

**1.3 MASTER AGREEMENT**

**MASTER AGREEMENT FOR**  
**[Insert Description of Goods and Services from RFP]**

**George Brown College**

**[Insert Effective Date of Agreement]**

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**AGREEMENT FOR ●**

**THIS AGREEMENT** made

**BETWEEN:**

George Brown College  
200 King Street East  
Toronto, Ontario  
M5A 3W8

Telephone: (416) 415-2000  
Fax: **[INSERT FACSIMILE NO.]**

(hereinafter referred to as "GBC")

**AND**

**[INSERT NAME]**  
**[INSERT ADDRESS]**

Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_

(hereinafter referred to as the "Provider")

**WHEREAS:**

1. On or about ●, 2006, in response to an RFP (as defined below), Provider submitted to GBC the Proposal (as defined below) for the provision of goods and services to address GBC's need for ●.
2. Provider is engaged in the business of providing the Deliverables, as herein defined, and represents that it has the skill, knowledge and resources to provide the Deliverables to the satisfaction of GBC; and
3. Provider has been selected, subject to the finalization and execution of this Agreement, to supply the required Deliverables to GBC.

**NOW THEREFORE** in consideration of the respective covenants and agreements contained in this Agreement, and other good and valuable consideration, the parties to this Agreement agree as follows:

**SECTION 1**  
**DEFINITIONS**

In this Agreement, the following words and phrases have the meaning set out below:

**"Acceptance"** of a Good means the successful completion of the Acceptance Testing of that Good.

**“Acceptance Test”** has the meaning ascribed to it in Schedule D.

**“Acceptance Testing”** means the performance of an Acceptance Test by GBC.

**“Accepted”** means that a Good has successfully completed Acceptance Testing.

**“Agreement”** means this Agreement for ● and any Statements of Work made hereunder, as amended from time to time.

**“Business Day”** means Monday to Friday inclusive, other than a day that is observed as a statutory holiday in the Province of Ontario.

**“Business Hours”** means between ● a.m. and ● p.m. (local time in Toronto, Ontario) on a Business Day.

**“Change Order”** has the meaning ascribed to it in section 6.3.

**“Change Request Form”** means a change request form the format of which has been agreed to in writing by GBC and Provider.

**“Commercial Goods”** means any Good that meets the following conditions:

- (i) is a Pre-Existing Work;
- (ii) is a product that Provider, Provider’s Representatives or a third party has marketed and provided to one or more of their customers prior to it being provided to GBC; and
- (iii) has been identified as such in the SOW pursuant to which Provider is providing that Good.

**“Confidential Information”** has the meaning ascribed to it in Schedule F.

**“Defect”** has the meaning ascribed to it in Schedule D.

**“Deliverables”** means all of the Goods and Services which are required to be provided by Provider to GBC hereunder. **“Deliverable”** means any such Good or Service.

**“Designated Representative”** has the meaning ascribed to it in Schedule I.

**“Documentation”** means all documents (regardless of how embodied) that are related to or that are reasonably required to enable GBC to use or to obtain the benefit of any Hardware, Software, Work Product or Services and includes without limitation all Reports.

**“Effective Date”** means the date of this Master Agreement set out at the start of this Master Agreement.

**“Fees”** has the meaning ascribed to it in section 7.1.

**“FIPPA”** means the Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31 as amended from time to time.

**“Goods”** means any item (tangible or intangible) that Provider is required to provide to GBC hereunder or under any Statement of Work including but not limited to Work Product, Documentation, Hardware and Software.

**“Hardware”** means the tangible devices and equipment (and any related accessories or peripherals) that Provider is required to provide to GBC as set out in any SOW.

**“Intellectual Property Rights”** means all the intellectual property, industrial and other proprietary rights, protected or protectable, under the laws of Canada, any foreign country, or any political subdivision thereof, including, without limitation, (i) all trade names, trade dress, trademarks, service marks, logos, brand names and other identifiers; (ii) copyrights, moral rights (including rights of attribution and rights of integrity); (iii) all trade secrets, inventions, discoveries, devices, processes, designs, techniques, trade secrets, ideas, know how and other confidential or proprietary information, whether or not reduced to practice; (iv) all domestic and foreign patents and the registrations, applications, renewals, extensions and continuations (in whole or in part) thereof; and (v) all goodwill associated therewith and all rights and causes of action for infringement, misappropriation, misuse, dilution or unfair trade practices associated with (i) through (iv) above.

