RFP process including the giving of a benefit of any kind, by or on behalf of the Supplier to anyone employed by, or otherwise connected with, the City; or (iii) engaging in conduct that compromises or could be seen to

compromise the integrity of the open and competitive RFP process and render that process non-competitive and unfair; or

- (b) in relation to the performance of its contractual obligations in the City contract, the Supplier's other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement; or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations.

“Contact” means a person appointed by the parties individually to serve as a point of contact for the purposes set out in the Agreement.

“Disabling Code” means any one or more codes or routines which automatically suspend the use of any or all Products or Documentation or render any or all Products or Documentation or any other software or data inoperable, including, but not limited to, expiry date or password protection routines and lock-key codes, designed to prevent the unauthorized proliferation of the Products. For greater clarity, Disabling Code shall not mean the enabling code required to activate and install any Products.

“Documentation” means all documents (regardless of how embodied) that are related to or that are reasonably required to enable the City to use, or to obtain the benefit of, any Services or Products to be provided by the Supplier to the City and includes without limitation all reports.

“Indemnified Parties” means the City, its councillors, officers, agents, appointees, employees and City Representatives.

“Intellectual Property Rights” means all the intellectual property, industrial and other proprietary rights, protected or protectable, under the laws of Canada, any foreign country, or any political subdivision thereof, protected or protectable by legislation, by common law or at equity, including, without limitation, (i) all trade names, trade dress, trademarks, service marks, logos, brand names and other identifiers; (ii) copyrights, moral rights (including rights of attribution and rights of integrity); (iii) all trade secrets, inventions, discoveries, devices, processes, designs, techniques, ideas, know-how and other confidential or proprietary information, whether or not reduced to practice; (iv) all domestic and foreign patents and the registrations, applications, renewals, extensions and continuations (in whole or in part) thereof; and (v) all goodwill associated therewith and all rights and causes of action for infringement, misappropriation, misuse, dilution or unfair trade practices associated with (i) through (iv) above.

“Metadata” is data describing context, content and structure of records and their management through time. Metadata can describe the properties of a document. For example, the following information about a document is typically recorded: Title (or name of the document), Date (the document was created), and Created By (document creator). These descriptors are known as 'metadata'. Metadata facilitates search, identification, and the management of information.

“MFIPPA” shall mean the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended from time to time.

“Order Form” means any purchase order or other ordering document accepted by the Supplier that specifies or Product(s) to be provided under this Agreement.

“Personal Information” shall have the meaning set forth in MFIPPA.

“Products” means the Software licensed in the relevant SOW and Services provided under this Agreement.

“Project(s)” shall mean the City's ongoing and future projects related to the Products and/or Services as described in this Agreement and the applicable SOW.

“Proceeding(s)” means causes of action, actions, claims, demands, lawsuits, losses, liens, charges, recoveries, and judgments or other proceedings.

“RFP” shall mean the Request for Proposal No Doc5605278085, dated [insert date], including all amendments thereof.

“Records” shall have the meaning set forth in MFIPPA.

"Release" means a specific revision of a Version of a Software incorporating minor software modifications. A Version is identified by a number in the form 'x.y' where 'x' is the Version number and 'y' is the Release number. A new Release is signified by an increase in 'y';

"Representative(s)" means the Supplier or any other Person, any directors, officers, employees, agents, appointees, consultants, or Subcontractors, as well as the Subcontractor's directors, officers, employees, agents, consultants, or subcontractors. In the case of the City, Representatives also includes the City's elected officials.

"Software" means the executable code version of the Supplier's software products set forth in the order and any updates thereto furnished by the Supplier under this Agreement, as updated from time to time with the consent of the City. Software shall include all Releases that have been approved and accepted by the City for use.

"Services" means (a) the support and maintenance services as described in Schedule B, (b) the training services in Schedule C and (c) any other ancillary or incidental tasks required to perform the Supplier's obligations set forth under this Agreement.

"Statement of Work" or "SOW" means the document that sets out in detail the Products and/or Services to be provided by the Supplier and the remuneration for such Services in accordance with this Agreement and applicable Statement of Work. Each Statement of Work shall by amendment to this Agreement, become a schedule to this Agreement and shall be subject to all of its terms and conditions except as may be mutually and expressly agreed otherwise.

1. PRECEDENCE

- 1.1** In the event of any inconsistency or conflict between the terms and conditions of this Agreement, the terms and conditions of any SOW, Schedules, RFP and the Proposal, the order of precedence shall be, in descending order of priority, as follows:
 - (a) This Agreement, exclusive of Schedules;
 - (b) Schedules and related Appendices;
 - (c) Any SOWs made in writing between the parties forming a part of this Agreement;
 - (d) The RFP (inclusive of any Addenda); and
 - (e) The Proposal, comprising only of the commercial and operational provisions.
- 1.2** The parties agree that any additional terms added by Supplier including without limitation terms in the invoice, order form, hyperlinks or any click wrap or shrink wrap agreement, shall not form a part of this Agreement and shall be void and unenforceable, at all times.
- 1.3** The Supplier further warrants and understands that this Agreement supersedes and replaces any (i) click-wrap, or click-through or shrink-wrap agreements (or other similar or standard form agreements) that the City has or may be required to accept as a part of downloading, accessing or using the Products, Services or any Release, and (ii) any other terms conditions or agreements imposed upon City outside this Agreement, or when installing the Products or Release. This provision shall apply to Products and Release downloaded, accessed or used by City in any environment, including but not limited to production, test, disaster recovery, disaster recovery testing, evaluation, trial or beta testing. Any provision or clause adding such click-wrap, or click-through or shrink-wrap agreements shall be void and unenforceable.

2. PROPRIETARY RIGHTS

- 2.1** The Supplier shall be the exclusive owner of the Software and all Intellectual Property Rights associated with the Software; and shall ensure that the Products shall be provided in compliance with the requirements set forth in the RFP and this Agreement.
- 2.2** The Supplier grants to the City and its users a non-exclusive, non-transferable, time-limited license to use the Software (including any applications, third party software and/or tools made available as part of the Software) being provided pursuant to this Agreement. The Supplier shall retain all title and rights to the Software and all Intellectual Property Rights thereto.

