



Vancouver Public Library

## **REQUEST FOR PROPOSALS**

### **LIBRARY MATERIAL SELF-SERVE CHECKOUT MACHINE REPLACEMENT**

**RFP No. VPL20190529**

**Issue Date: May 29, 2019**

**Issued by: Vancouver Public Library (the “Library”)**

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PART A - INFORMATION AND INSTRUCTIONS

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**PART A - INFORMATION AND INSTRUCTIONS**

**1.0 THE RFP**

- 1.1 This Request for Proposals (the “RFP”) provides an opportunity to submit proposals for review by the Library and, depending on the Library’s evaluation of proposals, among other factors, to potentially negotiate with the Library to enter into a contract. **EXCEPT WHERE EXPRESSLY STATED OTHERWISE IN APPENDIX 1 TO PART C OF THE RFP: (I) NO PART OF THE RFP CONSISTS OF AN OFFER BY THE LIBRARY TO ENTER INTO ANY CONTRACTUAL RELATIONSHIP; AND (II) NO PART OF THE RFP IS LEGALLY BINDING ON THE LIBRARY.**
- 1.2 The RFP concerns the Library’s interest in procuring replacement units for our library self-serve checkouts machines used for patron self-serve in borrowing library material. Details of the Library’s objectives and requirements to which the RFP relates are set out in Part B of the RFP. The Library welcomes proposals that are responsive to this RFP (“Proposals”) respecting innovative or novel approaches to the Library’s objectives and requirements.
- 1.3 The Library is interested in selecting an entity, which is not, by the terms hereof, barred from submitting a Proposal, and which does submit a Proposal (each such entity, a “Proponent”) with the capability and experience to efficiently and cost-effectively meet the objectives and requirements described in the RFP. The Library currently expects to select such a Proponent and then enter into negotiations with that Proponent, which will conclude in the execution of a contract between the Proponent and the Library (such a contract, an “Agreement”). However, the Library may: (i) decline to select any Proponent; (ii) decline to enter into any Agreement; (iii) select multiple Proponents for negotiation; or (iv) enter into one or more agreements respecting the subject matter of the RFP with one or more Proponents or other entities at any time. The Library may also terminate the RFP at any time.
- 1.4 The Library currently intends that Proposals will be evaluated by the Library in relation to their overall value, which will be assessed in the Library’s sole and absolute discretion. In assessing value, the Library expects to consider the factors described in Section 8 below, among others.
- 1.5 **NO BID SECURITY IS REQUIRED FROM PROPONENTS IN CONNECTION WITH THE SUBMISSION OF PROPOSALS BECAUSE NO PROPOSAL WILL BE DEEMED TO BE AN IRREVOCABLE OR OTHERWISE BINDING LEGAL OFFER BY A PROPONENT TO THE LIBRARY. THE LEGAL OBLIGATIONS OF A PROPONENT THAT WILL ARISE UPON THE SUBMISSION OF ITS PROPOSAL WILL BE LIMITED TO THE TERMS AND CONDITIONS STATED UNDER THE HEADING “LEGAL TERMS & CONDITIONS” IN APPENDIX 1 TO THE FORM OF PROPOSAL.**
- 1.6 The execution of an Agreement may be contingent on funding being approved, and the relevant Proposal being approved, by the Vancouver Public Library Board.
- 1.7 The RFP consists of four parts, plus appendices:
- (a) **PART A - INFORMATION AND INSTRUCTIONS:** This part is intended to serve as a guide to the RFP process for Proponents.
  - (b) **PART B - LIBRARY REQUIREMENTS:** This part describes the subject matter of the RFP, in respect of which the Library invites Proposals.
  - (c) **PART C - FORM OF PROPOSAL:** This is the form in which the Proposal should be submitted.

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- (d) **PART D - FORM OF AGREEMENT:** This part contains a model Agreement (the “**Form of Agreement**”). Any Agreement resulting from the RFP is expected to be substantially in the form of the Form of Agreement.

**2.0 KEY DATES**

- 2.1 Potential Proponents should note the following key dates:

Event	Time and Date
Deadline for Enquiries	June 12, 2019
Closing Time	3:00pm on June 21, 2019

- 2.2 All references to time in the RFP are references to the time in the City of Vancouver, as indicated in the electronic timestamp the Proposal receives upon delivery to the email address specified herein, which is in turn synchronized to Network Time Protocol (NTP) provided by the National Research Council of Canada adjusted to local Pacific Time Zone.

**3.0 CONTACT PERSON**

- 3.1 All enquiries regarding the RFP must be addressed to:

Nathan Kung, Manager, Facilities and Purchasing  
[Nathan.Kung@vpl.ca](mailto:Nathan.Kung@vpl.ca)

- 3.2 All enquiries must be made in writing. In-person or telephone enquiries are not permitted.

- 3.3 **IF A POTENTIAL PROPONENT BELIEVES THAT THE LIBRARY MAY BE UNABLE TO SELECT IT DUE TO A CONFLICT OF INTEREST, BUT IS UNCERTAIN ABOUT THIS, THE POTENTIAL PROPONENT IS URGED TO CONTACT THE ABOVE-MENTIONED INDIVIDUAL AS SOON AS POSSIBLE WITH THE RELEVANT INFORMATION SO THAT THE LIBRARY MAY ADVISE THE POTENTIAL PROPONENT REGARDING THE MATTER.**

**4.0 SUBMISSION OF PROPOSALS**

- 4.1 Proponents should submit their Proposals on or before the time and date specified in the bottom row of the table in Section 2.1 above (the “**Closing Time**”).

- 4.2 Each Proponent should submit its Proposal in an envelope clearly marked with the Proponent’s name and the RFP title and number (“**LIBRARY MATERIAL SELF SERVE CHECKOUT MACHINE REPLACEMENT; VPL20190529**”) to the following address:

Vancouver Public Library  
Purchasing Services Office  
350 West Georgia Street, Vancouver, BC,  
V6B 6B1

- 4.2 The Library requests that four hard copy and one electronic copy (on a CD, flash drive, memory stick or similar medium) of each Proposal (or amendment) be submitted. Proposals should not be bound in three-ring binders.

- 4.3 Proposals must not be submitted by fax or email.

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- 4.4 To be considered by the Library, a Proposal must be submitted in the form set out in Part C (the “**Form of Proposal**”), completed and duly executed by the relevant Proponent.
- 4.5 Amendments to a Proposal may be submitted via the same methods, at any time prior to the Closing Time.
- 4.6 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 4.7 All costs associated with the preparation and submission of a Proposal, including any costs incurred by a Proponent after the Closing Time, will be borne solely by the Proponent.
- 4.8 Unnecessarily elaborate Proposals are discouraged. Proposals should be limited to the items specified in Part C of the RFP.
- 4.9 The Library is willing to consider any Proposal from two or more Proponents that wish to form a consortium solely for the purpose of submitting a joint Proposal in response to the RFP, provided that they disclose the names of all members of the consortium and all members complete and sign the first page of the Form of Proposal. Nonetheless, the Library has a strong preference for Proposals submitted by a single Proponent, including a Proponent that would act as a general contractor and use subcontractors as required.
- 4.10 Proposals that are submitted after the Closing Time or that otherwise do not comply in full with the terms hereof may or may not be considered by the Library and may or may not be returned to the Proponent, in the Library’s sole discretion.

**5.0 CHANGES TO THE RFP AND FURTHER INFORMATION**

- 5.1 The Library may amend the RFP or make additions to it at any time.
- 5.2 It is the sole responsibility of Proponents to check the City of Vancouver’s website at: <http://vancouver.ca/doing-business/open-bids.aspx> regularly for amendments, addenda, and questions and answers in relation to the RFP.
- 5.3 Proponents must not rely on any information purported to be given on behalf of the Library that contradicts the RFP, as amended or supplemented in accordance with the foregoing Section 5.2

**6.0 PROPOSED TERM OF ENGAGEMENT**

- 6.1 The term of any Agreement is expected to be a 4-year period, with 2 possible 2-year extensions, for a maximum total term of 6 years.

**7.0 PRICING**

- 7.1 All prices quoted in any Proposal must be inclusive of any provincial sales tax payable by the Library under the *Provincial Sales Tax Act*, S.B.C.2012, c.35 (“**PST**”), but exclusive of any tax calculated upon such prices under the Excise Tax Act, R.S.C., 1985, c. E-15 (“**GST**”) or under any other sales tax legislation. GST and any such other sales tax (but not PST) should be described separately in each Proposal.
- 7.2 Prices must be quoted in Canadian currency and fixed prices must be quoted for the full term of the Proponent’s proposed agreement.
- 7.3 Prices are to be quoted CIP, destination (Incoterms, 2010). For the avoidance of doubt, freight, insurance, unloading at the destination designated by the Library, import duties,

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brokerage, royalties, handling, overhead, profit and all other similar costs are to be included in quoted prices.

**8.0 EVALUATION OF PROPOSALS**

8.1 The Library may open or decline to open Proposals in such manner and at such times and places as are determined by the Library.

8.2 The Library currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated by Library representatives, using quantitative and qualitative tools and assessments, as appropriate, to determine which Proposal or Proposals offer the overall best value to the Library. In so doing, the Library expects to examine not only financial terms, but also (i) Proponents' skills, knowledge, reputations and previous experience(s), including experience(s) with the Library (if any); (ii) Proponents' capabilities to meet the Library's Requirements (as defined in Part B) as and when needed, (iii) quality and service factors, including maintenance and support arrangements and costs (iv) innovation, (v) environmental or social sustainability; and (vi) transition costs or challenges. Certain other factors may be mentioned in Part B or elsewhere in the RFP.

Evaluation Criteria	Evaluation Weighting
Technical Total <ul style="list-style-type: none"> <li>• Functionality = 50</li> <li>• Fit = 10</li> <li>• Qualifications of vendor = 10</li> <li>• Quality of submission = 10</li> </ul>	80%
Financial (initial cost, support & maintenance)	20%
<b>Total</b>	<b>100%</b>

8.3 The Library will retain complete control over the RFP process at all times until the execution and delivery of an Agreement or Agreements, if any. The Library is not legally obligated to review, consider or evaluate Proposals, or any particular Proposal, and need not necessarily review, consider or evaluate Proposals, or any particular Proposal in accordance with the procedures set out in the RFP. The Library may continue, interrupt, cease or modify its review, evaluation and negotiation process in respect of any or all Proposals at any time without further explanation or notification to any Proponents.

8.4 The Library may, at any time prior to signing an Agreement, discuss or negotiate changes to the scope of the RFP with any one or more of the Proponents without having any duty or obligation to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.

8.5 The Library may elect to short-list Proponents and evaluate Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification,

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including by attending interviews, making presentations, supplying samples, performing demonstrations, furnishing technical data or proposing amendments to the Form of Agreement. The Library will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate any or all negotiations.

- 8.6 The Library may also require that any proposed subcontractors undergo evaluation by the Library.
- 8.7 For the avoidance of doubt, notwithstanding any other provision in the RFP, the Library has in its sole discretion, the unfettered right to: (a) accept any Proposal; (b) reject any Proposal; (c) reject all Proposals; (d) accept a Proposal which is not the lowest-price proposal; (e) accept a Proposal that deviates from the Requirements or the conditions specified in the RFP; (f) reject a Proposal even if it is the only Proposal received by the Library; (g) accept all or any part of a Proposal; (h) split the Requirements between one or more Proponents; and (i) enter into one or more agreements respecting the subject matter of the RFP with any entity or entities at any time. Without limiting the foregoing, the Library may reject any Proposal by a Proponent that has a conflict of interest, has engaged in collusion with another Proponent or has otherwise attempted to influence the outcome of the RFP other than through the submission of its Proposal.

#### **9.0 LIBRARY POLICIES**

- 9.1 The Library's Procurement Policy, Ethical Purchasing Policy and related Supplier Code of Conduct found at <http://vancouver.ca/doing-business/selling-to-and-buying-from-the-city.aspx> align the Library's approach to procurement with its corporate social, environmental and economic sustainability values and goals. They evidence the Library's commitment to maximize benefits to the environment and the community through product and service selection, and to ensure safe and healthy workplaces, where human and civil rights are respected. Each Proponent is expected to adhere to the supplier performance standards set forth in the Supplier Code of Conduct. The Ethical Purchasing Policy shall be referred to in the evaluation of Proposals, to the extent applicable.

#### **10.0 LIVING WAGE EMPLOYER**

- 10.1 Effective May 1, 2017, the City of Vancouver became a "Living Wage Employer". As such, the Library requires all firms that are contracted by the Library to provide services on Library-owned and leased properties to pay employees who perform those services on Library property a Living Wage as calculated by the Living Wage for Families Campaign.

Please see the Living Wage for Families Campaign website for the current Living Wage for Vancouver:

[http://www.livingwageforfamilies.ca/living\\_wages\\_in\\_bc\\_and\\_canada](http://www.livingwageforfamilies.ca/living_wages_in_bc_and_canada)

The Living Wage includes the value of any non-mandatory benefits such as paid sick leave, employer-paid Medical Services Plan premiums and extended health benefits.

The Living Wage for Families has created a Living Wage Calculator to assist with the calculation of an employee's hourly rate with benefits. The Living Wage Calculator can be found at the following website:

<http://www.livingwageforfamilies.ca/employers/living-wage-calculator/>

Proponents should refer to the Form of Agreement attached as Part D to this RFP for the specific requirements related to the Living Wage, which include:

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- (a) paying the Living Wage to all employees who perform services pursuant to the Agreement on Library property during the term of the Agreement; and
- (b) ensuring that all subcontractors pay the Living Wage to their employees who perform services on Library property during the term of the Agreement.

Failure to comply with the Living Wage requirement will entitle the Library to terminate the Agreement.

**11.0 CERTAIN APPLICABLE LEGISLATION**

- 11.1 Proponents should note that the Vancouver Public Library is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the Library's consultants or contractors to protect all personal information acquired from the Library in the course of providing any service to the Library.
- 11.2 Proponents should note that the *Income Tax Act* (Canada) requires that certain payments to non-residents be subject to tax withholding. Proponents are responsible for informing themselves regarding the requirements of the *Income Tax Act* (Canada), including the requirements to qualify for any available exemptions from withholding.

**12.0 LEGAL TERMS AND CONDITIONS**

- 12.1 The legal obligations of a Proponent that will arise upon the submission of its Proposal are stated in this Appendix 1 to the Form of Proposal. Except where expressly stated in these Legal Terms and Conditions: (i) no part of the RFP consists of an offer by the Library to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the Library.

**POTENTIAL PROPONENTS MUST REVIEW THESE LEGAL TERMS AND CONDITIONS CAREFULLY BEFORE SUBMITTING A PROPOSAL.**



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PART A - INFORMATION AND INSTRUCTIONS

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APPENDIX 1 TO PART A



Vancouver  
Public Library

FACILITIES AND PURCHASING SERVICES

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**RE: REQUEST FOR PROPOSALS NO. VPL20190529, LIBRARY MATERIAL SELF SERVE CHECKOUT MACHINE REPLACEMENT**

To acknowledge your intent to attend the Information Meeting and to ensure that you receive the required information, please submit this form to the person identified below in accordance with the RFP:

Nathan Kung, Manager, Facilities and Purchasing  
Vancouver Public Library  
Email: [Nathan.Kung@vpl.ca](mailto:Nathan.Kung@vpl.ca)

Proponent's Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Key Contact Person: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_ Incorporation Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Authorized Signatory

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Date

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**PART B - LIBRARY REQUIREMENTS**

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**PART B - LIBRARY REQUIREMENTS**

The requirements stated in this Part B (collectively, the “Requirements”) are current as of the date hereof, but they may change or be refined in the course of the evaluation of Proposals or otherwise.

Unless otherwise stated, if, and wherever, the Requirements state a brand name, a make, the name of a manufacturer, a trade name or a vendor catalogue number, it is for the purpose of establishing a grade or quality of materials, goods or equipment only. It is not intended to rule out the use of other equivalent materials, goods or equipment. If, however, products other than those specified are proposed in any Proposal, the Proposal must explicitly include under the heading “Alternative Solutions” the names of such products and their manufacturers, any trade names and any applicable vendor catalogue numbers, and the Library may request that the Proponent provide specific evidence of equivalency. Evidence of quality in the form of samples may also be requested.

To the extent that the Requirements express estimates of quantities or volumes of goods or services expected to be required by the Library, the Library cannot offer any assurances that such quantities or volumes will in fact be required.

**1.0 REQUIREMENTS**

The Library has the following Requirements:

1.1 Supply, configure and install 52 self-serve checkout machines replacing all of VPL’s existing machines.

1.2 Supply and provide server specifications for any server-based software to be installed on VPL servers to support the management of the self-serve checkout machines. This includes software for any optional functions selected by the library.

1.2.1 Assist the Library with the installation of any server-based software by providing instructions and support.

1.3 Provide training for VPL staff on administrative tasks related to day to day operation of the self-serve checkout machines and any optional features selected by the library.

