

## 1.0 **SCOPE AND TERMS & CONDITIONS PRECEDENCE**

- 1.1 Goods and/or services (“**Deliverables**”) ordered by BGIS Global Integrated Solutions Canada LP or any subsidiary or affiliate thereof including but not limited to BGIS Workplace Solutions Inc. and BGIS O&M Solutions Inc., on its own behalf or as agent for a third party (collectively, “**BGIS**”) in a purchase order or work order (“**Order**”) issued to you (“**Supplier**”) shall be timely furnished and invoiced in strict conformity with the Order (description, quantity, price, location, billing instructions, etc.), these terms and conditions, applicable law and applicable Policies (meaning policies of BGIS and/or its customer (“**Client**”) which may include policies relating to Supplier Code of Conduct, health and workplace safety which have been shared with Supplier in advance or otherwise made available on BGIS’s website at <https://www.bgis.com/ca/suppliers.htm> and, at all times, in a professional and competent manner by persons qualified and skilled in their occupations.
- 1.2 In accepting an Order from BGIS, Supplier will undertake the Order in accordance with:
  - (a) the valid, current and executed contract with BGIS for the work ordered (“**Current Agreement**”);
  - (b) where no Current Agreement is in place, these terms and conditions executed and filed with BGIS specific to the Client for which the Order is being undertaken (“**Supplier T&Cs**”); or
  - (c) where no Current Agreement and no Supplier T&Cs are applicable, the Terms & Conditions published at the following site: <https://www.bgis.com/ca/suppliers.htm>.

## 2.0 **DELIVERABLES**

- 2.1 Supplier shall supply all labour, supplies, equipment, and services required to produce the Deliverables under the Order including the provision of any and all labour, supplies, equipment and other goods or services that are necessary and can reasonably be understood or inferred to be included within the scope of such Deliverables. If any of the Deliverables, in the reasonable opinion of BGIS, are inadequately provided or require corrections, Supplier shall forthwith make the necessary corrections at its own expense.
- 2.2 Nothing in these Supplier T&Cs or any Order obligates BGIS to purchase any minimum level of Deliverables from Supplier. All Deliverables ordered shall be on a non-exclusive basis.

## 3.0 **CONFLICT OF INTEREST**

- 3.1 Supplier shall not engage in any activity or provide any services to BGIS where to do so would create a real conflict of interest or perceived conflict of interest with the provision of the Deliverables. Without limiting the generality of the foregoing, Supplier acknowledges and agrees that it shall be a conflict of interest to provide Deliverables if Supplier is related in law to another company that has bid on the Deliverables, or if Supplier uses confidential competitor or BGIS information to support the bid for the award of the Order, or if Supplier employees or subcontractors are related by family or business relationship to BGIS’s employees or Client’s employees where such relationship can be considered to impact the award of the Order or provision of the Deliverables.
- 3.2 Supplier shall promptly disclose to BGIS any actual or potential situation that may be

reasonably interpreted as either a real or perceived conflict of interest or a potential conflict of interest and shall comply with any terms and conditions subsequently prescribed by BGIS resulting from the disclosure. Disclosure to be made in writing to:

BGIS Global Integrated Solutions  
4175 14<sup>th</sup> Avenue  
Markham ON L3R 0J2  
Attention: SVP & General Counsel

- 3.3 Breach of these conflict of interest provision may result in termination of the Order by BGIS in addition to any other remedies that BGIS has in contract, or otherwise in law or in equity.

## **4.0 PRICE & PAYMENT**

- 4.1 Unless otherwise specified, all references to money amounts are to Canadian currency.
- 4.2 BGIS shall be charged the price for the Deliverables as provided in the Order issued by BGIS. For Orders that are anticipated to exceed a value of \$500, where the Order is issued to Supplier without BGIS accepting a corresponding quotation from Supplier, Supplier will obtain additional written instruction to proceed confirming scope and pricing from BGIS prior to proceeding with the Deliverables.
- 4.3 Unless otherwise specifically indicated in an Order, the price for the Deliverables shall be fixed for the Term of the Order and shall be exclusive of (i) exclusive of any goods and service tax and harmonized sales tax and (ii) inclusive of all applicable duties, provincial sales tax, shipping and freight costs, licensing costs and any other costs not specified in the Order.
- 4.4 If, in BGIS's judgment, any of the Deliverables do not conform with the requirements of these Supplier T&Cs or the Order, BGIS shall have the right to reject the Deliverables and, in addition to any other rights and remedies it may have, BGIS may, in its sole discretion: (a) withhold payment, seek reimbursement, credit, replacement, or repair as BGIS may direct; or (b) rework and/or repair the Deliverables with all costs associated therewith to be charged to and paid by Supplier.
- 4.5 Invoices shall be submitted to BGIS after Deliverables have been provided. Payment of Supplier's invoices shall be made by cheque or electronic transfer of funds within sixty (60) days following the date of receipt of a correct and valid invoice and will be paid in accordance with the payment instructions detailed on the invoice. Supplier shall not issue an invoice for any Deliverables which have not been accepted by BGIS. To be considered for payment, the invoice must follow all invoicing requirements provided by BGIS and set out in these Supplier T&Cs and at: <https://www.bgis.com/ca/suppliers.htm> which are hereby incorporated by reference and may be changed at any time by BGIS without notice to Supplier. Additionally, to be eligible for payment Supplier must have provided all qualification documentation to BGIS including evidence of insurance, health and safety policy, and applicable workers compensation board clearance certificates. BGIS shall be entitled to reject any incorrect or incomplete invoice or any invoice that is not submitted in accordance with the requirements in these Supplier T&Cs.
- 4.6 Supplier agrees that where Deliverables are ordered pursuant to a BGIS work order, the work order corresponding to Supplier invoice must have a status of complete in BGIS's work order system to be processed. Supplier must notify BGIS in accordance with the instructions stated on the work order that the work is complete for this status to be updated. Supplier agrees that invoices submitted without status of complete within BGIS's system

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will not be considered to be invoiced until such status is updated.

