



FORM OF AGREEMENT FOR GOODS AND SERVICES

Between

The Corporation of the Town of Orangeville

and

Community Living Dufferin

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THIS AGREEMENT IS MADE as of the _____ day of _____, **2023**
(the "**Effective Date**")

between

THE CORPORATION OF THE TOWN OF ORANGEVILLE
(Hereinafter the "**Town**")

and

COMMUNITY LIVING DUFFERIN
(Hereinafter the "**Supplier**")

RECITALS:

1. The Town and Supplier wish to enter into this Agreement to establish the terms and conditions pursuant to which Supplier shall provide the Goods and/or Services (as defined below) to the Town.

NOW THEREFORE in consideration of the mutual covenants, conditions and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of the Parties), the Parties covenant and agree as follows.

SECTION 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

- (1) All capitalized terms used but not otherwise defined in this Agreement shall have the following meanings:
 - (a) "**Acceptance**" has the meaning ascribed to it in Section 4.4(1).
 - (b) "**Agreement**" means this Agreement, including the Schedules to this Agreement, as it or they may be amended or supplemented from time to time, and the expressions "hereof", "herein", "hereto", "hereunder" and similar expressions refer to this Agreement and not to any particular portion or section of this Agreement.
 - (c) "**AODA**" has the meaning ascribed to it in Section 5.3(2).
 - (d) "**Business Day**" means any day of the week other than Saturday, Sunday or a statutory holiday in the Province of Ontario.
 - (e) "**Canadian Sales Taxes**" has the meaning ascribed to it in Section 6.1(7).
 - (f) "**Change of Control**" has the meaning ascribed to it in Section 17.3(1).
 - (g) "**Claiming Party**" has the meaning ascribed to it in Section 16.2(1).
 - (h) "**Town**" has the meaning ascribed to it in the recitals.
 - (i) "**Town Intellectual Property**" has the meaning ascribed to it in Section 9.1(3).
 - (j) "**Confidential Information**" has the meaning ascribed to it in Section 8.1(1).
 - (k) "**Control**" means with respect to any Person at any time,
 - (i) holding, whether directly or indirectly, as owner or other beneficiary (other than solely as the beneficiary of an unrealized security interest) securities or ownership interests of that Person carrying votes or ownership interests sufficient to elect or appoint fifty percent or more of the individuals who are responsible for the supervision or management of that Person, or
 - (ii) the exercise of de facto control of that Person, whether direct or indirect and whether through the ownership of securities or ownership interests or by contract, trust or otherwise.
 - (l) "**Defective Goods and/or Services**" has the meaning ascribed to it in Section 5.1 (3).
 - (m) "**Dispute**" has the meaning ascribed to it in Section 16.1(1).
 - (n) "**Effective Date**" has the meaning ascribed to it in the recitals.
 - (o) "**Equipment**" has the meaning ascribed to it in Section 5.2(2)(f).
 - (p) "**Fees**" has the meaning ascribed to it in Section 6.
 - (q) "**Goods and/or Services**" has the meaning ascribed to it in Section 3.1.
 - (r) "**Goods**" has the meaning ascribed to it in Section 3.1.
 - (s) "**includes**" and "**including**" means "includes without limitation" and "including without limitation" respectively.
 - (t) "**Material Default**" has the meaning ascribed to it in Section 10.1(2).
 - (u) "**Notice of Dispute**" has the meaning ascribed to it in Section 16.2(1).

- (v) **"Party"** means either the Supplier or the Town and **"Parties"** means both of them collectively.
- (w) **"Permits"** has the meaning ascribed to it in Section 7.1(2)(a).
- (x) **"Person"** means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company, corporation or body corporate with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency authority or entity however designated or constituted.
- (y) **"Personal Information"** has the meaning ascribed to it in Section 8.2(1).
- (z) **"Pre-Existing Intellectual Property"** has the meaning ascribed to it in Section 9.1(2).
- (aa) **"Privacy Laws"** means the *Personal Information Protection and Electronic Documents Act* (Canada), as amended or supplemented from time to time, and any other applicable law now in force or that may in the future come into force governing the collection, use, disclosure and protection of personal information applicable to either Party or to any information collected, used or disclosed in the course of providing or receiving the Goods and/or Services.
- (bb) **"Record"** means any recorded information, including any Personal Information, in any form: (i) provided by the Town to Supplier, or provided by Supplier to the Town, for the purposes of this Agreement; or (ii) created by Supplier in the performance of this Agreement.
- (cc) **"Responding Party"** has the meaning ascribed to it in Section 16.2(1).
- (dd) **"Response to Dispute"** has the meaning ascribed to it in Section 16.2(3).
- (ee) **"Services"** has the meaning ascribed to it in Section 3.1.
- (ff) **"Supplier"** has the meaning ascribed to it in the recitals.
- (gg) **"Warranty Period"** has the meaning ascribed to it in Section 5.1(2).
- (hh) **"Works"** has the meaning ascribed to it in Section 9.1(1).

1.2 Interpretation

- a) This Agreement shall be read with all changes in gender and number required by the context. The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- b) Except as expressly provided for herein, if any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such Payment or action shall be made or taken on the next Business Day.
- c) The term "including" means "including, without limitation" and "include" and "includes" shall have corresponding meanings.
- d) The wording of this Agreement shall be deemed to be mutually chosen by the Parties and no rule of strict construction shall be applied against either Party.

- e) In the event of ambiguities, conflicts or inconsistencies between or among any of the provisions of this Agreement, including any provisions contained in schedules or addendums attached hereto or made a part hereof, the provisions set out in the body of this Agreement shall prevail provided that:
 - (i) to the extent a Schedule provides a more specific description of a matter dealt with elsewhere in this Agreement, this Agreement shall be interpreted in a manner so as to give effect to the specification provided in the Schedule; and
 - (ii) any provision establishing a higher standard of performance or service shall take precedence over a provision establishing a lower standard of performance or service.

1.3 Schedules

- a) The following Schedules whether attached hereto or acknowledged as a separate document shall form a part of this Agreement:

Schedule 1 - Description of Goods and/or Services;

Schedule 2 - Insurance Requirements;

Schedule 3 – Town’s Contractor Health & Safety Policy

SECTION 2: TERM

2.1 Term

- a) This Agreement shall commence on the Effective Date and, subject to earlier termination as provided for in this Agreement, continue in effect for a term of the period of time set out in Schedule 1 (the "**Term**"), with an option to extend an additional two years with Notice provided to the tenant no later than 180 days from December 31, 2026.

SECTION 3: DESCRIPTION OF GOODS AND/OR SERVICES

3.1 Goods and/or Services

- a) During the Term, Supplier shall provide to the Town the goods and/or services set out in Schedule 1 attached hereto together with all other services, functions and responsibilities described in this Agreement (the "**Goods**" and the "**Services**" and collectively, the "**Goods and/or Services**").
- b) In connection with the Goods and/or Services, Supplier shall provide the reports and other deliverables to the Town as indicated in Schedule 1 and within any timelines for such delivery as indicated therein. Any approval by the Town or any participation by the Town in any deliverable provided by Supplier in connection with the Goods and/or Services shall in no way mitigate, reduce or otherwise limit Supplier's obligations under this Agreement. In addition to any reporting obligation set out in this Agreement, Supplier shall promptly report to the Town any event that may have the potential of materially affecting the delivery of the Goods and/or Services.
- c) Supplier acknowledges and agrees that the Goods and/or Services shall be provided to the Town on a non-exclusive basis, and that the Town may choose to retain other providers of services similar to the Goods and/or Services during the Term.
- d) Supplier shall not, without the Town's prior written consent, which may be withheld for any or no reason whatsoever, keep anything on Town property or use Town property for any activity that increases the insurance premium cost or invalidates any insurance policy carried by any person with respect to a Town location or any part thereof. All property kept, stored or maintained on Town property by or on behalf of Supplier shall be at Supplier's sole risk.

SECTION 4: DELIVERY AND ACCEPTANCE

4.1 Title and Risk

a) Notwithstanding the provisions of any applicable sale of goods legislation, including the *Sale of Goods Act* (Ontario), or any similar legislation of any jurisdiction whatsoever applicable to the supply of the Goods, title to the Goods supplied by Supplier to the Town shall remain with Supplier until Acceptance by the Town. All risk for losses, and all obligations for insurance coverage, shall pass from Supplier to the Town only upon transfer of title to the Town.

4.2 Delivery

a) Goods shall be delivered by Supplier to the Town at the location specified in Schedule 1 or as otherwise directed by the Town by the delivery date set out in Schedule 1. For the purpose of certainty, the Fees shall include, and Supplier shall otherwise bear the responsibility for, all transportation, insurance and other carriage charges. The Town shall have no obligation in respect of the loading of Goods upon a carrier at Supplier's facilities or the insurance of Goods during such loading or for transportation of any person providing the Goods and/or Services.

b) Supplier shall comply with all applicable laws and industry standards respecting the safe and proper handling, packaging, transportation, delivery and use of the Goods. Supplier shall identify hazardous or toxic Goods with warning labels and shall provide the Town with written instructions concerning potential hazards in connection with the Goods and recommend procedures for the handling, transportation and maintenance of such Goods. Where applicable, Supplier shall ensure that the Goods are properly classified in accordance with Workplace Hazardous Materials Information System legislation and shall provide health and safety data for such Goods.

4.3 Schedule

a) Time is of the essence for the shipment and delivery of Goods and the performance of Services. Times and schedules for delivery of Goods and for completion of Services shall be set out in the Schedule 1 or as expressly agreed to by the Town and Supplier in writing. The Town may from time to time change shipping schedules, or direct temporary suspensions of any scheduled shipments by giving Supplier two Business Days' advance notice.

b) Without limiting any of the Town's other rights hereunder or at law or in equity, the Supplier shall immediately advise the Town as to any delays being encountered, the reasons therefore, and the action being taken to recover from such delays.

c) If delivery of Goods or performance of Services is late by more than 10 Business Days from the delivery date set out in Schedule 1, the Town may, at its option, cancel the purchase and delivery with respect to those Goods or cancel the Services, without incurring any charges or other costs and without prejudice to any of its other rights under this Agreement, at law or in equity.