1.4 Basic Functionality of the units:

<b>Number</b>	<b>Requirements</b>	<b>Proponent Response</b>
R.1	The SSCKO application is compatible with the SirsiDynix Horizon ILS. [Horizon version 7.5.5] [Y/N]	
R.2	The SSCKO application uses SIP2 as implemented with Horizon for communications with the ILS. [Y/N]	
R.3	What technologies are available / on the development roadmap for communications with the ILS?	
R.4	The SSCKO includes a barcode scanner for reading patron and book barcodes. [Y/N]	

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R.5	The SSCKO barcode scanner uses CCD technology [to ensure that barcodes can be read from patron mobile devices.] [Y/N]	
R.6	What technologies are available / on the development roadmap for entry of patron credentials? Tap from mobile? Alternate ID?	
R.7	The SSCKO includes a RFID scanner to read RFID tags in materials. VPL's tags are ISO 15 693, ISO 1800-3 Mode 1, operating at 13.56 MHz.[Y/N]	
R.8	The SSCKO interface includes an option to enter barcodes manually. [VPL have eye-readable barcodes on materials.] [Y/N]	
R.9	The SSCKO supports checkout of multiple items at one time. [Patron places a pile of materials on the RFID pad.] [Y/N]	
R.10	Describe features of your proposed SSCKO machine which ensure that RFID tags are read reliably.	
R.11	The SSCKO user interface clearly displays the status of each item read from a pile of materials. [Y/N]	
R.12	The SSCKO user interface provides clear instructions to the patron if the RFID tags on one or more items were not read successfully. [Y/N]	
R.13	The SSCKO resets the security bit on the materials which are successfully checked out. VPL's tags are ISO 15 693, ISO 1800-3 Mode 1, operating at 13.56 MHz. [Y/N]	
R.14	The SSCKO includes an option for a paper checkout receipt. [Y/N]	
R.15	Specify the size and quality of the paper used by the receipt printer.	
R.16	Does your firm sell supplies for printed receipts (paper, toner, etc.)? [Y/N]	
R.17	Confirm that the library is not required to purchase supplies for printed receipts from your firm. [Y/N]	
R.18	The SSCKO includes an option for an email receipt. [Y/N]	
R.19	On screen instructions clearly prompt the user how to select a receipt option. [Y/N]	
R.20	Patrons have the ability to select 'no receipt' as an option. [Y/N]	
R.21	How are paper out or paper jam conditions handled? Can a SSCKO proceed and offer an email receipt?	
R.22	The SSCKO machine allows the library to optionally change the text of prompts. [Y/N]	
R.23	The SSCKO machine allows the library to optionally change the text of error messages. [Y/N]	

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PART B - LIBRARY REQUIREMENTS**

R.24	List the situations when the SCKO machine passes messages received from the ILS to the patron.	
R.25	The SCKO user interface is available in a number of languages [English, CJK, French...]. [Y/N]	
R.26	Provide a list of languages for which translations of the interface are delivered as part of the SCKO application.	
R.27	Can the library edit delivered translations? [Y/N]	
R.28	Describe how delivered translations are edited?	
R.29	Can the library add translations for languages not delivered?	
R.30	Describe how language translations are installed in individual SCKO machines. Can one file be pushed out to network connected machines? Can one file be pushed out to a selected group of network connected machines?	
R.31	Are there any limits on how many language options can be displayed on one SCKO machine?	
R.32	Describe how the language options are displayed to the user?	
R.33	Does the language reset to the default at the end of a patron session? [Y/N]	
R.34	The SCKO interface and any printed or electronic receipts must display the name of VPL's náca?mat ct Strathcona Branch correctly. Does the system support the display of Unicode characters?	
R.35	List any alternative interfaces available. Eg., for children, or for an express service setting?	
R.36	Is there an alternative interface available for visually impaired patrons? [Y/N]	
R.37	Are alternative interfaces available for the user to select or are they set by the system admin as the default display?	
R.38	What options does the library have to brand the SCKO interface? Eg., Add VPL logo, use VPL colour scheme, display the name of the local branch, etc.	
R.39	Describe the available form factors for the SCKO machine. For machines consisting of separate components, include the size of the components.	
R.40	Describe any available features supporting physical accessibility to the SCKO machine.	
R.41	Describe any available options such as colour or graphic wrap. Indicate for which form factor(s) these are available. Provide associated costs in the cost table.	

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R.42	Describe the technical specifications for the SCKO machine.	
R.43	Can the peripherals (barcode scanner, RFID reader receipt printer, etc.) be replaced individually in case of a failure or a need to upgrade?	
R.44	Is the SCKO based on an appliance or a fully functional computer? [The library prefers a closed platform to simplify PCI compliance.]	
R.45	What is the operating system of the SCKO?	

1.2 Payment & PCI Compliance

Number	Requirements	Minimum Requirement
R.46	The SCKO machine handles payment of library fines / fees [Y/N]	
R.47	The SCKO machine works with the Horizon ILS through SIP2 to block borrowing when outstanding amounts on the patron account exceed the library thresholds. [Y/N]	
R.48	Describe the patron experience for making a payment and proceeding to checkout materials.	
R.49	Does the SCKO machine provide a payment receipt separate from that produced by the payment terminal? [Y/N]	
R.50	Describe options to customize the payment receipt including: headers, handling dates, bibliographic information, additional messages and the ability to mask or not list the payment card number.	
R.51	The SCKO machines works with Moneris P320 payment card terminals. [Y/N]	
R.52	Describe any physical security features protecting the SCKO machine and the payment card terminal from tampering.	
R.53	Describe the method for the SCKO machine and payment terminal to communicate. Can the payment terminal be configured with a separate network or LTE connection and a different IP address than the SCKO machine?	
R.54	Would there ever be a situation that would cause any patron data, including payment card data to be stored on the SCKO machine? (For example, a communications failure.) [Y/N]	
R.55	Identify the payment application used in the SCKO application.	
R.56	Is the payment application developed by your company or by a third party?	
R.57	Is the payment application a PCI Council Validate Payment Application? Provide a reference to the entry on this site:	

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	<a href="https://www.pcisecuritystandards.org/assessors_and_solutions/payment_application">https://www.pcisecuritystandards.org/assessors_and_solutions/payment_application</a> for the application.	
R.58	Art there any known issues which prevent the solution from achieving compliance? [Y/N]	
R.59	Are there any specific or unique requirement for merchants using the systems to achieve PCI compliance?	
R.60	If the answer to either of the two proceeding questions is Y, provide details.	
R.61	Does the system generate alerts/logs? If so, what type?	
R.62	Can logs be integrated with a SIEM?	
R.63	How is the system updated (patched)?	
R.64	Do your staff require remote access to the systems? If so, in what scenarios?	
R.65	How is the library notified if a vulnerability is discovered with the system?	
R.66	Provide a diagram of the connections of SSCKO machine and payment terminal.	
R.67	Provide Data Flow Diagrams of all proposed payment flows as they relate to processing, storage and transmission of credit card data for purchases, refunds and charge backs	
R.68	Provide a current, accurate and valid Attestation of Compliance.	
R.69	Provide a Charter for the PCI DSS Compliance program in your organization and define specifically who is responsible for the protection of cardholder data and the PCI DSS Compliance Program.	
R.70	Provide a high level org chart for the PCI DSS Compliance Program within your organization	
R.71	The Library expects to engage the successful proponent in mutually completing the PCI DSS Responsibility Matrix. Acknowledge that you have seen the attached PCI DSS Responsibility Matrix (See Appendix B2 Attached) and will assist in mutually completing this matrix.	
R.72	Provide specific details of the payment solution that may impact the City of Vancouver's PCI scope as it relates to people, processes and technology.	

1.3 Management and Troubleshooting

Number	Requirements	Minimum Requirement
R.73	SSCKO machines can be managed from a central management station (Y/N)	

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R.74	Central management application supports assigning named user accounts with defined roles and responsibilities. Eg., staff access to make changes can be granularly assigned.	
R.75	Changes to SCKO machine configuration can be pushed out to selected machines when appropriate.	
R.76	Changes to SCKO machine configuration can be pushed out globally when appropriate.	
R.77	Central management station gathers and reporting on use statistics for SCKO machines.	
R.78	Describe the hardware requirements for the computer hosting the central management application.	
R.79	Central management application is accessible through a web browser. (Y/N)	
R.80	Available statistics include: activity by machine, by location, by date, by time of day (hour)	
R.81	Statistics can be uploaded in csv format. (Y/N)	
R.82	List included reports available.	
R.83	Describe any reports helping VPL with service planning - Eg. Use of alternative languages or use of alternative interfaces.	
R.84	Describe any diagnostic reports available for monitoring / troubleshooting the machines centrally.	
R.85	Describe any diagnostic features available for branch staff to troubleshoot the machines locally.	

1.4 Additional Features

Number	Requirements	Minimum Requirement
R.86	Describe any patron empowerment features of the proposed SCKO machines.	
R.87	For any features listed above, mention any dependencies or required licenses not provided by you as part of the feature package. [Eg., a content subscription or a server to host an application.]	
R.88	List any vendors / products of content that the patron empowerment features support.	
R.89	For any features listed above, comment if either the proponent's	

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	application or the partner vendor have access to any patron personal information if they choose to use the feature.	
R.90	In any case where patron personal information is available to the proponent's application or the partner vendor, identify if that information is stored and where. [This question relates to storing data outside of Canada]	
R.91	Describe any feature which assists the Library with promotion of library services. (Eg., When the SSCKO machine is not in use, can it display a library message?)	
R.92	Are there options with any patron empowerment features to offer additional languages? [Y/N]	
R.93	If the answer to the previous question is Y, provide details.	
R.94	Describe any options regarding the scheduling of additional features. [This question is exploring prioritizing checkout activity during busy times.]	
R.95	Can all features mentioned be centrally managed? [Y/N]	
R.96	List any features which cannot be centrally managed.	
R.97	For all features, can management of the feature be assigned to a user role separate from the system administrator role? [Y/N]	
R.98	List any features which must be managed by a user with full system administration permission. [This question is exploring the Library's ability to ensure separation of duties among staff. System administration and content management should be separate roles.]	
R.99	Do integrated patron empowerment features offer an option to print a recommendation? [Y/N]	
R.100	Do integrated patron empowerment features offer an option to email a recommendation?	
R.101	Describe any method of incorporation a list of staff recommendations into the interface. [VPL uses Bibliocommons to develop lists of recommended reading.]	
R.102	Is there an option to provide a summary of "savings" on the checkout receipt? [Y/N]	
R.103	Describe any additional features which add value to your proposed SSCKO machines and have not been covered in the questions in this requirement section.	

1.5 Strong preference for the Self-Serve Checkout Machines with ability to be incorporated into the current desks. See Appendix B1 for measurements



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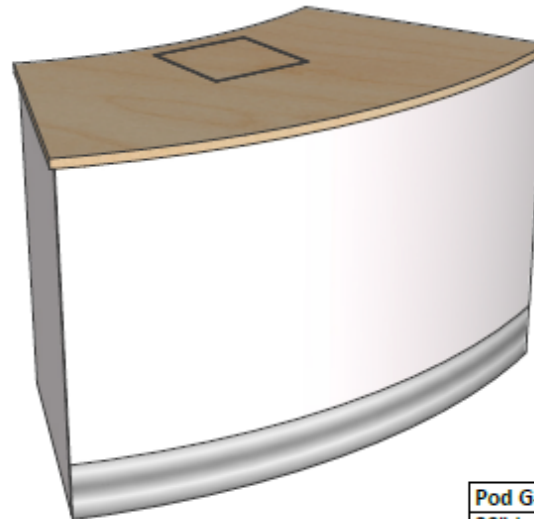
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APPENDIX B1

**JOB # 34819**  
**Pod G-1**  
**Stand Height**  
**Qty. (4)**

**V.P.L. - Oct of 2017**

Branch	Qty. Req.
Dunbar	1
Kerrisdale	
Oakridge	2
Renfrew	1

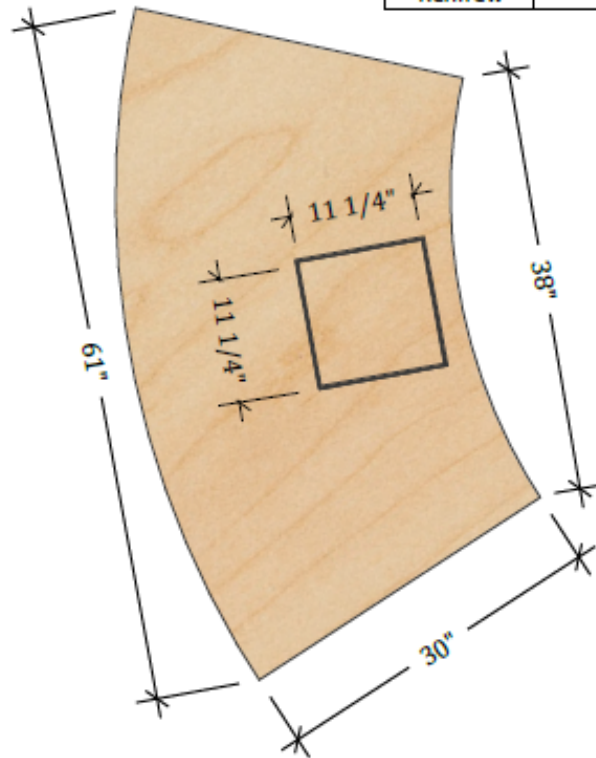


<b>Pod G-1 - SSCKO - Stand Height Desk</b>
30"d x 38" / 61"w (+/-) x 37"h
11.25" x 11.25" Black Inlay - For Book Scanner
Removable Top on Satin Chrome Stand-Off's
Centre - Locking Hinged Doors with Vents
ID of Cupboard = Minimum 8" (Rod & Block Pulls)
Hard Rock Maple HP Laminate Tops - 3mm PVC Edge
Designer White HP laminate Casework - 3mm PVC Edge
Satin Chrome HP Laminate 5" High Kick

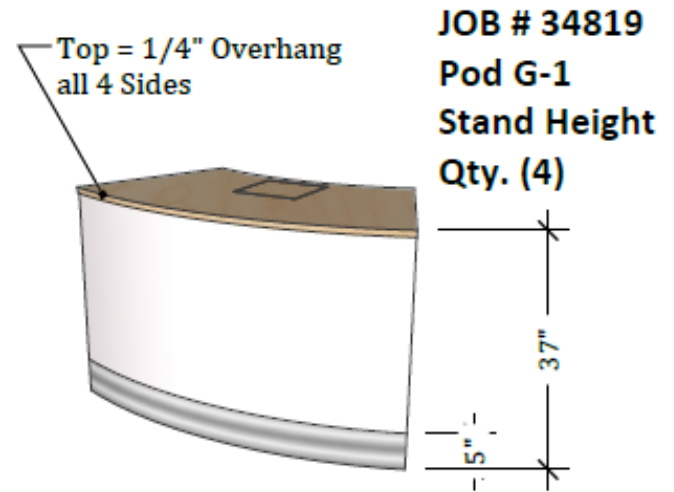
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**V.P.L. - Oct of 2017**

Branch	Qty. Req.
Dunbar	1
Kerrisdale	2
Oakridge	2
Renfrew	1

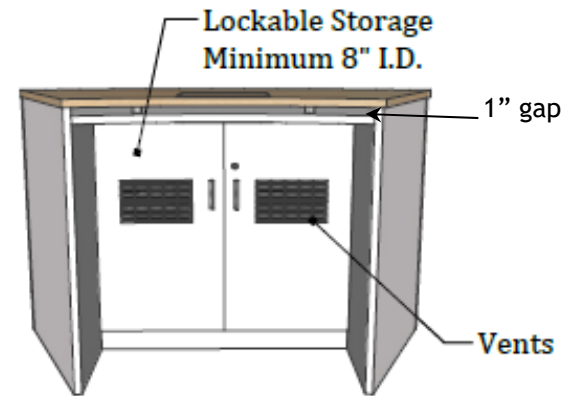


Top Width Sizes (+ / -)



**JOB # 34819**  
**Pod G-1**  
**Stand Height**  
**Qty. (4)**

\*All Edges - 3mm PVC Edge



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APPENDIX B2 - PCI DSS RESPONSIBLITLY MATRIX

See attached.

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**PART C - FORM OF PROPOSAL**

RFP No. VPL20190529, LIBRARY MATERIAL SELF SERVE CHECKOUT MACHINE REPLACEMENT (the  
"RFP")

Proponent's Name: \_\_\_\_\_  
"Proponent"

Address: \_\_\_\_\_  
\_\_\_\_\_

Jurisdiction of Legal Organization: \_\_\_\_\_

Date of Legal Organization: \_\_\_\_\_

Key Contact Person: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

The Proponent, having carefully examined and read the RFP, including all amendments and addenda thereto, if any, and all other related information published on the City's website, hereby acknowledges that it has understood all of the foregoing, and in response thereto hereby submits the enclosed Proposal.

