



OIL AND GAS COMMISSION

LENOVO LAPTOPS

REQUEST FOR STANDING OFFER No. 21123001

Closing Time: Proposal must be received **before** 2:00 PM Pacific Time on July 11, 2022

COMMISSION CONTACT PERSON: All enquiries related to this Request for Standing Offer (RFSO), including any requests for information and clarification, are to be directed, in writing, to procurement@bcogc.ca, by June 27, 2022, who will respond if time permits. Information obtained from any other source is not official and should not be relied upon. Enquiries and any responses will be recorded and may be distributed to all Proponents at the Commission's option.

DELIVERY OF RESPONSES:

Responses must be submitted electronically.

To: <https://procurement.bcoqc.ca/>

Responses must be received before 2:00 P.M. Pacific Time on July 11, 2022. Responses should be clearly marked with the name of the Respondent, the Request for Standing Offer number, and the project or program title.

TABLE OF CONTENTS

1.0	SUMMARY OF THE REQUIREMENT	3
2.0	REQUEST FOR STANDING OFFER TERMINOLOGY	8
3.0	REQUEST FOR STANDING OFFER PROCESS	8
4.0	RESPONSE PREPARATION	9
5.0	ADDITIONAL REQUEST FOR STANDING OFFER TERMS	10
6.0	REQUIREMENTS.....	7
7.0	EVALUATION CRITERIA	10
8.0	PROPOSAL FORMAT AND RESPONDENT SUMMARY.....	11

APPENDIX A: DRAW DOWN TERMS

APPENDIX B: RESPONDENT SUMMARY

1.0 SUMMARY OF THE REQUIREMENT

The objective of this Request for Standing Offer is to establish a Standing Offer agreement with the successful contractor(s) to provide Lenovo Model T14 laptops to the Commission until 2025.

1.1 SITUATION OVERVIEW

The BC Oil and Gas Commission (Commission), a Crown corporation, is the provincial single-window regulatory agency with responsibilities for overseeing oil and gas operations in British Columbia. The regulatory responsibility of the Commission extends from the exploration and development phases of oil and gas activities through to construction and operation, and ultimately decommissioning of industry projects.

The Commission primarily operates under the Oil and Gas Activities Act (OGAA), and the following specified enactments named in that Act: the Forest Act, Heritage Conservation Act, Land Act, Environmental Management Act, and Water Act. The Commission also exercises certain regulatory responsibilities under other enactments with respect to oil and gas activities in British Columbia. Please visit the OGC (Oil and Gas Commission) website for further information at www.bcoqc.ca.

Oil and gas sites in BC, such as wells, facilities, pipelines and/or sites affected by oil and gas activities, where the operator is insolvent or cannot be located, may be designated as orphan sites by the Commission. Once a site has been designated an orphan, the Commission may use the Orphan Site Reclamation Fund (OSRF) to decommission and restore the site. The primary goal is to protect public safety and the environment, and work on orphan sites must first address these risks. The restoration process provides assurance to stakeholders that the site has been restored in accordance with current standards and requirements, and that all known contamination risks or other hazards have been mitigated.

1.2 SPECIFICATIONS

60 /year (price dependent) = 50 Model – T14- Without WWAN capacity
10 /year (price dependent) = 10 Model – T14- With WWAN capacity

Please indicate if there are volume discounts and at what quantities they are offered.

BOM: Model – T14- Without WWAN capacity

Base Model **20UECTO1WW**

Component	Description	Component QTY/Unit
Country/Region	Canada	
Warranty	3 Year On-site	
Preload Type	Standard Image (Preload)	
Preload OS	Windows 10 Pro 64	
Processor	AMD Ryzen 7 Pro 4750U Processor (1.70GHz, Max Boost up to 4.10GHz, 8 Cores, 8MB Cache)	
Security Chip Setting	Enabled Discrete TPM2.0	
Display	14.0" FHD(1920x1080) IPS Anti-glare 400nits Non-Touch Narrow 72%NTSC Low Power	
Graphics	Integrated Graphics	
Camera	IR and 720P HD Camera with Microphone	
Display Shell	14.0" FHD(1920x1080) IPS Anti-glare 400nits Non-Touch Low Power, IR and HD Camera with Shutter, Mic, WWAN, FreeSync	
Total Memory	16GB DDR4 3200MHz Onboard	

Onboard Memory	16GB DDR4 3200MHz Onboard
System Unit	T14 R7 PRO 4750U IG+16G MB
Storage Selection	256 GB SSD, M.2 2280, PCIe NVMe, OPAL, TLC
Wireless LAN	Realtek RTL8852AE Wifi 6 2x2 AX, Bluetooth Version 5.0 or above
WWAN Selection	WWAN
Wireless WAN	WWAN No Card with Antenna
Battery	3Cell 50Wh Internal
Power Adapter	65W AC Adapter PCC (2pin)-US (USB Type C)
Keyboard	Keyboard Black English
Publication	Publication-English
OS DPK	W10 Pro
Preload Language	Windows 10 Pro 64 English
Absolute BIOS Selection	BIOS Absolute Enabled
Custom Asset Tag	Essential Asset Tag
Electronic Privacy Filter	No ePrivacy Filter
DIMM Memory	None
WWAN SIM Card	No WWAN SIM Card
System Expansion Slots	No Smart Card Reader
Pointing Device	No Fingerprint
Graphic Dongle	No Graphic Dongle
Graphic Dongle 2	No Graphic Dongle
Accessories 1	None
Accessories 2	None
Accessories 3	None
Adobe Elements	None
Adobe Acrobat	None
Microsoft Office	None
Security Software	None
Keyboard Patch	None
Adobe Creative Cloud	None
Cloud Security Software	None
SWAPP Misc 3	None
Offering Model	Relationship Model
OS Type	Windows 10 Pro
GEO	NA
Publication 2	PUB ENG/BRL/FRA/ARA/SPA
Package Box	Standard
CPU Label	AMD Ryzen 7 PRO
Microsoft Label	Windows GML
MB FRU Label	WIN Y-DASH Y-dTPM Y-ABS
WLAN MISC PARTS	WLAN Misc Parts-WLAN Card
WWAN Misc Parts	WWAN Misc Parts-WWAN Card
Region	ROW