4.4 Inspection and Acceptance

a) All Goods and Services shall be subject to the Town's inspection and final written acceptance ("**Acceptance**"). Without limiting any other rights or remedies of the Town under this Agreement or at law or in equity, the Town shall have the absolute and unlimited right to reject Goods and/or Services supplied under this Agreement to the extent they do not comply with the Agreement or applicable laws. If any Goods and/or Services are rejected by the Town on the basis that they do not comply with the Agreement or applicable laws, all expenses and risks of loss or damage incidental to the return or disposal of such Goods by or on behalf of the Town shall be borne and paid for by Supplier and the cost of any re-supply of such Services shall be borne and paid for by Supplier.

SECTION 5: WARRANTY, STANDARDS AND POLICIES

5.1 Warranty

(1) Supplier represents, warrants and covenants to the Town that, as of the date of this Agreement and upon each delivery of Goods and completion of the Services:

- (a) the Goods will be of the type and quality specified in the Agreement (including performance criteria) or, if no quality is specified, of the best grade of their respective kinds, conform to the specifications, drawings, samples or other descriptions furnished by the Town, and be free from defect;
- (b) if Supplier gave the Town a sample of the Goods before Town entered into this Agreement, the Goods correspond with the sample;
- (c) the Goods comply with and the Services will be performed in compliance with all Applicable Laws, any relevant government or industry standards and any other standards specified in this Agreement;
- (d) the Goods are fit for the purpose for which Goods of the same kind are commonly supplied and for any other purpose described in this Agreement;
- (e) the Services match the description of the Services in this Agreement;
- (f) the Goods are new and of merchantable quality; and
- (g) the Town has the full benefit of any manufacturer's warranties that may be applicable to the Goods (and Supplier must pursue any manufacturer's warranties on the Town's behalf if the Town so requests).

(2) The warranties set out in Section 5.1(1) expire three years (or such other period set out in Schedule 1) from the date of final Acceptance of the Goods and/or Services by the Town and apply only to defects that are evident or the symptoms of which are evident prior to expiration of the warranties (the "**Warranty Period**").

(3) During the Warranty Period, Supplier shall repair or replace any Goods and complete or re-perform any Services which are determined by the Town, in its sole discretion acting reasonably, to be in breach of the warranties set forth in Section 5.1(1) ("**Defective Goods and/or Services**") and Supplier shall be solely responsible for paying all costs associated with such repair, replacement or performance or, at the Town's option, Supplier will refund in full the price paid for such Defective Goods and/or Services.

(4) Defective Goods and/or Services returned during the Warranty Period for repair, replacement, completion or re-performance shall be repaired, replaced, completed or re-performed by Supplier and returned to the Town within a turnaround time of five Business Days or such other time period as may be mutually agreed between the Parties. Supplier shall be solely responsible for paying the associated shipping and packaging costs of any such repair or replacement.

(5) In the event that Supplier is unable to repair or replace or complete or re-perform the Defective Goods and/or Services within such turnaround time, the Town may,

- (a) at Supplier's sole cost, return the Goods to Supplier and Supplier shall refund the Town in full for the Goods and any other related costs; or
- (b) terminate this Agreement immediately upon notice to the Supplier, and the Town shall thereupon be relieved of all liability under this Agreement.

(6) Any repaired or replaced Goods or completed or re-performed Services shall be subject to the acceptance right set out in Section 4.4 and the Warranty Period shall recommence from the date of acceptance of such Goods and/or Services.

(7) The provisions of this Section 5.1 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

5.2 Performance Standards

- (1) Without limitation to Section 7 of this Agreement, Supplier covenants and agrees to perform its obligations under this Agreement with the degree of care, skill and diligence consistent with the highest industry standards for Supplier's industry in North America and in compliance with all applicable laws.
- (2) Without limiting the generality of the foregoing, Supplier covenants and agrees to
 - (a) diligently deliver the Goods and/or Services in a discrete, professional, workmanlike and timely manner and to meet all requirements for the Goods and/or Services as set out in this Agreement including all applicable requirements for the Goods and/or Services described in Schedule 1;
 - (b) supply (at its own cost) all labour, materials and equipment required to provide the Goods and/or Services;
 - (c) leave all areas where Services were performed in a neat and tidy condition;
 - (d) not paint, display, install, erect or affix any sign, advertisement, notice or decoration within or about Town property (save and except for temporary safety or warning signs necessary for the performance of the Goods and/or Services);
 - (e) perform the Goods and/or Services with minimal disturbance to the Town customers and employees;
 - (f) ensure that all equipment used by the Supplier in the provision of the Goods and/or Services is maintained in a state of cleanliness and good repair/ maintain, operate and keep all equipment used in connection with the provision of Goods and/or Services under this Agreement (collectively, the "Equipment") in good repair, mechanical condition and appearance. The Equipment shall be suitable for the provision of the Goods and/or Services, having due regard for the nature of the Goods and/or Services;
 - (g) provide a sufficient number of duly trained, skilled and licensed (where applicable) personnel to perform the Goods and/or Services in accordance with the terms hereof;
 - (h) operate the Equipment at all times in an efficient, economical and lawful manner; and
 - (i) take all reasonable precautions in the performance its obligations hereunder to protect the safety and health of the Parties' employees and of members of the public and shall comply with all applicable safety and health regulations.

5.3 Town Policies

(1) Supplier acknowledges and agrees that it shall at all times comply with the commitments set out in all Town policies, including with respect to sexual harassment and the Health and Safety Policies.

(2) The Supplier will receive, review and sign the Town's contractor's health and safety agreement ("Contractor's Health & Safety Agreement") as contractors must submit a completed Contractor's Health and Safety Agreement and checklist prior to commencing. Once executed, the Health and Safety Agreement shall be deemed incorporated as a schedule to the Contract. (Schedule 3)

(3) In performing the Goods and/or Services, Supplier shall at all times comply

with the *Accessibility for Ontarians with Disabilities Act, 2005*, and all regulations made thereunder ("**AODA**"). Without limiting the generality of the foregoing, Supplier shall have in place all accessibility plans, policies, practices and procedures required by AODA and shall ensure that all personnel of Supplier engaged in providing the Goods and/or Services, including those personnel of Supplier who may deal with members of the public or other third parties on behalf of the Town, have received all training required by AODA. The Town shall have the right, upon request, to inspect and obtain copies of the accessibility plans, policies, practices and procedures maintained by Supplier in relation to AODA, as well as reasonable evidence that personnel of Supplier performing the Goods and/or Services have received all training required by AODA. In providing the Goods and/or Services, Supplier shall provide information and communications in accessible formats and with communication supports, upon request by the Town, members of the public or other third parties, in accordance with the requirements of AODA.

SECTION 6: Rent

6.1 Rent

- 1) The Town of Orangeville will provide the concession stands and Town owned vending machines at Alder Recreation Centre, 275 Alder Street, and at Tony Rose Memorial Sport Centre, 6 Northmen Way for the Social Purpose Enterprise café/snack at no rental charge, meaning that the Supplier shall pay nothing on account minimum rent, or such other charges that are generally identified as Additional Rent.

SECTION 7: REPRESENTATIONS AND WARRANTIES

7.1 Supplier Representations and Warranties

- 1) Supplier represents and warrants to the Town that,
 - (a) Supplier is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has all necessary corporate power, authority and capacity to enter into this Agreement and to carry out its obligations under this Agreement. The execution and delivery of this Agreement and the performance of Supplier's obligations under this Agreement have been duly authorized by all necessary corporate action on the part of Supplier.
 - (b) Supplier is not a party to, bound or affected by, or subject to, any indenture, mortgage, lease, agreement, collective agreement, obligation, instrument, charter or by-law provision, statute, regulation, order, judgment, decree, licence, permit or law which would be violated, contravened or breached as a result of the execution and delivery of this Agreement, or the performance by Supplier of any of its obligations under this Agreement.
 - (c) Supplier represents and warrants, which representations and warranties shall remain true and accurate throughout the Term, that Supplier and all subcontractors, employees or other persons retained by it in connection with the Goods and/or Services and/or the performance of its obligations hereunder shall (at Supplier's sole cost and expense):
 - (d) procure and maintain all applicable permits, licenses and approvals of any governmental authority relating to the Goods and/or Services and/or business operations of Supplier ("**Permits**") (and provide evidence of same to the Town from time to time forthwith upon request). Supplier shall notify the Town immediately in writing if any Permit or any portion thereof is suspended, cancelled, terminated, withdrawn, modified or transferred in any way and if requested by the Town shall immediately cease to provide Services and shall relinquish control over all equipment or property

(tangible or intangible) owned by the Town and in its possession and under its control on such date;

- (e) comply with all applicable statutes, regulations and other legal stipulations or guidelines of any governmental authority having jurisdiction over the Goods and/or Services or business operations of Supplier (including Privacy Laws);
- (f) conduct its activities and perform the Goods and/or Services in a safe, ethical and professional manner and in compliance with the *Occupational Health and Safety Act* (Ontario) (as amended or supplemented from time to time) and all equivalent municipal, provincial or federal legislation and all applicable the Town policies and procedures, including health and safety policies and security and other rules and regulations (as amended from time to time) while working in or attending at any Town location;
- (g) comply with the performance standards as set out in Section 5 and all applicable requirements for the Goods and/or Services described in Schedule 1;
- (h) ensure Supplier's management has sufficient experience and history in Supplier's industry to perform the Goods and/or Services in accordance with the standards set out herein;
- (i) not take any action or make any omission that may injure or damage the Town's reputation or business;
- (j) maintain internal information security practices, including using appropriate firewall and anti-virus software; maintaining said countermeasures, operating systems, and other applications with up-to-date current virus definitions and security patches; installing and operation security mechanisms in the manner in which they were intended that are designed to ensure the Town will not be impacted nor its operations disrupted; and permitting only authorized users access to systems and applications;
- (k) use up-to-date anti-virus tools to remove known malicious functionalities from any email message or data transmitted to the Town that are designed to prevent the transmission of attacks on the Town via the network connections between the Town and Supplier and to prevent unauthorized access to the Town systems or those of the Town's third party service providers via Supplier networks and access codes; and
- (l) not disclose, disseminate, provide, make available or use the Personal Information or data (including health, financial, identity, etc.) of the Town, as well as its affiliates, branches, representation offices, clients, employees and suppliers with whom it maintains or had a commercial, legal or contractual relationship, or those companies in which the Town or the aforementioned companies may have interest or participation, that Supplier might have received or had access to, in a direct or indirect way, due to the existing contractual, legal or commercial relationship.