The Proponent further acknowledges that it has read and agrees to the Legal Terms & Conditions attached as Appendix 1 to this Form of Proposal.

IN WITNESS WHEREOF the Proponent has executed this Proposal Form:

\_\_\_\_\_  
Signature of Authorized Signatory for the Proponent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Signature of Authorized Signatory for the Proponent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title

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**APPENDICES**

The Form of Proposal includes the following attached Appendices:

- APPENDIX 1     Legal Terms and Conditions of RFP
- APPENDIX 2     Questionnaire
- APPENDIX 3     Commercial Proposal
- APPENDIX 4     Proponents References
- APPENDIX 5     Certificate of Insurance
- APPENDIX 6     Declaration of Supplier Code of Conduct Compliance
- APPENDIX 7     Intentionally omitted
- APPENDIX 8     Subcontractors
- APPENDIX 9     Proposed Amendments to Form of Agreement
- APPENDIX 10    Intentionally omitted
- APPENDIX 11    Proof of WorkSafeBC Registration
- APPENDIX 12    Conflicts; Collusion; Lobbying

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APPENDIX C1  
LEGAL TERMS AND CONDITIONS OF RFP

**1 APPLICATION OF THESE LEGAL TERMS AND CONDITIONS**

These legal terms and conditions set out the Library's and the Proponent's legal rights and obligations only with respect to the RFP proposal process and any evaluation, selection, negotiation or other related process. In no event will the legal terms and conditions of this Appendix 1 apply to, or have the effect of supplementing, any Contract formed between the Library and the Proponent, or otherwise apply as between the Proponent and the Library following the signing of any such Contract.

**2 DEFINITIONS**

In this Appendix 1, the following terms have the following meanings:

- (a) "Library" means the Vancouver Public Library Board, an independent Board of the City of Vancouver, operating pursuant to the *Library Act* of the Province of British Columbia.  
  
"City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter.
- (b) "Contract" means a legal agreement, if any, entered into between the Library and the Proponent following and as a result of the Proponent's selection by the Library in the Library's RFP process.
- (c) "Losses" means, in respect of any matter, all direct or indirect, as well as consequential: claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (d) "Proponent" means the legal entity which has signed the Proposal Form, and "proponent" means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.
- (e) "Proposal" means the package of documents consisting of the Proposal Form (including this Appendix 1), the Proponent's proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and "proposal" means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.
- (f) "Proposal Form" means that certain Part C of the RFP, completed and executed by the Proponent, to which this Appendix 1 is appended.
- (g) "RFP" means the document issued by the Library as Request for Proposals No. VPL2019[●], as amended from time to time and including all addenda.

**3 NO LEGAL OBLIGATION ASSUMED BY THE LIBRARY**

Despite any other term of the RFP or the Proposal Form, including this Appendix 1 (except only Sections 7, 8.2 and 10 of this Appendix 1, in each case to the extent applicable), the Library assumes no legal duty or obligation to the Proponent or to any proposed subcontractor in respect of the RFP, its subject matter or the Proposal unless and until the Library enters into a Contract, which the Library may decline to do in the Library's sole discretion.

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**4 NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT**

The Library is a public body required by law to act in the public interest. In no event, however, does the Library owe *to the Proponent or to any of the Proponent's proposed subcontractors* (as opposed to the public) any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent hereby waives and releases the Library from any and all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

**5 EVALUATION OF PROPOSALS**

**5.1 Compliance / Non-Compliance**

Any proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of the RFP, or which otherwise fails to conform to the RFP may or may not be rejected by the Library at the Library's sole discretion. The Library may also invite a proponent to adjust its proposal to remedy any such problem, without providing the other proponents an opportunity to amend their proposals.

**5.2 Reservation of Complete Control over Process**

The Library reserves the right to retain complete control over the RFP and proposal processes at all times. Accordingly, the Library is not legally obligated to review, consider or evaluate the proposals, or any particular proposal, and need not necessarily review, consider or evaluate the proposals, or any particular proposal, in accordance with the procedures set out in the RFP, and the Library reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation processes in respect of any or all proposals at any time without further explanation or notification to any proponents.

**5.3 Discussions/Negotiations**

The Library may, at any time prior to signing a Contract, discuss or negotiate changes to the scope of the RFP, any proposal or any proposed agreement with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of such discussions or negotiations with other proponents or changes to the RFP or such proposals or proposed agreements, and, without limiting the general scope of Section 6 of this Appendix 1, the Library will have no liability to the Proponent as a result of such discussions, negotiations or changes.

**5.4 Acceptance or Rejection of Proposals**

The Library has in its sole discretion, the unfettered right to: accept any proposal; reject any proposal; reject all proposals; accept a proposal which is not the lowest-price proposal; accept a proposal that deviates from the requirements of the RFP or the conditions specified in the RFP; reject a proposal even if it is the only proposal received by the Library; accept all or any part of a proposal; enter into agreements respecting the subject matter of the RFP with one or more proponents; or enter into one or more agreements respecting the subject matter of the RFP with any other person at any time.

**6 PROTECTION OF LIBRARY AGAINST LAWSUITS**

**6.1 Release by the Proponent**

Except only and to the extent that the Library is in breach of Section 8.2 of this Appendix 1, the Proponent now releases the Library, its officials, its agents and its employees from all liability for any Losses incurred in connection with the RFP or the Proposal, including any Losses in connection with:

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- (a) any alleged (or judicially determined) breach by the Library or its officials, agents or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the Library has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially))
- (b) any unintentional tort of the Library or its officials or employees occurring in the course of conducting the RFP process,
- (c) the Proponent preparing and submitting the Proposal;
- (d) the Library accepting or rejecting the Proposal or any other submission; or
- (e) the manner in which the Library: reviews, considers, evaluates or negotiates any proposal; addresses or fails to address any proposal or proposals; resolves to enter into a Contract or not enter into a Contract or any similar agreement; or the identity of the proponent(s) or other persons, if any, with whom the Library enters any agreement respecting the subject matter of the RFP.

#### **6.2 Indemnity by the Proponent**

Except only and to the extent that the Library breaches Section 8.2 of this Appendix 1, the Proponent indemnifies and will protect, save and hold harmless the Library, its officials, its agents and its employees from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its proposed subcontractors or agents alleging or pleading:

- (a) any alleged (or judicially determined) breach by the Library or its officials or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the Library has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));
- (b) any unintentional tort of the Library or its officials or employees occurring in the course of conducting the RFP process, or
- (c) liability on any other basis related to the RFP or the proposal process.

#### **6.3 Limitation of Library Liability**

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the Library breaches Section 8.2 of this Appendix 1), the Library or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors or agents on any basis or legal principle of any kind, the Library's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

### **7 DISPUTE RESOLUTION**

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the Library breaches this Section 7 or Section 8.2 of this Appendix 1, and also excepting any disputes arising between the Library and the Proponent under a Contract (or a similar contract between the Library and a proponent other than the Proponent)) will be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia), amended as follows:

- (a) The arbitrator will be selected by the Library's Director of Corporate Services and Facilities;



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- (b) Section 6 of this Appendix 1 will: (i) bind the Library, the Proponent and the arbitrator; and (ii) survive any and all awards made by the arbitrator; and
- (c) The Proponent will bear all costs of the arbitration.

**8 PROTECTION AND OWNERSHIP OF INFORMATION**

**8.1 RFP and Proposal Documents Library's Property**

- (a) All RFP-related documents provided to the Proponent by the Library remain the property of the Library and must be returned to the Library, or destroyed, upon request by the Library.
- (b) The documentation containing the Proposal, once submitted to the Library, becomes the property of the Library, and the Library is under no obligation to return the Proposal to the Proponent.

**8.2 Proponent's Submission Confidential**

Subject to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia), other applicable legal requirements, and the Library's right to publicly disclose information about or from the Proposal, including without limitation names and prices, in the course of publicly reporting to the Vancouver Public Library Board about the RFP, the Library will treat the Proposal (and the Library's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information.

**8.3 All Library Information Confidential**

- (a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the Library which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.
- (b) The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the Library in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the Library or any court for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

**9 NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING**

**9.1 Declaration as to no Conflict of Interest in RFP Process**

- (a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner, employee or contractor of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is: (i) an official or employee of the Library; or (ii) related to or has any business or family relationship with an elected official or employee of the Library, in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the Library, and, in each case, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal in accordance with the form set out in Part C - Appendix 12.

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- (b) The Proponent confirms and warrants that there is no person having an interest (as defined above) who is a former official, former employee or former contractor of the Library and who has non-public information relevant to the RFP obtained during his or her employment or engagement by the Library, except as set out, in all material detail, in a separate section titled “Conflicts; Collusion; Lobbying” in the Proposal in accordance with the form set out in Part C - Appendix 12.

**9.2 Declaration as to No Conflict of Interest Respecting Proposed Supply**

The Proponent confirms and warrants that neither the Proponent nor any of its proposed subcontractors is currently engaged in supplying (or is proposing to supply) goods or services to a third party such that entering into an agreement with the Library in relation to the subject matter of the RFP would create a conflict of interest or the appearance of a conflict of interest between the Proponent’s duties to the Library and the Proponent’s or its subcontractors’ duties to such third party, except as set out, in all material detail, in a separate section titled “Conflicts; Collusion; Lobbying” in the Proposal in accordance with the form set out in Part C - Appendix 12.

**9.3 Declaration as to No Collusion**

The Proponent confirms and warrants that:

- (a) the Proponent is not competing within the RFP process with any entity with which it is legally or financially associated or affiliated, and
- (b) the Proponent is not cooperating in any manner in relation to the RFP with any other proponent responding to the RFP,

in each case, except as set out, in all material detail, in a separate section titled “Conflicts, Collusion, Lobbying” in the Proposal in accordance with the form set out in Part C - Appendix 12.

**9.4 Declaration as to No Lobbying**

The Proponent confirms and warrants that:

- (a) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; and
- (b) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of the Proposal, to influence the outcome of the RFP process,

in each case, except as set out, in all material detail, in a separate section titled “Conflicts, Collusion, Lobbying” in the Proposal in accordance with the form set out in Part C - Appendix 12.

**10 GENERAL**

- (a) All of the terms of this Appendix 1 to this Proposal Form which by their nature require performance or fulfillment following the conclusion of the proposal process will survive the conclusion of such process and will remain legally enforceable by and against the Proponent and the Library.

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- (b) The legal invalidity or unenforceability of any provision of this Appendix 1 will not affect the validity or enforceability of any other provision of this Appendix 1, which will remain in full force and effect.
- (c) The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP process.

**11 INDEPENDENT LEGAL ADVICE**

**THE PROPONENT ACKNOWLEDGES THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE BEFORE SUBMITTING ITS PROPOSAL FORM, INCLUDING THIS APPENDIX 1.**

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**APPENDIX C2  
QUESTIONNAIRE**

Complete this Appendix 2 - Questionnaire in the form set out below. If you require additional space, please respond and reference the document.

**Executive Summary**

In the space below, provide a brief executive summary of your Proposal.

**Proponent Overview**

In the space below, provide a description of the Proponent's company, number of employees, purpose and history of successes. If the head office of the Proponent is located within the City of Vancouver or if the Proponent is to perform any work at a site located within the City of Vancouver, this section should also indicate whether the Proponent has a valid City of Vancouver business license (or, if available, a Metro West Inter-municipal Business License).

**Supplier Diversity**

In the space below, indicate the Proponent's company profile with regards to social value and economic inclusion supporting equity, diversity, inclusion and reconciliation, including social/environmental certifications, workforce diversity and/or if owned/controlled by an equity-seeking demographic (including but not limited to non-profit, cooperative, Women, Indigenous Peoples, Ethno-cultural People (minorities, newcomers, immigrants), persons with disabilities or LGBTQ+ people).

<b>Majority owned/controlled/ by:</b>	<b>Workforce Diversity:</b>	<b>Social / Environmental Certifications</b>
<input type="checkbox"/> Women <input type="checkbox"/> Indigenous Peoples <input type="checkbox"/> Non-Profit/Charity (Social Enterprise) <input type="checkbox"/> Coop <input type="checkbox"/> Community Contribution Corporation (3C/CCC) <input type="checkbox"/> Ethno-cultural Persons <input type="checkbox"/> People with Disabilities <input type="checkbox"/> LGBTQ+ <input type="checkbox"/> Other: please indicate	% Women % Indigenous Peoples % Ethno-cultural People % People with Disabilities % LGBTQ+ % Other: please indicate	<input type="checkbox"/> BCorp <input type="checkbox"/> BuySocial <input type="checkbox"/> Supplier Diversity Certification <input type="checkbox"/> Fairtrade <input type="checkbox"/> Green Business Certification (ie. LEED, ClimateSmart) <input type="checkbox"/> Other: please indicate

**General Requirements**

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In the space below, describe how your Proposal meets the General Requirements.

**Key Personnel**

In the space below, identify and provide professional biographical information for the key personnel that would perform the Proponent's work, outlining their intended roles in meeting the Requirements. If appropriate, also attach to this Form of Proposal as an additional Appendix CVs and a complete organization chart, identifying all roles and areas of responsibility.

**Work Plan**

In the space below (or attached to this Form of Proposal as an additional Appendix clearly titled "Work Plan"), detail the sequential process by which the Proponent proposes to undertake the work, including a timeline as necessary. The Proponent's work plan should make reference to the Requirements as appropriate.

**Innovation**

Notwithstanding any other provision hereof, the Library welcomes Proposals respecting innovative or novel approaches to the Library's objectives and requirements and may consider value-creating Proposals that derogate from the Requirements. In the space below, note any proposed innovative approaches to meeting the Library's requirements.

**Alternative Solutions**

If, in addition to proposing services which meet the Requirements, the Proponent wishes to offer an alternative or alternatives, the alternative solution(s) should be described in the space provided below. Any pricing impact of the alternative solution(s) should also be provided.

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**APPENDIX C3  
COMMERCIAL PROPOSAL**

Complete this Appendix C3 - Commercial Proposal in the attached.

Proponent to provide proposed pricing and payment terms, which should be in accordance with Part A, Section 7 of the RFP (as well as any other sections of the RFP imposing requirements as to pricing).

If Proponent is submitting its Proposal by electronically please ensure Appendix 3 - Commercial Proposal is provided as a separate file to the entire Proposal. If the Proponent is submitting its Proposal via envelope please ensure Appendix 3 - Commercial Proposal is provided in a separate sealed envelope.

- By checking this box, the Proponent hereby confirms that the above Commercial Proposal is based on the payment of wages to employees of the Proponent and Subcontractors that comply with the City's Living Wage Policy as described in Section 10.0 of Part A and in the Form of Agreement attached hereto as Part D. For Commercial Proposals submitted electronically, please color in the box.**

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**APPENDIX C4  
PROPONENT'S REFERENCES**

Complete this Appendix 4 - Proponents References in the form set out below.

<b>Client Name # 1</b>	
<b>Address (City and Country)</b>	
<b>Contact Name</b>	
<b>Title of Contact</b>	
<b>Telephone No.</b>	
<b>E-mail Address</b>	
<b>Length of Relationship</b>	
<b>Type of Goods and/or Services provided to this Client</b>	

<b>Client Name # 2</b>	
<b>Address (City and Country)</b>	
<b>Contact Name</b>	
<b>Title of Contact</b>	
<b>Telephone No.</b>	
<b>E-mail Address</b>	
<b>Length of Relationship</b>	
<b>Type of Goods and/or Services provided to this Client</b>	

<b>Client Name # 3</b>	
<b>Address (City and Country)</b>	
<b>Contact Name</b>	
<b>Title of Contact</b>	
<b>Telephone No.</b>	
<b>E-mail Address</b>	
<b>Length of Relationship</b>	
<b>Type of Goods and/or Services provided to this Client</b>	

**REQUEST FOR PROPOSALS NO. VPL20190529  
LIBRARY MATERIAL SELF-SERVE CHECKOUT MACHINE REPLACEMENT  
PART C - FORM OF PROPOSAL**

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**APPENDIX C5  
CERTIFICATE OF INSURANCE**

Appendix 5 is to be duly completed and signed by the Proponent's insurance agent or broker as evidence of its existing insurance, along with a letter from its insurance broker or agent indicating whether or not (and, if not, then to what extent) it will be able to comply with the insurance requirements set out in the Form of Agreement, should the Proponent be selected as a successful Proponent. (Any successful Proponent will also be required to provide proof of the satisfaction of all insurance requirements prior to or concurrently with the Library entering into any Agreement.)



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PART C - FORM OF PROPOSAL

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**APPENDIX C6  
DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE**

Complete this Appendix 6 - Declaration of Supplier Code of Conduct Compliance in the form set out below.

**Purpose:**

**All proposed suppliers are to complete and submit this form to certify compliance with the supplier performance standards set out in the Supplier Code of Conduct.**

The City of Vancouver expects each supplier of goods and services to the Library to comply with the supplier performance standards set out in the City's Supplier Code of Conduct (SCC) <[http://vancouver.ca/policy\\_pdf/AF01401P1.pdf](http://vancouver.ca/policy_pdf/AF01401P1.pdf)>. The SCC defines minimum labour and environmental standards for City suppliers and their subcontractors.

