SCHEDULE "B"
FORM OF AGREEMENT

NOTE: THE ATTACHED FORM OF AGREEMENT IS SUBSTANTIALLY THE FORM THAT SHALL BE ISSUED TO OR EXECUTED BY THE SUCCESSFUL RESPONDENT SUBJECT TO AND IN COMPLIANCE WITH THE TERMS OF THIS RFP. IT IS NOT TO BE EXECUTED AND RETURNED BY THE RESPONDENT AS PART OF ITS PROPOSAL.

AGREEMENT FOR SUPPLY OF SERVICES

This **Agreement for Supply of Services** is made as of this ____ day of _____, 202__ (the "**Effective Date**").

By and Between:

THE CALGARY BOARD OF EDUCATION, a public school board established under the laws of the Province of Alberta and having its principal office in the City of Calgary, in the Province of Alberta (the **"CBE**")

- and -

_____, a **[corporation incorporated]** under the laws of _____ and having its principal office in _____ (the "**Contractor**")

(the CBE and the Contractor are hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**")

WHEREAS the Contractor has offered to provide certain services to the CBE and the CBE is willing to accept such offer and engage the Contractor to provide the services to the CBE, upon and subject to the terms and conditions below;

NOW THEREFORE, in consideration of the mutual covenants of the Parties and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1
INTERPRETATION AND DEFINITIONS

1.1 Definitions

In addition to those terms defined elsewhere in this Agreement, the following terms have the meanings below:

(a) "**Agreement**" means this agreement, including the Exhibits attached hereto, as the same may be revised in accordance herewith;

(b) "**Applicable Laws**" means all laws, by-laws, regulations, governmental codes, ordinances and directives applicable to this Agreement, the Contractor and the provision of the Services hereunder;

(c) "**Arbitrator**" has the meaning ascribed to it in Section 12.3(b);

(d) "**Business Day**" means a day other than Saturday, Sunday or a statutory or civic holiday in Calgary, Alberta;

(e) "**CBE Confidential Information**" means information or knowledge, whether in written, oral, electronic, visual or in any other form or recorded on or embodied in any media, furnished by or on behalf of the CBE to the Contractor, or of which the Contractor becomes aware or acquires knowledge of, at any time before or after the execution of this Agreement, irrespective of its manner of disclosure or transmission, that relates to the CBE, its trustees, superintendents, employees, volunteers, students, contractors or agents or any of their respective business affairs, financial position, legal or tax information, assets, properties, operations or activities, future business initiatives, investment and financing initiatives, projects and products under development, project management, and also includes, without limiting the generality of the foregoing:

(i) Intellectual Property owned by or licensed to the CBE that is not public in nature;

(ii) drawings, notes, technical data, reports, manuals, processes, systems, analyses, evaluations, compilations, notes, studies, business opportunities, business strategies, documents related to business or operations and any copies thereof;

(iii) Personal Information about any trustee, superintendent, employee, volunteer, student, contractor or agent of the CBE;

(iv) the existence and terms of this Agreement; and

(v) the Services to be provided hereunder;

but does not include Excluded Information;

(f) "**CBE Indemnitee**" and "**CBE Indemnitees**" have the meanings ascribed to it in Section 15.1(a) hereof;

(g) "**CBE Policies**" means governance policies and administrative regulations adopted by and applicable to the CBE from time to time as set forth in the CBE's website at www.cbe.ab.ca, including all policies, procedures, regulations and health and safety measures.

(h) "**Change Order**" has the meaning ascribed to it in Section 7.1 hereof;

(i) "**Contract Price**" has the meaning ascribed to it in Section 4.1 hereof;

(j) "**Defective Work**" has the meaning ascribed to it in Section 8.1 hereof;

(k) "**Documentation**" means all notes, plans, designs, specifications, manuals, reports, records, studies, drawings, examinations, analyses, data, assessments, graphs, outlines, descriptions and functional and/or detailed specifications and all other documents relating to the Services;

(l) "**Effective Date**" has the meaning ascribed to it on the first page of this Agreement;

(m) "**Excluded Information**" means (i) information or knowledge in the public domain at the time of its receipt by the Contractor or that, after such receipt, enters into the public domain other than pursuant to disclosure by the Contractor; (ii) information or knowledge received

by the Contractor from a third party independently of the CBE and without, to the Contractor's knowledge, any breach by the third party of any obligations of confidentiality owed to the CBE or any other person; (iii) information or knowledge that is already in the lawful possession of the Contractor without any obligations of confidentiality in respect thereof prior to any disclosure by the CBE; and (iv) information or knowledge independently developed by the Contractor without the use of or reliance upon any CBE Confidential Information;

(n) "**Facilities**" means the facilities owned or operated by the CBE in respect of which or at the Services are to be provided herein;

(o) "**POPA**" means the *Protection of Privacy Act*, SA 2024, c P-28.5, together with all regulations made under it, as amended, consolidated, or replaced from time to time;

(p) "**G.S.T.**" means the goods and services tax assessed and levied under the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

(q) "**Governmental Authority**" means any domestic or foreign government, whether federal, provincial, state, territorial, local, regional, municipal, or other political jurisdiction, and any agency, authority, instrumentality, court, tribunal, board, commission, bureau, arbitrator, arbitration tribunal or other tribunal, or any quasi-governmental or other entity, insofar as it exercises a legislative, judicial, regulatory, administrative or taxing power or function of or pertaining to government;

(r) **"Indirect Loss**" means, without limitation, loss of revenue, loss of use, loss of profits, loss of goodwill, loss of production, loss of business, loss of business opportunity, exemplary, punitive or special damages or any consequential loss or indirect or incidental loss of any nature, provided that no payment made by or on behalf of a Party will be considered to be in respect of an Indirect Loss solely by reason that such payment was made from that Party's revenue;

(s) "**Intellectual Property**" means all trade-marks, trade names, trade secrets, business names, website data and licenses, patents and patent applications, inventions, know-how, copyrights, moral rights, service marks, brand names, designs, data bases, conceptions, discoveries, inventions, improvements or developments on existing technology, systems, devices, photographs, formulae, mock-ups, models, surveys, plans, sketches, configurations, tolerances, test data, computer software and programs, source codes, work codes, data and information, business plans, works of authorship, writings, overheads, taped discussions or conversations, notes, mask works and products and all other industrial or intellectual property and all applications therefor and all goodwill connected therewith, including all licences and all like rights used by or granted with respect thereto, whether registrable or not, and any registrations of the foregoing and applications for registrations;

(t) "**Liens**" means labourers', materialmen's, mechanics' and other liens, claims, charges, hypothecs, security interests and encumbrances of every type and kind;

(u) "**Losses**" means, in respect of any matter, all actions, causes of action, claims, demands, losses, damages, liabilities, penalties, fines, interest, costs and expenses (including all legal and other professional fees and disbursements);

(v) "**Manufacturer's Warranties**" has the meaning ascribed to it in Section 13.1;

(w) "**Mediator**" has the meaning ascribed to it in Section 12.2(b);

(x) "**Notice**" has the meaning ascribed to it in Section 16.2(a);

(y) "**Performance Schedule**" has the meaning ascribed to it in Section 6.1;

(z) "**Permitted Subcontractors**" has the meaning ascribed to it in Section 5.1(a);

(aa) "**Personal Information**" has the meaning ascribed to that term in POPA;

(bb) "**Personnel**" and "**Contractor's Personnel**" means Contractor's and its Permitted Subcontractors' and agents' respective employees, consultants, sub-subcontractors, suppliers and agents hereunder;

(cc) "**Request**" means the CBE's Request for Proposal or Request for Quotation in respect of the Services as referred to in Exhibit A hereto;

(dd) "**Response**" means the Contractor's response to the Request as referred to in Exhibit A hereto;

(ee) "**Services**" means the services to be provided by the Contractor to the CBE in accordance with this Agreement, as described in Appendix 1 of Exhibit A attached hereto; and

(ff) "**Term**" has the meaning ascribed in Section 11.1(a).