- 4.7 Notwithstanding any other term herein, BGIS shall have no obligation to pay any invoice which is not delivered correctly and completely by Supplier within six (6) months following the end of the month in which the Deliverables were provided.
- 4.8 BGIS shall be entitled to deduct, set-off or apply all or part of any payment obligations owing to Supplier by BGIS against any other sums recoverable from or payable by Supplier to BGIS or its affiliates.

## 5.0 **TERM & TERMINATION**

- 5.1 Unless otherwise specified, an Order shall become effective upon issuance and continue in force and effect until all obligations thereunder have been discharged in full and in strict accordance with its terms, subject to it being terminated in accordance with these Supplier T&Cs ("Term").
- 5.2 BGIS may terminate any Order, in whole or in part, at any time without cause immediately by providing written notice to Supplier. Upon termination, BGIS shall be liable solely for payment of Deliverables furnished to the date of termination.
- 5.3 BGIS may terminate any Order immediately by providing written notice to Supplier if (i) Supplier becomes insolvent or has a petition brought by or against it under the insolvency laws of any jurisdiction; (ii) Supplier makes an assignment for the benefit of its creditors; (iii) a receiver, trustee or similar agent is appointed with respect to any property or business of Supplier; or (iv) Supplier breaches the terms of these Supplier T&Cs or the relevant Order. In the event of a termination by BGIS in accordance with this Section, Supplier shall reimburse BGIS for all costs reasonably incurred by BGIS relating to the termination.
- 5.4 BGIS may, on notice to Supplier, suspend at any time and for any reason any part of Deliverables under an Order. If BGIS reasonably believes that the suspension will not exceed three business days, the notice may be given verbally.

## 6.0 **INSURANCE**

- 6.1 Supplier shall obtain, and maintain throughout the Term, the following insurance:
  - (a) **Commercial General Liability** Insurance with limits for bodily injury and property damage liability of not less than two million dollars (\$2,000,000) per occurrence, including personal injury, products/completed operations coverage, premises/operations liability, independent contractors liability and broad form contractual liability specifically in support of, but not limited to, the indemnity provisions set forth in these Supplier T&Cs. The foregoing policy shall: (i) include a waiver of subrogation in favour of BGIS and the Client; (ii) be endorsed to include BGIS and Client as additional insureds; and (iii) contain cross-liability and severability of interest coverage;
  - (b) **Automobile Liability** Insurance for all vehicles owned or operated by Supplier used in the provision of the Deliverables in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury or property damage;
  - (c) **Worker's Compensation** Insurance as required under applicable laws.
  - (d) If the Deliverables include professional, design or consulting services, **Errors and**

**Omissions Liability** Insurance in the amount of two million dollars (\$2,000,000) per occurrence covering all professional liability arising out of the provision of the Deliverables under any Orders.

- (e) If the Deliverables include the handling, storage, transport or disposal of Hazardous Substances (as defined herein), **Environmental Liability** Insurance in the amount of not less than two million dollars (\$2,000,000) per occurrence, insuring against bodily injury, property damage and environmental remediation expenses, arising out of the handling, storage, transport or disposal of Hazardous Substances.
- (f) If the Deliverables include the making of any “improvement” (as such term is defined in applicable construction legislation) in respect of land, **Construction/Builder’s Risk** Insurance against physical loss or damage to the Deliverables, materials, operating equipment and supplies incorporated therein, owned by Supplier or for which Supplier has responsibility, contractual or otherwise, against the perils of all risks of loss or damage in an amount of the replacement value thereof.
- (g) **Umbrella/Excess Liability** coverage may be used to supplement the required insurance limits set out in this Section.

6.2 The Supplier’s Commercial General Liability Insurance and Umbrella/Excess Liability Insurance policies must name BGIS Global Integrated Solutions Canada LP and Her Majesty the Queen in right of Canada as represented by the Minister of Public Works and Government Services as additional insureds.

6.3 All policies providing coverage shall specify that it is primary coverage and not contributory with or in excess of any other insurance that may be maintained by Supplier and contain provisions that no cancellation, non-renewal or material changes in the policy shall become effective, except on thirty (30) days’ prior written notice to BGIS. All policies shall include an extended reporting period that extends coverage to include claims reported after the completion of the Deliverables. The extended reporting period shall remain in effect for no less than twenty-four (24) months after the completion of the Deliverables. Upon request, Supplier shall furnish to BGIS a certificate of insurance evidencing the coverage required hereunder. Any lack of request by BGIS to seek a certificate of insurance shall not relieve Supplier of the obligation to maintain insurance coverage consistent with this Section. BGIS shall have the right, acting reasonably, to require higher limits or other types of insurance coverage(s) as necessary and appropriate under the circumstances.

6.4 Supplier shall comply with workers’ compensation legislation in effect from time to time at all locations where the Deliverables are furnished. Supplier shall provide evidence of compliance upon request.

## 7.0 **INDEMNITIES AND LIABILITY**

7.1 Supplier agrees to defend, indemnify and hold harmless BGIS and its respective officers, directors, employees, agents and subcontractors from and against any and all claims, actions, demands, complaints, legal proceedings, losses, liabilities, damages, judgments,

settlements, fines, penalties, administration fees, reasonable legal fees, adjusting fees and any other costs or expenses arising out of or in connection with any: (i) act, omission or breach of these Supplier T&Cs by Supplier (except to the extent caused by the negligence of BGIS); or (ii) third party claim against BGIS arising out of the provision of the Deliverables by Supplier.