Suppliers are expected to comply with the aforementioned standards upon submitting a tender, proposal, application, expression of interest or quotation to the Library, or have a plan in place to comply within a specific period of time. The Library reserves the right to determine an appropriate timeframe in which suppliers must come into compliance with these standards. To give effect to these requirements, an authorized signatory of each proposed vendor must complete the following declaration and include this declaration with its submission:

As an authorized signatory of \_\_\_\_\_ (*vendor name*), I declare that I have reviewed the SCC and to the best of my knowledge, \_\_\_\_\_ (*vendor name*) and its proposed subcontractors have not been and are not currently in violation of the SCC or convicted of an offence under national and other applicable laws referred to in the SCC, other than as noted in the table below (*include all violations/convictions that have occurred in the past three years as well as plans for corrective action*).

Section of SCC / title of law	Date of violation /conviction	Description of violation / conviction	Regulatory / adjudication body and document file number	Corrective action plan

I understand that a false declaration and/or lack of a corrective action plan may result in no further consideration being given to the submission of \_\_\_\_\_ (*vendor name*).

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

REQUEST FOR PROPOSALS NO. VPL20190529  
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PART C - FORM OF PROPOSAL

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APPENDIX C7  
Intentionally omitted

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PART C - FORM OF PROPOSAL**

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**APPENDIX C8  
SUBCONTRACTORS**

Complete this Appendix 8 - Subcontractors in the form set out below by listing all of the subcontractors that the Proponent proposes to use in carrying out its work under an Agreement, or state that the Proponent does not propose to use any subcontractors.

If selected to enter into an Agreement with the Library, the Proponent may be limited to using subcontractors listed in its Proposal. If the Library objects to a subcontractor listed in a Proposal, the Library may permit a Proponent to propose a substitute Subcontractor acceptable to the Library.

Subcontracted Scope		
Subcontractor		
Contact (name, title, email, telephone no.)		
Approximate Percent of the Work to be Subcontracted		
Social Value Business - shall mean a business that has a recognized environmental or social certification and/or is majority owned/controlled by an equity-seeking demographic (including but not limited to non-profit, cooperative, Women, Indigenous Peoples, Ethno-cultural People (minorities, newcomers, immigrants), persons with disabilities or LGBTQ+ people).	In the space below, detail the Proponent's proposed use of Social Value Businesses as sub-contractors/consultants (if any) and provide brief company profiles of those Social Value Businesses and descriptions of how they qualify as Social Value Businesses.	
The Subcontractor's Relevant Experience (identify at least three similar projects within the last five years, including the client)	1. Project Name:	
	Client:	
	Nature of Work:	
	Value:	
	Client Contact:	
	2. Project Name:	
	Client:	
	Nature of Work:	
	Value:	
	Client Contact:	
	3. Project Name:	
	Client:	

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	Nature of Work:	
	Value:	
	Client Contact:	

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**APPENDIX C9  
PROPOSED AMENDMENTS TO FORM OF AGREEMENT**

Complete this Appendix 9 - Proposed Amendments to Form of Agreement in the form set out below by detailing any proposed amendments to the Form of Agreement. If no amendments to the Form of Agreement are proposed, state "none". It is at the Library's sole discretion whether or not these proposed amendments will be considered for the Form of Agreement.

Section / General Condition	Proposed Amendment	Rationale and Benefit

REQUEST FOR PROPOSALS NO. VPL20190529  
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APPENDIX C10  
Intentionally omitted

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**APPENDIX C11  
PROOF OF WORKSAFEBC REGISTRATION**

Attached as Appendix 11 to this Form of Proposal proof of valid WorkSafeBC registration.

**REQUEST FOR PROPOSALS NO. VPL20190529  
LIBRARY MATERIAL SELF-SERVE CHECKOUT MACHINE REPLACEMENT  
PART C - FORM OF PROPOSAL**

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**APPENDIX C12  
CONFLICTS; COLLUSION; LOBBYING**

Complete this Appendix 12 - Conflicts; Collusion; Lobbying in the form set out below by setting out any exceptions to the declarations in Section 9 of the Legal Terms and Conditions attached as Appendix 1 to this Part C - Form of Proposal or indicate that there are no exceptions, as applicable.

Exceptions to Declaration as to no Conflict of Interest in RFP Process (Section 9.1 of Legal Terms and Conditions)	
Exceptions to Declaration as to No Conflict of Interest Respecting Proposed Supply (Section 9.2 of Legal Terms and Conditions)	
Exceptions to Declaration as to No Collusion (Section 9.3 of Legal Terms and Conditions)	
Exceptions to Declarations as to No Lobbying (Section 9.4 of Legal Terms and Conditions)	



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PART D  
FORM OF AGREEMENT



Vancouver Public Library

# SUPPLY AGREEMENT

BETWEEN:

<  SUPPLIER NAME >

AND:

**VANCOUVER PUBLIC LIBRARY**

RELATING TO <  >

DATED <  >

SUPPLY AGREEMENT

THIS AGREEMENT is made as of <[redacted]>

BETWEEN:

<[redacted] **SUPPLIER NAME**>, a <[redacted] corporation> organized under the laws of <[redacted]> and having an office at <[redacted]>

(hereinafter referred to as the “Supplier”)

AND:

**VANCOUVER PUBLIC LIBRARY**, a municipal corporation continued under the *Vancouver Charter* (British Columbia) and having an office at 350 West Georgia Street, Vancouver, British Columbia, V6B 6B1

(hereinafter referred to as the “Library”)

WHEREAS the Supplier is in the business of <[redacted]>;

AND WHEREAS the Library wishes to procure <[redacted]> from the Supplier upon and subject to the terms and conditions hereinafter set forth,

NOW THEREFORE, in consideration of the premises and the covenants herein contained, the parties hereto agree as set forth herein.

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**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

- (a) **“Agreement”** means this agreement, including the schedules hereto, and all amendments made hereto or thereto by written agreement between the Supplier and the Library;
- (b) **INTENTIONALLY OMITTED**
- (c) **“Business Day”** means a day on which banks are open for business in Vancouver, British Columbia, except a Saturday, Sunday or statutory holiday;
- (d) **INTENTIONALLY OMITTED**
- (e) **“Change in Control”** means an occurrence whereby a person (or persons acting in concert) acquires control of the relevant entity;
- (f) **“Library Policies”** means any or all (as the context requires) of those procedures, standards and/or standard specifications, requirements, policies and the like listed in Schedule H or notified to the Supplier from time to time, as the same may be updated, modified, expanded, revised, supplemented and/or replaced from time to time by the Library (as notified to the Supplier);
- (g) **“Library’s Manager”** means a manager who at the relevant time carries such designation from the Library under, or in accordance with, ARTICLE 5;
- (h) **“Competent Authority”** means:
  - (i) any multinational, federal, provincial, state, regional, municipal, local or other government or governmental body and any ministry, department, division, bureau, agent, agency, commission, board or authority of any government or governmental body, domestic or foreign;
  - (ii) any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel, arbitrator or arbitral body acting under the authority of any of the foregoing; or
  - (iii) any quasi-governmental or private body exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing;
- (i) **“Confidential Information”** means all or any confidential information (however recorded or preserved) disclosed before, on or after the date of this Agreement by either Party or any of its Representatives to the other Party or its Representatives in connection with this Agreement, concerning:
  - (i) this Agreement; or
  - (ii) the affairs, operations, processes, know-how, suppliers, plans or intentions of the disclosing Party or of any member of the disclosing Party’s Group, including, without limitation, any information which is not generally known to

the public or which has been specifically identified as confidential or proprietary by the disclosing Party,

but does not include:

- (iii) any information that is or becomes generally available to the public or to industry professionals (other than as a result of its disclosure by the receiving Party or its Representatives in breach of this Agreement);
- (iv) any information that was available to the receiving Party on a non-confidential basis prior to disclosure by the disclosing Party;
- (v) any information that was, is or becomes available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement or other duty of confidentiality with or to the disclosing Party or a member of the disclosing Party's Group or otherwise prohibited from disclosing the information to the receiving Party;
- (vi) any information that was known to the receiving Party before the information was disclosed to it by the disclosing Party or its Representatives and was not subject to a confidentiality agreement or other duty of confidentiality (including any obligation under this Agreement) with or to the disclosing Party or a member of the disclosing Party's Group;
- (vii) any information that the Parties agree in writing is not confidential or may be disclosed; and
- (viii) any information unrelated to this Agreement that is developed by or for the receiving Party independently of and without reference to the information disclosed by the disclosing Party;
- (j) **"Consent"** means an approval, clearance, registration, franchise, right, privilege, certification, quota, consent, permit, licence, qualification, filing, exemption, certificate or permission and any such other matter or authorization whatsoever, including any condition thereof, that is lawfully and necessarily required under any Law or from any Competent Authority in connection with the Supply or the Site;
- (k) **"Contract Price"** means the amounts payable (subject to and in accordance with the terms of this Agreement) by the Library to the Supplier in return for the proper performance by the Supplier of its obligations under this Agreement, as detailed in Schedule B;
- (l) **"Defect"** means any part of the Supply (or omission therefrom) which is defective, deficient or incomplete or does not otherwise comply with the requirements of this Agreement;
- (m) **"Documentation"** means calculations, computer programs and other software, drawings, designs, plans, manuals, records, reports, documents, papers, photos, typographical arrangements, models, contract documents, deliverables, agreements, tender/enquiry documents, and all other materials in whatever form, including but not limited to tangible copies and electronic forms, supplied either by or on behalf of the Supplier or generated collaboratively by the Parties in the course of the provision of the Supply under this Agreement;
- (n) **"Effective Date"** has the meaning ascribed to such term in Section 2.1;

- (o) **“Encumbrance”** means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien or claim of lien (statutory or otherwise), easement, deemed or statutory trust, restrictive covenant, adverse claim, exception, reservation, right of occupation, any matter capable of registration against title, right of pre-emption, privilege or other encumbrance or third party right of any nature or any other arrangement or condition that, in substance, secures payment or performance of an obligation;
- (p) **“Environmental Law”** means any Law which imposes any obligations relating to:
  - (i) the protection, management, conservation or restoration of the natural environment;
  - (ii) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same, of Hazardous Substances; and
  - (iii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including those pertaining to occupational health and safety.
- (q) **“Force Majeure”** means, exhaustively, any:
  - (i) war, hostilities (whether war is declared or not), invasion, act of foreign enemies;
  - (ii) rebellion, terrorism (or threat of terrorism), revolution, insurrection, military or usurped power or civil war;
  - (iii) riot, civil commotion or disorder, strike or lockout by persons other than the Supplier’s personnel and other employees, Subcontractors or any other person for whom the Supplier is responsible;
  - (iv) natural catastrophe such as an earthquake, forest fire, landslide or flood; or
  - (v) change in Law or action by a Competent Authority, which makes it illegal or impossible for either Party to perform its obligations under this Agreement;
- (r) **“Good Industry Practice”** means, in relation to the Supply or the performance of any other obligation under this Agreement, the practices, and the application of the skill, care, diligence, prudence and foresight, which would reasonably and ordinarily be expected from a skilled and experienced international contractor carrying out or procuring equivalent services of similar type, scope and value, in the same or similar location and in similar circumstances to those pertaining to the Supplier;
- (s) **“Group”** means:
  - (i) in respect of the Supplier, the group constituted from time to time by:
    - (A) the Supplier;
    - (B) all persons that directly or indirectly control or are controlled by the Supplier; and

- (C) all persons that are directly or indirectly controlled by any person that directly or indirectly controls the Supplier; and
- (ii) in respect of the Library, the group constituted from time to time by:
  - (A) the Library; and
  - (B) all bodies corporate directly or indirectly controlled by the Library.
- (t) **“Hazardous Substance”** means any substance or material that is prohibited, controlled or regulated by any Competent Authority pursuant to any Environmental Law including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes (including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law;
- (u) **“Intellectual Property Rights”** means any and all current and future proprietary rights provided under patent law, copyright law, design patent or industrial design law, or any other applicable statutory provision or common law principle, including trade secret law, that may provide a right in ideas, formulae, algorithms, concepts, inventions, know-how, computer software, database or design, or the expression or use thereof, whether registered or unregistered, together with any right to apply for or register any of the foregoing;
- (v) **“Key Project Personnel”** means the persons named in Schedule I (Key Project Personnel) and any replacement(s) approved by the Library in accordance with ARTICLE 7;
- (w) **“Laws”** means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings, determinations or awards of any Competent Authority whether or not having the force of law and any legal requirements or bases of liability under the common law or civil law, including all such Laws relating to Taxes, the environment, human health or safety, pollution and other environmental degradation, and hazardous materials , which affect or are otherwise applicable to the Supply, the Supplier, the Site or any other lands affected by the Supply;
- (x) **“Letter Agreement”** means an agreement in the form of Schedule K.
- (y) **“Living Wage”** means the hourly wage established by the Living Wage Certifier from time to time during the Term, which includes: (i) direct wages; and (ii) the value of any non-mandatory benefits such as paid sick leave, employer-paid Medical Services Plan premiums and extended health benefits; **“Living Wage Certifier”** means the Living Wage for Families Campaign, any successor entity, or, in the event the Living Wage for Families Campaign ceases to carry on operations, such other living wage certification entity designated by the Library to the Supplier in writing;
- (z) **“Living Wage Employee”** means any and all employees of the Supplier and Subcontractors of the Supplier that perform any part of the Supply on a property owned by or leased to the Library, including all streets, sidewalks and other public rights of way, for at least one consecutive hour, but excluding Students, volunteers and employees of Social Enterprises;



- (aa) **“OHS Requirements”** means all Laws applicable to the Supply and related to occupational health or safety, and all of the Library Policies that relate to occupational health or safety, and includes without limitation the WCA;
- (bb) **“Parties”** means the Library and the Supplier and **“Party”** means one of them or either of them, as the context requires;
- (cc) **“Permitted Purpose”** has the meaning ascribed thereto in Section 15.3;
- (dd) **“Preferred Supplier”** means a person named in Schedule F;
- (ee) **“Proposal”** means the Supplier’s proposal dated <redacted>, submitted by the Supplier to the Library in response to the RFP;
- (ff) **“Release”** means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal;
- (gg) **“Representative”** means a Group member of a Party, or an official, officer, employee, agent, subcontractor or other representative of a Party or any member of its Group, or any other person for whom the Party is responsible;
- (hh) **“RFP”** means the Library’s Request for Proposal number VPL2019<redacted>;
- (ii) **“Safety Incident”** means:
  - (i) a failure by the Supplier or any Subcontractor to comply with any OHS Requirements; or
  - (ii) any hazard, incident or accident caused by the Supplier or a Subcontractor.
- (jj) **“Sales Tax”** has the meaning ascribed to such term in Section 16.1;
- (kk) **“Site”** means each of the Library worksites and other places at which any part of the Supply shall be performed.”
- (ll) **“Social Enterprise”** means a business that: (i) is owned by a non-profit organization or community services co-operative; (ii) is directly involved in the production and/or selling of goods and services for the combined purpose of generating income and achieving social, cultural, and/or environmental aims; and (iii) has a defined social and/or environmental mandate.
- (mm) **“Student”** means an individual who is enrolled in a school, college, university or other educational institution and is employed by the Supplier or a Subcontractor, as the case may be, to obtain practical workplace experience as a requirement of or credit for their education;
- (nn) **“Subcontractor”** means any person named in a schedule to this Agreement as a subcontractor, or any other person appointed by the Supplier, in accordance with this Agreement, to perform any part of the Supply;
- (oo) **“Supplier’s Manager”** means a manager who at the relevant time carries such designation from the Supplier under, or in accordance with, ARTICLE 5;

- (pp) **“Supply”** means the provision of the goods, services and works described in Schedule A (or, as the context requires, the particular such goods, services or works provided or to be provided by the Supplier to the Library at a particular time or times and in the particular combinations and quantities directed by the Library in accordance herewith), and any other services to be provided by the Supplier pursuant to this Agreement;
- (qq) **“Taxes”** means all taxes, duties, imposts, levies, assessments, tariffs and other charges imposed, assessed or collected by a Competent Authority, including:
  - (i) any gross income, net income, gross receipts, business, royalty, capital, capital gains, goods and services, harmonized sales, value added, severance, stamp, franchise, occupation, premium, capital stock, sales and use, real property, land transfer, personal property, ad valorem, transfer, licence, import, customs, profits, windfall profits, environmental, carbon, emissions, pollution, payroll, employment, employer health, pension plan, anti-dumping, countervailing, or excise tax, duty, import, levy, assessment, tariff or other charge;
  - (ii) all withholdings on amounts paid to or by the relevant person;
  - (iii) all statutory remittances, employment insurance premiums and social security or pension plan contributions or premiums and Canada pension plan contributions;
  - (iv) any fine, penalty, interest or addition to tax;
  - (v) any tax imposed, assessed, or collected or payable pursuant to any tax-sharing agreement or any other contract relating to the sharing or payment of any such tax, levy, assessment, tariff, duty, deficiency or fee; and
  - (vi) any liability for any of the foregoing as a transferee, successor, guarantor, or by contract or by operation of law;
- (rr) **“Time(s) for Completion”** means the time(s) stated in Schedule E by which the Supply or any particular Supply or part thereof must be completed, as such time(s) may be adjusted (including in relation to a particular instance of Supply), strictly in accordance with this Agreement;
- (ss) **“Variation”** has the meaning ascribed to such term in Section 3.9(a); and
- (tt) **“WCA”** means the *Workers Compensation Act* (British Columbia) and the regulations thereunder.