1.2 Interpretation

In this Agreement:

(a) the division into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the interpretation of this Agreement;

(b) the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular portion of this Agreement;

(c) references to dollars or "$" are to Canadian currency, unless otherwise stated;

(d) "person" is to be broadly interpreted and includes an individual, corporation, partnership, joint venture, trust, association, unincorporated organization, Governmental Authority, legal or personal representative, or any juridical entity;

(e) any references herein to statues includes all regulations thereunder and all amendments thereto;

(f) unless specified otherwise or unless the context otherwise requires:

(i) references to any Article, Section or Exhibit are references to an Article, Section or Exhibit of this Agreement;

(ii) "including" or "includes" means "including (or includes) but is not limited to" and shall not be construed to limit any general statement preceding it to the specific or similar items or matters immediately following it; and

(iii) words in the singular include the plural and vice-versa and words in one gender include all genders.

1.3 In the event of any conflict between any provisions of this Agreement, then this Agreement shall be interpreted in the following order of precedence:

(a) firstly, the body of this Agreement; and

(b) secondly, Exhibit A.

ARTICLE 2
PROVISION OF SERVICES; INTELLECTUAL PROPERTY

2.1 Services

(a) The Contractor shall provide the Services to the CBE in accordance with the terms and specifications of this Agreement, including Exhibit A attached hereto. The Services shall be carried out by the Contractor at or in respect of the Facilities. Except as otherwise expressly provided herein and in Exhibit A, the Contractor shall carry out the Services with those Personnel having the applicable skills, knowledge and, if applicable, the necessary licenses and certifications, and further shall supply all machinery, tools, equipment, supplies and consumables necessary to complete the Services. The Services shall be carried out by the Contractor in an efficient and workmanlike manner in accordance with Applicable Laws.

(b) No changes or modifications to the Services shall be valid unless made in accordance with Article 7 or as otherwise expressly provided in this Agreement.

(c) The Contractor shall direct and supervise the Services and, at the CBE's request, shall retain a skilled and competent Services manager based in Calgary, Alberta during the Term. He or she shall report to the Contractor and act as the primary day-to-day Contractor's liaison with the CBE in regard to the Services, and shall do such other things as may be required to fulfil the Contractor's obligations hereunder and shall be available to attend at any of the Facilities at which any of the Services are being performed.

2.2 Reporting Requirements

(a) The Contractor shall provide to the CBE periodic written reports as to the status and progress of delivery of the Services, including any anticipated problems (resolved or unresolved) and any indications of delay to the fixed or tentative time schedules for the provision of the Services, as may be more particularly described in Appendix 1 of Exhibit A.

(b) At the CBE's request, the Contractor also shall meet with the CBE to carry out formal progress presentations, during which the Contractor shall describe the status of the Services. Such presentations shall provide projections of the time of completion and the status of the Services as well as identification of any problems in respect of the Services, together with Contractor's proposal(s) for resolving such problems, as may be more particularly described in Appendix 1 of Schedule A.

(c) The Contractor agrees that, notwithstanding the foregoing, the CBE is not responsible for and shall not directly supervise any work performed by the Contractor or Contractor Personnel. Accordingly, the manner and method by which the Services contemplated under this Agreement are to be provided shall be within the Contractor's sole discretion, subject to the other provisions of this Agreement.

2.3 Suspension of Services

(a) The CBE, at any time and for any reason whatsoever, may suspend any part or all of the Services not yet completed by the Contractor or not yet accepted by the CBE by giving notice in writing to the Contractor specifying the Services to be suspended and the effective date of suspension.

(b) The suspension of any part of the Services will not affect the delivery of any other part of the Services hereunder and shall not result in a waiver of the Contractor's responsibilities hereunder for or relieve the Contractor from its obligations herein with respect to such other Services, save and except that subject to Section 2.3(d) below, if such suspension shall result in a change to the schedule of completion of the Services, then the CBE shall initiate a Change Order immediately prior to the resumption of the Services.

(c) The CBE shall not be liable to pay for any Services that have been suspended, save and except for Services provided pursuant to this Agreement to the CBE prior to the effective date of such suspension. The CBE shall not, under any circumstances whatsoever, be liable for any Indirect Losses arising directly or indirectly as a result of suspension by it of any or all Services.

(d) In the event any suspension of Services, in whole or part, continues for period of ninety (90) consecutive days from the date of such suspension, this Agreement shall be deemed to have been terminated by the CBE with respect only to such Services (but not in respect of any other Services that were not suspended), without further liability to the CBE, except that the CBE shall compensate the Contractor in respect of a suspension of Services resulting in Agreement as aforesaid for tangible direct receipted costs incurred by it in respect of any work in progress (and without limitation, shall not include payments to Personnel). This Agreement and the Services to be provided by the Contractor pursuant hereto shall be deemed to have been amended by removing such Services therefrom, unless the CBE extends the suspension for an additional period of up to (90) days by notice in writing to the Contractor given at least thirty (30) days prior to expiry of the said ninety (90) day period.

2.4 Waste Materials and Rubbish

In carrying out the Services, the Contractor shall keep all CBE property, including the Facilities, and surrounding areas free from the accumulation of waste materials and rubbish and, upon completion of any Services it shall, to the CBE's satisfaction, forthwith remove from and about the Facilities and any other CBE property all machinery, equipment, tools and other materials supplied by or for it hereunder in respect of those completed Services and remedy, at its cost, any damage to that Facility and to any other CBE property resulting from such removal.

2.5 Ownership of Work Product

All titles to and intellectual property rights in all reports, designs, drawings, studies, specifications, software, materials, inventions and other work product and documentation created or produced specifically by or on behalf of the Contractor in performing the Services, whether completed or in progress, and regardless of who was involved therewith, shall be owned exclusively by the CBE and shall be either delivered to the CBE or made available for inspection by the CBE. The CBE's ownership of and title to the foregoing shall arise automatically upon its creation and not be subject to the payment of any part of the Contract Price or additional fees to the Contractor. To the extent the Contractor has title and/or intellectual property rights to the foregoing, the Contractor shall take and cause to be taken all necessary steps (including a waiver of any moral rights) to transfer title and all intellectual property rights thereto to the CBE. All materials that are generally furnished or used by the Contractor's Personnel and/or by Permitted Subcontractors in connection with the

Services, including documentation, schematics, test equipment, software and associated media, and all background intellectual property of the Contractor or any third party that, in each case, are not created or produced specifically for the CBE or for the purposes of this Agreement, remain the exclusive property of the Contractor or such other third party but, to the extent incorporated into or merged with any deliverable or product provided to the CBE herein, the Contractor shall license or cause to be licensed to the CBE the perpetual, royalty-free nonexclusive right to use same in connection with the deliverable or product. The CBE agrees to allow the Contractor's Personnel and/or Permitted Subcontractors to retrieve and to remove all such materials remaining after the applicable Services have been completed. The CBE acknowledges that any software furnished in connection with the Services hereunder, unless created for or as part of the Services, is proprietary to Contractor or a third party and subject to the provisions of any software license agreement associated with such software.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR

3.1 Representations and Warranties of the Contractor

The Contractor represents and warrants to the CBE as follows as of the date of execution hereof and during the Term, and acknowledges that the CBE is relying on such representations and warranties:

(a) **Organization and Power**. The Contractor is duly organized and is validly subsisting under the laws of its jurisdiction of formation. The Contractor has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder;

(b) **Authorization**. All necessary action has been taken by or on behalf of the Contractor to authorize its execution and delivery of this Agreement and the performance of its obligations hereunder;

(c) **Enforceability.** This Agreement has been duly executed and delivered by the Contractor and is a legal, valid and binding obligation of the Contractor enforceable against it in accordance with its terms, except as that enforcement may be limited by bankruptcy, insolvency and other similar laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction;

