

SCHEDULE 2
DESIGN AND CONSTRUCTION PROTOCOLS
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SCHEDULE 2

DESIGN AND CONSTRUCTION PROTOCOLS

1. INTERPRETATION

1.1 Definitions

In this Schedule, in addition to the definitions set out in Schedule 1 to this Agreement:

“**CaGBC**” means the Canada Green Building Council;

“**Certificate of Service Commencement**” has the meaning set out in Section 13.3(a) of this Schedule;

“**Commissioning Plan**” has the meaning set out in Section 12.3 of this Schedule;

“**Construction Period Joint Committee**” has the meaning set out in Section 2.6 of this Schedule;

“**Deficiency**” means a Service Commencement Deficiency;

“**Deficiency Deadline**” has the meaning set out in Section 13.4 of this Schedule;

“**Design and Construction Representative**” has the meaning set out in Section 2.1 of this Schedule;

“**Environmental Reports**” means the following reports entitled 2016 11 25 SNC Phase 1 ESA-32355 Veterans Way DRAFT and exp RE 2017-05-09 Phase II ESA 32355 Veterans Way Abbotsford;

“**Facility Move-in Schedule**” has the meaning set out in Section 10.5 of this Schedule;

“**Facility Threat and Risk Assessment**” has the meaning set out in Section 4.9 of this Schedule;

“**Geotechnical Report**” means the following report entitled Geotech Report Abbotsford Courthouse 3 Nov 2016;

“**Independent Certifier**” has the meaning set out in Section 3.1 of this Schedule;

“**Intended Uses**” means the uses for the Facility as described in the Design and Construction Specifications;

“**LEED Gold Certification**” means the award of a LEED Gold certificate from the CaGBC under the LEED Rating System;

“**LEED Rating System**” means CaGBC’s Leadership in Energy & Environmental Design (LEED) Green Building Rating System for New Construction & Major Renovations LEED Canada 2009;

“**Move Plan**” has the meaning set out in Section 12.4 of this Schedule;

“**Phasing Plan**” has the meaning set out in Section 6.9(a)(1) of this Schedule;

“**Project Co’s Quality Consultant**” has the meaning set out in Section 8.3 of this Schedule;

“**Project Schedule**” has the meaning set out in Section 10.1 of this Schedule;

“Proposal Extracts (Design and Construction)” means the provisions of Appendix 2G [Proposal Extracts (Design and Construction)];

“Quality Assurance Plan” has the meaning set out in Section 8.5 of this Schedule;

“Quality Assurance Program” has the meaning set out in Section 8.4 of this Schedule;

“Quality System” means an organizational structure, procedures, processes and resources necessary to implement a comprehensive, planned and systematic program, designed and implemented by Project Co pursuant to this Agreement, to ensure that the standards of quality control, quality management and quality assurance required by this Agreement are achieved by Project Co in every material aspect of the Design and Construction;

“Record Documents” has the meaning set out in Section 6.22(a)(1) of this Schedule, and includes any Record Documents provided under Schedule 4 [Services Protocols and Specifications];

“Reviewed Drawings and Specifications” has the meaning set out in Section 6(a) of Appendix 2B [Review Procedure];

“Service Commencement Deficiency” has the meaning set out in Section 13.1;

“Site” means the area outlined in red on Appendix 2H [Site Plan];

“Submittal” has the meaning set out in Section 1 of Appendix 2B [Review Procedure].

“Submittal Schedule” has the meaning set out in Section 2(a) of Appendix 2B [Review Procedure];

“Updated Project Schedule” has the meaning set out in Section 10.2 of this Schedule;

“User Consultation Group” has the meaning set out in Section 5.3(a) of this Schedule; and

“User Consultation Process” means the process of consulting Facility Users set out in Section 4 of Appendix 2B [Review Process].

2. PARTIES’ DESIGN AND CONSTRUCTION REPRESENTATIVES

2.1 Appointment of Representatives

Project Co will within five Business Days of the Effective Date designate in writing an individual (the **“Design and Construction Representative”**) to be Project Co’s single point of contact with respect to the Design and the Construction. Project Co’s Design and Construction Representative will be a Key Individual. Project Co’s Design and Construction Representative may also be Project Co’s Operating Period Representative.

The Province will within five Business Days of the Effective Date designate in writing an individual (the **“Design and Construction Representative”**) to be the Province’s single point of contact with respect to the Design and the Construction. The Province may from time to time designate a second Design and Construction Representative, in which case, one will be the Province’s primary point of contact with respect to Design and the other will be the Province’s primary point of contact with respect to Construction.

Except as otherwise set out in this Agreement, all costs or expenses incurred by or with respect to a party's Design and Construction Representative will be for the account of that party.

2.2 Replacement

Subject to Section 2.8 of this Agreement in respect of Key Individuals, a party may at any time and in its own discretion by notice to the other party change the individual appointed as the party's Design and Construction Representative. If for any reason a party's Design and Construction Representative is unable or unwilling to continue then the party will immediately appoint a replacement Representative. If at any time a party objects to a Representative of the other party then the other party will give reasonable consideration to replacing the Representative with an individual reasonably acceptable to the objecting party.

2.3 Authority of Representatives

Subject to limits of authority pursuant to Section 2.7 of this Agreement, a party's Design and Construction Representative will have full authority to act on behalf of and bind the party with respect to Design and Construction under this Agreement, including giving any review, acceptance, approval or confirmations which may be given by the Province. Notwithstanding the above, a party's Design and Construction Representative will not have the authority to execute or agree to any amendments or to give any waivers of this Agreement.

2.4 Review Procedure

The parties will comply with Appendix 2B [Review Procedure].

2.5 Province Not Responsible for Design or Construction

The Province's review, acceptance, approval or confirmation of compliance with respect to any aspect of the Design or the Construction, including pursuant to Appendix 2B [Review Procedure], will be for the Province's benefit only, and no review, acceptance, approval or confirmation of compliance by the Province's Design and Construction Representative or other representative of the Province will in any way relieve Project Co of its obligation for all aspects of the Design and Construction of the Facility except as may be expressly set out in this Agreement.

2.6 Construction Period Joint Committee

- (a) Not less than 20 Business Days after the Effective Date, the Province and Project Co will establish, and will maintain until Service Commencement is achieved, a joint liaison committee (the "**Construction Period Joint Committee**") consisting of the Design and Construction Representatives and such other members as the parties may agree from time to time.
- (b) The purpose of the Construction Period Joint Committee is to provide a formal forum for the parties to consult and cooperate in all matters relating to the Facility during the Construction Period and any member appointed to the Construction Period Joint Committee will not have any duties or obligations arising out of such appointment independent of such member's duties or obligations to the party making such appointment.
- (c) The Construction Period Joint Committee:

- (1) will only have the authority as expressly delegated to it by the Province and Project Co, and both parties will give reasonable consideration to delegating appropriate authority to permit efficient decision making with respect to the Facility;
 - (2) may strike, establish terms of reference for, delegate authority and appoint members having the necessary experience and qualifications to, such sub-committees as the Construction Period Joint Committee may determine are necessary from time to time and all such sub-committees will report to the Construction Period Joint Committee;
 - (3) will establish protocols and procedures for undertaking the tasks and responsibilities delegated to it, including a co-operative and consultative process to review all documentation submitted to it in relation to the Design and Construction;
 - (4) may make recommendations to the parties on all matters relating to the Facility, which the parties may accept or reject in their complete discretion; and
 - (5) will have no authority to agree to any amendments or to give any waivers of this Agreement.
- (d) Subject to the provisions of this Agreement, the members of the Construction Period Joint Committee may adopt such procedures and practices for the conduct of the activities of the Construction Period Joint Committee as they consider appropriate from time to time and:
- (1) may invite to any meeting of the Construction Period Joint Committee such other (non-voting) Persons as a member may decide; and
 - (2) receive and review a report from any Person agreed by the members of the Construction Period Joint Committee.
- (e) The Construction Period Joint Committee will meet at least once each month at a location provided by Project Co at or near the Site (unless otherwise agreed by its members) and from time to time as necessary. If any member of the Construction Period Joint Committee requests an additional meeting, the parties will act reasonably in accommodating this request. Meetings of the Construction Period Joint Committee will be convened on not less than ten Business Days' notice (which will also identify the agenda items to be discussed at the meeting) provided that in an emergency a meeting may be called at any time on such notice as may be reasonable in the circumstances. The Construction Period Joint Committee will be chaired by a representative of the Province unless the Province requires that a representative of Project Co chair the Construction Period Joint Committee.
- (f) Project Co will keep minutes of all recommendations and meetings of the Construction Period Joint Committee in accordance with Schedule 14 [Records and Reports] and circulate such minutes to the parties promptly within five Business Days of the making of the recommendation or the holding of the meeting.

2.7 Key Individuals Involvement

The Key Individuals for the applicable period or term (as set out in Schedule 17) will attend the relevant Construction Period meetings with the Province. The Province may postpone any meetings if the Key Individuals are not available to attend.

3. INDEPENDENT CERTIFIER

3.1 Appointment

The parties will cooperate to jointly appoint a Person (the “**Independent Certifier**”), who is:

- (a) qualified and experienced with respect to the design and construction of projects in British Columbia similar to the Project, and
- (b) independent from both the Province and Project Co (and who will be impartial to the parties),

to provide certification services for the benefit of the parties during the Construction Period. The parties will enter into an agreement with the Independent Certifier on the terms generally as set out in Appendix 2A [Independent Certifier Agreement]. The parties confirm that Project Co may also appoint the Independent Certifier to provide certification services in respect of the Design-Build Agreement.

3.2 Appointment and Replacement

If within 20 Business Days of the Effective Date the Independent Certifier has not been appointed, or if for any reason during the Construction Period the Independent Certifier is unable or unwilling to continue to perform the Independent Certifier services or if the Independent Certifier’s appointment has been terminated by the Province and Project Co, then:

- (a) within five Business Days of the date that is 20 Business Days after the Effective Date (or within five Business Days of the date of termination of the Independent Certifier’s appointment, if applicable), Project Co will provide the names of three candidates acceptable to Project Co for consideration by the Province;
- (b) within ten Business Days of receiving the candidate names, the Province will notify Project Co of the candidates acceptable to the Province, and the parties will cooperate to enter into a contract with an acceptable candidate generally in the form set out in Appendix 2A [Independent Certifier Agreement]; and
- (c) if none of the candidates are acceptable to the Province, acting reasonably, or if for any reason an Independent Certifier is not appointed within 40 Business Days of the Effective Date (or within 20 Business Days of the date of termination of the Independent Certifier’s appointment, if applicable), then either party may immediately apply to the British Columbia International Commercial Arbitration Centre for the selection of an Independent Certifier, providing the other party the opportunity to participate in the selection and appointment process.

