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GEORGINA

THE CORPORATION OF THE TOWN OF GEORGINA STANDARD TERMS AND CONDITIONS

Table of Contents

1.	Bid Submission Method	4
2.	English Language.....	4
3.	Duplicate Vendor Account Bid Submissions	4
4.	Procurement Policy	4
5.	Respondent’s Statement of Understanding	4
6.	Respondents to Bear Their Own Costs.....	5
7.	Enquiries	5
8.	Respondent Teams (Joint Ventures) (if applicable)	5
9.	Blackout Period	6
10.	Lobbying Prohibited.....	6
11.	Litigation, Probation & Suspension	7
12.	Gifts and Donations	7
13.	Errors and Omissions	7
14.	Examination of the Place of the Work	8
15.	Estimated Quantities	8
16.	Contract Rates	9
17.	Taxes	9
18.	Provisional Items	9
19.	Subcontractors and Subconsultants	10
20.	Delivery Schedule.....	11
21.	Completion Date.....	11
22.	Conflict of Interest.....	12
23.	Limitation of Future Contracting.....	12
24.	Acceptance Period	13
25.	Unofficial Bid Submission Results	13
26.	Checking of Bids	13
27.	Unbalanced Bid Submission.....	14
28.	Misleading or False Information.....	15
29.	Inspection and Testing	15
30.	No Substitutions	15
31.	F.O.B. Destination	15
32.	Non-Resident Contractor.....	16
33.	Non-Resident Subcontractor or Subconsultant	16
34.	Rights of the Town.....	16
35.	Negotiations	17
36.	Capability of Respondent.....	18
37.	Availability of Funds.....	18
38.	Contract Award.....	19
39.	Governing Law	19
40.	Town Representative.....	19
41.	Commencement of Work	20
42.	Purchase Order	20
43.	Non-Exclusive	20
44.	Contract Extension (Optional Years)	20
45.	Workplace Safety and Insurance Board.....	20
46.	Criminal Record Check.....	21
47.	Emergency Telephone Number	22
48.	Non-Assignment.....	22
49.	Contract Alterations and Amendments	22
50.	Bid Submission Debrief	23

51.	Laws and Regulations	23
52.	The Personal Property Security Act	24
53.	No Lemon Policy	24
54.	Over Shipments of Goods	24
55.	Safety Data Sheets (formerly Material Safety Data Sheets).....	24
56.	Damage Claims.....	24
57.	Clean Up	25
58.	Packaging and Disposal	25
59.	Identification and Uniform	25
60.	Meetings.....	26
61.	Training	26
62.	Performance.....	26
63.	Warranty/Fit for Intended Use.....	26
64.	Warranty for Performance	27
65.	Health and Safety Policy.....	28
66.	The Occupational Health and Safety Act	28
67.	Accessibility.....	30
68.	Invoicing	31
69.	Payments	32
70.	Set Off.....	33
71.	Payment of Workers	33
72.	Right to Audit and Retention of Records.....	33
73.	Volume Reporting.....	33
74.	Prohibited Behaviours	34
75.	Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)	35
76.	Confidentiality.....	35
77.	Information and Delivery of Materials.....	37
78.	Intellectual Property.....	38
79.	Publicity.....	39
80.	Limit on Liability.....	39
81.	Duty to Disclose Change of Control.....	39
82.	Termination of Contract	40
83.	Transition Services.....	42
84.	Indemnification	42
85.	Non-Waiver	43
86.	Force Majeure	43
87.	Severability.....	43
88.	Entire Agreement	43
89.	Survival of Clauses.....	44

The Standard Terms and Conditions contained herein are applicable to all Corporation of the Town of Georgina (*Town*) *bid solicitations* and will apply to, and form part of the *Town's bid call documents* and apply in like force to any resultant *contracts* or *purchase orders* for the *acquisition of deliverables*. By offering a *bid submission* in response to a *bid solicitation*, *respondents* must accept the standard terms and conditions as written. Italicized words are defined in the Definitions document. In the event that a word is not italicized but is defined, it will have the same meaning as though it was italicized.

1. Bid Submission Method

1. When *bid solicitations* are identified as ELECTRONIC *BID SUBMISSIONS ONLY*, *respondents* must offer their *bid submission* electronically through the *Town's* bidding system.

2. English Language

1. All *bid submissions* must be offered in the English language only;
2. The *contractor* and their personnel must be able to communicate effectively in the English language; and
3. For *construction* projects, all site supervisors must be able to communicate effectively in the English language.

3. Duplicate Vendor Account Bid Submissions

1. *Respondents* must offer all *bid submissions* (including green or alternative bids) related to a *bid solicitation* from the same registered *vendor* account in the *Town's* bidding system;
2. If a *bid submission* is received from two *vendor* accounts related to the same *respondent*, then the *Town* will only consider the latest *bid submission*;
3. Any previous *bid submissions* will be superseded by the last *bid submission* and will not be reviewed; and
4. It is the *respondent's* sole responsibility to ensure that duplicate registered *vendor* accounts are not created or used in an inappropriate or incorrect manner.

4. Procurement Policy

1. *Bid submissions* will be called, received, evaluated, accepted and processed in accordance with the *Procurement Policy*, as amended; and
2. By offering a *bid submission*, the *respondent* agrees to be bound by the terms and conditions of the *Procurement Policy*, as amended, as fully as if they were incorporated herein.

5. Respondent's Statement of Understanding

1. By offering a *bid submission*, it is understood and accepted by each *respondent* that they have carefully examined all of the *bid call documents* and have carefully considered the *work* to be performed under the *contract*, if *awarded*;
2. The *respondent* offers to furnish all labour, machinery, tools, apparatus and other means of implementation, and any other materials to complete the *work* in strict accordance with the *bid call documents* for the prices set forth in their *bid submission* (if *awarded*); and
3. By offering a *bid submission*, *respondent* confirms that they have had the opportunity to obtain independent legal advice in connection with the *respondent's* review of the *bid call documents* and their *bid submission* preparation, and has read this *bid call document* in its entirety, understands its contents and is offering its *bid submission* freely and voluntarily (without duress or undue influence from any party) with full capacity and authority to do so.

6. Respondents to Bear Their Own Costs

1. The *respondent* bears all costs associated with, or incurred in the preparation and presentation of their *bid submission*, including, if applicable, costs incurred for interviews, presentations or demonstrations (if applicable).

7. Enquiries

1. All requests for clarification and questions regarding the *bid call document* must be submitted in writing as instructed in the *bid call document* prior to the stated deadline for submitting questions;
2. All questions or clarifications must be specific to the *bid call document* and must include references to a specific section or schedule and item number;
3. The *Town* cannot guarantee that the *procurement representative* will answer clarifications or questions received beyond the question deadline;
4. Requests will be answered by the *procurement representative* or forwarded to the appropriate technical contact within the *Town* for reply;
5. Dependent on their nature, comments or answers will be returned via email from the *procurement representative* or through an *addendum* to the *bid call document* if the information is applicable to all *respondents*, in the opinion of the *Town*;
6. Verbal clarifications will not change any of the terms or conditions of the *bid call documents*; and
7. *Respondents* must only rely on information provided by the *Town* in writing.

8. Respondent Teams (Joint Ventures) (if applicable)

1. In the event that there is more than one *legal entity* offering a combined *bid submission*, the lead *respondent* must be clearly identified;

2. The *Town* will *contract* with only the identified lead *respondent* (herein referred to as the “*respondent*”) who must be completely responsible for the full performance of the *contract*, and who must act at all times as the primary contact for the *Town*;
3. The *respondent* must arrange the business relationships between the *respondent* and its team members and any resulting conflicts must be resolved without the involvement of the *Town*;
4. The *respondent* agrees that no member of the *respondent* team will be substituted for any other individual or firm without the express prior written consent of the *Town*;
5. Payments pursuant to the *contract* must be made directly to the *respondent* for distribution to the *respondent’s* team; and
6. The *respondent* must save the *Town* harmless from all costs, damages, judgements, claims, demands, suits or other proceedings brought by any member of the *respondent* team in connection with the distribution of such fees.

9. Blackout Period

1. A communication blackout *period* will commence when the *bid call document* is issued and ends when the *contract* is *awarded* by the *Town*;
2. During the *blackout period*, *respondents* must conduct all communication about the project only with the *procurement representative* stated in the *bid call document*;
3. Any communication initiated by a *respondent* to elected officials or *employees* of the *Town* other than to the *procurement representative* during the *blackout period*, may be grounds for disqualifying the offending *respondent* from consideration for *contract award*;
4. During the *blackout period*, *respondent* must submit questions, as described in the *bid call document*;
5. The *procurement representative* may issue a written *addendum* to provide clarification or modification to the *bid call document*;
6. The *addendum* will be published in the *Town’s* bidding system; and
7. *Addenda* will form an integral part of the *bid call document*, must be read in conjunction therewith, and will be considered as part of the *respondent’s submission*.

10. Lobbying Prohibited

1. The *Town* will be entitled to reject a *bid submission* if any director, officer, personnel, agent or other representative of a *respondent*, including any other parties that may be involved in a joint venture, consortium or similar business relationship with the *respondent* makes, before, during or after the *blackout period*, any representation or solicitation to any elected official, *employee* or agent of the *Town* including project *consultants*, or to the media, with respect to the *respondent’s bid submission*; and
2. This requirement does not extend to any public depositions.

11. Litigation, Probation & Suspension

1. The *Town* will reject any *bid submission* from any *respondent* or any other party (including any related or affiliated entities and any principal thereof) who is in unresolved dispute with the *Town* or who is currently serving a suspension period; and
2. The *Town* will retain the right to reject *bid submissions* that may have been received and/or *awarded* by the *Town*, notwithstanding efforts by the *Town* to screen the acceptance of *bid submissions* from parties engaged in unresolved dispute with the *Town* or serving a suspension period, once the *Town* becomes aware of such unresolved litigation or suspension period.

12. Gifts and Donations

1. *Respondents and contractors* must ensure that there will be no gifts, gratuities, discounts, special services or personal benefits provided or offered to any *employee* or *consultant* of the *Town*, prior to, during or upon completion of the *contract*, from the *respondent* or *contractor* or any of its personnel or representatives in connection with the *contract*;
2. A *respondent* or *contractor* must report to the *Manager of Procurement Services* any attempt by any *employee* or *consultant* of the *Town* to obtain any such or similar favour or personal benefit;
3. Any material failure on the part of a *respondent* or *contractor* to comply with this provision may be grounds for disqualification from a *bid solicitation* or for termination of *contract* if an *award* has already been made;
4. If any prospective *contractor* or any of its agents give or offer any gratuity or attempt to bribe any *employee* of the *Town*, or to commit fraud, the *Town* will be at liberty to:
 1. Reject the *bid submission* of such prospective *contractor*;
 2. Terminate the *contract* of such *contractor*; and
 3. Suspend the *contractor*.
5. If either the rejection of the *bid submission*, termination of a *contract* or suspension of the *contractor* pursuant to this provision results in an increased cost to the *Town* in having the *work* completed, the *Town* will be entitled to rely upon the *bid bond* or *performance bond* (where applicable) to recover the increased costs incurred by the *Town* as compensation and where the amount of the *bid bond* or the *performance bond* (as applicable) is insufficient to compensate the *Town*, the *contractor* must indemnify the *Town* for the full amount of the increased costs incurred by the *Town*; and
6. If there are no *bonds* in place, in addition to all other rights in the *bid call document* or otherwise available at law or in equity, the *Town* will deduct the increased costs from future payments, or invoice the *contractor* to recover the costs.

