

THIS SOFTWARE RESALE AGREEMENT effective this _____ day of _____, 202__ (the “Effective Date”).

(Ref: REQUEST FOR STANDING OFFERS Doc3340868953 - RSO - IBM Cognos Analytics Products and Related Services for the DEPARTMENT OF CYBER SECURITY AND DIGITAL SOLUTIONS

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF PROVINCE OF NOVA SCOTIA, as represented by the Minister of Cyber Security and Digital Solutions

(the “Province”)

OF THE FIRST PART

-and-

[Name of company, company particulars]

(the “Supplier”)

OF THE SECOND PART

WHEREAS the Province issued the above referenced Request for Standing Offers dated _____, 20__, (the “RFSO”), inviting submission of proposals to provide the Services, as hereinafter defined;

AND WHEREAS the Supplier submitted a proposal to the Province dated _____, 20__, (the “Proposal”) in response to the RSO;

AND WHEREAS the Supplier is an experienced provider of software resale services;

AND WHEREAS the Province has agreed to retain the Supplier to provide the Services, subject to the parties entering into an agreement with respect thereto;

THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements set out herein, the Supplier and the Province covenant and agree as follows:

1.0 SERVICES AND TERM

1.1 The Supplier shall, during the period commencing on the Effective Date, and expiring on _____, _____ (the “Term”), provide and deliver, in accordance with the terms and conditions of this Agreement, the products and services and perform the work (collectively the “Services”) as follows:

1.1.1 The sale or resale of software products licenses or subscriptions, as applicable, (the “Subscribed Programs”) and other service obligations described in the attached **Schedule “A”** and any Change Orders (as hereinafter defined) submitted by the Supplier and approved by the Province;

1.1.2 All services, functions, responsibilities, and tasks that are inherent, necessary, or usually

performed or provided as part of or incidental to the Services set forth in the attached Schedule "A", or that are required for the proper performance of such Services, as these Services may be supplemented, enhanced, modified, or replaced during the Term in accordance with the terms of this Agreement;

- 1.1.3 The provision of all hardware, appliances, equipment, software, systems, content, documentation, facilities, personnel and other resources that are inherent, necessary, or required to be used in order to provide such Services, whether or not such hardware, appliances, equipment, software, systems, content, documentation, facilities, personnel and other resources are expressly described in this Agreement; and
- 1.1.4 All warranties and rights of indemnity extended to the Supplier by any third-party developer, owner, licensor or manufacturer of all **Subscribed** Programs, equipment, hardware and materials delivered to the Province or installed in the course of the Supplier's performance of the Services hereunder for the entire term thereof, to the extent permissible by law, whether or not such warranties and rights of indemnity are expressly described in this Agreement.
- 1.2 The Supplier shall provide the Services and discharge its duties to the Province hereunder in a competent, professional and timely manner and shall assign only duly qualified, competent and skilled personnel to carry out its obligations to the Province under this Agreement.
- 1.3 The Services shall not be deemed to be completed to the satisfaction of the Province or accepted by the Province until all requirements have been met by the Supplier in accordance with the terms and conditions hereof.
- 1.4 If the Province, in its sole discretion, agrees to renew this Agreement, any such renewal shall be on such terms and conditions as the parties may agree, and any amendment to this Agreement reflecting such renewal shall be signed by the parties prior to the expiration of the Term. Nothing in this Section 1.4 shall constitute or be deemed to constitute any assurance or representation by the Province to the Supplier that this Agreement will be renewed.

2.0 PRICE AND PAYMENT

- 2.1 The Supplier shall not be entitled to receive payment for any Services it provides hereunder unless the Province has given prior written authorization to the Supplier to undertake the performance of Services.
- 2.2 The Province shall, subject to the terms and conditions of this Agreement, pay the Supplier for the Services in accordance with the attached **Schedule "B"**.
- 2.3 Each invoice submitted by the Supplier for payment shall contain a detailed description of the Services in respect of which it is being remitted and all such other information as specified by the Province for inclusion therein. Subject to verification by the Province, invoices will be paid thirty (30) days following receipt.
- 2.4 No payment by the Province to the Supplier hereunder shall be or construed to be an acceptance or approval by the Province of incomplete, defective or improper performance by the Supplier of any of its obligations under this Agreement, or operate to relieve the Supplier from the performance of any of its obligations hereunder that have not been performed in accordance with the requirements set out herein.
- 2.5 If the Supplier is not a resident of Canada, the Supplier acknowledges and agrees that the Province shall be authorized, if required by law, to withhold income tax from any amounts payable to the

Supplier hereunder and to remit that tax to the Receiver General for Canada on the Supplier's behalf.

3.0 CHANGE ORDERS

- 3.1 Each party may through the change order process (the "**Change Order Process**" to be mutually agreed to between the parties during the project's initiation) initiate changes to the Services, including, but not limited to, the scope of services, and any other matter that the parties may agree as properly being the subject of the Change Order Process. The Change Order Process may be initiated by one party submitting to the other party a written notice signed by the requesting party, which notice will include all relevant information reasonably required for the proper consideration of such change or for the commencement of the Change Order Process in respect thereof (each, a "**Change Request**").
- 3.2 If a Change Request has an impact on the fees that may result in either an increase or decrease to the fees, then the parties will determine any increase or decrease to be made to the fees as a result of such impact in a manner that is consistent with the determination of the amounts as set forth in Schedule "B". Change Orders that are approved by both parties are sufficient to demonstrate that changes to the Services have been authorized.