3.3 Monthly Inspections and Report

The parties will require the Independent Certifier to:

- (a) consult with the Design-Builder and others involved in the Design and Construction;
- (b) consult with the Province and other Province Persons involved in the Design and Construction;
- (c) conduct inspections of the Construction; and
- (d) investigate any quality concerns identified by Project Co or the Province,

as the Independent Certifier determines is required to be generally satisfied that the Design and Construction are proceeding in accordance with the requirements of this Agreement and, no later than the 10th day of each month, prepare and deliver to the Province and Project Co a monthly written report containing a description of:

- (e) the Design and Construction completed in the previous month, as well as the results of any investigations pursuant to Section 3.3(c) above;
- (f) the progress of the Design and Construction relative to the Updated Project Schedule, with an explanation and analysis of any variances; and
- (g) any elements of the Facility that for any reason vary from the requirements of this Agreement, with particular reference to this Schedule and Schedule 3 [Design and Construction Specifications].

3.4 Payment Certificates

The Independent Certifier will, no later than the 10th day of each month in relation to payments under Section 2 and Section 3 of Appendix 8B [Construction Payments], prepare and deliver to the Province and Project Co a certificate certifying the Cost to Date. The Province and Project Co specifically agree to the following with respect to the preparation and delivery of the payment certificates by the Independent Certifier:

- (a) the certificate certifying the Cost to Date will certify actual costs incurred by or on behalf of Project Co;
- (b) except as required under Section 3.3 of this Schedule, the Independent Certifier will have no role in monitoring or inspecting, or in giving any directions or instructions, with respect to any aspect of the Design or the Construction; and
- (c) the certificate of the Cost to Date will not include costs for any design, construction or other work that does not comply with the Agreement and the Reviewed Drawings and Specifications, and such design, construction or other work does not form part of the Design and Construction for purposes of calculating the Cost to Date in Appendix 8B (Construction Payments) and may be taken into account in determining the payments under Appendix 8B and the determination of Service Commencement.

3.5 Application for Certificate of Service Commencement

The parties will require the Independent Certifier to perform the obligations of the Independent Certifier described in Section 13 of this Schedule.

3.6 Permitted Access

Project Co will give the Independent Certifier access to the Design and Construction work as the Independent Certifier reasonably requests in order to be fully informed as to the progress of the Design and Construction including:

- (a) access to drawings, specifications, schedules, records, and other documents or data relating to the Design and Construction, including such information that is being produced by or in the possession of the Design-Builder or others; and

- (b) access to the Site,

and Project Co will:

- (c) permit the Independent Certifier to attend all Design and Construction meetings during the Construction Period except to the extent Project Co and the Province expressly otherwise agree; and

- (d) keep the Independent Certifier fully informed as to the progress of the Construction, including giving notice in accordance with Good Industry Practice of any part of the work on the Facility before it becomes covered up and unavailable for inspection.

3.7 No Responsibility for Design or Construction

Nothing in this Agreement (including this Schedule) or in the parties' agreement with the Independent Certifier will be interpreted as giving the Independent Certifier any responsibility or authority for any aspect of the Design or the Construction, or as relieving Project Co of its responsibility for the Design and Construction as set out in this Agreement, and neither Project Co nor the Design-Builder nor any Sub-Contractor will be entitled to rely on any review, acceptance, approval or confirmation that the Independent Certifier may give with respect to Design or Construction.

4. PROJECT CO'S RESPONSIBILITIES

4.1 Design/Build Responsibility

Notwithstanding any other provision of this Agreement, Project Co will:

- (a) have complete responsibility for the Design and Construction of the Facility;
- (b) perform and complete the Design and Construction:
 - (1) in accordance with all terms of this Agreement including the terms of this Schedule and the Design and Construction Specifications;
 - (2) so as to provide a new law courts facility that at Service Commencement:
 - (A) is complete and operational and fit for the Intended Uses; and

- (B) will permit Project Co to provide the Services in accordance with the requirements of this Agreement; and
- (3) to reflect and capture the benefits to the Province of the Proposal Extracts (Design and Construction).

Each of the obligations in Sections 4.1(b)(1), 4.1(b)(2) and 4.1(b)(3) of this Schedule are independent obligations, and the fact that Project Co has satisfied one obligation will be no defence to an allegation that it has failed to satisfy another.

4.2 Standard of Performance for Design and Construction

Without limiting the other requirements of this Agreement, Project Co will perform the Design and Construction to the standards as required by Section 2.1 of Schedule 3 [Design and Construction Specifications].

4.3 Defects in Design or Construction

Project Co will, without cost to the Province, and without limiting Project Co's obligations to perform the Services as set out in this Agreement, including Schedule 4 [Services Protocols and Specifications], correct any Defect that becomes apparent at any time during the Term, subject to the terms of this Agreement, including any Scheduled Maintenance and the Handback Requirements.

4.4 Compliance with Laws

Project Co will undertake and perform the Design and Construction in accordance with applicable Laws, and so that all elements of the Design and the Construction, including all workmanship, construction equipment and materials, and the supply and installation of Equipment and Furniture, meet or exceed the requirements of applicable Laws. If there is any conflict or ambiguity between the provisions of applicable Laws, or between a provision of applicable Laws and the Design and Construction Specifications, or between provisions of the Design and Construction Specifications, then the provision of higher quality or higher standard will govern.

4.5 Permits for the Design and Construction

Except as expressly provided otherwise in this Agreement, Project Co will obtain all Permits required for the Design and Construction. Project Co will:

- (a) keep the Province's Design and Construction Representative fully informed of the details of all discussions and negotiations with Governmental Authorities with respect to all Permits for which it is responsible;
- (b) upon request from the Province's Design and Construction Representative, provide to the Province copies of all documentation and correspondence with a Government Province relating to such Permits; and
- (c) provide reasonable advance notice to the Province of any meetings with the City or other Governmental Authorities (where practicable) and upon request by the Province permit a representative of the Province to attend any such meetings.

Project Co assumes all risk and costs arising in relation to Permits for which Project Co is responsible as described in this Section 4.5, including delays to the Project Schedule arising from delays in obtaining

Permits or inability to obtain Permits, conditions of obtaining Permits, or amendments to Permits as may be required. The Province will provide Project Co with such information within the Province's possession, and co-operate with Project Co, as Project Co may reasonably require in relation to all Permits for which Project Co is responsible.

4.6 LEED Gold Certification

Project Co will, subject to Section 4.6(f) of this Schedule, obtain LEED Gold Certification for the Facility in accordance with the following:

- (a) Project Co acknowledges that the Project has been registered with the Canada Green Building Council under the LEED® Canada-2009 rating system. Registration under LEED® Canada-2009 rating system allows for the use of certain credit targets or thresholds under LEED® NC 2009 or LEED® V4. Project Co agrees to follow the requirements of LEED® NC 2009 or LEED® V4 for purposes of obtaining LEED Gold Certification. Project Co may, with the agreement of the Province in the Province's sole discretion, at Project Co's cost and risk register the Project under LEED® V4. For greater certainty, Project Co will not be entitled to a Change under Section 4.6(d) of this Schedule resulting from a change from LEED® NC 2009 to LEED® V4.
- (b) Project Co will, subject to this Section, achieve all necessary prerequisites, credits and points under the LEED Rating System required to achieve the LEED Gold Certification and may in its discretion determine which of the credits and points to pursue in addition to those outlined in this Section and Schedule 3 [Design and Construction Specifications] and the Province will provide reasonable cooperation to Project Co to assist Project Co in achieving the LEED Gold Certification.
- (c) Energy & Atmosphere: Credit EA6 - Green Power will not be an acceptable credit.
- (d) Subject to Section 4.6(a) of this Schedule, if at any time after the Effective Date (in respect of LEED® NC 2009 or LEED® V4 of the LEED Rating System) or the date of registration under the LEED Rating System (in respect of another version of the LEED Rating System as permitted pursuant to Section 4.6(a) above) the requirements to achieve LEED Gold Certification under the LEED Rating System change, and Project Co is required to comply with such change in order to achieve LEED Gold Certification for the Facility, then Project Co will forthwith notify the Province of such change and such change will be a Change pursuant to Schedule 6 [Changes, Minor Works and Innovation Proposals].
- (e) Project Co will compile and submit the required documents for certification.
- (f) If for any reason Project Co fails to obtain LEED Gold Certification for the Facility within 36 months of the Service Commencement Date then Project Co will, upon written demand from the Province, immediately pay to the Province \$100,000 for every point less than the number of points required to obtain LEED Gold Certification, to a maximum payment amount of \$500,000.
- (g) Upon payment of amounts, if any, owing under this Section 4.6 Project Co will have no further obligations or liabilities in respect of obtaining LEED Gold Certification, except to provide the Province with such information and administrative assistance as the Province may reasonably require in relation to obtaining LEED Gold Certification, and for greater

certainly the failure to obtain LEED Gold Certification will not be a Project Co Event of Default.

4.7 LEED Project Checklist

As a condition of Service Commencement Project Co will deliver to the Province:

- (a) a LEED project checklist, generally in accordance with CaGBC requirements, together with a written confirmation that, in Project Co's judgment:
 - (1) the LEED credits/points specified in Schedule 3 [Design and Construction Specifications] will be achieved for the Facility; and
 - (2) LEED Gold Certification will be achieved for the Facility as required by Section 4.6 of this Schedule; and
- (b) a written opinion from a LEED accredited professional that Project Co's confirmation under Section 4.7(a) above is reasonable.

4.8 Energy

Project Co will comply with the requirements of Appendix 2C [Design and Construction Energy Target] and Appendix 8C [Utility Payment].

4.9 Facility Threat and Risk Assessment

Project Co will, by the date specified in the Submittal Schedule, deliver to the Province a comprehensive threat and risk assessment report for the Facility ("**Facility Threat and Risk Assessment**") identifying specific risks and vulnerabilities to people, property and the Province associated with the Facility and the surrounding community, and describing how the Design will mitigate these risks and vulnerabilities, including with reference to security. The Province may provide comments on the Facility Threat and Risk Assessment within 15 Business Days of receiving it. Project Co will, acting reasonably, take account of the Province's comments in finalizing the Facility Threat and Risk Assessment and deliver to the Province a copy of the final Facility Threat and Risk Assessment within 15 Business Days of receiving the Province's comments. Project Co will implement the risk mitigation strategies described in the Facility Threat and Risk Assessment in developing the Design.

5. DESIGN

5.1 Additional Design Considerations

In addition to other requirements of this Agreement, Project Co will undertake and perform the Design so that the Design:

- (a) is undertaken by a design team exercising such degree of care, skill and diligence as would reasonably be expected from consultants qualified to perform services similar in scope, nature and complexity to the Design, as of the date of this Agreement, and Project Co will appoint a design team that:
 - (1) is so qualified;

- (2) includes (as required by applicable Law or Good Industry Practice) licensed or registered professional engineers and architects; and
 - (3) has sufficient expertise and experience to expeditiously and efficiently perform all of the Design in a proper and professional manner to the standard set out in this Agreement;
- (b) includes specific consideration of “constructability” and “life cycle” cost issues at all stages of Design, as appropriate; and
 - (c) includes consideration of efficient and cost-effective operation and maintenance.