13. Errors and Omissions

1. The *Town* will not be held liable for any errors or omissions in any part of its *bid solicitation*;
2. While the *Town* has used considerable effort to ensure an accurate representation of information in its *bid solicitation*, the information contained in the *bid call document* is supplied solely as a guideline for the *respondent*;
3. The information is not guaranteed or warranted to be accurate by the *Town*, nor is it necessarily comprehensive or exhaustive;
4. Nothing in the *bid call document* is intended to relieve the *respondent* from forming their own opinions and conclusions with respect to the matters addressed in the *bid call document*; and
5. If a *respondent* needs to address any discrepancies, errors and/or omissions in the *bid call document* or if they are in doubt as to any part thereof, they must submit questions in writing as instructed in the *bid call document*.

14. Examination of the Place of the Work

1. Notwithstanding any drawings or *specifications* provided in the *bid call documents*, *respondents* must satisfy themselves, by personal visitation and examination of each site for the *work*, with respect to the existing conditions which may be encountered on or adjacent to the site, including without limitation, all underground/overhead utilities locations, surface & sub-surface conditions, existing structures on or adjacent to the sites, access routes and other conditions which may affect performance of the *work*;
2. Access to the place of the *work* will be provided during the site meeting (if applicable);
3. By offering a *bid submission*, the *respondent* acknowledges and agrees that they have satisfied themselves as to all the provisions of the *bid call documents* and of all the conditions which may be encountered at the site or any other matter which may affect performance of the *work* and no claims will be made by the *contractor*, that they were uninformed as to any of the conditions affecting the site or the provisions or conditions intended to be covered by the *contract*;
4. *Respondent* accepts sole responsibility for any error or neglect on their part in respect to the foregoing;
5. No claims will be accepted by the *Town* for any additional labour, equipment or material cost that was not included in the *bid submission* and may be required for the proper execution and completion of the *work*, due to any failure to comply with the above;
6. *Respondent* is not entitled to claim at any time after the offering of its *bid submission* that there was any misunderstanding of the terms and conditions relating to site conditions; and
7. The *Town* is not responsible for any misunderstandings on the part of the *respondent*.

15. Estimated Quantities

1. The quantities listed in the *bid call document* are estimates and do not constitute a firm commitment;
2. The *Town* reserves the right to increase, decrease or delete entirely the estimated quantities shown in the *bid call document* and will adjust the *contract* amount accordingly based on the unit price or lump sum price, whichever is applicable;
3. The *Town* will only pay the *contractor* for the actual quantity used, or actual *work* conducted based on the unit price or extended price, whichever is applicable; and
4. The *contractor* acknowledges that this may result in the *contract* payment being less than their total *bid submission* price for the *contract*.

16. Contract Rates

1. *Bid submission* prices offered by the *respondent* must be in Canadian funds, must be all-inclusive and must include all labour and material costs, all travel and carriage costs, all custom clearance and customs duties costs, all customs brokerage fees, all insurance costs, all costs of delivery to the delivery site, all costs of installation and set-up (if required), including any pre-delivery inspection charges, and all other overhead, including any fees or other charges required by law;
2. There will be no other charges payable by the *Town* under the *contract* to the *contractor* other than the rates established under the *contract*; and
3. *Bid submission* prices offered by the *respondent* must be firm for the term of *contract* including any *renewal term(s)*.

17. Taxes

1. *Respondent's bid submission* prices (including unit pricing) must be exclusive of all applicable taxes;
2. In addition to the H.S.T. Registration number, the *contractor* must state the amount of H.S.T. separately on all invoices; and
3. Where a change in Canadian Federal or Provincial Taxes occurs after the *bid submission deadline* for the *contract*, which change could not have been anticipated at the time of making the *bid submission*, the *Town* will increase or decrease *contract* payments to account for the exact amount of the change involved and the *contract* will be deemed to be amended accordingly

18. Provisional Items

1. Items listed in the *bid call document* and price schedules as "Provisional Items", may or may not be required for completion of the *work* called for under the *contract*;
2. The *Town* will determine the necessity and/or actual quantities of these items as the *work* progresses;

3. If any of these items be required, the *contractor* will be compensated based on the unit prices(s) submitted;
4. In the event that any or all of these items are found not to be required, the *contractor* will not claim extra payment for loss of anticipated profits;
5. The *contractor* may be required to supply services to additional locations, or add additional quantities of item(s), if required, by the *Town*;
6. Acceptance of additional service(s) or item(s) may be added with the understanding that the rates and discounts offered by the *contractor* in their *bid submission* would apply; and
7. The *respondent* acknowledges and accepts, by way of offering a *bid submission*, that the *Town's award of contract* may be based on the sub-total *acquisition value*, including any provisional prices;
 1. The *Town* may, in its sole and absolute discretion, include or delete any or all provisional price(s) in the final *contract price*.

19. Subcontractors and Subconsultants

1. The *respondent* must ensure that all *subcontractors* or *subconsultants* selected and proposed have experience in the subcontracted *work* described and that they must execute their *work* with competence and according the required time frame;
2. The *respondent* must ensure that all *subcontractors* or *subconsultants* included in their *bid submission* must be actively engaged in *work* of the type described and must be able to show proof upon request by the *Town* of previous *work* of similar nature performed by them;
3. The *respondent* must ensure that all *subcontractors* or *subconsultants* accept all of the terms and conditions of this *contract* as far as applicable to those parts of the *deliverables* provided by the *subcontractor* or *subconsultant*;
4. Nothing contained in this *contract* will create a contractual relationship between the *Town* and the *subcontractor* or *subconsultant*;
5. The *respondent* must not show "own forces" in their table of *subcontractors* or *subconsultants*, except where the *respondent's* intent is to employ the *respondent's* own qualified on-staff personnel to perform such *work*;
6. The *respondent* must not indicate "TBD" (To Be Determined) or "TBA" (To Be Announced) or similar wording and must not indicate multiple choices of *subcontractor* or *subconsultant* names for any *subcontractor* or *subconsultant* category in their table of *subcontractors* or *subconsultants*;
7. Only one (1) *subcontractor* or *subconsultant* name must be indicated for each *subcontractor* or *subconsultant* category;
8. *Respondent* must list in their table of *subcontractors* or *subconsultants*, all of the *subcontractors* or *subconsultants* who will perform *work* under the *contract*;

9. The combined total value of *work* assigned to *subcontractors* or *subconsultants* must not exceed fifty percent (50%) of the total *contract* value unless otherwise stated in the *bid call document*;
 1. For clarity, the *contractor* must conduct no less than fifty percent (50%) of the *work* using “own forces”.
10. No names, either of *subcontractors*, *subconsultants* or “own forces” may be changed after submitting the table of *subcontractors* or *subconsultants* unless prior written approval is received from the *Town*;
11. To change a list of *subcontractors* or *subconsultants*, a *respondent* or *contractor* must submit a written request to the *Town*, with a full explanation of the reasons for the requested change with no consequences to the *Town*;
12. The *Town* reserves the right to reject a proposed *subcontractor* or *subconsultant* for reasonable cause; and
13. Upon such rejection, the *respondent* will be required to propose an alternate *subcontractor* or *subconsultant* without a resulting change to the *bid submission price*.

20. Delivery Schedule

1. Time is of the essence for the delivery or provision of the *deliverables* requested herein;
2. The delivery date must be adhered to, as the *Town* is relying on that date for their part of its operations;
3. Failure to comply with the time schedule in providing the *deliverables* may result in the *Town* taking further action to obtain an alternative supply, in which event, any additional cost incurred will be charged to the *contractor*; and
4. If the *contractor* does not pay such cost, it will be deducted from the balance of the *bid submission price* owing.

21. Completion Date

1. The *contract* requirements must be completed within the number of *working days* or by the stated completion date indicated in the *bid call document* and/or within the *contract*;
2. If the time limit is not sufficient to permit completion of the *work* by the *contractor* working a reasonable number of hours each day or week on a single shift basis, it is expected that additional shifts will be required throughout the life of the *contract* to the extent deemed necessary by the *contractor* and the *Town* to ensure the *work* will be completed within the time limit specified; and
3. Any additional costs occasioned by compliance with these provisions will be considered included in the *bid submission price* for the various items of *work* and no additional compensation will be allowed unless otherwise agreed in the *contract*.

22. Conflict of Interest

1. In order to protect the integrity of the *procurement process*, *respondents* are advised that the *Town* may reject a *bid submission* in the following circumstances:
 1. If the *respondent*, any of its *subcontractors* or *subconsultants*, any of their respective personnel or former personnel was involved in any manner in the preparation of this *bid call document*; and
 2. If the *respondent*, any of its *subcontractors* or *subconsultants*, any of their respective personnel or former personnel had access to information related to this *bid call document* that was not available to other *respondents* and that would, in the *Town's* opinion, give the *respondent* an unfair advantage.
2. The experience acquired by a *respondent* who is providing or has previously provided the *deliverables* described in this *bid call document* (or similar *deliverables*) will not, in itself, be considered by the *Town* as conferring an unfair advantage or creating a *conflict of interest*,
 1. This *respondent* remains, however, subject to the criteria established above.
3. By offering a *bid submission*, the *respondent* represents that (except as may be disclosed in the bidding system) it does not consider itself to be in *conflict of interest* nor to have an unfair advantage;
4. The *respondent* acknowledges that it is within the *Town's* sole discretion to determine whether a *conflict of interest* or unfair advantage exists;
5. The *Town* may, in its sole discretion waive any and all actual, potential, or perceived *conflicts of interest*, on such terms and conditions the *Town*, in its sole discretion, considers to be required to satisfy itself that any actual, potential or perceived *conflict of interest* has been appropriately managed, mitigated and minimized;
 1. In this regard, the *Town* may require the *respondent* to implement measures or take other steps to manage or mitigate the impact of any actual, potential or perceived *conflict of interest*.
6. By offering a *bid submission*, the *respondent* releases and forever discharges the *Town* from any and all liability related to any determination the *Town* may make regarding *conflicts of interest*, including any disqualification, suspension, prohibition, rejection or *contract* termination which may result therefrom; and
7. In addition to all other rights in the *bid call document* or otherwise available at law or in equity, the *Town* may, in its discretion, immediately disqualify a *bid submission* or may terminate any *contract* entered into in connection with or resulting from the *bid solicitation*, without liability, penalty or cost, upon giving notice to the *respondent* or any of their respective representatives fails to disclose or has failed to disclose any *conflict of interest*.