- 7.2 If Supplier fails to timely perform or observe any of the terms of these Supplier T&Cs or any Order, BGIS may, without notice to or demand upon Supplier, perform or otherwise cause compliance with the subject term. BGIS's taking such action shall not be considered a cure of the subject failure by Supplier. BGIS may take such action without releasing Supplier from any obligations hereunder and without waiving or releasing any right or remedy of Supplier under these Supplier T&Cs, at law or in equity with respect to the subject failure by Supplier. Supplier shall pay to BGIS, upon demand, all costs incurred by BGIS in connection with the remedying by BGIS of defaults by Supplier under any Order and all other amounts paid and obligations incurred by BGIS in connection with any default by Supplier under these Supplier T&Cs or any Order, and in collecting or attempting to collect the amounts payable by Supplier to BGIS or in enforcing or attempting to enforce any rights of BGIS under these Supplier T&Cs.
- 7.3 Notwithstanding any other term in these Supplier T&Cs, in no event will BGIS be liability to Supplier for any special, consequential, indirect, incidental or punitive damages or lost profits or failure to realize expected savings or other commercial or economic loss of any kind, however caused and on any theory of liability, arising in any way out of any Order or these Supplier T&Cs, whether or not BGIS has been advised of the possibility of such damages.

## **8.0 ASSIGNMENT, SUBCONTRACTING AND CHANGE IN CONTROL**

- 8.1 Supplier shall not assign any Order or these Supplier T&Cs without the prior written consent of BGIS, which consent may be withheld at BGIS's sole discretion. BGIS may, upon written notice to Supplier, assign its interest and obligations in an Order to the Client for which the work is being performed or any other party designated by the Client.
- 8.2 Supplier will promptly notify BGIS of any anticipated change in the shareholdings of Supplier which would result in a change in the control of Supplier. In the event of any change in control not receiving the prior written approval of BGIS, which approval BGIS may withhold in its sole and arbitrary discretion, BGIS may immediately terminate any Orders on notice to Supplier without incurring any liability to Supplier whatsoever.
- 8.3 Supplier shall not subcontract all or any part of the provision of any Order to any third party unless it obtains the prior written consent of BGIS, which BGIS may withhold at its sole discretion.
- 8.4 If Supplier subcontracts or delegates any of its obligations in an Order to a third party, Supplier shall remain fully responsible for complete performance of all of Supplier's obligations set forth in the Order and for any such third party's compliance with the provisions set forth therein.

## **9.0 RECORDS**

- 9.1 Supplier shall maintain complete and accurate books, records, accounts and invoices in relation to the Deliverables and Orders. BGIS and Client shall have the right at all reasonable times to examine such documentation to ensure compliance by Supplier with



its obligations under any Order and these Supplier T&Cs. All books, records, accounts and invoices in relation to the Deliverables under an Order or as may be applicable shall be retained for a period of seven years. If an audit shows that Supplier has overcharged BGIS, Supplier shall promptly pay to BGIS an amount equal to the overcharge plus interest at the lesser of eighteen percent (18%) per annum or the highest rate permitted by applicable laws. This remedy is without prejudice to any additional remedy available to BGIS at law or in equity.

## 10.0 **HEALTH, SAFETY, SECURITY & SUSTAINABILITY**

- 10.1 Supplier acknowledges reading, reviewing and informing its staff of BGIS's Health & Safety Policy and agreeing to abide by all applicable legislated and mandated health & safety requirements. Supplier agrees to provide all required health and safety training, at its own cost, for its staff as related to providing the Deliverables in accordance with these Supplier T&Cs and applicable laws.
- 10.2 Supplier's employees, agents and contractors engaged in the provision of Deliverables shall not be impaired from the use of alcohol, drugs (including cannabis and cannabis-related products) or the negative effects of medications or any other substance that could cause impairment, while providing Deliverables to BGIS, while present at the service sites or while attending any BGIS or Client events. For clarity, BGIS may terminate any Order in accordance with Section 5.3 in the event of a breach of this Section.
- 10.3 Supplier will use only environmentally friendly products, if available. Supplier will remove all waste materials from service site and dispose of in an environmentally friendly manner, including reuse and recycling. Supplier will abide by all LEED requirements if service site is LEED certified.
- 10.4 Supplier shall not bring, install, keep, maintain or use in or on the service site, or cause, authorize or permit any person to bring, install, keep, maintain or use any substances, materials, equipment or apparatus which is likely to cause or in fact causes: (i) damage to the site; (ii) dust, noise or vibration or any other nuisance to the owners or occupiers of any property adjoining or near the site; (iii) the generation, accumulation or migration of any Hazardous Substances in an unlawful manner whether within or outside the site; or (iv) interference with or an adverse effect on the health or wellbeing of the occupants or visitors to the site.
- 10.5 Supplier shall ensure that all hazardous materials and equipment (including any Hazardous Substances) used or stored on any of the Locations shall be kept in accordance with all applicable laws, good industry practices and properly and securely labelled and stored under appropriate supervision and used only by the appropriately trained and competent staff and shall prevent the unlawful generation, accumulation, discharge, emission or migration of any Hazardous Substances whether at or from the site.
- 10.6 **"Hazardous Substances"** means any solid, liquid, gas, odour, heat, sound, vibration, radiation or any combination of them that may impair the natural environment, injure or damage property or plant or animal life or harm or impair the health of any individual and includes any contaminant, fuel, asbestos, legionella, waste, substance or material defined by applicable laws as hazardous, toxic or dangerous or any other substance or material prohibited, regulated or reportable pursuant to any applicable laws.