5.2 Zoning Approval

No rezoning of the Site is required. Project Co’s Design and Construction will be to the Section 550 – City Centre Commercial Zone (C5). Permitted uses include “Civic Use” along with numerous other mixed-uses.

5.3 Design Process

Project Co will undertake the Design:

- (a) in accordance with Appendix 2B [Review Procedure], including providing Submittals to the Province in accordance with the Submittal Schedule and undertaking consultation with representatives of the Facility Users (the "**User Consultation Group**") in accordance with Appendix 2B [Review Procedure];
- (b) in phases progressively, with each phase capturing the information and detail of a previous phase, as follows:
 - (1) Schematic Design Phase

This phase will include supplemental information not included in Appendix 2G [Proposal Extracts (Design and Construction)] and development of drawings and other documents illustrating the scale and character of the Facility, architecture and all engineering systems in sufficient detail to describe how all the parts of the Facility functionally relate to each other, such as site plan, spatial relationship diagrams, principal floor plans, building systems, sections, and elevations, together with a written project brief.

At a minimum the following items will be addressed:

- (A) a proposal for a design vision, aesthetics, materials and building character, including Facility elevations;
- (B) how the Design promotes close ties with the neighbourhood and integration with the surrounding community;
- (C) how the Design promotes coherent and harmonious integration of the architectural elements;

- (D) design vision and values: Project Co's overall approach to achieving the design objectives of Schedule 3 [Design and Construction Specifications];
- (E) 1:500 plans: plan of the Site showing building blocks and main accesses and egresses;
- (F) 1:200 plans: Site plan, focusing on access, egress and drop-offs (pedestrian, vehicle and fire trucks);
- (G) 1:100 plans: plans of programmed area blocking and individual layouts, building stacking and links, internal and external flow of circulation and the Parkade;
- (H) analysis of preliminary plans for the flow of personnel and material;
- (I) Building flexibility concepts;
- (J) a comparison of the Accommodation Model requirements (as defined in Appendix 3A of Schedule 3) and that of the proposed Design;
- (K) verification of aspects of accessibility and signage concepts;
- (L) description of all IMIT and security systems and how these systems will enable and enhance courtroom and security functionality;
- (M) Facility Threat and Risk Assessment Report; and
- (N) geotechnical assessment describing the proposed foundation design solution with supporting calculations including drilling logs as necessary.

Before the Design Development Phase can begin, either the end of the Schematic Design Phase will result in Schematic Design having REVIEWED status or all of the outstanding comments on a Submittal will be agreed by the Province as not being material in nature.

(2) Design Development Phase

This phase will include drawings and other documents, including a site plan, elevations and sections, together with a written project brief detailing area calculations, Building Systems and outline specifications, to fully describe the size and character of the entire Facility, including the architectural, landscaping, civil, structural, mechanical, electrical and IMIT systems, materials and other elements to fully describe the Facility.

At a minimum the following items will be addressed for the Facility:

- (A) 1:100 scale drawings incorporating comments from the Schematic Design Phase and illustrating the design development of each of the following areas:
 - (i) architectural;

- (ii) structural;
 - (iii) mechanical and plumbing;
 - (iv) electrical;
 - (v) municipal infrastructure and storm water retention; and
 - (vi) landscaping;
- (B) 1:50 plans showing all courtrooms with dimensions: interior elevations and reflected ceiling plans, including main component drawings that relate to the courtroom systems, IMIT and equipment;
- (C) developed exterior elevations of the buildings and major cross-sections;
- (D) integration of exterior spaces, including courtyards, vehicle access/egress (including drop-off and pick-up access to parking, etc.);
- (E) a full lighting layout for each floor;
- (F) efficient integration of major equipment for optimal operations;
- (G) review of door controls and hardware concepts/strategies;
- (H) review of security strategies;
- (I) interior finish concepts (flooring, walls and ceiling finishes) for all spaces and key elevations including a review of standard millwork types and details;
- (J) development of the circulation routes and way-finding strategy including:
- (i) verification of the impact of the layout of the premises on the flow of personnel and material both internal and external to the Facility;
 - (ii) review of way-finding strategies from the Proposal stage and demonstration of how they are incorporated with details in the current design;
 - (iii) room numbering plan for Province use (public and staff way-finding); and
 - (iv) signage, orientation, etc.; and
- (K) provide preliminary electrical load redundancy and spare capacity calculations for all branches of power identifying loads of different types, such as individual mechanical equipment, lighting, general receptacles, equipment, communications and security equipment and elevators.

(3) Construction Documents Phase

This phase will include construction documents consisting of drawings, specifications and calculations describing in detail the requirements for the construction of all components, systems and equipment of the Facility delivered to the Province. This will include all aspects of Section 5.3(b) of this Schedule:

(A) at 50% completion; and

(B) at 100% completion,

and, despite any later dates set out in the Submittal Schedule, in a timely way in advance of Construction with sufficient detail to permit the Province to understand and assess the Design of the Facility.

If Project Co intends to proceed with construction of an element of the Facility in advance of the completion of the Design of the entire Facility then Project Co will deliver the 50% and 100% construction documents for that element coordinated with all disciplines (with sufficient accompanying detail to permit the Province to understand and assess the design of that element) in advance of the design documents for other elements of the Facility;

(c) so that in each phase, Project Co will provide to the Province the level of detail and documentation that the Province would customarily receive or expect to receive for a facility similar to the Facility in accordance with Good Industry Practice, including:

- (1) dimensioned floor plans and elevations showing all millwork, furniture and equipment;
- (2) interior elevations for all rooms and spaces, including all interior finishes, millwork, mechanical and electrical;
- (3) exterior elevations;
- (4) completed site and landscaping plans;
- (5) room finish schedules;
- (6) door hardware schedules;
- (7) reflected ceiling plans;
- (8) interior finishes;
- (9) Room Data Sheets;
- (10) a written report detailing and describing the manner in which the following have been taken into account in the Design:
 - (A) program operations and delivery;

- (B) LEED Gold Certification, including energy efficiency/sustainability and the relevant LEED project checklist and points;
- (C) material selection;
- (D) constructability;
- (E) Life Cycle Requirements;
- (F) the Facility Threat and Risk Assessment;
- (G) building operating services; and
- (H) clearly identifying sections for:
 - (i) architectural design;
 - (ii) site development and landscaping;
 - (iii) structural design;
 - (iv) mechanical design;
 - (v) electrical design; and
 - (vi) sustainable design.

Project Co will only issue drawings and specifications for construction purposes based on Reviewed Drawings and Specifications as described in Appendix 2B [Review Procedure].

This Section 5.3 does not limit Project Co's obligation to comply with any requirements set out in the Design and Construction Specification in relation to the stages and requirements for Design.

5.4 Design Change

The following will apply to the Province's requests for amendments to the Design:

- (a) revisions to drawings, specifications, equipment and additional Design requested by the Province under the processes described in Section 5 of this Schedule and in Appendix 2B [Review Procedure], are not Changes and will be completed at Project Co's cost (except to the extent that any such requested revision would constitute a material change to the Design and Construction Specifications, the terms of Schedule 6 [Changes, Minor Works and Innovation Proposals] will apply and such revision will not be implemented except under a Change Certificate issued by the Province); and
- (b) if and to the extent the Province requires a variation of any Design described in the Reviewed Drawings and Specifications (other than a variation required to bring the Design into conformity with this Agreement) then such variation will be a Change and the terms of Schedule 6 [Changes, Minor Works and Innovation Proposals] will apply.

5.5 Mock-Ups and Prototype Rooms

Project Co will, at its cost, provide “mock-ups” and “prototype” rooms as follows:

- (a) at an early stage of the User Consultation Process, Project Co will provide 1:1 scale paper and cardboard mock-ups of the following rooms indicating the dimensions and sizing of the room and location of millwork, services, equipment and furniture:
 - (1) an initial appearance courtroom;
 - (2) a basic in-custody courtroom;
 - (3) a large in-custody courtroom;
 - (4) a volume in-custody courtroom;
 - (5) a basic jury courtroom;
 - (6) a high security courtroom;
 - (7) the sheriff services command post room;
 - (8) admitting area with adjacent booking room; and
 - (9) in-custody cell;
 - (10) other rooms as may be requested by the Province;
- (b) at a later stage of the User Consultation Process, Project Co will provide fully constructed mock-ups of:
 - (1) a basic in-custody courtroom;
 - (2) a basic jury courtroom; and
 - (3) the sheriff services command post room,

at a location either within the Facility as it is under construction or at another location provided by Project Co near the Facility, including all actual materials, finishes, millwork, services, equipment and furniture included in the design of the room so that the Province and the User Consultation Group can experience all features of the Design including line-of-sight and make design decisions. For the other spaces identified in Section 5.5(a) above, Project Co is to provide a digital mock-up using Revit or similar software.

- (c) during Construction, Project Co will construct an in-situ “prototype” of each of the following rooms and make each prototype available to the Province at appropriate stages of construction so that the Province and the User Consultation Group can review the prototype room (including all materials, services, millwork, finishes, equipment and furniture and line-of-sight) in its actual location within the Building at various stages of construction, and consider whether any design adjustments are necessary:
 - (1) an initial appearance courtroom;

- (2) a basic in-custody courtroom;
- (3) a large in-custody courtroom;
- (4) a volume in-custody courtroom;
- (5) a basic jury courtroom; and
- (6) a high security courtroom,

Project Co will modify the mock-ups and prototypes as may be required as the Design develops based on feedback from the User Consultation Group and the Province.

The purpose of the mock-ups and prototypes is to illustrate the Design. Neither party may rely on the mock-ups and prototypes. Project Co will update all Design documentation to reflect the mock-ups and prototypes, and any input from the Province, including User Consultation Groups, and will submit all such updated Design documentation to the Province for review under Appendix 2B [Review Procedure].

Unless otherwise specified, Project Co will provide a site for the mock-ups and prototypes in the City of Abbotsford unless otherwise agreed by the Province.

5.6 Ownership of Design

With respect to ownership and property rights relating to the Design:

- (a) the Province will not have an ownership interest in the Design, including any of the drawings or specifications prepared and produced by Project Co, the Design-Builder or any Sub-Contractor;
- (b) Project Co grants to the Province, or will cause the Design-Builder and all Sub-Contractors to grant to the Province, an irrevocable perpetual license giving the Province the non-exclusive right to use the Design, including any of the documents and information listed in Section 6.22 of this Schedule:
 - (1) in connection with the Facility during and beyond the end of the Term and as long as the Facility exists, including for operational purposes during the Term and for renovations, additions and alterations to the Facility; and
 - (2) for reference purposes in connection with other operations, projects and facilities of the Province; and
- (c) Project Co will execute and deliver, or cause to be executed and delivered, any and all further and other documents as the Province may reasonably request to effect and record the license referred to in Section 5.6(b) of this Schedule.