**“Laws and Regulations”** means any and all applicable federal, provincial, or municipal laws, by-laws, codes, orders, ordinances, rules, regulations or statutes and all applicable judicial or administrative judgements and orders and rules of common law that are in existence on the Effective Date of this Agreement or come into existence during the Term of this Agreement, all as amended, re-enacted, consolidated or replaced, from time to time.

**“Master Agreement”** means the articles and schedules of this Agreement for Anti-virus and Anti-spam Solution, as amended from time to time, but not including any SOWs.

**“Maximum Amount”** has the meaning ascribed to it in section 7.1.

**“Notice”** means any notice, request, demand, consent, approval, authorization, correspondence, report, or other communication required pursuant to or permitted under this Agreement given in accordance with section 16.

**“Person”**, if the context allows, includes any individual, person, estate, trust, firm, partnership or corporation, government or any agency or ministry of any government, and includes any successor to any of the foregoing.

**“Personal Information”** means any personal information which is required to be protected pursuant to PIPEDA or FIPPA or any Laws and Regulations pertaining to the protection of personal information. For clarification, Personal Information is also Confidential Information.

**“PIPEDA”** means the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, as amended from time to time.

**“Pre-Existing Works”** means any of the Goods for which any applicable Intellectual Property Rights are owned by Provider or any Representative of Provider or any third party, and which were created prior to or other than pursuant to the performance of any Services.

**“Project”** means a work assignment described in a SOW.

**“Project Plan”** means a detailed plan, which may be included in a SOW, setting out the dates by which various activities related to a Project are required to be completed, as amended from time to time.

**“Proposal”** means the Proposal submitted by Provider which is attached as Schedule B and amended by Schedule C.

**“Provider Software”** means Software for which Provider owns all of the Intellectual Property Rights that has been identified as such in the Statement of Work pursuant to which it is being provided.

**“Rates”** means the agreed upon *per diem* rates for a given role, which Provider is entitled to charge for Services which amount will be the lower of: (i) the *per diem* rates set out in the Proposal as amended by Schedule C; and (ii) any *per diem* rates set out in the applicable SOW.

**“Report”** means any report that Provider is required to provide to GBC under this Agreement, including but not limited to the reports set out in a SOW.

**“Representatives”** means, in the case of GBC, Provider or any other Person, any directors, officers, employees, agents, consultants or subcontractors, as well as the subcontractor’s directors, officers, employees, agents, consultants or subcontractors.

**“Request for Proposal” or “RFP”** means Request for Proposal #● issued by GBC on ●, including all amendments of any kind, a copy of which is attached as Schedule A.

**“Service Level Metric”** means a service level metric applicable to any Service as set out in a SOW (as amended from time to time) pursuant to which that Service is provided.

**“Services”** means the services that are required to be provided by Provider to GBC, as set out in any SOW, as amended from time to time.

**“Shipping Address”** has the meaning ascribed to it in Schedule I.

**“Software”** means the items of software including all code, specifications, design documents, manuals and other materials in either printed or electronic form, that are required to be supplied by Provider to GBC, as set out in any SOW.

**“SOW Effective Date”** means with respect to any SOW, the effective date of that SOW as defined in that SOW.

**“Statement of Work” or “SOW”** means any agreement made between GBC and Provider describing a specific service or services to be provided to GBC by the Provider in accordance with the terms and conditions of this Master Agreement, which agreement shall be substantially in the form set out in Schedule J.

**“Term”** has the meaning set forth in section 5.1(a).

**“Third Party Software”** means Software for which the Intellectual Property Rights are owned by any third party who has authorized Provider to provide those items to GBC on the terms and conditions set out in this Agreement, and that has been identified as Third Party Software in the Statement of Work.