7.2 Supplier Covenants

- (a) Supplier covenants and agrees that it shall be solely responsible for the control and management of its operations, employment practices and labour relations. For greater certainty, Supplier shall have the sole and exclusive control over its employees, employee relations policies and policies relating to wages, hours of work and working conditions, and the sole and exclusive right to hire, transfer, suspend, lay-off, recall, promote, assign, discipline and discharge its employees.
- (b) Supplier covenants and agrees that it shall be solely responsible for the payment of all compensation, including wages, salary, benefits and expenses, to all of its employees and other persons rendering services to Supplier (including subcontractors retained by Supplier).

- (c) Supplier covenants and agrees that it shall be solely responsible for the payment of all employer payroll, employer health, income, withholding and other taxes, including Canada Pension Plan, employment insurance, and workers' compensation or workplace safety and insurance in respect of each of its employees and other persons rendering services to on behalf of Supplier in connection with the Goods and/or Services in each jurisdiction where the Goods and/or Services are performed.
- (d) Supplier has registered and covenants and agrees that it shall be solely responsible for registering, itself and all persons engaged for service by it under applicable workers' compensation legislation and has paid and shall pay all applicable workers' compensation premiums and maintain such registrations and workers' compensation coverage throughout the Term in each jurisdiction where the Goods and/or Services are performed. Supplier further agrees to provide the Town with evidence thereof in form satisfactory to the Town upon request by the Town from time to time.
- (e) Supplier covenants and agrees that throughout the Term all persons engaged by it to perform the Goods and/or Services are and shall be at all times legally able to work in the jurisdiction in which the Goods and/or Services are performed in the specific occupation that such person performs. The Town may at any time demand from Supplier, and Supplier agrees to provide to the Town forthwith, a certification of compliance with applicable immigration and employment laws in such form as the Town in its sole discretion may require.
- (f) Supplier covenants and agrees not to permit any construction lien, claim for lien, or other lien to arise and/or be registered against the title to the property upon which the Town is located as a direct or indirect result of any work undertaken by it or on its behalf in respect of the Goods and/or Services. In the event that any such lien shall arise, Supplier covenants and agrees to, forthwith following becoming aware of same, take all possible action, including the payment of the monies claimed into court, in order to have such lien removed from the title to the property upon which the Town is located within five Business Days thereafter. In the event that Supplier defaults in the aforesaid obligation, the Town shall be entitled, if it so chooses, to undertake Supplier's obligations on its behalf and to invoice Supplier for all costs, including legal fees in their entirety, associated with same, which shall be payable by Supplier to the Town forthwith upon receipt by Supplier of a written demand therefor from the Town. The foregoing remedy of the Town is in addition to and not substitution for any other remedies available to the Town under this Agreement, at law, or in equity.

SECTION 8: CONFIDENTIALITY AND PRIVACY

8.1 Confidential Information

(1) Supplier acknowledges and agrees that the terms of this Agreement as well as certain information made available to it from time to time by the Town or its affiliates, campuses, representation offices, clients, employees and suppliers is confidential in nature. For the purposes of this Agreement, confidential information ("**Confidential Information**") means information received by or made available to Supplier, its agents, subcontractors, or personnel that:

- (a) is not generally known in the industry in which the Town is engaged;
- (b) is Personal Information;
- (c) would logically be considered confidential and/or proprietary;
- (d) would do the Town harm if divulged; or
- (e) is marked "Confidential" or "Proprietary", and shall include all reporting documentation provided by Supplier in accordance with

this Agreement provided, however, that "Confidential Information" shall not include information that the receiving party can establish:

- (f) was or becomes generally available to the public through no act or failure to act by the receiving party;
 - (g) was already known by the receiving party at the time of receipt as evidenced by its competent written records in existence at the time of disclosure;
 - (h) was provided to the receiving party by a third party not bound by an obligation of confidentiality, as a matter of right and without restriction on disclosure; or
 - (i) was independently developed by the receiving party without access to the disclosing party's Confidential Information, as evidenced by the receiving party's written records in existence at the time of disclosure.
- (2) Supplier agrees:
- (a) to hold the Confidential Information in confidence by using the same degree of care to safeguard such Confidential Information as it uses to protect its own information of like character, but in no event less than a reasonable degree of care;
 - (b) to limit disclosure of the Confidential Information to its employees, agents or subcontractors having a need to know the Confidential Information for the purposes of this Agreement;
 - (c) not to directly or indirectly disclose any Confidential Information to any third party unless and only to the extent required by applicable law (and following reasonable notice of such requirement to the Town);
 - (d) to use the Confidential Information solely and exclusively in accordance with the terms of this Agreement;
 - (e) not remove or obscure proprietary rights notices that appear on Confidential Information and copies thereof; and
 - (f) advise the Town promptly in writing of any unauthorized disclosure or use of Confidential Information.

Supplier shall cause its agents, subcontractors and employees to whom it may be permitted to disclose or provide any such Confidential Information to comply with the provisions of this Section 8.1. Upon termination of this Agreement, Supplier shall return or destroy all Confidential Information as directed by the Town.

(3) The requirements of Section 8.1(2) shall not apply in respect of any Confidential Information that is compelled to be disclosed by an order of a court of competent jurisdiction or alternatively by an order of a governmental authority having jurisdiction, provided that Supplier shall, to the extent it is not legally prohibited, promptly (and prior to any disclosure) provide notice to the Town of any request to disclose Confidential Information so that the Town has an opportunity to object to the production or disclosure of the requested information and request a protective order or other appropriate remedy from the relevant governmental authority. If such protective order or other remedy is not obtained or the Town does not waive compliance with the provisions hereof, then Supplier agrees to disclose only that portion of the Confidential Information which it is legally required to disclose. Supplier shall provide, in a timely manner, all reasonable cooperation, assistance and information in its possession, custody or control as is necessary for the Town to obtain a remedy against disclosure pursuant to any order, process or request described in this Section.

8.2 Personal Information

(1) Supplier acknowledges that in the course of providing the Goods and/or Services contemplated under this Agreement, it may be privy to personal information, which includes factual or subjective information (recorded or not) about an identifiable individual ("**Personal Information**"). Supplier agrees that all right, title and interest to

such Personal Information, as between Supplier and the Town, is the exclusive property of the Town. In handling the Personal Information, Supplier shall:

- (a) adhere to applicable Privacy Laws;
- (b) comply with all policies and procedures of the Town relating to privacy and the protection of Personal Information, as provided to Supplier in writing by the Town from time to time;
- (c) appoint an individual who will be responsible within Supplier to handle the Personal Information;
- (d) use appropriate security measures to protect the Personal Information from unauthorized access or use;
- (e) limit the use of Personal Information to the purposes specified and necessary to carry out this Agreement or as prescribed by law;
- (f) limit disclosure of Personal Information to what is authorized in writing by the Town or required by law;
- (g) promptly refer any persons seeking access to their Personal Information to the Town;
- (h) return to the Town or, at the Town's request, dispose of the Personal Information upon completion or termination of this Agreement;
- (i) give the Town access to and the right to audit Supplier's security measures for the Personal Information; and
- (j) notify the Town in writing immediately upon becoming aware of any non-compliance with, or breach of, the Supplier's obligations under this Section 8.2 or under Privacy Laws, in which case Supplier shall consult with the Town regarding the actions that it intends to take to remedy the breach and shall subsequently implement such actions as may be approved by the Town in writing in connection therewith.

8.3 Remedies

(1) It is understood and agreed by the Parties hereto that the Town will be irreparably harmed by any breach or threatened breach of Supplier or any of its representatives' obligations under this Section 8, that money damages would not be a sufficient remedy for any such breach or threatened breach of this Section 8, and that in the event of any breach or threatened breach of this Section 8, the Town shall be entitled to specific performance, injunctive and/or other equitable relief as a remedy for any such breach, without the necessity of proving actual damages or posting any bond or other security.

8.4 FIPPA

(1) The Parties acknowledge and agree that FIPPA applies to and governs all Records and may require the disclosure of such Records to third parties. Furthermore, Supplier agrees

- (a) to keep Records secure;
- (b) to provide Records to the Town no later than seven days of being directed to do so by the Town for any reason including an access request or privacy issue;
- (c) not to access any Personal Information unless the Town determines, in its sole discretion, that access is permitted under FIPPA and is necessary in order to provide the Goods and/or Services;
- (d) not to directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the

Town;

- (e) to ensure the security and integrity of Personal Information and keep it in a physically secure and separate location safe from loss, alteration, destruction or intermingling with other records and databases and to implement, use and maintain the most appropriate products, tools, measures and procedures to do so;
- (f) to restrict access to Personal Information to those of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors who have a need to know it for the purpose of providing the Goods and/or Services and who have been specifically authorized by a Town representative to have such access for the purpose of providing the Goods and/or Services;
- (g) to implement other specific security measures that in the reasonable opinion of the Town would improve the adequacy and effectiveness of Supplier's measures to ensure the security and integrity of Personal Information and Records generally; and
- (h) that any Confidential Information, and the terms of this Agreement, may be disclosed by the Town where it is obligated to do so under FIPPA, by an order of a court or tribunal or pursuant to a legal proceeding and the provisions of this Section 8.4 shall prevail over any inconsistent provisions in this Agreement.

8.5 Survival

- (1) The provisions of this Section 8 shall survive and remain in full force and effect following the expiry or termination of this Agreement.