4.0 TERMINATION OF AGREEMENT

- 4.1 The Province shall be entitled to terminate this Agreement immediately for cause, upon the occurrence of any of the following events, each of which shall constitute an "**Event of Default**":
- (a) the Supplier breaches or fails to comply with any of the terms and conditions of this Agreement and such breach or failure is not remedied by the Supplier to the reasonable satisfaction of the Province within five (5) days after receipt of written notice from the Province to remedy the breach or failure;
 - (b) the Supplier becomes insolvent, commits an act of bankruptcy, makes an assignment for the benefit of creditors, or otherwise acknowledges its insolvency, or a receiver or receiver manager is appointed for any property of the Supplier;
 - (c) a change occurs with respect to the business or operations of the Supplier, which in the opinion of the Province, acting reasonably, after having met with and consulted senior officials of the Supplier, materially adversely affects the ability of the Supplier to fulfill its obligations under this Agreement;
 - (d) an order is made or a resolution is passed or a petition is filed for the liquidation or winding up of the Supplier; or
 - (e) any statement, representation or warranty made by the Supplier in its Proposal or in this Agreement is untrue or incorrect at the time it was made.
- 4.2 If this Agreement is terminated for cause pursuant to Section 4.1 as a result of an Event of Default, the Supplier shall be responsible for and shall reimburse the Province for all loss, costs and damages incurred by the Province by reason of the Event of Default.
- 4.3 The Province may, at its sole discretion, terminate this Agreement without cause at any time prior to the expiration of the Term, upon giving thirty (30) days' written notice to the Supplier. In such event, the Supplier shall be entitled to receive payment for the Services satisfactorily performed up to the date of termination. Such payment by the Province shall be in full and final satisfaction of the Province's obligations to the Supplier under this Agreement. The Supplier shall not be reimbursed

for any profits that may have been anticipated but not earned up to the termination date and shall not have a claim or entitlement to any additional compensation or damages as a result of the Province exercising its right to terminate this Agreement pursuant to this Section 4.3.

- 4.4 Completion by the Supplier of the Services, or termination by the Province of this Agreement, pursuant to Section 4.1 or 4.3, shall not relieve or be deemed to relieve the Supplier from any duties, obligations or liabilities hereunder that accrued prior to such expiration or termination, or which by their nature are intended to survive the expiration or earlier termination of this Agreement, including but not limited to all warranties given by the Supplier and/or its licensors in respect of the Services, and those duties and obligations of the Supplier set out in Article 5 (Confidentiality), Article 7 (Material Rights), Article 10 (Liability and Indemnity) and Article 17 (Accounts and Audit).

5.0 CONFIDENTIALITY

- 5.1 The Supplier acknowledges and confirms that all information provided to it by the Province hereunder or to which it has access as a result of providing the Services to the Province is confidential information ("**Confidential Information**"). Unless required by law or an order of a court of competent jurisdiction, such Confidential Information shall not, either during the Term or at any time thereafter, be disclosed by the Supplier, without the prior written consent of the Province, to any third party or to any employees of the Supplier, other than its employees who are directly involved in providing the Services.
- 5.2 The Supplier shall implement and maintain security standards and procedures for the safeguarding of the Province's Confidential Information to prevent unauthorized access thereto and to ensure compliance with applicable legislation. The Supplier agrees to notify the Province in writing promptly upon becoming aware of a breach of the Supplier's security standards and procedures or the Province's security policies, or any unauthorized disclosure of information that is required to be kept confidential under applicable law. The Supplier shall take immediate steps to mitigate any such breach.
- 5.3 The Supplier acknowledges and agrees that the Province may disclose this Agreement or portions thereof as may be required pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act* (Nova Scotia).
- 5.4 The Supplier acknowledges that the Province has entered into a service agreement with SAP Canada, and may enter into service agreements with other comparable service providers, for the provision of contract management software solutions and related services. The Supplier irrevocably agrees that, notwithstanding anything contained in this Agreement, the Province is authorized by the Supplier to disclose this Agreement or portions thereof to SAP Canada, or to any other comparable service provider, solely to enable SAP Canada or such other service provider to fulfill its obligations to the Province under its agreement with the Province, and for no other purpose whatsoever.
- 5.5 If the Supplier is a "service provider" as defined in the *Personal Information International Disclosure Act*, (Nova Scotia) ("**PIIDPA**") as a result of the type of Services that it is providing to the Province under this Agreement, the Supplier represents, warrants and undertakes to the Province that it shall comply with its obligations under PIIDPA and the terms and conditions contained in the PIIDPA Schedule, which is attached as **Schedule "C"** to this Agreement.
- 5.6 The Supplier will flow through the requirements of this Article 5 to any approved Subcontractors, and the obligations stipulated in this Article 5 shall to apply to all Subcontractors, *mutatis mutandis*.

6.0 SERVICE LEVELS

6.1 *Overview of Service Levels*

The Supplier will perform the Services at standards and levels of performance ("**Service Levels**") to be mutually agreed to between the parties during the project's initiation, consistent with the standards and levels of performance described in the Supplier's Proposal, and more specifically described in Schedule A.

6.2 *Service Level Failures*

A failure by the Supplier to meet a Service Level entitles the Province to rights and remedies of the Province in respect of defaults generally.

7.0 **OWNERSHIP, SUBSCRIPTION**

7.1 **Supplier's Ownership.** The Province agrees that, as between the Supplier and the Province, the Supplier (and/or its licensors), is and will remain the sole and exclusive owner of all right, title and interest in and to the Subscribed Programs and Subscribed Programs documentation, and to all intellectual property rights in the foregoing. The only rights the Province obtains in the Licensed/Subscribed Programs and Licensed/Subscribed Programs documentation are the right to access and use expressly granted to the Province in this Agreement.