CPU Type	High End
System Unit 2nd	D Cover w/SIM Cover
Warranty Card	None
ASCII PW	
Support on BIOS	KBL_ID_ENG_KBLANG_409
Antimicrobial Treatment	None
CO2 Neutral Label	No CO2 Neutral Label
T14 AMD Others3	NONE
Image Management	None
Cloud Recovery	None
Hard Drive Encryption	None
Premier Asset Tag	None
Future Services 1	None
Future Services 2	None
Future Services 3	None
Future Services 4	None

BOM Model – T14- With WWAN capacity

20UES5KR00	Notebook ThinkPad T14 AMD GEN1 20UECTO1W
Country/Region	Canada
Warranty	3 Year On-site
Preload Type	Standard Image (Preload)
Preload OS	Windows 10 Pro 64
Processor	AMD Ryzen 7 Pro 4750U Processor (1.70GHz, Max Boost up to 4.10GHz, 8 Cores, 8MB Cache) Enabled Discrete TPM2.0
Security Chip Setting	
Display	14.0" FHD(1920x1080) IPS Anti-glare 400nits Non-Touch Narrow 72%NTSC Low Power
Graphics	Integrated Graphics
Camera	IR and 720P HD Camera with Microphone
Display Shell	14.0" FHD(1920x1080) IPS Anti-glare 400nits Non-Touch Low Power, IR and HD Camera with Shutter, Mic, WWAN, FreeSync
Total Memory	16GB DDR4 3200MHz Onboard
Onboard Memory	16GB DDR4 3200MHz Onboard
System Unit	T14 R7 PRO 4750U IG+16G MB
Storage Selection	256 GB SSD, M.2 2280, PCIe NVMe, OPAL, TLC
Wireless LAN	Realtek RTL8852AE Wifi 6 2x2 AX, Bluetooth Version 5.0 or above
WWAN Selection	WWAN

Wireless WAN	Fibocom L850-GL 4G LTE CAT9
Battery	3Cell 50Wh Internal
Power Adapter	65W AC Adapter PCC (2pin)-US (USB Type C)
Keyboard	Keyboard Black English
Publication	Publication-English
OS DPK	W10 Pro
Preload Language	Windows 10 Pro 64 English
Absolute BIOS Selection BIOS Absolute Enabled	
Custom Asset Tag	Essential Asset Tag
Electronic Privacy Filter No ePrivacy Filter	
DIMM Memory	None
WWAN SIM Card	No WWAN SIM Card
System Expansion Slots No Smart Card Reader	
Pointing Device	No Fingerprint
Graphic Dongle	No Graphic Dongle
Graphic Dongle 2	No Graphic Dongle
Accessories 1	None
Accessories 2	None
Accessories 3	None
Adobe Elements	None
Adobe Acrobat	None
Microsoft Office	None
Security Software	None
Keyboard Patch	None
Adobe Creative Cloud	None
Cloud Security Software None	
SWAPP Misc 3	None
Offering Model	Relationship Model
OS Type	Windows 10 Pro
GEO	NA
Publication 2	PUB ENG/BRL/FRA/ARA/SPA
Package Box	Standard
CPU Label	AMD Ryzen 7 PRO
Microsoft Label	Windows GML
MB FRU Label	WIN Y-DASH Y-dTPM Y-ABS
WLAN MISC PARTS	WLAN Misc Parts-WLAN Card
WWAN Misc Parts	WWAN Misc Parts-WWAN Card
Region	ROW
CPU Type	
System Unit 2nd	High End
Warranty Card	D Cover w/SIM Cover
ASCII PW Support on BIOS	None
KBL_ID_ENG_KBLANG_409	
Antimicrobial Treatment None	
CO2 Neutral Label	No CO2 Neutral Label
T14 AMD Others3	NONE
Microsoft Autopilot	None
Custom Image Type	None
Image Management	None
Cloud Recovery	None
Hard Drive Encryption	None
Premier Asset Tag	None

Respondent(s) may submit pricing for the products listed above based upon the specifications provided. Successful respondent(s) will have the ability to supply goods, services or warranties on an as, if, and when requested basis.

The Commission will select successful contractor(s) who establish a Standing Agreement for services for existing and future opportunities at the discretion of the Commission as outlined in Section 3.5.

The term of the Standing Offer will run from the time of signing to the March 31, 2025. Pricing is to be firm for the term of the Standing Offer.