## 1.2 Headings

This division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement, including its schedules, and not to any particular article, section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to articles, sections and schedules are to articles, sections and schedules of this Agreement.

### 1.3 Extended Meanings

In this Agreement:

- (a) words importing the singular include the plural and vice versa, words importing a gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations, except where the context requires otherwise;
- (b) any provision calling for “agreement” requires the relevant agreement to be recorded in writing and signed by both Parties;
- (c) the words “include”, “includes”, “including” and “included” shall be construed without implying limitation by the words which follow those words and without prejudice to the generality of the provisions to which such words relate, unless inconsistent with the context, and the rule of interpretation known as ejusdem generis shall not apply;
- (d) each reference to a specific statute, regulation, law or any subordinate instrument or statutory or regulatory provision shall be construed as including any legal or regulatory provision which subsequently amends or replaces the same, and shall include any and all subordinate instruments, orders, rules, regulations and bylaws made thereunder or guidelines issued in respect thereof;
- (e) each reference to a writing means a writing that is hand-written, type-written, printed or electronically made, and which results in a permanent un-editable record; and
- (f) “control” when used to describe a relationship between one person and any other person, has the following meanings:
  - (i) a person controls a body corporate if securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are beneficially owned by the person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
  - (ii) a person controls an unincorporated entity, other than a limited partnership, if more than 50% of the ownership interests, however designated, into which the entity is divided are beneficially owned by that person and the person is able to direct the business and affairs of the entity;
  - (iii) the general partner of a limited partnership controls the limited partnership; and
  - (iv) a person who controls an entity is deemed to control any entity that is controlled, or deemed to be controlled, by the entity.

### 1.4 Schedules

The following are the schedules hereto, each of which is deemed to be part hereof:

Schedule A	Scope of Goods and Services
Schedule B	Prices for Supply
Schedule C	Items to be provided by the Library
Schedule D	Specific Deliverables
Schedule E	Time Schedule for Supply

Schedule F	Preferred Suppliers
Schedule G	Project Budget
Schedule H	Library Policies
Schedule I	Key Project Personnel
Schedule J	Site
<del>Schedule K	Form of Letter Agreement</del>. <del>NTD: Delete if not included.</del>

**ARTICLE 2  
EFFECTIVENESS**

**2.1 Effective Date**

This Agreement shall come into full force and effect on the date hereof (the “Effective Date”).  
<del>NTD: Alter if there are conditions precedent, and the agreement should not come into effect until they are satisfied.</del>

**2.2 Term**

- (a) Unless earlier terminated pursuant to ARTICLE 12 <del> and subject to the below Section 2.2(b)</del>, this Agreement shall terminate <del>on the [●] anniversary of the Effective Date</del> <del> days after the completion of the Supply in accordance herewith</del> or on such later date as the Parties may agree in writing.
- (b) <del> Subject to termination pursuant to ARTICLE 12, but notwithstanding Section 2.2(a), the term of this Agreement may be extended for up two successive one-year periods following the [●] anniversary of the Effective Date, at the option of the Library, upon written notice from the Library to the Supplier.</del>
- (c) Notwithstanding the foregoing, if the Library and the Supplier continue to deal with each other in respect of the subject matter of this Agreement following the expiry of this Agreement, without any additional or other written agreement in respect thereof, this Agreement shall be deemed to have been renewed on a month-to-month basis on the same terms and conditions as before the expiry of the Agreement and it may be cancelled without cause by either party on thirty (30) days’ prior written notice to the other.

**ARTICLE 3  
SUPPLY; GENERAL TERMS**

**3.1 Supply**

- (a) During the term of effectiveness of this Agreement, the Supplier shall provide the Supply to the Library, at the times and in the quantities directed by the Library, and otherwise in accordance with the directions of the Library and in conformity with this Agreement.
- (b) Notwithstanding any other provision hereof, any goods, services or works described in Schedule A shall be provided to the Library only upon receipt by the Supplier of a purchase order from the Library or another instruction given by the Library pursuant to Section 5.1 relating to such Supply.
- (c) The Supplier shall maintain at all times sufficient business capacity and inventories of the supplies necessary for the provision of the Supply, to meet the business plans and requirements of the Library.

- (d) In connection with the Supply, the Supplier shall provide to the Library, without additional compensation, all services, conveniences, materials or features proposed in the Proposal that are not otherwise expressly provided for herein, as well as all other ancillary materials or services that are not expressly mentioned either herein or in the Proposal, but are reasonably inferable from the descriptions of the Supply herein or from the descriptions of proposed services, conveniences, materials or features in the Proposal.

### **3.2 Application to Prior Acts**

Insofar as the Supplier has commenced any part of the Supply prior to the Effective Date, such services shall, as of the Effective Date, be deemed to be performed under and subject to the terms of this Agreement, unless otherwise expressly agreed between the Supplier and the Library.

### **3.3 Sufficiency and Competence of Personnel**

- (a) The Supplier shall have and maintain at all times and in accordance with all applicable Laws, sufficient numbers of fit, skilled, qualified and experienced personnel to carry out the provision of the Supply within the times and in the manner required by the Library.
- (b) The Supplier warrants that it has (and its Subcontractors, if any, have) the experience, competence, certifications, qualifications and capacity necessary for the Supply.
- (c) Insofar as the Supply involves the Supplier in performing design work, such design work shall be carried out by qualified designers who are engineers or other professionals who comply with the criteria stated in Schedule A (Scope of Goods and Services) or, where not so stated, in accordance with Good Industry Practice.

### **3.4 Intentionally Omitted**

### **3.5 Standards and Requirements**

The Supplier shall (and shall procure that its Subcontractors) provide the Supply and perform all other obligations under this Agreement in an expeditious manner and at all times in accordance with:

- (a) all applicable Laws and Consents;
- (b) the specific requirements of Schedule A (Scope of Goods and Services), Schedule D (Specific Deliverables), Schedule E (Time Schedule for Supply), Schedule G (Project Budget) and the instructions of the Library;
- (c) the Library Policies; and
- (d) where no higher standard is expressly required of the Supplier under this Agreement, Good Industry Practice,

and the Supplier shall comply with the standards and requirements in Sections 3.5(a) to 3.5(d) in the order of priority in which such standards or requirements are listed (with Section 3.5(a) being of highest priority).

### 3.6 Consents

The Supplier shall, at the Supplier's sole expense, obtain, maintain and comply with all Consents required by Law to enable it to perform its obligations under this Agreement, except to the extent otherwise expressly stated in the schedules hereto.

### 3.7 Warranties

- (a) The Supplier warrants that the Supply shall be performed in accordance with this Agreement and to the best practice standards of diligence, skill, care and efficiency expected of a competent contractor performing work of a similar nature to the Supply.
- (b) The Supply shall, when completed, constitute Self-Serve Checkouts that are fully operable, ready for immediate use by the Library and fit for the use for which it is intended and the Supplier warrants that the Supply shall, upon completion, be without defects or imperfections and shall function correctly and adequately and without any need of repair or improvement for at least [●] months following the completion of the Supply or such defects, imperfections or failures to function correctly and adequately shall be remedied by, or such repairs or improvements shall be undertaken by, the Supplier, without cost or liability to the Library and the Supplier shall indemnify and hold the Library harmless in relation thereto.
- (c) All goods or materials provided under the Agreement as part of the Supply shall be new and fully warranted for a period of <[redacted]> year[s] from the time of delivery to the Library, against defects in design, manufacturing, materials, workmanship and performance, and the Supplier affirms and covenants that such warranty is, and shall be, provided by the Supplier if and to the extent it is not fully and effectively provided to the Library by third-party manufacturers or suppliers of the goods or materials.  
<[redacted]NTD: Edit as necessary.>
- (d) All goods, works and materials provided under the Agreement as part of the Supply shall be non-defective and fit for their intended purposes and shall function safely in all respects.
- (e) All costs associated with warranty replacements or repairs shall be the responsibility of the Supplier, including repair, adjustment, and shipping costs, and replacements of goods or materials.
- (f) If requested by the Library, the Supplier shall handle and manage any claim on a manufacturer warranty for any defect in goods or materials provided as part of the Supply.
- (g) The Supplier shall deliver to the Library all such documentation as the Library may require to evidence any warranty required by this Section 3.7 or to evidence the Supplier's compliance with this Section 3.7, and the Supplier shall assign all warranties, and do all other things necessary, to ensure that the Library receives the full benefit of each warranty or other covenant set forth in this Section 3.7.

### 3.8 Relationship Between the Parties

- (a) The Supplier in its provision of the Supply and its performance of its obligations under this Agreement shall at all times act as an independent contractor on its own account and shall have no authority to act as the Library's agent unless expressly empowered to do so by the Library. This Agreement shall not be deemed to create any relationship of partnership, agency, joint enterprise or other like relationship between the Parties,

and the Supplier shall be solely responsible for all employment-related obligations in connection with its employees, its other Representatives and its Subcontractors and their employees.

- (b) The Library intends to use the Supplier as a preferred supplier of the goods, services and works described in Schedule A; however the Library is not bound to treat the Supplier as its exclusive supplier of any goods or services.

### **3.9 Variations Requested by the Library**

- (a) Any instruction given by the Library which constitutes or gives rise to a variation from the scope of the Supply expressed in Schedule A (Scope of Goods and Services), a time expressed in Schedule E (Time Schedule for Supply) or the items expressed in Schedule D (Specific Deliverables), shall constitute a “Variation” and shall be governed by and subject to this Section 3.9.
- (b) During the term of this Agreement, the Library may at any time effect a Variation by notice in writing to the Supplier, and the Supplier shall not be entitled to refuse to implement any Variation unless the carrying out of such Variation would contravene any Law (in which case the Supplier shall promptly give notice to the Library).
- (c) If the Supplier is of the opinion that a Variation justifies an increase to the Contract Price or a change to any of the Time(s) for Completion, the Supplier must, as a condition to being entitled to any such increase to the Contract Price or change to the Time(s) for Completion, no later than 10 Business Days after the Library gives notice of the Variation, submit a claim to the Library which sets out the Supplier’s assessment of the impact the Variation should have on the Contract Price due for such Supply and on the Time(s) for Completion for such Supply, and thereafter:
  - (i) the Library shall consider that claim as soon as possible and may request the Supplier to supply such further evidence as is reasonably required to confirm the details of such claim (and, as soon as practicable after such further evidence is available to it, the Supplier shall provide it to the Library); and
  - (ii) within ten Business Days after the receipt of all the information requested by the Library, the Supplier and the Library shall meet in order to agree any variations to the Contract Price for such Supply or the Time(s) for Completion for such Supply, and corresponding changes to Schedule G (Project Budget), as necessary, which such agreement must be evidenced in writing.
- (d) If no agreement is reached under 3.9(c)(ii) within 20 Business Days of the Parties’ first meeting (or such other period as the Parties may agree), the Parties may then refer the matter for arbitration in accordance with ARTICLE 17.
- (e) Notwithstanding the foregoing, the Library shall be entitled to replace, revise, expand or modify the Library Policies at any time upon notice to the Supplier, and no such change shall be considered to be a Variation.

### **3.10 Tests; Defects and Acceptance**

- (a) When, in the Supplier’s judgement, any part of the Supply is complete in accordance herewith, the Supplier shall give written notice to that effect to the Library. Thereafter, the Library shall reasonably promptly perform such practical tests of the Supply as the Library reasonably deems necessary, and the Supplier shall assist the Library with all such tests, if and to the extent so requested by the Library.

- (b) If a defect appears in the testing described in the foregoing Section 3.10(a), in the judgement of the Library, any defects in the Supply, the Library shall notify the Supplier accordingly.
- (c) The Supplier shall remedy at its own cost and risk Defects in the Supply that the Supplier discovers or that are notified by the Library, as soon as reasonably practicable following discovery or notification of such Defects, as the case may be.
- (d) If the Supplier fails to remedy any Defect in the Supply within a reasonable time, a date may be fixed by the Library on or by which the Defect is to be remedied. The Supplier shall be given reasonable notice of this date.
- (e) If the Supplier fails, without reasonable excuse, to remedy any Defect in the Supply by this notified date, the Library may (at its option) elect to carry out the work itself or by others and shall be entitled to recover from the Supplier all direct, proper and reasonable costs of so doing (as a debt due on demand). The Library's exercise of its election under this Section 3.10(e) shall in no event absolve the Supplier of its responsibility for remediation of other Defects or otherwise constitute a waiver by the Library of its rights and remedies in relation to other Defects, nor shall it preclude or restrict the further exercise of such rights or remedies.

### 3.11 Title and Risk

- (a) The Supplier warrants that title in each good, work or improvement supplied by the Supplier hereunder, when it passes to the Library hereunder, shall be free and clear of Encumbrances.
- (b) Title to any good, work or improvement supplied by the Supplier hereunder shall pass to the Library upon the earlier of:
  - (i) payment therefor by the Library;
  - (ii) ~~its~~ its delivery to a / <fixture to any part of the Site>; and
  - (iii) its incorporation into a work supplied by the Supplier.
- (c) The Supplier shall deliver to the Library any documentation, including a bill of sale, which the Library may reasonably require to evidence the transfer of title in and to goods to the Library, free and clear of all Encumbrances.
- (d) The Supplier must not enter any contract that reserves ownership of goods or materials supplied by the Supplier hereunder in favour of any third party and, at the request of the Library, the Supplier must provide evidence that no such contract has been entered into.
- (e) Notwithstanding the foregoing provisions of this Section 3.11, the Supplier is responsible for the care of, and bears all of the risk of loss or damage to, each good, work or improvements supplied hereunder and each material used in connection with the Supply, until the ~~the~~ the completion of the Supply to the satisfaction of the Library.

### 3.12 Living Wage

- (a) Subject to Section 3.12(b), it is a condition of this Agreement that, for the duration of the Term the Supplier pays all Living Wage Employees not less than the Living Wage.



- (b) Notwithstanding Section 3.12(a), the Supplier has up to 6 months from the date on which any increase in the Living Wage is published by the Living Wage Certifier to increase wages for all Living Wage Employees such that all Living Wage Employees continue to be paid not less than the Living Wage.
- (c) The Supplier shall ensure that the requirements of Section 3.12(a) apply to all Subcontractors.
- (d) A breach by the Supplier of its obligations pursuant to Sections 3.12 (a) and (c) shall constitute a material breach by the Supplier of this Agreement that shall entitle the Library to terminate this Agreement in accordance with Section 12.2(c).
- (e) The Supplier shall prepare and submit to the Library in a format reasonably acceptable to the Library before January 31 of each calendar year of the term or, for each partial calendar year of the term, within 30 days of the expiry of the term a living wage report setting out:
  - (i) the number of Living Wage Employees of the Supplier and each Subcontractor who were paid a Living Wage pursuant to this Section 3.12 during the previous calendar year or portion thereof that would not have received a Living Wage for substantially similar work but for the obligations of the Supplier pursuant to this Section 3.12; and
  - (ii) the total incremental costs incurred by the Supplier, including any amounts paid to Subcontractors, in order to fulfill its obligations pursuant to this Section 3.12 to pay a Living Wage to the Living Wage Employees described in Section 3.12(e)(i).

**ARTICLE 4  
INTENTIONALLY OMITTED**

**ARTICLE 5  
CONTRACT MANAGERS**

**5.1 Library's Managers**

- (a) The Library hereby designates each of <img alt="redacted name" data-bbox="525 625 565 640"/> and <img alt="redacted name" data-bbox="605 625 645 640"/> as a "Library's Manager." Each Library's Manager, including any additional Library's Managers designated by the Library in accordance herewith, has, for so long as he or she remains a Library's Manager, full authority to act on behalf of the Library in relation to all matters arising under this Agreement.
- (b) Any instruction from the Library to the Supplier pursuant to this Agreement shall be issued through an executive officer of the Library or through a Library's Manager and shall be effective if in writing or confirmed in writing within seven days of oral instruction. Failure to comply with this Section 5.1 shall render any purported Library's instruction invalid, unless it is later ratified by the Library. However, this restriction does not apply to any instruction issued in an emergency situation or which relates to a threat or potential threat to the life, health or safety of any individual.
- (c) Notwithstanding the foregoing, each Library's Manager may, in writing, delegate his or her authority hereunder to others.