5.7 Record of Adjustments to Design and Construction

The parties wish to create a single record of adjustments to the Design and Construction that are reflected in the Reviewed Drawings and Specifications, but which do not constitute Changes for which there are adjustments to payments or the Target Service Commencement Date. The adjustments include all inconsistencies with or differences from the Design and Construction Specifications, the Proposal Extracts, this Schedule 2 and any other parts of this Agreement. Project Co will maintain a list of all such

adjustments, to be referred to as “Adds/Omits” or other name agreed to by the parties. Project Co will provide a copy of such list, and proposed updates to the list, together with each of the phases of Design set out in Section 5.3 above, and will modify the list for reasonable comments made by the Province. The parties intend to agree on documentation to reflect such adjustments and may for convenience set out such adjustments in a Change Certificate. Unless otherwise agreed, at least 90 days prior to the Service Commencement Date, Project Co will provide the Province with a draft Change Report, without adjustments to payments or to the Target Service Commencement Date, setting out such adjustments, and the parties will seek to agree on final documentation within 30 days after the Service Commencement Date. For convenience in preparing and maintaining a record of adjustments, the parties will also seek to agree on such documentation on a preliminary basis at two reasonable times prior to Service Commencement. This Section 5.7 will not limit Project Co’s responsibilities to provide the documentation set out in Section 6.22 of this Schedule.

5.8 Service Provider Involvement in Design

Project Co’s Service Provider team will be fully integrated into the design team to ensure that the most sustainable design decisions are informed not only as they relate to the initial capital costs but also to the operational efficiencies and effectiveness of the systems for the whole life of the Facility.

6. CONSTRUCTION

6.1 Construction of the Facility

Project Co will perform the Construction in strict conformity with the Reviewed Drawings and Specifications, as may be modified and amended from time to time in accordance with the terms of this Agreement, and this obligation will be in addition to all other obligations of Project Co under this Agreement.

6.2 Amendments and Changes to the Drawings and Specifications

During the Construction, Project Co will submit all amendments or additions to the Reviewed Drawings and Specifications to the Province’s Design and Construction Representative for review under Appendix 2B [Review Procedure].

Any Changes during the Construction will be subject to the terms of Schedule 6 [Changes, Minor Works and Innovation Proposals].

6.3 Skilled Workers

Project Co will employ or cause the Design-Builder to employ a sufficient number of sufficiently skilled workers to perform the Construction in compliance with this Agreement. Trades and other workers will be licensed or registered as required by applicable Law or Good Industry Practice.

6.4 Control of the Construction

Project Co will have total control of the Construction and will effectively direct and supervise the Construction so that it is undertaken in compliance with the terms of this Agreement. Project Co will be responsible for all construction means, methods, techniques, sequences and procedures with respect to the Construction and for coordinating the various elements of the Construction, and nothing in this Agreement (including this Schedule) will be interpreted as giving any responsibility for the above to the Province, the Province’s Design and Construction Representative or any other representative or agent of the Province, or to the Independent Certifier.

6.5 Existing Utilities and Services

Project Co will confirm the location of, and protect:

- (a) all existing off-Site utilities and services that may be affected by the Construction; and
- (b) all existing on-Site utilities and services that may be affected by the Construction.

Project Co will relocate any existing on-Site utilities and services that conflict with Construction.

6.6 Site Investigation

By entering into this Agreement, Project Co will be deemed to have inspected the Site in relation to the performance of its obligations under this Agreement and to have satisfied itself and accepted all risks and related responsibilities relating to the Site (except as expressly provided to the contrary in this Agreement) including:

- (a) the adequacy of the rights of access to and through the Site for the Construction;
- (b) vehicular access and parking;
- (c) temporary storage of building materials and equipment;
- (d) existing utilities and services on the Site;
- (e) tie-in points for utilities and services;
- (f) geotechnical conditions; and
- (g) environmental conditions.

6.7 Geotechnical Reports

The Province has made available the Geotechnical Reports. The Province makes no representation whatsoever as to the accuracy or completeness of any information in the Geotechnical Reports and Project Co specifically acknowledges that the Province assumes and accepts no responsibility that the geotechnical information, as may be available in the Geotechnical Reports, is accurate or completely describes actual site conditions including geotechnical or soil conditions (including presence of boulders, rock, low-strength soil and voids) and ground water conditions (including presence of underground streams or water table conditions) that may affect the Design or Construction or other responsibilities of Project Co under this Agreement.

6.8 Environmental Reports

The Province has made available the Environmental Reports. The Province makes no representation whatsoever as to the accuracy or completeness of any information in the Environmental Reports and Project Co specifically acknowledges that the Province assumes and accepts no responsibility that the environmental information, as may be available in the Environmental Reports, is accurate or completely describes actual site conditions that may affect the Design or Construction or other responsibilities of Project Co under this Agreement.

6.9 Site

(a) Project Co will:

- (1) carry out the Construction in accordance with a phasing plan (the “**Phasing Plan**”) that includes the details for Project Co’s phasing of all parts of the Construction, including:
 - (A) all Site preparation;
 - (B) Construction of the Facility, including the requirements and timing for construction and commissioning (including all systems and equipment) for each room; and
 - (C) restricting Construction to the area indicated on Appendix 2H [Site Plan].

Project Co will submit the Phasing Plan to the Province not less than 30 days after the Effective Date and will not proceed until the Phasing Plan has received the notation “Reviewed” under Appendix 2B [Review Procedure];

- (2) comply with the reviewed Phasing Plan;
- (3) construct the Facility within the Site;
- (4) install a fence around the perimeter of the Site and such hoarding as may be required to separate the Site from the other portions of the Civic Precinct;
- (5) perform all Construction activities without blocking or disrupting vehicle or pedestrian access to the Civic Precinct and related buildings;
- (6) take reasonable steps to ensure that Construction workers or suppliers do not use any part of the Civic Precinct for vehicular parking;
- (7) provide a 24-hour hotline (and post the phone number in a prominent location on the Site) for:
 - (A) Province staff to notify Project Co of any Construction related emergencies; and
 - (B) neighbours and passers-by to contact Project Co;

and Project Co will respond to any phone calls made on the hotline within one hour;
- (8) provide a community liaison officer to provide a single point of contact regarding construction and development issues; and
- (9) before commencing the Construction, prepare and implement in co-operation with the Province a construction fire safety plan for the Project, which plan will describe emergency access routes to and from the Facility and the Civic Precinct during an emergency.

- (b) If Project Co performs any Construction outside of the area designated as the Site, Project Co will comply with all policies and other requirements of the Province.

6.10 The Province's Access to the Site

Subject to complying with all relevant safety procedures, including any relevant health and safety plans for the carrying out of the Construction and Project Co's and/or the Design-Builder's Site rules, the Province's Design and Construction Representative and its delegates and any other Person designated by the Province will have access at all reasonable times during normal working hours to:

- (a) attend the Site and view the Construction and any test or investigation being carried out in respect of the Construction;
- (b) access the Site for all reasonable purposes of the Province; and
- (c) subject to obtaining the consent of the relevant manufacturer or supplier (which Project Co will use all reasonable efforts to obtain), visit any site or workshop where materials, plant or equipment are being manufactured, prepared or stored for use in the Construction for the purposes of general inspection and of attending any test or investigation being carried out in respect of the Construction.

The Province's Design and Construction Representative and its delegates will have the right to attend all monthly progress meetings and Site meetings, including meetings between Project Co and the Design-Builder or its Sub-Contractors.

Project Co will cooperate with the Province to arrange for tours of the Site at reasonable times during Construction for interested judicial officials and personnel, in a way that does not interfere with the progress of the Construction.

Except as set out above or as otherwise provided for in this Agreement, the Province will not grant any Person access to the Site or Facility during the Construction Period without the consent of Project Co, such consent not to be unreasonably withheld or delayed.

6.11 Inspection

Prior to the Service Commencement Date, Project Co will, upon request by the Province's Design and Construction Representative including detailed reasons for the request, open up for inspection by the Province's Design and Construction Representative any part of the work on the Facility which the Province's Design and Construction Representative, acting reasonably, believes is defective and:

- (a) if the parties agree or if it is determined in accordance with the Dispute Resolution Procedure that there are no Defects in the relevant part of such work, and Project Co complied with the requirements of Section 3.6 of this Schedule, then any delay caused by the exercise of such rights will be treated as a Compensation Event and be subject to Section 8.3 of this Agreement;
- (b) if the parties agree or if it is determined in accordance with the Dispute Resolution Procedure that any relevant part of the work on the Facility is defective, then:
 - (1) Project Co will rectify and make good such Defect(s);

- (2) any consequence of such rectification or making good Defect(s) will be carried out by Project Co at no cost to the Province; and
- (3) Project Co will not be entitled to any extension of time to the Project Schedule in relation to such rectification and making good of such work; and
- (c) if the parties are unable to reach agreement in accordance with Sections 6.11(a) or (b) above, then the matter will, at the request of either party, be referred to the Dispute Resolution Procedure. If, in order to maintain compliance with the Project Schedule, it is necessary to proceed in respect of the matter in Dispute, the parties will proceed in accordance with the position of the Province, provided that Project Co proceeding in accordance with the Province's position will be a Compensation Event if the relevant matter in Dispute is determined in favour of Project Co.

6.12 Builders Lien Act and Builders Liens

With respect to builders liens and the requirements of the *Builders Lien Act* (British Columbia):

- (a) the Province will not have any responsibility to be the payment certifier under any contract related to Construction;
- (b) Project Co will make all required builders lien holdbacks;
- (c) no builders lien holdback will be retained by the Province under this Agreement;
- (d) if it is determined that any builders lien holdback is required to be retained by the Province, then Project Co agrees that it is making and will make all of its required holdbacks as agent for the Province;
- (e) Project Co will indemnify the Province from any damages, costs, claims and expenses of any kind, including actual solicitors costs, arising from the failure of the Province to retain a builders lien holdback; and
- (f) failure to hold back payment of amounts due to any Person in accordance with section 4 of the *Builders Lien Act* (British Columbia) will not constitute a Project Co Event of Default.

6.13 Safety

Project Co will be solely responsible for safety during the period commencing as of the date set forth in Section 2.1(a) of Schedule 7 [Lands] and ending at the expiry of the Construction Period, including the safety of all Persons on the Site and any other location where the Construction is performed (whether on the Site or other location lawfully or not) and members of the public, and will comply with the requirements of applicable Laws, applicable construction safety legislation, regulations and codes and Good Industry Practice.