The decision to use any Standing Offer will rest with the Oil and Gas Commission with respect to the purchase of goods or services. A Standing Offer is not a contract. Under the Standing Offer, the Commission will request the purchase of goods through electronic mail.

The Commission has complete discretion to decide whether a Draw-Down is required, and if so, under which Standing Offer the Draw-Down will be made.

The request is for services to be provided to the Oil and Gas Commission on an as, if and when requested basis with no guarantee that any of the services will be used.

2.0 REQUEST FOR STANDING OFFER TERMINOLOGY

The terminology used throughout this Request for Standing Offer is as follows:

- a) "Contract" means the Contract entered into by the Offeror and the Commission by means of the written General Service Agreement against the Standing Offer, for the provision of the specified Service and for the prices set out in the Standing Offer. The Contract is formed on receipt of the Signed contract;
- b) "Contractor" means the Offeror who is in receipt of a Draw Down Form requesting supply of a portion of the Service from the Standing Offer;
- c) "Draw Down Form" means any form of the Commission that lists the Service set out in the Standing Offer and is sent to the Offeror. The draw down can be initiated with a verbal or email when the Commission requests services.
- d) "Commission" means the Oil and Gas Commission;
- e) "must", "mandatory" or "required" means a requirement that must be met in order for a Standing Offer to receive consideration;
- f) "Offeror" means the offeror, , supplier, contractor or proponent who is successful in response to this Request for Standing Offer;
- h) "Respondent" means an individual or a company that submits, or intends to submit, a response to this "Request for Standing Offer";
- j) "Service" means project management and/or orphan site maintenance and restoration activities.
- k) "should" or "desirable" means a requirement having a significant degree of importance to the objectives of the Request for Standing Offer; and
- l) "Standing Offer" means an Offeror's offer to provide the Service at pre-arranged prices is issued by the Offeror to the Commission on the basis of a response to this Request for Standing Offer and in a form acceptable to the Commission.

3.0 REQUEST FOR STANDING OFFER PROCESS

3.1 STANDING OFFER EXPLANATION

The Commission has issued the Request for Standing Offer to solicit responses from suppliers. The Commission issues Standing Offers following an evaluation of the responses submitted. The Standing Offer is an offer from the potential supplier to sell goods and services to the Commission as, if and when requested. When a supplier signs a Standing Offer, that entity (the "Offeror") is offering to provide certain products or services at specified prices over a specified period-of-time. If and when the Commission makes a draw-down against that Standing Offer, only then does the Offeror have a Contract for the amount drawn down or ordered.

3.2 CONTRACTUAL OBLIGATION

There is no contractual obligation on either party until a draw-down is made. The Standing Offer lays out the terms of the offer, including the terms and conditions that will govern any subsequent draw-downs. A Standing Offer is not a contract and an Offeror may withdraw a Standing Offer by notification to the

Commission or the Commission may set aside a Standing Offer at any time. However, all contracts received by an Offeror prior to withdrawing are legally binding and must be honoured. No Offeror will acquire any legal or equitable rights or privileges relative to the goods or services until the Draw Down Form is received. The terms and conditions laid out in the contract will apply to the draw-down.

3.3 ACCEPTANCE OF STANDING OFFERS

- a) This Request for Standing Offer is not an agreement to purchase goods or services. The Commission is not bound to accept the lowest priced or any response of those submitted. The Commission will assess responses as per the evaluation criteria for each service, described in Section 7. The Commission will be under no obligation to receive further information, whether written or oral, from any Respondents.
- b) Neither acceptance of a response nor receipt of a Standing Offer will constitute approval of any activity or development contemplated in any Standing Offer that requires any approval, permit or license pursuant to any federal, provincial, regional district or municipal statute, regulation or by-law.

3.4 INITIAL SUBMISSION DATE AND LATE RESPONSES

Responses to this RFSO must be received not later than the Initial Submission Date and Time, and must be received in the manner and location indicated on the face page on this RFSO.

Late responses may be accepted, as per Section 3.7.

3.5 EVALUATION AND SELECTION

The evaluation committee will check responses against the mandatory criteria described in Section 6.1. The Commission will reject any responses if they do not meet all mandatory criteria.

The Commission will assess responses that meet all mandatory criteria, against desirable criteria for each of the requested goods or services in Section 6.2. The Commission may award multiple Standing Offers for each of the requested goods or services.

3.6 ALLOCATION OF SERVICES

The allocation of work will be at the sole discretion of the Commission and the Commission may select one or more Contractors with a Standing Offer, subject to the contractor's ability to provide the required services within the Commission's desired timeframe and geographic areas, and ongoing satisfactory performance. While the Commission may award work to Contractor(s) with a Standing Offer, we may request quotes from multiple Contractors with a Standing Offer Agreement to determine the most suitable for the requested services. The Contractor shall not have any claim for compensation, expense, damage or loss of profit from the Commission for any failure of the Commission to allocate any portion of the work to a Contractor(s).

3.7 ADDITIONAL SUBMISSIONS

The Commission will accept additional proposals after the Initial Submission Date and Time; however, such additional proposals will only be reviewed against the mandatory and desirable criteria if and when necessary to add additional contractors to the Standing Offer.