(d) **Approvals**. The Contractor has or shall obtain any necessary consents to carry out its obligations herein from applicable third parties, together with any and all permits, licenses, certifications, authorizations and approvals of any Governmental Authorities or other third parties in connection with its execution and delivery of this Agreement and the performance of its obligations hereunder;

(e) **Absence of Conflict**. The execution, delivery and performance by the Contractor of this Agreement and the performance by the Contractor of its obligations hereunder will not (whether after the passage of time or notice or both) result in the breach or violation of any of the provisions of, or constitute a default under any law or any contract or agreement to which the Contractor is a party. There are no claims (whether or not purportedly on its behalf) pending or outstanding or, to its knowledge, threatened against the Contractor which could affect the Contractor's ability to perform its obligations hereunder;

(f) **Bankruptcy**. The Contractor is not an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) and has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, and no petition for a receiving order has been presented in respect of the Contractor. The Contractor has

not initiated proceedings with respect to a compromise or arrangement with its creditors. No receiver or interim receiver has been appointed in respect of the Contractor or any of its undertakings, property or assets and no execution or distress has been levied on any of its undertakings, property or assets, nor have any proceedings been commenced in connection with any of the foregoing;

(g) **Confidential Material**. Neither the Contractor nor any of the Contractor's Personnel has disclosed, or shall disclose to the CBE, or shall use in the performance of the Services, any confidential material or documents of any third party, without the prior written authorization of such third party;

(h) **Conformity with Specifications**. The Services shall conform to all applicable specifications, shall be free of defects, shall not infringe upon the Intellectual Property rights of any third party, and shall conform with all Applicable Laws. The Contractor shall perform all Services in a professional and workmanlike manner in accordance with generally accepted industry standards and practices reasonably applicable to performance of the Services; and

(i) **CBE Facilities**. The Contractor shall not use the Facilities or any other CBE property, or allow any other person to make any use of the same, other than as explicitly set forth herein or otherwise as authorized in advance in writing by the CBE.

ARTICLE 4
FINANCIAL TERMS, PAYMENT, LIENS

4.1 Contract Price

(a) In consideration of the Contractor providing the Services pursuant to the terms of this Agreement, the CBE agrees to pay the Contractor in accordance with the provisions of Appendix 2 of Exhibit A (the "**Contract Price**").

(b) The Contract Price is inclusive of any costs that may be incurred by the Contractor and the Contractor shall not be entitled to reimbursement of any additional costs incurred by or on its behalf, unless approved in advance by the CBE in writing.

4.2 Invoices

(a) The Contractor shall submit invoices to the CBE for all Services provided under this Agreement in a form acceptable to the CBE. The Contractor's invoices shall contain sufficient details to enable the CBE to ascertain the scope of Services performed (including copies of subcontractor's and agent's invoices) and, if requested, the Contractor shall provide further documentation in support of any invoice.

(b) The Contractor's invoices shall indicate the applicable G.S.T. as a separate amount and the net taxable value, including all applicable discounts. The Contractor shall not be entitled to recover G.S.T. from the CBE unless the Contractor is registered with the applicable Governmental Authority and provides its registration number on the invoices.

(c) If the CBE disputes any portion of an invoice, it shall promptly notify the Contractor of the particulars of such dispute, and shall pay such invoice, less the disputed amount. Payment of the disputed amount shall be adjusted and made upon resolution of the dispute. Non-payment by the CBE of any amount in dispute shall not alleviate, diminish or modify in any respect the Contractor's continued obligations to perform the Services in accordance with this Agreement.

(d) In the event the CBE makes a payment against an invoice in respect of any Services that are subsequently rejected or disapproved by the CBE, the CBE, at its sole discretion, may require the Contractor to either promptly refund the amount paid by the CBE or set off such amount paid by it against any other sums due and payable by the CBE to the Contractor.

4.3 Payment of Invoices

(a) Payment of the Contract Price by the CBE may be withheld at any time to the extent of, and on account of:

(i) defective Services not remedied by the Contractor;

(ii) undischarged Liens filed by third parties;

(iii) failure of the Contractor to make payments promptly to its Permitted Subcontractors; and/or

(iv) failure by the Contractor to perform its obligations hereunder or deficiencies of or under the Documentation.

The CBE shall promptly notify the Contractor in writing of the reason(s) for withholding payment.

(b) No payment by the CBE of any invoice shall prejudice the CBE's right to question the correctness of any invoice submitted by the Contractor, provided that any such question is raised within two (2) years after the date of receipt of such invoice by the CBE, notwithstanding the expiry or termination of this Agreement. This Section 4.3(b) shall survive the expiry or termination of this Agreement.

(c) The CBE shall pay simple interest on any overdue undisputed amounts hereunder at the prime rate charged by the Royal Bank of Canada to its most credit-worthy customers plus one-half percent (1/2%) per annum, for the period commencing on the date such payment was due and ending on the date payment thereof is received by the Contractor, provided that the Contractor has issued written notice to the CBE of the overdue amount and the accrual of interest thereon.

(d) The Contractor acknowledges and agrees that any pre-printed terms and conditions on any invoice submitted by or on behalf of the Contractor to the CBE shall be null and void and of no effect whatsoever.

4.4 Liens

(a) The Contractor shall keep all of the CBE's personal and real property, including the Facilities, free and clear from any and Liens and, to the fullest extent permitted by Applicable Laws, the Contractor waives any and all rights to assert a Lien or other claim hereunder against the CBE's real and personal property, wherever situated.

(b) If the Contractor fails to release and discharge any Liens arising by or through it (including by any of its Personnel or Permitted Subcontractors) against any real and personal property of the CBE, including the Facilities and Lands, within five (5) Business Days of receiving written notice from the CBE, the CBE, at its option, may cause or procure same to be discharged, or otherwise deal with the Lien claimant, and the Contractor shall be liable to and shall pay to the CBE any and all costs and expenses of the CBE in doing so

(including all legal fees and expenses), payable to the CBE upon demand, together with a 15% administrative charge.

(c) Notwithstanding the foregoing, for the purpose of enforcing the terms of this Agreement, the CBE may register the following Liens or assert the following rights when circumstances deem it necessary, such Liens and/or rights to cease and be deregistered by the CBE at its cost (if registration of such Liens and rights by the CBE has occurred) upon completion of the Services by the Contractor:

(i) the CBE shall have a Lien on the Contractor's equipment and/or supplies; and

(ii) if the Contractor, without sufficient cause (in the reasonable opinion of the CBE), suspends work hereunder and such suspension continues for more than two (2) consecutive Business Days, the CBE may take possession of any materials, tools, equipment and/or supplies delivered to or on behalf of the Contractor hereunder and use same, giving the Contractor credit for the value of same (at not more than the actual costs to the Contractor of such materials, tools, equipment or supplies) and setting such credit off against any monies due and owing to the Contractor by the CBE herein.

4.5 Taxes

The Contractor shall comply with all Applicable Laws respecting tax, including laws relating to the collection and remittance of G.S.T and other applicable sales taxes (if any). All taxes arising under this Agreement in respect of the Services shall be borne by the CBE, except taxes arising on or measured by the Contractor's net income or gain.

4.6 Audit

(a) The Contractor shall keep and maintain true and accurate books, records and accounts with respect to the Services, any materials supplied in relation thereto and payments received in respect of the Services, together with copies of its invoice(s) hereunder, for a period of seven (7) years after the expiry or early termination of this Agreement.

(b) Upon request of the CBE, the Contractor shall permit the CBE and its designates, including its auditors, at the CBE's cost, to inspect, make copies of, and audit all books, records and accounts maintained by the Contractor in respect of the Services provided hereunder. If as a result of such audit any discrepancy is discovered in the amounts payable hereunder for the Services, the Contractor shall refund to the CBE the full amount of any credit or the CBE shall pay to Contractor the full amount of any shortfall, as the case may be, within thirty (30) days of conclusion of such audit.

