
Invitation to Quote

ISSUE DATE: March 4, 2024

CLOSING DATE: March 18, 2024

CLIENT NAME: Resort Municipality of Whistler

FROM: Michelle Blattner, Resort Municipality of Whistler

RE: WWTP - Supply and Delivery of 60% Acetic Acid

The Resort Municipality of Whistler (RMOW) Wastewater Treatment Plant is requesting a quote for the supply and delivery of the following chemicals:

- 60% Acetic Acid

Quotation Documents and Technical Enquiries

For enquiries, please contact:

Michelle Blattner
Project Manager, RMOW
mblattner@whistler.ca

Quotation Submission

Quotations shall be received at the email to the below address.

Resort Municipality of Whistler
Email: engineerbids@whistler.ca

Bidder Qualifications

Bidder Minimum Qualifications:

1. The bidder, bidder's principal, or bidder's staff shall have been regularly engaged in the business of providing water treatment chemicals for at least five (5) years.
2. The bidder shall be a certified and/or authorized manufacturer, dealer, or provider.
3. The bidder shall possess all permits, licenses, and professional credentials necessary to supply the product and perform services as specified under this RFQ.

Scope of Services

The scope of work shall include the following:

1. The supply of acetic acid in 1060 kg totes. Acetic Acid deliveries will be required from May through September. The daily average dosing during that period is estimated to be 600 litres/day, with a maximum of 1000 litres/day.
2. The price for the chemicals shall include all transportation and freight costs to the point of delivery. Deliveries can be made seven days a week from 7:15 am – 4:00 pm.
3. The price shall include all related and incidental costs associated with the acetic acid, including costs related to the pickup, return, cleaning, and/or proper disposal of chemical containers.

4. The RMOW will enter into a one-year contract with the supplier.
5. The chemical usage quantities provided in the RFQ are estimated. The quantities may go up or down depending on how the treatment plant process is working.

Work Safe BC Regulations

The Contractor shall have a safety program acceptable to the Workers' Compensation Board and shall ensure that all Workers' Compensation Board safety rules and regulations are observed during the performance of this contract, not only by the Contractor but by all subcontractors, workers, material personnel and others engaged in the performance of this contract. The Contractor shall indemnify the Resort Municipality of Whistler and hold harmless the Resort Municipality of Whistler from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid Workers' Compensation Board assessments owing from any person or corporation engaged in the performance of this contract, or arising out of or in any way related to the failure to observe safety rules, regulations and practices of the Workers' Compensation Board, including penalties levied by the Workers' Compensation Board.

Contractors are reminded that this Contract requires compliance with WorkSafe BC.

Additional Information

The following additional information and/or attachments are part of this RFQ and should be considered as such in submitting a Quote:

- Attachment A – Pricing Form
- Attachment B – Technical Data for Chemicals
- Attachment C – Sample RMOW Service Agreement

Request for Quotation

This RFQ is simply an invitation to provide quotations (including prices and terms). It is not a tender, and no obligation of any kind will arise from the issuance of this RFQ or the submission of a Quote.

The Owner (RMOW) retains the right to accept a quote other than the lowest price received or reject all received quotes. The Owner reserves the right to add additional scope items to the project, via negotiation with the selected bidder, during the construction phase of the project.

If an award results out of this RFQ, the RMOW and the Contractor will enter into a written Contract for the Works (see the attached MSA). Work shall not proceed prior to a contract being signed.

Verification and/or documentation and supporting details will be required to be provided to RMOW upon request and may be necessary in advance of a Construction Contract being issued:

1. A clearance letter indicating that the Bidder is in WorkSafe BC compliance,
2. A copy of the insurance policies as specified. Commercial General Liability – 2 million per occurrence,
3. A copy of the Notice of Project as submitted to WorkSafe BC,
4. Business License

ATTACHMENT A

Quote Form

Schedule of Quantities and Prices

ITEM	DESCRIPTION	UNIT	UNIT PRICE
1	Supply and Delivery of 60% Acetic Acid in 1060 kg totes	KG	

Product data

Acetic Acid, Glacial

Product Code ACET60**

Physical & Chemical Data:

Chemical Name	Acetic Acid
CAS Number	64-19-7
Description / Form	Clear liquid
Molecular Formula	CH ₃ COOH
Molecular Weight	60.052 g/mol
Freezing Point	< -10 °C

Product Specification

Acetic Acid (CH ₃ COOH)	59.0-61.0%
Acetaldehyde (CH ₃ CHO)	≤0.03%
Iron (Fe)	<0.0001%
Colour	≤10

Safety Note:

Read the Safety Data Sheet (SDS) for special handling information

CONTRACT FOR CONSULTING SERVICES

MASTER SERVICES AGREEMENT –

THIS AGREEMENT is effective as of the XXth day of XXXXXXXX, 20XX.

BETWEEN:

The Resort Municipality of Whistler, having an address at
4325 Blackcomb Way,
Whistler, B.C.
V8E 0X5

(the “RMOW”)

AND:

[Consultant Firm Name] having an address at [Consultant’s full address]
(the “Consultant”)

WHEREAS:

The RMOW commenced a procurement process for the purposes of soliciting responses from suitably qualified consultants to provide “**Services**” outlined in Schedule A as per each individual project agreement and/or accepted individual proposal (“namely the **Project**”) and the Consultant submitted a response thereto (the “**Submission**”) which was accepted by RMOW;

The Consultant is in the business of providing the services contemplated by this Contract;

RMOW wishes to engage the Consultant to provide the Services on the terms and conditions herein set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. INTERPRETATION

1.1. Definitions

In this Contract unless something in the subject matter or context is inconsistent therewith, the capitalized terms herein will have the meanings set out below:

- (a) “**Business Day**” has the meaning given in Section 16.1 of this Contract;
- (b) “**Change Order**” means a change within the general scope of Services which may alter the Services, Contract Price or Contract Time.
- (c) “**Confidential Information**” means:
 - (i) any information, in whatever form (including written, oral or stored in any computer or other electronic, magnetic or optical storage system), which is non-public, confidential or proprietary in nature, whether marked as such or not, obtained directly or indirectly from RMOW and whether obtained by the Consultant before or after the

date of this Contract, including without limitation, corporate records and employee records;

- (ii) any information, in whatever form, designated by the RMOW in writing as confidential or proprietary or marked with words of like import when provided to the Consultant or any other Person;
- (iii) information orally conveyed to any director, officer, employee or other representative of the Consultant, if RMOW states at the time of the oral conveyance or promptly thereafter that such information is confidential, and provides specific written confirmation thereof to the Consultant within ten (10) days of the oral conveyance; and
- (iv) all Work Product as defined in this Contract, except as may be agreed in writing by the parties as falling outside the definition of Confidential Information;

(d) "Confidential Information" does not mean:

- (i) which was in the possession of the Consultant prior to disclosure by the RMOW;
- (ii) which is already in the public domain or which subsequently becomes part of the public domain other than through disclosure by the Consultant;
- (iii) which is independently developed or learned by the Consultant without use of
- (iv) any Confidential Information; and
- (v) which the Consultant receives from a third Person who was free to make such disclosure without breach of any legal obligation,
- (vi) provided that the Consultant can demonstrate to the satisfaction of RMOW that such information falls within the scope of the exclusions set forth above.