23. Limitation of Future Contracting

1. If a *contractor* under the terms of this *contract*, or through the performance of tasks pursuant to this *contract*, is required to develop *specifications* or statements of *work* that are to be incorporated into a future *bid solicitation*, the *contractor* will be ineligible to perform the *work* described in that *bid solicitation* as a prime *consultant* or first-tier *subconsultant* under an ensuing *Town contract*. (For clarity, the *contractor* is prohibited from participating in any aspect of the ensuing *contract* as described above.); and
2. This restriction will remain in effect for a period of two (2) years from the completion date of this *contract* as this will allow sufficient time to pass to avoid unfair competitive advantage, potential bias or *conflict of interest*.

24. Acceptance Period

1. All *bid submissions* remain valid and open for acceptance by the *Town* for a period of ninety (90) calendar days, following the *bid submission* deadline, unless otherwise stated in the *bid call document*; and
2. If the *Town* requests an extension of this acceptance period, the extension will apply to, in like force, the *respondent's* entire *bid submission*, including but not limited to, pricing, insurance, bonding and other *bid submission* requirements.

25. Unofficial Bid Submission Results

1. Where the *Town* has requested electronic *bid submissions* only, a public *bid submission* opening will not be held;
2. All *bid submissions* are unofficial until they have been reviewed by the *Town* for compliance, therefore, the *bid submission* with the lowest *bid submission* price listed on the bidding system may not be the lowest compliant *bid submission* for the purpose of awarding a *contract*;
3. The *Town* may post the names of the *respondents*, after verification of compliancy, on the *Town's bidding system*, (whose *bid submissions* were received by the bidding system website, prior to the *bid submission* deadline) and the unverified sub-total *acquisition value* (exclusive of taxes) – the Harmonized Sales Tax (H.S.T.) is additional;
4. If part *bid submissions* are acceptable, as stated in the *bid call document*, the unverified sub-total of each part(s) *bid submission* will be posted, after verification of compliancy;
5. The *bid submission* deadline will be determined by the *Town's* bidding system web clock;
6. The unverified *bid submission* prices are subject to review, verification, calculation and adjustment by the *Town* and if necessary, consideration by the *Town's procurement review panel (PRP)*, in accordance with the terms and conditions of the *bid call document* and the *Town's procurement policy*; and
7. For *request for proposals (RFP)*, only the names of *respondents* submitting *proposals* will be released publicly.

26. Checking of Bids

1. *Bid submissions* will be opened and checked by the *procurement representative* and *consultant* (if applicable) to ensure that:
 1. The required *surety* requirements (if required) have been satisfied as specified in the *bid call documents*;
 2. *Bid submissions* comply with the *bid submission* requirements of the *bid call documents*, and that all items as specified have been *bid on* and all schedules and tables are completed, unless part *bid submission* are permitted under the *bid solicitation*;
 3. All mathematical extension calculations are correct.
 1. Where there is an obvious error in the extended price, the unit price stipulated will govern and the extended price will be re-calculated using the unit price, along with the estimate quantity; and
 2. Where there is an obvious calculation error in the addition of individual lump sum prices into a sub-total price, the *Town* may make the appropriate mathematical correction to the sub-total price so that the calculation is correct.
2. The *Town* reserves the right to seek clarification from *respondent* about any aspect of their *bid submission*; and
3. The *Town* may request information from third parties in order to verify, clarify or supplement the information offered in the *respondent's bid submission*, including but not limited to clarification with respect to whether the *bid submission* meets the mandatory technical requirements set out in the *bid call document*,
 1. The *Town* may revisit, re-evaluate and rescore the *respondent's bid submission* or ranking on the basis of any such information; and
 2. Any *bid irregularities* or *proposal irregularities* will be dealt with in the accordance with the applicable schedule(s) of the *Town's procurement policy*.

27. Unbalanced Bid Submission

1. For the purpose of this provision, "*unbalanced*" means the *bid submission* price, whether it be the sub-total *acquisition value* or the price for an item, part, section or division, does not reflect reasonable, and anticipated costs for the required labour, equipment and materials, plus a reasonable proportionate share of the *respondent's* anticipated overhead and profit;
2. If the *Town* receives a *bid submission* from a *respondent* with a price that is abnormally lower than the prices in other *bid submissions* or is otherwise determined by the *Town* to be "*unbalanced*", the *Town* may verify with the *respondent* that the *respondent* satisfies the conditions for participation and the *respondent* is capable of fulfilling the terms of the *contract* for the *bid submission* price; and

3. If the *Town* determines that the *respondent* is not capable of fulfilling the terms of the *contract* for the *bid submission* price, the *bid submission* will be deemed non-compliant and rejected.

28. Misleading or False Information

1. It must be clearly understood that if there is any evidence of misleading or false information having been submitted by the *respondent* during the *procurement process*, the *Town* may, in its sole discretion, disqualify the *bid submission* or terminate any resulting *contract* and suspend the *respondent* from offering future *bid submissions* in accordance with the *Town's procurement policy*.

29. Inspection and Testing

1. The *Town* reserves the right to inspect and have a demonstration of any/all *deliverables*, which may be offered, or of the *respondent's* premises/equipment, prior to *award* and/or at any point during the *contract*;
2. The *Town* or the *Town's consultant* (if applicable) will carry out the inspection of all proposed *deliverables* to determine whether they meet the requirements of the *bid call document* and/or *contract*, as applicable;
3. If any *deliverables* or workmanship fails, in any way, to meet the terms of the *bid call document* and/or *contract*, the *Town*, will notify the *contractor* and the *contractor* must take immediate steps for corrective actions, at its own expense and within the periods specified by the *Town*;
4. If the *contractor* fails to remedy any part of the rejected *deliverables* or workmanship, the *Town* may make alternative arrangements for rectification and any expense(s) incurred by the *Town* must be paid by the *contractor* within ten (10) *business days'* following receipt of an invoice or the costs will be deducted from any payment owed the *contractor*, and
5. All costs associated with the inspection or testing of any *deliverables* or workmanship that does not meet the *Town's specification* will be charged to the *contractor*.

30. No Substitutions

1. Where materials are specified in the *bid call document*, the *contractor* must not ship or use any alternative materials without the prior written approval by the *Town*; and
2. Unauthorized substitutions will result in the *deliverable* being returned to the *contractor* at their expense.

31. F.O.B. Destination

1. All shipments of *deliverables* must be FOB destination, freight prepaid and allowed;
2. The F.O.B. prepaid destination point will be the destination as indicated in the *bid call document* or on the *purchase order*;

3. For greater certainty, the *contractor* will be responsible for bearing the cost of shipping and for all liability related to the *deliverables* until they are delivered to, and accepted, after inspection, by the *Town* at the *Town's* facility or if stated, the actual facility room or department location indicated in the *bid call document* or on the *purchase order*;
4. Once the *contract* is awarded, the *Town* may provide a release schedule to the *contractor*, advising when *deliverables* are required for instances where there are multiple delivery requirements; and
5. Note: There is no delivery dock at the Georgina Civic Centre, 26557 Civic Centre Road, Keswick, Ontario L4P 3G1.

32. Non-Resident Contractor

1. If the *contractor* is a non-resident of Ontario or Canada, the *contractor* must:
 1. Obtain from the Retail Sales Tax Branch a certificate showing that the *contractor* has registered with the Retail Sales Tax Branch and must submit such certificate to the *Town* at the same time that it furnishes all other required *award of contract* documentation;
 2. Not commence the *work* or order any materials or equipment for the *contract* until it has registered with the Retail Sales Tax Branch; and
 3. Obtain all necessary approvals, consents, permits, licenses, certificates (including insurance), bonding, registrations and other authorizations required by law (as applicable), prior to execution of the *contract*.

33. Non-Resident Subcontractor or Subconsultant

1. The *contractor* must ensure that all *subcontractors* or *subconsultants* with whom it proposes to use for carrying out any of the *work* and who are non-residents of Ontario or Canada have:
 1. Registered with and have complied with the requirements of the Retail Sales Tax Branch before they commence any such *work*; and
 2. Obtained all necessary approvals, consents, permits, licenses, certificates (including insurance), bonding, registrations and other authorizations required by law (as applicable), prior to execution of the subcontract.

34. Rights of the Town

1. The *Town* may:
 1. *Award a contract* in whole or in part;
 2. Accept or reject any regular, irregular, unbalanced, informal or non-compliant *bid submission* at its unencumbered discretion;
 3. Reject the lowest *bid submission*;

4. Reject any or all *bid submission(s)*;
5. Reject part of any *bid submission*;
6. Cancel the *bid solicitation* in whole or in part;
7. Disqualify a *respondent* that has failed to enter into, or complete previous *contracts*;
8. Make changes to the content of the *contract* to address unforeseen circumstances which may have arisen during the *bid solicitation* period, including but not limited to health, environmental, social or emergency events; or
9. Contact any one or more *respondents* to request clarification or further information without any obligation to contact other *respondents* and such additional clarification will be provided by the *respondent* to the *Town*;
 1. The *Town* may, but is not obligated to amend or revise the *bid submission* based on the clarification or further information; and requests for information will not be construed as acceptance of a *bid submission*.
2. The *Town* reserves the right, in its sole and absolute discretion that:
 1. In the event that only one (1) compliant *bid submission* is received, the *Town* may at its election, proceed to:
 1. Accept the *bid submission*;
 2. Reject the *bid submission*; or
 3. Enter into *negotiations* with the *respondent*.
 2. Incomplete, conditional or qualified *bid submissions* may be declared non-compliant and disqualified; and
 3. In the event that the *Town* receives no compliant *bid submissions*, the *Town* may enter into *negotiations* with any one or more of the *respondents* that offered a non-compliant *bid submission*.

35. Negotiations

1. The *Town* reserves the right to enter into *negotiations* with a *respondent* which offered a *bid submission* which in the *Town's* sole discretion, provides the *best value* to the *Town* based on the criteria described in the *bid call documents* and the following:
 1. Information provided in the *bid submission* itself;
 2. Information provided in response to enquiries of credit and industry references;
 3. Information received in response to enquiries made by the *Town* in relation to the reputation, reliability, experience and capabilities of the *respondent*;

4. The manner in which the *respondent* provides *deliverables* to others or has previously provided *services* to the *Town*;
 5. The experience and qualifications of the *respondent's* personnel;
 6. The compliance of the *respondent* with the *Town's* requirements and *specifications*; and
 7. Innovative approaches proposed by the *respondent* in the *bid submission*.
2. If an *acquisition* agreement cannot be negotiated within thirty (30) days of notification to the selected *respondent*, the *Town* may, in its sole discretion, terminate *negotiations* with that *respondent*; and
 3. The *Town* may either *negotiate* with the next qualified *respondent* or *respondents* until a *contract* is *awarded* or choose to terminate the *procurement process* and not enter into a *contract* with any of the *respondents*.