(c) This Section 4.6 shall survive the expiry or termination of this Agreement.

ARTICLE 5
DUTIES OF THE CONTRACTOR

5.1 Sub-Contracting

(a) The Contractor shall not subcontract the whole or any part of its obligations hereunder unless the Contractor has obtained the prior written consent of the CBE to such subcontracting to the Contractor's proposed subcontractor(s) ("**Permitted Subcontractors**") and to the nature of the Services to be subcontracted hereunder, which consent may be unreasonably withheld by the CBE, at its sole discretion.

(b) Notwithstanding any consent granted by the CBE, the Contractor shall not be released from any of its obligations hereunder and shall remain responsible for compliance herewith and liable to the CBE for any breach or non-performance hereunder by any Permitted Subcontractor or Personnel. Any consent granted by the CBE for subcontracting shall not restrict or prevent the CBE from pursuing any legal or equitable remedies it may be entitled to against the Contractor. The Contractor shall ensure that its Permitted Subcontractors and Personnel strictly adhere to all terms of this Agreement. When requested by the CBE, the Contractor shall provide to the CBE details concerning any and all subcontracted Services.

ARTICLE 6
DELAYS

6.1 Delays

If the Contractor is delayed in the performance of the Services, and such delay is outside the Contractor's reasonable control, then the schedule of time required to perform the Services as referred to in Appendix 1 of Exhibit A (the "**Performance Schedule**") may be extended for such reasonable time as the CBE may determine in consultation with the Contractor. No such extension shall operate to extend the Term of this Agreement, unless the parties agree in writing to the contrary. Inclement weather or lack of funds by the Contractor are not excusable reasons for delay under this Section 6.1. No extension to the Performance Schedule shall be made for the Contractor's delay, unless:

(a) written notice of delay is given by the Contractor to the CBE not later than two (2) calendar days after the commencement of the delay, provided that, in the case of a continuing cause of delay, a monthly notice of delay shall be necessary given on the day in each month of delay that is the monthly anniversary of the initial date of notice of delay;

(b) the Contractor has taken all reasonable steps to avoid any such delay; and

(c) such delay directly affects the Performance Schedule or completion of the Services.

6.2 Delay by the CBE

The CBE will not, except by written notice to the Contractor, stop or delay the carrying out by the Contractor of the Services as a result of pending instructions or proposed changes by it in the Services.

6.3 Adherence to Schedule

If the Contractor is delayed in the performance of the Services by any cause within the Contractor's control, the Contractor, at no cost to the CBE, shall forthwith restore the Services to the original Performance Schedule for completion.

6.4 Liquidated Damages

The CBE shall be entitled to recover as liquidated damages, and not as a penalty, such sum per day for each day that the completion of the Services by the Contractor hereunder is delayed beyond the Performance Schedule as described in Appendix 1 of Exhibit A attached hereto. The parties agree that it would be difficult and impracticable under the presently known and anticipated facts and circumstances to fix with precision the actual damages that the CBE would incur in the event of any such delay, and that the liquidated damages identified in this Section 6.4 are a good faith and reasonable estimate of the damages and losses that the CBE would incur. The liquidated damages will be due and payable by the Contractor to the CBE upon written demand.

ARTICLE 7
CHANGES IN THE WORK

7.1 Change Orders

Without invalidating this Agreement, the CBE may make changes in the Services, the Contract Price, the Performance Schedule and/or the Term. Any such changes shall be made by the CBE by written notice of change (each, a "**Change Order**"). The Contractor may request of the CBE (which request may be approved, rejected, conditioned, or delayed, in the CBE's sole and absolute discretion) changes in the Services consisting of additions, deletions or modifications. No changes in the Services shall proceed without a Change Order being signed by the CBE and no claim by the Contractor for a change in the Contract Price, Performance Schedule and/or Term shall be valid unless agreed to in writing by CBE pursuant to Section 7.3.

7.2 Changes to Contract Price and Contract Time

Without limiting the generality of Sections 7.1 and 7.3, any change in the Services, Contract Price, the Performance Schedule and/or the Term may only be made by means of Change Order.

7.3 Change Approvals

When a change in the Services is proposed or required by either Party, the Contractor shall present to the CBE for its approval the value of the change, whether as an extra charge or a credit, and how such value was calculated. Any such proposal for changes submitted by the Contractor or requested by the CBE are to be accompanied by a detailed breakdown by the Contractor of labour and materials required, to which shall be added supervision, overhead and profit charges and taxes thereon. Where applicable, unit rates and labour costs identified in Exhibit A shall be used and, if not so identified, change charges submitted shall be calculated in the following manner:

(a) for work done by the Contractor, there shall be added to the net direct cost not more than fifteen (15%) percent for overhead, profit, supervision and bonding costs; and

(b) for work done by a Permitted Subcontractor, there shall be added to the net direct cost not more than ten (10%) percent for overhead and profit payable to that Permitted Subcontractor together with not more than five (5%) percent for supervision of that Permitted Subcontractor by the Contractor and for overhead, profit or bonding costs.

The CBE will satisfy itself as to the correctness of the foregoing, and, when approved by the CBE, a Change Order shall be issued to the Contractor by the CBE.

ARTICLE 8
DEFECTIVE WORK AND DISMISSAL OF WORKERS

8.1 Defective Work

"**Defective Work**" means any part of the Services that is rejected by the CBE as failing to conform to the requirements this Agreement. The Contractor shall promptly correct any Defective Work as required to conform to this Agreement, with no change in the Contract Price, Performance Schedule or Term, whether or not the defect is discovered before or within thirty six (36) months of completion of the Services. The Contractor further shall correct any Defective Work found to be not in accordance with the requirements hereof within any applicable warranty period as set forth in this Agreement. The provisions of this Section 8.1 apply to Services carried out hereunder by Permitted Subcontractors and Personnel. If, in the CBE's sole opinion, it is not expedient to correct any Defective Work, the CBE may deduct from the Contract Price the difference in value between the Services as performed and those required by this Agreement, the amount of which will be

reasonably determined by the CBE. The CBE, acting reasonably, and at the cost of the Contractor, may retain a third party consultant to determine whether any part of the Services fail to confirm to the requirements of this Agreement and the cost of the failure and the determinations of any such third party Consultant shall be final and binding on the Parties.

8.2 Dismissal of Workers

The Contractor, upon the written request of the CBE, shall immediately dismiss from the provision of the Services any Personnel who, in the opinion of the CBE, may be incompetent or fail to comply with applicable CBE Policies or in respect of whom the Contractor has failed to provide a vulnerable sector clearance to the CBE, and such Personnel shall not again be retained to provide the Services hereunder by Contractor or any Permitted Subcontractor without the prior written consent of the CBE, which may be withheld at the CBE's discretion.

8.3 Clearances

The Contractor shall obtain or cause to be obtained vulnerable sector clearances and clear police information checks for all Personnel hereunder and shall not permit any Personnel who have not received such satisfactory checks to provide services or access any property of the CBE, including the Facilities.

ARTICLE 9
PRODUCT OPTIONS AND SUBSTITUTIONS

9.1 Product Selection

The Contractor may:

(a) for products to be provided by or through it related to the Services, select products of reputable manufacturers that meet the requirements of this Agreement;

(b) for products specified in the description of the Services proprietary specification in respect of which substitution expressly are not permitted as stated in such description, select products of the manufacturers named. Substitutions are not permitted; and

(c) except as set forth in Section 9.1(b), when a product is specified by proprietary specification, other unnamed products will be accepted, subject to such substitutions being of the same generic type, and capable of performing the same functions and meeting or exceeding the standards of quality and performance of the named product. Substitutions shall not require amendments to this Agreement or any Change Orders.