SECTION 9: OWNERSHIP OF MATERIALS

9.1 Ownership of Materials

- (1) Subject to Section 9.1(2), Supplier acknowledges and agrees that all works commissioned by the Town under this Agreement, including the reports to be provided by Supplier and related information and all drawings, plans, computer programs, inventions, creations, works, works-in-progress, deliverables and any other works developed pursuant to, or in association or in conjunction with this Agreement, whether presently existing or to be developed in the future, including all copyrightable subject matter, physical embodiments, shapes, forms, representations, applications, compilations, derivations, compositions, and collections or any part and/or division thereof (collectively, the "**Works**"), shall be considered works made for hire. Supplier acknowledges that all right, title and interest, including all intellectual property rights in the Works, except for the Supplier Intellectual Property (as defined in Section 9.1(2)), shall belong to the Town and Supplier hereby assigns and shall assign all its right, title and interest, including all intellectual property rights, therein to the Town and shall cause its employees and independent contractors to assign all their right, title and interest, including all intellectual property rights, therein to the Town. Supplier expressly waives any and all moral rights or claims in association with the Works and shall cause any person in its employ or independent contractors used by Supplier to similarly waive all such moral rights that they may have in the Works in favour of the Town, and its successors, assigns and licensees. Supplier shall execute any reasonable documents necessary to carry out the intent of this Agreement.
- (2) Supplier owns and shall continue to own
 - (a) all intellectual property developed or acquired by Supplier prior to the effective date of this Agreement; and

- (b) any intellectual property developed or acquired by Supplier outside the scope of this Agreement (the "**Pre-Existing Intellectual Property**").

Supplier may not incorporate any Pre-Existing Intellectual Property in any Works without the prior written consent of the Town. If Supplier fails to obtain such consent, any Pre-Existing Intellectual Property incorporated in the Works shall be deemed not to be Pre-Existing Intellectual Property and shall be subject to the rights and obligations set out in Section 9.1. Where the Town consents to such incorporation, any Pre-Existing Intellectual Property incorporated in any Works shall be referred to as the "Supplier Intellectual Property". Supplier hereby grants and shall grant a non-exclusive, perpetual, irrevocable, royalty-free, fully-paid up license to the Town to use, copy, reproduce, modify and adapt the Supplier Intellectual Property solely in connection with the Works and to sublicense such rights.

- (3) Supplier acknowledges that as between the Parties, the Town has the exclusive right, title and interest in
- (a) all trade-marks, copyrights and other intellectual property rights owned by or licensed to the Town for use in Canada; and
 - (b) all materials, processes, methodologies, reports, plans and all other works provided or made available to Supplier or its representatives by or on behalf of the Town, including all trade-marks, copyrights and other intellectual property rights therein or associated therewith, (collectively, the "**Town Intellectual Property**"), and shall not at any time do or cause to be done, either directly or indirectly, any act or thing contesting any part of such right, title and interest. Supplier shall not in any manner represent that it has any ownership in the Town Intellectual Property. As between the Parties, the Town owns and shall own all modifications, enhancement and improvements to the Town Intellectual Property regardless of whether such modifications, enhancement or improvements are made by Supplier, the Town or a third party. Supplier may only use the Town Intellectual Property during the Term for the sole purpose of providing the Goods and/or Services in accordance with this Agreement. All rights not expressly granted are hereby reserved by the Town.
- (4) Supplier covenants, represents and warrants to the Town, which representations and warranties shall remain true and accurate throughout the Term, that:
- (a) Supplier has, or at the time of delivery shall have, good and marketable title to the Works, free and clear of all liens and encumbrances of any kind whatsoever;
 - (b) Supplier has obtained, or shall have obtained prior to the time of delivery to the Town, all consents and approvals from third parties necessary to include trade-marks, copyrights, industrial designs or other intellectual property rights or information in any Work provided by Supplier to the Town in connection with the Goods and/or Services; and
 - (c) the products, materials and parts incorporated into the Works, including without limitation, the Supplier Intellectual Property, the Works and their use by the Town and its licensees do not infringe on any trade-mark, copyright, industrial design or other intellectual property right of any third party.
- (5) Supplier acknowledges and agrees that it either owns all right, title and interest in and with respect to all intellectual property it uses in connection with providing the Goods and/or Services, including the Supplier Intellectual Property (other than the Works and the Town Intellectual Property) or has validly licensed or contracted with the legal owner to use such intellectual property. Supplier does not have knowledge of any notice, claim or allegation from any Person for any violation or infringement by Supplier of any rights with respect to any such intellectual property or questioning the right of Supplier to use, possess, or distribute such

intellectual property. Supplier's use of the intellectual property used in conjunction with the Goods and/or Services, including the Supplier Intellectual Property has not, does not and will not violate or constitute a material breach of any written contractual obligation by which Supplier is bound or, to the knowledge of Supplier, a violation of any laws, regulations, ordinances codes or statutes applicable to Supplier.

- (6) Supplier shall notify the Town in a timely manner of any:
 - (a) claim of which Supplier becomes aware which seeks to invalidate any Supplier Intellectual Property, the Town Intellectual Property or Works; or
 - (b) infringement or act of unfair competition on the part of any third party with respect to any Supplier Intellectual Property, Town Intellectual Property or the Works which Supplier becomes aware.
- (7) Upon termination or expiry of this Agreement and/or from time to time upon request by the Town, Supplier shall immediately deliver all Works to the Town, and no Works except for the Supplier Intellectual Property shall be retained, displayed, or otherwise used by Supplier without the Town's express prior written consent, which may be withheld for any or no reason.
- (8) The provisions of this Section 9, except the license to the Town Intellectual Property in Section 9.1(3), shall survive and remain in full force and effect following the expiry or termination of this Agreement.

SECTION 10: DEFAULT AND TERMINATION

10.1 Termination for Cause

- (1) If a Material Default occurs, the Town shall be entitled at any time thereafter to terminate this Agreement by the delivery of written notice to Supplier, and upon the effective date of termination specified by the Town in any such written notice this Agreement shall terminate, subject to any other provision contained herein that is expressed to survive termination or expiry of this Agreement. The Parties acknowledge and agree that the occurrence of a Material Default shall be incapable of rectification by Supplier.
- (2) For the purposes of this Agreement, a material default ("**Material Default**") means:
 - (a) any Change of Control with respect to which prior written consent of the Town has not been obtained,
 - (b) failure of Supplier to fully comply with its obligations under Sections 7, 8, 9, 11 and 17.2 or breach of any other obligation that is incapable by its nature of rectification;
 - (c) if Supplier shall
 - (i) generally not pay its debts as they fall due;
 - (ii) admit in writing its inability to pay its debts generally, or make a general assignment for the benefit of creditors;
 - (iii) institute or have instituted against it any proceeding seeking
 - (A) to adjudicate it a bankrupt or insolvent;
 - (B) any liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency or re-

organization or relief of debtors or otherwise; or

(C) the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or any substantial part of its assets; or

(iv) take any corporate action to authorize any of the foregoing; or

- (d) the failure of Supplier to fully comply with any obligation under this Agreement, other than the requirement to give notice pursuant to Section 17.3, the result of which, in the Town's sole discretion, could have a material adverse effect on the Town's operations or reputation.
- (3) Without limiting the Town's rights under Section 10.1(1), in the event that Supplier shall at any time fail to fully perform or comply with any provision contained in this Agreement, other than one giving rise to a Material Default, and the Town shall have delivered written notice to Supplier requiring the rectification of same, such rectification must be made to the satisfaction of the Town in its sole discretion, by the date that is 30 days following the date of delivery of such notice to Supplier to the satisfaction of the Town in its sole discretion. If such rectification is not made within such 30 day period, the Town shall be entitled at any time thereafter to terminate this Agreement by the delivery of written notice to that effect to Supplier. Upon the effective date of termination specified by the Town in any such written notice this Agreement shall terminate, subject to any other provision contained herein that is expressed to survive termination or expiry of this Agreement.
- (4) Supplier may terminate this Agreement, without penalty, and without limiting any other remedy available to it under this Agreement or at law or equity, if,
- (a) the Town is in breach of any provision of this Agreement;
- (b) written notice of such breach is provided to the Town by the Supplier; and
- (c) the breach remains uncured for 30 Business Days following the date of the notice of breach.

10.2 Termination for the Town's Convenience

- (1) Notwithstanding Section 2.1(1), the Town shall be unilaterally entitled at any time, for any or no reason, to terminate this Agreement by the delivery of at least 60 (sixty) days' prior written notice to that effect to Supplier, and upon the effective date of termination specified by the Town in any such notice this Agreement shall terminate, subject to any other provision contained herein that is expressed to survive termination or expiry of this Agreement.

10.3 Consequences of Termination and Expiration

- (1) If the Town terminates this Agreement, Supplier shall immediately cease any work and shall invoice the Town for the portion of the Goods and/or Services performed up to the effective date of such termination.
- (2) Upon termination or expiry of this Agreement, as the case may be, or otherwise upon request from time to time by the Town, Supplier shall,
- (a) return all the Town property and equipment in its (or its employees' or representatives') possession, including badges and security identification;
- (b) remove all of its property and equipment (including that of its employees and representatives) from Town property and any other location where Services were being provided; and
- (c) co-operate with, and provide such assistance as may be requested by, the Town in order to facilitate the orderly termination and/or transition of the Goods and/or Services with the least amount of inconvenience and disruption to the Town's business as is reasonable in the circumstances.

- (3) Supplier agrees that the Town may perform or arrange to be performed any work necessary to remove Supplier's property and equipment from Town property and bill Supplier for all expenses incurred. If Supplier does not remove its property and/or equipment from Town property within seven calendar days following any such termination or request, the Town may (without further notice) retain such property and equipment for its own use and/or sell any such property and equipment and retain the proceeds therefrom.
- (4) The rights and remedies in Sections 10.1, 10.2 and 10.2 are cumulative and in addition to any other right or remedy available under this Agreement, at law or equity.

10.4 Eligibility for Future Procurement Processes

- (1) Supplier acknowledges that if a Material Default occurs or if Supplier commits a breach of this Agreement and such breach remains uncured for the period set out in Section 10.1(3), without prejudice to any of the Town's rights, the Town may, in its sole discretion, disqualify the Supplier from participation in any future procurement process, whether or not the Town exercises its right to terminate this Agreement for cause in accordance with Section 10.1. Supplier further acknowledges that the Town may, in its sole discretion, take into account any disputes or litigation between the Parties in determining the Supplier's eligibility to participate in future procurement processes.