**“Work Product”** means any item (tangible or intangible) that is created by Provider in connection with the performance of any Services by Provider, including Provider’s Representatives and includes, where applicable, any Documentation that forms part of the Work Product.

## SECTION 2 PROVISION OF DELIVERABLES

### 2.1 Deliverables

- (a) *Goods.* Provider agrees to provide to GBC the Goods described in each SOW, as amended from time to time, in accordance with the terms and conditions set forth in this Agreement.
- (b) *Services.* Provider agrees to provide to GBC the Services described in each SOW, as amended from time to time, or elsewhere in this Agreement in accordance with the terms and conditions set forth in this Agreement.
- (c) *Subcontracting.* Provider may not subcontract the performance of all or part of any Services without the prior written consent of GBC.
- (d) *Review.* GBC shall, in connection with a request to consent to any subcontracting of work hereunder, be entitled to review the terms and conditions of any subcontracting agreement between Provider and its proposed subcontractor(s) to verify compliance with the terms and conditions of this Agreement, save and except for any financial terms set out therein, which may be redacted from the version provided to GBC for review.

### 2.2 Responsibility

- (a) *Responsibility.* Provider has overall responsibility for the provision of the Deliverables to GBC, and Provider is responsible and liable to GBC for Provider’s own acts and omissions, and those of its Representatives, including its subcontractors, in the same manner as if such acts or omissions were those of Provider. Without limiting the foregoing provisions of this section 2.2(a), any provisions of this Agreement imposing any liability or obligation on Provider to GBC, or any obligation on Provider to indemnify GBC, shall be interpreted to apply to any acts or omissions of any Representatives of Provider, including any of the subcontractors, in addition to applying to acts or



omissions of Provider. Provider shall be solely responsible for all payments to all of its Representatives including but not limited to its subcontractors.

### 2.3 Personnel

- (a) *Personnel.* Provider shall ensure that Provider's Representatives who provide any Services are qualified to do so.
- (b) *Screening.* GBC requires all or any of Provider's Representatives who may be providing Services or are involved in the management of such Representatives to undergo security screening, which shall be carried out in such manner and frequency as may be determined by GBC in its discretion.
- (c) *Review.* GBC shall, upon request, be entitled to review and approve the qualifications of any Representatives that Provider proposes to assign to perform any Service.
- (d) *Named Representatives.* If an individual who is a Representative of Provider is listed in this Agreement as performing an identifiable role or task, Provider may not replace such individual without the prior written consent of GBC which will not be unreasonably withheld.
- (e) *Replacement of Representatives.* Subject to section 2.1(c) above, if an individual who is a Representative of Provider is providing Services to GBC pursuant to this Agreement but is not specifically identified in this Agreement as performing an identifiable role or task, Provider may replace that individual should he or she become unavailable for any reason.
- (f) *Dissatisfaction.* If GBC acting reasonably is at any time dissatisfied with the performance of any Representative of Provider assigned to fulfil Provider's obligations under this Agreement, GBC may notify Provider, providing Provider with the reasons for GBC's dissatisfaction. Upon receipt of such Notice, Provider shall take all necessary steps to remedy any such problems as promptly as possible, but if the problem persists or if so requested by GBC, Provider shall promptly replace any such Representative.
- (g) *Replacement.* Any replacement of a Representative required or permitted under paragraphs (d), (e) or (f) of this section 2.3. shall be completed promptly by Provider, and unless otherwise agreed by GBC in writing, any replacement proposed by Provider must possess equivalent or greater qualifications and experience to perform the role and tasks assigned to the individual being replaced, and such individual must be provided at no incremental cost to GBC.

### 2.4 Service Level Metrics

- (a) In delivering Services pursuant to any SOW, Provider shall provide such Services so as to meet or exceed all applicable Service Level Metrics.
- (b) Provider acknowledges that the Service Level Metrics set out in any SOW represent the minimum acceptable standards for the Services provided pursuant to that SOW which would entitle Provider to receive full payment under the Agreement. The failure to

comply with these standards constitutes a less than full delivery of Services and may result in less than full payment for Services or lead to GBC's right to terminate the SOW or the Agreement.