9.2 Product Substitutions

When making a product substitution as authorized herein, the Contractor shall represent to the CBE in writing that:

(a) the Contractor has investigated substitute products and has determined that the selected substituted product meets the criteria specified in Section 9.1(c); and

(b) the Contractor will make any changes to the Services necessitated by the substitution as required for the Services to be complete in all respects and any such changes shall not affect the Contract Price, Performance Schedule or Term unless agreed to by the CBE in writing by way of a Change Order.

9.3 Manufacturer Brands

(a) The manufacturer brands of products or equipment forming part of the Services as specified in the description of the Services are the only brands permitted to be supplied by the Contractor under this Agreement unless otherwise approved by the CBE, and no substitutes will be permitted.

(b) The CBE discourages the use of products or equipment manufactured in abusive or poor working conditions. If any products or equipment forming part of the Services are manufactured outside of Canada or the United States, the CBE may request reasonable evidence of ethical and non-abusive working conditions (including no use of child labour).

ARTICLE 10
COMPLIANCE WITH LAWS AND CBE POLICIES; SAFETY

10.1 Compliance with Laws and CBE Policies

(a) The Contractor shall comply with and shall ensure its Personnel and Permitted Subcontractors comply with all Applicable Laws and all other applicable orders, rules and regulations of any authority having jurisdiction respecting the Services including, without limitation, all applicable environmental legislation, employment standards, codes and workers' compensation legislation or equivalent legislation.

(b) The Contractor shall be exclusively responsible for ensuring that it and its Personnel and its Permitted Subcontractors comply with all applicable CBE Policies (which are disclosed on CBE's website), as revised from time to time. The Contractor shall be solely responsible for ensuring and causing its Permitted Subcontractors to ensure the safety and health of Personnel and for ensuring that their activities do not unduly interfere with the CBE's operations or any CBE personnel or students or compromise the health and safety of any of the CBE's trustees, superintendents, employees, volunteers, students, contractors and agents and shall provide certification of compliance with CBE immunization and rapid testing policies as required under CBE Policies.

(c) The Contractor shall comply with and shall ensure its Personnel and Permitted Contractors comply with all instructions of the CBE and its staff at any CBE premises, including any Facility, during a lockdown or other emergency situation at such premises.

10.2 Safety

Without limiting the provisions of Sections 2.1(c) and 10.1, the Contractor shall comply with, and shall ensure all of its Personnel and Permitted Subcontractors comply with all applicable fire, safety, health, and environmental laws and regulations, including all safety, health and environmental requirements pursuant to any applicable government permit, license, or authorization. The Contractor shall be solely responsible for ensuring the safety and health of its Personnel and those of its Permitted Subcontractors in connection with this Agreement and for ensuring all its Personnel and those of its Permitted Subcontractors are knowledgeable of and utilize safe practices hereunder, provided such practices are at least as stringent as those set out in the CBE's safety standards disclosed to the Contractor, and also for ensuring that its activities do not compromise the safety of the CBE's operations or that of CBE's personnel and students.

10.3 CBE Access

At all times during the Term, the CBE's designated representative and other CBE personnel shall have the right of access, ingress and egress over the Facilities where the Contractor performs the Services for any purpose, and neither the Contractor nor its Permitted Subcontractors or Personnel shall refuse such access, ingress or egress whatsoever. The CBE further reserves the right to audit the Contractor's and its Permitted Subcontractors' health and safety performance hereunder from time to time and to evaluate such performances based upon accident/injury data and to ensure such performances adhere to this Agreement.

10.4 Use of Facilities

The Contractor shall confine its operations to the portions of the Facilities identified in the Documents or otherwise approved in writing by the CBE. The Contractor, Personnel and the Permitted Subcontractors shall use only such entrances to the Facilities as are designated by the CBE. During any hours during which CBE operations or business are taking place at the Facilities, the Contractor shall limit its Services to methods and procedures that do not adversely and unduly affect the environment of occupied spaces within or adjacent to the Facilities, including but not limited to creating noise, odors, air pollution, ambient discomfort, or poor lighting, and do not affect CBE students, staff and visitors, as the case may be.

10.5 Emergency Work Stoppage

The CBE has the authority to stop the progress of the Services whenever, in its sole determination, such stoppage is desirable for any safety-related reason. The Contractor hereby agrees that no claim for loss of time or materials hereunder may be made with respect to such stoppage unless the claim for the time and materials and their value are approved in writing by the CBE, acting reasonably, as allowable.

10.6 Non-Exclusive Remedies

The Contractor acknowledges and agrees that the foregoing remedies under Sections 10.5 and 11.8 are non-exclusive and may be exercised by the CBE in conjunction with any other rights or remedies available to the CBE under this Agreement, at law or in equity, in the event of threatened or actual breach of such provisions, including injunctive relief.

10.7 Vendor Performance Management and Evaluation

i. The Contractor acknowledges that it is subject to the CBE's Vendor Management and Performance Evaluation Program ("**Evaluation Program**"), as amended from time to time, and agrees to comply with all requirements established under the Evaluation Program and any related CBE policies or procedures. Contractor acknowledges that it has received a copy of the current Evaluation Program. https://www.cbe.ab.ca/FormsManuals/Vendor-Performance-Management-Program.pdf

ii. The Contractor shall co-operate fully with all performance assessments and provide such documentation or information as the CBE may reasonably require to evaluate its performance, including but not limited to records relating to safety, quality of workmanship, schedule adherence, communication, responsiveness and overall contract compliance.

iii. The Contractor acknowledges and agrees that its performance under this Agreement may be evaluated by the CBE and that the results of such evaluations may be retained and considered by the CBE in determining the Contractor's eligibility for future work opportunities or standing-offer status.

iv. The CBE may, in its sole discretion, take unsatisfactory performance into account when evaluating the Contractor's reliability, integrity, and suitability for future work, which may result in the Contractor being restricted, suspended, or removed from the CBE's registered vendor lists or standing offer program.

Participation in the Evaluation Program shall not limit or prejudice any other rights or remedies available to the CBE under this Agreement, at law or in equity.

ARTICLE 11
TERM AND TERMINATION

11.1 Term

(a) The term ("**Term**") of this Agreement shall commence as of the Effective Date and shall continue to and including the expiry date(s) referred to in Exhibit A.

(b) Should the Contractor continue to provide, and the CBE continue to pay for any Services beyond the Term, such provision of Services shall be deemed to be on a temporary basis only and terminable at any time by the CBE with or without cause upon written notice to the Contractor. The provisions of this Agreement shall apply in full force (save as to the termination provisions in this Article 11) to and until such termination.

11.2 CBE's Right to Cure Default

If the Contractor defaults or persistently fails or neglects to carry out the Services in accordance with this Agreement, the CBE may provide written notice to the Contractor of such default, failure or neglect. In the event the Contractor has not cured such default, failure or neglect within thirty (30) days of the date of the CBE's notice, and without prejudice to any other right or remedy the CBE may have, the CBE may make good such deficiencies and may deduct the costs thereof, including a 15% administrative fee, from the Contract Price then or thereafter due by it hereunder to the Contractor.

11.3 Insolvency

If the Contractor should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of insolvency or if a receiver is appointed, the CBE may, without prejudice to any other right or remedy it may have, by giving the Contractor or receiver or trustee in bankruptcy written notice, immediately terminate this Agreement.

11.4 Breach by Contractor

If the Contractor fails to comply with the requirements of this Agreement, the CBE may notify the Contractor in writing that it is in default of its obligations and instruct it to correct such default within five (5) Business Days of the date of such notice. If the correction of the default cannot be completed within the said five (5) Business Days, the Contractor will be considered to be attempting to cure the default if it:

(a) commences the correction of the default on a best efforts basis, in the CBE's sole opinion, within such five (5) Business Days of receiving such notice of default;

(b) within such time period provides the CBE with a schedule for completion of such correction, which the CBE must approve or reject promptly by written notice to Contractor; and

(c) completes the correction in accordance with such approved schedule and without any additional delay or cost to the CBE.