SECTION 11: INSURANCE

- (1) Supplier shall, at its sole cost and expense, put in effect and maintain for the Term, with insurers having a secure **A.M.** best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person in the business of the Supplier would maintain including the insurance specified in Schedule 2.
- (2) On the Effective Date and upon the placement, renewal, amendment or extension or any part of the insurance, Supplier shall provide the Town with confirmation of coverage, as a certificate of insurance certified by an authorized representative of the insurer.
- (3) The Town does not in any way represent or warrant that the coverage or limits of insurance specified in Schedule 2 are sufficient or adequate to protect Supplier's interests or liabilities.

SECTION 12: INDEMNITY

12.1 Indemnity

- (1) Supplier shall indemnify and save the Town, its directors, officers, employees and agents, harmless from and against any and all claims, damages, losses, liabilities, demands, judgments, causes of action, legal proceedings, economic loss (including lost profits), penalties or other sanctions and any and all costs and expenses arising in connection therewith (including legal fees and disbursements on a substantial indemnity basis) that may, directly or indirectly, result from, arise out of or be in relation to (a) the performance by Supplier, or by any of its employees, subcontractors or other persons for whom it is responsible, of the Goods and/or Services; (b) any breach, violation or non-performance by Supplier, or by any of its employees, subcontractors or other persons for whom it is responsible, of any term, condition, representation, warranty or covenant contained in this Agreement; (c) any failure or delay by Supplier to make or maintain any registration, coverage or payments or file any return or information required by any applicable law; (d) any negligent act or omission of Supplier or any of its employees, subcontractors or other persons for whom it is responsible at law or in equity; and/or (e) any claim that the Goods and/or Services or Works, or their use by the Town, directly or indirectly, violate or infringe any

intellectual property right or other proprietary right of any person.

- (2) The Town shall indemnify and save harmless the Supplier, its directors, officers, employees and agents, harmless from and against any and all claims, damages, losses, liabilities, demands, judgments, causes of action, legal proceedings, economic loss (including lost profits), penalties or other sanctions and any and all costs and expenses arising in connection therewith (including legal fees and disbursements on a substantial indemnity basis) that may, directly or indirectly, result from, arise out of or be in relation to
 - (a) the performance by the Town, or by any of its employees, subcontractors or other persons for whom it is responsible, of the Town's obligations under this Agreement; (b) any breach, violation or non-performance by the Town, or by any of its employees, subcontractors or other persons for whom it is responsible, of any term, condition, representation, warranty or covenant contained in this Agreement; and/or (c) any negligent act or omission of the Town or any of its employees, subcontractors or other persons for whom it is responsible at law or in equity.
- (3) The provisions of this Section 12 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

SECTION 13: LIMITATION OF LIABILITY

13.1 Limitation on Liability

- (1) The remedies, recourse or rights of the Supplier shall be limited to the Town and to the right, title and interest owned by the Town in and to all of its personal property, whether now existing or hereinafter arising or acquired from time to time. The Supplier unconditionally and irrevocably waives and releases all other claims, remedies, recourse or rights against the Crown in right of Ontario in respect of this Agreement, and agrees that it shall have no remedies, recourse or rights in respect of this Agreement against the Crown in right of Ontario, any Ministry, Minister, agent, agency, servant, employee or representative of the Crown or any director, officer, servant, agent, employee or representative of a Crown agency or a corporation in which the Crown holds a majority of the shares or appoints a majority of the directors or members, other than against the Town and its assets.
- (2) The Town's maximum aggregate liability for any and all claims and damages arising out of or related to this Agreement, whether arising in contract, tort, strict liability, statute or otherwise shall not exceed the total contract value. The limits of liability are exclusive as to all remedies and the liability cap shall not be increased under any circumstances. The Supplier acknowledges and agrees to this limitation and will arrange for such additional insurance coverage as it may deem necessary.
- (3) In no event shall the Town be liable for any indirect, special, punitive or consequential damages related in any way to this agreement and/or the provision of services, regardless of the legal theory upon which any such damage claim is based, even upon the fault, tort (including negligence), breach of contract, statute, regulation, or any other theory of law or breach of warranty by, or strict liability of, the Town. This exclusion applies even if the Town has been advised of the possibility of such damages in advance and even if any available remedy fails of its essential purpose except to the extent caused by willful misconduct of the Town.
- (4) The provisions of this Section 13 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

SECTION 14: NOTICES

- (1) Any notice to be given by this Agreement shall be in writing and effectively

given if (a) delivered personally, (b) sent by prepaid courier service or certified/registered mail with a copy by email to the coordinates of the Town and the Supplier set out in Schedule 1 or at such other address as the Party to whom such notice or other communication is to be given shall have advised the Party giving same in the manner provided in this Section 14.

- (2) Any notice or other communication delivered personally or by prepaid courier service shall be deemed to have been given and received on the day it is so delivered, provided that if such day is not a Business Day such notice or other communication shall be deemed to have been given and received on the next following Business Day. Any notice or other communication sent by registered mail shall be deemed to have been given and received on the third Business Day following the date of mailing. Regardless of the foregoing, if there is a mail stoppage or labour dispute or threatened labour dispute which has affected or could affect normal mail delivery by the applicable postal service, then no notice or other communication may be delivered by registered mail.

SECTION 15: AUDIT RIGHTS

15.1 Access to Records

- (1) Supplier shall make available to the Town upon the Town's request all relevant documents and records relating to the provision of the Goods and/or Services. Such documentation shall not contain any personal information of Supplier's staff. Supplier shall allow representatives of the Town designated from time to time to visit and inspect Supplier's premises and review any records or books of account relating to the Goods and/or Services on reasonable notice and within normal business hours.
- (2) If any such audit or inspection
 - (a) reveals the Fees paid by the Town to be incorrect, so that such error resulted in an overpayment by the Town equal to or greater than three percent of Fees required to be paid by the Town in accordance with this Agreement; or
 - (b) reveals any breach, violation or non-performance by Supplier of any term, condition, representation, warranty or covenant contained in this Agreement, then Supplier shall (in addition to forthwith reimbursing the Town for any overpayment) pay all costs incurred by the Town with respect to any audit(s) and/or inspection(s) that uncovered such error, including the costs of any internal and external auditors, accountants and associates of the Town directly involved with such process.
- (3) For purposes of this Section 15.1, Supplier shall retain all relevant documents and records relating to the provision of the Goods and/or Services in a form that is accessible and reproducible for a period of not less than six years or such greater period as may be required by applicable laws.

SECTION 16: DISPUTE RESOLUTION

16.1 Binding Arbitration

- (1) Subject to Section 16.1(2), all disputes, disagreements, controversies, questions or claims arising out of or relating to this Agreement, including with respect to this Agreement's formation, execution, validity, application, interpretation, performance, breach, termination or enforcement, or in respect of any legal relationship associated with or arising from this Agreement (collectively and individually, a "**Dispute**"), shall be determined by arbitration in accordance with this Section 16.
- (2) Notwithstanding Section 16.1(1), the Town shall be entitled to seek, before the courts of the Province of Ontario, specific performance, injunctive and/or other

equitable relief for any of the breaches or threatened breaches of this Agreement referenced in Section 8.3(1). For the purposes of this Section 16.1(2), the Parties irrevocably attorn to the jurisdiction of the courts of the Province of Ontario and the Supplier waives any objection to the venue of any proceeding brought by the Town in the courts of the Province of Ontario or any objection that such court constitutes an inconvenient forum.

- (3) The number of arbitrators shall be one.
- (4) The arbitration shall be seated in Toronto, Ontario, Canada, and shall be conducted in the English language.

16.2 Arbitration Procedure

- (1) Any Party may deliver to the other Party a written notice commencing arbitration of a Dispute (a "**Notice of Dispute**"). The party commencing the arbitration (the "**Claiming Party**") shall include in its Notice of Dispute the names of three individuals who are acceptable to it to serve as the sole arbitrator. Within 10 days of receipt of the Notice of Dispute, the other Party (the "**Responding Party**") shall give the Claiming Party written notice that it accepts the appointment of one of the three individuals as the sole arbitrator or shall name three other individuals who are acceptable to it to serve as the sole arbitrator. If the Parties are unable to agree upon a sole arbitrator within a further 10 days, the appointment of the sole arbitrator shall be made by the ADR Institute of Canada, Inc. in accordance with that institution's rules and procedures.
- (2) The sole arbitrator shall be independent of the Parties and shall be a person who, by training and experience, has the qualifications and skills to arbitrate a Dispute.
- (3) The Claiming Party shall include in its Notice of Dispute a statement of the matter in Dispute, the remedy it seeks and the material facts upon which it relies. Within 20 days of receipt of the Notice of Dispute, the Responding Party shall deliver to the Claiming Party a written response (a "**Response to Dispute**") that includes its position on the Dispute and the material facts upon which the Responding Party relies. If the Responding Party is seeking its own relief in the arbitration, the Response to Dispute shall include a statement of the matter disputed by the Responding Party, the remedy it seeks and the material facts upon which the Responding Party relies.
- (4) Within 30 days of delivery of the Response to Dispute, the Parties shall convene a case conference before the sole arbitrator to address the procedure and timetable for the arbitration. In advance of the case conference, the Parties shall meet and confer on the procedure and timetable, having regard to the monetary amount(s) and the complexity of the matters in issue. In the event the Parties cannot agree on the procedure and timetable, the sole arbitrator shall have jurisdiction to set the procedure and timetable for the arbitration.
- (5) The hearing of the arbitration shall be conducted in Toronto, Ontario, Canada, unless the Parties agree otherwise.
- (6) Any award or determination of the sole arbitrator shall be final and binding upon the Parties and there shall be no appeal on any ground, including, for greater certainty, any appeal on a question of law, fact or mixed fact and law.
- (7) The arbitration shall be kept confidential and the existence of the arbitration proceeding and any element of it (including any pleadings, briefs or other documents submitted and exchanged and testimony or other oral submissions, and any awards made by the sole arbitrator) shall not be disclosed beyond the sole arbitrator, the Parties, their counsel, and any other Person to whom disclosure is reasonably necessary for the conduct of the arbitration, provided that anyone to whom such material is disclosed agrees in advance to keep it confidential and not disclose it for any other purpose. For greater certainty, nothing in this Section 16.2(7) shall preclude a party from disclosing the existence of the arbitration proceeding or any element of it

where such disclosure is required by a court, necessary in connection with a judicial challenge to or enforcement of an award made by the sole arbitrator, or otherwise required by law.