- (c) Provider acknowledges that any service credits to be provided as remedies for the breach of the Service Level Metrics are reasonable and reflect the diminished value of the Services to GBC and its Clients, are not a penalty and are intended to provide Provider with a financial incentive to ensure that any non-compliance with Service Level Metrics is promptly and adequately addressed. Such credits are to be deducted by way of set-off against amounts otherwise owing to Provider under the SOW or the Agreement.
- (d) The remedies including credits described in any SOW as applicable to any breach of a Service Level Metric are cumulative and are in addition to and not a replacement for any other remedies available to GBC under the Agreement or at law.
- (e) Once Provider becomes aware of any failure to meet any Service Level Metrics, Provider shall apply its best efforts to rectify any deficiency which caused or contributed to that failure.

## 2.5 Reporting and Monitoring

- (a) Provider shall be responsible for reporting its performance with respect to all Service Level Metrics, and such reports will include reasonable evidence to support each claim that a Service Level Metric has been met. Provider will provide such reports to GBC, unless otherwise specified in the applicable SOW. Any additional, specific reporting requirements with respect to any Service Level Metric shall be set out in the applicable SOW. All reports related to Provider's compliance with Service Level Metrics will be provided to GBC at no charge.
- (b) Provider is solely responsible for monitoring the Service Level Metrics, including but not limited to detection of every failure to meet a Service Level Metric.

## 2.6 Suspension

- (a) *Timing.* GBC at any time in its sole discretion, without liability, cost or penalty, may suspend, in whole or in part, the provision of the Deliverables set out in any Statement of Work for a specified or unspecified time, by written Notice to Provider.
- (b) *Timing.* Upon receiving any Notice of suspension, the Provider shall immediately suspend all operations related to the Deliverables identified in that Notice except those which in GBC's opinion are necessary to preserve, care for and protect the Deliverables.
- (c) *Compensation.* Provider will be entitled to be compensated only for such Deliverables as were provided prior to the issuance of the Notice of suspension or that GBC requests Provider to provide during the suspension in accordance with this Agreement.

SECTION 3  
**DELIVERY**

3.1 **Delivery of Goods**

- (a) *Shipping Address.* Unless otherwise agreed in writing by GBC and Provider, Goods will be delivered to the Shipping Address by the delivery date for that Good, if any, specified in the applicable SOW or otherwise agreed to in writing by GBC and Provider.
- (b) *Shipping Expense.* Unless otherwise agreed in writing by GBC and Provider, shipment of the Goods from Provider's facility to the Shipping Address will be Provider's responsibility and at Provider's expense.
- (c) *Risk.* All risk of loss to the Goods shall remain with Provider until the Goods are delivered and received at the Shipping Address.
- (d) *Excess.* GBC has no obligation to accept any Goods shipped in excess of quantities specified in this Agreement.
- (e) *Documentation.* Documentation for any Good will be provided to GBC by Provider at the same time as that Good. Acceptance Testing of any Good includes Acceptance Testing of the related Documentation.
- (f) *Postponement.* GBC may postpone the delivery date for any Good for up to sixty (60) days by providing written Notice to Provider no later than ● days prior to the delivery date for that Good, if any, specified in any Project Plan or otherwise agreed to in writing by GBC and Provider.

SECTION 4  
**ACCEPTANCE**

4.1 **Acceptance Testing Requirement.**

- (a) *Acceptance.* Goods delivered to GBC shall be subject to inspection and Acceptance Testing by GBC in accordance with Schedule D.
- (b) *Warranties.* The Acceptance of any Good does not limit GBC's rights or Provider's obligations with respect to any warranty provided herein.

SECTION 5  
**TERM AND TERMINATION**

5.1 **Term**

- (a) *Term.* The term of this Agreement will be for the period commencing on the Effective Date and, unless otherwise extended or terminated earlier in accordance with the provisions of this Agreement, continuing until ● (the "Term").

