



ARTICLE 2- PERFORMANCE AND SUPPLY

2.1 Term, Renewal and Price Adjustment. This Agreement will remain in effect throughout the Term. At the option of SPS, this Agreement will renew on the same terms and conditions for additional Renewal Period(s). If the Vendor requests a price change for a Renewal Period, the Vendor shall deliver a written request to SPS within 14 days of receipt of SPS's notice to renew providing evidence supporting a price adjustment. Price adjustments will not take effect until a Change Order is signed and will only apply to subsequently requisitioned Work. If the parties do not agree to a price change by the end of the then current Term, then, at the option of SPS, this Agreement will terminate without renewal.

2.2 Requisitions. SPS will requisition the Work as and when required through a Requisition. Each Requisition is incorporated into, and governed by the provisions of, this Agreement. No Work or charges are authorized unless a Requisition has been issued by SPS.

2.3 No Guarantee. Nothing herein commits SPS to purchase any, or a minimum quantity of Goods, or to purchase Goods exclusively from the Vendor.

2.4 Title, Ownership and Risk of Loss. Despite any earlier inspections or testing by SPS, title and all other property rights in and to, and ownership of, the Goods shall pass to SPS upon acceptance by SPS. Risk of loss shall pass to SPS upon receipt of the Goods at the Delivery Location.

2.5 Acceptance. SPS will inspect and test the Goods following receipt at the Delivery Location to ensure the Goods meet the requirements of this Agreement to the satisfaction of SPS. Goods rejected by SPS will be held, returned and/or remedied, at the Vendor's expense. If SPS fails to reject any Goods within thirty days of receipt such Goods shall be deemed to have been accepted. SPS reserves the right to retain non-conforming Goods and in such case, will pay a reasonable price therefor.

2.6 Delivery. The Vendor will deliver the Goods to the Delivery Location during Business Hours.

2.7 No Release. No inspection, testing or acceptance by SPS relieves the Vendor from strict compliance with this Agreement, and will not constitute a waiver of any rights SPS may have under this Agreement or at law.

2.8 Packing and Shipping. The Vendor will ensure the Goods are packaged and shipped in a manner to prevent damage or deterioration. The Vendor will provide shipping notices showing, for each shipment, the item number as it appears on the Requisition, quantity, full description and gross weight. All shipments from sources outside of Canada shall be forwarded and invoiced in the manner prescribed from time to time by Canadian customs laws and regulations and in the manner permitting all claims for exemptions, refunds and rebates thereunder.

2.9 Change Orders. The Goods identified in Schedule A represent SPS's requirements as at the Effective Date and are subject to change. SPS and the Vendor will regularly review Schedule A to ensure the list remains current, and any changes to the list, and corresponding changes to Milestone Dates and/or the pricing, all as negotiated between the parties, will be made by Change Order. SPS will not accept any changes unless they have been approved through a Change Order.

ARTICLE 3 – WARRANTIES

3.1 Warranties. In addition to any other warranties or representations forming part of this Agreement, the Vendor represents and warrants:

- (a) to act with integrity and use the highest ethical standards, and not to, directly or indirectly, compromise the reputation or image of SPS;
- (b) the Vendor is an authorized seller/distributor/supplier of the Goods;
- (c) the Goods will conform to the specifications, and to the drawings, samples or other descriptions provided by the Vendor, and as otherwise as set out in this Agreement;
- (d) the Goods are fit for their particular purpose and intended use as made known by SPS to the Vendor or reasonably inferable;
- (e) the Goods will be of first-class quality and free of any defect for the duration of the Warranty Period;
- (f) the Goods will be delivered free and clear of any liens, charges, encumbrances and adverse claims;
- (g) in addition to any other Vendor warranties, the Goods are covered by full manufacturers' warranties; and
- (h) the Goods do not infringe on any domestic or foreign patent, copyright, trademark or process of manufacture.

3.2 Non-Conforming Goods. If, during the Warranty Period, SPS discovers a Good contains a defect or deficiency or otherwise fails to conform to this Agreement, SPS shall promptly notify the Vendor. The Vendor shall, at its own cost, promptly remedy the non-conformance to the satisfaction of SPS. The Vendor shall reimburse SPS for all reasonable costs incurred by SPS in relation to a non-conforming Good and refund any payment made for a returned Good.

3.3 Additional Warranties. The warranties set forth in this ARTICLE 3 (Warranties) are in addition to any other warranties or guarantees of any kind, whether statutory or implied, including any implied warranty of merchantability or fitness for a particular purpose, and any additional warranty offered by the Vendor or a manufacturer, which will be assigned by the Vendor to SPS upon delivery of the Goods.