## 11.0 **ANTI-BRIBERY**

## 11.1 Supplier warrants and undertakes to BGIS that:

- (a) it has not offered, promised, given or agreed to give and shall not, offer, promise, give or agree to give to any person any bribe on behalf of BGIS or otherwise with the object of obtaining a business advantage for BGIS or otherwise;
- (b) it will not engage in any activity or practice which would constitute an offence under any applicable anti-bribery laws, including but not limited to the United States' Foreign Corrupt Practices Act of 1977, the United Kingdom's Bribery Act 2010 and Canada's Corruption of Foreign Public Officials Act;
- (c) it has and will maintain in place its own policies and procedures to ensure compliance with any applicable anti-bribery laws;
- (d) it will procure that any person who performs or has performed services for on its behalf ("**Associated Persons**") in connection with any Order complies with this Section;
- (e) it will not enter into any agreement with any Associated Person in connection with any Order, unless such agreement contains undertakings on the same terms as contained in this Section;
- (f) it has and will maintain in place effective accounting procedures and internal controls necessary to record all expenditure in connection with the Orders;
- (g) from time to time, at the reasonable request of BGIS, it will confirm in writing that it has complied with its undertakings under this Section and will provide any information reasonably requested by BGIS in support of such compliance;
- (h) report to BGIS as soon as practicable any request or demand for any improper payments or other improper advantage of any kind received by Supplier from BGIS or any other person in connection with the performance of any Order; and
- (i) it shall notify BGIS as soon as practicable of any breach of any of the undertakings contained in this Section of which it becomes aware.

## 12.0 **LAW AND ARBITRATION**

12.1 These Supplier T&Cs shall be interpreted in accordance with and governed by the laws of Ontario and all laws of Canada applicable therein and all disputes among the parties shall be submitted to the courts of the Province of Ontario.

## 13.0 **FORCE MAJEURE**

13.1 "**Force Majeure**" means any event that occurs owing to causes beyond the control of the party claiming force majeure that is unforeseeable and unavoidable and not due to the financial inability of a party to perform its obligations under these Supplier T&Cs and that occurs without fault or negligence of the party claiming Force Majeure.

13.2 A failure of Supplier to perform its obligations under these Supplier T&Cs caused by Supplier's subcontractors shall only be considered as Force Majeure if the criteria stated in the Section above are all met in respect of such subcontractor and BGIS accepts such event as Force Majeure under these Supplier T&Cs.

## 14.0 **NOTICES**

- 14.1 Unless otherwise agreed in writing, all documentation, contacts, or notices shall be made strictly through BGIS's Sourcing Department and addressed to:

BGIS Global Integrated Solutions  
 4175 14th Avenue  
 Markham ON L3R 0J2  
 Attention: Procurement Manager  
 E-mail: [procurement@bgis.com](mailto:procurement@bgis.com)

## 15.0 **WARRANTIES**

- 15.1 Supplier warrants and undertakes that all the Deliverables shall conform fully to the requirements hereunder. Supplier expressly warrants and agrees that it and its subcontractors and agents shall provide or perform all or part of the Deliverables hereunder in a professional manner with quality and workmanship to the reasonable satisfaction of BGIS exercised in good faith, and that Supplier will provide highly skilled and competent employees, subcontractors and agents in the provision or performance of the Deliverables. Supplier further warrants that the Deliverables have been provided in compliance with all applicable laws and regulations and in accordance with the terms and conditions of any permits or licences required to be obtained in connection with the furnishing of the Deliverables and that the Deliverables shall, for a period of not less than three (3) months, comply with any functional, performance, operational, and other specifications or characteristics that are related to such which are: (i) provided to Supplier in an Order; (ii) recognized in the field as an applicable standard for such Deliverables; or, (iii) mandated by applicable law. Supplier agrees to furnish again at its cost and expense any Deliverables not in strict compliance with the foregoing warranty.
- 15.2 Materials forming part or all of the Deliverables will: (i) be free and clear of all liens and encumbrances, and BGIS and Clients will be entitled to use the materials without disturbance; (ii) be new, like new or warranted as new and free from defect in manufacture, materials and design for a period of not less than one (1) year or, if applicable, such time as specified in the manufacturer's warranty; (iii) operate and/or function properly under ordinary use and in conformance with applicable specifications; and (iv) meet or exceed applicable equipment operation specifications for industry standards.

## 16.0 **CONFIDENTIALITY**

- 16.1 Supplier agree to protect and keep confidential all data and information disclosed by BGIS in relation to these Supplier T&Cs or any Order.
- 16.2 Supplier acknowledges that a breach or threatened breach by Supplier of any of the provisions in this Section would cause BGIS irreparable harm not compensable in damages alone. Supplier further acknowledges that it is essential to the effective enforcement of this Section that, in addition to any other remedies to which BGIS may be entitled, BGIS be entitled to seek and obtain interim, interlocutory and permanent injunctive relief without showing irreparable harm, specific performance and other equitable remedies.

## 17.0 **INDEPENDENT CONTRACTOR**

- 17.1 Supplier is providing Deliverables pursuant to the Order strictly as an independent contractor and Supplier and its employees shall not be deemed employees or agents of



BGIS. None of the terms of these Supplier T&Cs or any Order shall be deemed to create a partnership, joint venture, agency, employment, trust or other relationship between BGIS and Supplier or any of their respective employees. Supplier shall not take or omit to take any action that may create any inference that Supplier is an agent of BGIS, nor shall Supplier have any authority to create any obligation, express or implied, in the name or on behalf of BGIS.