(e) "**Consultant's Representative**" has the meaning given in Section 18.1 of this Contract;

(f) "**Contract**" means this agreement including the Schedules to this agreement as amended from time to time with the written approval of the parties;

(g) "**Contract Price**" has the meaning given in Schedule B of this Contract;

(h) "**Dispute**" means any difference between the RMOW and the Consultant, of any claim, or any dispute, relating to or arising out of the Services or the interpretation of the Contract, or any failure by the RMOW and the Consultant to agree where the Contract call for agreement;

(i) "**Person**" means any individual, corporation, limited-liability company, partnership, firm, joint venture, association, trust, or other entity or organization, including a government or an agency or instrumentality thereof;

(j) "**Procurement Documents**" means the procurement documents attached hereto as Schedule F (if any);

(k) "**Records**" has the meaning set out in Section 5.1 of this Contract;

(l) "**RMOW Representative**" has the meaning given in Section 18.1 of this Contract;

(m) "**Services**" has the meaning given in Schedule A to this Contract;

(n) "**Work Product**" means all that which is prepared, produced or developed by the Consultant as a result of this Contract, whether in written or electronic form and all copies of same. Work Product includes but is not limited to reports, data (including recorded "personal information")

about an identifiable individual), information, calculations, logs, working papers or finished copy documents or information of any kind prepared or acquired by the Consultant in connection with this Contract.

(o) “**Term**” has the meaning given in Section 2.1 of this Contract

1.2. Headings

The division of this Contract into articles and sections and the insertion of the recitals and headings are for convenience of reference only and shall not affect the construction or interpretation of the Contract.

1.3. Use of the Word “Including”

The word “including” when following any general term or statement will not be construed as limiting the general term or statement to the specific matter immediately following the word “including” or to similar matters, and the general term or statement will be construed as referring to all matters that reasonably could fall within the broadest possible scope of the general term or statement.

1.4. Currency

All transactions referred to in this Contract will be made in lawful currency of Canada.

1.5. Singular, Plural, Gender and Person

Wherever in this Contract the context so requires the singular number shall include the plural number and vice versa and any gender used shall be deemed to include the feminine, masculine or neuter gender.

1.6. Statutes

Each reference to a statute is deemed to be reference to that statute and to the regulations made under that statute as amended or re-enacted from time to time.

1.7. Schedules

The following attached schedules (the “Schedules”) are incorporated in this Contract and are deemed to be part of this Contract:

Schedule A	-	Services to be Provided
Schedule B	-	Payment and Fees Schedule
Schedule C	-	Insurance
Schedule D	-	Approved Subcontractors
Schedule E	-	Consultant’s Submission
Schedule F	-	RMOW Procurement Documents
Schedule G	-	Privacy Protection Schedule

1.8. Order of Priority

If there is a conflict between a provision in a Schedule to this Contract and any other provision of this Contract, the other provision of this Contract will prevail unless the provision in a Schedule expressly states that it will prevail over a conflicting provision of the Contract. If this Contract is a result of a competitive procurement process, the order of priority of documents from highest to lowest will be:

- (a) this Contract;
- (b) Schedules A, B, C, D, E, F and G;
- (c) the RMOW’s purchase order for the Services (if any);
- (d) extracts from the Consultant’s Submission respecting the Services, that are attached as a Schedule (if any); and
- (e) extracts from RMOW’s Procurement Documents respecting the Services, that are attached as a Schedule (if any).

2. TERM OF CONTRACT

2.1. Term

The term of this Contract (the “**Term**”) will commence on Month... Day 20XX (year) and continue until December 31, 20XX (year), subject to the following:

- a. earlier termination in accordance with the terms of this Contract; and
- b. renewal or extension of the Term on such terms as the parties agree to in writing. If the parties agree to an extension of the Term, then the following will apply:
 - (i) the parties will mutually agree on a new Schedule B – Payment and Fees Schedule;
 - (ii) all other terms and conditions of this Contract not mutually amended will remain the same; and
 - (iii) the Term will be extended for the period(s) agreed to by the parties.

3. SERVICES PROVIDED

3.1. Services

The Consultant shall provide the Services described in Schedule A in accordance with this Contract.

3.2. Approvals

The Consultant shall procure and pay for all approvals necessary or advisable to perform its obligations under this Contract.

3.3. Service Standards

The Consultant will at all times during the Term of this Contract perform the Services using standards, practices, methods and procedures to a good commercial standard, in accordance with and conforming to all applicable law and exercising that degree of care, skill and diligence which would reasonably and ordinarily be expected from a qualified, skilled and experienced person in British Columbia providing Services similar in scope, nature and complexity to the Services.

3.4. Supervision

The Consultant shall ensure all persons employed or retained by the Consultant to provide the Services are competent to perform them, meet all professional qualifications, and are properly trained, instructed and supervised.

3.5. RMOW Instructions

RMOW may from time to time give the Consultant reasonable instructions (in writing or otherwise) as to the Services required to be provided. The Consultant shall comply with those instructions; however, the Consultant shall determine the manner in which the instructions are carried out.

3.6. RMOW Facilities

The RMOW may, but is not required, to provide any facilities (including but not limited to work space, office equipment, computer equipment, telephone or other communication devices, or secretarial support) or other technical, accounting, transportation or other support services to the Consultant. Any instruments or tools necessary to provide the Services are the responsibility of the Consultant and are provided at the sole risk and expense of the Consultant. For certainty, the RMOW's provision of any facilities shall be for the convenience of the parties only and shall not create or be deemed to create an employment, partnership, joint venture or agency relationship between the parties.

3.7. Security Requirements

Only the employees of the Consultant specifically assigned to provide the Services and will be allowed on site at any of RMOW's facilities. The Consultant will inform RMOW in advance of the names of the employees that will attend RMOW's facilities in order to provide the Services. RMOW will inform the Consultant of all applicable procedures related to security. The Consultant will comply with all applicable RMOW procedures relating to security that the Consultant has been thereby informed of.

3.8. RMOW Procedures and Policies

The Consultant and any of its employees providing the Services will comply with all RMOW policies or procedures, including with regard to security, fire and safety, conflict of interest, standards of business conduct, human rights, harassment, workplace conduct and other policies or procedures of a like nature, that it has been provided copies of or otherwise been made reasonably aware of.

3.9. Representations and Warranties

The Consultant covenants, represents and warrants to the RMOW that:

- (a) the Consultant is legally entitled to carry on its business in British Columbia and is in good standing with respect to filings of annual reports according to the records of the Registrar of Companies of British Columbia;
- (b) the Consultant has the power and capacity to enter into this Contract and to comply with every term and condition of this Contract;
- (c) all necessary proceedings have been taken to authorize the Consultant to enter into this Contract and to execute and deliver this Contract;
- (d) this Contract has been properly executed by the Consultant and is enforceable against the Consultant in accordance with its terms;
- (e) any statement, representation or information, whether oral or written, made, furnished or given by the Consultant, its principals, partners, directors, officers or anyone acting on behalf of the Consultant, to the RMOW in connection with this Contract is materially correct and accurate;
- (f) the Consultant has no knowledge of any fact that materially adversely affects or, so far as can be foreseen, might materially adversely affect either its financial condition or its ability to fulfill its obligations under this Contract;
- (g) the Consultant has no knowledge of any claims against it that in either case would materially adversely affect either its financial condition or its ability to fulfill its obligations under this Contract;
- (h) the Consultant is in compliance with all tax, Workers' Compensation and other legislation, regulations and laws to which it is subject, and holds all permits, licences, consents and authorities required by law to conduct its business;
- (i) the Consultant's employees specifically assigned to provide the Services are suitably qualified to enable full and proper provision of the Services and ;
- (j) the Consultant accepts all risks within this Contract identified as being borne by the Consultant;
- (k) the Consultant will comply with all the requirements of this Contract and will perform all its obligations hereunder;
- (l) no partnership, joint venture or agency involving the RMOW is created by this Contract; and
- (m) all personnel hired, retained or engaged by the Consultant to provide the Services and are not the employees of the RMOW. The Consultant is solely responsible for arranging all matters arising out of the relationship of employer and employee between the Consultant and its employees specifically assigned to provide the Services and .