- (8) The sole arbitrator may apportion costs of the arbitration, including the reasonable fees and disbursements of the Parties, between or among the Parties in such manner as the sole arbitrator considers reasonable, provided that the sole arbitrator shall not award costs on a distributive basis.
- (9) Any award for the payment of money may include pre-award and post-award interest.

SECTION 17: GENERAL PROVISIONS

17.1 Entire Agreement

(1) This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof. It is understood and agreed that there are no agreements, conditions, warranties, terms, representations or arrangements, oral or written, statutory or otherwise, other than those contained herein, and that all prior conversations, understandings, arrangements, statements, communications or agreements, oral or written, with respect to this Agreement are hereby superseded. No change, amendment or supplement to any provision of this Agreement shall be binding unless it is in writing and signed by all of the Parties hereto. The Parties agree that any preprinted terms and conditions on any Supplier invoice, work order or similar document shall be of no force and effect, even if signed by both Parties.

17.2 No Assignment

(1) Supplier shall not assign or otherwise transfer any part of this Agreement. The Town shall be entitled to assign this Agreement by delivery of written notice to Supplier. Subject to any restrictions herein contained, this Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

17.3 Change of Control

- (1) Supplier shall provide written notice to the Town immediately upon the occurrence of:
 - (a) an actual or proposed change of Control of the Supplier; or
 - (b) a change in circumstances that may materially adversely affect the Supplier in a way which could impair the Supplier's ability to perform its respective obligations under or in connection with this Agreement;

(each such change, a "**Change of Control**").

17.4 Subcontractors

(1) Supplier may not use any subcontractors or agents in connection with the performance of its obligations hereunder without the Town's prior written approval. In the event that Supplier performs the Goods and/or Services by use of any subcontractors or agents, Supplier shall be fully responsible for ensuring that such subcontractor and/or agent complies with all of the obligations hereunder. For greater certainty, Supplier shall remain responsible for compliance with all obligations hereunder notwithstanding the use of a subcontractor or agent.

17.5 Joint and Several

(1) Where two or more persons execute this Agreement as the Supplier, the liability under this Agreement of such persons executing this Agreement shall be joint and several.

17.6 Governing Law

(1) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The provisions of this Section 17.6 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

17.7 Relationship

(1) This Agreement shall not create or confer upon the Parties hereto, in any way or for any purpose, any relationship except that of contracting parties, and in particular does not create a partnership, a principal and agent, a joint venture or a landlord and tenant relationship between the Town and Supplier or an employer-employee relationship between the Town and the employees of and other persons rendering services to Supplier. All dealings by Supplier with its clients, creditors, suppliers, workmen, contractors, agents, employees, and other similar persons shall be conducted exclusively in Supplier's name and Supplier shall not in any manner obligate the Town on account thereof, and/or suggest to such persons that the Town bears any obligation with respect to same.

17.8 No Waiver

(1) No condoning or waiver by the Town of any default or breach by Supplier at any time or times in respect of any of the obligations, terms, covenants and conditions contained in this Agreement to be performed or observed by Supplier shall be deemed or construed to operate as a waiver of the Town's rights under this Agreement in respect of any continuing or subsequent default or breach nor so as to defeat or affect in any way the rights and remedies of the Town under this Agreement in respect of any such continuing or subsequent default or breach. Unless expressly waived in writing, the failure of the Town to insist in any one or more cases upon the strict performance of any of the obligations, terms, covenants and conditions contained in this Agreement to be performed or observed by Supplier shall not be deemed or construed to operate as a waiver for the future strict performance or observance of such agreements, terms, covenants and conditions.

17.9 Severability

(1) If for any reason any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term, covenant or condition

- (a) shall be deemed to be independent of the remainder of the Agreement and severable and divisible therefrom, and its invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of the Agreement or any part thereof; and
- (b) shall continue to be applicable to and enforceable to the fullest extent permitted by law against any person and circumstance other than those to which it has been held or rendered invalid, unenforceable or illegal.

17.10 Cumulative Remedies

(1) The Town's rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a Party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that Party may be entitled.

17.11 Currency

(1) All references herein to currency are to Canadian currency and all payments shall be made in Canadian currency.

17.12 Language

(1) The Parties acknowledge and agree that they have required that this Agreement be prepared in the English language. Les Parties reconnaissent avoir exigé que les présentes soient rédigées en langue anglaise.

17.13 Counterparts

(1) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same agreement. Any counterpart signature transmitted by facsimile or by sending a scanned copy by electronic mail or similar electronic transmission shall be deemed an original signature.

17.14 Further Assurances

(1) The Parties hereby agree from time to time to execute such further agreements or other documents (whether under corporate seal or otherwise) and do all such other acts and things as may be necessary or desirable to give effect to the terms of this Agreement and to carry out and effectuate the provisions hereof.

17.15 Third Parties

(1) Except as expressly set forth herein, nothing contained in this Agreement is intended to confer upon any person not a party hereto any rights, benefits or remedies of any kind or character whatsoever, and no such person shall be deemed a third-party beneficiary under this Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date set out above.

THE CORPORATION OF THE TOWN OF ORANGEVILLE

Per:

Per:

COMMUNITY LIVING DUFFERIN

Per:

Per:

I have authority to bind the corporation

Schedule 1
DESCRIPTION OF GOODS AND SERVICES

AGREEMENT TERMS	
Term of Agreement (Section 2.1)	August 1, 2023 through to December 31, 2026 with an option to extend the lease for an additional two years. Notice of extension to be provided to the tenant no later than 180 days from December 31, 2026.
Warranty Period (Section 5.1(2))	N/A
Rent (Section 6.1(1))	Subject to Section 6.1(1), The concession and vending machines at Alder Recreation Centre and Tony Rose Memorial Sports Centre at no cost to the Supplier.
Notices (Section 14)	<p>Notice to the Town shall be sent to:</p> <p>The Corporation of the Town of Orangeville 87 Broadway, Orangeville, ON, L9W 1K1 Attention: Heather Savage, General Manger, Community Services Email: hsavage@orangeville.ca</p> <p>Notices to the Supplier shall be sent to:</p> <p>Community Living Dufferin 065371 County Rd 3, East Garafraxa, ON, L9W 7J8 Attention: Robert Bingham, Executive Director Email: rbingham@communitylivingdufferin.ca</p>
GOODS AND/OR SERVICES	
The Supplier will provide Food/Beverage Services at the concessions stands at Alder Recreation Centre and the Tony Rose Memorial Sports Centre, on a non-exclusive basis.	
Purpose	The Supplier will provide food/beverage service delivery at the concession stands within the Alder and Tony Rose recreation centres as part of a Social Purpose Enterprise.
Supplier Responsibilities	<p>Manage the concession stand and vending machine operations and offer a menu consisting of:</p> <ul style="list-style-type: none"> • Hot and cold beverages • Prepared foods, sandwiches and soups • Snack Foods and Healthy Food Options <p>Supply and maintain all equipment for the delivery of the goods and services, including but not limited to:</p> <ul style="list-style-type: none"> • Serving containers • Cutlery • Food storage equipment • Food Preparation equipment, excluding Fire suppression and other safety related equipment/fixtures, required by local fire authorities or Provincial law. • Napkins and dispensers

	<p>The cleanliness of the areas provided by the Town to offer the Goods and Services herein. All areas must adhere to all health and safety regulations for the safe handling and preparation of food. Failure to pass food inspections is grounds for termination of this Agreement.</p> <p>Awareness of, and compliance to, any exclusivity arrangements the Town has entered into with third parties for the sale of food and beverages.</p> <p>Use and provide environmentally sustainable procurement and supply practices aligned with the Low Waste Guidelines attached in Schedule 4.</p> <p>The maintenance and upkeep of all existing fixtures and equipment provided by the Town during the term.</p> <p>Unless amended, the Supplier is not permitted to install open heating and food cooking equipment such as stoves, ovens and cooktops. Countertop heating and warming equipment is subject to the approval of the Town, prior to installation and use.</p>
<p>Town's Responsibilities</p>	<p>The Town will provide the Supplier the concessions location and Town owned vending machines at the Alder and Tony Rose Recreation Centres. The location will be accessible to all staff and customers.</p> <p>Furthermore, the Town will provide:</p> <ul style="list-style-type: none"> • Utilities • Existing Fixtures (as of August 30, 2019) • Fire suppression and other safety related equipment/fixtures, required by local fire authorities or Provincial law. <p>The Town will provide marketing support in the form of using Town Social Media platforms.</p>
<p>Goods Specifications</p>	<p>The Supplier will be required to sell the following products through this operation:</p> <ul style="list-style-type: none"> • Coffee / Tea / Beverages • Various grab and go items and snacks • Lunch items, such as sandwiches, fries, salads and soups. <p>The Supplier will endeavor to offer healthy food options wherever possible.</p> <p>The Supplier will work with the Town to develop or adjust food services as demand determines.</p>
<p>Acceptance Criteria</p>	<p>All food products sold must meet all regulatory requirements for the safe preparation and storage of food.</p> <p>The Supplier will use commercially accepted and recognized food guides, including the most recent Canada Food Guide to inform its decision on the selection of offerings.</p> <p>Food Services is a key performance indicator for the Town's performance and service delivery standards. The Town may instruct the Supplier based on the outcomes and findings of customer surveys to improve the patrons experience.</p> <p>The Supplier will report monthly the number of individuals who are placed and working at the concession stands and will provide comment or any other items that the Town may require from the Supplier.</p>

<p>Service Requirement</p>	<p>Hours of Operation The minimum standard operating hours are; Weekdays* – 9 a.m. to 2 p.m. & 5 p.m. to 10 p.m. Weekends – 8 a.m. to 8:30 p.m. * During the months of July and August, the weekdays minimum standard operating hours shall only be from 5 p.m. to 10 p.m.</p> <p>Depending on the Recreation Centre’s activities and demand, the Town may require the Supplier to extend the hours of operation. Reasonable lead time of no less than two weeks for any requested changes to hours of operation will be provided by the Town to the Supplier except for an emergency closure (see below).</p> <p>Emergency Closure</p> <p>The Town or Tenant may close, without advanced notice, one or all concession stands on an emergency basis due to unsafe working conditions which include, but not limited to, unruly and/or threatening patrons which activity compromises the safety of the staff (either Town staff or concession staff). This action will be taken once all other reasonable steps to rectify the situation have been exhausted. The decision to close will be made in consultation with either the General Manager, Community Services, Manager Facilities and Parks or Manager Recreation and Events. All reasonable and necessary action will be taken to remedy the situation to ensure a minimal disruption in service.</p>

SCHEDULE 2

INSURANCE REQUIREMENTS

The Supplier shall keep in force for the duration of the Agreement, General Liability and Property Damage Insurance in an amount of not less than \$5,000,000 per occurrence and show the Town as additionally insured.