7.2 **Province's Ownership.** The Supplier agrees that, as between the Supplier and the Province, the Province is and shall remain the sole and exclusive owner of all right, title and interest in and to Client Data and all deliverables that are developed specifically by or on behalf of the Province in connection with the Services.

7.3 **Access and Use the Subscribed Programs.** The Supplier grants to the Province a non-exclusive, non-transferable (except as expressly provided in this Agreement), right to use, execute, display and modify, without additional cost or charge, the Supplier Subscribed Programs and Subscribed Programs documentation, more specifically described in Schedule A for the Province's own internal use, and subject to the terms, conditions, provisions, limitations and restrictions contained in this Agreement.

7.4 **Restrictions on Licenses.** The Province may only exercise the license granted in Section 7.3 (Access and Use the Subscribed Programs) through its designated users. The Province may not rent, lease, sell, transfer (by sublicense, assignment or otherwise except as expressly provided by this Agreement), time share, modify, reproduce, copy, make derivative works from, distribute, publish, use to provide service bureau services, or publicly display the Subscribed Programs. The Province may only use the Subscribed Programs for its internal purposes. The Province may not reverse engineer, decompile or otherwise attempt to discover the source code for the Subscribed Programs. The Province may not permit any person or entity to breach the restrictions in this Section 7.4 (Restrictions on Licenses). The Province may not copy or re-create the Subscribed Programs or its objects without the Supplier's prior express written consent. Specific requirements applicable to the Province's subscription and the conditions for Province's designated users' access and use of the Subscribed Programs are set forth in Schedule A.

8.0 **INDEPENDENT CONTRACTOR**

8.1 This Agreement is a contract for the performance of the Services. The Supplier is engaged by the Province hereunder as an independent contractor and shall not at any time hold itself out as an employee, servant or agent of the Province. No partnership, joint venture, agency or other legal relationship is created or deemed to be created by this Agreement or any actions of the parties hereunder. The Supplier shall not have authority under this Agreement to bind the Province or to

commit or purport to commit the Province to the payment of money to any third party.

9.0 COMPLIANCE WITH LAWS

- 9.1 The Supplier shall comply with all applicable laws governing the conduct of its business and the provision of the Services to the Province. The Supplier agrees to maintain in good standing all licences, permits, registrations or authorizations it is required to obtain in order to lawfully provide the Services in the Province. Without limiting the foregoing, professional personnel performing any part of the Services on behalf of the Supplier shall be required to comply with all applicable professional registration or licensing requirements in effect in Nova Scotia at the time such Services are performed.
- 9.2 Neither the acceptance of the Supplier's Proposal nor the execution of this Agreement by the Province shall be or deemed to be approval by the Province to or for anything related to the business or operations of the Supplier or the provision of the Services that requires any approval, permit or licence pursuant to any contractual instrument or any federal, provincial or municipal legislation, regulations or bylaws.
- 9.3 The Supplier shall provide to the Province, upon request, copies of all permits, licences, authorizations and registrations that it is required to obtain in order to provide the Services and evidence of the Supplier's compliance with laws applicable to the performance of the Services, including without limitation, the *Workers' Compensation Act* (Nova Scotia) and the *Occupational Health and Safety Act* (Nova Scotia).

10.0 LIABILITY, INDEMNITY AND INSURANCE

Supplier Indemnity Obligations

- 10.1 The Supplier shall indemnify and save harmless the Province and its Ministers, officers, employees and agents from and against all losses, costs and expenses (including legal fees on a solicitor and client basis), claims, demands, damages, actions, or causes of action (each a "**Loss**"), that the Province, or any of the Province's Ministers, officers, employees or agents may sustain, incur, suffer or be put to at any time, either before or after the expiry or earlier termination of this Agreement, where any such Loss is based upon a claim by a third party of infringement of the third party's intellectual property rights, or is based upon or arises out of or occurs, directly or indirectly, by reason of any act or omission of the Supplier or any of the Supplier's agents, employees, officers, directors or subcontractors, or those for whom the Supplier is responsible in law.

Monetary Limitation to the Supplier's Indemnity Obligations

- 10.2 Except as otherwise provided in Sections 10.3(a) and 10.3(b), the indemnification obligations of the Supplier pursuant to Section 10.1 are limited to the aggregate of three (3) times the amount of Fees paid or payable in the previous twelve (12) months preceding the Claim (such amount hereinafter being referred to as the "Damages Cap").

Exceptions to Monetary Limitation

- 10.3 (a) The indemnity limitation set out in Section 10.2 shall not apply to a Loss resulting from any of the following:
- (i) death, bodily injury or damage to real property or tangible personal property;
 - (ii) fraud or fraudulent or negligent misrepresentation by the Supplier or by any of the Supplier's agents, employees, officers, directors or subcontractors; or
 - (iii) a claim of infringement of third-party intellectual property rights.

- (b) The indemnity limitation set out in Section 10.2 shall not apply to any Loss involving indirect, special or consequential damages resulting from the wilful misconduct or gross negligence of the Supplier or any of the Supplier's agents, employees, officers, directors, subcontractors or those for whom the Supplier is responsible in law.

Province to Notify Supplier of Loss

- 10.4 The Province shall notify the Supplier in writing of a Loss as soon as reasonably practicable after the Province becomes aware of the Loss, provided that a failure by the Province to provide such notification shall not invalidate the Province's right to be indemnified by the Supplier hereunder.