- 2.3 The Supplier may use any error reports, suggestions, comments, and other information provided by the City for the sole purpose of providing technical support to the City and improving the Software, provided that all Metadata has been removed.
- 2.4 Documentation to be used in conjunction with any Products will be provided to the City by the Supplier prior to, or at the same time as, delivery or access to the Products.
- 2.5 Should the Supplier include any including without limitation third party confidential information, components, software and/or tools in the Products or Services, the Supplier must secure the rights to use and repackage such third party components and pass on those rights to the City for use, without any additional charges or costs.
- 2.6 Supplier will provide log in credentials to the City's Representatives for use by each user who is approved and authorized by the City.

3. TERM AND TERMINATION

- 3.1 This Agreement shall be valid from the Effective Date for a period of one (1) year, ("Initial Term"), unless terminated earlier. Subject to Council approval, the City shall have an option to renew and extend the term for four (4) additional one (1) year terms, each year shall be a "Renewal Term". The Initial Term and Renewal Term collectively shall be referred to as the "Term".
- 3.2 The City may terminate this Agreement (including all SOWs) for cause on written notice to the Supplier, effective immediately, if (a) the Supplier ceases to carry on business in the normal course, makes a general assignment for the benefit of creditors, becomes subject to any proceeding for liquidation, insolvency or the appointment of a receiver, or (b) any material delay in Supplier's performance of its obligations under this Agreement, provided such delay is not attributable to a force majeure event.
- 3.3 Either party may terminate upon thirty (30) days written notice of a breach if the breach remains uncured at the expiration of such notice period, or immediately upon written notice in the event of a breach of its warranties or confidentiality obligations.
- 3.4 The City may terminate this Agreement (including all SOWs) for convenience on written notice to the Supplier, effective immediately, if (a) the adoption of any law or regulation, or the issuance of any order or decision made by a court or tribunal of competent jurisdiction, or (b) non appropriation of funds.
- 3.5 Upon termination or expiration of this Agreement or any SOW, the Parties shall mutually agree upon a transition period. During such transition period, the Supplier shall continue to perform its obligations as set forth in this Agreement to the City, and any additional services that may be required for the successful transition with minimum disruption in an efficient manner.
- 3.6 In the event of any material breach and failure of the breaching Party to cure such breach, the non-breaching Party may terminate any SOW upon thirty (30) days written notice to the other Party.
- 3.7 The City may terminate any SOW on written notice to Supplier, for convenience, upon ninety (90) days written notice of termination, without any liability whatsoever. In such an event, the City shall only be liable to pay for the Products and Services provided successfully till the actual date of termination.

4. PAYMENT

- 4.1 **Fees:** The City will pay the fees for the Products and Services as set forth in the relevant SOW, which shall include a payment schedule. Only pre-approved expenses shall be payable by the City.
- 4.2 **Taxes.** All fees are exclusive of all taxes and the City will be responsible for all taxes applicable on the purchase of Products and Services, excluding any taxes based on Supplier's net income, capital gains or employee withholdings.
- 4.3 **Invoices.** Supplier shall submit invoices in such detail as may be required by the City, and the City reserves the right to require further proof or documentation from the Supplier in respect of any amount charged. Supplier shall provide, without delay, such further proof or documentation.

4.4 Payment. With respect to any invoice issued by Supplier in accordance with the Agreement:

- (i) the City will pay any undisputed amount owing for fees and taxes within forty-five (45) days of the date on which a correct invoice for such is received by the City. No interest will be charged on late payments.
- (ii) the City may set off these amounts against any amount payable to the City by Supplier pursuant to the Agreement. The City may withhold any amount payable to Supplier pursuant to the Agreement if, in the opinion of the City acting reasonably, Supplier has failed to comply with any requirements of this Agreement.

5. INSURANCE

5.1 Without restricting the generality of any provision of this Agreement, the Supplier agrees to purchase and maintain in force, at its own expense the policies of insurance and coverages set out for the duration of this Agreement unless specified otherwise. Such insurance shall be provided by an insurer licensed to carry on the business of an insurer in Ontario prior to the commencement of services, except to the extent the City waives such a requirement in writing. The Supplier agrees to purchase and maintain in force:

5.1.1. Commercial General Liability insurance provided that the policy:

- (a) is in the amount of not less than Two Million Dollars (\$2,000,000.00), per occurrence;
- (b) adds the City of Toronto as an additional insured with respect to liability arising out of the Supplier's operations; and
- (c) includes, non-owned automobile liability, employer's liability and/or contingent employer's liability, cross liability and severability of interest, and any other provision relevant to the Services; and
- (d) shall require the insurer(s) to notify the City at least thirty (30) calendar days (fifteen (15) calendar days if cancellation is due to non-payment of premium), prior to any cancellation of the Supplier's insurance.

5.1.2. Technology errors & omissions insurance covering liabilities for financial loss resulting or arising from acts, errors, or omissions in connection with the Services provided under the Agreement, provided that the policy is in the amount of not less than Two Million Dollars (\$2,000,000.00), per claim, including, if applicable to the Services being provided under this Agreement:

- (a) will extend to infringement of copyright and other intellectual property, excluding patents and trade secrets, resulting from services provided under this Agreement.