- 17.2 Notwithstanding any other term herein, in the event the relationship between Supplier or any of its personnel and BGIS is construed as an employer/employee relationship, Supplier hereby releases and discharges BGIS from all actions, claims and demands which Supplier may have against BGIS arising out of or in any way connected with the provision of Deliverables hereunder. Further, Supplier agrees to indemnify and save BGIS harmless from and against all actions, claims, demands, costs, charges and expenses BGIS may incur as a result of any acts or omissions caused by Supplier or the determination by a third party of an employee/employer relationship between the parties. Supplier also agrees to indemnify and save BGIS harmless from and against any claims, charges, taxes, penalties, interest, premiums or demands that may be made, levied or charged to or against Supplier by any lawful authority having jurisdiction in matters relating to income tax, employment, unemployment or employment insurance, pensions, health insurance, workers compensation, or similar obligations, in respect of any of Supplier's activities.

## 18.0 **NO PUBLICITY**

- 18.1 Supplier, and its subcontractors, shall not make any public announcements, media release, or public disclosures (including in any promotional or marketing materials) relating to these Supplier T&Cs, any Order, BGIS, or any Client, including the use of any name, trade name, trademark, or logo of BGIS or any Client, without BGIS's prior written consent.

## 19.0 **ENTIRE AGREEMENT**

- 19.1 These Supplier T&Cs and the applicable Order(s) shall be the entire agreement between the parties with respect to the Deliverables referred to in the Order(s).
- 19.2 The schedules identified below are incorporated herein and made a part hereof by reference. Any references to these Supplier T&Cs shall include these attachments. Supplier acknowledges that it has received a copy of these Supplier T&Cs and the schedules, has read and understands all of their terms and conditions, and further acknowledges and agrees that these Supplier T&Cs incorporates and includes the terms and conditions set forth in the schedules, and agrees to be bound by them.
- 19.3 In the event that a Client requires Supplier to comply with any other terms and conditions related to the provision of the Deliverables, such terms and conditions shall be provided to Supplier in a separate schedule and shall form a part of these Supplier T&Cs ("**Client Terms**"). In the event of a conflict or inconsistency between the Client Terms and these Supplier T&Cs or any Order, more stringent Terms shall prevail.
- 19.4 BGIS objects to and rejects any other terms and conditions that may be proposed by Supplier or that appear on or are referenced in Supplier's quotation, bid, acknowledgement or other documents of Supplier that are in addition to or otherwise not consistent with these Supplier T&Cs.

## 20.0 **WORK ORDER MANAGEMENT SYSTEMS**

- 20.1 **RealSuite:** Supplier agrees that upon request, they shall use BGIS's work order management systems (including RealSuite, RealMobile, ClearSite, arrival assurance, and any other systems requested by BGIS in writing) for all Orders. BGIS's policies, guidelines and procedures relating to its work order management system have been provided to Supplier and/or are set out at <https://www.bgis.com/ca/suppliers.htm> , and which may be changed from time to time by BGIS.

## 21.0 **COMPLIANCE MONITORING**

- 21.1 Supplier will subscribe for and pay the related fees therefor for a third-party compliance service designated by BGIS from time to time to monitor Supplier's set-up and compliance obligations in connection with the Deliverables, failing which, BGIS may terminate any Order on written notice and such remedy shall be in addition to any other remedies that BGIS has in contract, law, or equity. The subscription cost shall be for Supplier's account and shall not be charged to BGIS as a disbursement, pass through, or other recoverable cost.

## 22.0 **LANGUAGE**

- 22.1 The parties hereto agree that these Supplier T&Cs, and all correspondence and all documentation relating to these Supplier T&Cs, shall be written in the English language. *Les parties aux présentes ont exigé que la présente entente, de même que toute la correspondance et la documentation relative à cette entente, soient rédigées en langue anglaise.*

## 23.0 **APPLICABLE TO PERFORMING WORK IN CONNECTION WITH PUBLIC WORKS AND GOVERNMENT SERVICES**

Note: Canada requires inclusion of the following provisions. BGIS has no authority to revise or delete any provision in this Schedule, even if such provision is not applicable to the Work.

- 23.1 **Definitions:** For purposes of this Schedule:

- a) **"Agreement"** shall mean the "Agreement" or "Contract" (as applicable);
- b) **"BGIS"** shall mean the "Owner" or "Purchaser" (as applicable);
- c) **"Canada"** shall mean Canada represented by the Minister of Public Works and Government Services;
- d) **"Supplier"** shall mean the "Contractor" or "Supplier" (as applicable); and
- e) **"Work"** shall mean the "Deliverables", "Services" or "Work" (as applicable).

- 23.2 **Security Requirements:** The Supplier shall at all times comply with the security requirements set out in Schedule F-1 attached hereto. The Supplier must comply and ensure that its employees and subcontractors comply with all security measures, standing orders, policies, or other rules in force at the site where the Work is performed.

- 23.3 **Subcontracting:** The Supplier must obtain BGIS's prior written consent before subcontracting or permitting the subcontracting of any part of the Work. Even if BGIS consents to any subcontract, the Supplier is responsible for its obligations under the

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Agreement and BGIS is not responsible to any subcontractor of the Supplier. The Supplier is responsible for any matters or things done or provided by any of its subcontractors under the Agreement and for paying any of its subcontractors for any part of the Work they perform. In the event of any subcontracting, the Supplier must ensure that the subcontractor is bound by conditions compatible with and not less favorable to Canada than the conditions of this Agreement.