4.0 RESPONSE PREPARATION

4.1 CHANGES TO OFFER WORDING

The Respondent will not change the wording or pricing of its response after closing and no words or comments will be added to the response unless requested by the Commission for purposes of clarification.

4.2 WORKING LANGUAGE OF THE COMMISSION

The working language of the Province of British Columbia is English and all responses to this Request for Standing Offer must be in English.

4.3 RESPONDENTS' EXPENSES

Respondents are solely responsible for their own expenses in preparing a response and for subsequent negotiations with the Commission, if any, and the Commission will not be liable to any Respondents or Offerors for any claims arising from this Request for Standing Offers.

4.4 CURRENCY AND TAXES

Prices quoted are to be:

- a) in Canadian dollars;
- b) inclusive of duty, where applicable; and
- c) FOB destination, delivery charges included where applicable

5.0 ADDITIONAL REQUEST FOR STANDING OFFER TERMS

5.1 MODIFICATION OF TERMS

The Commission might modify the terms of the Request for Standing Offer at any time at its sole discretion, including cancelling this Request for Standing Offer at any time.

5.2 OWNERSHIP OF OFFERS AND FREEDOM OF INFORMATION

All documents, including responses and Standing Offers submitted to the Commission become the property of the Commission. They will be received and held in confidence by the Commission, subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

5.3 SUB-CONTRACTING

Using a sub-contractor(s) (who should be clearly identified in the response, where possible) is acceptable. This includes a joint response by two Respondents who do not have a formal corporate link. However, in that case, one of these Respondents must be prepared to take overall responsibility for successful performance of any Contract and this should be clearly defined in the response.

5.4 SAMPLE STANDING OFFER

Offerors will be requested to sign a Standing Offer similar to the sample attached as Appendix A.

6.0 EVALUATION CRITERIA

6.1 MANDATORY CRITERIA

The following are mandatory requirements. Responses not clearly demonstrating that they meet them will receive no further consideration during the evaluation process.

- The proposal must be received at the closing location before the specified closing time.
- The proposal must be in English.
- The proponent must be able to ship to Commission offices throughout BC
- The proponent must be an authorized reseller of Lenovo hardware.

6.2 DESIRABLE CRITERIA

The Commission will further assess proposals meeting all of the mandatory criteria against desirable criteria (below):

Desirable Criteria	Weight
<u>Price</u> <ul style="list-style-type: none">Please include pricing to reflect best value, including warranties, support or quantity discounts.	60 %
<u>Experience</u> <ul style="list-style-type: none">Please indicate length of experience with providing goods and / or services to the public sector.	20 %
<u>Mobilization and Service Delivery</u> <ul style="list-style-type: none">Must Indicate location(s) of service provider (this may extend to subcontractors as well), as well as locations for which personnel and/or equipment will be mobilizedMust indicate response time to request for serviceMust indicate ability to start and complete work on time	20 %
Total	100%

Successful Contractor(s) who establish a standing agreement for services with the Commission will be selected for opportunities, subject to the ability to provide the required services within the Commission's desired requirements and timeframe, and ongoing satisfactory performance.

7.0 PROPOSAL FORMAT AND RESPONDENT SUMMARY

The format of the response is outlined below and should be followed in order to ensure each response receives full consideration. All pages should be consecutively numbered.

In order to receive full consideration during evaluation, proposals should include a detailed response to the following:

- a) A letter of introduction with an overview of your company background and profile. (Maximum two pages).
- b) A complete price list of goods or services that your company can provide. Pricing models and cost estimates for services should be of sufficient detail and accuracy to provide Commission staff with the ability to develop accurate cost estimates for budgetary and project planning purposes.

Appendix A DRAW DOWN TERMS

1 DEFINITIONS

General

In this Agreement, unless the context otherwise requires:

- (a) "Business Day" means a day, other than a Saturday or Sunday, on which Provincial government offices are open for normal business in British Columbia;
- (b) "Incorporated Material" means any material in existence prior to the beginning of the Term or developed independently of this Agreement, and that is incorporated or embedded in the Produced Material by the Contractor or a Subcontractor;
- (c) "Material" means the Produced Material and the Received Material;
- (d) "Produced Material" means records, software and other material, whether complete or not, that, as a result of this Agreement, are produced by the Contractor or a Subcontractor and includes the Incorporated Material;
- (e) "Received Material" means records, software and other material, whether complete or not, that, as a result of this Agreement, are received by the Contractor or a Subcontractor from the Commission or any other person;
- (f) "Services" means the services described in Schedule A;
- (g) "Subcontractor" means an individual identified in paragraph (a) or (b) of section 13.4; and
- (h) "Term" means the term of the Agreement described in Schedule A subject to that term ending earlier in accordance with this Agreement.

Meaning of "record"

- 1.2 The definition of "record" in the *Interpretation Act* is incorporated into this Agreement and "records" will bear a corresponding meaning.

2 SERVICES

Provision of services

- 2.1 The Contractor must provide the Services in accordance with this Agreement.

Term

- 2.2 Regardless of the date of execution or delivery of this Agreement, the Contractor must provide the Services during the Term.

Supply of various items

- 2.3 Unless the parties otherwise agree in writing, the Contractor must supply and pay for all labour, materials, equipment, tools, facilities, approvals and licenses necessary or advisable to perform the Contractor's obligations under this Agreement, including the license under section 6.4.