- (b) *Renewal.* GBC in its sole discretion may extend this Agreement beyond the period specified in section 5.1(a) above for an additional period of up to ● months by giving written Notice of such extension to Provider at least thirty (30) days prior to the expiration date set out in section 5.1(a), in which case such period of extension will be deemed to be part of the Term.
- (c) *SOW Term.* The term of any SOW will be for the period commencing on the SOW Effective Date and, unless terminated earlier in accordance with the provisions of this Agreement, continuing for the period set out in that SOW, and if not otherwise specified in the SOW, for the Term.

## 5.2 Termination

- (a) *Dependency.* Should this Agreement be terminated or expire for any reason, all then current SOWs are terminated without further notice. If GBC elects at its option to terminate one or more SOWs, but not this Agreement in its entirety, in accordance with the following provisions of this section 5.2, this Agreement and all other SOWs made hereunder shall continue in full force and effect.
- (b) *For Breach.* GBC may terminate this Agreement or any SOW, without liability, cost or penalty, and without prejudice to any other rights or remedies under this Agreement or at law or in equity, upon Notice provided by GBC to Provider, if Provider:
  - (i) fails to cure a breach of its obligations under this Agreement or any SOW, or does not cease any conduct in violation of this Agreement or any SOW, within fifteen (15) days following written Notice of such breach or violation from GBC;
  - (ii) ceases to carry on business in the normal course, becomes or is declared insolvent or bankrupt, is subject to any proceeding relating to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes a general assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension or readjustment of all or substantially all of its obligations; or
  - (iii) attempts to execute a bulk sale of its property, except with the prior consent of GBC, which consent shall not be unreasonably withheld.
- (c) *For Convenience.* GBC may in its sole discretion, without liability, cost or penalty, and without prejudice to any other rights or remedies under this Agreement or at law or in equity, terminate this Agreement or any SOW at any time upon giving at least sixty (60) days written Notice to Provider.

## 5.3 Upon Expiration or Termination

- (a) *Rights of Recovery.* Upon the occurrence of any of the events set forth in section 5.2(b) above, GBC shall be entitled, whether or not GBC exercises any right of termination set forth in section 5.2(b) above, to recover from Provider any damages, costs, or expenses incurred by GBC as a result of any such event and may set them off against any amount payable to Provider by GBC.

- (b) *Provider's Obligations.* Upon the expiration or termination of this Agreement or any SOW for any reason, Provider shall:
- (i) disclose to GBC the current state of each Project affected by the expiration or termination including the Deliverables which have been performed, procured or produced by Provider as at the effective date of expiration or termination;
  - (ii) for each Report that Provider is required to provide to GBC pursuant to an affected SOW (and if this Agreement has expired or is terminated, pursuant to the Master Agreement) prepare a final version completed to the effective date of termination or expiration and deliver the said Reports in a professional and proper manner acceptable to GBC within ten (10) days from the effective date of termination or expiration; and
  - (iii) deliver up to GBC all Confidential Information of GBC in the possession or control of Provider relating to each affected SOW and the Deliverables provided pursuant to it, including without limitation, all Work Product produced or created by Provider for GBC under each affected SOW.
- (c) *GBC's Obligations.* Subject to the provisions of section 8, upon the expiration or termination of this Agreement or any SOW for any reason, GBC shall be responsible only for:
- (i) the payment for any:
    - (1) Goods provided under this Agreement or the affected SOWs, as applicable, and Accepted by GBC up to and including the effective date of termination;
    - (2) Services performed by Provider under this Agreement or the affected SOWs, as applicable, and in compliance with this Agreement up to and including the effective date of termination; and
    - (3) expenditures relating to the affected SOWs which have received prior authorization from GBC and are incurred as a result of work required under the affected SOWs or the Agreement, as applicable, up to and including the effective date of termination; and
  - (ii) all expenditures reasonably incurred in connection with preparing and providing the Reports that Provider is required to provide pursuant to section 5.2(b)(ii) of this Agreement.