36. Capability of Respondent

1. The *respondent* must, if requested by the *Town*, immediately submit evidence of experience, ability, capacity, financial resources, etc., if deemed necessary by the *Town* for the performance of the *contract*; and
2. The *Town* reserves the right to investigate a *respondent's* claim or background at any time and in any manner deemed appropriate by the *Town* and will not be required to disclose the information obtained or the source.

37. Availability of Funds

1. All *awards* of *contracts* are subject to the approval of the Director of the requisitioning department, *Deputy Chief Administrative Officer & Treasurer (DCAO)*, *Chief Administrative Officer (CAO)*, and/or *Council* (as applicable, in accordance with the *Town's procurement policy*) and the availability of funds;
2. If the approved budget value is disclosed in a *bid call document*, the *respondent* will interpret this value to be the upset limit above which the *Town* may not *award* a *contract* and to offer a *bid submission* of a higher value may result in the *bid submission* not being eligible for the *award* of *contract*;
3. If the sub-total *acquisition value* amount offered from the selected *respondent* exceeds the *Town's* approved budget for the *bid solicitation*, the *Town* reserves the right to:
 1. *Award* part of the *contract* to the selected *respondent(s)*, where in the opinion of the *Town* it is possible to do so;
 2. *Negotiate*, where it is in the *best interest* of the *Town*, in the opinion of the *Manager of Procurement Services*;
 3. *Reject* the *bid submission* and re-issue the *bid solicitation*; or

4. Cancel the *bid solicitation* in its entirety.

38. Contract Award

1. The *Town* will issue a *purchase order* to the successful *respondent(s)* for the *deliverables* offered and no *contract* for the *deliverables* (“Contract B”) is formed until the *contractor* is in receipt of the *purchase order* **AND** has submitted the required documentation referenced below **AND** all documentation has been approved by the *Town*;
2. The successful *respondent(s)* must provide as an upload into the *Town’s* bidding system, at a minimum, the following documentation within ten (10) *business days’* of notification of *award*:
 1. Certificates of insurance naming The Corporation of the Town of Georgina as an additional insured (where applicable) and **must reference the contract number and contract name**;
 2. WSIB clearance certificate;
 3. *Performance bond* and *labour & material payment bond* (if applicable);
 4. Completed Vendor Set-Up Form **with** bank letter or void cheque; and
 5. Other documents as specified in the *bid call document*.
3. Insurance, WSIB and bonding uploads must be valid and adhere to the requirements as specified in the *bid call documents* and if they do not meet the requirements as specified, they will be rejected until the uploaded documents are in accordance with the requirements as specified in the *bid call documents*; and
4. Failure to provide the required documentation, within the required time and in the required form and manner, may result in the *respondent* being disqualified.

39. Governing Law

1. This *contract* and each of the documents contemplated by or delivered under or in connection with this *contract* will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and must be treated in all respects as an Ontario *contract*; and
2. The parties hereby irrevocably and unconditionally attorn to the jurisdiction of the courts of the Province of Ontario and all courts competent to hear appeals therefrom.

40. Town Representative

1. The *Town* will assign a representative(s) (*Town Representative*) to act solely on its behalf to deal with all matters involving this *contract*;
2. The *Town Representative(s)* will be the sole judge of whether the *work* completed is adequate and performed in accordance with the *contract*;

3. The *contractor* must carry out the *work* in accordance with the decisions and directions of the *Town Representative*; and

4. Non-compliance will be considered as failing to conform to the *contract* requirements.

41. Commencement of Work

1. No *work* will commence at the beginning of each term of *contract*, and no *deliverables* will be supplied, without a Corporation of the Town of Georgina *purchase order* issued by the *Town*;

2. Failure to abide by this instruction will result in non-payment for *work* conducted or goods supplied prior to the issuance of an official *purchase order*; and

3. No *work* will commence until required certificates of insurance, WSIB clearance certificate, *performance bond*, *labour and material payment bond* and any other required documentation has been submitted to, and approved by the *Town*, as applicable.

42. Purchase Order

1. The *contractor* will be issued a *purchase order* upon *award of contract*;

2. The terms and conditions of the *contract* supersede those of any *purchase order* issued;

3. The *contractor* must reference the *purchase order* number on all invoices throughout the term of *contract*; and

4. Invoices that do not reference the *purchase order* number will be returned to the *contractor* without being processed for payment and the *contractor* must re-issue the corrected invoice.

43. Non-Exclusive

1. Any *contract* awarded as a result of this *bid solicitation* will be non-exclusive; and

2. The *Town* may, at its sole discretion, acquire the same or similar *deliverables* from other sources during the term of the *contract*.

44. Contract Extension (Optional Years)

1. Prior to the expiry of the initial term of *contract*, the *Town* may, at their sole discretion, extend the term of *contract* for additional term(s) of renewal as prescribed in the *bid call document* under the same terms and conditions as contained in the *contract*; and

2. The *Town* will issue a *purchase order* to the *contractor* for each renewal term to notify the *contractor* of their intention to extend the *contract*.

45. Workplace Safety and Insurance Board

1. The *contractor* must be in good standing with the Workplace Safety and Insurance Board (WSIB) and must furnish the *Town* with satisfactory evidence, in the form of a valid WSIB Clearance Certificate:
 1. Within ten (10) days from notification of *award*, and, in any event, prior to the commencement of the *work*;
 2. Prior to release of each and every progress draw (if applicable) or upon expiry of the clearance certificate throughout the term of the *contract*; and
 3. At any other time during the *contract* at the *Town's* request.
 2. If the *contractor* is an independent operator, the *contractor* is required to provide the *Town* with a valid Independent Operator's Ruling issued by WSIB:
 1. Within ten (10) days from notification of *award*, and, in any event, prior to the commencement of the *work*;
 2. Prior to release of each and every progress draw (if applicable) or upon expiry of the clearance certificate throughout the term of the *contract*; and
 3. At any other time during the *contract* at the *Town's* request.
 4. In order to obtain an Independent Operator's Ruling, the *contractor* must download the form that corresponds to the applicable classification from the WSIB site at: <http://www.wsib.on.ca> and submit the completed form to WSIB;
 1. The WSIB Independent Operator's Ruling must be submitted to the *Town* prior to commencement of the *contract*; and
 2. To ensure that the WSIB Independent Operator's Ruling is obtained within the period specified in the *Town's* notification of *award*, the *contractor* must ensure that an "Expedited Ruling" is requested. (For more information about obtaining an "Expedited Ruling", please contact your local WSIB office.);
 5. The *Town* recommends that all Independent Operators obtain valid WSIB optional insurance providing for long-term disability coverage;
 3. Failure of the recommended *respondent* to provide the above-noted documentation within the timeframe set out in the notification of *award* may result in cancellation of the *award* notice to the *respondent* and the *Town* may proceed to *award* to another *respondent*; and
 4. Failure of the *contractor*, to provide the above documentation, at any time during the *contract*, may result in the termination of the *contract*.
46. Criminal Record Check
1. In the event that the *contractor*, their personnel or contracted persons may come in regular and direct contact with, or are in a "position of trust or authority" over children, the disadvantaged, the elderly, or other persons as determined by the *Town* (*participants*), the *contractor* must obtain a current Police Vulnerable Sector Check (PVSC) or a

Vulnerable Sector Screening (VSS), as performed by their local police service at their expense;

2. The *PVSC* or *VSS* must verify that the *contractor*, their personnel or contracted persons are clear of unpardoned criminal offences that could result in unsuitability for inclusion in this *contract*;
3. The *PVSC* or *VSS* must make reference to “The Corporation of the Town of Georgina”;
4. By offering a response to a *bid solicitation*, the *contractor* agrees to obtain a current *PVSC* or *VSS* for all personnel or contracted persons who will be working at any *Town* site, prior to the commencement of the *work*;
5. The *contractor* further agrees that they will obtain and submit to the *Town*, an offense declaration from each personnel or contracted persons at the commencement of each *contract* term, which must confirm that no new offenses have occurred since the *PCSC* or *VSS* was completed;
6. The *contractor* also agrees that, in the event that the results from the *PVSC* or *VSS* of any personnel or contracted person discloses any offenses which, in the absolute discretion of the *Town*, could cause concern to the *Town* as to the safety and well-being of the *participants*, the *contractor* must not permit any such personnel or contracted person to work at any *Town* site, whether owned or leased, in the provision of the *work* identified in the *contract*; and
7. In the event that the *contractor* uses or permits any such personnel or contracted person to provide any of the *work* as identified in the *contract*, the *Town* may, in its sole discretion, treat the *contract* as terminated and may charge back to the *contractor* any costs associated with obtaining replacement *contractor(s)* for the otherwise remaining portion of the term of *contract*.

47. Emergency Telephone Number

1. Prior to commencing the *work*, the *contractor* must provide the *Town* with the name(s) and telephone number(s) of their representative(s) who can be contacted on a 24-hour basis in case of an emergency during the term of the *contract*.

48. Non-Assignment

1. The *contractor* may not assign the *awarded contract* as a result of this *bid solicitation*, in whole or part without the prior written consent of the *Town*; and
2. Such written consent, if granted, will not under any circumstances relieve the *contractor* of their liabilities and obligations under the *contract*, and will be within the sole and unfettered discretion of the *Town* and may be unreasonably withheld.

49. Contract Alterations and Amendments

1. The *Town* has the right at any time to order changes in the *work* in accordance with the terms of the *contract*;

2. Alterations, additions, or deletions to the *contract*, will not be valid or binding on the *Town* unless prior authorization is granted in writing by the *Town Representative* and the *contractor*;
3. Except as stated in a *contract* change order, the *work* must remain unaltered and the rights and obligations of the *Town* and the *contractor* will remain unaltered and in full force and effect;
4. The cost of the *contract*, including costs to the *contractor* of the remaining *work*, must not change except as may be specified in a written, prior approved change order;
5. Each *contract* change order, unless otherwise specified, will be deemed to incorporate the terms and conditions of the *contract* and will be deemed part thereof; and
6. In all cases of misunderstanding and disputes, verbal arrangements will not be considered;
 1. The *contractor* must produce written authorization in support of its contentions and must not advance any claim in the absence of such written authorization, or use, or attempt to use any conversation with any parties against the *Town* or in prosecuting any claim against the *Town*.

50. Bid Submission Debrief

1. *Respondents* have up to the deadline as stated in the *Town's procurement policy*, as amended to submit a written request for *bid submission debrief*, question(s) or clarification request and/or concern pertaining to; the *bid call document*, the *procurement process*, discrepancies, errors and/or omissions, or other matters to the *procurement representative* regarding a particular *bid solicitation*;
2. The *Town* reserves the right not to conduct a *bid debrief*, over matters of which the *respondent* failed to notify the *procurement representative*, in accordance with the above paragraph; and
3. All *bid submission debriefs* will be conducted in accordance with the *Town's procurement policy* and the *Town's procurement procedures*.