If the Contractor fails to correct the default in the time specified or subsequently agreed upon in writing, the CBE, without prejudice to any other right or remedy it may have, by written notice may terminate the Contractor's right to continue with the Services in whole or in part, and/or terminate this Agreement, which termination shall take effect ten (10) days from the date of such notice.

11.5 Other Remedies

If this Agreement is terminated in whole or in part by the CBE as a result of the default of the Contractor or pursuant to Section 11.3, the CBE shall be immediately entitled to withhold any and all further payments which may be due and owing to the Contractor hereunder, and CBE may complete or retain a third party to complete the Services in a manner it determines to be expedient, or do whatever else it deems prudent or expedient in the circumstances to complete the Services and pursue its rights and remedies at law, in equity and under this Agreement.

11.6 Safety Default

Notwithstanding any other provision of this Agreement, including under this Article 11, this Agreement may be immediately terminated by the CBE by written notice for non-compliance by the Contractor of any of its obligations under Article 10 of this Agreement.

11.7 Termination for Convenience

(a) In addition to its rights under Section 2.5, the CBE reserves the right, for its convenience, to terminate all or any portion of the Services or to terminate this Agreement upon thirty (30) days prior written notice stating the effective date of the termination. In such event, the Contractor shall, except for services reasonably necessary for the orderly termination of the Services:

(i) stop and cause to be stopped all Services so terminated;

(ii) place no further order or subcontracts for materials, services, equipment, tools or supplies for the terminated Services;

(iii) assign to the CBE (but only in the manner and to the extent directed by the CBE in writing) all of the rights of the Permitted Subcontractors relating to the terminated Services;

(iv) take any action necessary to protect and deliver to the CBE the property of the CBE and property in the Contractor's possession in which the CBE has, or may acquire, an interest; and

(v) take any other action regarding termination of the Services that the CBE may direct, acting reasonably.

(b) Subsequent to the Contractor completing the obligations referred to in Section 11.7(a), the CBE shall pay the Contractor for the Services performance by it hereunder until the effective termination date, subject to the limitations set forth herein, the proportion of the Contract Price for the Services actually performed (including materials, tools, equipment and products) to the effective date of termination, as such proportion bears to all Services required to be performed herein. No payments to the Contractor shall be made for Services not actually performed hereunder as of the effective termination date, and no payments to

the Contractor shall be made or due for the Contractor's or its Permitted Subcontractors' Indirect Losses.

11.8 Termination for Non-Compliance

The CBE may terminate this Agreement for non-compliance with health, safety, environmental and other Applicable Laws and industry practice on the part of the Contractor, its Permitted Subcontractors or Personnel, as constituting a material breach of this Agreement. Such work stoppages shall not postpone the Performance Schedule and any additional costs resulting from such work stoppages shall be borne by the Contractor. Services herein shall not resume until the Contractor rectifies the reasons for non-compliance, to the CBE's reasonable satisfaction.

ARTICLE 12
DISPUTE RESOLUTION

12.1 Disputes Generally

Disputes between the Parties as to the interpretation, application or administration of this Agreement or any failure to agree where agreement between the Parties is called for, which are to be resolved between the Parties, shall be settled by mediation and/or, at the CBE's sole option, by arbitration.

12.2 Use of Mediation

(a) The Parties shall attempt to settle all disputes in the first instance by mediation.

(b) The mediation shall take place on a confidential, without prejudice, basis with a single trained mediator who is a member of the Alberta Arbitration and Mediation Society, jointly selected by the Contractor and the CBE (the "**Mediator**"). The Mediator must be impartial and independent with no involvement in the dispute. If a bias or perception of bias develops during the mediation, either party or the Mediator may terminate the mediation.

(c) The Contractor, the CBE and the Mediator shall agree on the fees, timing and any specific procedures and shall share the costs of mediation equally. All parties shall agree to and sign an agreement to mediate drawn up by the Mediator prior to mediation.

12.3 Use of Arbitration

(a) In the event the Parties fail to resolve the dispute by mediation, the dispute may be submitted for resolution by binding arbitration, at the sole option of the CBE.

(b) The arbitration shall be conducted in accordance with the *Arbitration Act*, R.S.A. 2000, C.A.-43, by a single arbitrator appointed by the Alberta Arbitration and Mediation Society (the "**Arbitrator**").

(c) The final decision of the Arbitrator shall be final and binding on the Parties and shall not be subject to an appeal.

(d) The Parties shall share the costs of arbitration equally, unless otherwise determined by the Arbitrator.

ARTICLE 13
WARRANTY

13.1 Manufacturer's Warranties

The Contractor shall provide to the CBE two (2) original complete sets of any manufacturers' and vendors' warranties, guarantees, service life policies, parts lists and literature applicable to the Services (collectively referred to as "**Manufacturers' Warranties**"), which the Contractor shall assign or cause to be assigned to the CBE. The Manufacturers' Warranties shall be in addition to and not in lieu of the Contractor's warranties set forth herein, and the CBE shall be entitled to look to the Contractor for remedy in all cases where the Contractor's warranties apply, regardless of whether a Manufacturer's Warranty also applies. All Manufacturers' Warranties shall remain in effect for the applicable periods thereof and contain terms no less favorable to the CBE than those terms that are standard to applicable industries.

13.2 Contractor's Warranties

(a) For a period of thirty-six (36) months from the date of completion of the Services hereunder, the Contractor warrants to the CBE that the Services provided by or on behalf of the Contractor to the CBE under this Agreement shall be free from defective workmanship, defects in materials or products provided as part of the Services (all such products and materials to be new and of good quality), shall conform to the requirements of this Agreement and shall be free from any Liens or other defects in title upon any title conveyance herein to the CBE of any such materials or products.

(b) The Contractor's warranty excludes remedies for damage or defect to the extent caused by: (i) abuse, (ii) modifications not approved by the Contractor, (iii) improper or insufficient maintenance or operation that is not in accordance with this Agreement, or (iv) normal wear and tear under normal usage, in each case after completion of the Services.

(c) If at any time prior to the expiration of the applicable warranty periods set forth above the CBE shall discover any failure or breach of the Contractor's warranties under this Section 13.2, the Contractor shall, upon written notice from the CBE and at the Contractor's sole cost and expense, immediately correct such failure or breach (which corrective action shall include, without limitation, any necessary removal, disassembly, reinstallation, repair, replacement, reassembly, retesting, and/or re-inspection of any part or portion of the Services and any other property damaged or affected by such failure, breach, or corrective action). The Contractor will remedy any such failure or breach so as, to the maximum extent possible, avoid disruptions to the CBE's and Facility operations. In the event the Contractor fails to initiate and diligently pursue corrective action within five (5) calendar days of the Contractor's receipt of the CBE's said notice, the CBE may undertake such corrective action, at the Contractor's expense.

(d) Prior to the expiration of the applicable warranty periods set forth above, the Contractor agrees to compensate the CBE or any third parties for damages or losses to real or personal property and any other CBE losses and costs (including without limitation its business and administrative costs) arising or resulting from failure of any Services covered by the foregoing warranty.

(e) Title to and all rights in materials and equipment provided by the Contractor hereunder by or for the Contractor to the CBE as part of the Services or pursuant to the warranty under this Section 13.2 shall be deemed automatically and without further documentation to transfer to the CBE upon completion of the Services for the applicable Facility (or, if replaced as a result of the warranty herein, upon provision or delivery to the CBE or affixation of same at the Facility, whichever first occurs), free and clear of any and all Liens.

Title to and rights in materials or equipment replaced by the Contractor under warranty herein shall be deemed automatically to transfer to the Contractor without further documentation.