4. TERMS OF PAYMENT

4.1. Payment

RMOW will pay the Consultant, in full payment and reimbursement for providing the Services, the Contract Price and expenses set out in Schedule B and the Consultant hereby accepts the same as payment in full for all Services provided by the Consultant, including all profit and all costs of supervisions, labour, overhead, financing incurred in providing the Services. The Consultant will be responsible for determining whether the Services provided are subject to any applicable taxes.

4.2. Invoices

Payments will be made on receipt of the Consultant's monthly itemized account or for such other periods as may be mutually agreed subject to verification by the RMOW that the Services have been satisfactorily performed. The Consultant's itemized account shall show the period the billing pertains to, specific time worked in the billing period, and work completed, and shall itemize all taxes as separate line items. Where required by the RMOW, the Consultant will deliver to the RMOW a written statement of any goods and services taxation and or business identification numbers in addition to any other billing information reasonably required by the RMOW.

4.3. Disbursements

RMOW is not obliged to pay the Consultant any monies other than the Contract Price described in Schedule B. The Consultant is not entitled to reimbursement for any other expenses or disbursements of any kind except those that are necessarily and reasonably incurred due to a change in scope and have been approved in advance in writing by the RMOW or such other expenses or disbursements that have been approved in advance by the RMOW. Reimbursement is subject to submission of evidence of actual expenditures satisfactory to the RMOW and to applicable expenditure policies and procedures.

4.4. Non Resident of Canada

If the Consultant is not a resident of Canada, RMOW may be required by law to withhold income tax from the fees described in Schedule B and then to remit that tax to the Receiver General of Canada on the Consultant's behalf.

4.5. Services Provided after Expiry of the Term

No payment will be made for Services provided after the Term of this Contract unless the Term has been renewed or extended in accordance with this Contract.

4.6. Withholding of Payments

In the event that the Consultant fails to perform its obligations pursuant to the Contract on a timely basis the RMOW may at its discretion withhold any payments otherwise owed to the Consultant, pending performance of such obligations. No interest will be paid to the Consultant as a result of any such withholding. Any withholding of payments are in addition to and will not prejudice RMOW's other rights and remedies under this Contract.

4.7. Payment Due Date and Method of Payment

Payment by the RMOW shall be net thirty (30) days from the receipt of invoices provided by the Consultant in accordance with the terms of the Contract. Payment by the RMOW will be made by direct deposit, Consultant to fill out and submit RMOW Direct Deposit Form.

5. RECORDS

5.1. Records

The Consultant will keep complete books and records (the “**Records**”) relating to the provision of the Services including all performance and other reports, time records and books of account, invoices, receipts, vouchers of all expenses incurred in the form and content satisfactory to the RMOW acting reasonably and shall retain all such Records for two years following termination of the Contract, or for any longer period required by law.

5.2. Inform RMOW

Upon the RMOW’s request, the Consultant shall fully inform the RMOW of all work done by the Consultant or an approved subcontractor in connection with providing the Services under this Contract.

5.3. Inspection

The Consultant shall permit the RMOW at all reasonable times during the Term of this Agreement and, as applicable, for a period of two (2) years thereafter (the “**Access Period**”), to inspect, review and copy all Work Product and other material that has been produced or received by the Consultant and any approved subcontractor as a result of this Agreement including without limitation accounting records, findings, software, data, specifications, drawings, reports and documents whether complete or not.

5.4. Audit

The RMOW shall have the right to audit the work performed by the Consultant during the Term of this Contract and for two (2) years following expiry of the Term or any extension thereof.

6. INDEPENDENT CONSULTANT

6.1. Independent Consultant

The Consultant is at all times an independent Consultant with control over the manner and means of the Consultant’s performance. The Consultant is not an employee, servant or agent of RMOW and nothing herein shall create or be deemed to create a partnership, joint venture or agency relationship between the parties. The Consultant is primarily responsible for provision of the Services and may not delegate or assign any services or work to any other person without the prior written consent of RMOW. The Consultant will be solely liable for the wages, fringe benefits, work schedules and work conditions of any directors, officers, servants, agents and employees.

6.2. No Entitlement to Benefits

As an independent Consultant, the Consultant is not entitled to any benefits or payments whatsoever over and above those specifically provided for in this Contract. Specifically the Consultant will not be entitled to any rights or privileges as are available from time to time to employees of RMOW including without limitation insurance benefits, health benefits, holidays and paid vacation.

6.3. Control and Direction of Employees

The Consultant acknowledges that the Consultant is responsible for the control and direction of the Services and the control and direction of the Consultant’s employees.

6.4. Statutory and Other Payments

The Consultant shall be liable and responsible for payment to the proper authorities of all income tax payments, employment insurance premiums, Canada Pension Plan contributions and assessments, and all other employment expenses, statutory or otherwise in relation to the Services provided under this Contract.

6.5. Workers Compensation

- (a) The Consultant will, at its own expense, procure and carry full Workers' Compensation Board coverage for the Consultant and employees of the Consultant engaged in the Services;
- (b) The Consultant shall comply with and ensure that any Subcontractors comply with and conform to all health and safety laws, by-laws or regulations of the Province of British Columbia, including without limitation the *Workers' Compensation Act* and Regulations pursuant thereto. The Consultant agrees that it is the "Prime Contractor" for the Services and pursuant to Section 118 of the *Workers' Compensation Act*.
- (c) The RMOW may, on twenty-four (24) hours written notice to the Consultant, but without notice in the event of an emergency, install devices or rectify any conditions creating an immediate hazard existing that would be likely to result in injury to any person. However, in no case will the RMOW be responsible for ascertaining or discovering, through inspections or review of the operations of the Consultant or otherwise, any deficiency or immediate hazard.

6.6. Termination

If at any time Canada Revenue Agency or any other competent authority determines that the Consultant is an employee of RMOW then this Contract shall automatically terminate as of the date of such determination.

6.7. Consultant's Costs of Tax Compliance

It is clearly understood and agreed that the costs to the Consultant in complying with the preceding provisions are not subject to additional reimbursement over and above the amount provided for under the terms of this Contract.

6.8. Risk of Liability

The Consultant assumes all risk and liability for personal injury or damage to personal property caused by the Consultant's mishap, negligence or willful misconduct in carrying out the terms of this Contract and for which adequate levels of insurance coverage shall be obtained by the Consultant.

6.9. No Agency

The Consultant will not commit or purport to commit the RMOW to pay any money unless specifically authorized by this Contract.