Standard of care

- 2.4 Unless otherwise specified in this Agreement, the Contractor must perform the Services to a standard of care, skill and diligence maintained by persons providing, on a commercial basis, services similar to the Services.

Standards in relation to persons performing Services

- 2.5 The Contractor must ensure that all persons employed or retained to perform the Services are qualified and competent to perform them and are properly trained, instructed and supervised.

Instructions by Commission

- 2.6 The Commission may from time to time give the Contractor reasonable instructions (in writing or otherwise) as to the performance of the Services. The Contractor must comply with those instructions but, unless otherwise specified in this Agreement, the Contractor may determine the manner in which the instructions are executed.

Confirmation of non-written instructions

- 2.7 If the Commission provides an instruction under section 2.6 other than in writing, the Contractor may request that the instruction be confirmed by the Commission in writing, which request the Commission must comply with as soon as it is reasonably practicable to do so.

Effectiveness of non-written instructions

- 2.8 Requesting written confirmation of an instruction under section 2.7 does not relieve the Contractor from complying with the instruction at the time the instruction was given.

Applicable laws

- 2.9 In the performance of the Contractor's obligations under this Agreement, the Contractor must comply with all applicable laws

3 PAYMENT

Fees and expenses

- 3.1 If the Contractor complies with this Agreement, then the Commission must pay to the Contractor at the times and on the conditions set forth in Schedule B:

- (a) The fees described in that Schedule, and
- (b) The expenses, if any, described in that Schedule if they are supported, where applicable, by proper receipts and, in the Commission's judgment, are necessarily incurred by the Contractor in providing the Services.
- (c) any applicable taxes payable by the Commission under law or agreement with the relevant taxation authorities on the fees and expenses described in paragraphs (a) and (b).

The Commission is not obliged to pay to the Contractor more than the "Maximum Amount" specified in Schedule B on account of fees and expenses.

Statements of accounts

- 3.2 In order to obtain payment of any fees and expenses under this Agreement, the Contractor must submit to the Commission a written statement of account in a form satisfactory to the Commission upon completion of the Services or at other times described in Schedule B.

Withholding of amounts

- 3.3 Without limiting section 9.1, the Commission may withhold from any payment due to the Contractor an amount sufficient to indemnify, in whole or in part, the Commission and its employees and agents against any liens or other third-party claims that have arisen or could arise in connection with the provision of the Services. An amount withheld under this section must be promptly paid by the Commission to the Contractor upon the basis for withholding the amount having been fully resolved to the satisfaction of the Commission.

Appropriation

- 3.4 The Commission's obligation to pay money to the Contractor is subject to the *Financial Administration Act*, which makes that obligation subject to an appropriation being available in the fiscal year of the Commission during which payment becomes due.

Currency

- 3.5 Unless otherwise specified in this Agreement, all references to money are in Canadian dollars.

Non-resident income tax

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

Prohibition against committing money

- 3.7 Without limiting section 13.10 (a), the Contractor must not in relation to performing the Contractor's obligations under this Agreement commit or purport to commit the Commission to pay any money except as may be expressly provided for in this Agreement.

Refunds of taxes

- 3.8 The Contractor must apply for and, immediately on receipt, remit to the Commission any available refund, rebate or remission of federal or provincial tax or duty that the Commission has paid or reimbursed to the Contractor or agreed to pay or reimburse to the Contractor under this Agreement.

4 REPRESENTATIONS AND WARRANTIES

- 4.1 As of the date this Agreement is executed and delivered by, or on behalf of, the parties, the Contractor represents and warrants to the Commission as follows: except to the extent the Contractor has previously disclosed otherwise in writing to the Commission,

- (a) All information, statements, documents and reports furnished or submitted by the Contractor to the Commission in connection with this Agreement (including as part of any competitive process resulting in this Agreement being entered into) are in all material respects true and correct,
- (b) The Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved subcontractor agreements in place and available to enable the Contractor to fully perform the Services, and
- (c) The Contractor holds all permits, licenses, approvals and statutory authorities issued by any government or government agency that are necessary for the performance of the Contractor's obligations under this Agreement; and if the Contractor is not an individual,

- (d) The Contractor has the power and capacity to enter into this Agreement and to observe, perform and comply with the terms of this Agreement and all necessary corporate or other proceedings have been taken and done to authorize the execution and delivery of this Agreement by, or on behalf of, the Contractor, and
- (e) This Agreement has been legally and properly executed by, or on behalf of, the Contractor and is legally binding upon and enforceable against the Contractor in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

5 PRIVACY, SECURITY AND CONFIDENTIALITY

Privacy

- 5.1 The Contractor must comply with the Privacy Protection Schedule attached as Schedule E.

Security

- 5.2 The Contractor must:
 - (a) Make reasonable security arrangements to protect the Material from unauthorized access, collection, use, disclosure, modification or disposal; and
 - (b) Comply with the Security Schedule attached as Schedule G.

Confidentiality

- 5.3 The Contractor must treat as confidential all information in the Material and all other information accessed or obtained by the Contractor or a Subcontractor (whether verbally, electronically or otherwise) as a result of this Agreement, and not permit its disclosure or use without the Commission's prior written consent except:
 - (a) As required to perform the Contractor's obligations under this Agreement or to comply with applicable laws;
 - (b) If it is information that is generally known to the public other than as a result of a breach of this Agreement; or
 - (c) If it is information in any Incorporated Material.