5.1.3. Cyber liability insurance coverage including coverage for liability arising from network security or privacy liability in connection with the Services provided under the Agreement provided that the policy provides coverage in the amount of not less than Five Million Dollars (\$5,000,000.00), per claim, including, if applicable to the Services being provided under the Agreement:

- (a) intentional, fraudulent or criminal acts, negligent or unintentional acts of the Supplier, its subcontractors, agents or employees, if the Services involve interaction with City financial information or handling personal information as defined by the MFIPPA;
- (b) privacy liability incurred from alleged or actual theft, dissemination, and/or use of personal or confidential information and any related forensic costs, crisis management costs, investigation costs, notification and monitoring costs;
- (c) network security liability including costs associated with penalties and fines at limits permitted by regulation, court awards, and damages imposed, arising from the unauthorized access to, use of, or tampering with computer systems, including hacker attacks or inability of an authorized third party to gain access to services, including denial of service, unless caused by a mechanical or electrical failure;
- (d) liability arising from the introduction of a computer virus or malware into, or otherwise causing damage to, a customer's or third party's computer, computer system, network, or similar computer related property and the data, software, and programs thereon; and

- (e) PCI assessments, fines, and penalties including a carve back to the contractual liability exclusion if accepting or processing payments.
- 5.1.4. Automobile liability insurance with a minimum limit of Two Million Dollars (\$2,000,000.00), per occurrence, for all owned or leased licensed motorized vehicles used in the performance of Services.
- 5.2 If this insurance is provided on a claims-made basis, the Supplier shall ensure coverage provides that:
 - (a) there is prior acts coverage, or the retroactive date coincides with or precedes the insureds' initial services under the Agreement and shall continue until the termination of the Agreement (including subsequent policies purchased as renewals or replacements);
 - (b) the policy allows for reporting of circumstances or incidents that might give rise to future claims; and
 - (c) there is not less than a two (2) year extended reporting period with respect to events which occurred but were not reported during the term of the policy or ongoing coverage is maintained.
- 5.3 Prior to commencing services, and ten (10) days prior to the expiration, amendment or extension of any then current insurance or any part thereof, the Supplier shall provide the City with certificates of insurance as proof of such coverage, in a form acceptable to the City, signed by the insurer or its authorized agent, without notice or request by the City.
- 5.4 The Supplier agrees that the insurance requested shall be primary and shall not call into contribution any insurance available to the City, and the insurance policies may be subject to reasonable deductible amounts, which deductible amounts shall be borne by the Supplier.
- 5.5 It is understood and agreed that the insurance coverage and limits of liability set out in this Section are not to be construed as the limit of liability of the Supplier in the performance of Services.
- 5.6 The Supplier is responsible for any loss or damage whatsoever to any of its materials, goods, equipment or supplies and will maintain appropriate all-risk coverage as any prudent owner of such materials, goods, supplies and equipment. The Supplier shall have no claim against the City or the City's insurers for any damage or loss to its property and shall require its property insurers to waive any right of subrogation against the City.

6. CONFIDENTIALITY

- 6.1 **Importance.** Both parties recognize the vital importance of the protection of any Confidential Information (as defined below) that is provided or otherwise made available by one party (the "Disclosing Party") to the party receiving or otherwise obtaining access to such information (the "Recipient").
- 6.2 **Confidential.** "Confidential Information" means any and all information and materials, which: (i) are designated as confidential at the time of disclosure (in a manner reflecting the manner in which they are disclosed), or (ii) a reasonable person, having regard to the circumstances, would regard as confidential (including Personal Information).
- 6.3 **Exceptions.** The Disclosing Party's Confidential Information does not include information which: (i) is or at any time is made generally available to the public by the Disclosing Party; (ii) is known to the Recipient (as substantiated by cogent written evidence in the Recipient's possession) free of any restrictions at the time of disclosure; (iii) is independently developed by the Recipient through individuals who have not had either direct or indirect access to the Confidential Information; and (iv) is rightfully obtained by the Recipient, without any obligation of confidence, from a third party who had a right to transfer or disclose it to any Person free of any obligation of confidence. The above listed exceptions do not apply in the case of Confidential Information that is also Personal Information.
- 6.4 **Required by Law.** The Recipient will not be liable for disclosure of Confidential Information if disclosure is required by any law applicable in the Province of Ontario, provided that the Recipient notifies the Disclosing Party of any such requirement as soon as legally permissible.

- 6.5 Recipient's Obligations.** The Recipient will: (i) use the Disclosing Party's Confidential Information only in accordance with this Agreement and only for the purpose of fulfilling its obligations and exercising its rights under this Agreement; (ii) use at least the same degree of care to protect the Disclosing Party's Confidential Information as the Recipient uses to protect its own Confidential Information of a like nature, but in any event will not use a standard of care that is less than a reasonable standard of care (taking into account all laws and regulations pertaining to the protection of Personal Information to which either party is subject); (iii) not disclose the Disclosing Party's Confidential Information to any person other than the Recipient's Representatives who have a need to know it for the purposes described in (i) above and who are bound by Recipient to keep the Confidential Information of third parties confidential, at least to the same extent as set forth in the Agreement; and (iv) upon becoming aware of any unauthorized copying, disclosure or use of the Disclosing Party's Confidential Information, notify the Disclosing Party immediately and make a commercially reasonable effort to minimize the effect of any such use or disclosure.
- 6.6 Equitable Relief.** Each party acknowledges that the Confidential Information of the other party is of value to the other party or to its suppliers and that any unauthorized copying, use, disclosure, access, or disposition of the Confidential Information will cause irreparable injury to the other party or its suppliers. Consequently, each party agrees that in addition to any other remedies that the other party may have, the other party will be entitled to obtain injunctive and other equitable relief, as a matter of right without proving injury.
- 6.7 Return.** Upon expiration or termination of this Agreement or at the Disclosing Party's request, the Recipient will: (i) return all Confidential Information disclosed to it by the Disclosing Party and all copies thereof, regardless of form; and (ii) destroy any such Confidential Information that cannot be returned.
- 6.8 Exceptions.** Notwithstanding the foregoing, the City shall be entitled to retain any Records that it has obtained in the course of this engagement to the extent that the retention of those Records is required to meet the City's obligations under MFIPPA.