7. BUSINESS PREMISES/LICENCE

7.1. Place of business

Unless the RMOW will be providing facilities under Section 3.6 of this Contract, the Consultant, at its own expense, will establish and maintain during the Term, a proper place of business at a lawful place that allows for reasonable commute or accessibility to the Project site from which the business and supervision of this Contract will be carried out.

7.2. Business Licence

If the Consultant maintains a place of business within the municipal boundaries of the RMOW, or generates revenue from business activity within the municipal boundaries of the RMOW, the Consultant will at all times during the Term be in possession of a valid and subsisting business licence issued to it by the RMOW and authorizing it to carry out and perform the Services required to be performed under this Contract.

8. OWNERSHIP

8.1. Work Product

The Work Product, any Confidential RMOW Information and any property provided by the RMOW to the Consultant is RMOW's exclusive property. The copyright in the Work Product belongs exclusively to the RMOW and the Consultant hereby waives any moral rights in such Work Product and confirms the vesting of copyright in such Work Product in RMOW.

8.2. Assignment of Rights in Work Product

The Consultant hereby irrevocably assigns to the RMOW all right, title and interest worldwide in and to all Work Product. In the event the Consultant has any rights in the Work Product which cannot be assigned, the Consultant agrees to waive enforcement worldwide of such rights against RMOW and, at the request of RMOW, to grant RMOW an exclusive perpetual, fully paid up license without royalty in and to such Work Product worldwide with the right to sublicense. The Consultant shall take all actions and execute all documents as may be requested by the RMOW from time to time to fully vest in RMOW all right, title and interest worldwide in and to such Work Product. RMOW agrees, to the fullest extent permitted by law, to indemnify and hold the Consultant harmless from any claim, liability or cost directly attributable to the negligent misuse or incorrect use of the Work Product by the RMOW.

8.3. Copyright Infringement

The Consultant agrees that it will not infringe any third party's intellectual property rights in creating Work Product pursuant to this Contract. The Consultant agrees to indemnify RMOW from and against any loss, damage or liability for the infringement of any patent, trade mark, trade secret or copyright by RMOW arising from or in connection with RMOW's usage of the Work Product. The Consultant agrees it shall defend, settle or compromise at its own expense any action for patent, trade mark, trade secret or copyright infringement brought against RMOW or the Consultant. The Consultant warrants and represents that all Work Product provided to RMOW pursuant to this Contract do not infringe any existing patent, trade mark, trade secret or copyright registered or recognized in Canada or elsewhere.

8.4. Surrender of Documents and Materials

The Consultant shall not at any time or in any manner unless otherwise agreed to in writing by the RMOW, make or cause to be made copies, pictures, duplicates, facsimiles or other reproductions or recordings of any type, or any abstracts or summaries of any Work Product, reports, studies, memoranda, correspondence, manuals, records, plans or other written, printed or otherwise recorded documents, papers or materials of RMOW, or which relate in any manner to the present or prospective operations of RMOW, except as may be necessary in the provision of the Services under this Contract. The Consultant shall have no interest in any of these materials and agrees, subject to its professional obligations, to surrender any of these materials which may be in the Consultant's possession to the RMOW immediately upon termination of this Contract at the request of RMOW or at any time prior to termination at the request of RMOW.

9. CONFIDENTIALITY

9.1. Confidentiality

The Consultant will at all times during the Term and thereafter treat as confidential all Confidential Information and other reports, studies, memoranda, correspondence, manuals, records, plans or other written, printed or otherwise recorded documents, papers, materials and documents supplied to or obtained by the Consultant as a result of this Contract. The Consultant shall not at any time during the Term or thereafter permit the publication, release or disclosure of the same without the prior written consent of RMOW except as required by applicable law.

The RMOW will at times during the Term and thereafter treat as confidential and maintain the confidentiality on all information, reports, studies, memoranda, correspondence, manuals, records, plans or other written,

printed or otherwise recorded documents, papers, materials and documents provided by the Consultant, orally or in writing as confidential in nature. Except as required by law, including under the *Freedom of Information and Protection of Privacy Act*, as amended, or unless the Consultant provides its written consent, the RMOW shall not at any time during the Term or thereafter permit the publication, release or disclosure of such confidential information to any third parties.

9.2. Non-Disclosure

The Consultant will not, at any time either during the Term or thereafter, disclose to or discuss with anyone other than an authorized RMOW employee or representative, any Confidential Information of RMOW or its elected officials, officers or employees. The Consultant will use such Confidential Information and knowledge only for RMOW purposes unless the Consultant has obtained RMOW's prior express written authorization to do otherwise.

9.3. No Use of Information

The Consultant shall not use Confidential Information or any other information relating to the affairs of RMOW for the Consultant's own benefit or purposes or for the benefit or purpose of any other Person whether before or during the Term or after the expiry of the Term.

9.4. Survival

The provisions of this confidentiality clause shall survive termination of the Contract.

10. CONFLICT OF INTEREST

10.1. No Conflict of Interest

The Consultant represents and warrants to the RMOW that the Consultant does not have an interest, directly or indirectly either individually or in conjunction with another entity in any firm, association, syndicate, company, corporation or other business enterprise which could benefit or otherwise be affected by any decision likely to be made by the RMOW in reliance on or as a result of the Services provided by the Consultant under this Contract. RMOW shall provide to the Consultant its conflict of interest and standards of business conduct procedures. The Consultant shall comply with RMOW's conflict of interest and standards of business conduct procedures as provided notwithstanding the Consultant is an independent Consultant and not an employee of RMOW.

10.2. No Conflict with Other Relationships

The Consultant will not, during the Term, perform a service for or provide advice to any person, firm or corporation if in the reasonable opinion of RMOW, such performance will give rise to a conflict of interest between the Consultant and RMOW, and the Consultant shall take all steps to ensure the avoidance of all direct or indirect conflicts of interest (either actual or potential) between the interests of the Consultant and its directors, officers, servants, agents and employees, and those of RMOW.

10.3. Disclosure of Conflict of Interest

The Consultant will immediately disclose all conflicts of interest and potential conflicts of interest to the RMOW as soon as any real or perceived conflict of interest arises.

10.4. Good Faith

The Consultant will discharge the Consultant's obligations to the RMOW in all dealings and transactions relating to the Services in the utmost good faith.

11. INDEMNIFICATION

11.1. General Indemnity

The Consultant shall indemnify and save harmless the RMOW, its elected officials, officers, employees, servants and agents from and against any and all losses, claims, demands, damages, actions, causes of action, fines, penalties, liens, costs and expenses the RMOW may sustain or incur at any time, either before or after the expiration or termination of this Contract, arising directly or indirectly by reason of negligent acts, errors, or omissions or wilful misconduct of the Consultant or any agent, employee, director or officer of the Consultant in connection with this Contract including any injury to or death of any person or any damage to any and all persons or property, whether deliberate, accidental or through negligence except to the extent that any such claim arises solely from the negligence of RMOW, its other Contractor(s), assigns(s) or authorized representatives.

RMOW shall indemnify and save harmless the Consultant, its elected officials, officers, employees, servants and agents from and against any and all losses, claims, demands, damages, actions, causes of action, fines, penalties, liens, costs and expenses the Consultant may sustain or incur at any time, either before or after the expiration or termination of this Contract, arising directly or indirectly by reason of the negligent acts or omissions or wilful misconduct of the RMOW or any agent, employee, director or officer of the RMOW in connection with this Contract including any injury to or death of any person or any damage to any and all persons or property, except to the extent that any such claim arises solely from the negligence of the Consultant, its sub-Contractor(s), assign(s) or authorized representatives.