**23.4 Protection of Work and Property:** The Supplier shall protect the Work, Canada's property, and property adjacent to the Work from damage that may arise and shall be responsible for any loss or damage to the Work or any part of the Work until it is delivered to Canada. Even after delivery, the Supplier remains responsible for any loss or damage to any part of the Work caused by the Supplier or any of its subcontractors.

**23.5 Accounts and Audit:**

- a) The Supplier shall keep proper accounts and records of the cost of performing the Work and of all expenditures or commitments made by the Supplier in connection with the Work, including all invoices, receipts and vouchers. The Supplier must retain records, including bills of lading and other evidence of transportation or delivery, for all deliveries made under the Agreement.
- b) If the Agreement includes payment for time spent by the Supplier, its employees, representatives, agents, or subcontractors performing the Work, the Supplier must keep a record of the actual time spent each day by each individual performing any part of the Work.
- c) Unless BGIS has consented in writing to its disposal, the Supplier must retain all the information described in this Section 6 for six (6) years after it receives the final payment under the Agreement, or until the settlement of all outstanding claims and disputes, whichever is later. During this time, the Supplier must make this information available for audit, inspection, and examination by the representatives of Canada and BGIS, who may make copies and take extracts. The Supplier must provide all reasonably related facilities for any audit and inspection and must furnish all the information as the representatives of Canada and BGIS may from time to time require to perform a complete audit of the Agreement.

**23.6 Confidential Information:**

- a) The Supplier must keep confidential all information provided to the Supplier by or on behalf of Canada or BGIS in connection with the Work, including any information that is confidential or proprietary to third parties, and all information conceived, developed or produced by the Supplier as part of the Work when copyright or any other intellectual property rights in such information belongs to Canada or BGIS under the Agreement. The Supplier must not disclose any such information without the written permission of BGIS. The Supplier may disclose to a subcontractor any information necessary to perform the subcontract as long as the subcontractor agrees to keep the information confidential and that it will be used only to perform the subcontract.

- b) The Supplier agrees to use any information provided to the Supplier by or on behalf of Canada or BGIS only for the purpose of the Agreement. The Supplier acknowledges that all this information remains the property of Canada, BGIS, or the third party, as the case may be. Unless provided otherwise in the Agreement, the Supplier must deliver to BGIS all such information, together with every copy, draft, working paper, and note that contains such information, upon completion or termination of the Agreement or at such earlier time as Canada and BGIS may require.
- c) The obligations of the Supplier set out in this Section 7 do not apply to any information if the information:
  - i. is publicly available from a source other than Canada or BGIS;
  - ii. is or becomes known to the Supplier from a source other than Canada or BGIS; or
  - iii. is developed by the Supplier independently without use of the information of Canada or BGIS.
- d) Wherever possible, the Supplier must mark or identify any proprietary information delivered to Canada or BGIS under the Agreement as "Property of [Supplier's name], permitted Government uses defined under Public Works and Government Services (PWGSC) Contract No. [fill in Contract Number]." Neither Canada nor BGIS will not be liable for any unauthorized use or disclosure of information that could have been so marked or identified and was not.
- e) If the Agreement, the Work or any information referred to in this Section 7 is identified as TOP SECRET, SECRET, CONFIDENTIAL or PROTECTED by Canada or BGIS, the Supplier must at all times take all measures reasonably necessary for the safeguarding of the material so identified, including those set out in the "PWGSC Industrial Security Manual" and its supplements and any other instructions issued by BGIS and Canada.
- f) If the Agreement, the Work, or any information referred to in this Section 7 is identified as TOP SECRET, SECRET, CONFIDENTIAL or PROTECTED, by Canada or BGIS, representatives of BGIS and Canada are entitled to inspect the Supplier's premises and the premises of any subcontractor of the Supplier at any tier for security purposes at any time during the term of the Agreement. The Supplier must comply with, and ensure that any subcontractor complies with, all written instructions issued by BGIS and Canada dealing with the material so identified, including any requirement that employees of the Supplier or of any of its subcontractors execute and deliver declarations relating to reliability screenings, security clearances and other procedures.

## 23.7 Indemnification:

- a) The Supplier must indemnify and save Canada and BGIS harmless from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by Canada and BGIS or in respect of claims by any third party, brought or prosecuted and in any manner based upon, arising out of, related to, occasioned by, or attributable to the activities

of the Supplier in performing the Work, provided such claims are caused by the negligent or deliberate acts or omissions of the Supplier, or those for whom it is responsible at law.

- b) The Supplier must pay all royalties and patent fees required for the performance of the Agreement and, at the Supplier's expense, must defend all claims, actions or proceedings against Canada and BGIS charging or claiming that the Work or any part thereof provided or furnished by the Supplier to Canada or BGIS infringes any patent, industrial design, copyright trademark, trade secret, or other proprietary right enforceable in the Country of Canada.