#### 5.4 **Survival**

The provisions of this Agreement which by their nature extend beyond the expiration or termination of this Agreement shall survive and remain in effect until all obligations are satisfied including but not limited to sections 1, 2.2, 3.1, 5.3, 5.4, 6.4, 7, 8, 9.2, 10, 11, 12, 13, 15 and 16.

## SECTION 6 ADMINISTRATION

### 6.1 Reports

Provider shall deliver to GBC such Reports as are reasonably requested by GBC or as are specifically set forth in this Agreement including any SOW at the intervals set out in this Agreement or from time to time upon the request of GBC and in a format acceptable to GBC acting reasonably.

### 6.2 Consultation Meetings

- (a) *Timing.* When requested by GBC from time to time, Provider's Designated Representative shall meet with GBC's Designated Representative at a mutually agreeable time to discuss any outstanding issues or concerns relating to any Deliverables.
- (b) *Meetings.* The meetings described in section 6.2(a) may take place in person at a mutually agreeable location or by telephone or other method of telecommunication.

### 6.3 Change Orders

- (a) *Initiated by GBC.* Proposed changes to the Deliverables may be initiated by GBC by giving written Notice of the requested change to Provider using the Change Request Form. Once a change is initiated by GBC, Provider will add a description of the following to the applicable Change Request Form: (i) the proposed changes to the Deliverables; (ii) any associated changes to the fees or estimated fees, and any changes to the dates set out in the applicable SOW; and (iii) any additional terms and conditions applicable to GBC's use of the Deliverables as a result of any changes to them.
- (b) *Initiated by Provider.* Provider may initiate a change to the Deliverables by giving GBC written Notice of the requested change by using a Change Request Form that includes a description of: (i) the proposed changes to the Deliverables; (ii) any associated changes to the fees or estimated fees, and any changes to the dates set out in the applicable SOW; and (iii) any other additional terms and conditions applicable to GBC's use of the Deliverables as a result of changes to them.
- (c) *Change Orders.* Once any Change Request Form is signed by both parties, it becomes a "Change Order". The changes set out in any Change Order will constitute amendments to this Agreement and any applicable SOWs insofar as they apply to the Deliverables. If any Change Order is not signed by both parties within fifteen (15) days of its submission by Provider to GBC, it is deemed to be withdrawn.

### 6.4 Records

- (a) *Business Records.* Provider shall maintain complete, true and correct records relating to Provider's provision of any Deliverables to GBC, including any time and materials for which payment is to be made to Provider under this Agreement (the "Business Records"). Provider will retain these records for seven (7) years following the expiry or termination of the Term.

- (b) *Audit.* During the Term and for seven (7) years following the expiry or termination of this Agreement, GBC, GBC's auditors, or any auditor designated by GBC shall be entitled, upon at least twenty-four (24) hours prior Notice to Provider, to review or audit all the Business Records. When requested by GBC, Provider shall provide GBC and any auditor referred to in this paragraph with access to and copies of the Business Records as well as any further information that may be required with reference to the Business Records. GBC and the auditors referred to in this paragraph shall have the right to remove all such documents for the purpose of making copies and shall promptly return them to the place from which they were removed.