Neither party shall be liable to the other in connection with any claim for any special, incidental, indirect or consequential loss or damages excepting always that this indemnity does not apply to the extent, if any, to which the claims are caused by errors, omissions or the negligent acts of the party seeking indemnification, its other contractors(s), assign(s) and authorized representatives.

The maximum aggregate liability of the Consultant for any loss or damage sustained by the RMOW in connection with this Contract (whether as a result of negligence or otherwise) shall not exceed \$2,000,000.00.

11.2. Survival

The provisions of this indemnity clause will survive termination of the Contract.

12. TERMINATION

12.1. Default of Consultant

Notwithstanding any other provision of this Contract, if the Consultant is not performing the Services to the satisfaction of the RMOW or fails to perform the Services as and when reasonably requested by RMOW, or is in breach of any provision of this Contract, the RMOW may, at its option, either:

- (a) Issue written notice to the Consultant requiring that such default be corrected. If within 5 Business Days after receipt of such notice such default shall not have been corrected or reasonable steps taken to correct such default, then at the sole discretion of the RMOW, the RMOW may give a further written notice to the Consultant immediately terminating this Contract, or:
- (b) Terminate this Contract giving 5 Business Days' notice of termination to the Consultant.

In the event the RMOW exercises its option to terminate, the RMOW may withhold payment of any amount owing to the Consultant under this Contract for the provision of the Services, set-off any damages suffered by the RMOW against any amounts owing to the Consultant under this Contract for provision of the Services and pursue other remedies to recover damages from the Consultant for any losses caused to the RMOW as a result of the Consultant's performance under this Contract.

A material breach of the privacy obligations of this Contract would be grounds to terminate the contract.

12.2. Termination Without Cause

Notwithstanding any other provision of this Contract, the RMOW or the Consultant may terminate this Contract for any reason upon giving not less than ten (10) days written notice of termination to the other party. The Contract may also be terminated in a shorter period of time as may be mutually agreed upon in writing by the parties. In the event that notice of termination is given pursuant to this section, the RMOW will pay the Consultant that portion of the fees and expenses described in this Contract which equals the portion of the Service that was completed to the RMOW's satisfaction before termination. Such payment will discharge the RMOW from all further liability under this Contract. Concurrently with termination by the RMOW pursuant to this Section, all obligations of the Consultant to perform the Services will terminate, excepting those performance obligations set out at Section 12.5 herein.

12.3. Default of RMOW

If the RMOW fails to make payment to the Consultant in accordance with this Contract, then the Consultant may, by written notice to the RMOW, require that such default be corrected. If within 5 Business Days after receipt of such notice such default shall not have been corrected, or reasonable steps taken to correct such default, the Consultant may, without limiting any other right or remedy it may have, give a further written notice to the RMOW to immediately terminate this Contract. In such event, in addition to any other rights or remedies the Consultant may have, the Consultant shall be paid by the RMOW for all Services performed pursuant to this Contract and remaining unpaid as of the effective date of such termination.

12.4. Limitation of Liability

The Consultant agrees that notwithstanding anything herein or any duty, principle, term or rule of law to the contrary, whether express or implied, RMOW shall not be liable to the Consultant for any loss or damage of any nature whatsoever flowing from early termination of this Contract, including without limitation any special, incidental, direct, indirect or consequential damages arising out of such early termination nor shall RMOW be under any obligation to the Consultant save and except for the payment for such Services as may have been performed in accordance with the terms of this Contract up to the date of termination.

12.5. Warranties to continue

If for any reason the whole or any part of this Contract is terminated, the Consultant's obligations in this Contract as to quality, correction and warranty will continue in force after such termination with respect to the Services performed by the Consultant up to the time of termination.

13. CHANGES

13.1. Right to Make Changes

The RMOW reserves the right to request changes at any time as a result of requirements, site conditions, emergencies, government regulations or any other reasonable cause and:

- (a) The RMOW will notify the Consultant in writing as soon as reasonably possible when a change in the Services is proposed or required.
- (b) Where a proposed change in Services requires an adjustment to the Contract Price and or Contract Time, agreement to the adjustment between both parties must be recorded in a Change Order.
- (c) The RMOW shall make payment of a Change Order within 30 days of execution of the Change Order by the RMOW and completion of the change in services.
- (d) The Consultant shall not perform any changes without written authorization from the RMOW.

- (e) The RMOW will not make any payment for changes not agreed to in an executed Change Order.

14. INSURANCE

14.1. Maintain Insurance

The Consultant agrees that they shall maintain and pay for insurance on the terms, including coverage, amounts and deductibles outlined in Schedule C.

The Consultant acknowledges that any requirements of the RMOW as to the amount of coverage under any policy of insurance will not constitute a representation by the RMOW that the amount required is adequate and the Consultant acknowledges and agrees that the Consultant is solely responsible for obtaining and maintaining policies of insurance in adequate amounts. The insurance policy coverage limits will not be construed as relieving the Consultant from responsibility for any amounts for which the Consultant may be legally liable which may exceed these limits.

14.2. Evidence of Insurance

Upon the request of RMOW, the Consultant shall provide the RMOW with evidence of insurance in a form satisfactory to the RMOW.

14.3. Waiver of subrogation

The Consultant hereby waives all rights of recourse against the RMOW for loss or damage to the Consultant's property.

14.4. Notice of Claims

If at any time during the provision of the Services or the Consultant becomes aware of a claim or potential claim against any insurance policy that the Consultant has, pursuant to this Contract, indicated to the RMOW may apply to the Services then the Consultant will immediately advise the RMOW in writing of such claim, including particulars.

15. ASSIGNMENT AND SUBCONTRACTING

15.1. Consent Required

The Consultant will not assign this Contract or any part thereof without the prior written consent of the RMOW. The Consultant will not subcontract any of the Consultant's obligations under this Contract to any Person other than the Persons listed in Schedule D (if any) without the prior written consent of the RMOW. No assignment or subcontract, whether approved or not, shall relieve the Consultant of its obligations under this Contract except to the extent those obligations are in fact properly performed. In the event the RMOW approves a subcontractor, the Consultant shall secure compliance and enforce at its own expense for the benefit of the RMOW, each of the Consultant's contracts with subcontractors. Nothing contained in this Contract shall create any contractual relationship between the subcontractor and the RMOW. The Consultant agrees to bind every subcontractor to the terms and conditions of this Contract which are appropriate and applicable to the services to be provided by the subcontractor and the Consultant shall be fully responsible to the RMOW for the acts and omissions and errors of all subcontractors and of persons directly employed or contracted by them.