51. Laws and Regulations

1. The *contractor* must comply with all applicable statutes, laws, by-laws, regulations, ordinances and orders whether Federal, Provincial, Municipal or otherwise, at any time in effect during the term of the *contract*, and all rules and requirements of the Police and Fire departments, or other governmental authorities, authorities having jurisdiction and all C.S.A. approvals, if required;
2. The *contractor* must obtain and pay for all necessary permits and licenses, and must not do or suffer to be done anything in violation of any such laws, ordinances, rules or requirements; and

3. If the attention of the *contractor* is called to any such violation on their part, or of any personnel employed or engaged by the *contractor*, they must immediately desist from and correct such violation.

52. The Personal Property Security Act

1. The *contractor* warrants that it has the full power and legal right and the responsibility to convey title to all products/goods/inventory/equipment which will pass to the *Town* in accordance with the terms of the *contract* and all *deliverables* hereunder must be free from all registered and unregistered liens, encumbrances, charges, security interests, mortgages, or any third party statutory claims; and
2. All transactions contemplated under the *contract* must be in the ordinary course of business of the *contractor* within the meaning of the Personal Property Security Act (PPSA), as amended.

53. No Lemon Policy

1. Any goods or equipment acquired by the *Town* is subject to a “No Lemon Policy” whereby after three (3) attempts to repair a recurring malfunction, the *Town*, in its sole discretion can direct the *contractor* to replace the equipment, on a like-for-like basis and new, at the *contractor's* expense.

54. Over Shipments of Goods

1. Any over shipments made are the responsibility of the *contractor*, and
2. The *Town* reserves the right to reject and return, at the *contractor's* expense, any goods in excess of the quantity ordered or, at the *contractor's* discretion, the *Town* may be permitted keep the goods on a “no charge” basis.

55. Safety Data Sheets (formerly Material Safety Data Sheets)

1. The *contractor* must supply current Safety Data Sheets (SDS) for all controlled products supplied on or before delivery of initial shipments and again sixty (60) days prior to expiry of the sheet;
2. Failure to comply with this instruction or to label products in accordance with the amended Hazardous Products Act (HPA) and the new Hazardous Products Regulations (HPR) may result in termination of the *contract*, in which event any existing stocks must be removed and credited back to the *Town* in full by the *contractor*; and
3. The *Town* will be under no obligation whatsoever, to any *contractor* who does not comply with the *Town's* procedure in this regard.

56. Damage Claims

1. The *contractor* agrees that all *deliverables* to be provided must be new and of the latest model, unless otherwise stated in the *bid call document*, in good operating condition and free of defects in workmanship and material, and the *contractor* must repair or replace

any damaged or marred items caused or occasioned through the handling or installation by the *contractor* or otherwise occasioned in transit;

2. The *contractor* must protect the *work*, the *Town's personal property* and *real property*, and any surrounding private property from damage;
3. The *contractor* accepts full responsibility for any damage caused by the *contractor*, or its officers, personnel, workers, equipment or *subcontractors* to any part of the *Town's personal property* and *real property*, including but not limited to any buildings, parking lots, sidewalks, curbs, store fronts, doors, walls, light standards, landscaping, or equipment of the property and must promptly report to the *Town*, in writing and remedy any such damage in accordance with the *Town* instructions; and
4. The *contractor* must repair and make good such damage at their expense.

57. Clean Up

1. During performance and completion of *work*, the *contractor* must remove all unused equipment and instruments of service, all excess or unsuitable material and debris, and legally dispose of the debris;
2. The *contractor* must leave the entire area in a neat, clean and acceptable condition as approved by the *Town*;
3. Failure to do so may require the *Town's employees* to perform necessary clean up and the *contractor* will be either;
 1. Invoiced for the direct cost associated with such clean up and all such invoices will be due and payable within ten (10) *business days*; or
 2. Such direct costs will be deducted from any monies owed to the *contractor*.

58. Packaging and Disposal

1. The *contractor* must eliminate or reduce the amount of packaging to the extent possible and must remove packaging from delivered and installed *deliverables*;
2. Packaging once removed, must be recycled or transported and disposed of in accordance with all applicable laws and regulations governing waste disposal; and
3. The *contractor* must indicate where garbage is taken for disposal when requested to do so by the *Town*.

59. Identification and Uniform

1. If working at a *Town* facility, all representatives of the *contractor* are required to sign in at reception upon arrival at the *Town's* facility, obtain, and wear a visitor identification card at all times while at the *Town's* facilities (if available);
2. Upon leaving the *Town* facility, all representatives of the *contractor* must sign out at reception and return the visitor identification card (if issued); and

3. Tradespeople (service personnel) must in addition to the above, wear a company uniform with a nameplate identifying the name of their employer.

60. Meetings

1. The *contractor's* representative(s), as requested by the *Town*, must attend all meetings required for the *work*; and
2. The *contractor's* representative(s) attending meetings must be thoroughly versed and knowledgeable with respect to the proposed topics of discussion and must have the authority to make the necessary decisions and commitments with respect to matters agreed upon at the meetings.

61. Training

1. Where necessary or otherwise specified in the *bid call document*, the *contractor* must provide qualified training personnel to instruct the *Town's employees* until they are familiar and competent in the operation and daily maintenance of the acquired goods or services; and
2. Unless otherwise stated, the cost of training must be included in the *bid submission price*.

62. Performance

1. The *contractor* must thoroughly complete each specified task in a professional manner, using trained, experienced personnel and quality equipment/materials;
2. The *contractor* warrants that its personnel, agents, *subcontractors*, *subconsultants* and/or representatives have the qualifications, experience, knowledge, skills and abilities necessary for the fulfilment of the *contract*;
3. Services must be performed in accordance with the frequencies specified; and
4. The whole of the services and the manner of performing them must be done to the satisfaction of the *Town*.

63. Warranty/Fit for Intended Use

1. The *contractor* warrants that their workmanship, *deliverables* or *construction* supplied by the *contractor* to the *Town* will be in full conformity with the *bid call documents*, and any samples provided (if applicable);
2. The *contractor* further warrants that their workmanship, *deliverables* or *construction* are of merchantable quality, and fit for the intended use and must perform according to the requirements set out by the *Town* as well as in accordance with all published performance *specifications* contained in any of the *contractor's* product manuals, *specifications* or proposal;
3. For greater certainty, *deliverables* must be new, of the latest model, and must be complete with all necessary accessories for operation;

4. The *Town* must be afforded a reasonable period of time (not greater than thirty (30) calendar days) for the purpose of inspecting the *deliverables* to confirm their compliance with the *specifications*, terms and conditions of the *purchase order* or *contract*;
5. Unless a greater warranty period is stated in the *bid call document*, or the *contractor's bid submission*, the warranty period must be for a minimum of one (1) year on all workmanship, *deliverables* and *construction*;
6. Unless stated otherwise in the *bid call document* or the *contractor's bid submission*, the warranty period must commence for workmanship and *deliverables*, the day after delivery and acceptance or installation date, if installation occurred at a later date and for *construction*, as stated in the *bid call document*;
7. This general warranty (stated above) is independent of and without prejudice to any specific warranty or service guarantee offered by the *contractor* or third party manufacturer or supplier of the *deliverables* in connection with the purpose for which the *deliverables* were acquired;
8. The *contractor* must assign to the *Town* any warranty or service guarantee offered by a third party manufacturer or supplier of the *deliverables*;
9. Notwithstanding this assignment, if at any time up to one (1) year from the date of delivery or installation (if applicable) the *Town* determines the *deliverables* or any part thereof do not conform to these warranties, the *Town* will notify the *contractor* within a reasonable time after such discovery, and the *contractor* must then promptly correct such nonconformity at the *contractor's* expense;
10. *Deliverables* used to correct nonconformity must be similarly warranted for one (1) year from the day after delivery and acceptance or installation date;
11. The *contractor's* liability will extend to all liabilities, losses, damages, claims and expenses incurred by the *Town* caused by any breach of any of the above warranties;
12. Upon rejection of the *deliverable* the same must be removed by the *contractor* from the premises of the *Town* within five (5) *business days'* after notification unless public health and safety require immediate destruction or other disposal of such rejected *deliverables*, in which case the *Town* may take such actions as it deems necessary, and the *contractor* must reimburse the *Town* for the cost of such actions within ten (10) *business days'* following receipt of an invoice; and
13. Rejected item(s) left longer than five (5) *business days'* will be considered as abandoned and the *Town* will have the right to dispose of the item as its own *personal property*.

64. Warranty for Performance

1. The *contractor* hereby represents and warrants that the *deliverables* will be provided fully and diligently in a professional and competent manner by persons qualified and skilled in their occupations and that all *deliverables* will be provided in accordance with;
 1. The *contract*;

2. Industry standards; and
3. Requirements by law.

2. If any of the *deliverables*, in the opinion of the *Town*, are inadequately provided or require corrections, the *contractor* must immediately make the necessary corrections at its own expense as specified by the *Town* in a notice of rectification.

65. Health and Safety Policy

1. The *contractor* must submit to the *Town*, if requested, an electronic copy of the Health and Safety Policy for their firm along with Health and Safety procedure(s) relevant to the *work* to be performed where applicable; and
2. If the *contractor* does not have a written policy and procedures relevant to the *work*, then the *contractor* will be expected to abide by the *Town's* safety policy and procedures in addition to the Occupational Health and Safety Act.