Third Party Intellectual Property Infringement Claims

- 10.5 If a Loss arises from a third-party claim alleging that:

- (a) the Services, the Supplier's intellectual property, the Supplier's or its licensors' **Subscribed Programs**, work product or deliverables, or the Supplier's equipment (the "**Covered Supplier Rights**") infringe upon any intellectual property of such third party, or
- (b) the Province's use (as permitted by this Agreement) of any of the Covered Supplier Rights infringes any intellectual property of such third party (in each case, an "**Infringement Claim**"),

then the Supplier shall be required to defend the Province against that Infringement Claim at the Supplier's sole cost and the Supplier shall pay all associated costs, damages and legal fees, (including legal fees on a solicitor client basis) that a court or tribunal finally awards or that are included in a settlement agreed to by the Supplier. The Province shall cooperate with the Supplier in the defence of an Infringement Claim at the Supplier's sole cost, and, where appropriate, the Province, in its discretion, will allow the Supplier to appoint and instruct counsel and otherwise control the defence and any related settlement negotiations.

Insurance

- 10.6 The Supplier shall at all times during the Term, secure and maintain insurance, in accordance with the terms and conditions set out in in the attached **Schedule "D"**.

11.0 RESOURCES

- 11.1 In the event that the Supplier requires access to equipment or office space of the Province in order to carry out any part of the Services, the Supplier shall comply with all applicable safety and security legislation and all policies and directives of the Province relating to any buildings, premises, equipment or software to which the Supplier is given access.
- 11.2 The Supplier shall assign a sufficient number of qualified, competent and skilled personnel to carry out its obligations hereunder. In the event that the Supplier included in its Proposal the names or titles of specific personnel to provide the Services, including any proposed subcontractor, the Supplier's personnel and any subcontractors so indicated in the Proposal shall be required to provide the Services and no substitutions shall be permitted without the prior written consent of the Province. If the Province, in its sole discretion, considers a proposed substitute to be acceptable, the Province may consent to the substitution, provided however that such consent may be subject to such terms and conditions as the Province may designate to the Supplier. Notwithstanding the foregoing, the Province shall have the right, in its sole discretion, to require that the Supplier replace, at no cost or expense to the Province, any Supplier personnel or subcontractor involved in providing the Services whom the Province determines to be unsuitable. In such event, the Supplier shall immediately appoint a duly qualified competent and skilled replacement to fill the position vacated, provided that the Province shall have the right to approve any replacement

personnel or subcontract proposed by the Supplier. If required in the RFSO, the Supplier will provide an account team experienced with the **Subscribed** Programs line and in the performance of the associated services, that will be able to provide the full range of services required for effective software subscription product acquisition, support, and administration.

- 11.3 In the event that the Supplier included in its Proposal the names or titles of specific third party distributors, resellers, or dealers to provide the Services, or to distribute the Supplier's or another manufacturer's products to the Province pursuant to the terms of this Agreement, the Supplier's third party distributors, resellers or dealers so indicated in the Proposal shall be required to provide the Services, or deliver the products, as the case may be, to the Province, and no substitutions shall be permitted without the prior written consent of the Province. If the Province, in its sole discretion, considers a proposed substitute to be acceptable, the Province may consent to the substitution, provided however that such consent may be subject to such terms and conditions as the Province may designate to the Supplier.

12.0 TITLE AND ACCEPTANCE

- 12.1 Unless otherwise expressly provided in this Agreement, title to all **Subscribed** Programs, equipment, hardware and deliverables hereunder, or any part thereof comprising the Services to be provided by the Supplier shall vest in the Province on delivery and acceptance by the Province. Upon any payment being made by the Province on account of materials, parts, work in progress, or finished work, title thereto shall vest in and remain with the Province, provided however that the risk of any loss or damage thereto shall remain with the Supplier until their acceptance by the Province. Vesting of title in the Province as a result of payments made to the Supplier shall not constitute acceptance by the Province of such materials, parts, work in progress or finished work and shall not relieve the Supplier of its obligations to perform the Services in accordance with the requirements of this Agreement.
- 12.2 The Supplier shall promptly pay for all labour, services, equipment, hardware and materials, as well as the **Software** Programs manufacturers or licensors' fees, that it requires to provide the Services. The Supplier agrees that it shall not do or permit anything to be done that would result in any liens, charges or encumbrances being placed on or attaching to any materials, equipment, hardware, parts, work in progress, finished work or deliverables comprising the Services to be provided to the Province hereunder.

13.0 SOFTWARE AND SERVICE WARRANTIES

- 13.1 The Supplier warrants to the Province, with the intention and knowledge that the Province is relying on each such representation and warranty in entering into this Agreement, that:
- (a) all **Subscribed** Programs and materials, or any part thereof, delivered to the Province or installed in the course of the Supplier's performance of the Services or otherwise comprising the Services to be provided by the Supplier shall be of merchantable quality;
 - (b) such **Subscribed** Programs and materials, or any part thereof, shall comply with all industry and manufacturers' standards applicable to such **Subscribed** Programs, equipment, hardware and materials;
 - (c) such **Subscribed** Programs and materials, or any part thereof, shall be fit for its intended purpose so that the Services meet the Province's stipulated service level expectations;

- (d) such **Subscribed** Programs and materials, or any part thereof, shall be delivered to the Province free and clear of all liens, encumbrances, and other defects of title; and
- (e) the Services which the Supplier is obligated to perform under this Agreement, including without limitation any maintenance, installation, support and warranty services, shall be performed in a good and professional manner and in accordance with all applicable laws and regulations and all generally accepted industry standards for the provision of similar services.