Project Co will immediately notify the Province of any accident and will provide the Province with all accident reports within 48 hours.

6.14 Security Clearance

- (a) During the Construction Period Project Co will not permit any individual engaged by Project Co or a Project Co Person to:
 - (1) perform any Security Sensitive Design Work, unless such individual has:
 - (A) successfully completed a Construction Background Check within the one calendar year period prior to the date on which he or she first performs any Security Sensitive Design Work; and
 - (B) signed an Individual Confidentiality Agreement;
 - (2) be designated as a Key Individual, unless such individual has:
 - (A) successfully completed a Construction Background Check within the one calendar year period prior the Effective Date; and
 - (B) signed an Individual Confidentiality Agreement; or
 - (3) carry out any Design or Construction unless such individual has signed an Individual Confidentiality Agreement.
- (b) Throughout the Construction Period, Project Co shall ensure that the Construction Background Check is repeated for each relevant individual:
 - (1) if any information is received by Project Co (including from the Province) that suggests that the risk in respect of such individual has materially changed; and
 - (2) every two years for the CPIC criminal record database search.
- (c) A Construction Background Check includes a criminal records check from the Canadian Police Information Centre (CPIC) as well as other records and requires personal identification by a BC Sheriff.
- (d) In order to obtain a Construction Background Check:
 - (1) Each individual must provide the following:
 - (A) a completed and signed CPIC consent form;
 - (B) a credit card payment form;
 - (C) two pieces of current government identification, one of which must be a current valid government photo identification (e.g. driver's licence, passport);
 - (D) at least one piece of identification must have the current residential address on it; otherwise, a copy of a current hydro or telephone bill showing the applicant's name and address is also required;

- (E) all other consents required in relation to the performance of the Construction Background Checks, in accordance with Section 17.2 (Personal Information).
- (2) Each individual must attend at one of the two locations below, Monday to Friday between 9:00 am and 3:00 pm, with the required identification and original forms noted above for identification by a BC Sheriff.
 - (A) Abbotsford Provincial Courthouse
32203 South Fraser Way
Abbotsford B.C.
 - (B) New Westminster Law Courts
651 Carnarvon Street, Begbie Square
New Westminster, BC
 - (3) A database check will be performed with the personal information collected. Occasionally a person with a similar name and date of birth could cause a record to be generated that will not enable further consideration of the applicant in this process without a finger print check being done. If required, the finger print process will be an additional cost as charged by the police agency where the individual resides. This additional fingerprint check can only be done after prior consultation with the BC Sheriffs and does not guarantee a security clearance will be granted.
 - (4) The database checks are performed for the Province by a third party who cannot guarantee processing times. If all forms are completed legibly, accurately and as indicated above, clearances are typically processed within four weeks' time of identification verification.
 - (5) The decision of BC Sheriffs as to whether an individual has successfully completed a Construction Background Check is final. Applicants will receive email notification of the status of their clearance and such information will also be provided to the Province and Project Co.
- (e) All costs and fees associated with the Construction Background Checks are for the account of Project Co. However, each individual who is applying for a Construction Background Check must provide an individual credit card payment form in their own name.
 - (f) The Province, in its sole discretion, may revoke security clearances based on notification by law enforcement agencies of an individual's personal relationships, affiliation with criminal elements and or participation in criminal activities or violations of provincial statutes.
 - (g) The Province's refusal to grant access to any individual on account of a Construction Background Check will not relieve Project Co of any of its obligations under this Agreement.

6.15 Protection of Property

Project Co will:

- (a) protect any third party's property from damage caused by the Construction, including buildings, roadways, drainage systems, landscaping, surfaces, services and infrastructure; and
- (b) promptly repair any damage to property caused by Project Co in undertaking the Construction, including any damage caused by site settlement or ground vibration.

6.16 Survey and Monitoring

Project Co will:

- (a) prior to start of any Construction, conduct pre-condition surveys of all neighbouring Civic Precinct buildings, residential houses and properties, infrastructure, roadways (including all underground services and installations) within a radius reasonably required by the Province and in a form and detail satisfactory to the Province, acting reasonably, which will without limitation include field observations and photographs of existing conditions, with spot elevations by a British Columbia Land Surveyor (BCLS) registered surveyor at locations that will be accessible throughout and following construction for ongoing settlement monitoring, and deliver a copy of the pre-construction survey report to the Province; and
- (b) conduct post-condition surveys of the spot elevations at regular intervals throughout the Construction Period and at six months following Service Commencement, to determine ongoing long-term settlement effects, and deliver monitoring surveys to the Province in a form and detail satisfactory to the Province, acting reasonably.

The monitoring will include monitoring of all locations identified in the Design and Construction Specifications with limitations on settlement. Project Co will appoint a registered British Columbia Land Surveyor to carry out the settlement monitoring.

6.17 Photographic Documentation of Construction

Project Co will provide a photo documentation service (“PDS”) of construction progress and as-built conditions for the Facility in accordance with the requirements of this Section.

- (a) Required Elements
 - (1) The PDS will combine inspection-grade digital photography with an indexing, navigation and storage system to capture actual conditions throughout the Construction Period, including at critical milestones determined in consultation with the Province. The PDS will incorporate the architectural, civil, mechanical and electrical drawings, making such drawings interactive using an on-line interface. For all PDS documentation referenced, indexing and navigation will be organized by both time (date-stamped) and location.
 - (2) The PDS will include a pre-construction site survey providing overlapping photo documentation of the Site and its immediately surrounding areas to carefully memorialize conditions before the Construction commences.

- (3) Construction progress will be tracked through the PDS at regular intervals, monthly as a minimum. The PDS will capture:
- (A) a general overview of both the exterior and interior construction of the Facility, including all elevations and major site features; and
 - (B) interior improvements by each area, including:
 - (i) overlapping images of all in-floor/ceilings utilities within the building envelope;
 - (ii) the mechanical, electrical, plumbing and all other systems prior to insulation, sheet rock or dry wall installation and overlapping images of all finished systems located in the walls and ceilings of the Facility; and
 - (iii) all interior walls, ceilings and floors in their post-inspection, completed condition, prior to occupancy.
- (4) the PDS will provide, from the commencement of the Construction until Service Commencement, a high quality colour webcam service with one or more webcams that are linked to the Province's public website for the Project and that provide frequently refreshed high quality images showing the Construction activities at the Site;
- (5) the PDS will capture all miscellaneous events that do not fit into the regular photo path, such events including the arrival of materials on site, with these miscellaneous events dated and inserted into a separate section in the navigation structure of the PDS.
- (b) Hosting Requirements and End Product:
- (1) All PDS documentation will be made accessible at all times on-line, through the use of any standard internet connection, to the Province and any Province Persons. The PDS will enable multiple-user access, simultaneously, online and access will be secure and accomplished through password protection.
 - (2) Project Co will provide redundant server back-up of the PDS documentation for the period from the Effective Date until the Service Commencement Date.
 - (3) Project Co will make available to the Province and any Province Persons, at the cost of Project Co, any necessary technical support related to the use of the PDS.
 - (4) As soon as reasonably practicable after the Service Commencement Date, Project Co will provide to the Province final copies of the PDS documentation (the "**Permanent PDS Record**") with the indexing and navigation system embedded and active, in an electronic media format, typically a DVD or external hard-drive. On-line access will be deleted and all records removed from the hosting sites upon delivery of the Permanent PDS Record.

6.18 Control of Dust, Noise and Noxious Odours

Project Co will take all reasonable steps (including any specific steps reasonably required by the Province) to minimize dust, noise and noxious odours (including diesel exhaust) from the Construction and to mitigate any adverse effects on the neighbours and Civic Precinct.

6.19 Signage

Project Co may erect signage at the Site during Construction to identify Project Co, the Design-Builder and Project Contractors provided such signs are acceptable to the Province's Design and Construction Representative, acting reasonably.

6.20 Temporary Works

During the Construction Period, Project Co will:

- (a) have the sole responsibility for the design, erection, operation, maintenance and removal of temporary structures and other temporary facilities and the design and execution of construction methods required in their use; and
- (b) provide its own services necessary for Project Co's construction use including but not limited to power, telephone, water and sewage, and will not connect directly to the existing Civic Precinct buildings or infrastructure except with the City or Province's prior approval.

6.21 Project Meetings

Without limiting the obligations pursuant to Section 2.6 of this Schedule in respect of the Construction Period Joint Committee, at the Province's request, Project Co's Design and Construction Representative will attend meetings to update the Province on the progress of Construction and to discuss any issues that have arisen. The meetings will be at least weekly unless agreed otherwise by the Province.

6.22 Project Records

Notwithstanding any other provision of this Agreement:

- (a) Record Documents:
 - (1) Project Co will, throughout the Construction, update the Reviewed Drawings and Specifications, including all final shop drawings, so as to produce accurate and complete record documents for the Facility (the "**Record Documents**").
 - (2) The Record Documents will include all revisions permitted under this Agreement to the requirements of the Design and Construction Specifications, the Proposal Extracts (Design and Construction) or other provisions of this Agreement.
 - (3) Project Co will cause the Record Documents to be prepared by the Design Firm unless otherwise agreed by the Province.
 - (4) Project Co will, as requested from time to time during the Construction, provide to the Province the Record Documents in hard copy and in electronic copy in a format acceptable to the Province (individual file pdf and electronic format

(AutoCAD) complete with block references intact and attached and with individual files identified with drawing/specification name and number), including to permit the Province to monitor Project Co's compliance with the requirements of this Agreement and for the Province's operational and other uses.

- (5) Project Co will provide to the Province three full-size hard copies and an electronic copy in a format acceptable to the Province (individual file pdf and electronic format (AutoCAD) complete with block references intact and attached and with individual files identified with drawing/specification name and number) of the completed Record Documents on or before Service Commencement.
 - (6) Project Co will provide and update, as applicable, the Record Documents during the Operating Period in accordance with Schedule 4 [Service Protocols and Specifications].
 - (7) Project Co will submit all electronic copies in compliance with the standards established by the Province from time to time for electronic copies.
- (b) Maintenance Manuals: Project Co will:
- (1) on or before Service Commencement, make available all maintenance manuals, specifications, warranties and related information, in written and electronic form, for all the equipment and systems that have been included in the Design and Construction of the Facility for review by the Province's Design and Construction Representative; and
 - (2) organize and store such information in accordance with Schedule 14 [Records and Reports].
- (c) Design Records: Project Co will retain records of the Design process.
- (d) Minutes of Meetings: Project Co will retain minutes of all meetings between the Province and Project Co relating to the Design and Construction. Project Co will circulate such minutes to the Province's Design and Construction Representative for review and comment within the time period specified in this Agreement for the particular meeting or if no time period is specified then as soon as reasonably possible after the relevant meeting, and a reasonable period before any subsequent meeting so that all parties may consider the minutes and take required actions in advance of the subsequent meeting.
- (e) Inspection Reports and Tests Results: Project Co will retain official reports and certified test records of all inspections and tests which were undertaken as part of the Construction.
- (f) Monitoring Results: Project Co will retain all survey and monitoring records obtained in connection with Section 6.16 (Survey and Monitoring).
- (g) Utility Plans: Project Co will retain utility plans for the Facility.
- (h) Landscape and Irrigation Plans: Project Co will retain landscape and irrigation plans for the Facility.