Public announcements

- 5.4 Any public announcement relating to this Agreement will be arranged by the Commission and, if such consultation is reasonably practicable, after consultation with the Contractor.

Restrictions on promotion

- 5.5 The Contractor must not, without the prior written approval of the Commission, refer for promotional purposes to the Commission being a customer of the Contractor or the Commission having entered into this Agreement.

6 MATERIAL AND INTELLECTUAL PROPERTY

Access to Material

- 6.1 If the Contractor receives a request for access to any of the Material from a person other than the Commission, and this Agreement does not require or authorize the Contractor to provide that access, the Contractor must promptly advise the person to make the request to the Commission.

Ownership and delivery of Material

- 6.2 The Commission exclusively owns all property rights in the Material which are not intellectual property rights. The Contractor must deliver any Material to the Commission immediately upon the Commission's request.

Matters respecting intellectual property

- 6.3 The Commission exclusively owns all intellectual property rights, including copyright, in:
 - (a) Received Material that the Contractor receives from the Commission; and
 - (b) Produced Material, other than any Incorporated Material.Upon the Commission's request, the Contractor must deliver to the Commission documents satisfactory to the Commission that irrevocably waive in the Commission's favour any moral rights which the Contractor (or employees of the Contractor) or a Subcontractor (or employees of a Subcontractor) may have in the Produced Material and that confirm the vesting in the Commission of the copyright in the Produced Material, other than any Incorporated Material.

Rights in relation to Incorporated Material

- 6.4 Upon any Incorporated Material being embedded or incorporated in the Produced Material and to the extent that it remains so embedded or incorporated, the Contractor grants to the Commission:
 - (a) a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, modify and distribute that Incorporated Material; and
 - (b) the right to sublicense to third-parties the right to use, reproduce, modify and distribute that Incorporated Material.

7 RECORDS AND REPORTS

Work reporting

- 7.1 Upon the Commission's request, the Contractor must fully inform the Commission of all work done by the Contractor or a Subcontractor in connection with providing the Services.

Time and expense records

- 7.2 If Schedule B provides for the Contractor to be paid fees at a daily or hourly rate or for the Contractor to be paid or reimbursed for expenses, the Contractor must maintain time records and books of account, invoices, receipts and vouchers of expenses in support of those payments, in form and content satisfactory to the Commission. Unless otherwise stipulated in this Agreement, the Contractor must retain such documents for a period of not less than seven years after this Agreement terminates.

8 AUDIT

- 8.1 In addition to any other rights of inspection the Commission may have under statute or otherwise, the Commission may at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect and, at the Commission's discretion, copy any of the Material and the Contractor must permit, and provide reasonable assistance to, the exercise by the Commission of the Commission's rights under this section.

9 INDEMNITY AND INSURANCE

Indemnity

- 9.1 The Contractor must indemnify and save harmless the Commission and the Commission's employees and agents from any losses, claims, damages, actions, causes of action, costs and expenses that the Commission or any of the Commission's employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, including any claim of infringement of third-party intellectual property rights, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission by the Contractor or by any of the Contractor's agents, employees, officers, directors or Subcontractors in connection with this Agreement, excepting always liability arising out of the independent acts or omissions of the Commission and the Commission's employees and agents.

Insurance

- 9.2 The Contractor must comply, if attached, with the Insurance Schedule D.

Workers compensation

- 9.3 Without limiting the generality of section 2.9, the Contractor must comply with, and must ensure that any Subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of the Contractor's obligations under this Agreement, including the *Workers Compensation Act* in British Columbia or similar laws in other jurisdictions.

Personal optional protection

- 9.4 The Contractor must apply for and maintain personal optional protection insurance (consisting of income replacement and medical care coverage) during the Term at the Contractor's expense if:
 - (a) the Contractor is an individual or a partnership of individuals and does not have the benefit of mandatory workers compensation coverage under the *Workers Compensation Act* or similar laws in other jurisdictions; and
 - (b) such personal optional protection insurance is available for the Contractor from WorkSafeBC or other sources.

Evidence of coverage

- 9.5 Within 10 Business Days of being requested to do so by the Commission, the Contractor must provide the Commission with evidence of the Contractor's compliance with sections 9.3 and 9.4.

10 FORCE MAJEURE

Definitions relating to force majeure

- 10.1 In this section and sections 10.2 and 10.3:
 - (a) "Event of Force Majeure" means one the following events:
 - (i) a natural disaster, fire, flood, storm, epidemic or power failure,
 - (ii) a war (declared and undeclared), insurrection or act of terrorism or piracy, a strike (including illegal work stoppage or slowdown) or lockout, or a freight embargo if the event prevents a party from performing the party's obligations in accordance with this Agreement and is beyond the reasonable control of that party; and
 - (b) "Affected Party" means a party prevented from performing the party's obligations in accordance with this Agreement by an Event of Force Majeure.

Consequence of Event of Force Majeure

- 10.2 An Affected Party is not liable to the other party for any failure or delay in the performance of the Affected Party's obligations under this Agreement resulting from an Event of Force Majeure and any time periods for the performance of such obligations are automatically extended for the duration of the Event of Force Majeure provided that the Affected Party complies with the requirements of section 10.3.