## SECTION 7 PAYMENT

### 7.1 Amounts Payable - Services

- (a) *Payment.* The fees for the Services (the "Fees") provided pursuant to any SOW are as follows:
- (i) *Fixed Price.* If the SOW specifies that the Services are to be provided for a fixed price, GBC will pay the fixed price stated in the SOW. Provider may invoice GBC for the fixed price in accordance with the payment schedule in that SOW, which may include payments dependent on Provider achieving certain milestones. If no payment schedule is set out in the SOW, then Provider will allocate eighty-five percent (85%) of the fixed price over the estimated number of months making up the work schedule for the Services to be provided under that SOW, and will issue invoices monthly in arrears. Provider may issue an invoice for the remaining fifteen percent (15%) upon receipt by Provider of written Notice from GBC that all Services required to be performed under that SOW have been completed and all Goods provided under that SOW have been Accepted.
- (ii) *Time and Materials.* If the SOW specifies that the Services are to be provided on a time and materials basis, GBC will pay charges based on the actual time expended by Provider to perform the Services (exclusive of time for travel, meals, and personal time), based on the rates stated in the SOW. Unless otherwise specified in the SOW, Provider may issue invoices to GBC monthly, in arrears, for work performed on a time and materials basis up to eighty-five percent (85%) of the amount that would otherwise be payable for the time expended in that month and only up to eighty-five percent (85%) of the estimated total cost set out in the SOW. Provider may issue an invoice for any further time and materials charges up to the estimated total cost set out in the SOW upon receipt by Provider of written Notice from GBC that all Services required to be performed under that SOW have been completed and all Goods provided under that SOW have been Accepted. Provider may not recover any charges in excess of the estimated total cost set out in the SOW except with the prior written approval of GBC, and the total cost for the Services to be performed under that SOW shall not in any event exceed the Maximum Amount specified in that SOW, unless such excess amount is separately authorized by GBC in accordance with section 7.1(b) below.

- (iii) *Time and Materials with Milestones.* If the SOW specifies that the Services are to be provided on a time and materials basis with the payments to be made upon the occurrence of certain milestones, GBC will pay charges based on the time actually expended by Provider in performing the Services (exclusive of time for travel, meals, and other personal time), and Provider may issue invoices to GBC for the time and materials charges only upon the completion of certain milestone events, as set out in that SOW. GBC may withhold a percentage of any such payment owing on any such invoice equal to the holdback set out in the applicable SOW, and may do so until all Services required to be performed under that SOW have been completed and all Goods provided under that SOW have been Accepted. Provider may not recover any charges in excess of the estimated total cost set out in the SOW except with the prior written approval of GBC, and the total cost for the Services to be performed under that SOW shall not in any event exceed the Maximum Amount specified in that SOW, unless such excess amount is separately authorized by GBC in accordance with section 7.1(b) below.
  
- (b) *Maximum Amount.* If any SOW specifies that the amount to be invoiced for any Services will not exceed a certain specified amount (the “Maximum Amount”) the amount that Provider may invoice GBC for such Services will not exceed that amount. Provider may not invoice GBC for any amount in excess of the Maximum Amount for any SOW without GBC’s prior written authorization even if the applicable Project requires additional working days to complete which would otherwise have brought the total cost to GBC to an amount in excess of the Maximum Amount specified in the SOW.

## 7.2 Amounts Payable - Goods

The amounts payable by GBC for any Good will be in accordance with the charges for that Good set out in the applicable SOW, and unless expressly set out otherwise in the applicable SOW, Provider will not invoice GBC for any Good until after all Goods required to be delivered by Provider as part of the initial components of the SOW have been Accepted.

## 7.3 Taxes

All fees are exclusive of all taxes now in force or enacted in the future and imposed on the provision of goods and services. GBC will be responsible for all such taxes, except for taxes based on Provider’s net income, capital gains or employee withholdings.

## 7.4 General Expenses

GBC will reimburse Provider for all reasonable expenses related to the provision of the Services that are documented by receipts and pre-approved by GBC in writing. Provider will invoice GBC for these expenses monthly in arrears, providing copies of all applicable receipts with any such invoice. All reimbursable expenses will be incurred in accordance with any travel and expense guidelines that may be provided by GBC to Provider from time to time, which guidelines will be no more stringent than those to which GBC’s own Representatives would be subject.



## 7.5 Invoices

- (a) *Invoicing.* Invoices are to be submitted to GBC's Designated Representative. Each invoice shall describe the SOW, the Deliverables and associated expenses to which it relates in reasonable detail. Each invoice shall include a reasonably detailed description of:
  - (i) the Services performed each day during the billing period in reasonable detail including but not limited to the date(s) performed and the names of Provider's Representatives who performed those Services; and
  - (ii) the Goods included; and
  - (iii) the expenses included.
- (b) *Documentation.* Provider shall maintain and promptly provide, upon the request of GBC, detailed records to support the invoices.