- (i) Copies of all Permits: Project Co will retain copies of all Permits for the Construction and occupation of the Facility.
- (j) Signed Quality Assurance Plan: Project Co will retain a signed copy of the Quality Assurance Plan for the Construction and all records of the Quality Assurance Program implemented as required by this Agreement.

6.23 Apprentices on Public Projects in British Columbia

- (a) Project Co acknowledges that Project Co and its Design-Builder have obtained a copy of and have reviewed the Ministry of Farming, Natural Resources and Industry (“**FNRI**”) policy set out in Apprentices on Public Projects Policy and Procedure Guidelines, Date: July, 2015, Update: March, 2016 available at <http://www2.gov.bc.ca/gov/content/industry/construction-industry/apprentices> (the “**Apprenticeship Policy**”).
- (b) Unless defined in this Agreement, capitalized terms in this Section 6.23 have the meaning given in the Apprenticeship Policy.
- (c) Project Co agrees that the Apprenticeship Policy applies to this Agreement and Project Co will, subject to the reasonable assistance of the Province, comply with the requirements of the Apprenticeship Policy.
- (d) Project Co agrees that the Province requires Project Co to apply the Apprenticeship Policy to the Design-Builder and the Sub-Contractors and Sub-Contracts (of all tiers) valued at \$500,000 or more.
- (e) Project Co acknowledges that the requirements of the Apprenticeship Policy and this Section 6.23 include:
 - (1) using Registered Apprentice(s) in respect of the Design-Build Agreement and Sub-Contracts for Specified Trades valued at \$500,000 or more;
 - (2) reporting in Form A: Confirmation of Intent to Use Registered Apprentices as soon as practicable and at least 5 days prior to commencement of work and completing all supplementary forms (Form A) as required;
 - (3) reporting in Form B: Apprentice Utilization Report quarterly and upon completion of the work under the applicable Design-Build Agreement or Sub-Contract; and
 - (4) complying with applicable requirements in relation to Personal Information.
- (f) Project Co further acknowledges that under the Apprenticeship Policy the Province may, or may permit FNRI, to exercise all provisions of the Apprenticeship Policy applicable to the Contracting Authority or the Province (whether through FNRI or otherwise) that permit the Contracting Authority:
 - (1) to delay the start of work on the Project until the Province has confirmed, through FNRI, that Registered Apprentices will be used on the Project; and

- (2) to delay issue of final payment in relation to the applicable work (but not in relation to any payment in relation to the Services) until the final Form B is submitted.
- (g) Project Co represents that all work to which the Apprenticeship Policy applies will be performed by the Design-Builder or Sub-Contractors and not by Project Co itself, and that Project Co will ensure that the provisions of this Section 6.23 are incorporated into the Design-Build Agreement and applicable Sub-Contracts.
- (h) Project Co and the Province acknowledge that any change to the Apprenticeship Policy will, if required by the Province to be implemented for purposes of this Agreement, be implemented as a Change under Schedule 6 [Changes, Minor Works and Innovation Proposals].

7. EQUIPMENT SUPPLY AND INSTALLATION

7.1 Design and Construction Requirements

The parties will comply with Appendix 2E [Equipment and Furniture].

Without limiting Appendix 2E [Equipment and Furniture], Project Co will complete the Design and Construction to accommodate in the Facility the installation, operation, repair and maintenance of all the Equipment and Furniture, including as required all electrical and plumbing connections, structural support, seismic restraints and space for efficient access, all to the tolerances and specifications as may be specified and required by the manufacturers or suppliers of such Equipment and Furniture (which may be of a higher standard than specified in Schedule 3 [Design and Construction Specifications]).

Any items of equipment or systems referred to in the Design and Construction Specifications that are not specifically listed in the Equipment and Furniture List referred to in Appendix 2E [Equipment and Furniture] are the sole responsibility of Project Co to be supplied and included as part of the Facility.

8. QUALITY MANAGEMENT

8.1 Quality of the Design and Construction

Project Co is solely responsible for the quality of the Design and Construction.

8.2 Quality System

Project Co acknowledges that a comprehensive Quality System is critical for the proper and timely completion of the Design and Construction and accordingly Project Co will implement and follow a Quality System.

8.3 Project Co's Quality Consultant

Project Co will appoint a qualified expert in quality management ("**Project Co's Quality Consultant**") to develop, implement, manage and oversee a Quality Assurance Program and Quality Assurance Plan.

8.4 Quality Assurance Program

Project Co's quality assurance program (the "**Quality Assurance Program**") will:

- (a) detail Project Co's measures required to complete all aspects of the Design and Construction pursuant to its Quality System and in accordance with the requirements of this Agreement including this Schedule 2 [Design and Construction Protocols] and Schedule 3 [Design and Construction Specifications];
- (b) address and be applicable to all aspects of the Design and Construction;
- (c) provide for a graded approach to quality in which the appropriate level of quality assurance requirements for various elements of the Design and Construction are defined;
- (d) describe or comply with the following:
 - (1) the required quality level for each process or activity involved in the Design and Construction and the means of achieving it;
 - (2) the steps to ensure that everyone participating in the Design or Construction is committed to the Quality Assurance Program;
 - (3) the steps to ensure that the management and organizational structure and responsibilities are defined and understood by everyone participating in the Design or Construction;
 - (4) require that all Persons participating in the Design or Construction are competent to do their required tasks;
 - (5) require that individuals involved with the Quality Assurance Program will be held accountable for their work;
 - (6) provide that the right people will have the right information at the right time;
 - (7) provide that relevant experience for each process or activity will be sought and used;
 - (8) ensure that Design and Construction activities are planned and controlled;
 - (9) ensure that the right items, processes, and practices will be used;
 - (10) ensure that materials and services are verified to confirm that they are correct and that Persons giving verification will be sufficiently qualified and will be independent from those who perform or install the materials or services;
 - (11) ensure that peer reviews and inspections will be performed on a structured planned basis on all elements of the Design and Construction and:
 - (A) errors and deficiencies will be identified and recorded;
 - (B) when errors and deficiencies are remedied or corrected, that a record is maintained of the remedy or correction;
 - (12) maintain records as required by this Agreement;

- (A) prior to the first Submittal, document formats and standard naming conventions that limit file name length and exclude special characters are to be submitted by Project Co and agreed upon.
 - (B) Submittals are to be submitted as individual sheets and as sets grouped per discipline. Depending on file transfer system utilized, file sizes may be required to be limited for ease of management and distribution;
- (e) provide for design verification in accordance with Good Industry Practice;
 - (f) provide that professionals of record will:
 - (1) carry out on-site inspections, review materials testing and inspector's reports, undertake required surveying, measuring, and verification of materials and construction methods to ensure conformance with the Reviewed Drawings and Specifications and the Design and Construction Specifications; and
 - (2) provide a letter of assurance that is an attestation that the Design and Construction has been performed in accordance with the Reviewed Drawings and Specifications and the Design and Construction Specifications.

8.5 Quality Assurance Plan

Project Co will develop a reasonable quality assurance plan (the "**Quality Assurance Plan**") that describes the implementation of the Quality Assurance Program in accordance with the following:

- (a) Project Co will deliver to the Province a preliminary draft of the Quality Assurance Plan (that is based on the preliminary quality assurance plan included in the Proposal Extracts (Design and Construction)) not less than 20 Business Days after the Effective Date, failing which, the Province will be entitled to make a Deduction of \$2,500 for each week or part thereof after the date falling 20 Business Days after the Effective Date until Project Co has delivered to the Province a preliminary draft of the Quality Assurance Plan but if Project Co has not delivered to the Province a preliminary draft of the Quality Assurance Plan by the date falling 40 Business Days after the Effective Date, the Deduction applicable under this Section 8.5(a) will increase to \$5,000;
- (b) the Province will provide its comments, if any, on the preliminary draft to Project Co within 20 Business Days of receipt of the preliminary draft;
- (c) Project Co will deliver a revised draft of the Quality Assurance Plan to the Province not less than 20 Business Days after receiving the Province's comments, failing which, the Province will be entitled to make a Deduction of \$5,000 for each week or part thereof after the date falling 20 Business Days after the Province's comments were received by Project Co until Project Co has delivered to the Province a revised draft of the Quality Assurance Plan;
- (d) the Province will, within 15 Business Days of receipt of the revised draft, advise Project Co whether the Province accepts the Quality Assurance Plan, and if the Province does not accept it the Province will provide its reasons for such non-acceptance in sufficient detail to allow Project Co to address them;

- (e) if the Province does not accept the Quality Assurance Plan, the parties will, acting reasonably, diligently work together with a view to revising the Quality Assurance Plan to address the Province's reasons for non-acceptance;
- (f) if the Province has not accepted the Quality Assurance Plan by the date that is 90 Business Days after the Effective Date, Project Co may refer the dispute to the Dispute Resolution Procedure to determine whether Project Co's proposed Quality Assurance Plan is reasonable.
- (g) any Deduction the Province is entitled to make pursuant to Section 8.5(a) or Section 8.5(c) of this Schedule may be made from any Construction Payment or the first Service Payment payable to Project Co pursuant to Schedule 8 [Payments]; and
- (h) Deductions made pursuant to this Section 8.5 will not be counted for the purposes of Sections 11.1 or 12.1(h) of this Agreement or Sections 11.8 or 11.9 of Schedule 4 [Services Protocols and Specifications].

Project Co will promptly implement and strictly comply with the Quality Assurance Plan developed under this Section.

8.6 Reporting

Project Co will deliver to the Province a monthly report of the Quality Assurance Plan prepared by Project Co's Quality Consultant covering all aspects of the Design and Construction completed in the reporting period that are relevant to the Quality Assurance Plan. Project Co will highlight any deficiencies identified and corrective actions taken to address such deficiencies during the period covered by such report. The report will include all supporting documentation including field reviews, photographs, reports and other material.

8.7 Quality Review by the Province

The Province may, at its discretion, perform its own audits of the Quality Assurance Program and for that purpose Project Co will make available for review by the Province, upon request from the Province, all records of the Quality Assurance Program and the Quality Assurance Plan to permit the Province to be satisfied that Project Co is following its Quality Assurance Plan.