14.0 OTHER REPRESENTATIONS AND WARRANTIES OF SUPPLIER

14.1 The Supplier represents and warrants to the Province, with the intention and knowledge that the Province is relying on each such representation and warranty in entering into this Agreement, that:

- (a) the Supplier is authorized Subscribed Programs reseller in Canada;
- (b) all statements contained in the Supplier's Proposal, and any certificate or other document delivered to the Province under this Agreement or in connection with the Services to be provided hereunder are true and correct;
- (c) the Supplier has no knowledge of any fact that may materially adversely affect the Supplier's business or operations or its financial condition, or its ability to fulfill its obligations under this Agreement;
- (d) the Supplier has the personnel, experience, qualifications and other resources to provide the Services in accordance with the requirements of this Agreement;
- (e) the Supplier has the corporate power and legal capacity to enter into, fully perform, and meet all the obligations and liabilities relating to it as set out herein and has granted the person signing the Agreement on its behalf full power and authority to obligate the Supplier for all purposes of the Agreement;
- (f) the Supplier has duly executed and delivered this Agreement and it constitutes a legal, valid and binding obligation of the Supplier;
- (g) the Supplier has the full legal right, power and authority to sell, assign and transfer all products, equipment, hardware and materials, or any part thereof, delivered to the Province or installed in the course of the Supplier's performance of the Services, or otherwise comprising the Services, to the Province;
- (h) the Supplier shall maintain full legal right, power and authority to sell, assign and transfer all Subscribed Programs, products, equipment, hardware and materials, or any part thereof, delivered to the Province or installed in the course of the Supplier's performance of the Services, or otherwise comprising the Services, throughout the Term of this Agreement;
- (i) neither the entering into of this Agreement, nor the performance by the Supplier of any of its obligations hereunder, shall contravene or breach any organizational documents of the Supplier or any contract, agreement or instrument to which the Supplier is a party or pursuant to which the Supplier may be bound;
- (j) no consent or approval is required from any third party with respect to the entering into of this Agreement or the performance by the Supplier of any of its obligations

hereunder, except as specifically provided in this Agreement; and

- (k) the Supplier can perform the Services and the Province shall be entitled to utilize the Services and all associated products, equipment, hardware and materials, or any part thereof, in accordance with the requirements of this Agreement without infringing any trade secret, patent, copyright, industrial design or other intellectual property right enforceable in Canada. The Supplier has obtained and will maintain at its own expense, all requisite and appropriate authorizations and permissions, including those concerning any licenses, assignments, copyrights, patents and other intellectual property rights that are required by the Supplier in order to meet its obligations hereunder.

15.0 FORCE MAJEURE

- 15.1 The Supplier shall not be liable for a failure or delay in performing any of its obligations hereunder that is attributable solely to a cause beyond its reasonable control and that occurs without the fault or negligence of the Supplier ("**Force Majeure Event**"). For the purposes of this Agreement, the following shall be considered to be a Force Majeure Event: floods, fire, explosion, power failure, acts of God, war, civil commotion, the enactment of any law, order, regulation or bylaw, labour strikes, slowdowns, picketing and boycotts.
- 15.2 The Supplier shall be required to give immediate notice to the Province describing the Force Majeure Event, its cause and the probable duration of the delay resulting therefrom, and shall use commercially reasonable efforts to mitigate the impact of the Force Majeure Event on the performance of the Supplier's obligations hereunder.
- 15.3 Notwithstanding the foregoing provisions of this Section 13, if a delay or failure arising from a Force Majeure Event continues for ten (10) consecutive days at any time during the Term, the Province may, in its sole discretion, terminate this Agreement upon three (3) days written notice to the Supplier. In the case of termination by the Province pursuant to this Section 13.3, the Supplier shall be entitled to receive payment only for the Services provided prior to the termination date which have met the requirements of this Agreement, and such payment shall constitute full and final satisfaction of the Province's obligation to the Supplier hereunder.

16.0 CONFLICT OF INTEREST

- 16.1 The Supplier shall not permit an actual or potential conflict of interest to arise between its obligations to the Province under this Agreement and its obligations to any third party. The Supplier shall notify the Province immediately if any such perceived or actual conflict of interest arises.

17.0 ASSIGNMENT AND SUBCONTRACTING

- 17.1 The Supplier shall not assign this Agreement or any of its rights, duties, obligations or interests hereunder, or subcontract the performance of any of the Services without the prior written consent of the Province, which consent may be given or withheld in the sole and absolute discretion of the Province. Any attempt by the Supplier to so assign all or any part of this Agreement or any of the Supplier's rights, duties, obligations or interests under this Agreement, without the prior written consent of the Province, contrary to the provisions of this Section 17.1 shall be null and void and without effect, and such assignment shall give rise to the right of the Province to terminate this Agreement in accordance with Section 4 above.
- 17.2 The Province's consent to an assignment or subcontract under Section 17.1 shall not relieve the Supplier from any of its obligations under this Agreement and the Supplier shall, notwithstanding any such consent by the Province, remain responsible for the performance of the Services and all

other obligations of the Supplier set out herein.