## 5.2 Supplier's Managers

- (a) The Supplier hereby designates each of <redacted> and <redacted> as a "Supplier's Manager." Each Supplier's Manager, including any additional Supplier's Managers designated by the Supplier in accordance herewith, has, for so long as he or she remains a Supplier's Manager, full authority to act on behalf of the Supplier in relation to all matters arising under this Agreement, and any instruction given by the Library to either of them shall be deemed to be valid and effective.
- (b) Each Supplier's manager may, in writing, delegate his or her authority hereunder to others, upon the written agreement of the Library.

## 5.3 Designation of New Managers

The Library may designate new Library's Managers, or remove that designation from any individual, and the Supplier may designate new Supplier's Managers, or remove that designation from any individual, from time to time, each at its own discretion, through notice to the other Party. In the case of the Supplier, any such designation or removal must be in writing to the Library.

# ARTICLE 6 SUPPLIERS' WARRANTIES AND COVENANTS

## 6.1 General Representations and Warranties

The Supplier represents and warrants that:

- (a) the Supplier has the full right, power, and authority to enter into this Agreement and to perform the Supply;
- (b) the Supplier is a <redacted> duly organized, validly existing and in good standing under the laws of <redacted> and is lawfully authorized to do business in the Province of British Columbia;
- (c) the Supplier is not a party to or bound by any agreement (written or oral), indenture, instrument, licence, permit or understanding or other obligation or restriction under the terms of which the execution, delivery or performance of this Agreement does or shall constitute or result in a violation or breach;
- (d) the Supplier has a valid City of Vancouver business license or a Metro West Inter-Municipal business license that applies to all of the Supply;
- (e) all statements made by the Supplier in its Proposal are true and accurate;
- (f) the Supplier is fully experienced in the design and management of projects or works of a similar scope, purpose, complexity, size and technical sophistication as the Supply;
- (g) the Supplier possesses a level of skill and expertise commensurate with Good Industry Practice, which it shall utilize in the performance of its obligations under this Agreement;
- (h) the Supplier understands that the Library is relying upon the skill, judgment and expertise of the Supplier and its Subcontractors (if any) in the carrying out of the Supply and the co-ordination and planning thereof;

- (i) the Supplier's and any Subcontractors' employees are accredited to carry out the relevant portions of the Supply to the extent required by applicable Laws and all of them are appropriately skilled, competent and experienced and possess relevant qualifications having regard to the nature and extent of the Supply and the Sites;

## 6.2 General Health and Safety-Related Acknowledgements and Covenants

The Supplier shall:

- (a) in the provision of the Supply, comply at all times with the OHS Requirements and take all reasonably necessary steps to ensure similar compliance from its Representatives and its Subcontractors, if any;
- (b) if the Supply involves any type of manual labour, prior to their attendance at any Site, deliver to each of its Representatives and each of its Subcontractors, if any, and to their employees, if applicable, copies of the OHS Requirements relevant to the Site;
- (c) at all times take all reasonable precautions to maintain the health and safety of workers;
- (d) be at all times registered and in good standing with the relevant workers' compensation insurance Competent Authorities, and provide to the Library copies of any notices, correspondence or directions issued by any government or Competent Authority relating to workplace-related employment, human rights, labour, immigration policy, health, safety or environmental matters within 24 hours of the Supplier's receipt of such notice, correspondence or direction;
- (e) appoint a qualified health and safety coordinator to ensure coordination of health and safety activities in the provision of the Supply;
- (f) report (with full details) any accident, injury, illness or other incident relating to workplace health and safety or the environment to the Library as soon as reasonably practicable, investigate the accident, injury, illness or other incident reasonably thoroughly (and in any event in accordance with any applicable OHS Requirements) and promptly report to the Library the results of each such investigation;
- (g) maintain such records and make such reports concerning health, safety and welfare of persons, and damage to property, or the natural, physical or biological environment, as the Library may reasonably require; and
- (h) to the extent a "prime contractor", as defined in the WCA, is not already designated by the Library for any portion of a Site, be and act as the prime contractor, and the Supplier assumes and is wholly responsible for the health and safety of all persons at such locations on the basis described in the WCA.

## 6.3 Covenants Regarding Violations of Health and Safety Requirements

Without prejudice to any remedies available to the Library hereunder, if any Subcontractor or person employed or engaged by the Supplier (or by a Subcontractor) violates any OHS Requirement, the Supplier shall:

- (a) ensure that the violation is promptly resolved;

- (b) ensure the violation is promptly and appropriately reported to the Library and to the applicable competent authorities (if and to the extent required by the OHS Requirements);
- (c) promptly take all reasonable steps necessary to avoid recurrence of the violation;
- (d) communicate to the Library its plan to avoid recurrence of the violation; and
- (e) without prejudice to the foregoing Section 6.3(c), promptly remove any person responsible for the violation from the provision of the Supply if reasonable to do so or if requested to do so by the Library.

#### **6.4 Covenants Regarding the Environment**

- (a) The Supplier shall:
  - (i) at all times, be conscious of the importance of the protection of the natural, physical and biological environment at and in the vicinity of the Sites;
  - (ii) conduct, and cause its Representatives to conduct, their respective activities that relate to the Supply in a manner that shall have the least possible adverse effect on the natural environment and in compliance with all Environmental Laws and Consents, all at the Supplier's expense;
  - (iii) perform the Supply with the least degree of environmental degradation during and as a result of such performance; and
  - (iv) without restricting the generality or application of any other provisions of this Agreement, comply, and cause its Representatives to comply, with all applicable Laws and Consents and with all plans and instructions contained in this Agreement or issued in writing by the Library concerning the existence, Release, removal, handling, transport, storage, disposal and treatment of any Hazardous Substances or other materials that are or may be hazardous to the life or health of any person or that endanger the environment or that are regulated by applicable Law.
- (b) During the term of this Agreement, the Supplier shall not bring or store or permit to be used at any Site, any Hazardous Substances unless such Hazardous Substances are (i) reasonably required to carry out the Supply, and (ii) brought or stored or permitted to be used at any Site in compliance with all Laws (including Environmental Laws). The Supplier shall not Release nor permit the Release of any Hazardous Substances into the environment. The Supplier is solely responsible for all Hazardous Substances introduced to the Sites or the environment by the Supplier or its Representatives or Subcontractors, and the Supplier shall promptly and fully remediate, to the Library's satisfaction, any release of Hazardous Substances on or from any Site, or in the vicinity of any Site.

#### **6.5 Further Covenants Regarding the Sites**

The Supplier shall:

- (a) at its sole cost, keep any portion of any Site used in connection with the Supply in a safe and tidy condition and to maintain and operate the Supplier's equipment in a good, workmanlike and safe manner; and

- (b) not to do anything at any Site which is or may become a nuisance, danger or disturbance to the Library or to any other occupants or users of the Site or adjacent areas or to any works or structures or installations thereon.

#### **6.6 Covenants Against Encumbrances**

- (a) The Supplier shall keep each Site and the goods included in the Supply, and each part thereof, free of all Encumbrances filed pursuant to any Law or otherwise in respect of any such work or materials. In any event, if any Encumbrance has been filed in relation to the Site or any improvement thereon, or in relation to any goods included in the Supply, the Supplier shall cause any such Encumbrance to be discharged within 30 days after the Encumbrance has come to the notice of the Supplier.
- (b) The Supplier acknowledges and agrees that, in the event the Supplier fails to discharge any Encumbrance contemplated in Section 6.6(a) within 60 days of written notice of such Encumbrance being given by the Library, in addition to any other right or remedy, the Library may, but shall not be obligated to, discharge the Encumbrance by paying to the applicable Competent Authority, the amount claimed to be due or the amount due, together with a reasonable amount for costs and the amount paid by the Library shall be paid by the Supplier to the Library forthwith upon demand. In no case shall the Library be required to investigate the validity of the Encumbrance prior to discharging the same in accordance with this Section 6.6(b).

#### **6.7 Absence of Conflicts of Interest**

- (a) Neither the Supplier, nor any of its Representatives has given or shall give or offer to give to the Library or any official, officer, employee or agent of the Library any gratuity, reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act in connection with this Agreement.
- (b) To the best of the Supplier's knowledge, the Supplier, its Subcontractors, and their respective directors, officers, employees and agents have no pecuniary interests or any other current or past interests or dealings, including with any officials, officers or employees of the Library, that would cause any conflict of interest or be seen to cause a conflict of interest in respect of the Supply. Should such a conflict or perceived conflict arise during the term of this Agreement, the Supplier shall declare it immediately in writing to the Library. The Library may direct the Supplier to resolve any conflict or perceived conflict to the satisfaction of the Library. The Supplier warrants that neither the Supplier nor any of its Subcontractors, or any of their respective directors, officers, employees or agents, has any predisposition, affinity or association with any third party which would impair or be seen to impair or qualify the Supplier's provision of the Supply.

### **ARTICLE 7 PERSONNEL**

#### **7.1 Separate Personnel**

- (a) It is the intention of the Parties that any personnel utilized or supplied by the Supplier or any Subcontractor hereunder shall remain employees of the Supplier or Subcontractor, respectively, for the purposes of any applicable Law and no activity performed by such personnel shall be deemed to create or imply any employment or other like relationship between such personnel and the Library. If contrary to this intention such personnel are treated as employees of the Library for the purposes of

any applicable Law, the Supplier shall indemnify the Library against any loss, cost, expense, complaint, claim, levy, assessment, penalty or fine (including any Tax liability) resulting therefrom.

- (b) Neither the Library nor the Supplier shall, and the Supplier shall ensure that none of its Representatives or Subcontractors shall, induce any employee of the other, who may work in connection with the Supply, to leave his or her current employer, and neither of them shall, and the Supplier shall ensure that none of its Representatives or Subcontractors shall, employ or make an offer of employment to any such employee of the other during the term of this Agreement or the period of 365 days after the termination of this Agreement without the express prior approval in writing of the employee's current employer.
- (c) If any persons are brought by the Supplier into Canada for purposes of the Supply, the Supplier shall be responsible for all immigration matters, and for the expatriation and repatriation of such personnel, and the costs of the same shall be deemed included in the Contract Price.

## **7.2 Changes in Personnel**

The Library may request the removal or replacement of any personnel engaged by the Supplier or any Subcontractor in relation to any part of the Supply, provided that such request is made in writing stating the Library's detailed reasons. The Supplier shall comply with such request as soon as reasonably practicable and shall bear the cost of replacement where the Library is of the opinion that the personnel in question are guilty of misconduct, do not have acceptable qualifications or are otherwise unable or unfit to perform satisfactorily and safely. If the Library requests a replacement for a reason other than the immediately aforementioned reasons, the Library shall reimburse the Supplier its reasonable properly incurred costs of replacement.

## **7.3 Key Project Personnel**

- (a) Where there are Key Project Personnel the Supplier shall:
  - (i) use best endeavours to retain Key Project Personnel for the duration of the provision of the Supply;
  - (ii) take reasonable steps to ensure that Key Project Personnel dedicate their time fully to the Supply (unless otherwise agreed or approved by the Library in writing);
  - (iii) promptly inform the Library should any of the Key Project Personnel leave, or give notice of an intention to leave the Supplier, and obtain a substitute or substitutes;
  - (iv) not reassign or allow the reassignment of the Key Project Personnel to other projects during the term of this Agreement without the Library's prior written consent (such consent not to be unreasonably withheld or delayed); and
  - (v) take all reasonable steps to ensure that the Key Project Personnel perform their roles and responsibilities in accordance with any organisational structure agreed in writing between the Parties.
- (b) If:

- (i) the Supplier wishes to reassign or to replace an individual designated as Key Project Personnel; or
- (ii) an individual designated as Key Project Personnel gives notice of his or her intention to leave or is otherwise no longer able to perform the duties, including for reasons of illness, injury or personal hardship,

the Supplier shall provide a substitute with experience and qualifications equivalent or greater than the Key Project Personnel to be replaced, and shall provide documentation to the Library to establish such experience and qualifications.

- (c) Key Project Personnel who are reassigned to other work shall, to the extent possible, remain available to the project team until completion of the Supply.
- (d) All the Supplier's Key Project Personnel must be fluent in both spoken and written English, except as may be agreed to the contrary between the Library and Supplier in relation to specific individuals or positions to be filled from time to time.

**ARTICLE 8  
INTENTIONALLY OMITTED**

**ARTICLE 9  
PAYMENT; AUDITS**

**9.1 Payment to the Supplier**

- (a) Subject to ARTICLE 12 and Section 9.3, the Library shall pay the Supplier for the Supply in accordance with Schedule B (Prices for Supply), following the receipt of invoices prepared and delivered in accordance with Section 9.2(b) and Section 9.3.
- (b) INTENTIONALLY OMITTED
- (c) INTENTIONALLY OMITTED
- (d) Unless otherwise expressly stated in the schedules hereto, the Supplier shall pay any and all costs, including freight, marine and transit insurance, Taxes, and transportation and delivery charges on all equipment or things of whatsoever nature provided by the Supplier as required by it for the purposes of the Supply and any other incidental costs and all such costs shall be deemed to be included in the Contract Price.
- (e) The Supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of Schedule B (Prices for Supply) and to have obtained all information and to have taken into account all circumstances, risks and other contingencies that may affect the cost of performing the Supply (including any circumstances, risks or contingencies that a contractor exercising Good Industry Practice would typically expect to encounter) and any other obligation under this Agreement. The Supplier shall not be entitled to any additional compensation beyond the Contract Price (including without limitation for escalation in the prices of goods, materials and labour) except as otherwise expressly stated in this Agreement.

- (f) Notwithstanding any other provisions of this Agreement, the Supplier shall not be entitled to payment for any Supply that has not been performed in compliance with the provisions of this Agreement.

## 9.2 Purchase Orders; Content of Invoices

- (a) The Library shall from time to time issue purchase orders to the Supplier in relation to the Supply. These shall not have the effect of amending or waiving the application of any provision of this Agreement.
- (b) Each of the Supplier's invoices shall set out, as a minimum (and in such form or format as required by the Library):
- (i) the Library purchase order number(s) relating to the particular Supply to which the invoice relates;
  - (ii) an itemized list of the amounts owing;
  - (iii) the invoice date and the time period to which the invoice relates;
  - (iv) a description of the portion of the Supply to which the invoice relates;
  - (i) the total amounts payable under the invoice and details of any applicable taxes;
  - (ii) all supporting documentation relating to disbursements; and
  - (iii) such other information as the Library may require from time to time.
- (c) Any terms or conditions proposed by the Supplier to govern the Supply that are contained in any invoice (or in any shipping document, packing list or similar document) are void and of no effect, notwithstanding any statement in such document concerning the means by which the Library may accept or be deemed to accept such terms or conditions.

## 9.3 Procedure for Invoices

- (a) The Supplier shall address each of its invoices to the Library, Attention: Accounts Payable, and email it to [actg@vpl.ca](mailto:actg@vpl.ca), or to such other address as is specified in an applicable purchase order. The Library shall thereafter pay the invoice within 30 days, provided the other requirements of this Agreement have been satisfied and subject to the other provisions hereof.
- (b) The Library shall not be liable for any interest on any invoice amount in respect of any period for any reason.
- (c) The Library expects to make payments by electronic funds transfer and the Supplier shall provide banking information to the Library to enable it to do so.

## 9.4 Currency of Payment

All currency amounts stated herein are denominated in, all invoices hereunder shall be stated in, and all payments hereunder shall be made in, Canadian dollars.



**9.5 Contested Claims for Payment**

If any item contained in an invoice submitted by the Supplier is contested by the Library, the Library shall give prompt notice thereof, together with reasons to the Supplier.

**9.6 Audits**

- (a) The Supplier shall maintain up-to-date records and accounts which clearly document the provision of the Supply and shall make the same available to the Library upon request. The Library may request copies of all such records and accounts which shall be provided to the Library by the Supplier (subject to reimbursement of the Supplier's reasonable copying costs and any other direct costs and expenses, if any) at any time prior to the expiry of 365 days after completion of all of the Supply or earlier termination of this Agreement. For avoidance of doubt, any records and accounts provided by the Supplier in accordance with this Section 9.6(a) shall be deemed to be Confidential Information;
- (b) Not later than three years after the completion of all of the Supply or earlier termination of this Agreement, the Library can itself, on notice of not less than 14 days, require that a firm of accountants, surveyors or other auditors nominated by it audit any such records and accounts of the Supplier by attending during normal working hours at the office where the records are maintained. For avoidance of doubt, any records and accounts or other documents provided by the Supplier in accordance with this Section 9.6(b) shall be provided only subject to the accountants, surveyors or other auditors, and each of them, being subject to and agreeing to meet such of the Supplier's reasonable requirements as to confidentiality as the Supplier deems (at its sole discretion) to be appropriate in the circumstances; and
- (c) Any overpayments by the Library discovered during the course of any such audit pursuant to Section 9.6(b) shall be payable by the Supplier to the Library within 30 days of such discovery, and if the overpayments have been caused by an act or omission of the Supplier and the amount of those overpayments is no less than one quarter of the total amount paid by the Library to the Supplier in respect of the Supply, then the costs of the relevant audit shall be for the account of the Supplier.