9. WORKERS COMPENSATION

9.1 Evidence of WorkSafe BC Compliance

Project Co will provide evidence, satisfactory to the Province's Design and Construction Representative, of compliance by Project Co and all Project Contractors with the requirements of the *Workers Compensation Act*, as amended, and all regulations and successor legislation thereto, including payments due thereunder at the following times:

- (a) prior to commencing the Construction; and
- (b) at any time during Construction, upon request of the Province's Design and Construction Representative acting reasonably.

9.2 Indemnity for WorkSafe BC Non-Compliance

If Project Co or anyone employed by or through Project Co in the performance of any Construction does not comply with the requirements of the *Workers Compensation Act*, as amended, and all regulations and successor legislation thereto, including payment and deduction and remittance of any and all contributions, fees, assessments and charges required to be made pursuant to the above, Project Co will indemnify the Province from any cost, loss, liability or obligation which the Province may incur as a result.

9.3 Prime Contractor

For the purposes of applicable legislation and regulations, Project Co agrees to be, or will cause the Design-Builder to be, at all times during the period commencing as of the date set forth in Section 2.1(a) of Schedule 7 [Lands] and ending at the expiry of the Construction Period, the prime contractor as defined in the *Workers Compensation Act* for the Site and accordingly will comply, or will cause to be complied, with all resulting requirements and obligations including:

- (a) ensuring continuing coordination of the occupational health and safety activities of all employers on the Site, including the Province, the Province's Design and Construction Representative, any other contractors and everyone engaged by or through any of them;
- (b) delivering any notices of the Project as required by applicable regulations; and
- (c) complying with the obligations of a prime contractor for a multi-employer workplace as prescribed by the applicable regulations.

If for any reason WorkSafe BC (the Workers' Compensation Board of British Columbia) refuses to recognize Project Co or the Design-Builder as the prime contractor then, to the extent permitted by law, Project Co will cooperate with the Province and perform on behalf of the Province the obligations which the Province is required to undertake as prime contractor in connection with the Construction by virtue of the *Workers Compensation Act* and Regulations, or other statutes.

9.4 Failure to Comply with WorkSafe BC Requirements

If at any time the Construction is stopped because Project Co, or any Project Co Person providing services or work on the Project, unreasonably fails or refuses to comply with an order issued pursuant to the *Workers Compensation Act*, then such failure or refusal will be considered a Project Co Material Breach.

10. PROJECT SCHEDULE AND SCHEDULING

10.1 Initial Project Schedule

Attached as Appendix 2F [Initial Project Schedule] is the initial project schedule (the "**Project Schedule**"), which the parties have relied upon in entering into this Agreement.

10.2 Project Schedule Updates

Project Co will, as required from time to time until Service Commencement, but no less than once per calendar month by the 15th day of each month, in consultation with the Province update the Project Schedule so that it is at all times an accurate, reasonable and realistic representation of Project Co's plans for the completion of the Design and Construction of the Facility in accordance with the requirements of this Agreement. The updates will include:

- (a) adjustments resulting from Supervening Events and Changes, if any, as permitted by this Agreement;
- (b) best estimates of the following:
 - (1) the start and completion dates for the Design phases described in Section 5.3 of this Schedule;
 - (2) the commencement of Construction; and
 - (3) the planned start and completion dates of the major activities of Construction;
- (c) the planned start and completion dates of work required to connect to any existing utilities that may impact other buildings in the Civic Precinct or any proposed shut-down of existing utilities that may impact other buildings in the Civic Precinct; and
- (d) the Target Service Commencement Date, which (except to the extent necessary to reflect adjustments made in accordance with Section 10.2(a) of this Schedule) may not be updated or otherwise changed unless the Province, in its discretion, consents.

Project Co will deliver an updated Project Schedule monthly to the Province and the Independent Certifier and upon delivery the updated Project Schedule (the "**Updated Project Schedule**") will be the Project Schedule under this Agreement in substitution for the previously issued Project Schedule. If at any time the Province does not agree with the proposed updates that may be required to the Project Schedule then the disagreement may be referred to the Dispute Resolution Procedure.

10.3 Failure to Update Project Schedule

If Project Co fails or refuses to deliver an Updated Project Schedule as required under Section 10.2 of this Schedule, then such failure or refusal will be deemed to be a Project Co Material Breach.

10.4 Compliance with Project Schedule

Project Co will undertake the Design and Construction of the Facility in compliance with the Updated Project Schedule, as may be updated pursuant to this Agreement.

10.5 Move-In Schedule

Project Co acknowledges that the Province will rely on the Service Commencement Date as set out in the Project Schedule (as may be adjusted under Section 10.2 of this Schedule).

As soon as reasonably practicable, but in any event no later than 180 days prior to the Target Service Commencement Date, Project Co will deliver to the Province's Design and Construction Representative a move-in schedule in respect of the Facility (the "**Facility Move-in Schedule**") indicating the anticipated dates when such areas will become available for occupation by the Province so as to facilitate and permit the Province to progressively take up occupation in an efficient manner.

The Province's Design and Construction Representative will advise Project Co of any key or significant moves or move-in requirements, and Project Co will, as reasonably possible, accommodate the Province's requirements and requests. Project Co will, as may be required from time to time, up-date the Facility Move-in Schedule.

11. DELAYS AND ACCELERATION

11.1 Acceleration to Recover Project Co Delays

If at any time the Province, acting reasonably, determines that Project Co is behind the Updated Project Schedule and will not achieve Service Commencement by the Target Service Commencement Date, then the Province may deliver notice to Project Co's Design and Construction Representative to use its best efforts, at Project Co's own cost and at no cost to the Province, to accelerate the Construction so as to conform to the Updated Project Schedule and achieve Service Commencement by the Target Service Commencement Date.

11.2 Delay Costs

If, other than due to a Supervening Event or a Change, Project Co fails to achieve Service Commencement by the Target Service Commencement Date, then Project Co will reimburse the Province for any additional out-of-pocket costs which the Province reasonably incurs and evidences to Project Co because the Province relied on the relevant Facility Move-in Schedule, which are in excess of the costs which the Province would have incurred had Project Co achieved the dates set out in the relevant move-in schedule. Notwithstanding anything contained in this Agreement (including any Schedule), the liability of Project Co for failing to achieve Service Commencement by the Target Service Commencement Date will not exceed \$2,500 per day.

11.3 Acceleration to Advance Service Commencement

Without prejudice to the Province's rights under Section 11.1 of this Schedule, if at any time the Province determines that it requires the Construction to proceed in advance of the Updated Project Schedule then the Province may give written notice to Project Co to provide the Province with a written proposal to accelerate the Construction, including cost estimates and an estimate of the time saved. If the Province acting reasonably decides to proceed with the acceleration then:

- (a) the Province will notify Project Co in writing;
- (b) Project Co will implement the directed acceleration in accordance with its proposal;
- (c) the Province will reimburse Project Co for costs that were described in Project Co's proposal and reasonably incurred by Project Co (but not for any other costs); and
- (d) if the acceleration involves a Change (other than to the Updated Project Schedule) then such Change will be made in accordance with Schedule 6 [Changes, Minor Works and Innovation Proposals].

12. COMMISSIONING

12.1 Testing and Commissioning

Project Co will, prior to applying for a Certificate of Service Commencement, retain a qualified independent commissioning agent (who is neither a Project Co Person nor an Affiliate of a Project Co Person; and who is acceptable to the Province, acting reasonably), to test and commission all equipment (including Equipment and Furniture on the Equipment and Furniture List) and systems in the Facility to demonstrate to the Province's Design and Construction Representative that the Facility equipment and systems, including all major systems, are operating so that the Province may occupy the Facility for its Intended Uses and the Availability Conditions are satisfied for all Functional Units. The commissioning

agent will prepare a written report to confirm the foregoing and completion of the commissioning activities scheduled in the Commissioning Plan to be completed before Service Commencement. Testing and commissioning will include the following:

- (a) a complete and successful demonstration in real time under full stress conditions for all equipment and systems that require or are provided with redundancy or spare capacity; and
- (b) end to end testing and commissioning of key equipment and systems including all BSCS and IMIT Equipment, evidence management system, communication systems, access control and DVMS.

12.2 Equipment and Systems Operation and Training

Project Co will be knowledgeable on the proper use and maintenance of all equipment and systems Project Co installs in the Facility, including all equipment and systems described in the Design and Construction Specifications and any other communication systems, and will provide sufficient training and education to the Province staff to enable the Province to properly utilize such equipment and systems, including any training and education with respect to Equipment and Furniture required under Appendix 2E [Equipment and Furniture]. The Province will identify the relevant Province staff and make such staff available for training at reasonable times before the Service Commencement Date. All training will be completed before the Service Commencement Date unless agreed by the Province, acting reasonably. Training may be after Service Commencement if required by the Province, or at the request of Project Co with the consent of the Province, acting reasonably.

12.3 Commissioning Plan

Project Co will, in consultation with the Province, prepare and deliver to the Province's Design and Construction Representative and the Independent Certifier a detailed plan (the "**Commissioning Plan**") setting out the testing, commissioning, training and other activities Project Co intends to carry out to satisfy Sections 12.1, 12.2 and 12.3 of this Schedule and to achieve Service Commencement, including:

- (a) a description of the specific equipment and systems to be tested and commissioned and the associated commissioning requirements, including those to be completed before Service Commencement;
- (b) supporting documentation, including as appropriate:
 - (1) design calculations and/or assumptions;
 - (2) manufacturer's specifications;
 - (3) identification of all equipment and systems that require or are provided with redundancy or spare capacity and that will include complete successful demonstration in real time under full stress conditions;
 - (4) a description of all systems which will be tested and commissioned for integration to other systems; and
 - (5) a description of all systems and equipment where the Province's staff will be required to develop functional scenarios and to test and witness these functional scenarios;

- (c) a description of the training and education that Project Co intends to provide to the Province's staff to enable the Province to properly utilize the equipment and systems installed in the Facility, including all training and education to be completed before Service Commencement;
- (d) the name of the commissioning agent and the names of other Persons to be involved in testing, commissioning and training;
- (e) a description of Project Co's system for managing records of tests, inspections, quality assurance and training;
- (f) a general description of Project Co's transition plans for handover to the Province of the Facility at Service Commencement;
- (g) a schedule, related to the Project Schedule, showing:
 - (1) the timing of all testing and commissioning, and training;
 - (2) for each requirement of Service Commencement (described in Schedule 1 [Definitions and Interpretation]), the date upon which Project Co anticipates achieving the requirement;
 - (3) a matrix of all equipment and systems, including all integrated Equipment and Furniture and systems, and how they integrate with each other, along with an overview of the procedures that will be followed to demonstrate that integration of all equipment and systems has been and will be achieved; and
 - (4) the timing and development of the functional scenarios with the Province's staff.