13.3 This Article 13 shall survive the expiry or termination of this Agreement.

ARTICLE 14
CONFIDENTIALITY

14.1 Confidentiality

(a) CBE Confidential Information and the CBE's Intellectual Property furnished by the CBE to the Contractor hereunder or otherwise received by the Contractor hereunder shall remain the sole and exclusive property of the CBE and nothing contained in this Agreement shall be construed as granting to the Contractor or any third party any license or right in or to the CBE Confidential Information or the CBE's Intellectual Property.

(b) The Contractor acknowledges and understands that the CBE makes no warranty or representation as to the accuracy or completeness of any CBE Confidential Information or the CBE's Intellectual Property and that the CBE shall have no liability under any theory whatsoever with respect to the use of any CBE Confidential Information or the CBE's Intellectual Property by the Contractor or any third party.

(c) The Contractor shall:

(i) not make use of any CBE Confidential Information or the CBE's Intellectual Property for its own personal gain or for any purpose other than as required to provide the Services;

(ii) not disclose any CBE Confidential Information to any person, except its Permitted Subcontractors and Personnel who have a genuine need to know such information consistent with the provision of the Services herein, in each case, on a confidential basis subject to the obligations under this Article 14, and except as required by law or court order;

(iii) hold all CBE's Confidential Information in the strictest confidence, subject to the remaining terms of Article 14;

(iv) not, in the course of provision of the Services hereunder, collect, use or disclose any Personal Information of any persons, except as provided in this Article 14 or as directed by the CBE in writing, subject at all times to the provisions of POPA; and

(v) not use the CBE's name, logos or trademarks, including for any advertising, marketing or promotional purposes, and not make any public announcements or disclosure in respect of this Agreement or the Contractor's relationship with the CBE, in each case without first obtaining the written consent from the CBE.

(d) The CBE shall not disclose the Contract Price or any information supplied by Contractor that is clearly marked "Confidential" except to the CBE's trustees, officers, employees, volunteers, students, contractors and agents and to Alberta Education, in each case on a strict "need to know" basis.

14.2 Privacy Laws

(a) Nothing contained in this Article 14 or elsewhere in this Agreement shall restrict or prevent the CBE from complying with its obligations under the *Protection of Privacy Act* (Alberta) ("**POPA**") and other applicable Privacy Laws.

(b) The Contractor acknowledges that the CBE is subject to and must comply with the provisions of POPA and that the information and records maintained or provided by the Contractor to the CBE under this Agreement may be subject to the protection and disclosure provisions of POPA and other applicable Privacy Laws.

14.3 Survival

The provisions of this Article 14 shall survive the expiration or termination of this Agreement.

ARTICLE 15
INDEMNITY

15.1 Indemnity

(a) Without prejudice to any other obligation of indemnification herein contained, the Contractor hereby indemnifies and holds harmless the CBE, its trustees, superintendents, employees, volunteers, students, contractors (except the Contractor and Permitted Subcontractors herein) and agents (hereinafter in this Section 15.1(a) individually referred to as a "**CBE Indemnitee**" and collectively as the "**CBE Indemnitees**") from and against any Losses that may be brought, suffered or incurred by any one or more of the CBE Indemnitees directly or indirectly as a result of or arising from:

(i) any breach by the Contractor of the provisions of this Agreement;

(ii) any negligence by the Contractor hereunder;

(iii) any failure by the Contractor to perform the Contractor's obligations hereunder, including any failure by any Permitted Subcontractor and/or its personnel to perform any of the Contractor's subcontracted obligations;

(iv) any failure, or allegation of failure, by the Contractor to collect or remit any taxes or file any tax returns that it is obliged to collect, remit or file at law or hereunder to comply with the provisions of any Applicable Laws;

(v) any infringement, or any allegation of infringement, of any Intellectual Property rights of CBE or any third party hereunder by the Contractor or any Permitted Subcontractor;

(vi) any failure, or allegation of failure, by the Contractor to comply with the Contractor's legal and/or contractual obligations towards any employee or permitted subcontractor; and/or

(vii) any inaccuracy of or any breach by the Contractor or any Personnel of any representation or warranty of the Contractor contained in this Agreement or in any contract, agreement, instrument, certificate or other document delivered pursuant to this Agreement;

save and except to the extent losses arise directly from the gross negligence or wilful default of any CBE Indemnitee.

(b) The indemnity obligations herein survive this Agreement and also apply to any acts or omissions of the Permitted Subcontractors and of all Personnel that would constitute a breach, failure, infringement or inaccuracy if carried out or omitted to be carried by the Contractor under this Agreement, it being understood that all such acts and omissions of such Personnel and Permitted Subcontractors hereunder constitute acts and omissions of the Contractor hereunder.

15.2 Insurances

(a) The Contractor, at its expense, shall maintain during the Term with reputable insurers policies of:

(i) Commercial General Liability insurance with a limit of not less than Five Million Dollars ($5,000,000) for any one loss or occurrence with respect to bodily injury (including death) and property damage, including loss of use thereof, which policy shall:

(A) include the CBE, its trustees, superintendents, employees, consultants, agents, volunteers and students as additional insureds;

(B) provide that, in relation to the interests of each additional insured, the said insurance shall not be invalidated by an action or inaction of any person other than the additional insured;

(C) include a "cross liability" clause insuring each party and individual and entity named in the policy as an insured in the same manner and to the same extent as if a separate policy had been issued to each;

(D) extend to cover blanket contractual liability, including the insurable liabilities assumed by the Contractor under this Agreement;

(E) extend to cover non-owned auto liability coverage; and

(F) not exclude any existing property of CBE, but shall treat the same as "third party property";

(ii) Employer's Liability Coverage, which shall not be less than $2,000,000 for each employee of the Contractor (and for each employee of any Permitted Subcontractors) where workers' compensation coverage does not exist or is exempted from coverage;

(iii) Automobile Liability insurance in an amount of not less than Two Million ($2,000,000) all-inclusive, covering the ownership, use and operation of any motor vehicles and/or trailers owned, leased or controlled by the Contractor and its Permitted Subcontractors if used in connection with this Agreement; and

(iv) "All Risks" insurance covering the Contractor's property, tools and equipment used in respect of the Services, where applicable, and property of others in the care, custody, or control of the Contractor or its Permitted Subcontractor(s) hereunder or for which each or both has assumed liability, all including while in transit or

storage, on a replacement cost basis. With respect to any property of such party, such policy shall contain a loss payee clause in favour of such party.

(b) The Contractor, in regard to the insurance policies to be maintained by it under Section 15.2(a), shall:

(i) ensure that same are endorsed to provide the CBE with not less than thirty (30) days written notice in advance of cancellation, change or amendments restricting coverage;

(ii) ensure that same do not include a deductible that exceeds a reasonable maximum amount;

(iii) not make or cause to be made any modification to the insurances to be maintained by it nor do or leave anything undone, which may invalidate the insurance coverages. The Contractor shall be responsible for any deductibles and excluded losses;

(iv) cause its Permitted Subcontractors to also maintain the insurance policies required to be maintained by the Contractor herein (provided that any Commercial General Liability insurance maintained by each of its Permitted Subcontractors shall have a limit of not less than Two Million Dollars ($2,000,000);

(v) ensure that the insurance coverages required to be maintained by it under Section 15.2(a) shall not limit or restrict its obligations under this Agreement; and

(vi) deliver to the CBE upon request certificates of insurance evidencing the coverages to be maintained by it hereunder.

15.3 Labour Code

The Contractor shall comply and cause its Permitted Subcontractors herein to comply with all applicable provisions of the *Labour Code* (Alberta) and the *Employment Standards Act* (Alberta) and all regulations and amendments thereto.