**9.7 Set Off**

Notwithstanding any provision to the contrary in this Agreement and without prejudice to any other remedy which the Library may have (whether in common law or equity), the Library shall be entitled to deduct from and set off against any sum(s) otherwise due to the Supplier hereunder any sums which are due from the Supplier to the Library or which the Supplier is liable to pay to the Library under this Agreement or in connection herewith (including without limitation any monies overpaid to the Supplier under this Agreement or otherwise due and payable to the Library by reason of any error in payment under this Agreement).

**ARTICLE 10  
CERTAIN ADDITIONAL OBLIGATIONS OF THE LIBRARY**

**10.1 Scheduled Items**

The Library shall make available, free of cost and without delay or in accordance with any agreed timetable or schedule set forth in Schedule C (Items to be Provided by the Library), to the Supplier for the purpose of the Supply, the personnel, equipment, facilities, services (including services of third parties) and information described in such Schedule C (if any), and in accordance therewith.

## 10.2 Other Information

The Library shall, within a reasonable time following a written request by the Supplier, provide to the Supplier free of cost such further information, which the Library considers relevant to provision of the Supply and which is either already in its possession or reasonably within its power to obtain.

## 10.3 Decisions in Writing

On all matters properly referred to it in writing by the Supplier, the Library shall (wherever practicable) give its decision in writing within a reasonable time having regard to the Time(s) for Completion and the Supplier's obligations with regard to the Supply.

## 10.4 Access to the Site

Except to the extent prohibited by applicable Law or any Consent, the Library shall grant to the Supplier non-exclusive, timely and in accordance with any agreed schedule, access (as the Library is reasonably able to provide) to all necessary areas of the Site on and from the Effective Date and such other non-exclusive access as is necessary or appropriate to perform the Supply and the Supplier's other obligations in accordance with this Agreement.

# ARTICLE 11 LIABILITY AND INSURANCE

## 11.1 Covenants of Indemnification by the Supplier

- (a) The Supplier shall indemnify and keep indemnified and hold the Library, the Other Library Entities and their respective officials, officers, employees and agents harmless against all losses, liabilities, claims, demands, costs and expenses (including legal fees), fines, penalties and charges (including those imposed by statute or otherwise imposed), arising out of or in connection with, or consisting of:
- (i) any:
    - (A) damage to a Site or any part thereof, or any property whether located at a Site or otherwise, which occurs during the provision of the Supply;
    - (B) any claim by a Subcontractor under the *Builders Lien Act* (British Columbia);
    - (C) damage to the natural environment, including any remediation cost recovery claims;
    - (D) loss or damage arising from a claim by any third party concerning or arising out of the Supply, or by any employee or Subcontractor of the Supplier for any reason;
    - (E) occupational illness, injury or death of any person, whether at a Site or otherwise, which occurs during, or as a result of, the provision of the Supply;
    - (F) failure by the Supplier to fully comply with the provisions of this Agreement;
    - (G) breach by the Supplier or any Subcontractor of any Law in the course of, or as a result of, the provision of the Supply;

- (H) actual or alleged infringement of any Intellectual Property Rights caused by the provision of the Supply or the use of any process, work, material, matter, thing or method used or supplied by the Supplier or any Subcontractor in the provision of the Supply; or
- (I) breach of the warranties of the Supplier contained herein,  
in each case to the extent that it is due to any act, omission or default, or any breach of Law or this Agreement, of the Supplier, a Subcontractor or any Representative of the Supplier or any employee, agent or contractor of any of them; or
- (ii) any defect in a good, work or material provided as part of the Supply or any failure of any such good, work or material to function safely or to satisfy any applicable safety standard.
- (b) Nothing in this Section 11.1 nor otherwise in this Agreement shall limit or exclude any direct liability (whether in contract, tort, for breach of statutory duty or any other legal basis) of the Supplier to any person, including without limitation any liability for:
  - (i) the Supplier's default hereunder or fraud, fraudulent misrepresentation or reckless misconduct in the provision of the Supply; or
  - (ii) any loss or damage flowing from the termination of this Agreement.
- (c) The Supplier appoints the Library as the trustee of the Other Library Entities and of their and the Library's officials, officers, employees and agents in relation to the covenants of indemnification of the Supplier contained in this Section 11.1 and the Library accepts such appointment.

## 11.2 INTENTIONALLY OMITTED

### 11.3 Conduct of Claims

In the event of any claims, statutory fees, costs, charges, penalties (including without limitation any legal costs), contributions, compensations, cost recoveries, expenses or fines being levied or claimed from a person in respect of which an indemnity is provided by the Supplier pursuant to ARTICLE 11, the following provisions shall apply:

- (a) subject to Sections 11.3(b), 11.3(c) and 11.3(d), where it appears that a person is or may be entitled to indemnification from the Supplier in respect of all (but not part only) of the liability arising out of a claim, such person entitled to indemnification may at its sole election and subject to:
  - (i) approval by any relevant insurers (without prejudice to Section 11.3(f)); and
  - (ii) the Supplier providing the party entitled to indemnification with a secured indemnity to its reasonable satisfaction against all costs and expenses (including legal expenses) that it may incur by reason of such action,

permit or require the Supplier to dispute the claim on behalf of the person entitled to indemnification at the Supplier's own expense and take conduct of any defence, dispute, compromise, or appeal of the claim and of any incidental negotiations; provided that the person entitled to indemnification shall give the Supplier (provided

at the Supplier's cost) all reasonable cooperation, access and assistance for the purposes of considering and resisting such claim;

- (b) with respect to any claim conducted by the Supplier pursuant to Section 11.3(a):
  - (i) the Supplier shall keep the person entitled to indemnification fully informed and consult with it about material elements of the conduct of the claim;
  - (ii) the Supplier shall not bring the name of the person entitled to indemnification (or any Group Member thereof) into disrepute; and
  - (iii) the Supplier shall not pay or settle such claims without the prior consent of the person entitled to indemnification, such consent not to be unreasonably withheld or delayed;
- (c) a person entitled to indemnification shall be free to pay or settle any claim on such terms as it thinks fit (and without prejudice to its rights and remedies under this Agreement) if:
  - (i) the Supplier is not entitled to, or is not permitted or instructed, take conduct of the claim in accordance with Section 11.3(a); or
  - (ii) the Supplier fails to comply in any material respect with the provisions of Sections 11.3(a) or 11.3(b);
- (d) the person entitled to indemnification pursuant to ARTICLE 11 shall be free at any time to give notice to the Supplier that it is retaining or taking over (as the case may be) the conduct of any defence, dispute, compromise or appeal of any claim (or of any incidental negotiations) to which Section 11.3(a) applies. On receipt of such notice the Supplier shall promptly take all steps necessary to transfer the conduct of such claim to the person entitled to indemnification, and shall provide to the person entitled to indemnification all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim;
- (e) if the Supplier pays to the person entitled to indemnification an amount in respect of an indemnity and the person entitled to indemnification subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the claim under the indemnity, the person entitled to indemnification shall forthwith repay to the Supplier whichever is the lesser of:
  - (i) an amount equal to the sum recovered (or the value of the saving or benefit obtained) less any out-of-pocket costs and expenses (including legal expenses) properly incurred by the person entitled to indemnification in recovering the same; and
  - (ii) the amount paid to the person entitled to indemnification by the Supplier in respect of the claim under the relevant indemnity,

provided that there shall be no obligation on the part of the person entitled to indemnification to pursue such recovery and that the Supplier is repaid only to the extent that the amount of such recovery aggregated with any sum recovered from the Supplier exceeds any loss sustained by the person entitled to indemnification;

- (f) the Supplier shall inform the person entitled to indemnification of the requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Agreement and in relation to such the person entitled to indemnification shall issue instructions accordingly; and
- (g) any person entitled to an indemnity from the Supplier must take all reasonable measures to mitigate any loss, damage or liability that it may suffer in respect of any such matter.

#### 11.4 Insurance

- (a) The Supplier shall take out and maintain in force during the term of this Agreement, at its own cost, commercial general liability insurance with coverage of not less than \$5 million per occurrence and at least \$5 million of annual aggregate or other such amounts the Library may approve from time to time, protecting the Supplier and Supplier's personnel against all claims for bodily injury including death, personal injury, advertising liability, completed operations, product liability, or property damage or loss arising out of the operations of the Supplier or the actions of the Supplier or Supplier's personnel. The policy must:
  - (i) name the Library and the Library's officials, employees and agents as additional insureds;
  - (ii) include a cross-liability or severability of interest clause or endorsement in favour of the Library;
  - (iii) include blanket contractual liability coverage; and
  - (iv) include non-owned auto liability coverage.
- (b) The Supplier shall purchase and maintain during the entire term of this Agreement, at its own cost, automobile liability insurance on all licensed vehicle owned or leased to the Supplier with a limit of not less than \$5,000,000 per occurrence or other such amount as the Library may approve from time to time protecting against damages arising from bodily injury including death, and from claims for property damage arising from the operations of the Supplier or the Supplier's personnel.
- (c) All required insurance policies specified in Sections 11.4(a) and 11.4(b) must remain in full force and effect at all times until completion of the Supply or earlier cancellation of this Agreement, and for a period of not less than two years thereafter, and must:
  - (i) be obtained from and issued by insurers authorized to carry on business within British Columbia, on terms satisfactory to the Library, acting reasonably;
  - (ii) be primary insurance with respect to all claims arising out of the Supplier, and any insurance or self-insurance maintained by the Library will be in excess of this insurance and will not contribute to such policies; and
  - (iii) contain a provision that such insurance coverage will not be cancelled or endorsed to reduce the limits of liability without the insurer or their authorized representative giving the Library at least 30 days' written notice by registered mail. Should the policy be endorsed to restrict coverage midterm, written notice of such restriction will be sent by registered mail to the Library no later than the effective date change; the exception is cancellation for non-payment of premium in which case the applicable statutory conditions will apply.

- (d) The Supplier shall ensure that any Subcontractors also maintain the same insurance as the Supplier, having regard to the obligations under this Agreement which they are contracted to fulfil.
- (e) The Supplier and any Subcontractors will purchase and maintain, at its own cost, any additional insurance which it is required by law, or other lines of insurance coverages, endorsements or increased limits of insurance as deemed necessary by the Library and as a reasonable and prudent Supplier would require to protect their performance of Supply or their operations.
- (f) As a condition precedent to any payment from the Library to the Supplier under this Agreement, the Supplier shall provide evidence of all required insurance to be taken out in the form of one or more certificate(s) of insurance. The certificate(s) of insurance will identify the Agreement title, Agreement number, policyholder, description of work, insurer name, insurer policy number, insurer policy period, and insurer limits. Proof of insurance, in the form of such certificate(s) of insurance (or copies of the policy(ies) themselves, if requested), will be made available to the Library at any time during the performance of the Supply immediately upon request.
- (g) The Supplier's liabilities under this Agreement shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Section 11.4.
- (h) The cost of the insurances arising under this Section 11.4 shall be deemed to be incorporated into the prices specified in Schedule B.

**ARTICLE 12  
FORCE MAJEURE; TERMINATION**

**12.1 Force Majeure**

- (a) Neither Party shall be deemed to be in breach of this Agreement or otherwise liable to the other Party in any manner whatsoever for any failure or delay in performing its obligations under this Agreement reasonably due to Force Majeure.
- (b) If either Party's performance of its obligations under this Agreement is affected by an event of Force Majeure, then:
  - (i) it shall give written notice to the other Party, specifying the nature and extent of the event of Force Majeure, within ten days after becoming aware of the event of Force Majeure;
  - (ii) performance of such obligation(s) shall be deemed suspended but only for a period equal to the delay reasonably caused by such event;
  - (iii) it shall not be entitled to payment from the other Party in respect of extra costs and expenses incurred by virtue of the event of Force Majeure;
  - (iv) the Time(s) for Completion shall be extended to take into account such delay; and
  - (v) within five days of the cessation of any Force Majeure event, the Party affected thereby shall submit a written notice to the other Party, specifying the actual duration of the delay of its obligations caused by the event of Force Majeure and the consequences resulting from such delay, and submit a specific plan to minimize and mitigate those consequences.

- (c) The affected Party shall use all reasonable diligence in accordance with Good Industry Practice to mitigate the cause and the result of an event of Force Majeure and to remedy the situation and resume its obligations under this Agreement, including complying with any instructions from the Library, as to how to do so.
- (d) Notwithstanding the obligations of a Party affected by an event of Force Majeure pursuant to Sections 12.1(b) and 12.1(c), if the event of Force Majeure renders it impossible or impractical for the Supplier to provide the Supply in accordance with this Agreement for a period of at least ~~45~~ days, the Library may terminate this Agreement upon notice delivered to the Supplier at any time following the expiration of such period of ~~45~~ days.

## 12.2 Library Suspension and Termination Rights

The Library shall have the following rights:

- (a) The Library may order the suspension of all or part of the Supply at any time and for such period as it determines, by notice with immediate effect to the Supplier, in the event of a Safety Incident; and upon receipt of any such notice of suspension, the Supplier shall immediately cease performing the Supply, minimise expenditure and comply with any reasonable instructions of the Library relating to such Safety Incident, including any investigations.
- (b) Without prejudice to Section 12.2(a), the Library may suspend all or part of the Supply (for such period as it determines) or terminate this Agreement at any time (and for its convenience) upon days'10 written notice to the Supplier, which shall immediately upon receipt of such notice take all reasonable steps to wind down the performance of the Supply and to minimise expenditure, including complying with any instructions from the Library as to how to do so.
- (c) If the Library reasonably considers that the Supplier is not discharging any of its material obligations under this Agreement, the Library may inform the Supplier by notice stating the grounds for the notice. If evidence of remediation satisfactory to the Library, is not received as soon as practicable or in any case within ~~14~~ days or such longer period as agreed by the Parties, the Library may by a further notice to the Supplier of at least ~~14~~ days terminate this Agreement.
- (d) The Library may terminate this Agreement with immediate effect if:
  - (i) the Supplier becomes bankrupt or insolvent, goes into liquidation, has a receiver or administrator appointed over it or any of its assets of undertaking, enters into any arrangement for the benefit of its creditors, becomes the subject of any moratorium or carries on business under a receiver, trustee, manager or arrangement for the benefit of its creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events; or
  - (ii) a Change in Control of the Supplier occurs and the Library reasonably considers that the Change in Control shall substantively affect the Supplier's ability to perform its obligations under this Agreement.

### 12.3 Supplier Termination Rights

After giving at least seven days' written notice to the Library, the Supplier may terminate this Agreement, or at its discretion and without prejudice to the right to terminate, may suspend or continue suspension of performance of the whole or part of the Supply when:

- (a) <del>90</del> days after the due date for payment of an invoice, it has not received payment of that part which has not by that time been contested in writing by the Library and provided always that:
  - (i) the Supplier has issued a notice of reminder to the Library following the due date for payment in relation to such unpaid sum; and
  - (ii) the termination notice may not be issued until the expiry of <del>30</del> days following the issue of such reminder notice; or
- (b) the Library commits any material or persistent breach(es) of its obligations under this Agreement which render(s) performance by the Supplier of its obligations under this Agreement or a substantial part thereof impossible or significantly adversely affect(s) such performance of this Agreement as a whole and further which, remain(s) irremediable after <del>60</del> days.

### 12.4 Consequences of Termination

The following consequences shall apply upon a termination:

- (a) On termination of this Agreement for any reason, the Supplier shall, as soon as reasonably practicable:
  - (i) deliver to the Library all work and Documentation produced by or on behalf of the Supplier during the course of performing the Supply;
  - (ii) return (or destroy if otherwise directed by the Library in writing) all Confidential Information provided to it for the purposes of this Agreement;
  - (iii) return all of the Library's Site access cards, equipment and other items provided under this Agreement, failing which, the Library may enter the relevant premises and take possession thereof, and, until any such access cards, equipment and other items have been returned or repossessed, the Supplier shall be solely responsible for its or their safe-keeping;
  - (iv) if so requested by the Library, take reasonable steps to assign any Subcontractor contracts to the Library and do all things and execute all documents necessary to give effect thereto; and
  - (v) otherwise comply with all reasonable requirements of the Library arising from the cessation of the Supply or the continuing development of the Site.
- (b) The Supplier shall be entitled to be paid its reasonable properly incurred costs of compliance with Section 12.4(a) and its reasonable demobilization costs, up to a maximum of \$<del></del>, in aggregate, save in circumstances in which the Library reasonably claims that the termination was a consequence of a Safety Incident or a default by the Supplier in the provision of any part of the Supply, in which case all such costs shall be for the Supplier's own account.



- (c) On termination of this Agreement for any reason, the Supplier shall be entitled to payment for any completed portion of the Supply rendered in full compliance herewith prior to the time of termination, in accordance with Schedule B (Prices for Supply).