7. RELATIONSHIP OF THE PARTIES

- 7.1** The relationship between the Parties is that of independent contractors, and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between them. Neither the City nor the Supplier will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.
- 7.2** The Parties acknowledge and agree that employees of the City, including senior officers, have no authority to direct, and will not direct, how employees, workers or other persons employed or engaged by the Supplier do work or perform a task that is the subject of this Agreement.
- 7.3** Nothing under this Agreement shall render the City responsible for any employment, benefit, or termination liability (including those under or in connection with the WSIA or any successor legislation), whether statutorily required, at common law or otherwise, resulting from Products supplied under this Agreement by persons employed or otherwise engaged by the Supplier. In the event that employment related costs, or other related responsibility falls to the City for any reason whatsoever, the Supplier agrees to indemnify the City for such costs.
- 7.4** The Supplier acknowledges that it is providing Products to the City on a non-exclusive basis. The City makes no representation regarding the volume of goods and services required under the Agreement. The City reserves the right to contract with other parties for the same or similar goods and services as those provided by the Supplier and reserves the right to obtain the same or similar goods and services internally.
- 7.5** The Supplier will not issue any public notice or press release, or otherwise make use of its association with the City or this Agreement, without the prior written consent of the City.

8. GENERAL INDEMNITIES

- 8.1** The Supplier agrees to indemnify and hold the Indemnified Parties harmless from all charges, losses, damages, and expenses (including reasonable legal fees and disbursements) incurred in connection with any claims, demands, suits or actions incurred by any of them as a result of: (a) Suppliers' or its Representatives' wilful misconduct; (b) the acts or omissions of the Supplier or its

Representatives relating to or arising from the Agreement or the City's use of any Products or Services; (c) breach of any confidentiality, privacy or security obligations under this Agreement.

- 8.2 If requested by the City, the Supplier will also defend at its own cost and expense any claim, demand, suit, or action brought against the City or any of its Representatives as described in this Section.
- 8.3 The City will not provide any indemnity under any circumstances.

9. INTELLECTUAL PROPERTY INDEMNITY

- 9.1 The Supplier shall indemnify and save harmless the Indemnified Parties, successors and assigns from and against any losses, liens, charges, claims, demands, suits, proceedings, recoveries and judgments (including legal fees and costs) incurred in connection with any Proceeding, arising from infringement, whether actual, threatened or alleged, by the Supplier, its Representatives, or anyone for whom it is in law responsible, its use or misuse, or by any of the Products, of any Intellectual Property Rights or other thing with respect to which a right in the nature of intellectual/industrial property exists.
- 9.2 Should the Products or any part thereof become the subject of a claim for infringement of a third party Intellectual Property Right, then the Supplier shall, at its sole expense:
 - 9.2.1. obtain such rights and waivers as are necessary so that such performance, exercise of rights, use or disposal becomes non-infringing; or
 - 9.2.2. replace or modify the Products or anything supplied so that the infringing portion no longer infringes (without any loss of quality or functionality) to the City's satisfaction; and shall make every reasonable effort to correct the situation with minimal effect upon the operations of the City.

If neither of the foregoing alternatives is reasonably available, the City may terminate all or any part of the Agreement without further obligation or liability to Supplier and, without prejudice to any other rights and remedies as may be available to any of the Indemnified Parties under the Agreement, or at law or in equity, Supplier shall refund to the City all amounts paid with respect to the Products and/or Services or anything supplied that infringes.
- 9.3 The Supplier shall not have any liability to the City under Section 9.1 to the extent that any infringement or violation of any Intellectual Property Rights, other than moral rights, is caused by further development or modification made to the Products by the City without the Supplier's prior written consent or based on any modification of the Products by the City or any third party at the City's request or for the unauthorized use of the Products.
- 9.4 In relation to any claim, demand, suit or action incurred by the City's Indemnified Parties, the City will: (i) promptly notify the Supplier in writing of any such claim; (ii) permit the Supplier to control the defence or settlement of such claim provided that the Supplier requires the written authorization of the City to make any admission of liability on behalf of the City or to commit to payment of City monies on behalf of the City, and (iii) cooperate with the Supplier in such defence or settlement.
- 9.5 This Section 9 shall survive the expiry or other termination of this Agreement.

10. LIMITATION OF LIABILITY

- 10.1 Indirect Damages.** NEITHER PARTY (INCLUDING ITS REPRESENTATIVES) WILL BE LIABLE TO THE OTHER IN ANY WAY WHATSOEVER, FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES INCURRED BY THE OTHER PARTY. THIS LIMITATION WILL APPLY WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE, OR WHETHER THE DEFAULTING PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 10.2 Direct Damages.** THE PARTIES AGREE THAT THE LIABILITY OF EACH PARTY FOR ANY CLAIM, ACTION OR DEMAND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT ("CLAIM") WILL BE LIMITED TO DIRECT DAMAGES ACTUALLY INCURRED BY THE CLAIMING PARTY.
- 10.3 Supplier.** IN NO EVENT WILL THE TOTAL CUMULATIVE LIABILITY OF THE SUPPLIER (INCLUDING ITS REPRESENTATIVES) TO THE CITY, FOR ANY CLAIMS, DEMANDS, SUITS OR OTHER LIABILITIES ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED TWO TIMES THE AMOUNT PAID OR PAYABLE TO THE SUPPLIER PURSUANT TO THE AGREEMENT. IN NO EVENT WILL THE CITY (INCLUDING ITS REPRESENTATIVES) BE LIABLE TO THE SUPPLIER AND ITS REPRESENTATIVES FOR ANY AMOUNT IN EXCESS OF THE AMOUNTS TO BE PAID BY THE CITY PURSUANT TO THIS AGREEMENT.
- 10.4 Exclusions.** THE LIMITATIONS OF LIABILITY SET OUT IN THIS SECTION DO NOT APPLY TO ANY CLAIM, DEMAND, SUIT, OR OTHER LIABILITY ARISING FROM OR RELATING TO NEGLIGENCE, WILFUL MISCONDUCT, PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, MISREPRESENTATION, FRAUD, BREACHES OF CONFIDENTIALITY, SECURITY OR PRIVACY, OR ANY CLAIM, DEMAND, SUIT, OR OTHER LIABILITY FOR WHICH A PARTY IS REQUIRED TO INDEMNIFY THE OTHER PARTY PURSUANT TO THIS AGREEMENT. OTHERWISE, THE FOREGOING PROVISIONS LIMITING THE LIABILITY WILL APPLY REGARDLESS OF THE FORM OR CAUSE OF ACTION, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE), OR A BREACH OF A FUNDAMENTAL TERM OR CONDITION OR A FAILURE OF ESSENTIAL PURPOSE.