### 23.8 Licences to Intellectual Property:

- a) For purposes of this Section 23.8:
  - i. **"Background Information"** means all Intellectual Property that is not Foreground Information that is incorporated into the Work or necessary for the performance of the Work and that is proprietary to or the confidential information of the Supplier, its subcontractors or any other third party.
  - ii. **"Foreground Information"** means all Intellectual Property first conceived, developed, produced or reduced to practice as part of the Work under the Agreement;
  - iii. **"Intellectual Property"** means any information or knowledge of an industrial, scientific, technical, commercial, literary, dramatic, artistic or otherwise creative nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to copyright; this includes but is not limited to any inventions, designs, methods, processes, techniques, know-how, show-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, manuals and any other documents, Software, and Firmware;
  - iv. **"Intellectual Property Right"** means any intellectual property right recognized by law, including any intellectual property right protected by legislation such as patents, copyright, industrial design, integrated circuit topography, and plant breeders' rights, or subject to protection under the law as trade secrets and confidential information.
  - v. **"Software"** means any computer program whether in source or object code, any computer program documentation recorded in any form or upon any medium, and any computer database, including any modification.
- b) The Supplier agrees to grant to BGIS and Canada a licence to exercise all Intellectual Property Rights in the Foreground Information for BGIS's and Canada's activities. Subject to any exception described in the Agreement, this licence allows BGIS and Canada to do anything that it would be able to do if it were the owner of the Foreground Information, other than exploit it commercially and transfer or assign ownership of it. The Supplier also agrees to grant to BGIS and Canada a licence to use the Background Information to the extent that it is reasonably necessary for BGIS or Canada to exercise fully all its rights in the Work and in the



## Foreground Information.

- c) These licences are non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free. Neither licence can be restricted in any way by the Supplier providing any form of notice to the contrary, including the wording on any shrink-wrap or click-wrap licence or any other kind of packaging, attached to any deliverable.
- d) For greater certainty, BGIS's and Canada's licences include, but are not limited to:
  - i. the right to disclose the Foreground Information and Background Information to third parties bidding on or negotiating contracts with BGIS and to sublicense or otherwise authorize the use of that information by any contractor engaged by BGIS solely for the purpose of carrying out such contracts. BGIS will require these third parties and contractors not to use or disclose that information except as may be necessary to bid on, negotiate or carry out those contracts;
  - ii. the right to disclose the Foreground Information and Background Information to other governments for information purposes;
  - iii. the right to reproduce, modify, improve, develop or translate the Foreground Information and Background Information or have it done by a person hired by Canada. Canada, or a person designated by Canada, will own the Intellectual Property Rights associated with the reproduction, modification, improvement, development or translation;
  - iv. without restricting the scope of any license or other right in the Background Information that Canada may otherwise hold, the right, in relation to any custom-designed or custom-manufactured part of the Work, to exercise such of the Intellectual Property Rights in the Background Information as may be required for the following purposes:
    - 1. for the use, operation, maintenance, repair or overhaul of the custom designed or custom-manufactured parts of the Work;
    - 2. in the manufacturing of spare parts for maintenance, repair or overhaul of any custom-designed or custom-manufactured part of the Work by Canada, if those parts are not available on reasonable commercial terms to enable timely maintenance, repair or overhaul; or
  - v. for Software that is custom designed for Canada, the right to use any source code the Supplier must deliver to Canada under the Agreement.
- e) The Supplier agrees to make the Background Information, including in the case of Software, the source code promptly available to BGIS and Canada for any purpose mentioned above. The licence does not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Agreement.

- f) If requested by BGIS, the Supplier must provide a written permanent waiver of moral rights, as defined in the Copyright Act, R.S., 1985, c. C-42, from every author that contributes to any Foreground Information subject to copyright protection that is a deliverable to Canada. If the Supplier is an author of the Foreground Information, the Supplier permanently waives the Supplier's moral rights in that Foreground Information.

## 23.9 Anti-Bribery and Corruption:

- a) The Supplier hereby represents, warrants and declares that no bribe, gift, benefit or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of BGIS, Canada or to a member of the family of such a person, with a view to influencing the entry into the Agreement or the administration of the Agreement.
- b) The Supplier must not influence, seek to influence or otherwise take part in a decision of BGIS or Canada knowing that the decision might further its private interest. The Supplier must have no financial interest in the business of a third party that causes or would appear to cause a conflict of interest in connection with the performance of its obligations under the Agreement. If such a financial interest is acquired during the period of the Agreement, the Supplier must immediately declare it to BGIS.
- c) The Supplier warrants that, to the best of its knowledge after making diligent inquiry, no conflict exists or is likely to arise in the performance of the Agreement. In the event the Supplier becomes aware of any matter that causes or is likely to cause a conflict of interest in relation to the Supplier's performance under the Agreement, the Supplier must immediately disclose such matter to BGIS in writing.
- d) If BGIS is of the opinion that a conflict of interest exists as a result of the Supplier's disclosure or as a result of any other information brought to BGIS's attention, BGIS may require the Supplier to take steps to resolve or otherwise deal with the conflict of interest or, at its entire discretion, terminate the Agreement for default. Conflict means any matter, circumstance, interest or activity affecting the Supplier, its personnel or subcontractors, which may or may appear to impair the ability of the Supplier to perform the Work diligently and independently.
- e) The Supplier certifies that it has not directly or indirectly, paid or agreed to pay and agrees that it will not, directly or indirectly, pay a contingency fee for the solicitation, negotiation or obtaining of the Agreement to any person, other than an employee of the Supplier acting in the normal course of the employee's duties. In this section, "contingency fee" means any payment or other compensation that depends or is calculated based on a degree of success in soliciting, negotiating or obtaining the Agreement.