16. NOTICES

16.1. Notices

All notices, requests, demands and other communications required or permitted to be given under this Contract shall be in writing and delivered by hand, facsimile transmission, e-mail or prepaid registered mail (return receipt requested) to the party to which it is to be given as follows:

If to the RMOW:

Name of RMOW Representative
4325 Blackcomb Way, Whistler. BC, V8E0X5
XXXXXXXX@whistler.ca

If to the Consultant:

Consultant Primary Contact/Delegate
Consultant Address
Consultant Email.com

or at such other address as the party to whom the notice is sent may specify by notice given in accordance with the provisions of this section. Any such notice, request, demand or other communication given as aforesaid will be deemed to have been given, in the case of delivery by hand, when delivered, in the case of facsimile transmission or e-mail, when a legible facsimile or e-mail is received by the recipient if received before 5:00 p.m. on a day other than a Saturday, Sunday or statutory holiday in the Province of British Columbia or Canada (a “**Business Day**”), or on the next Business Day if such facsimile or e-mail is received on a day which is not a Business Day or after 5:00 p.m. on a Business Day, and in the case of delivery by prepaid registered mail, as aforesaid, on the date received. In the event of discontinuance of postal service due to strike, lockout, labour disturbance or otherwise, notice, demands, requests and other communications shall be delivered by hand or facsimile transmission or e-mail.

17. DISPUTE RESOLUTION

17.1. Order of proceedings

If there is any Dispute regarding the interpretation, performance or an alleged breach of this Contract, either party may give written notice of Dispute to the other party and the Consultant and the RMOW will meet within three (3) Business Days after the notice of Dispute is given and will attempt in good faith, and using reasonable efforts, to resolve the matter equitably to the satisfaction of both parties. If the parties cannot resolve the Dispute within ten (10) Business Days after they first meet, or if the parties fail to meet within 10 (ten) Business Days of the first request for a meeting, then with the consent of both parties the matter shall be submitted to mediation. Both parties agree not to make a request for arbitration or to commence litigation without first seeking agreement through the mediation process. The mediator shall be appointed by agreement of the parties. If the parties cannot resolve the dispute within 30 calendar Days following the mediation, then with the consent of both parties, the Dispute may be referred for determination through arbitration under the Arbitration Act (British Columbia), and in the event that both parties do not so consent then either party may commence litigation to have the Dispute settled. If a Dispute is submitted for arbitration, the arbitration will be governed by the British Columbia International Commercial Arbitration Centre in accordance with its Domestic Commercial Arbitrations Rules of Procedure (“BCIAC Rules”). The arbitration shall be conducted by a single arbitrator appointed in accordance with BCIAC Rules in Vancouver, British Columbia and the award of the arbitrator including any award as to costs will be final and binding on the parties. The reference to arbitration will not preclude a party from applying to a British Columbia court of competent jurisdiction for interlocutory or interim relief.

17.2. Performance to continue during dispute

The Consultant will continue performance of this Contract during all Disputes with the RMOW, and notwithstanding any dispute the Consultant will comply with all written directions from the RMOW Representative relating to the provisions of the Services without prejudice to the Consultant’s right. The timely provision of the Services may not be delayed or postponed pending resolution of any Dispute.

18. COMMUNICATION

18.1. Representatives

Each party will maintain communication with the other party in accordance with their respective obligations under this Contract. In particular:

- (a) the Consultant will appoint a representative (the “**Consultant’s Representative**”) who will have the duty of instituting and maintaining communication with the RMOW as to the requirements of this Contract, plus an alternative representative to so act in the absence or inability to act of the Consultant’s Representative; and
- (b) the RMOW will appoint a representative (the “**RMOW Representative**”) who will have the duty of instituting and maintaining communication with the Consultant as to the requirements of this Contract, plus an alternative representative to so act in the absence or inability to act of the RMOW Representative.

18.2. Representative's Authority

Each party's representative will have the full power and authority to act on behalf of and to bind such party in all administrative issues and to carry out such party's obligations hereunder and each party's representative may be relied upon by the other party as the official representative of such party. Meetings between the Consultant’s Representative and the RMOW Representative may be held by telephone with the consent of all parties participating in such meetings.

18.3. Change of Representation

The Consultant shall obtain written approval from the RMOW prior to changing a representative(s) or any team members by submitting a written request with resumes of each newly requested individual. The RMOW is required to approve any costs for any such un-approved Consultants or sub-contractors or other representatives. The RMOW may change its representative or alternative representative by written notice to the Consultant at any time it deems necessary.

19. DELAYS IN PERFORMANCE

19.1. Force Majeure

A party is excused from performing its obligations under this Contract if, to the extent that, and for so long as:

- (a) such party’s performance is prevented or delayed by an act or event (other than economic hardship, changes in market conditions, insufficiency of funds, or unavailability of equipment and supplies) that is beyond its reasonable control and could not have been prevented or avoided by its exercise of due diligence; and
- (b) such party gives written notice to the other party, as soon as practicable under the circumstances, of the act or event that so prevents such Party from performing its obligations.

By way of illustration, and not by limitation, acts or events that may prevent or delay performance (as contemplated by this Section) include: acts of God or the public enemy, acts of civil or military authority, acts of terrorism, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods and abnormal weather conditions where the Services are being provided (as determined by comparison to the ten (10) year average conditions indicated by Environment Canada for the area in which the Services are being provided).

20. GENERAL

20.1. Right of Set Off

In addition to any other set-off provisions in this Contract, RMOW shall be entitled to set off against a reasonable amount due or owing to the Consultant by the RMOW and for which RMOW is liable by virtue of the Consultant's failure to comply with any statutory or regulatory requirement, duty or obligation arising out of the Services under this Contract, an amount sufficient to satisfy any indemnity obligations of the Consultant in relation to such obligation as set out herein. RMOW shall also have the right to withhold any payment which relates to that portion of the Services which have not been provided by the Consultant in accordance with the terms of the Contract. When RMOW is satisfied that the Services has been performed in accordance with the terms and conditions of this Contract, RMOW will cause to be paid to the Consultant, any amount held back by the RMOW.

20.2. Successors and Assigns

This Contract ensures to the benefit of and binds the parties and their respective successors and permitted assigns.

20.3. Written Waivers

No indulgence or forbearance by either party shall be deemed to constitute a waiver of its rights to insist on performance in full and in a timely manner of all covenants of the other party; and any such waiver must be in writing and signed by the waiving party and then such waiver shall only be effective in a specific instance and for the specific purpose for which it is given.

20.4. Further Assurances

Each party will execute and deliver promptly all further documents and take all further action reasonably necessary or appropriate to give effect to the provisions of this Contract.

20.5. Remedies Cumulative

The rights and remedies under the Contract are cumulative and are not in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

20.6. Amendment

This Contract may not be amended except by a written instrument signed by the RMOW and the Consultant.

20.7. Entire Contract

This Contract and all documents contemplated by or delivered under or in connection with this Contract constitute the entire agreement between the parties and supersede all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings whether written or oral, express or implied, or otherwise.

20.8. Governing Law

This Contract and any dispute arising out of or in connection with this Contract shall be governed exclusively by and shall be enforced, construed and interpreted exclusively in accordance with the laws of British Columbia and the laws of Canada applicable in British Columbia which will be deemed to be the proper law of this Contract.

20.9. Attornment

The parties agree to submit to and hereby attorn to the exclusive jurisdiction of the courts of the Province of British Columbia for any action arising out of or in connection with this Contract.

20.10. Independent Legal Advice

The Consultant confirms it has had an opportunity to obtain independent legal advice in entering into this Contract.

20.11. Severability

Each provision of this Contract is intended to be severable and if any provision is determined by a court of competent jurisdiction to be illegal or invalid or unenforceable for any reason whatsoever such provision shall be severed from this Contract and will not affect the legality, validity or enforceability of the remainder of or any other provision of this Contract.

20.12. Time of Essence

Time shall be of the essence of this Contract.