11. WARRANTIES

11.1 Products

- 11.1.1.** The Supplier hereby represents and warrants that the Products and Services described in the Agreement shall be provided (i) by fully and diligently in a professional and competent manner by persons qualified and skilled in their occupations; (ii) in compliance with the Supplier's specifications and the Agreement, and (iii) each Product and Documentation are free from all encumbrances and do not and shall not contain any AI generated code and/or Disabling Code.
- 11.1.2.** The Supplier further represents and warrants to and covenants with the City as follows:
- (a) neither Products or Services provided pursuant to this Agreement will infringe upon or violate any third party Intellectual Property Rights; and
- (b) all Products which include any code or other software, will be free of any harmful or hidden programs or data incorporated therein with malicious and mischievous intent including but not limited to viruses, worms, time bombs, logic bombs, trap doors, Trojan horses or similar malicious instructions, techniques or devices capable of disrupting, disabling, damaging or shutting down a computer system or software or hardware component thereof.
- 11.1.3.** For any new Products and Services, the warranty period is 90 days from the date on which it is approved by the City. During the warranty period, the Products will materially conform to the Supplier's specifications and any requirements set out in the Documentation or otherwise incorporated in the Agreement. Should any Products not meet the warranty set out herein, the Supplier will as soon as practicable and at no additional charge to the City: (i) remedy such non-conformance; or (ii) replace the affected Products with an equivalent or superior Products. If the Supplier is unable to do so promptly, the City may at its option require that the Supplier promptly provide a full refund of the amount paid by the City for the affected Products, including a full refund of any implementation fees for the Products. The City will return, or remove, as applicable, the affected Products at the Supplier's expense upon receipt of such refund.

- 11.1.4. If any of the Products or, in the reasonable opinion of the City, are inadequately provided or require corrections within the warranty period, or fail to confirm to this warranty, the Supplier will make any required corrections at no additional cost to the City.

11.2 Other. The Supplier hereby represents and warrants to and covenants with the City as follows:

- 11.2.1. The Supplier has the right and authority to grant the licenses and make the assignments set out in the Agreement free of any claim of any kind in favour of or by any third party.

11.3 The Supplier acknowledges and agrees to comply with the City's Supplier Code of Conduct and to be bound by its terms for the period of the Agreement, as further set out in Article 13 Chapter 195, Purchasing, of the Toronto Municipal Code. Supplier will not issue any public notice or press release, or otherwise make use of its association with the City or this Agreement, without the prior written consent of the City.

11.4 Disclaimer. WITH THE EXCEPTION OF ANY EXPRESS REPRESENTATIONS, WARRANTIES OR COVENANTS CONTAINED IN THE AGREEMENT, EACH PARTY EXPRESSLY DISCLAIMS ANY OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS WITH RESPECT TO THE GOODS OR SERVICES OR OTHERWISE ARISING FROM OR RELATING TO THE AGREEMENT WHETHER EXPRESS OR IMPLIED, PAST OR PRESENT, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES, REPRESENTATIONS OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

12. CITY RESPONSIBILITIES

12.1 The City agrees that it will not, to the extent not otherwise permitted under this Agreement,

- 12.1.1. use the Products other than in accordance with this Agreement;
- 12.1.2. decompile, disassemble, reverse engineer or otherwise discern or recreate the source code for the Products;
- 12.1.3. allow direct or indirect use of the Products by non-City personnel;
- 12.1.4. sell, rent, lend, transfer, distribute, license, or grant any rights in the Products documentation in any form to any person without the written consent of the Supplier;
- 12.1.5. remove any proprietary notices, labels, or marks from the Products; or
- 12.1.6. providing unauthorized access to, or attempting to compromise the normal functioning, operation, or security of the Products.

12.2 City Data

City owns its data. For the purposes of this Agreement, "City Data" shall mean all electronic data and information submitted to and stored in the Products by or on behalf of City. During the Term, City may extract City Data from the Products at any time using Supplier's standard web services. Upon request by City made at least thirty (30) days prior to the effective date of the termination of the applicable Term, at no cost for a maximum of thirty (30) days following the termination, Supplier will make a file of the City Data then-currently stored in the Products available to City for download. After the thirty (30)-day period, Supplier shall have no obligation to maintain or provide any City Data and shall thereafter, unless legally prohibited, be entitled to delete all City Data from Supplier's servers; provided, however, that Supplier will not be required to remove copies of the City Data from its backup servers until such time as the backup copies are scheduled to be overwritten in the normal course of business. In all cases Supplier will continue to protect the City in accordance with the confidentiality obligations, for so long as the City Data remains on its backup servers.

13. SECURE SOFTWARE DEVELOPMENT

13.1 Supplier shall implement and maintain secure software development life cycle methodology and procedures aligned with industry standard practices such as the OWASP Top Ten, NIST SSDF, or

other equivalent standard, including secure coding guidelines, security design reviews, and risk-based testing.

- 13.2 All Supplier Representatives responsible for secure application design shall receive appropriate training regarding the Supplier's secure application development practices.
- 13.3 Supplier shall regular conduct penetration testing and vulnerability scanning of the Software. Supplier shall ensure that any risks are remediated prior to delivery. Results of this testing shall be shared with the City.
- 13.4 During the Term, to the extent that City or Supplier, through the required regular testing pursuant to section 13.3, identifies any security vulnerabilities in the Software, Supplier shall, at no cost to the City, provide an update to the Software to remediate each vulnerability within an industry standard timeframe. City agrees to promptly install security updates provided by Supplier.

14. WORKER'S SAFETY

- 14.1 Nothing under the Agreement shall render the City responsible for any employment, benefit, or termination liability (including those under or in connection with the *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c. 16, Sched. A or any successor legislation ("WSIA"), whether statutorily required, at common law or otherwise, resulting from Services supplied under this Agreement by persons employed or otherwise engaged by the Supplier. In the event that employment related costs, or other related responsibility falls to the City for any reason whatsoever, the Supplier agrees to indemnify the City for such costs.
- 14.2 The Supplier represents and warrants that it shall be in good standing with the Workplace Safety and Insurance Board throughout the Term of this Agreement, or to the extent that Supplier is not located in Ontario, any applicable local workplace safety and insurance legislation.