Without limiting the foregoing, such insurance Coverage shall include Comprehensive General Liability, Contractual Liability, Personal injury, and Contingent Liability with respect to Subcontractors.

The Supplier shall keep Employer's Liability Insurance with limits of \$1,000,000 per accident, \$1,000,000 per disease and \$1,000,000 disease policy limit. Where permitted by law, such insurance shall contain waivers of the insurer's right to subrogation against the Town, its officers and employees.

The Supplier shall submit proof of insurance and WSIB certification on an annual basis in the form of a Certificate which shall contain a firm undertaking by the Insurer to give the Owner 30 days' notice prior to cancellation or modification of such insurance.

If the Supplier fails to meet the requirements of this section the Town shall have the right to terminate the agreement.

SCHEDULE 3
TOWN'S CONTRACTOR HEALTH & SAFETY AGREEMENT

[Enclosed on following page]



Date: January 2023

Re: Town of Orangeville's Contractor Health and Safety Package

Dear Contractor:

The Town of Orangeville requires that all contractors hired to work on Town property are required to submit a completed and signed Contractor Health and Safety Package described in this document prior to commencing work.

Contractors are expected to read and comply with the attached Contractor Health and Safety Package. Contractors must ensure that their employees and subcontractors are aware of the package contents and agree to follow the terms and conditions of the package.

For contractors engaged on a multi-year basis, the Contractor Health and Safety Package must be completed and submitted each year by March 31.

Contractors who are often called upon by the Town to perform work on an 'as required' basis have the opportunity to be listed on a pre-cleared list for health and safety purposes by submitting their Contractor Health and Safety Package each year by March 31. Once pre-cleared, it will facilitate the engagement of contractors to perform work. The list of pre-cleared contractors is available to all departments within the Town of Orangeville.

A safety reminder program will be used to ensure that contractors on Town property observe the same internal processes and legislative requirements as in-house employees. If there is evidence of an infraction of the Contractor Health and Safety Package, a safety reminder will be completed and submitted to the Town contact as identified in the bid documents. This will also be kept on file at the Town.

If anything in the package is unclear or if there are questions, contractors should direct questions to the Town contact identified in the bid documents.



Town of Orangeville

Contractors Health and Safety Package

The following forms are the Contractor Health and Safety Package and must be submitted to the Town prior to work starting:

1. Contractor's Health and Safety Acknowledgement (see attached) – completed and signed
2. Workplace Safety and Insurance clearance number or certificate and proof of liability insurance. (If you are a sole proprietor and do not have WSIB insurance, you will be required to complete the WSIB Independent Operator Status questionnaire. This questionnaire is to establish your status as an independent contractor from the Town. The questionnaire is available on the WSIB website (form 1158A). Once the questionnaire has been completed and submitted to WSIB, you will need to provide the Town with the document proving your status along with the submission of this package.)
3. Copy of your health and safety program. If no documented program exists, contractors must complete the 'Health and Safety Work Plan' form found in this package –'Part C' of the checklist attached to the Contractor's Health and Safety Agreement.
4. Copies of all legislated and relevant health and safety training/qualification certificates for all workers that are working onsite. This includes general health and safety training as well as hazard specific training/certificates (e.g. Ministry or Labour mandatory worker awareness training, working from heights training)

The package should be submitted in electronic form or in hard copy format to the Town contact identified in the bid documents

Contractor Occupational Health & Safety Requirements For the Town of Orangeville

Intent

To outline the responsibilities of contractors who are contracted to perform work on Town of Orangeville property or in Town buildings or buildings leased by the Town.

Contractors, their subcontractors and their respective personnel who perform work on Town property, buildings or leased premises must have appropriate health and safety programs in place and comply with applicable Town policies, and any other applicable Occupational Health and Safety laws.

Contractors and subcontractors working on Town premises must take all necessary steps to protect their employees and other personnel, Town employees, the general public and Town property from any injury during the course of the contract.

Contractors are required to ensure their personnel and all subcontractors assigned to perform work comply with the requirements outlined in this package. .

The Town of Orangeville reserves the right to make changes to the Contractor Health and Safety Contractor Package at its discretion.

Compliance with Legislation

As a condition of doing business with the Town of Orangeville, all contractors must comply, and ensure their subcontractors and all personnel comply, with applicable municipal, provincial and federal regulatory requirements and appropriate Town policies and procedures including but not limited to:

- o Ontario's Occupational Health and Safety Act (OHSA) and its Regulations;
- o Ontario Building Code;
- o Ontario Fire Code;
- o Electrical Code;
- o Environmental Protection Act;
- o Applicable CSA Standards;
- o This Package; and
- o The Town's workplace policies and procedures including those relating to workplace violence, harassment and respectful conduct. All workplace policies are included with this package

Obligation to Complete and Submit the Contractor Health and Safety Package

1. Contractors under Contract with the Town

All contractors must complete and submit the complete Health and Safety Package to the Town prior to or at the start of the contract and prior to commencing work. Contractors under a multi-year contract must resubmit a Contractor Health and Safety Requirements Package for each year of the contract by March 31.

2. Contractors routinely called upon to perform work on Town premises

To facilitate the procurement and contracting process, contractors routinely called-upon to provide services to the Town should complete and submit the Contractor Health and Safety Package, including the checklist, annually by March 31.

Signing the Contractor Health and Safety Acknowledgement confirms, among other things, that the contractor has reviewed Town's Contractor Health and Safety Package requirements, understands them, agrees to comply with them and has relayed the contents of the package to their employees and subcontractors.

Signing and returning the Contractor Health and Safety Acknowledgement is a part of the overall contract with the Town. Failing to comply with the requirements of the Contractor Health and Safety Acknowledgement may be grounds for termination of the contract.

Steps for Contractors to Follow

The following are the Town's minimum expectations regarding the health and safety standards to be followed by contractors, subcontractors and their personnel. This is not intended to be a complete statement of the contractor's legal obligations under applicable laws.

Before Beginning the Work

Prior to commencing any work, the contractor must deliver the complete Health and Safety Package as follows:

1. Completed Contractor's Health and Safety Acknowledgement and Safety Checklist
2. WSIB clearance number or certificate and proof of liability insurance
3. If you are a sole proprietor, without WSIB insurance, you will need to submit your proof of independent contractor status from the WSIB.
4. Copy of your health and safety program. If no documented program exists, contractors must complete the 'Health and Safety Work Plan' form found in this package –'Part C' of the Contractor's Health and Safety Acknowledgement.
5. Copies of all legislated and relevant health and safety training/ qualification certificates for all workers that are working onsite. This includes general health and safety training as well as hazard specific training/certificates (e.g. Ministry or Labour mandatory worker awareness training, working from heights training)

The contractor is not be authorized to commence work unless and until the complete package is received.

Pre-project Safety Review

On request by the Town, the contractor must attend a pre-project safety review with the Town's designated representative. The purpose of the review is to organize the work and

discuss the safety aspects of the project. (Exception: Contractors retained for routine maintenance that includes several projects over a long-term period are only required to attend one pre-project safety review annually).

A pre-project safety review is required for all projects such as, but not limited to:

- o Utility modifications;
- o Electrical & plumbing work;
- o Working with ladders greater than 3 metres, scaffolds, work platforms, suspended platforms and scaffolds and Boatswain's chairs and elevating work platforms;
- o Confined space entry;
- o Use of chemicals;
- o Remediation of mould or asbestos removal, or work in proximity to asbestos;
- o Work with any designated substance or in any area where there is a designated substance; and
- o Hot work or welding.

The purpose of the meeting will be to identify potential health and safety concerns. Those present at the safety review meeting include the designated Town contact person and the site supervisor for the contractor. All safety concerns must be discussed and resolved prior to the work beginning.

Where applicable, the contractor will submit a Notice of Project to the Ministry of Labour. (Regulation 213/91 Construction Projects). "Where so prescribed, a constructor shall, before commencing any work on the project, give to a Director (Ministry of Labour) a notice in writing of the project containing such information as may be prescribed." The Construction Projects Regulations prescribes that the constructor must complete an approved notification form and file it at the Ministry of Labour office closest to the project if any of the following apply: the total cost of labour and materials for the project is expected to exceed \$50,000; or the work is the erection or structural alteration of a building more than two storeys or more than 7.5 metres high; or work in compressed air is to be done at the project; or a tunnel, caisson, cofferdam or well into which a person may enter is to be constructed at the project; or a trench into which a person may enter is to be excavated at the project and the trench is more than 300 metres long or more than 1.2 metres deep and over thirty metres long; or a part of the permanent or temporary work is required by this Regulation to be designed by a professional engineer.

Contractors must ensure that they, their subcontractors and their respective personnel have been trained for the work they will be doing during the contract. The training must be completed prior to the commencement of the work.