ARTICLE 4 - SCHEDULES AND DELAYS

4.1 Compliance with Schedules.

- (a) The Vendor will ensure Work is performed by the Milestone Dates and will notify SPS immediately in writing of any anticipated delays, the reasons therefor and the Vendor's mitigation plan.
- (b) SPS shall not be responsible for any costs incurred by the Vendor to meet a Milestone Date.

4.2 Delay. The Vendor's failure to meet a Milestone Date constitutes a material breach of this Agreement. SPS may, at its option,:

- (a) cancel a Requisition in whole or in part, and purchase the Goods from other sources, and if SPS incurs additional costs as a result, the Vendor will promptly reimburse SPS for such costs;
- (b) at no additional cost, require the Vendor to expedite shipping, work overtime/extra shifts, or use additional labour to remedy the delay; and
- (c) invoice the Vendor for costs reasonably incurred by SPS on account of the delay which invoice will be promptly paid by the Vendor.

ARTICLE 5 - PRICE AND INVOICING

5.1 Pricing and Payment. Subject to verification of validity, SPS will pay the Vendor the amounts calculated in accordance with Schedule B and remit payment, less applicable discounts, holdbacks and set-offs, on the payment terms set out in Schedule B. SPS may withhold payment of disputed amounts until the dispute is resolved. C.O.D. shipments will not be accepted.

5.2 Invoicing. Invoices are to be included with each shipment or rendered at least monthly electronically to the Email for Invoices, and include, at a minimum, the Vendor's name, address, phone number and GST number (if applicable), the Requisition Number, an invoice number, detailed description of the Goods/Work, quantities, dates shipped, price, discounts and total payable for that shipment/invoice period.

5.3 No Waiver. Payments made to the Vendor shall not be construed as a waiver of any claim SPS may have against the Vendor arising out of this Agreement.

5.4 Accounts and Records. If the price of the Work is not a fixed or firm price, the Vendor will keep proper and detailed records of the cost of the Work, and invoices, receipts and vouchers relating thereto and will make the same available for inspection and audit by SPS during the Term and for two years thereafter. Any error in a claim for payment or the amount of a payment disclosed on audit will be adjusted between the parties.

ARTICLE 6 - INDEMNIFICATION AND LIABILITY

6.1 No Release. The Vendor shall be liable for all claims, losses and damages in accordance with this Agreement. Failure of an insurer to pay a claim will not release the Vendor from its responsibilities and liabilities. Nothing herein shall be construed as limiting the amounts for which the Vendor may be legally liable. If, for any reason, the liability of the Vendor is or becomes limited in any way, such limitation of liability will not apply to insurable claims, third party claims, claims for copyright, trademark or patent infringement, breach of confidentiality obligations, libel/slander claims, claims based on fraud committed by the Vendor or for wilful misconduct.

6.2 Liability and Indemnity. Despite any insurance maintained by SPS, the Surrey Police Board or the City of Surrey, the Vendor hereby defends, indemnifies and saves harmless SPS, the Surrey Police Board, the City of Surrey, and their respective elected and appointed officials, directors, officers, and employees from and against all claims resulting from any breach or non-compliance with this Agreement by the Vendor or any loss or damages caused by the Vendor, its directors, officers, employees, agents and/or contractors or subcontractors.

ARTICLE 7 - EXPIRY OR EARLY TERMINATION

7.1 Termination for Cause: If the Vendor becomes insolvent or makes any assignment for the benefit of creditors or if a receiver or trustee is appointed for all or part of its property, or if the Vendor defaults in the observance or performance of any of its obligations hereunder, SPS may forthwith cancel this Agreement and/or any Requisitions.

7.2 Termination for Convenience. SPS may, at any time without cause and at its sole discretion, terminate this Agreement in respect of all or any part of the Work by written notice to the Vendor.

7.3 Effect of Termination.

- (a) If for cause, the Vendor shall be liable to, and pay, SPS for any loss or damage suffered by SPS as a result of thereof, including the increased costs for purchasing goods from a third-party, and SPS will be entitled to retain out of any sums due to the Vendor, an amount sufficient to indemnify SPS for such loss or damage;
- (b) If for convenience, SPS shall reimburse the Vendor, at cost, for all reasonable costs incurred by the Vendor which could not reasonably have been avoided or mitigated through reasonable efforts, provided the Vendor has notified SPS of any claim for such costs within 60 days of the effective date of termination; and upon SPS making the foregoing payments to the Vendor, the Vendor shall have no further cause of action or right against SPS in respect of this Agreement.