15. OCCUPATIONAL HEALTH AND SAFETY

- 15.1 The Supplier shall comply with all applicable federal, provincial, or municipal occupational health and safety legislative requirements, including, and without limitation, the *Occupational Health and Safety Act*, R.S.O., 1990 c.0.1 and all regulations thereunder, as amended from time to time (collectively the "OHSA"). To the extent that the Supplier is not based in Canada, the Supplier shall comply with all local occupational health and safety legislation.

16. ACCESSIBILITY STANDARDS

Supplier shall adhere to the [Ontario Human Rights Code \(OHRC\)](#) and [Accessibility for Ontarians with Disabilities Act, 2005 \(the "AODA"\)](#), including but not limited to the following:

- 16.1 **General Accessibility.** In providing the Products and Services, Supplier will comply with the the City of Toronto's [Corporate Accessibility Policy](#), [Digital Accessibility Standard](#), and provisions of the AODA for "large designated public sector organizations" (as amended from time to time and as defined in the AODA and Regulations thereunder), and the Regulations thereunder with regard to the provision of its Products or Services to persons with disabilities.
- 16.2 **Supplier's Websites, content and applications.** Supplier will ensure that any web applications, internet and intranet websites and web content provided by Supplier (including its Representatives) as part of the Products or Services complies with the [Web Content Accessibility Guidelines 2.1](#) Levels A and AA or higher, will meet and will continue to meet the accessibility requirements for "large designated public sector organizations" (as amended from time to time and as defined in the AODA and Regulations thereunder). This includes but is not limited to working with a variety of assistive technologies (for example, screen magnifiers, on-screen keyboards, refreshable Braille displays, screen readers, and voice recognition programs). For greater clarity, Supplier is not responsible for revising any Non-Supplier Applications to meet the accessibility requirements for "large designated public sector organizations" (as defined in the AODA).

- 16.3 City's Websites, content, and applications.** Supplier represents and warrants to and covenants with the City that the Products or Services support the development and implementation by the City of applications, internet and intranet websites and web content that comply with the [Web Content Accessibility Guidelines 2.1](#) Level A and AA or higher and with the AODA's requirements for "large designated public sector organizations" (as amended from time to time and defined in the AODA and Regulations thereunder).

The Supplier shall require all applicable personnel (including those of its Subcontractors) to fulfill the training requirements set out in the City's policy on [Accessible Customer Service Training Requirements](#) for Contractors, Consultants and other Services Providers and shall ensure that detailed training records are maintained and provided to the City upon request. The training requirements can be fulfilled by completing the e-Learning course "[Customer Service Standard Module](#)", which can be found on the [AccessForward](#) website. This course is recognized by the Government of Ontario and is developed by Curriculum Services Canada in partnership with the Accessibility Directorate of Ontario. A copy of the policy is available on the City of Toronto's [Accessible Customer Service Training Requirements page](#), or upon request.

17. CONFLICT OF INTERESTS

- 17.1 No Conflict of Interest.** The Supplier warrants and covenants with the City that the Supplier (including the Supplier's Representatives) has not engaged and will not engage in any activity where such activity creates a Conflict of Interest (actually or potentially in the sole opinion of the City) with the provision of Products and Services pursuant to the Agreement. The Supplier will promptly advise the City of any situation which creates an actual or potential Conflict of Interest and will abide by the City's determination with respect to such matter. The Supplier shall: (a) avoid any Conflict of Interest in the performance of its contractual obligations; (b) disclose to the City without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and (c) comply with any requirements prescribed by the City to resolve any Conflict of Interest. In addition to all other contractual rights or rights available at law or in equity, the City may immediately terminate the Agreement upon giving notice to the Supplier where: (a) the Supplier fails to disclose an actual or potential Conflict of Interest; (b) the Supplier fails to comply with any requirements prescribed by the City to resolve a Conflict of Interest; or (c) the Supplier's Conflict of Interest cannot be resolved. This paragraph shall survive any termination or expiry of the Agreement.
- 17.2 Supplier's Representatives.** The Supplier will take all necessary steps to ensure that the Supplier's Representatives do not violate Section 17.1, and will be responsible for any such violation, act or omission.
- 17.3 No Breach of Trust.** The Supplier (including its Representatives) will not accept benefits, financial or otherwise, arising from the performance of the Supplier's obligations other than as specified in the Agreement. The Supplier warrants and covenants with the City that: (i) no bribe, kickback, payment, gift or other inducement has been paid, given, promised or offered to any Representative or elected official of the City for, or with a view to, entering into the Agreement or any other agreement with the City; and (ii) no third party person or agency has been employed or retained to solicit or obtain this Agreement or any SOW for a contingent fee.

18. MFIPPA

- 18.1 Compliance with Privacy Laws.** The Supplier will: (i) Handle all Personal Information in accordance with applicable Canadian privacy laws; and (ii) perform its obligations under this Agreement in a manner that complies with Canadian privacy laws and that will enable the City to comply with privacy laws.
- 18.2 Assistance.** The Supplier will provide the City with information, cooperation, and assistance, as requested by the City from time to time in order to enable the City to comply with its obligations under applicable law.
- 18.3 Access Requests.** When the Supplier receives a request for access to any Personal Information or Records, the Supplier will direct that request to the City's Corporate Information Management Services at privacy@toronto.ca within 48 hours unless prohibited by applicable Canadian law.

18.4 **Provision of Records.** The Supplier shall provide Records to the City within seven (7) calendar days of being directed to do so by the City for any reason, including an access request under MFIPPA,

18.5 **Collection of Personal Information**

18.5.1. **Compliance with MFIPPA.** All collections, uses and disclosures of Personal Information shared with, collected for or used by the Supplier on behalf of the City of Toronto must comply with the collection, use and disclosure provisions of MFIPPA.