Contractors must supply their own equipment, materials and other resources. The expectation is that all requirements – tools, equipment material and other resources needed for the job have been costed into the bid/tender unless the bid/tender explicitly says otherwise.

On Arrival at the Town to Begin the Work

Contractor personnel assigned to perform work will sign in or notify the Town contact identified in the bid documents prior to work at the designated sign in area.

In the case of on-going scheduled work in the Town that is off-site, the contractor will provide a schedule of work planned, and notify the supervisor of the department responsible when they are beginning and ending work via phone or by email.

The contractor will take all necessary steps to protect Town employees, workers, the general public and property during the course of the project by cordoning off the work area with barriers and signs that will prevent the Town employees and the public from entering the worksite.

Ongoing Requirements during the life of the Contract

The contractor must conduct daily safety inspections of the work area(s) and identify and correct hazards.

The contractor must immediately notify the Ministry of Labour, the designated Town contact person and the Town's Health and Safety Officer of any critical injury on the project.

The contractor must notify the designated Town contact person of any other accidents and injuries on the project within 48 hours of the injury.

The contractor must maintain up to date WSIB coverage.

Hazardous Chemicals

Contractors must provide proof that their employees and other personnel, as applicable, have updated WHMIS training if the work being done to fulfill the contract involves chemicals or paints. The contractor must follow requirements of the WHMIS Regulation including safe use, handling, storage and disposal of chemicals. Contractors must inform the designated Town contact person of hazardous substances brought on to Town property, including providing the most current Material Safety Data Sheet/Safety Data Sheet for each substance. The contractor must consult with the designated Town contact person on how and where they will be permitted to use hazardous materials prior to the material being used. All spills and leaks of hazardous chemicals must be immediately reported to the Town's contact person.

Designated Substances

The Town will provide the contractor with a list of designated substances present at the project site prior to the contract being signed. The contractor will provide each prospective subcontractor for the project with a list of designated substances that are present at the project site prior to the Contractor or subcontractor prior to entering into a contract.

Asbestos

Only contractors certified in asbestos work are allowed to work in areas of the Town where asbestos is located. A contractor hired to perform a Type 3 asbestos removal will notify the Ministry of Labour orally and in writing before beginning the work. Contractors will follow the requirements under the Town's Asbestos Management Program. This document will be made available where applicable.

Confined Space Entry

The contractor must comply with the Occupational Health and Safety Act (OHSA) and its Regulations regarding Confined Space Entry. Employees and other personnel of the Contractor are not authorized to enter confined spaces on the Town property unless specifically required by the service or construction contract and they have been trained in confined space entry. The designated Town contact person must be notified prior to a contractor entering a confined space on Town property.

A "confined space" means a space to which or from which access or egress is restricted and in which, because of its construction, location or contents or the work activity therein, a hazardous gas, vapour, dust or fume or an oxygen-deficient atmosphere may occur." (O.Reg. 632/05).

Work at Elevated Locations

All contractor employees and other personnel must use fall protection equipment in accordance with the OHSA and its Regulations, when working at elevated heights where fall protection equipment is required. Contracted workers must not use fall protection equipment unless they can show in writing that they have attended fall-arrest training. All contractors must comply with the OHSA and its Regulation regarding scaffolds and work platforms, elevating work platforms, guardrails and protective coverings.

Working with Ladders

All contractors working with ladders must comply with the OHSA and its Regulations and applicable CSA standards.

Personal Protective Equipment (PPE)

Contractors are required to comply with the OHSA and its Regulations and applicable CSA standards regarding PPE (where applicable) including but not limited to:

- Head Protection;
- Eye Protection;
- Foot Protection;
- Skin Protection (gloves and protective clothing);
- Hearing Protection;
- Respiratory Protection; and
- Fall Arrest Protection.

Contractors must provide their employees and other personnel with the necessary PPE to do the work in a healthy and safe manner and to comply with the OHSA and its Regulations. Contractor employees and other personnel assigned to perform work must be trained in the use of PPE. It is the responsibility of the contractor to see that their employees and other personnel, as applicable, use\wear the PPE.

Electrical Safety

Only contractors who are certified electricians have the right to work on electrical equipment at the Town. Contractors working with electrical equipment or devices must follow the requirements of the Electrical Safety Code and the OHSA and its Regulations. All electrical projects must be completed with an Electrical Safety Authority Inspection and Certificate.

Mould (Ontario Environmental Guidelines)

If mould or suspicion of mould is discovered during any contract work at the Town, it must be reported immediately to the Town’s designated contact person. Mould removal can only be performed by contractors trained in proper mould abatement procedures, using Ontario guidelines and other applicable legislation.

Contractor Health and Safety Acknowledgement And Safety Checklist

The Contractor Health and Safety Acknowledgement includes the main body of the acknowledgement and Attachment “A” Contractor Health and Safety Checklist, both of which must be reviewed and completed by the contractor and then submitted as part of the Health and Safety Package.

Please Complete:

Contractor Information

Contractor Company Name	
Type of Business	
Address	
Office Phone Number	

Fax Number	
Email	
On Site Cell Phone Number	
No. of Workers on Site (maximum)	
Site Supervisor	
Alternate	
Expected Start Date	
Expected End Date	

Contractor Representative Information

Name of Contractor Representative	
Title/Position	

List of Subcontractors Involved in this Project

Health and Safety Acknowledgement Terms:

Signing this acknowledgement indicates that the contractor has read the Town of Orangeville’s Contractor’s Health and Safety Package and agrees to comply with the terms and conditions within.

It is the responsibility of the contractor to ensure that all subcontractors and all personnel assigned to perform work on Town property or in Town buildings comply with the Town’s Contractor Health and Safety Package while working on Town property or in Town buildings.

Contractor acknowledges and understands that the Town is relying on the statements, commitments and representations made in this Contractor Health and Safety Acknowledgement to enter into a contract and to continue doing business with the contractor under an existing contract. All commitments in the Contractor Health and Safety Acknowledgement are deemed incorporated into, and to form part of, the contract with the Town without the requirement of a formal contract amendment or additional consideration.

Contractor shall submit the required forms as required or when requested. The Town may request proof of other qualifications, safe procedures and /or certifications at any time. Should contractor fail to submit the forms or other information when requested, the Town has the right to terminate or suspend work without any liability to contractor in connection with such termination or suspension.

Agreed to by the following duly authorized representative:

Contractor’s Representative (name and title)

Signature

Date

On behalf of the Town of Orangeville, I confirm that I have reviewed and am satisfied with the Contractor's Health and Safety Package:

Town of Orangeville Representative (name and title) _

Signature

Date

Attachment "A"

Contractor Health and Safety Checklist

Part A: This section is mandatory and must initialed by the contractor

<i>Initial</i>	Confirming Information Provided to the Town
	The Town has been provided with a copy of the company's health and safety policy and program. If there is no written health and safety program, Part C: 'Healthy and Safe Work Plan' is completed.
	The Town has been provided proof of WSIB coverage in good standing prior to start of work.
	The Town has been provided with copies of all training and qualification certificates of all workers on site that is legislated and relevant to the work they are engaged in for the Town. (e.g. working from heights, worker roles and responsibilities)
Confirming Commitment to Comply Contractor commits:	
	To comply with applicable legislation, regulations, codes, including Accessibility legislation where applicable.
	To enforce safety compliance with employees and sub-contractors.
	To perform regular safety inspections of project.
	To employ only qualified, competent workers and supervisors on the project.
	To provide copies of MOL report, orders, charges laid related to this project to the Town within 24 hours of receipt.
	To inform the Town of any injuries related to this project within 48 hours. If it is a critical incident – contact MOL and Town immediately.
	To inform Town representative prior to the disposal of hazardous materials related to this project.
	To take all necessary steps to protect the Town and its employees from harm during the course of this project.
	Other concerns:

Part B: Initial all the requirements/qualifications that you, your employees and/or subcontractors and subcontractor personnel satisfy and are required to have for the project/work you are engaged in.

<i>Initial</i>	Contractor Responsibilities Proof of Procedures/training
	Sign in and out procedures.
	Emergency procedures.
	Lock out and tag out.
	Fall protection.

	Scaffolding and ladders.
	Elevated work platforms.
	Excavation and Trenching.
	Traffic control.
	Confined Space.
	WHMIS program.
	Health and safety representative where applicable.
	Electricians
	Plumbers
	Refrigeration and Air Conditioning Mechanic
	Use of Designated Substances.
	Designated Substance Removal
	Other:
	Other:

Part C: Healthy and Safe Work Plan

(To be completed if no documented Health and Safety Program is available)

<p>Please provide a brief outline of the type of work to be done:</p>
<p>List the hazards associated with this type of work:</p>
<p>List the measures in place to protect workers against the hazards listed (ie. Policies, equipment guarding, established equipment maintenance program, personal protective equipment, etc.):</p>
<p>Training: (list specific relevant qualifications obtained by all personnel)</p>

Additional Information related to worker safety for this project:

Schedule 4

LOW WASTE GUIDELINES

1. Reduce the amount of packaging brought to the facility/event.
 - Avoid items packaged for single serving and instead use large dispensers for items like sugar, cream, sauces, salad dressing, mustard, relish and other condiments
 - Bring goods into the facility/event in cardboard or reusable boxes/containers.
2. Avoid the use of disposable items and food ware at the facility/event.

Please note that NO polystyrene, plastic cups, plates or cutlery should be permitted on site.

- Sell food and beverages at the facility/event only in serving ware and packaging that can be reused, recycled or composted. Most paper and raw wood-based food ware products are compostable. Ensuring the use of compostable food ware also makes sorting easy for your customers since the food and the materials it is served on can be thrown into the same sorting bin.
 - Use wooden stir sticks or stir sticks made of other biodegradable materials.
3. Correctly sort waste, reusable, recyclable, and compostable that occurs at the facility and/or event. The separated material categories will include:
 - Clean Cardboard and Paperboard
 - Compostable Materials (paper, food waste, biodegradable food ware)
 - Returnable Beverage Containers – metal & plastic

Thank you for helping to keep the Town of Orangeville green.