The Commissioning Plan must be reasonable having regard to the requirements of Sections 12.1, 12.2 and 12.3 of this Schedule and will be developed and finalized as follows:

- (h) Project Co will deliver a preliminary draft of the Commissioning Plan to the Province not less than 12 months before the Target Service Commencement Date, failing which, the Province will be entitled to make a Deduction of \$2,500 for each week or part thereof after the date falling 12 months before the Target Service Commencement Date until Project Co has delivered to the Province a preliminary draft of the Commissioning Plan but if Project Co has not delivered to the Province a preliminary draft of the Commissioning Plan by the date falling 10 months before the Target Service Commencement Date, the Deduction applicable under this Section 12.3(h) will increase to \$5,000;
- (i) the Province will provide its comments, if any, on the preliminary draft Commissioning Plan to Project Co within 20 Business Days of receipt of the preliminary draft;
- (j) Project Co will deliver a revised draft of the Commissioning Plan to the Province not less than 40 Business Days after receipt of the Province's comments on the preliminary draft, failing which, the Province will be entitled to make a Deduction of \$5,000 for each week or part thereof after the date falling 40 Business Days after the Province's comments were received by Project Co until Project Co has delivered to the Province a revised draft of the Commissioning Plan;

- (k) the Province will, within 15 Business Days of receipt of the revised draft, advise Project Co whether the Province accepts the Commissioning Plan, and if the Province does not accept it the Province will provide its reasons for such non-acceptance in sufficient detail to allow Project Co to address them;
- (l) if the Province does not accept the Commissioning Plan, the parties will, acting reasonably, diligently work together with a view to revising the Commissioning Plan to address the Province's reasons for non-acceptance;
- (m) if the Province has not accepted the Commissioning Plan by the date that is 6 months before the Target Service Commencement Date, Project Co may refer the Dispute to the Dispute Resolution Procedure to determine whether Project Co's proposed Commissioning Plan is reasonable;
- (n) any Deduction the Province is entitled to make pursuant to Section 12.3(h) or Section 12.3(j) of this Schedule may be made from any Construction Payment or from the first Service Payment payable to Project Co pursuant to Schedule 8 [Payments]; and
- (o) Deductions made pursuant to this Section 12.3 will not be counted for the purposes of Sections 11.1 or 12.1(h) of this Agreement or Sections 11.8 or 11.9 of Schedule 4 [Services Protocols and Specifications].

12.4 Move Plan

Project Co will prepare and deliver to the Province's Design and Construction Representative a detailed plan (the "**Move Plan**") setting out the coordination, planning, preparation, relocation, installation, testing, commissioning, training and other activities Project Co will carry out to satisfy Sections 7 and 10 of Appendix 2E [Equipment and Furniture], including:

- (a) a description of the specific equipment and office and wall-mounted items to be installed, tested and commissioned and the associated commissioning requirements;
- (b) supporting documentation, including as appropriate:
 - (1) design calculations and/or assumptions;
 - (2) manufacturer's specifications; and
 - (3) identification of all equipment and systems that require or are provided with redundancy or spare capacity and that will include complete successful demonstration in real time under full stress conditions;
- (c) a description of Project Co's system for managing records of installation, tests, commissioning, inspections, quality assurance and training;
- (d) a general description of Project Co's relocation plans and any other transition plans required in order to coordinate the installation and commissioning of Equipment and Furniture and office and wall-mounted items to the Facility;
- (e) a schedule, related to the Project Schedule, showing:

- (1) the timing of all planning, disconnecting, removal, moving, installation, testing and commissioning and training;
 - (2) a matrix of all equipment and systems, including all integrated equipment and systems, and how they integrate with each other, along with an overview of the procedures that will be followed to demonstrate that integration of all equipment and systems has been and will be achieved; and
 - (3) the Move Plan and schedule must be developed in consultation with the Province;
- (f) Project Co will deliver a preliminary draft of the Move Plan to the Province not less than 12 months before the Target Service Commencement Date, failing which, the Province will be entitled to make a Deduction of \$2,500 for each week or part thereof after the date falling 12 months before the Target Service Commencement Date until Project Co has delivered to the Province a preliminary draft of the Commissioning Plan but if Project Co has not delivered to the Province a preliminary draft of the Commissioning Plan by the date falling 9 months before the Target Service Commencement Date, the Deduction applicable under this Section 12.4(f) will increase to \$5,000;
 - (g) the Province will provide its comments, if any, on the preliminary draft to Project Co within 20 Business Days of receipt of the preliminary draft;
 - (h) Project Co will deliver a revised draft of the Move Plan to the Province not less than 40 Business Days after receipt of the Province's comments on the preliminary draft, failing which, the Province will be entitled to make a Deduction of \$5,000 for each week or part thereof after the date falling 40 Business Days after the Province's comments were received by Project Co until Project Co has delivered to the Province a revised draft of the Move Plan;
 - (i) the Province will, within 15 Business Days of receipt of the revised draft, advise Project Co whether the Province accepts the Move Plan, and if the Province does not accept it the Province will provide its reasons for such non-acceptance in sufficient detail to allow Project Co to address them;
 - (j) if the Province does not accept the Move Plan, the parties will, acting reasonably, diligently work together with a view to revising the Move Plan to address the Province's reasons for non-acceptance;
 - (k) if the Province has not accepted the Move Plan by the date that is 6 months before the Target Service Commencement Date, Project Co may refer the Dispute to the Dispute Resolution Procedure to determine whether Project Co's proposed Move Plan is reasonable;
 - (l) any Deduction the Province is entitled to make pursuant to Section 12.4(f) or Section 12.4(h) of this Schedule may be made from any Construction Payment or from the first Service Payment payable to Project Co pursuant to Schedule 8 [Payments]; and
 - (m) Deductions made pursuant to this Section 12.4 will not be counted for the purposes of Sections 11.1 or 12.1(h) of this Agreement or Sections 11.8 or 11.9 of Schedule 4 [Services Protocols and Specifications].

The Move Plan must be reasonable having regard to the requirement of this Schedule and will be developed and finalized as part of the Commissioning Plan.

13. COMPLETION

13.1 Deficiency List

Prior to and as a condition of issuance of the Certificate of Service Commencement, Project Co will, in cooperation with the Province's Design and Construction Representative and the Independent Certifier, prepare a complete list of Defects that are apparent upon inspection of the Facility at that time (the "**Service Commencement Deficiencies**") and deliver to the Province's Design and Construction Representative the list of Service Commencement Deficiencies. The list of Service Commencement Deficiencies will also include operational readiness deficiencies that pertain to key transition activities included in Section 7.5 [Life Cycle Schedule and Start-up and Transition Plan] of Schedule 4 [Services Protocols and Specifications], including such measures as may be required to fully implement and comply with the requirements set out in Schedule 4 [Services Protocols and Specifications].

Subject to the right of Project Co to refer matters to the Dispute Resolution Procedure as set out below, the list of Service Commencement Deficiencies will include all items required by the Province to be included on such list.

The Province or Project Co may refer matters relating to the accuracy or completeness of the list of Service Commencement Deficiencies to the Dispute Resolution Procedure.

In an attempt to keep the "Service Commencement Deficiencies" list to a minimum, Project Co will develop a deficiency program and tracking system established in advance of any areas or rooms being complete. As each room or area becomes complete, there will be a review completed and a deficiency item list created. Project Co will distribute this list to any parties that are responsible for any defective work, and have an assigned date by which the deficiency must be corrected. This will be monitored and updated regularly as the Facility progresses towards completion.

13.2 Advance Notice of Application for Service Commencement

Project Co acknowledges that the Independent Certifier will need sufficient time to complete any inspections, consult with the Province, and consider the list of Service Commencement Deficiencies, and accordingly Project Co will:

- (a) at least 30 days (but no more than 60 days) before the Target Service Commencement Date, deliver to the Independent Certifier and the Province's Design and Construction Representative a notice setting out:
 - (1) a description of all outstanding Design and Construction to be completed by Project Co prior to Service Commencement; and
 - (2) a list of all Defects that Project Co is aware of at the time of the notice; and
- (b) assist the Independent Certifier to make any advance inspections requested by the Independent Certifier.

13.3 Application for Certificate of Service Commencement

If Project Co believes it has achieved the requirements for Service Commencement and complied with Section 13.2 of this Schedule then Project Co may apply to the Independent Certifier (with a copy to the Province's Design and Construction Representative) for a Certificate of Service Commencement. No later than five Business Days after application by Project Co for a Certificate of Service Commencement, the parties will require the Independent Certifier to, in cooperation with Project Co's Design and Construction Representative and the Province's Design and Construction Representative, make an inspection of the Facility, review the basis for Project Co's application for Service Commencement, and then within a further five Business Days, with respect to an application for a Certificate of Service Commencement:

- (a) if Service Commencement has been achieved, issue a certificate indicating that Service Commencement has been achieved (a "**Certificate of Service Commencement**"), together with comments on the list of Service Commencement Deficiencies (if any); or
- (b) if Service Commencement has not been achieved, provide Project Co and the Province's Design and Construction Representative with a list of all incomplete Design and Construction that must be completed prior to Service Commencement.

A Certificate of Service Commencement issued by the Independent Certifier will be final and not referable to the Dispute Resolution Procedure or otherwise subject to dispute between the parties. A Certificate of Service Commencement issued by the Independent Certifier will be evidence that the Independent Certifier reviewed the basis for the Architect's certification that "substantial performance", as defined in the *Builder's Lien Act* (British Columbia) has been achieved, and found no apparent error.

13.4 No Early Service Commencement

Notwithstanding any other provision of this Schedule, Project Co is not entitled to achieve Service Commencement or receive any Service Payments prior to the Target Service Commencement Date in effect as of the Effective Date, which for greater certainty is September 30, 2020. That date is not subject to change for any reason, including for the occurrence of any Supervening Event.

13.5 Correction of Deficiencies

Upon issuance of the Certificate of Service Commencement, Project Co will proceed expeditiously to correct each Deficiency by the date that is 30 days after the Service Commencement Date with respect to the Service Commencement Deficiencies, or such later date as may be reasonably required to provide sufficient time to correct the Deficiency and that is agreed by the Province, acting reasonably (each Deficiency having its own "**Deficiency Deadline**"). Each Deficiency which has not been fully corrected by its Deficiency Deadline will be deemed (without the requirement for any further action by the Province) to have generated a Demand Maintenance request on that day and thereafter the applicable provisions of this Agreement, including applicable Rectification Periods and Deductions, will apply to each such deemed request. Each Service Commencement Deficiency relating to operational readiness which has not been fully corrected by its Deficiency Deadline will be deemed to have generated a Service Failure in accordance with Appendix 4H [Performance Indicators]. Nothing in this Section 13 limits Project Co's responsibilities for correction of Defects that are identified after the preparation of the list of Service Commencement Deficiencies.