66. The Occupational Health and Safety Act

1. The *contractor*, for purposes of the Ontario Occupational Health and Safety Act (the "OHS"), will be designated as the "Constructor" for this project and must assume all of the responsibilities of the "Constructor" and "Employer" as set out in the OHS and its regulations;
 1. The foregoing will apply notwithstanding that; the *contractor* has been referred to as the "*contractor*" in this and any other related documents.
2. The *contractor* acknowledges that they have read and understood the Ontario Occupational Health and Safety Act (RSO 1990, C-0.1, as amended);
3. The *contractor* must participate in a start-up meeting(s) to verify expectations in the area of health and safety before the start of any *work*;
4. The *Town* will take all action necessary to support the *contractor's* health and safety efforts and to ensure that the *Town* owned and controlled environments in the vicinity of the project are free from hazards;
5. The *contractor* must ensure that all *work* locations are properly accessible by emergency service vehicles (e.g. police, fire, ambulance) throughout the duration of the *contract*;
6. The *contractor* must have a clearly defined safety plan/rescue plan for its personnel involved in hazardous activities;
 1. The plan must include, but not be limited to, procedures for entering a confined space on the *work* site.
7. The *contractor* covenants and agrees to observe strictly and faithfully the provisions of the Ontario OHS and all regulations and rules promulgated thereunder, and in particular

(without limiting the generality of the foregoing), the provisions regarding the obligations and responsibilities of the “Constructor” and “Employer”;

8. The *contractor* agrees to indemnify and save the *Town* harmless for damages or fines arising from any breach or breaches of the Ontario OHSA including but not limited to the legal fees incurred by the *Town*;
9. The *contractor* agrees to assume full responsibility for the enforcement of the Ontario OHSA to ensure compliance therewith;
10. The *contractor* acknowledges and agrees that any breach or breaches of health and safety requirements, whether by the *contractor* or any of its *subcontractors* can be considered a breach of *contract*;
11. The *contractor* further acknowledges and agrees that any breach or breaches of the Ontario OHSA whether by the *contractor* or any of its *subcontractors*, may result in the immediate termination of the *contract* and if the *Town* terminates the *contract*, the *Town* reserves the right to draw from the *contract* deposit or surety (if available) to arrange the completion of said *work* to the *Town specifications*;
12. The *contractor* must allow access to the *work* site on demand to *Town Representative(s)* to review *work* sites to ensure compliance with the Ontario OHSA, but no such review will relieve the *contractor* from its responsibilities as “Constructor” or “Employer”;
13. The *contractor* agrees that any damages or fines that may be assessed against the *Town* by reason of a breach or breaches of the Ontario OHSA by the *contractor* or any of its *subcontractors* will entitle the *Town* to set-off the damages so assessed against any monies that the *Town* may from time to time owe the *contractor* under the *contract* or under any other *contract* whatsoever;
14. The *contractor* must provide a list of all controlled hazardous materials or products containing hazardous materials, all physical agents or devices or equipment producing or emitting physical agents and any substance, compound, product or physical agent that is deemed to be or contains a designated substance in accordance with the Workplace Hazardous Materials Information System (WHMIS) as defined under the Ontario OHSA and must provide appropriate Safety Data Sheets (SDS) for these substances used for the performance of the required *work*, all prior to the performance of the *work*;
15. When hazardous materials, physical agents and/or designated substances are used in the performance of the required *work* or may have been used in the original *construction*, the selected *contractor* must ensure compliance to the requirements of the Ontario OHSA and associated regulations;
16. The *Town* reserves the right to terminate the *contract* without obligation for non-compliance with the provisions set out herein, health and safety regulations, the Environmental Protection Act, associated regulations or other applicable legislation;
17. The *contractor* must perform the *work* to cause the public the least inconvenience possible;
 1. In particular, the *contractor* must not obstruct any street, thoroughfare, or footwalk

longer or to a greater extent than necessary;

18. The *contractor* must take all reasonable precaution necessary to ensure the safety of their personnel and the public, particularly children who may play in the area of *work*;
19. If any person is killed or Critically Injured (as defined in R.R.O. 1990, Regulation 834 made under the Ontario Occupational Health and Safety Act, R.S.O. 1990, Chapter O.1), in addition to complying with the reporting requirements under the Ontario Occupational Health and Safety Act, R.S.O. 1990, Chapter O.1, the *contractor* must notify the *Town* immediately and in any event by no later than twelve (12) hours after the Critical Injury or death occurred; and
20. In addition to complying with the reporting requirements under the Ontario Occupational Health and Safety Act, R.S.O. 1990, Chapter O.1, the *contractor* must notify the *Town* of any other incident or injury (apart from a death or Critical Injury) as soon as possible, but in any event by no later than five (5) *business days* after the incident or injury occurred.

67. Accessibility

1. All Accessibility Standards — including the Accessible Customer Service Standard — are now part of one regulation: the Integrated Accessibility Standards Regulation (IASR) (O. Reg. 191/11);
2. The *Town* is committed to providing equal treatment to people with disabilities with respect to the use and benefit of *Town's* services, programs, and goods in a manner that respects their dignity and that is equitable in relation to the broader public;
3. *Contractors* who deal with the public or other third parties on behalf of the *Town*, as well as *contractors* who participate in developing *Town's* policies, practices or procedures governing the provision of *deliverables* to members of the public or other third parties, must conform with the IASR, in particular Part IV.2, for Customer Service;
4. Pursuant to the above, Accessibility Standards for Customer Service, *contractors* who deal with the public or other third parties on behalf of the *Town*, as well as *contractors* who participate in developing *Town* policies, practices or procedures governing the provision of *deliverables* to members of the public or other third parties must ensure that all of its personnel, agents, volunteers, or others for whom it is responsible, receive training about the provision of goods and services provided to people with disabilities;
5. The Accessible Customer Service Training must be provided in accordance with Part IV.2, of the IASR for Customer Service and must include, without limitation, a review of the purposes of the Accessibility for Ontarians with Disabilities Act (AODA) and the requirements of the Customer Service Regulation, as well as instruction regarding all matters set out in the Customer Service Regulation;
6. *Contractors* who provide *deliverables* or facilities on behalf of the *Town* must ensure that all of its personnel, agents, volunteers, or others for whom it is responsible, receive training on the requirements of the accessibility standards referred to in the IASR and on the Ontario Human Rights Code (the Code) as it pertains to persons with disabilities;

7. The *contractor* must keep records of the training provided, including dates when the training is provided, the number of personnel who received training and individual training records;
8. The *contractor* must submit to the *Town*, if requested, documentation describing its accessibility training policies, practices and procedures, and a summary of the contents of training, together with a record of the dates on which training was provided and the number of attendees;
9. The *Town* reserves the right to require the *contractor*, at the *contractor's* expense, to amend its accessibility policies, practices and procedures if the *Town* deems them not to comply with the requirements of the IASR;
10. The *contractor* must only assign those personnel who have successfully completed training in accordance with all regulations related to the Accessibility provisions herein, to provide *deliverables* to, or on behalf of, the *Town*;
11. The *contractor* must ensure that any information, *deliverables* and/or communication (as defined in the IASR) produced pursuant to the *contract* will be in conformity with World Wide Web Consortium Web Content Accessibility Guidelines (WCAG) 2.0 Level AA and must be provided in accessible Word, Excel, PowerPoint, PDF or other format requested by the *Town*;
12. The training must be provided to each personnel, agent, *subcontractor* or volunteer in the *contractor's* business as soon as possible after he or she is assigned to *work* on *Town* property or at a *Town* facility;
13. The *Town* reserves the right to inspect the *contractor's* training records; and
14. The *contractor* agrees to provide the *Town* upon request with any training records within ten (10) *business days*'.

68. Invoicing

1. All invoices must be issued to “**The Corporation of the Town of Georgina**”;
2. All invoices must be emailed directly to the project specific *Town Representative*;
3. **All invoices must reference the purchase order number** and conform, at a minimum, to the order and content as set out in the *Town's purchase order* and must provide additional information including, but not limited to the following:
 1. Harmonized Sales Tax shown separately; and
 2. *Contractor's* H.S.T. registration number.
4. Unless otherwise specified in the *bid call document*, invoices must contain sufficient detail in accordance with the items and unit prices of the *awarded bid submission* and subsequent *contract*. For example: Time and Material *contracts* must provide a breakdown of labour and material utilized for the project based on the *contract* unit rate and/or lump sum prices.

69. Payments

1. Payment terms are net thirty (30) days from receipt of invoice unless *work* is conducted under the Construction Act and in such case, the payment terms will be in accordance with the provisions of the Construction Act;
2. Payments will be processed for *deliverables* that have been received, inspected and approved by the *Town Representative*;
 1. No payments will be processed for *deliverables* that have not been received, inspected and approved by the *Town Representative*; and
 2. For clarity, the *Town* will not process “deposit invoices” for *deliverables* that have not been received, inspected and approved by the *Town Representative*.
3. Payment using the *Town’s* corporate *purchase card (P-Card)*, may be available to the *contractor* at the sole discretion of the *Town*, based upon considerations, which include, but may not be limited to, its practical application given the commodities or services acquired, *acquisition value* and the terms and conditions of the *contract*;
4. In the event that payment is not made by P-Card, payment must be made using Electronic Funds Transfer (EFT) as follows:
 1. To receive payment by EFT, new or existing *contractors, consultants or vendors* must submit the *Town’s Vendor Set-up Form (Form)* (see [APPENDIX A – VENDOR SET-UP FORM](#) in the *bid call document*) as part of the documentation required prior to *award of contract*;
 2. *Respondents* must not include the *Form* with their *bid submission*;
 3. In the event the *Form* is incomplete, it will be rejected and a new *Form* must be uploaded;
 4. The *Form* must be authorized by a signing officer, and someone who has the ability to bind the organization;
 5. All payments made by EFT will only be made as a direct deposit to Canadian Dollars (CAD) deposit accounts;
 6. Remittance advices will be sent to the email address provided on the *Form*;
 7. If, during the term of *contract*, there is a change to the information contained in the *Form*, the *contractor, consultant or vendor* must submit a new *Form* to *procurement services* at purchasing@georgina.ca; and
 8. Inquiries regarding payment status must be directed to apinvoices@georgina.ca.
5. Where there is a question of non-performance, payment in whole or in part may be withheld unless the *work* is conducted under the *Construction Act* in such case, disputes will be in accordance with the provisions of the *Construction Act*; and

6. In the event a cash discount, the withholding of payment as provided herein will not deprive the *Town* from taking such discount.

70. Set Off

1. The *contractor* agrees that the *Town* may, at any time, set-off against any monies due or payable to the *contractor*, including but not limited to; property taxes (or any penalties and/or interest thereon) owing to the *Town* by the *contractor* at the time such monies become due and payable to the *contractor*.

71. Payment of Workers

1. The *contractor* must pay, or cause to be paid to its personnel employed in the execution of the *contract* on a weekly/biweekly basis, wages at not less than the following rates:
 1. For personnel employed in the execution of the *contract*, who are in contractual relationship with a union, the minimum rate of wages must be the union rate of wages in the particular district or locality in which the *work* is undertaken; or
 2. For personnel employed in the execution of the *contract*, who are not in contractual relationship with a union, the minimum rate of wages must be the current Fair Wage Schedules of the Labour Standards Branch, of the Ministry of Labour, in the particular district or locality in which the *work* is undertaken.
2. Revisions made to the schedule during the course of the *contract* will apply from the effective date of such revisions and all additional resultant costs must be borne by the *contractor*.

72. Right to Audit and Retention of Records

1. The *contractor* must make available at any time during business hours and as often as the *Town* may deem necessary, *contractor's* records with respect to the *work* and its applicable *bid submission*;
2. *The contractor* must permit the *Town* to audit, examine, and make copies, excerpts or transcripts from such records, and to make audits of data relating to the *work* and its applicable *bid submission*; and
3. The *contractor* must maintain and retain all records and other documents related to the *work* and its applicable *bid submission* for a period of three (3) years from the date of final payment (or longer as required by law), except in cases where unresolved audit questions require a longer period of time for resolution, as determined by the *Town*.