15.4 Workers' Compensation Legislation

The Contractor shall comply and causes its Permitted Subcontractors herein to comply with the *Worker's Compensation Act* (Alberta) and regulations and amendments thereto, and:

(i) if any of their respective employees perform or assist in the performance of this Agreement, the Contractor or its Permitted Subcontractors, as the case may be, shall deliver to the CBE at any time requested by the CBE, a letter from the Workers' Compensation Board (Alberta) stating that the Contractor and/or its Permitted Subcontractors, as the case may be, has an account in good standing with the Worker's Compensation Board;

(ii) the Contractor will make and cause its Permitted Subcontractors to make the necessary returns to the Workers' Compensation Board in accordance with governance regulations and pay all fees and contributions required in connection therewith. The costs thereof will be included in the Contract Price; and

(iii) the Contractor shall submit a clearance from the Workers' Compensation Board that all fees and contributions have been paid by it and its Permitted Subcontractors before final payment is made by the CBE under this Agreement.

ARTICLE 16
MISCELLANEOUS PROVISIONS

16.1 Force Majeure

Neither Party shall be liable hereunder for any delay or failure to fulfill its obligations herein arising from an event beyond its reasonable control, including without limitation, acts of God or the public enemy, fires, floods, epidemics, strikes, lockouts or work stoppages (but shall not include lack of funds), provided that if such event shall continue for more than ten (10) consecutive days then the CBE, at its sole option, may terminate this Agreement and the Services hereunder, in which the provisions of Section 11.7(b) in respect of payments due to the Contractor resulting from early termination shall apply but neither Party shall otherwise be liable hereunder, except for liabilities accrued up to the effective date of termination.

16.2 Notices

(a) Any notice, demand or other communication (in this Section 16.2, a "**notice**") required or permitted to be given or made under this Agreement shall be in writing and is sufficiently given or made if:

(i) delivered in person and left with a receptionist or other responsible employee of the relevant Party at the applicable address set forth in Exhibit A;

(ii) sent by prepaid courier service or (except in the case of actual or apprehended disruption of postal service) mail to the applicable address set forth in Exhibit A; or

(iii) sent by electronic mail or facsimile to the applicable electronic mail address or facsimile number set forth in Exhibit A;

(b) Any notice sent in accordance with Section 16.2(a) shall be deemed to have been received:

(i) if delivered prior to or during normal business hours on a Business Day, on the date of delivery;

(ii) if sent by mail, on the fifth (5^{th}) Business Day, or, in the case of disruption of postal service, on the fifth (5^{th}) Business Day after cessation of that disruption;

(iii) if sent by facsimile during normal business hours on a Business Day, on the same day that it is received, on production of a transmission report from the machine from which the facsimile was sent that indicates that the facsimile was sent in its entirety to the relevant facsimile number of the recipient; or

(iv) if sent by electronic mail, on the same day that it was transmitted.

(c) Either Party may change its address for notice by giving notice to the other Party.

16.3 Assignment

(a) This Agreement is not assignable by the Contractor without the prior written consent of the CBE, which consent may be withheld by the CBE, at its sole and absolute discretion. Any purported assignment by the Contractor of any of its rights, duties, or obligations hereunder without obtaining such consent shall be null and void and shall not relieve the Contractor from its duties and obligations under this Agreement.

(b) The CBE may assign this Agreement upon providing notice to the Contractor.

16.4 Binding Effect

This Agreement shall be binding upon and enure to the benefit of each of the CBE and the Contractor and their respective successors and permitted assigns.

16.5 Independent Contractor

(a) The Parties agree that the Contractor is an independent contractor, and that nothing in this Agreement shall be construed as establishing or implying a relationship of master and servant, joint venture or partnership between the Parties, and that nothing in this Agreement shall be deemed to constitute either Party as the agent of the other Party or authorize either Party to incur any expenses on behalf of the other Party or to commit the other Party in any way whatsoever.

(b) The Contractor and its agents, employees and subcontractors shall at no time be deemed to be the agents, employees or subcontractors of the CBE, or be deemed to be under the control or supervision of the CBE when carrying out the Services.

16.6 No waiver

Neither Party shall be deemed to have waived the exercise of any right that it holds under this Agreement unless such waiver is made in writing. No waiver made with respect to any instance involving the exercise of any such right shall be deemed to be a waiver with respect to any other instance involving the exercise of that right or with respect to any other right.

16.7 Governing Law

(a) This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein, excluding any conflict of laws rules that may apply therein.

(b) Subject to the provisions of Article 12, the Parties hereby attorn to the non-exclusive jurisdiction of the courts of the Province of Alberta.

(c) The Parties hereby waive any right to a trial by jury.

16.8 Time of the Essence

Time shall be of the essence in this Agreement.

16.9 Set-Off

The CBE shall be entitled at all times to set off any amount owing from the Contractor to the CBE against any amount due or owing to Contractor with respect to this Agreement.

16.10 Entire Agreement; Invoice Terms of No Effect

This Agreement constitutes the entire agreement of the Parties concerning its subject matter and no other representations, warranties or agreements, either oral or written, shall be binding upon the CBE or the Contractor. This Agreement supersedes and invalidates all prior agreements, understandings, negotiations, representations and warranties, requests for proposal or responses to such requests (except to the extent that the Request and the Response or any applicable part

or parts thereof is expressly incorporated into this Agreement as referred to in Appendix 1 of Exhibit A, in which case the Request and the Response or applicable part or parts thereof, to the extent incorporated by reference in Appendix 1 of Exhibit A, subject to any modification or amendment referred to in such Appendix, shall form part of this Agreement) and all purchase orders, whether oral or written, with respect to the subject matter hereof. The terms of this Agreement shall supersede any terms included in the Contractor's invoice or in any purchase order issued by the CBE or the Contractor, which terms shall not be applicable to this Agreement and shall not be considered to be exceptions to the provisions of this Agreement.

16.11 Counterparts

The parties may execute this Agreement by facsimile or other electronic means and in separate counterparts, each of which when so executed and delivered shall be an original, and all such counterparts taken together shall constitute one and the same instrument.

16.12 Ambiguities

This Agreement has been negotiated between persons who are sophisticated and knowledgeable in the matters contained in this Agreement. Each Party acknowledges that it has had sufficient and reasonable opportunity to consult with its legal counsel prior to executing this Agreement. Accordingly, the provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the Parties, and any rule of construction to the effect that any ambiguities are to be resolved against the Party that drafted this Agreement shall not apply to the interpretation of this Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement by their respective duly authorized signatories as of the date first above written.

THE CALGARY BOARD OF EDUCATION

By: _____

Name:

Title: Director, Corporate Financial Services

Date: _____

[INSERT NAME OF CONTRACTOR]

By: _____

Name (print): _____

Title (print): _____

Date: _____

EXHIBIT A

PARTICULARS OF SERVICES AGREEMENT

1. **Request:** RFP/RFQ _____ issued on _____.

2. **Response**: _____, issued on _____.

3. **Scope of Work:** (including Performance Schedule, specifications and acceptance or testing criteria): **See Appendix 1 to this Exhibit A**.

4. **Location of Services:** _____

5. **Expiry Date of Term:** 3 (three) year period with 2 (two) 1 (one) year optional extensions

6. **Contract Price:** See **Appendix 2** to this Exhibit A.

7. **Addresses for Notice under this Agreement:**

   (a) if to the CBE:

   1221 – 8th Street SW
   Calgary, AB T2R 0L4

   Attn: Manager, Supply Chain Operations

   Email: procurementservices@cbe.ab.ca

   (b) if to the Contractor:

   _____

   _____

   _____

   Attn: _____

   Email: _____

8. **Contractor's G.S.T. and WCB Registration Numbers:**

   G.S.T. Registration #: _____

   WCB Registration # for Contractor: _____
   # for Subcontractors: _____
   _____

EXHIBIT A
APPENDIX 1 – Scope of Work

[Note to Draft: Insert detailed Scope of Work here.]

EXHIBIT A
APPENDIX 2 - Contract Price

[Note to Draft: Insert negotiated pricing or RPx response pricing here.]