18.0 MAINTENANCE OF RECORDS, ACCOUNTS AND AUDIT

- 18.1 The Supplier shall keep proper and accurate books and records, including all invoices, receipts and vouchers, relating to the Services and all expenditures and commitments made in connection therewith. The Supplier shall make such books and records available to the Province and its auditors and other authorized representatives (collectively, the “**Auditors**”) of the Province, for review or audit within ten (10) days following receipt of a request from the Province to do so. The Supplier agrees that it shall retain all such books and records and make them available for review or audit by the Province for a period of three (3) years after the date of final payment by the Province hereunder. The Supplier shall provide to the Province with access including, where applicable and practicable to do so, electronic access, to the extent necessary to enforce its rights under this Agreement to:
- (a) any Supplier’s system that contains the Province’s records related to the Services, wherever maintained; and
 - (b) any property or facility at which the Services are being performed, where any Province’s equipment, records or property are housed, or stored.
- 18.2 In the event of a breach or a perceived breach of this Agreement, the Province shall have the right, at any time and without prior notice to the Supplier, either directly or through its representatives, to inspect all or any matters in respect of the Services performed by or on behalf of the Supplier under this Agreement. The Province shall make reasonable efforts in exercising such right of inspection or investigation to not hinder or interfere with the performance of the Services by the Supplier under this Agreement. For greater clarification, the Province acknowledges that to the extent that any such exercise of the Province’s right of inspection or investigation directly hinders or interferes with the Supplier’s ability to deliver Services under this Agreement, then the Supplier shall not be responsible for any Service failure resulting therefrom. In the event the Supplier does not agree with the Province’s perception that there is a perceived breach of this Agreement the Supplier shall provide the Province with access and the parties shall escalate the issue through the Dispute Resolution process described in Section 23.
- 18.3 Upon termination of this Agreement, the Supplier shall deliver all the records that are the Province’s records, to the Province, or shall destroy such Province’s records in accordance with the written instructions from the Province.
- 18.4 Any access, inspection and investigation review or audit by the Province pursuant to this Section 18 shall be carried out by the Province at the Province’s expense.

19.0 NOTICES

- 19.1 Any notice to be given under this Agreement by the Province or the Supplier shall be in writing and delivered by hand, by facsimile transmission or by registered mail, to the other party at the address and to the attention of the contact individual indicated below:

To the Province :
IT Contract Management
6176 Young St., 2nd Floor
Halifax, NS
B3K 2A6

To the Supplier:
% Supplier Contact/Address/Fax

A notice shall be deemed to be duly given and received upon delivery, if delivered by hand; upon

receipt of the facsimile transmission, if the transmission is received by the intended recipient prior to the recipient's close of business (and otherwise on the next business day of the recipient); or three (3) business days after posting, if sent by registered mail with a return receipt. Either party may change its address or contact for receipt of notices, provided that such party gives notice thereof in accordance with this Section 19 and confirms the effective date of the change in such notice.

20.0 AGREEMENT AND AMENDMENTS

20.1 This Agreement constitutes the entire agreement and understanding between the Supplier and the Province with respect to the Services and supersedes all prior negotiations, communications and other agreements, whether written or oral, relating to the subject matter hereof. Any amendment or modification to this Agreement shall have no force or effect unless it is in writing and signed by duly authorized representatives of each of the Province and the Supplier.

20.2 The following documents form part of this Agreement:

- (a) these Articles of Agreement;
- (b) the Schedules to this Agreement;
- (c) the RFSO; and
- (d) the Proposal.

In the event of any conflict or inconsistency between or among any of the foregoing, the documents comprising this Agreement shall be given precedence in the following order:

- (a) these Articles of Agreement, and any amendments thereto;
- (b) Schedule "B";
- (c) Schedule "C" (if applicable and attached hereto);
- (d) Schedule "D" (if applicable and attached hereto);
- (e) the RFSO (Schedule "A" – A.1); and
- (f) the Proposal (Schedule "A" – A.2).

21.0 WAIVER

21.1 No term or provision of this Agreement and no breach of this Agreement by the Supplier shall be deemed to be waived or excused by the Province, unless such waiver is in writing and signed by the Province. The waiver by the Province of any breach of a term or provision of this Agreement shall not be deemed to be a waiver of any continuing or subsequent breach by the Supplier of the same or any other term of this Agreement.

22.0 REMEDIES CUMULATIVE

22.1 The rights and remedies of the Province set out in this Agreement are cumulative, and are in addition to and not in substitution for any other rights or remedies available to the Province at law or in equity.

23.0 DISPUTES

23.1 If a dispute arises between the Province and the Supplier arising out of or relating to this Agreement, or the subject matter hereof, the Province and the Supplier agree that they shall each make all reasonable efforts to resolve any such dispute on a timely basis through amicable negotiations. Disputes shall promptly be referred by each party to their respective representatives who have the authority to resolve and settle any such disputes on their behalf. In the event that such representatives cannot resolve the dispute within ten (10) days, or such longer period as they may both agree in writing, either party may elect, upon giving written notice to the other party, to resolve the matter by litigation. Notwithstanding the foregoing, nothing in this Section 23 shall prevent the Province from exercising its rights of termination set out in Section 4.1 or Section 18.3 hereof, in the circumstances described therein, or from exercising the rights or remedies available to the Province pursuant to Section 4 in the case of an Event of Default.

24.0 ENUREMENT

24.1 This Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and permitted assigns.

25.0 FUNDING

25.1 Notwithstanding anything else contained in this Agreement, in the event this Agreement extends into a Fiscal Year subsequent to its execution, continuation of this Agreement is conditional upon an appropriation of sufficient monies under the *Finance Act*, S.N.S. 2010, c. 2 to enable the responsible Minister of the Province to make the payments committed to the Supplier under this Agreement. In the event that sufficient monies are not available as a result of: (i) non-appropriation for the Fiscal Year in which payment becomes due; and (ii) the payment being neither charged nor chargeable to an appropriation for a previous Fiscal Year, the Province may terminate this Agreement, without any further liability, cost or penalty whatsoever, upon giving ten (10) days' notice to the Supplier. Termination shall become effective on the date of the beginning of the first Fiscal Year for which funds have not been appropriated. In this Agreement, "Fiscal Year" means the period running from April 1 in one calendar year to, and including, March 31 in the next calendar year.