73. Volume Reporting

1. By offering a *bid submission*, the *respondent* agrees to prepare and submit a report to the *Town Representative* reporting the annual sales volumes made under any resulting *contract*, prior to the end of each calendar year;
2. The report must provide monthly sales volumes for all items sold under the *contract*; and

3. The *Town Representative* may request the report on a more frequent basis and in a form of their choosing and the *contractor* must comply.

74. Prohibited Behaviours

1. While performing the *contract*, the *contractor's* personnel, agents, *subcontractors*, *subconsultants* and/or representatives must conduct themselves in a safe, pleasant, ethical and responsible manner at all times, and for greater certainty must not:
 1. Consume alcoholic beverages, narcotics or prescription drugs which may impair their abilities while in the performance of services for the *contract*, or be under the influence of same when reporting to duty;
 2. Smoke on property owned or leased by the *Town*;
 3. Use foul, profane, vulgar or obscene language or gestures;
 4. Solicit gratuities or tips from any person for services performed under the *contract*;
 5. Engage or participate in any action which may constitute a public nuisance or disorderly conduct;
 6. Engage or participate in any action which may constitute an illegal act;
 7. Engage or participate in any willful, negligent or reckless action in disregard of safety or sanitary requirements or regulations;
 8. Perform *work* without having obtained any required clearance, including security clearances;
 9. Play radios or other sound equipment, or wear ear/head phones;
 10. Overly fraternize with *Town employees*, clients, residents, tenants, or visitors to the site or building nor unnecessarily disrupt business while performing their duties;
 11. Interfere with building or *employee* property;
 12. Disrespect property boundaries and not trespass on any private properties, without prior, written approval from the property owner, and the *Town*;
 13. Undertake inappropriate measures to avoid any situation where the general public is required or encouraged to trespass on adjacent lands; or
 14. Park or store materials or equipment on private property without prior written permission from the property owner, and the *Town*.
2. At the request of the *Town* or *consultant* (if applicable), the *contractor* must remove from the site any personnel (whether employed on the *work* or not) who, in the opinion of the *Town* or *consultant* (as applicable), is incompetent, intoxicated or otherwise impaired, or who is conducting himself (or herself) improperly, and the *contractor* must not permit any

such personnel to remain on the site nor return to the site without the prior, written approval of the *Town* or *consultant* (as applicable), as the case may be;

3. At the written request of the *Town*, the *contractor* must immediately remove any personnel, *subcontractor*, representative or agent for engaging or participating in any of the foregoing prohibited activities, or for any other reason, where it is in the *Town's best interest*; and
4. The personnel, *subcontractor*, representative or agent so removed must not be placed in another *Town* facility or assigned to any *contract* between the *Town* and the *contractor*.

75. Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

1. In accordance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), the personal information a *respondent* provides in response to this *bid solicitation* is being collected under authority of the Municipal Act and will be used exclusively in the selection process and may be used for budgetary purposes for future *bids solicitations*;
2. All *bid submissions* will become the property of the *Town* and may be disclosed in accordance with a request made under MFIPPA;
3. In accordance with requirements of MFIPPA, *respondents* are reminded to identify in their *bid submission* material, any specific scientific, technical, commercial, proprietary, or similar confidential information, the disclosure of which could cause them injury;
4. Entire *bid submissions* must not be identified as confidential; and
5. If a *respondent* has any questions in this regard, please consult the *Town's* Clerk's Office at 905-476-4301.

76. Confidentiality

1. In the course of a *contractor's* interaction with the *Town*, a *contractor* may receive, have access to, or otherwise obtain "*confidential information*" (as defined below);
 1. For the purposes of this *contract*, "*confidential information*" means:
 1. All information, documents and materials submitted in any form by a *contractor* in response to a *bid solicitation*;
 2. Any other information, documents, materials and communications in any form, relating in any way to a *bid solicitation*, including any information, documents or materials provided to the *respondent* or by a *Town Representative* or other person working on the *bid solicitation* whether identified as confidential or not; and
 3. Any information, documents, materials and communications in any form, produced by the *contractor* or any other person based on or developed out of any of the information, documents or materials described above, where identified as confidential or not.

2. For the purposes of this *contract*, “*confidential information*” does NOT include:
 1. Information that is, or subsequently becomes, publicly available other than through a breach of this *contract* or through a breach of a confidentiality agreement which another person has entered into concerning the *confidential information*;
 2. Information already possessed before commencing to participate in a *bid solicitation*;
 3. Information which is rightfully received from a third party without breach of any obligation of confidence to the disclosing party; and
 4. Information which is independently developed without the use of the *confidential information*.
3. As a condition of a *contractor’s* interaction or continued interaction, the *Town* requires the *contractor* to agree to the following confidentiality terms and conditions, on which the *Town* must rely:
 1. A *contractor* must not use the *confidential information* in any way or for any purpose other than as reasonably required for interaction with the *Town*;
 2. A *contractor* must disclose the *confidential information* (or any portion thereof) only on a “need-to-know” basis to those persons who assist in the preparation of interactions, and only on the condition that all such information be retained by each of those persons as strictly confidential; and
 3. Subject to any disclosure requirements of the law, and subparagraph (1) above, a *contractor* must keep all *confidential information* received, have access to, or otherwise obtain, strictly confidential for a period of five (5) years after the date of this *contract*, and must not, at any time, without the prior express written consent of an authorized *Town Representative*, use, divulge, give, release or permit or suffer to be used, divulged, given or released, any portion of the *confidential information* to any other person, firm, corporation or other entity for any purpose whatsoever.
 4. The *confidential information* is proprietary and confidential, the disclosure of which would be contrary to the public interest and detrimental to the *Town*;
 5. The provisions of this *contract* will remain in effect, regardless of whether the *bid solicitation* proceeds or a *contract* for the *acquisition of deliverables* is reached with a *contractor* or any other party;
 6. *Contractor* must safeguard all information to which others have granted access, against inappropriate and unauthorized access;
 7. *Contractor* agrees to report incidents of misuse or abuse of information immediately;
 8. If a *contractor* is found to have breached this *contract*, the *Town* may take the benefit of all remedies available at law, including specific performance and equitable relief;

9. *Contractor* must not issue a news release or other public announcement or statement in any form pertaining to details of their *bid submission* or the selection process without the prior written approval of the *Town*;
10. All correspondence, documentation and information submitted by the *Town* in any form to any *contractor* in connection with, or arising out of this *bid solicitation* or the acceptance of any *bid submission*:
 1. Remains the sole property of the *Town*;
 2. Must be treated as confidential, whether identified as confidential or not; and
 3. Must not be used for any purpose other than for replying to this *bid solicitation*, and for fulfillment of any related subsequent *contract*.
11. The *contractor* acknowledges that breach of any provisions of the confidentiality section may cause irreparable harm to the *Town* or to any third-party to whom the *Town* owes a duty of confidence, and the injury to the *Town* or to any third-party may be difficult to calculate and inadequately compensable in damages;
12. The *contractor* agrees that the *Town* is entitled to obtain injunctive relief (without providing any damage sustained by it or by any third-party) or any other remedy against any actual or potential breach of the provisions of this confidentiality section;
13. If the *contractor* or any of its directors, officers, personnel, agents, partners, affiliates, volunteers or *subcontractors* become legally compelled to disclose any *Town's confidential information*, the *contractor* must provide the *Town* with immediate written notice to that effect in order to allow the *Town* to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it must cooperate with the *Town* and its legal counsel to the fullest extent; and
14. If such protective orders or other remedies are not obtained, the *contractor* must disclose only that portion of the *Town's confidential information* which the *contractor* is legally compelled to disclose, only to such person or persons to which the *contractor* is legally compelled to disclose, and the *contractor* must provide notice to each such recipient (in cooperation with legal counsel for the *Town*) that such *Town's confidential information* is confidential and subject to non-disclosure on terms and conditions equal to those contained in the *contract* and if possible, must obtain each recipient's written agreement to received and use the *Town's confidential information* subject to those terms and conditions.

77. Information and Delivery of Materials

1. The *contractor* agrees that all information and material in any form of any kind whatsoever acquired or prepared by or for the *contractor* pursuant to the *contract* or in preparation of their *bid submission*, will, both during and following the termination of the *contract*, be the sole property of the *Town*, including all information and material provided by the *Town* to the *contractor* for the purposes of the *contract*;
2. Accordingly, the *contractor* hereby assigns to the *Town* all rights (including all *intellectual property* rights), title and interest it may have from time to time in the *work* to the *Town*;

3. Upon the request of the *Town*, the *contractor* agrees to deliver forthwith to the *Town* all materials and information specified in the request that is/are the property of the *Town* and in the possession or under the control of the *contractor* in any form;
4. No copy or duplicate of any such material or information delivered to the *Town* will be retained by the *contractor* and/or *respondent* team without the prior written approval of the *Town*;
5. The *contractor* further agrees not to destroy any material or information which is the property of the *Town* without the *Town's* prior written approval; and
6. This provision survives the expiration or termination of the *contract*.

78. Intellectual Property

1. The *contractor* must pay all royalties and license fees required for the *work* provided;
2. The *contractor* represents and warrants that it has the sole and unrestricted right, title and interest or good and sufficient power, authority and right to use any *intellectual property* required for the completion of the *work*;
3. The *contractor* must, at its own expense, defend all claims, actions or proceedings against the *Town* based on any allegation that any *work* or any part of the *work* performed or the supply of any material in the performance of a *contract* constitutes an infringement of any trademark, patent, copyright or other proprietary right, and it must pay to the *Town* all costs, damages, charges and expenses, including its lawyers' fees on a substantial indemnity basis occasioned to the *Town* by reason thereof;
4. If, in any action or proceeding, the *work* or any part thereof is held to constitute an infringement of any trademark, patent, copyright or other proprietary right, the *contractor* must forthwith, either secure for the *Town* the right to continue using the *work*, or must at the *contractor's* expense and with the *Town's* prior written approval, replace the infringing items with non-infringing *work*, or modify them so that the *work* no longer infringes any such right;
5. All municipal asset information and data provided to and developed by the *contractor* will remain the property of the *Town* at all times;
6. The *contractor* must provide municipal asset information (infrastructure system plans, reports, drawings, models, etc.) on a continuous basis to the *Town* such that records at the *Town* offices are always up-to-date;
7. The *contractor* agrees that all *intellectual property* and every other right, title and interest in and to all concepts, techniques, ideas, information and materials, however recorded, (including images and data) provided by the *Town* to the *contractor* will remain the sole property of the *Town* at all times;
8. The *Town* will be the sole owner of any newly created *intellectual property*;

9. The *contractor* irrevocably assigns to and in favor of the *Town* and the *Town* accepts every right, title and interest in and to all newly created *intellectual property* in the *work(s)*, immediately following the creation thereof, for all time and irrevocably waives in favor of the *Town* all rights of integrity and other moral rights to all newly created *intellectual property* in the *work(s)*, immediately following the creation thereof, for all time;
10. To the extent that any of the *work(s)* includes, in whole or in part, the *contractor's intellectual property*, the *contractor* must grant to the *Town* a license to use that *contractor's intellectual property* in the manner contemplated in this assignment, the total consideration for which will be payment of the *contract* rates to the *contractor* by the *Town*;
11. The presumption governing the *contract* will be that the *Town* will be the sole owner of any *intellectual property* in any form contained in any of the *work(s)*;
12. If the *contractor's intellectual property* forms any part of the *work(s)*, the *contractor* must notify the *Town* in writing as such prior to the delivery of the *work(s)* containing any such *contractor's intellectual property*;
13. In the absence of any such notice, the presumption will remain that the *Town* is the sole owner of any *intellectual property* contained in the *work(s)*; and
14. The *contractor* must not incorporate into any part of the *work(s)* anything that would restrict the right of the *Town* or of any client to modify, further develop or otherwise use the *work(s)* in any way that the *Town* or the client deems necessary, or that would prevent the *Town* or any client from entering into any *contract* with any party other than the *contractor* for the modification, further development of or other use of the *work(s)*.