Duties of Affected Party

- 10.3 An Affected Party must promptly notify the other party in writing upon the occurrence of the Event of Force Majeure and make all reasonable efforts to prevent, control or limit the effect of the Event of Force Majeure so as to resume compliance with the Affected Party's obligations under this Agreement as soon as possible.

11 DEFAULT AND TERMINATION

Definitions relating to default and termination

- 11.1 In this section and sections 11.2 to 11.4:
- (a) "Event of Default" means any of the following:
 - (i) an Insolvency Event,
 - (ii) the Contractor fails to perform any of the Contractor's obligations under this Agreement, or
 - (iii) any representation or warranty made by the Contractor in this Agreement is untrue or incorrect; and
 - (b) "Insolvency Event" means any of the following:
 - (i) an order is made, a resolution is passed or a petition is filed, for the Contractor's liquidation or winding up,
 - (ii) the Contractor commits an act of bankruptcy, makes an assignment for the benefit of the Contractor's creditors or otherwise acknowledges the Contractor's insolvency, a bankruptcy petition is filed or presented against the Contractor or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by the Contractor,
 - (iii) a compromise or arrangement is proposed in respect of the Contractor under the *Companies' Creditors Arrangement Act* (Canada),
 - (iv) a receiver or receiver-manager is appointed for any of the Contractor's property, or
 - (v) the Contractor ceases, in the Commission's reasonable opinion, to carry on business as a going concern.

Commission's options on default

- 11.2 On the happening of an Event of Default, or at any time thereafter, the Commission may, at its option, elect to do any one or more of the following:
- (a) By written notice to the Contractor, require that the Event of Default be remedied within a time period specified in the notice;
 - (b) Pursue any remedy or take any other action available to it at law or in equity; or
 - (c) By written notice to the Contractor, terminate this Agreement with immediate effect or on a future date specified in the notice, subject to the expiration of any time period specified under section 11.2(a).

Delay not a waiver

- 11.3 No failure or delay on the part of the Commission to exercise its rights in relation to an Event of Default will constitute a waiver by the Commission of such rights.

Commission's right to terminate other than for default

- 11.4 In addition to the Commission's right to terminate this Agreement under section 11.2(c) on the happening of an Event of Default, the Commission may terminate this Agreement for any reason by giving at least 10 days' written notice of termination to the Contractor.

Payment consequences of termination

- 11.5 Unless Schedule B otherwise provides, if the Commission terminates this Agreement under section 11.4:
- (a) The Commission must, within 30 days of such termination, pay to the Contractor any unpaid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that was completed to the Commission's satisfaction before termination of this Agreement; and
 - (b) The Contractor must, within 30 days of such termination, repay to the Commission any paid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that the Commission has notified the Contractor in writing was not completed to the Commission's satisfaction before termination of this Agreement.

Discharge of liability

- 11.6 The payment by the Commission of the amount described in section 11.5(a) discharges the Commission from all liability to make payments to the Contractor under this Agreement.

Notice in relation to Events of Default

- 11.7 If the Contractor becomes aware that an Event of Default has occurred or anticipates that an Event of Default is likely to occur, the Contractor must promptly notify the Commission of the particulars of the Event of Default or anticipated Event of Default. A notice under this section as to the occurrence of an Event of Default must also specify the steps the Contractor proposes to take to address, or prevent recurrence of, the Event of Default. A notice under this section as to an anticipated Event of Default must specify the steps the Contractor proposes to take to prevent the occurrence of the anticipated Event of Default.

12 DISPUTE RESOLUTION

Dispute resolution process

- 12.1 In the event of any dispute between the parties arising out of or in connection with this Agreement, the following dispute resolution process will apply unless the parties otherwise agree in writing:
- (a) The parties must initially attempt to resolve the dispute through collaborative negotiation;
 - (b) If the dispute is not resolved through collaborative negotiation within 15 Business Days of the dispute arising, the parties must then attempt to resolve the dispute through mediation under the rules of the British Columbia Mediator Roster Society; and
 - (c) If the dispute is not resolved through mediation within 30 Business Days of the commencement of mediation, the dispute must be referred to and finally resolved by arbitration under the *Commercial Arbitration Act*.

Location of arbitration or mediation

- 12.2 Unless the parties otherwise agree in writing, an arbitration or mediation under section 12.1 will be held in Victoria, British Columbia.

Costs of mediation or arbitration

- 12.3 Unless the parties otherwise agree in writing or, in the case of an arbitration, the arbitrator otherwise orders, the parties must share equally the costs of a mediation or arbitration under section 12.1 other than those costs relating to the production of expert evidence or representation by counsel.

13 MISCELLANEOUS

Delivery of notices

- 13.1 Any notice contemplated by this Agreement, to be effective, must be in writing and delivered as follows:
- (a) By email to the addressee's email address specified on the first page of this Agreement, in which case it will be deemed to be received on the day of transmittal unless transmitted after the normal business hours of the addressee or on a day that is not a Business Day, in which cases it will be deemed to be received on the next following Business Day;
 - (b) By hand to the addressee's address specified on the first page of this Agreement, in which case it will be deemed to be received on the day of its delivery; or
 - (c) By prepaid post to the addressee's address specified on the first page of this Agreement, in which case if mailed during any period when normal postal services prevail, it will be deemed to be received on the fifth Business Day after its mailing.