26.0 GENERAL

26.1 *Province's Representative*

All references in this Agreement to the Province include any person duly authorized to act on behalf of the Province hereunder.

26.2 *Headings and Interpretation*

The division of this Agreement into Articles and the insertion of headings are for convenience of reference only and do not affect its interpretation. The words "herein", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular paragraph, or Article, unless there is something in the subject matter or context inconsistent therewith.

26.3 *Time of the Essence*

Time shall be of the essence of this Agreement.

26.4 *Currency*

All dollar amounts referred to in this Agreement are Canadian dollars, unless otherwise expressly stated.

26.5 *Offers of Employment*

Each of the parties agrees that it shall not, without the prior written consent of the other party, at any time prior to the expiration or earlier termination of this Agreement, and for a period of six (6) months thereafter, solicit personnel then in the employ of the other party who were directly involved in providing the Services or in administering this Agreement, as applicable, to terminate their employment with that party.

26.6 *Partial Invalidity*

If any term or provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, it shall be deemed to be severed from this Agreement and the remaining terms and conditions shall nevertheless remain in full force and effect.

26.7 *Counterparts*

This Agreement may be executed by the parties electronically and in separate counterparts and delivered by electronic transmission each of which when so executed and delivered shall be an original, but all such counterparts and electronic transmissions shall together constitute one and the same instrument. The parties agree that signatures transmitted and received via electronic transmission shall be treated for all purposes of this Agreement as original signatures and shall be deemed valid, binding and enforceable by and against each party. If available, each party agrees to deliver the originally signed Agreement upon request of the other party to this Agreement.

26.8 *Further Assurances*

The Supplier and the Province agree to execute and deliver all such further documents and instruments and do or cause to be done all such acts and things as either party may reasonably consider necessary to evidence the intent and meaning of this Agreement.

26.9 *RFP References*

All references in this Agreement to "RFP" mean and include any amendments that were made thereto by the Province.

26.10 *Words in the Singular*

Where the context so requires in this Agreement, words in the singular include the plural and vice versa.

27.0 GOVERNING LAW

27.1 This Agreement shall be governed by and interpreted in accordance with the laws of Nova Scotia and the laws of Canada applicable therein.

IN WITNESS WHEREOF the Province and the Supplier have caused this Agreement to be signed by their duly authorized representatives on the dates set forth below.

WITNESSED BY:

DATED AT Halifax, Nova Scotia,
this day of , 2026.
NAME OF COMPANY

Witness

for the Supplier

DATED AT Halifax, Nova Scotia,
this day of , 2026.
HIS MAJESTY THE KING in right of the
Province of Nova Scotia as represented by
the Minister of Cyber Security and Digital Solutions

Witness

for the Minister

SCHEDULE "A"

This schedule of the Agreement describes the services to be carried out and products to be delivered by the Supplier, and supplementary conditions relating thereto.

This schedule incorporates the following:

A.1 Request for Proposals

Request for Standing Offer **Doc2182278502** issued by the Minister in **xxxx, 20xx** is incorporated herein by reference and describes the services to be performed and products to be delivered.

A.2 Supplier's Proposal

The Proposal submitted by the Supplier dated and submitted as bid on tender closing date **xxxx xx 20xx**, is incorporated herein by reference.

A.3 [NTD: if applicable, a list or description of Licensed/Subscribed Programs and other services will be provided in a separate document (ie. SOW or Service Description) if the Proposal cannot be fully used for some reason (ie. not all the services, Service Levels, etc. were fully described in the Proposal).

Supplier Initial: _____

Dept Initial: _____

SCHEDULE “B”

This schedule to the Agreement describes the payment terms for each phase of the project and planned delivery dates.

B.1 Contract Amount

Subject to Section 2.1 of this Agreement, the contract amount shall be in accordance with that described in the Supplier's Proposal, unless otherwise authorized by the Province in writing.

B.2 Payment Schedule

The schedule for payments owed by the Province to the Supplier for performance of the Services shall be in accordance with that described in the Supplier's Proposal, unless otherwise authorized by the Province in writing.

(NTD: Insert proponent's pricing if applicable)

Supplier Initial: _____

Dept Initial: _____

SCHEDULE "C"

PERSONAL INFORMATION INTERNATIONAL DISCLOSURE PROTECTION ACT

The Supplier acknowledges and confirms that it is a "service provider" as defined in the *Personal Information International Disclosure Protection Act*, S.N.S. 2006 c. 3 ("**PIIDPA**"), that it has read and understands its obligations as a service provider thereunder and that as a service provider it is legally bound by the obligations imposed on it by PIIDPA. It is a condition precedent to the Province entering into the Agreement with the Supplier that the Supplier irrevocably undertakes, covenants and agrees to be bound by and comply with the obligations imposed on it as a service provider under PIIDPA.

The Supplier further covenants, warrants and represents to the Province that it shall not at any time provide or allow the release of personal information to which it has access in its capacity as a service provider to the Province in response to any "foreign demand for disclosure" or permit or allow the "unauthorized disclosure of personal information" as each of those terms are defined in PIIDPA.