20.13. No derogation.

The parties acknowledge and agree that nothing contained or implied in this Contract will be construed as limiting or prejudicing the rights and powers of RMOW in the exercise of its functions pursuant to the *Local Government Act* and the *Community Charter*, or any other right or power under any public or private statutes, bylaws, orders or regulations, all of which may be fully exercised as if this Contract had not been entered into.

20.14. Counterparts

This Contract may be executed by the parties in counterparts and may be executed and delivered by e-mail or fax and all such counterparts and e-mails and faxes together constitute one and the same agreement.

20.15. Survival

All obligations of each of the parties which expressly or by their nature survive termination or expiration of this Contract, will continue in full force and effect subsequent to and notwithstanding such termination or expiration or assignment and until they are satisfied or by their nature expire.

IN WITNESS WHEREOF this Contract has been executed and delivered by the parties as of the day and year first above written.

RESORT MUNICIPALITY OF WHISTLER

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

NAME OF CONSULTANT

Per: _____
Authorized

Signatory

SCHEDULE "A"

SERVICES TO BE PROVIDED

1. **"Services"** means all civil, mechanical, electrical, and other engineering related tasks requested of Contractor name and sub-consultants by the RMOW, including construction administration, design, procurement and assistance with contractor administration, and any other work including all tasks, labour, materials, responsibilities, functions, duties and obligations of the Consultant to be supplied or performed as set forth in this Contract and "Schedule "E" Consultant Submissions", including those matters described in this Schedule A, including all and excluding only those items which are expressly identified as Services or tasks to be performed by or obligations owed by the RMOW.
2. See Schedules F: EXTRACTS OF RMOW PROCUREMENT DOCUMENTS, and SCHEDULE E: EXTRACTS OF CONSULTANT'S SUBMISSION.
3. The RMOW shall provide the Consultant with unrestricted access to all locations the Consultant requires for the provision of the Services.
4. RMOW acknowledges and agrees that certain parts of the Services cannot be performed in poor weather conditions and the Consultant shall be temporarily excused from the provision of the Services during such conditions. Consultant shall notify RMOW in such an event and the schedule of completion shall be adjusted as necessary to account for any such weather-related.

SCHEDULE "B"

PAYMENT AND FEES FOR SERVICES

Contract Price

1. In consideration of the Consultant satisfactorily performing the Services , the RMOW will pay the Consultant the following sums plus goods and services tax (the "**Contract Price**"):

Canadian funds as stated in each individual proposal with rates as per the accepted Schedule of Fees shown below. Exclusive of GST.

The Consultant may invoice periodically for completed portions of the Services in accordance with in the invoicing procedures set out in the Contract.

2. The RMOW will reimburse the Consultant for expenses that are necessarily and reasonably incurred due to a change in scope and have been approved in advance by the RMOW. Reimbursement is subject to the submission of evidence of actual expenditures satisfactory to the RMOW and in accordance with applicable expenditure policies and procedures.
3. The pricing set out in this Schedule is inclusive of:
 - (a) All Living-Out-Allowances
 - (b) All travel charges and mileage
 - (c) All Equipment charges
 - (d) All document materials
4. Coordinates and site elevation shall be provided by RMOW at no cost to the Consultant.
5. Consultant to fill out and submit RMOW Direct Deposit Form.
6. Contractor Name Schedule of Fees below for YEAR as per below table. Escalation rates for future years will be % per year.

SCHEDULE "C"

INSURANCE

The Consultant shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurances:

Type of Insurance	Consultant
<i>Commercial General Liability (CGL)</i>	\$2 million per occurrence
<i>Automobile Liability</i>	\$2 million per occurrence
<i>Umbrella or Excess Liability</i>	To bring CGL or auto liability to \$2 million
<i>Professional Liability</i>	\$1 million per occurrence

General

- 1 The foregoing insurance shall be primary and not require the sharing of any loss by any coverage provider and/or insurer of RMOW.
- 2 The CGL insurance policy must be extended to cover the Consultant's Blanket Contractual liability and contain a cross liability naming the RMOW and its officials, officers, employees, servants and agents as "Additional Insured."
- 3 All required insurance shall provide RMOW with 30 days advance written notice of cancellation on a best efforts basis.
- 4 The Consultant hereby waives all rights of recourse against RMOW with regard to damage to the Consultant's property.
- 5 Maintenance of such insurance shall not relieve the Consultant of liability under the indemnity provisions set forth in this Contract.
- 6 Any deductible amounts in the foregoing insurance which are payable by the policyholder shall be in an amount acceptable to the RMOW.

SCHEDULE "D"

APPROVED SUBCONTRACTORS

(as per each individual approved proposal)

SCHEDULE "E"

CONSULTANT'S SUBMISSION

(Individual proposals will be submitted by Contractor for each project)

SCHEDULE "F"

RMOW PROCUREMENT DOCUMENTS

(Relevant procurement documents or email correspondence accepting proposals)

SCHEDULE "G"

PRIVACY PROTECTION SCHEDULE

Definitions

1. In this Schedule,
 - (a) "**Act**" means the *Freedom of Information and Protection of Privacy Act* including any regulation made under it;
 - (b) "**contact information**" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
 - (c) "**personal information**" means recorded information about an identifiable individual, other than contact information, collected or created by the Consultant as a result of the Contract or any previous Contract between the RMOW and the Consultant dealing with the same subject matter as the Contract;
 - (d) "**privacy course**" means the RMOW's online privacy and information sharing training course or another course approved by the RMOW; and
 - (e) "**public body**" means "public body" as defined in the Act;
 - (f) "**third party request for disclosure**" means a subpoena, warrant, order, demand or request from an authority inside or outside of Canada for the unauthorized disclosure of personal information to which the Act applies;
 - (g) "**service provider**" means a person retained under a contract to perform services for a public body; and
 - (h) "**unauthorized disclosure of personal information**" means disclosure of, production of or the provision of access to personal information to which the Act applies, if that disclosure, production or access is not authorized by the Act.

Purpose

2. The purpose of this Schedule is to:
 - (a) enable the RMOW to comply with the RMOW's statutory obligations under the Act with respect to personal information; and
 - (b) ensure that, as a service provider, the Consultant is aware of and complies with the Consultant's statutory obligations under the Act with respect to personal information.

Acknowledgements

3. The Consultant acknowledges and agrees that
 - (a) it is a service provider and, as such, the requirements and restrictions established by Part 3 of the Act apply to the Consultant in respect of personal information;

- (b) unless the Contract otherwise specifies, all personal information in the custody of the Consultant is and remains under the control of the RMOW; and
- (c) unless the Contract otherwise specifies or the RMOW otherwise directs in writing, the Consultant may only collect, use, disclose or store personal information that relates directly to and is necessary for the performance of the Consultant's obligations, or the exercise of the Consultant's rights, under the Contract.

Collection of Personal Information

- 4. Unless the Contract otherwise specifies or the RMOW otherwise directs in writing, the Consultant may only collect or create personal information that relates directly to and is necessary for the performance of the Consultant's obligations, or the exercise of the Consultant's rights, under the Contract.
- 5. The Consultant must collect personal information directly from the individual the information is about unless:
 - (a) the RMOW provides personal information to the Consultant;
 - (b) the Contract otherwise specifies; or
 - (c) the RMOW otherwise directs in writing.
- 6. Where the Consultant collects personal information directly from the individual the information is about, the Consultant must tell that individual:
 - (a) the purpose for collecting it;
 - (b) the legal authority for collecting it; and
 - (c) the contact information of the individual designated by the RMOW to answer questions about the Consultant's collection of personal information.