Change of address or email address

- 13.2 Either party may from time to time give notice to the other party of a substitute address or email address, which from the date such notice is given will supersede for purposes of section 13.1 any previous address or email address specified for the party giving the notice.

Assignment

- 13.3 The Contractor must not assign any of the Contractor's rights under this Agreement without the Commission's prior written consent.

Subcontracting

- 13.4 The Contractor must not subcontract any of the Contractor's obligations under this Agreement to any person without the Commission's prior written consent, excepting persons listed in the attached Schedule C. No subcontract, whether consented to or not, relieves the Contractor from any obligations under this Agreement. The Contractor must ensure that:
- (a) Any person retained by the Contractor to perform obligations under this Agreement; and
 - (b) Any person retained by a person described in paragraph (a) to perform those obligations.

Fully complies with this Agreement in performing the subcontracted obligations.

Waiver

- 13.5 A waiver of any term or breach of this Agreement is effective only if it is in writing and signed by, or on behalf of, the waiving party and is not a waiver of any other term or breach.

Modifications

- 13.6 No modification of this Agreement is effective unless it is in writing and signed by, or on behalf of, the parties.

Entire agreement

- 13.7 This Agreement (including any modification of it) constitutes the entire agreement between the parties as to the performance of the Services.

Survival of certain provisions

- 13.8 Sections 2.9, 3.1 to 3.4, 3.7, 3.8, 5.1 to 5.5, 6.1 to 6.4, 7.1, 7.2, 8.1, 9.1, 9.2, 9.5, 10.1 to 10.3, 11.2, 11.3, 11.5, 11.6, 12.1 to 12.3, 13.1, 13.2, 13.8, and 13.10, any accrued but unpaid payment obligations, and any other sections of this Agreement (including schedules) which, by their terms or nature, are intended to survive the completion of the Services or termination of this Agreement, will continue in force indefinitely, even after this Agreement ends.

Schedules

- 13.9 The schedules to this Agreement (including any appendices or other documents attached to, or incorporated by reference into, those schedules) are part of this Agreement.

Independent contractor

- 13.10 In relation to the performance of the Contractor's obligations under this Agreement, the Contractor is an independent contractor and not:
- An employee or partner of the Commission; or
 - An agent of the Commission except as may be expressly provided for in this Agreement.

The Contractor must not act or purport to act contrary to this section.

Personnel not to be employees of Commission

- 13.11 The Contractor must not do anything that would result in personnel hired or used by the Contractor or a Subcontractor in relation to providing the Services being considered employees of the Commission.

Key Personnel

- 13.12 If one or more individuals are specified as "Key Personnel" of the Contractor in of Schedule A, the Contractor must cause those individuals to perform the Services on the Contractor's behalf, unless the Commission otherwise approves in writing, which approval must not be unreasonably withheld.

Pertinent information

- 13.13 The Commission must make available to the Contractor all information in the Commission's possession which the Commission considers pertinent to the performance of the Services.

Conflict of interest

- 13.14 The Contractor must not provide any services to any person in circumstances which, in the Commission's reasonable opinion, could give rise to a conflict of interest between the Contractor's duties to that person and the Contractor's duties to the Commission under this Agreement.

Time

- 13.15 Time is of the essence in this Agreement and, without limitation, will remain of the essence after any modification or extension of this Agreement, whether or not expressly restated in the document effecting the modification or extension.

Conflicts among provisions

- 13.16 Conflicts among provisions of this Agreement will be resolved as follows:
- a provision in the body of this Agreement will prevail over any conflicting provision in, attached to or incorporated by reference into a schedule, unless that conflicting provision expressly states otherwise; and
 - a provision in a schedule will prevail over any conflicting provision in a document attached to or incorporated by reference into a schedule, unless the schedule expressly states otherwise.

Agreement not permit nor fetter

- 13.17 This Agreement does not operate as a permit, license, approval or other statutory authority which the Contractor may be required to obtain from the Commission or any of its agencies in order to provide the Services. Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by the Commission or its agencies of any statutory, prerogative, executive or legislative power or duty.

Remainder not affected by invalidity

- 13.18 If any provision of this Agreement or the application of it to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired and will be valid and enforceable to the extent permitted by law.

Further assurances

- 13.19 Each party must perform the acts, execute and deliver the writings, and give the assurances as may be reasonably necessary to give full effect to this Agreement.

Additional terms

- 13.20 Any additional terms set out in the attached Schedule F apply to this Agreement.

Governing law

- 13.21 This Agreement is governed by, and is to be interpreted and construed in accordance with, the laws applicable in British Columbia.

14 INTERPRETATION

- 14.1 In this Agreement:
- ... "Includes" and "including" are not intended to be limiting;
 - ... Unless the context otherwise requires, references to sections by number are to sections of this Agreement;
 - ... The Contractor and the Commission are referred to as "the parties" and each of them as a "party";
 - ... "Attached" means attached to this Agreement when used in relation to a schedule;
 - ... Unless otherwise specified, a reference to a statute by name means the statute of British Columbia by that name, as amended or replaced from time to time;
 - ... The headings have been inserted for convenience of reference only and are not intended to describe, enlarge or restrict the scope or meaning of this Agreement or any provision of it;
 - ... "Person" includes an individual, partnership, corporation or legal entity of any nature; and
 - ... Unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*.