18.5.2. **Prohibition on Collection.** Except to the extent necessary to provide the Deliverables or as expressly provided for in this Agreement, the Supplier will not collect Personal Information. Unless the Agreement otherwise specifies or the City otherwise directs in writing, the Supplier must collect Personal Information directly from the individual to whom the information pertains.

18.6 **Correction of Personal Information**

18.6.1. **Requests.** From time to time, the City receives requests from individuals to correct or annotate their Personal Information held by the City. If it is possible for the City to use the Services to correct or annotate the Personal Information the City will do so. If not, the City will make a written request of the Supplier to do so.

18.6.2. **Annotation.** Upon receipt of such a request, the Supplier will annotate or correct the information in accordance with the request and the requirements of applicable legislation (typically MFIPPA or PHIPA).

19. POLICIES

19.1 The Supplier acknowledges and agrees that it is responsible for becoming familiar with, and shall comply with, the City's Purchasing By-law (Chapter 195 of the Toronto Municipal Code) and City policies respecting MFIPPA, Non-Discrimination, Canadian Content, Fair Wage, Labour Trades Contractual Obligations in the Construction Industry, Re-employment of Former Employees after Reorganizing, Environmentally Responsible Procurement Statement, Purchase of Products Manufactured in Factories Where Children Are Used As Slave Labour or Other Exploitative Circumstances Which Impedes Child Development, Conflict of Interest Policy, Inter-provincial Fairness Legislation, Occupational Health and Safety Statutory Declarations, and other City Policies as referenced in the City of Toronto Purchasing Policies, all as more particularly set out on the City's website at Purchasing Policies & Legislation – City of Toronto.

20. CHANGE

20.1 The notice should include a reasonably detailed description of the proposed Change and the reasons for the proposed Change. If either Contact acting reasonably determines that the proposed Change should be developed as a new SOW, Supplier will prepare a new SOW. Otherwise, Supplier will prepare a draft addendum to the SOW affected by the proposed Change. The draft addendum will include: (i) a reasonably detailed description of the proposed Change; (ii) if applicable, any changes to the actual or estimated Fees to be paid pursuant to the affected SOW; and (iii) if applicable, any changes to the actual or estimated timeline for providing the affected Services.

20.2 The proposed Change will not become effective unless written approval is obtained from the Council and the appropriate divisions. Upon obtaining the approval, the City and Supplier must agree in writing on the terms and conditions of the new SOW or draft addendum (as applicable) and sign it. Supplier is responsible for any costs that it incurs to comply with this Section.

21. GENERAL PROVISIONS

21.1 **Interpretation**

21.1.1. The headings used in this Agreement are for convenience of reference only and are not intended to be full or accurate descriptions of the content of the paragraphs.

- 21.1.2. No provision of this Agreement will be interpreted against any party merely because that party or its legal representative drafted the provision.
- 21.1.3. Throughout this Agreement: (i) the term "including" or the phrases "e.g.," or "for example" have been used to mean "including, without limitation", (ii) the singular includes the plural and vice-versa and (iii) any gender includes the other gender, unless the context requires otherwise.
- 21.1.4. All remedies are cumulative.
- 21.1.5. The Parties expressly request that this Agreement as well as documents relating thereto be drawn up in English.
- 21.2 **Entire Agreement.** This Agreement, along with its Schedules, Appendices and SOWs constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings, and agreements, written and oral, regarding such subject matter. Without limiting the previous sentence, any terms contained in any click-wrap agreement, shrink-wrap agreement, browse-wrap license, documentation provided to the City, invoice, web site or in any other form of agreement presented or delivered to the City in connection with any Product shall not be effective unless the City has agreed in a written amendment to the Agreement to be bound by the terms of that agreement or other document.
- 21.3 **Amendment.** Except as expressly set out in this Agreement, this Agreement may be changed only by a written document signed by authorized representatives of the City and the Supplier.
- 21.4 **Waiver.** No waiver of any part of this Agreement will be deemed to be a waiver of any other provision in this Agreement or a waiver with respect to any subsequent breach. No term of this Agreement will be deemed to be waived by reason of any previous failure to enforce it. No term of this Agreement may be waived except in a writing signed by the party waiving enforcement.
- 21.5 **Severability.** Should any provision of this Agreement be held to be invalid by a court of competent jurisdiction, then that provision will be enforced to the extent permissible, and all other provisions will remain in effect and are enforceable by the parties.
- 21.6 **Assignment.** The Supplier may not assign this Agreement, by operation of law or otherwise, without the City's prior written consent (which consent may be provided subject to one or more conditions imposed by the City). Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and enforceable against the parties and their respective successors and assigns.
- 21.7 **Governing Law.** THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE PROVINCE OF ONTARIO. IT WILL NOT BE GOVERNED BY THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS, THE APPLICATION OF WHICH IS EXPRESSLY EXCLUDED. The City and the Supplier agree to attorn to the jurisdiction of the courts of the Province of Ontario for the conduct of any legal proceedings under, or related to, this Agreement.
- 21.8 **Force Majeure.** Except as expressly provided otherwise in the Agreement, neither party will be liable for any failure or delay in its performance under the Agreement due to any cause beyond its reasonable control that could not have been avoided by the exercise of reasonable foresight provided that the party affected by such failure or delay gives the other party prompt written notice of the cause, and uses reasonable commercial efforts to correct such failure or delay within a reasonable period of time (not to exceed 60 consecutive days). Additionally, during the occurrence of such an event, the City may suspend the provision of Products upon written notice to the Supplier for a period not to exceed 60 days.
- 21.9 **Survival.** Those sections which by their nature should survive the termination or expiration of this Agreement will survive termination or expiration, including but not limited to sections 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 15, 16, 17, 18, 19, 20, 21 and 22 will remain in full force and effect following the expiration or termination of this Agreement.
- 21.10 **Local Boards and City Boards.** Subject to privity of contract, a Local Board or City Board as defined in Section 3(1) of the *City of Toronto Act, 2006*, S.O. or A&Cs (as defined below) may enter into an Adoption Agreement ("Adoption Agreement") with Supplier for the products and services similar to those being provided under this Agreement. Adoption Agreement means an arm's length

agreement separate from this Agreement that is between the Supplier and a Local Board or City Board that adopts the terms and conditions of this Agreement by reference and any amendments to those terms and conditions agreed to by the Supplier and Local Board or City Board. The City will not be responsible or liable to any party to the Adoption Agreement and no party to the Adoption Agreement will make any representation or covenant or enter into any agreement to the contrary. The City shall remain at arm's length and disclaims any express, inferred or implied joint, several or vicarious liability with respect to the parties entering into an Adoption Agreement.