## 23.10 Integrity Provisions:

- a) The Supplier represents, warrants and certifies that it:
  - i. has reviewed and familiarized itself with Canada's Ineligibility and Suspension Policy, available at: <http://www.tpsgc-pwgsc.gc.ca/ci->

- if/politique-policy-eng.html (the “Integrity Policy”);
      - ii. is not an ineligible or suspended supplier under the Integrity Policy; and
      - iii. is not aware of any charge, conviction or other circumstance relevant to the Integrity Policy in respect of itself or its affiliates.
    - b) During performance of the Agreement, the Supplier shall inform BGIS in writing, within five working days, of any charge, conviction or other circumstances relevant to the Integrity Policy in respect of itself or its affiliates.
    - c) The Supplier agrees that BGIS may terminate the Agreement for cause effectively immediately in the event that the Supplier or any of its affiliates is either (i) deemed an ineligible or suspended supplier under the Integrity Policy; or (ii) convicted of any of the following offences:
      - i. paragraph 80(1)(d) (False entry, certificate or return), subsection 80(2) (Fraud against Her Majesty) or section 154.01 (Fraud against Her Majesty) of the Financial Administration Act;
      - ii. section 121 (Frauds on the government and Contractor subscribing to election fund), section 124 (Selling or Purchasing Office), section 380 (Fraud) for fraud committed against Her Majesty or section 418 (Selling defective stores to Her Majesty) of the Criminal Code of the Country of Canada;
      - iii. section 462.31 (Laundering proceeds of crime) or sections 467.11 to 467.13 (Participation in activities of criminal organization) of the Criminal Code of the Country of Canada;
      - iv. section 45 (Conspiracies, agreements or arrangements between competitors), 46 (Foreign directives) 47 (Bid rigging), 49 (Agreements or arrangements of federal financial institutions), 52 (False or misleading representation), 53 (Deceptive notice of winning a prize) under the Competition Act;
      - v. section 239 (False or deceptive statements) of the Income Tax Act;
      - vi. section 327 (False or deceptive statements) of the Excise Tax Act;
      - vii. section 3 (Bribing a foreign public official) of the Corruption of Foreign Public Officials Act; or
      - viii. section 5 (Trafficking in substance), section 6 (Importing and exporting), or section 7 (Production of substance) of the Controlled Drugs and Substance Act.
- 23.11 **Assignment:** BGIS may assign or transfer the Agreement, or any part of the Agreement, to Canada without the prior written consent of the Supplier.
- 23.12 **Advertising:** The Supplier will obtain BGIS's prior written approval for any public advertising, written public sales promotions, press release or other general publicity matter, in which the name or trademarks of BGIS or Canada are mentioned or used or in which words are used from which any connection with BGIS, Canada or its trademarks may be inferred. The Supplier will not allow or permit any public ceremony in connection with the Work without the prior written permission of BGIS. The Supplier will not erect or

permit the erection of any sign or advertising without the prior written approval of BGIS.

- 23.13 **Right of Set-Off:** Without restricting any right of set-off given by law, BGIS may set-off against any amount payable to the Supplier under the Agreement, any amount payable to BGIS by the Supplier under the Agreement or under any other current contract. BGIS may, when making a payment pursuant to the Agreement, deduct from the amount payable to the Supplier any such amount payable to BGIS by the Supplier which, by virtue of the right of set-off, may be retained by BGIS.

## **24.0 ACKNOWLEDGEMENT**

- 24.1 By signing below, Supplier agrees that if and when it supplies Deliverables to or on behalf of BGIS pursuant to an Order, such transaction(s) shall at all times be subject to these Supplier T&Cs.

Name:

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Signature:

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I/We have authority to bind the Supplier

Title:

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Company:

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Date:

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## SCHEDULE F-1 SECURITY REQUIREMENTS

### General

Subcontracts which contain security requirements will not be awarded without an SRCL that has been approved and signed by the Contract Security Program (CSP). PWGSC confirming that the contractor has a valid organizational clearance of either a Designated Organization Screening (DOS) or a Facility Security Clearance (FSC). If any contractor is required to work on protected and/or classified information at their own workplace, they must have a Document Safeguarding Capability (DSC) and the appropriate level of personnel security clearance. If any contractor is required to electronically process, produce or store information or data at the protected and/or classified level on their IT systems, they must have an approved IT media clearance and the appropriate level of personnel security clearance. Both the Document Safeguarding Capability and IT Media requirements, must also be approved by the CSP, through the SRCL process prior to any work being started where this requirement is needed.

### SECURITY REQUIREMENT FOR CANADIAN SUPPLIER (RELIABILITY):

#### Subcontract File#

#### Prime#

1. The Contractor/Offeror must, at all times during the performance of the Contract/Standing Offer, hold a valid Designated Organization Screening (DOS), issued by the Contract Security Program (CSP), Public Works and Government Services Canada (PWGSC).
2. The Contractor/Offeror personnel requiring access to sensitive work site(s) must EACH hold a valid RELIABILITY STATUS, granted or approved by CSP/PWGSC.
3. Subcontracts which contain security requirements are NOT to be awarded without the prior written permission of CSP/PWGSC.
4. The Contractor/Offeror must comply with the provisions of the:
  - a) Security Requirements Check List and security guide (if applicable), attached at Annex \_\_\_\_;
  - b) Contract Security Manual (Latest Edition).

### SECURITY REQUIREMENT FOR CANADIAN SUPPLIER (SECRET):

#### Subcontract File#

#### Prime#

1. The Contractor/Offeror must, at all times during the performance of the Contract/Standing Offer, hold a valid Facility Security Clearance at the level of SECRET, issued by the Contract Security Program (CSP), Public Works and Government Services (PWGSC).



2. The Contractor/Offeror personnel requiring access to sensitive site(s) must EACH hold a valid personnel security screening at the level of SECRET, granted or approved by the CSP, PWGSC.
3. Subcontracts which contain security requirements are NOT to be awarded without the prior written permission of the CSP, PWGSC.
4. The Contractor/Offeror must comply with the provisions of the:
  - a) Security Requirements Check List and security guide (if applicable), attached at Annex \_\_\_\_.
  - b) *Contract Security Manual* (Latest Edition).