### 12.5 Other Surviving Rights and Liabilities of Parties

- (a) Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.
- (b) After termination of this Agreement, the provisions of Sections 3.7 and 9.6, ARTICLE 11, **Error! Reference source not found.**, ARTICLE 15 and ARTICLE 17 shall remain in force.

## ARTICLE 13 ASSIGNMENT AND SUBCONTRACTING

### 13.1 Assignment

Neither Party shall assign, transfer, mortgage, charge or deal in any other manner with this Agreement or any of its rights and obligations under or arising out of the Agreement (or any document referred to herein), or purport to take any such action without the prior written consent of the other.

### 13.2 Subcontracting

- (a) The Supplier shall not subcontract the whole or substantially all of the Supply.
- (b) Without prejudice to the foregoing Section 13.2(a), save in the case of Subcontractor(s) whose role in the provision of the Supply is expressly provided for in the schedules hereto (and only to the extent so provided for), the Supplier may not subcontract any part of the Supply without the Library's prior written consent.
- (c) The Supplier shall include in each contract by which it engages a Subcontractor a provision allowing the benefit of such contract to be assigned by the Supplier to the Library upon request.
- (d) The Supplier shall not without the written consent of the Library (which shall not be unreasonably withheld or delayed) initiate or terminate any contract with a Subcontractor.
- (e) If the Supplier is unable to enter into a contract with a Subcontractor whose role in the provision of the Supply is expressly provided for in the schedules hereto, it shall as soon as reasonably practicable inform the Library of the reason for such inability and procure the services of a replacement subcontractor that is acceptable to the Library, acting reasonably.
- (f) The Supplier shall be responsible for the acts, defaults or neglect or any omission of each Subcontractor, its employees and agents in all respects as if they were the acts and defaults or neglect or omission of the Supplier its employees or agents themselves.

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**ARTICLE 14  
INTENTIONALLY OMITTED**

**ARTICLE 15  
PRIVACY; CONFIDENTIALITY**

**15.1 Freedom of Information and Protection of Privacy Act**

The Supplier acknowledges that the Library is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the Library's contractors to protect all personal information acquired from the Library in the course of providing any service to the Library.

**15.2 No Promotion**

The Supplier shall not, and shall ensure that its Subcontractors shall not, disclose or promote any relationship with the Library, including by means of any oral declarations, announcements, sales literature, letters, client lists, press releases, brochures or other written materials, without, in each case, the express prior written consent of the Library. The Supplier shall not use the Library's logo or any of the Library's official marks without the express prior written consent of the Library.

**15.3 Confidentiality Obligations**

Each Party shall keep the Confidential Information of the other Party confidential and each Party shall not use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement or where, in the case of the Library, otherwise necessary to pursue the public business of the Library (a "Permitted Purpose"), or disclose the Confidential Information in whole or in part to any third party, except as expressly permitted by this ARTICLE 15.

**15.4 Disclosure to Representatives**

A Party may disclose the other Party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that it informs such Representatives of the confidential nature of the Confidential Information prior to disclosure, and at all times it is responsible for such Representatives' compliance with the confidentiality obligations set out in this ARTICLE 15.

**15.5 Disclosures Required by Law**

A Party may disclose Confidential Information to the extent required by any applicable Laws or by any Competent Authority provided that, where legally permitted, it notifies the other Party before doing so, gives the other Party a reasonable opportunity to take any steps that the Party considers necessary to protect the confidentiality of that information, and notifies the third person that the information is Confidential Information. In any event, a Party shall furnish only that portion of the Confidential Information which it is legally required to disclose and shall use its reasonable endeavours to obtain a protective order or other reliable assurance that the Confidential Information shall be accorded confidential treatment.

**15.6 Other Disclosures by the Library**

The Library's obligations under this ARTICLE 15 are wholly subject to and qualified by, the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and, notwithstanding any other provision of this ARTICLE 15, the Library may disclose Confidential Information in any manner compliant with such statute or otherwise in furtherance of its public role or duties, including in the course of publicly reporting to the Vancouver Public Library Board.

### 15.7 Interpretation; Enforcement and Survival

- (a) Notwithstanding anything in this ARTICLE 15 to the contrary, nothing in this ARTICLE 15 shall affect the Parties' rights and obligations under **Error! Reference source not found.**
- (b) The Parties acknowledge that a breach of any of the obligations or provisions contained in this ARTICLE 15 could cause the other Party to suffer loss which may not be adequately compensated for by damages and that the other Party may, in addition to any other remedy or relief, enforce the performance of this Agreement by injunction or specific performance upon application to a court of competent jurisdiction without proof of actual or special damage and notwithstanding that in any particular case damages may be readily quantifiable, and such breaching Party must not plead sufficiency of damages as a defence in the proceeding for such injunctive relief.

## ARTICLE 16 TAXES

### 16.1 Taxes for Own Accounts

Unless otherwise expressly stated in this Agreement, any Taxes becoming due and payable by either Party pursuant to any applicable Laws as a result of the entering into, the performance of obligations under or the taking of payment pursuant to this Agreement, shall be for the account of that Party, and for greater certainty the Contract Price includes all such Taxes, except for applicable Taxes arising under all sales, excise and value added tax legislation (including, without limitation, the *Excise Tax Act* (Canada) and similar Canadian provincial legislation) (collectively, "Sales Tax") as a result of the sale of the Supply within Canada hereunder, unless it is clearly stated that they are intended to be Sales Tax-inclusive.

### 16.2 Withholding Taxes

- (a) Notwithstanding any other provision to the contrary, if the Library determines that it is necessary to satisfy its obligations under any Law relating to Taxes, the Library may:
  - (i) withhold an amount from a payment made to the Supplier; and
  - (ii) pay the withheld amount directly to the relevant Competent Authority.
- (b) If an amount withheld in accordance with Section 16.2(a) is paid by the Library to the relevant Competent Authority, it is deemed to have been paid to the Supplier on the date on which the remainder of the payment to which it relates was paid to the Supplier.
- (c) The Supplier agrees and acknowledges that it has no claim against the Library for any amounts withheld and paid to the relevant Competent Authority in accordance with Section 16.2(a).
- (d) If the Library does not withhold an amount under Section 16.2(a) which it is required to withhold pursuant to any laws relating to Taxes, the Supplier agrees to pay that amount to the Library, upon request by the Library.
- (e) The Supplier agrees that the Library shall not be required to increase any payment to the Supplier by the amount withheld by the Library under Section 16.2(a)

**ARTICLE 17  
DISPUTE RESOLUTION**

**17.1 Optional Procedure**

All claims, disputes or issues in dispute between the Library and the Supplier in relation to this Agreement shall be decided by mediation or arbitration, if the Parties so agree in writing, or, failing any such agreement, by the courts of competent jurisdiction in the Province of British Columbia.

**17.2 Arbitration**

In the event that Parties agree to arbitration pursuant to Section 17.1:

- (a) the arbitration shall be conducted pursuant to the *Commercial Arbitration Act* (British Columbia) and shall be governed by the rules of the British Columbia International Commercial Arbitration Centre, except that the arbitrator or arbitrators shall be agreed upon by the Parties, and failing agreement by the Parties, shall be appointed by a court of competent jurisdiction within the Province of British Columbia;
- (b) the parties shall share equally the costs of the arbitration but shall be responsible for their own separate costs and expenses in relation to the arbitration including legal fees and disbursements; and
- (c) the arbitration shall take place in Vancouver, British Columbia and shall be governed by the laws of British Columbia.

**ARTICLE 18  
MISCELLANEOUS**

**18.1 Time of the Essence**

Time is of the essence of this Agreement, including without limitation in relation to the Time(s) for Completion.

**18.2 Costs**

Each of the Parties hereto shall pay their respective legal fees and other costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

**18.3 Benefit of this Agreement**

- (a) This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties hereto.
- (b) Except as expressly set forth in the foregoing Sections 18.3(a) or 11.1, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Library and the Supplier.

**18.4 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the Parties hereto with respect thereto. There are no representations, warranties, terms,

conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties in relation to the subject matter hereof other than as expressly set forth in this Agreement.

**18.5 Amendments and Waiver**

Subject to Section 3.9, no modification of or amendment to this Agreement is valid or binding unless set forth in writing and fully executed by both of the Parties hereto and no waiver of any breach of any term or provision of this Agreement is effective or binding unless made in writing and signed by the Party purporting to give such waiver and, unless otherwise provided, is limited to the specific breach waiver.

**18.6 Notices**

(a) Any order, demand, notice or other similar communication to be given to a Party in connection with this Agreement must be given in writing and shall be deemed to be validly given if given by personal delivery to a Library’s Manager or a Supplier’s Manager, as applicable, or delivered by registered mail, by courier or by electronic transmission (with delivery confirmation or receipt of a reply email effectively acknowledging delivery), addressed to a Library’s Manager or a Supplier’s Manager, as the case may be, or, in each case to such other individual as is designated in writing by the relevant recipient Party (including as designated in writing hereinbelow) at the relevant address or facsimile number listed below:

(i) if to the Supplier:

<Supplier Name>  
<address>

Attention: <>  
Facsimile: <>  
Email: <>

(ii) if to the Library:

**Vancouver Public Library**  
**Purchasing Services Office**  
350 West Georgia Street  
Vancouver, BC V6B 6B1

Attention: <>  
Facsimile: <>

or such other address or facsimile number as may be designated by notice given by either Party to the other, provided that, notwithstanding the foregoing, the Supplier’s invoices shall be addressed as specified in Section 9.3 or as otherwise specified in the relevant Library purchase order.

(b) Any order, demand, notice or other communication given (and, in the case of electronic transmission, confirmed or acknowledged) in accordance with Section 18.6(a) shall be conclusively deemed to have been given:

(i) if given by personal delivery, on the day of actual delivery thereof;

- (ii) if given by registered mail or courier, on the Business Day following confirmation by the postal service or the courier that the notice has been delivered; and
- (iii) if given by electronic transmission, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

Notwithstanding the foregoing, if the Party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such demand, notice or other communication must not be mailed but must be given by personal delivery, courier or electronic transmission.

### **18.7 Governing Law and Jurisdiction**

- (a) This Agreement is governed by and must be construed in accordance with the laws of the Province of British Columbia.
- (b) All provisions of the *International Sale of Goods Act* (British Columbia) are specifically excluded from application to this Agreement.
- (c) This Agreement is subject to the exclusive jurisdiction of the courts in the Province of British Columbia except:
  - (i) as otherwise agreed by the Parties pursuant to ARTICLE 17; and
  - (ii) to the extent necessary to enforce, in another jurisdiction, any decision or award made pursuant to ARTICLE 17 or any judgment of any court in the Province of British Columbia.

### **18.8 Further Assurances**

Each Party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it.

### **18.9 Severance**

If any term or condition of this Agreement is for any reason held to be illegal, invalid, ineffective, inoperable or otherwise unenforceable, it shall be severed and deemed to be deleted from this Agreement and the validity and enforceability of the remainder of this Agreement shall not be affected or impaired thereby. If any term or condition of this Agreement is found to be illegal, invalid, ineffective, inoperable or otherwise unenforceable, but would not be so if some part of it were deleted, the term or condition shall apply with such modifications as may be necessary to make it enforceable.

### **18.10 Counterparts**

This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A Party may execute this Agreement by signing any counterpart.

**18.11 Independent Legal Advice**

THE SUPPLIER ACKNOWLEDGES THAT THE SUPPLIER HAS BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE BEFORE EXECUTING THIS AGREEMENT.

**18.12 Electronic Execution**

Delivery of an executed signature page to this Agreement by either Party by electronic transmission shall be as effective as delivery of a manually executed copy of this Agreement by such party.

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written by and on behalf of the Parties by their duly authorized signatories.

<  SUPPLIER NAME >

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

**VANCOUVER PUBLIC LIBRARY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

SCHEDULE A -  
SCOPE OF GOODS AND SERVICES

<The Scope of the Supplier's Supply, as finally negotiated and agreed, shall be clearly expressed in this Schedule A.>

<u>ITEM</u>	<u>DESCRIPTION</u>
<Name 1>	<Description 1.>
<Name 2>	<Description 2.>
<Name 3>	<Description 3.>



SCHEDULE B -  
PRICES FOR SUPPLY

<☒ The contents of this schedule should be comprehensive, detailed and tied to the descriptions of Supply in Schedule A.>

ITEM	PRICE/UNIT
<☒ Name 1>	\$<☒> per <☒ [unit type]>
<☒ Name 2>	\$<☒> per <☒ [unit type]>
<☒ Name 3>	\$<☒> per <☒ [unit type]>
All obligations of the Supplier described in the Agreement and not specifically listed above in this table, or for which no separate price is given.	None. (The cost of the discharge of such Supplier obligations is included in the prices set forth above.)

<☒ Notwithstanding any other provision hereof, if the Supplier is, at any time during the term of effectiveness of this Agreement, party to a contract with another customer pursuant to which the Supplier charges effective prices lower than the prices charged to the Library for reasonably comparable services, the above-listed prices shall be adjusted, retroactively to the date of effectiveness of such other contract, so that the prices charged hereunder are at least as low as the effective prices charged pursuant to such other contract.> <☒NTD: Delete if not applicable.>

SCHEDULE C -  
ITEMS TO BE PROVIDED BY THE LIBRARY

<📄NTD: List in as much detail as appropriate the personnel, equipment, facilities, services and information to be provided by the Library.>

SCHEDULE D -  
SPECIFIC DELIVERABLES

<📄NTD: If the Supply is aimed at the achievement of certain specific, measurable outcomes, which the Supplier is to achieve, those are to be described here. If not, write “None” here.>

SCHEDULE E -  
TIME SCHEDULE FOR SUPPLY

<📄NTD: To describe the time for the completion of the Supply and any applicable milestones to be achieved by particular dates prior to the completion of the Supply.>

SCHEDULE F -  
PREFERRED SUPPLIERS

<📄NTD: Include details if applicable. If not, write "None.">

SCHEDULE G -  
PROJECT BUDGET

<📎 Include if applicable. Otherwise, write "None.">

SCHEDULE H -  
LIBRARY POLICIES

1. The City’s Supplier Code of Conduct referred to on page <img alt="redacted page number" data-bbox="595 162 625 176"> of the <img alt="redacted RFP number" data-bbox="685 162 715 176"/>RFP>.

<img alt="redacted" data-bbox="206 192 236 206"/>**NTD:** List other internal policies or standards, which are applicable, and any other standards or other requirements with which the Supplier must comply.

These policies may include any design review procedures or other consultation or administrative procedure(s) required to be followed by the Supplier, the text of which may be set forth here.>

SCHEDULE I -  
KEY PROJECT PERSONNEL

<NTD: To be included if applicable.>



SCHEDULE J -  
SITE

<📎NTD: Insert details or maps concerning Site, or write “[Deliberately left blank.]” if inapplicable.>

SCHEDULE K -  
FORM OF LETTER AGREEMENT

[Date]

<☞ Add Supplier Name and Address>

Dear Sir or Madam,

**Re: Agreement based upon the Supply Agreement between <☞ Supplier Name> and Vancouver Public Library <☞ When required add: “, as represented by its Board of Parks and Recreation,”> dated <☞> (the “Base Agreement”)**

The purpose of this letter agreement (this “Agreement”) is to set out the terms and conditions upon which <☞ Supplier Name> (the “Supplier”) shall supply <☞ Describe> to [Name of Other Library Entity] (the “Purchaser”).

Please have a duly authorized representative of the Supplier execute this Agreement and return one copy to the Purchaser.

**1. Application of Base Agreement**

The Supplier shall supply <☞ Describe> to the Purchaser at the price(s) and otherwise pursuant to the terms and conditions stated in the Base Agreement, as though each reference to the Vancouver Public Library or the “Library” in the Base Agreement were instead a reference to the Purchaser, with the exceptions stated in the following Section 2.

**2. Variations from the Base Agreement**

- (a) The Supplier’s invoices to the Purchaser shall be submitted to the following mailing and/or email addresses, rather than the addresses stated in Section 9.3 of the Base Agreement: [Address]. The Purchaser’s contact information for purposes of the application of Section 18.6 of the Base Agreement shall be the following in lieu of the Vancouver Public Library address, contact name and facsimile number stated in the Base Agreement: [Address, Contact Name and Fax number]
- (b) Section **Error! Reference source not found.** of the Base Agreement shall be excluded from the agreement between the Supplier and the Purchaser.

**3. Miscellaneous**

- (a) This Agreement shall terminate upon the expiry or termination of the Base Agreement.
- (b) This Agreement is governed by and must be construed in accordance with the laws of the Province of British Columbia.
- (c) This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A party may execute this Agreement by signing any counterpart. Delivery of an executed signature page to this Agreement by either party by electronic transmission shall be as effective as delivery of a manually executed copy of this Agreement by such party.

Yours truly,

REQUEST FOR PROPOSALS NO. PS[●]

[NAME OF PROJECT]

ANNEX [●] - [●]

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\_\_\_\_\_  
[Name and Title of Other Library Entity  
Signatory]

Accepted and agreed on behalf of  Supplier Name:

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_