Accuracy of Personal Information

- 7. The Consultant must make every reasonable effort to ensure the accuracy and completeness of any personal information to be used by the Consultant or the RMOW to make a decision that directly affects the individual the information is about.

Requests for Access to Information

- 8. If the Consultant receives a request for access to information from a person other than the RMOW, the Consultant must promptly advise the person to make the request to the RMOW unless the Contract expressly requires the Consultant to provide such access. If the RMOW has advised the Consultant of the name or title and contact information of an official of the RMOW to whom such requests are to be made, the Consultant must also promptly provide that official's name or title and contact information to the person making the request.

Correction of Personal Information

- 9. Within 5 Business Days of receiving a written direction from the RMOW to correct or annotate any personal information, the Consultant must annotate or correct the information in accordance with the direction.

10. When issuing a written direction under section 11, the RMOW must advise the Consultant of the date the correction request was received by the RMOW in order that the Consultant may comply with section 13.
11. Within 5 Business Days of correcting or annotating any personal information under section 11, the Consultant must provide the corrected or annotated information to any party to whom, within one year prior to the date the correction request was received by the RMOW, the Consultant disclosed the information being corrected or annotated.
12. If the Consultant receives a request for correction of personal information from a person other than the RMOW, the Consultant must promptly advise the person to make the request to the RMOW and, if the RMOW has advised the Consultant of the name or title and contact information of an official of the RMOW to whom such requests are to be made, the Consultant must also promptly provide that official's name or title and contact information to the person making the request.

Protection of Personal Information

13. Without limiting any other provision of the Contract, the Consultant must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including without limitation by ensuring that the integrity of the personal information is preserved. Without limiting the general nature of the foregoing sentence, the Consultant will ensure that all personal information is securely segregated from any information under the control of the Consultant or third parties to prevent unintended mixing of personal information with other information or access to personal information by unauthorized persons and to enable personal information to be identified and separated from the information of the Consultant or third parties.

Storage of and Access to Personal Information

14. The Consultant must comply with the requirements under the Act concerning storage of personal information outside of Canada, including, if required by the RMOW, by supporting the RMOW with completion of such assessments as may be required by law.
15. The Consultant must not change the location where personal information is stored without receiving prior authorization of the RMOW in writing.
16. Without limiting any other provision of the Contract, the Consultant will implement and maintain an access log documenting all access to personal information, including a list of all persons that access any personal information. The Consultant will provide a copy of the access log to the RMOW upon request.

Retention of Personal Information

17. Unless the Contract otherwise specifies, the Consultant must retain personal information until directed by the RMOW in writing to dispose of it or deliver it as specified in the direction.

Use of Personal Information

18. Unless the RMOW otherwise directs in writing, the Consultant may only use personal information if that use is for the performance of the Consultant's obligations, or the exercise of the Consultant's rights, under the Contract. For clarity, unless the Contract otherwise specifies or the RMOW otherwise directs in writing, the Consultant must not anonymize, aggregate or otherwise alter or modify personal information, including by converting personal information into non-personal information, or analyze personal information (whether by manual or automated means) for any purpose, including for the purpose of developing insights, conclusions or other information from

personal information.

Metadata

19. Where the Consultant has or generates metadata as a result of services provided to the RMOW, where that metadata is personal information, the Consultant will:
 - (a) not use it or disclose it to any other party except where the Contract otherwise specifies; and
 - (b) remove or destroy individual identifiers, if practicable.

Disclosure of Personal Information

20. Unless the RMOW otherwise directs in writing, the Consultant may only disclose personal information to any person other than the RMOW if the disclosure is for the performance of the Consultant's obligations, or the exercise of the Consultant's rights, under the Contract.
21. If in relation to personal information, the Consultant:
 - (a) receives a third-party request for disclosure;
 - (b) receives a request to disclose, produce or provide access that the Consultant knows or has reason to suspect is for the purpose of responding to a third-party request for disclosure; or
 - (c) has reason to suspect that an unauthorized disclosure of personal information has occurred in response to a third-party request for disclosure,subject to section 24, the Consultant must immediately notify the RMOW.
22. If the Consultant receives a third-party request described in section 23(a) or (b) but is unable to notify the RMOW as required by section 23, the Consultant must instead:
 - (a) use its best efforts to direct the party making the third-party request to the RMOW;
 - (b) provide the RMOW with reasonable assistance to contest the third-party request; and
 - (c) take reasonable steps to challenge the third party-request, including by presenting evidence with respect to:
 - (i) the control of personal information by the RMOW as a public body under the Act;
 - (ii) the application of the Act to the Consultant as a service provider to the RMOW;
 - (iii) the conflict between the Act and the third-party request; and
 - (iv) the potential for the Consultant to be liable for an offence under the Act as a result of complying with the third-party request.

Notice of Unauthorized Disclosure

23. In addition to any obligation the Consultant may have to provide the notification contemplated by section 30.5 of the Act, if the Consultant knows that there has been an unauthorized disclosure of personal information, the Consultant must immediately notify the RMOW. This notification must be written and include:

- (a) descriptions of the breach;
- (b) any containment steps taken;
- (c) contact information for a person who can provide answers on behalf of the public body; and
- (d) steps the affected individual(s) can take to reduce their risk of harm.

Compliance with the Act and Directions

- 24. The Consultant must in relation to personal information comply with:
 - (a) the requirements of the Act applicable to the Consultant as a service provider, including any regulation made under the Act and the terms of this Schedule; and
 - (b) any direction given by the RMOW under this Schedule.
- 25. The Consultant acknowledges that it is familiar with the requirements of the Act governing personal information that are applicable to it as a service provider.
- 26. The Consultant will provide the RMOW with such information as may be reasonably requested by the RMOW to assist the RMOW in confirming the Consultant's compliance with this Schedule.

Notice of Non-Compliance

- 27. If for any reason the Consultant does not comply, or anticipates that it will be unable to comply in any respect, with any provision in this Schedule, the Consultant must promptly notify the RMOW of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

Termination of Contract

- 28. In addition to any other rights of termination which the RMOW may have under the Contract or otherwise at law, the RMOW may, subject to any provisions in the Contract establishing mandatory cure periods for defaults by the Consultant, terminate the Contract by giving written notice of such termination to the Consultant, upon any failure of the Consultant to comply with this Schedule in a material respect.

Interpretation

- 29. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
- 30. Any reference to "Consultant" in this Schedule includes any Sub-Consultant or agent retained by the Consultant to perform obligations under the Contract and the Consultant must ensure that any such Sub-Consultants and agents comply with the requirements of the Act applicable to them.
- 31. The obligations of the Consultant in this Schedule will survive the termination of the Contract.
- 32. If a provision of the Contract (including any direction given by the RMOW under this Schedule) conflicts with a requirement of the Act, including any regulation made under the Act, the conflicting

provision of the Contract (or direction) will be inoperative to the extent of the conflict.

33. The Consultant must comply with the provisions of this Schedule despite any conflicting provision of the Contract or the law of any jurisdiction outside Canada.
34. Nothing in this Schedule requires the Consultant to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the Act.