79. Publicity

1. The *Town* may, in its sole discretion, acknowledge the *contractor* in any publicity or publication; and
2. The *contractor* must not make use of its association with the *Town* in any publicity or publication without the prior written consent of the *Town*.

80. Limit on Liability

1. The *respondent* agrees that, if the *Town* is found to be liable for any act or omission in respect of, without limitation, the administration of the *procurement process* or *award* by it of this *bid solicitation*, the total liability and aggregate amount of damages recoverable against the *Town* for any matter or relating to or arising from any act or omission by the *Town*, whether based upon an action or claim in contract, warranty, equity, negligence or otherwise, will be limited to the *respondent's* cost of preparing its *bid submission*.

81. Duty to Disclose Change of Control

1. In the event the *contractor* undergoes a change of control, the *contractor* must immediately disclose such change of control to the *Town* in writing, and must comply with any terms and conditions subsequently prescribed by the *Town* resulting from this disclosure.

82. Termination of Contract

1. Termination for Contractor Default

1. Notwithstanding anything to the contrary herein, if the *contractor* fails to comply with a direction or decision of the *Town* properly given under the terms of the *contract*, or where the *contractor* is deemed by the *Town* to be in default in any other manner as set forth by the following reasons constituting default, the *Town* may, after giving ten (10) calendar days' prior written notice to the *contractor*, give notice to immediately terminate this *contract*, in whole or in part, and without charge with respect to all or any part of the *contract*. Reasons constituting default include:
 1. The *contractor* commits a material breach of its duties and obligations under this *contract*, unless, in the case of such breach, the *contractor*, within ten (10) calendar days' after receipt of written notice of such breach from the *Town*, in a manner satisfactory to the *Town* in its sole, absolute and non-reviewable discretion:
 1. Cures such breach; and
 2. Indemnifies the *Town* for any resulting damage or loss.
 2. The *contractor* commits numerous breaches of its duties under the *contract* that collectively constitutes a material breach;
 3. A change in control of the *contractor* where such control is acquired, directly or indirectly, in a single transaction or series of related transactions, or all or substantially all of the assets of the *contractor* are acquired, by any entity, or the *contractor* is merged with or into another entity to form a new entity, unless the *contractor* demonstrates to the satisfaction of the *Town* that such event will not adversely affect its ability to perform the services under the *contract*;
 4. The *contractor* commits fraud or gross misconduct; or the *contractor* has contravened the *Town's* Supplier Code of Conduct;
 5. The *contractor* subcontracts for the provision of part or all of the *deliverables* without first obtaining written approval of the *Town*;
 6. The *contractor* assigns the *contract* without first obtaining written approval of the *Town*; or
 7. Where the *contractor* becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or where a receiver is appointed under a debt instrument or a receiving order is made against the *contractor*, or an order is made or a resolution passed for the winding up of the *contractor*.
2. In the event of a termination notice being given under the provisions of this section, the *contractor* will be liable to the *Town* for any milestone payments paid by the *Town* for unfinished *work*, including all losses and damages which may be suffered by the

Town by reason of the default or occurrence upon which the notice was based, and also including any increase in the cost incurred by the *Town* in acquiring the *work* from another source;

3. In the event of a termination notice being given under the provisions of this section, the *Town* may do such things and incur such costs as it deems necessary to correct the *contractor's* default, including without limitation the withholding of payment due or accrued due to the *contractor* for services rendered pursuant to this *contract*, which moneys may be set off by the *Town* against any expenses that it may incur in remedying a default or failures as described above;
 4. In the event of a termination notice being given under the provisions of this section, the *contractor* must agree to repay immediately to the *Town* the portion of any advance payment at the date of the termination;
 5. In the event of a termination notice being given under the provisions of this section, and subject to the resolution of any claim or claims which the *Town* may have against the *contractor* as set forth in the previous three (3) paragraphs, payment will be made within thirty (30) calendar days' of the date of the invoice from the *Town* to the *contractor* for the value of all finished *work* delivered and accepted by the *Town*, such value to be determined in accordance with the rate (s) specified in the *contract*;
 6. No specific remedy expressed in the *contract* is to be interpreted as limiting the rights and remedies which the *Town* may be entitled to, to mitigate damages, under any *contract* or otherwise in law;
 7. All *Town* information (including copies thereof) must be returned to the *Town* within thirty (30) calendar days' following notice of termination in the form specified by the *Town*;
 8. The *Town* will have the right to take possession of and use any completed or partially completed portions of the *work* despite any *contract* provisions expressed or implied to the contrary; and
 9. Upon the termination or expiry of this *contract*, or the completion of the *work*, the *contractor* must promptly discontinue use of any data, and return the same to the *Town*.
2. Termination for Convenience
1. Notwithstanding anything contained in the *contract*, the *Town* may, at any time prior to the completion of the *work*, by giving notice to the *contractor*, terminate the *contract* as regards all or any part of the *work* not completed;
 2. Upon a termination notice being given, the *contractor* must cease *work* in accordance with and to the extent specified in the notice, but must proceed to complete such part or parts of the *work* as are not affected by the termination notice;
 3. The *Town* may, at any time or from time to time, give one or more additional termination notices with respect to any or all parts of the *work* not terminated by any previous termination notice;

4. In the event of a termination notice being given pursuant to this section, the *contractor* will be entitled to be paid, to the extent that costs have been reasonably and properly incurred for purposes of performing the *contract* and to the extent that the *contractor* has not already been so paid or reimbursed by the *Town*:
 1. On the basis of the *contract* price, for all completed *work* that is inspected and accepted in accordance with the *contract*, whether completed before, or after and in compliance with the instructions contained in, the termination notice; or
 2. The cost to the *contractor* for all *work* terminated by the termination notice before completion, the cost to the *contractor* being determined in accordance the *contract* price and percentage completed.
5. The *contractor* will have no claim for damages, compensation, loss of profit, allowance or otherwise by reason of, or directly or indirectly arising out of, any action taken or termination notice given by the *Town* under this section, except to the extent that this section expressly provides.

83. Transition Services

1. Upon expiration or termination of the *contract* (regardless of the reason for termination), the outgoing *contractor* and the *Town* will work in good faith to transition the expired or terminated services to any incoming *contractor* with minimum interruption to the *Town's* business operations;
2. At the *Town's* option, and with prior written notice, the outgoing *contractor* will continue to provide the expired or terminated services and will provide transition support at the *contract* price and consistent with the terms of the *contract* for a period of no longer than sixty (60) calendar days following the expiration or termination date (*Transition Period*);
3. The outgoing *contractor* will provide the post-expiration or post-termination services (*Transition Services*) at least at the same levels of quality and timeliness of performance as services were provided prior to the *contract* expiration or termination, in a professional manner, with high quality, and in accordance with industry standards; and
4. The outgoing *contractor* and the *Town* may, by written notice, modify the *Transition Services* to be provided and the length of the *Transition Period*.

84. Indemnification

1. The *contractor* hereby agrees to indemnify and hold harmless the *Town*, its officers, *Council* members, partners, agents, *consultants*, volunteers and *employees* from and against any and all liability, loss, costs, damages and expenses (including legal, expert and *consultant* fees) causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively, "*claims*") by whomever made, sustained, incurred, brought or prosecuted, including for third-party bodily injury (including death), personal injury and property damage, in any way based upon occasioned by or attributable to anything done or omitted to be done by the *contractor*, its *subcontractors* or their respective directors, officers, agents, personnel, partners, affiliates, volunteers or independent *contractors* in

the course of performance of the *contractor's* obligations under, or otherwise in connection with, the *contract*;

2. The *contractor* further agrees to indemnify and hold harmless the *Town*, its officers, *Council* members, partners, agents, *consultants*, volunteers and *employees* for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit by any person, entity or organization, including, without limitation, the *Town*, claimed or resulting from such *claims*; and
3. The obligations contained in this section will survive the termination or expiry of the *contract*.

85. Non-Waiver

1. No condoning, excusing or overlooking by the *Town* of any default, breach or non-observance by the *contractor* at any time or times in respect of any provision herein contained will operate as a waiver of the *Town's* right hereunder in respect of any continuing or subsequent default, breach or non-observance or so as to defeat or affect in any way the rights of the *Town* herein in respect of any such continuing or subsequent default or breach, and no waiver will be inferred from or implied by anything done or omitted by the *Town* save only an express waiver in writing; and
2. Any *work* completed by the *Town* required by this *contract* to be completed by the *contractor* will not relieve the *contractor* of their obligations to do that *work*.

86. Force Majeure

1. It is understood and agreed that the *contractor* will not be held liable for any resulting losses if the fulfilment of the terms and conditions of the *contract* is delayed or prevented by wars, acts of public enemies, fires, floods, acts of God, or for any other cause not within the control of the *contractor* and which by **the exercise of reasonable diligence the *contractor* is unable to prevent**; and
2. If the performance of any *contract* be delayed or prevented as herein set forth, the *contractor* agrees to give immediate written notice and a detailed explanation of the cause and probable duration of any such delay.

87. Severability

1. If any provision of these Standard Terms and Conditions, or the *bid call document* in its entirety is held by a court of competent jurisdiction to be invalid, unenforceable or contrary to law, such provision will be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, or severed and the remaining provisions of these Standard Terms and Conditions, or the *bid call document* in its entirety will remain in full force and effect.

88. Entire Agreement

1. The *contract* embodies the entire agreement between the parties with regard to the provision of *deliverables* and supersedes any prior understanding or agreement, collateral, oral or otherwise with respect to the provision of *deliverables*, existing between

the parties at the date of execution of the *contract* precluding any action for negligent misrepresentation.

89. Survival of Clauses

1. Clauses pertaining to indemnity, liability, *Town* information, use of information, warranty, confidentiality and publicity, will survive the expiration or other termination of the *contract*, in addition to any other clauses, which survive by operation of law or for which survival is implied by the clause itself; and
2. The survival period must be a minimum period of two (2) years, unless otherwise agreed in writing.