7.4 Prepayments. The Vendor will immediately refund to SPS any payments made by SPS prior to the date of termination of this Agreement or a Requisition in excess of those required by sections 7.3 (Effect of Termination).

7.5 Survival of Requisitions. No termination or expiration of this Agreement will result in the automatic termination or expiration of a Requisition. A Requisition will remain in effect until: (i) it has expired on its own terms; (ii) the Work thereunder is completed; or (iii) it is terminated by SPS upon written notice to the Vendor.

ARTICLE 8 – GENERAL

8.1 Compliance. The Vendor covenants, as a material term, to fully comply with: (a) applicable laws; (b) SPS safety and security requirements, including regarding security and background screenings and clearances; and (c) if this Agreement includes on-site Work, SPS's and the City of Surrey's requirements for access and workplace safety. The Vendor shall furnish SPS evidence of compliance as SPS may require at any time.

8.2 Confidentiality.

- (a) Any information pertaining to SPS, its operations, or its personnel which is obtained by the Vendor as a result of this Agreement or the performance of the Work is confidential and will not be disclosed by the Vendor without the prior written authorization of SPS.
- (b) All information supplied to SPS by the Vendor is understood to be supplied, explicitly, in confidence. However, SPS is subject to the *Freedom of Information and Protection of Privacy Act (British Columbia)* and will comply fully with all provisions of that Act and cannot guarantee any information provided to SPS can be held in confidence.

8.3 Conflict of Interest. The Vendor, directly or indirectly, will not offer or provide any gifts or personal benefit to any director, officer, or employee of SPS or the Surrey Police Board.

8.4 Police Representative(s). The Vendor is entitled to deal with the Police Representative(s) in connection with this Agreement. All rights, powers and entitlements of SPS may be exercised by the Police Representative(s).

8.5 Publicity. Except as required by law, the Vendor shall not issue any press release or make any public announcement or disclosure concerning this Agreement or any Requisition, including disclosure in any reference list, without the prior written consent of SPS.

8.6 Use of Marks. The Vendor will not use SPS's or Surrey Police Board's official marks, trademarks, logos or other marks without their prior written approval. The Vendor will ensure any such marks are securely stored with restricted access upon being provided to the Vendor's by SPS and the Vendor will delete or destroy such marks to prevent their further use upon termination of this Agreement or otherwise upon request from SPS.

8.7 Relationship. The Vendor is an independent contractor and does not have authority to bind or commit SPS.

8.8 Set Off. SPS may set off amounts owing by the Vendor to SPS against monies owed by SPS to the Vendor.

8.9 Notices. Any notice to be given shall be in writing and may be delivered personally or by regular mail to the party, contact and address on page 1 (or such other address as a party may in writing specify), with a copy sent electronically to the contact's email address on page 1. Any notice given will be deemed to be received upon personal delivery, and if mailed, seven days after mailing date.

8.10 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia. The parties accept the jurisdiction of the courts of British Columbia. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

8.11 Subcontracting and Assignment. The Vendor will not subcontract or assign its obligations, in whole or in part, without the prior approval of SPS.

8.12 No Additional Terms. Any term or condition contained in any report, invoice, sales receipt, claim, statement or other record submitted by the Vendor and in conflict with, or which purport to expand or limit, the terms of this Agreement, are hereby expressly rejected by SPS without notice.

8.13 Time is of the Essence. Time is of the essence of this Agreement.

8.14 Severability. If any provision of this Agreement is, or becomes, illegal, invalid or unenforceable, it shall be severed from the Agreement and the remaining provisions shall remain in full force and effect.

8.15 Waiver. Any failure by SPS to enforce or to require the strict performance of this Agreement will not constitute a waiver of any requirement. A waiver must be express and in writing to have legal effect. No waiver of any breach will be a waiver of any subsequent breach.

8.16 Remedies Cumulative. Despite any other term of this Agreement, SPS's remedies are cumulative and in addition to any right or remedy which may be available at law or in equity.

8.17 Survival. ARTICLE 3 (Warranties), Section 5.4 (Accounts and Records), ARTICLE 6 (Indemnification and Liability) and Section 8.2 (Confidentiality) survive the expiration or termination of this Agreement.

8.18 Interpretation

- (a) Headings are inserted for convenience of reference only and will not form part of nor affect the interpretation of this Agreement.
- (b) The singular, plural, masculine, feminine or neuter used throughout this Agreement will be construed as meaning the singular, plural, masculine, feminine, neuter or body corporate where the context so requires.
- (c) "Includes", "including" and other similar terms shall not be deemed limited by the specific enumeration of items but shall be deemed to be without limitation and interpreted as if the term was "including without limitation."