“**Agencies and Corporations**” (“**A&Cs**”) means bodies and organizations that have a direct reporting or funding relationship with the City of Toronto or City Council. The list of current organization name and contact of agencies and corporations to be considered under this Agreement is available from the City's website at www.toronto.ca/abcc .

22. NOTICES

22.1 Any notice required or permitted to be given under this Agreement shall be delivered as follows:

If to the City:

CITY OF TORONTO

With a copy to:

[Insert name and title]

[Insert address]

Phone Number: [Insert number]

E-mail: [Insert email address]

Supplier:

[Insert name and title]

[Insert address]

Phone Number: [Insert number]

E-mail: [Insert email address]

IN WITNESS WHEREOF THE PARTIES hereto have executed this Agreement:

THE CITY OF TORONTO

☐ **[INSERT NAME]**

Signature:

Signature:

Name: [Insert Name]

Name: [Insert Name]

Title: [Insert Title]

Title: [Insert Title]

I have authority to bind the City.

I have authority to bind the Corporation.

Name:

Title:

Name:

Title:

[INSERT COUNCIL ITEM NO AND DATE]	Authorized pursuant to Policy FS-PMM-14	APPROVED AS TO FORM
[INSERT NAME] City Clerk	Sonia Brar Chief Technology Officer	<hr/> For Wendy Walberg City Solicitor

SCHEDULE A
STATEMENT OF WORK
[Please add description and operational details]

APPENDIX 1 TO SCHEDULE A
REQUEST FOR CHANGE FORM

Request for Change (RFC) Form		
Project Managers:	RFC #:	

Title:					
Submitted by:				Date:	
Priority:	High		Medium		Low

Area Affected

Description of Proposed Changed

Scope Project Requirement:	/		Schedule:		Resources:		Bug:		Issue #:	

Benefits/Reason for Change

--

Approvals for Investigation Disposition:

<input type="checkbox"/> Proceed	<input type="checkbox"/> Closed	<input type="checkbox"/> Deferred	<input type="checkbox"/> Rejected	<input type="checkbox"/> On Hold
----------------------------------	---------------------------------	-----------------------------------	-----------------------------------	----------------------------------

Project Managers:		Date:	
Comments:			
Business Representative		Date:	
Comments:			
Assigned to:		Date:	

Options reviewed

Work Required:
Financial Impact:

Other Impacts

Scope:
Schedule:

Resource:
Business Impact:

Recommendation:
Financial Impact:

Approval for RFC Disposition:

☐ Approved

☐ Closed

☐ Deferred

☐ Rejected

☐ On Hold

Comments:
Financial Impact:

Submitted By:	Date:
Project Manager:	Date: :
Signatures:	
Project Sponsor:	Date:
Signature:	
Program Manager:	Date:
Signature:	
Steering Committee:	Date:

SCHEDULE B
SUPPORT AND MAINTENANCE SERVICES

[Please add description and details]

APPENDIX 1 TO SCHEDULE B

SECURE REMOTE ACCESS USE AGREEMENT

SUPPLIER AND ITS REPRESENTATIVES AGREE TO READ THESE TERMS AND CONDITIONS OF USE CAREFULLY BEFORE USING THE CITY OF TORONTO REMOTE ACCESS SERVICE.

Use of the CITY OF TORONTO Secure Remote Access Service signifies your unconditional agreement to the terms and conditions of this Secure Remote Access Use Agreement.

If you do not agree to these terms and conditions of use, do not access or otherwise use the CITY OF TORONTO Secure Remote Access Service.

Purpose

The purpose of this Secure Remote Access Use Agreement is to prevent unauthorized connectivity to City of Toronto's infrastructure and to provide guidelines for Remote Access connection to City of Toronto network.

Scope

This Secure Remote Access Use Agreement applies to all City of Toronto employees, contractors and vendors connecting to City of Toronto network.

Agreement

Authorized users may utilize the benefits of Corporate Secure Remote Access Service, which is a "user managed" service. This means that the user is responsible for selecting an Internet Service Provider (ISP), coordinating installation, installing any required software, and paying associated fees. Additionally,

1. Granting of Secure Remote Access Service is for individual use only and not to be shared. It is the responsibility of users with remote access privileges to ensure that unauthorized users are not allowed access to City of Toronto internal networks;
2. Authorized users must ensure that up-to-date virus scanning software is operational on the technology resources used to remotely connect to the City network, regardless of whether the equipment is owned by the user or provided by the City.
3. By establishing remote connectivity to City of Toronto network, user must understand that the computer in use is a de facto extension of City of Toronto network. It is subject to the governance of the same existing policies, rules and regulations that apply when making network connectivity from within the City of Toronto perimeter.
4. Activities carried out using the Corporate Secure Remote Access Service are logged and subject to management review and audit by City of Toronto at its own discretion. The authorized user bears responsibility for consequence of misusing and conducting improper activities via the Secure Remote Access Service.
5. City's Remote Access Service must not be used as a gateway to any other non-City network. While a device is connecting to City's Remote Access Service, it must not be connecting to any other network at the same time, with the exception of the Internet Service Provider (ISP).
6. Under Microsoft's licensing requirements, City employee who remotely access Microsoft products (e.g. Office, Project, Access, etc.) on City's MetaFrame servers using an employee-owned computer must have his/her own license for that Microsoft product.

Enforcement

Failure to comply with this Secure Remote Access Use Agreement may result in disciplinary action up to and including dismissal.

SCHEDULE C

RFP

SCHEDULE D

PROPOSAL