The Supplier shall implement and strictly enforce security arrangements that will ensure that all personal information that it collects or uses on behalf of the Province is protected at all times from unauthorized access or disclosure and shall confirm in writing to the Province, upon request, the details of such security arrangements. The Supplier also agrees to implement and enforce any additional security procedures as may be required by the Province from time to time to protect the personal information that the Supplier collects or uses on behalf of the Province. The Province shall be authorized, upon giving prior written notice to the Supplier, to enter the premises of the Supplier during normal business hours for the purpose of conducting an audit of the security arrangements referenced herein.

All personal information that the Supplier obtains or becomes aware of while providing services to the Province is not and shall not be or be deemed to be the property of the Supplier. The Supplier acknowledges and agrees that it shall not, either directly or indirectly, acquire any rights to use or own any such personal information other than the right to use it for the sole purpose of fulfilling its obligations to the Province under the Agreement.

The Supplier expressly confirms that the laws of the Province of Nova Scotia shall apply to its obligations as a service provider to the Province, notwithstanding the laws or the order of any court outside Canada.

Supplier Initial: _____

Dept Initial: _____

SCHEDULE "D"
General Insurance Requirements

The Supplier shall, without limiting their obligation or liabilities and at the Supplier's own expense, provide, maintain, and pay for, any and all insurance, in amounts and types as further set out in this section, or which it is required by law to carry, or which the Supplier considers necessary to cover risks not otherwise covered by insurance specified in this Article in its sole discretion. The Province shall in no way warrant that the minimum limits listed below are sufficient to protect the Supplier from liabilities that could arise out of the performance of the agreement by the Supplier, its agents, representatives, employees or subcontractors. The Supplier is required to ensure the following:

- (a) All insurance must be primary and not require the sharing of any loss including deductibles, by the Province or any insurer of the Province;
- (b) All policies shall be issued by financially sound insurers licensed to carry on business in Canada in forms and amounts acceptable to the Province;
- (d) If any insurance is written on a claims-made basis it must include the option to purchase an extended reporting period of twenty-four (24) months beyond the date of cancellation or expiry of this agreement;
- (e) The Supplier must cause all subcontractors performing this work to provide to the Supplier a certificate of insurance confirming the required coverage, or upon request by the Province, provide a certified copy of the required insurance policy.
- (f) The Supplier must provide the Province with evidence of all required insurance in the form of a completed certificate of insurance:
 - (i.) which is to be submitted to the Province for review and acceptance within thirty (30) days of the date of this approval and prior to commencing any work
 - (ii.) if the insurance expires before the end of the term of this agreement, within ten (10) working days of expiration; and
 - (iii.) notwithstanding (i.) or (ii.) above, if requested by the Province at any time, the Supplier must provide to the Province certified copies of the required insurance policies within five (5) days.
- (g) Policies may be structured as primary plus supplementary layers or primary plus umbrella and/or excess.
- (h) The Province of Nova Scotia may purchase insurances to protect itself from the exposures arising from the lapsing or cancellation of the Supplier's insurances, and submit costs associated with said insurances back to the Supplier.

Coverage Requirements

Commercial General Liability

Commercial General Liability in an amount not less than \$5,000,000 inclusive per occurrence against bodily injury, personal injury and property damage and including liability assumed under this agreement and this insurance must include:

- (a) "His Majesty the King in Right of the Province of Nova Scotia" as an additional insured
- (b) an endorsement to provide the Province with 30 days advance written notice of cancellation;
- (c) a cross liability and separation of interest clause with respect to each insured.
- (d) any negligence by an insured or any other person will not invalidate the insurance with respect to the Province.

- (e) Non-owned Automobile Liability in an amount not less than \$5,000,000 per occurrence.

Automobile Liability (if applicable)

Automobile Liability on all vehicles owned, operated, leased, or licensed by the Supplier in an amount not less than \$2,000,000 per occurrence.

Cyber Liability (Data Breach)

This insurance is required for liabilities arising out of damage resulting from any data breach connected with the existence, design, management or implementation of products or services produced by the Supplier or during the Province's use of such products or services. This insurance policy will include:

- (a) policy limit of liability of \$5,000,000 per claim.

Cyber Extortion Insurance

This insurance is required for liabilities arising out of damage resulting from any responses to a cyber extortion incident or any activity connected with ransomware as a type of malicious software which encrypts data or locks access to Province's critical applications, products or services that are provided by the Supplier or other type of denial-of-service attacks that disrupt networks or threats to disclose Information assets held by Supplier unless a specific demand is met. This insurance policy will include:

- (a) policy limit of liability of \$5,000,000 per claim.

Technology Errors and Omissions

This policy must provide coverage for financial loss arising out of an error, omission, or negligent act in the rendering of services and shall provide, inter alia, coverage for damages and defence costs. The Parties shall maintain the insurance for a period of not less than three (3) years after the termination of this contract, by way of annual policy renewal or purchase of extended reporting period coverage. This insurance policy will include:

- (a) policy limit of liability of \$5,000,000 per claim.

All Risks Property Insurance

This insurance shall include flood and earthquake insurance and shall provide coverage for all risks of loss of or damage to the Supplier's Service Locations, including coverage for the costs of demolition, debris removal, contamination, valuable records, expediting and extra expense and the increase cost of repair or replace resulting from the application of by-laws or ordinances. Coverage must be at replacement cost value. It is acknowledged and agreed that Supplier may meet all or part of this property insurance requirement through self insurance.

Directors & Officers Liability Insurance

This policy must provide coverage for the directors and officers of the corporation (if applicable). This insurance will include the following provisions:

- (a) policy limit of liability of \$2,000,000 per claim.

Supplier Initial: _____

Dept Initial: _____