## 7.6 Conditions of Payment

GBC's obligation to pay any amounts pursuant to this Agreement is subject to the following conditions precedent, which are all to be completed to GBC's satisfaction, for GBC's sole benefit, and may be waived in writing in whole or in part by GBC:

- (a) Acceptance by GBC of the Goods for which the Fees are claimed;
- (b) completion of the Services for which the Fees are claimed;
- (c) receipt by GBC of an undisputed invoice that complies with section 7.5; and
- (d) compliance with all of the terms of this Agreement, including but not limited to meeting any functional specifications or performance requirements set out in any applicable SOW.

## 7.7 Payment

- (a) *Due Date.* GBC will endeavour to pay to Provider the amount set out in any invoice issued in accordance with this Agreement, within ● days of GBC's receipt of that invoice.
- (b) *Non-payment.* Provider may not suspend delivery, performance or provision of the Deliverables or terminate this Agreement, except that when GBC is in default of the payment of any undisputed invoice (for reasons other than default or failure to perform by Provider) and such default in payment has continued for at least thirty (30) days after written Notice of default is provided by Provider to GBC, Provider may suspend or terminate the applicable SOW but only with respect to the Deliverables to which the default relates.

- (c) *Set-off.* Where any amount is due and owing to GBC by Provider, Provider agrees that GBC may, to the extent possible, deduct such amount from any money payable by GBC to Provider.

## 7.8 Pricing

**GBC wants the Provider to offer GBC terms and prices that are equivalent to or better than those offered by Provider to any of its other public sector customers in Canada.**

## SECTION 8 CONFIDENTIALITY, PRIVACY, SECURITY AND ACCESS TO INFORMATION (FOI)

### 8.1 General

The Provider agrees to be bound by the terms and conditions regarding confidentiality set out in Schedule F.

### 8.2 Personal Information.

- (a) Provider will comply with any Laws and Regulations pertaining to the protection of Personal Information to which Provider is subject.
- (b) Provider will provide GBC with reports and information, cooperation and assistance, as requested by GBC from time to time, in order to enable GBC to comply with any and all requirements to which GBC is subject under any Laws and Regulations pertaining to the protection of Personal Information.

### 8.3 Privacy and Security

To the extent applicable, Provider shall observe, and cause its Representatives to observe, all rules, procedures and policies adopted by GBC from time to time relating to confidentiality, privacy or security, including but not limited to those identified in any SOW and any amendments from time to time. Such rules, procedures or policies shall be communicated or otherwise made available to Provider in such manner as may be determined by GBC. Provider shall be responsible for communicating such rules, procedures or policies and any amendments thereto to its Representatives and for causing its Representatives to comply therewith. GBC reserves the right to prohibit any of Provider's Representatives who do not comply with such rules, procedures and policies from obtaining any physical or electronic access to GBC's premises, systems or Confidential Information.

Proponent shall ensure that its Representatives who provide Services to GBC have received adequate education and training with respect to the protection of Confidential Information and Personal Information.

### 8.4 Freedom of Information and Protection of Privacy Act

- (a) *Scope.* All information that is in the custody or control of GBC is subject to the access provisions of FIPPA.

- (b) *FOI Requests.* GBC cannot guarantee that the confidentiality of any information that is in the custody or control of GBC will be preserved if a request for access to it is made under FIPPA. To the extent permitted under FIPPA, GBC will inform Provider of any request made of GBC under FIPPA for any records related to this Agreement that may reveal a trade secret or scientific, technical, commercial, financial or labour relations information supplied in confidence by Provider to GBC so that Provider will have an opportunity to make representations to GBC with respect to their disclosure.
- (c) *Assistance.* If a request is made to GBC under FIPPA (or such other applicable legislation) for access to records relating to this Agreement, GBC shall inform Provider in writing of such request and where GBC asks for assistance, Provider will assist GBC with its response to that request.

#### 8.5 Extraterritorial Measures

- (a) *Containment.* Provider will ensure that any GBC Confidential Information which is provided to Provider or to which Provider obtains access remains in the Province of Ontario unless its removal is expressly permitted in writing by GBC;
- (b) *Representation.* Provider hereby represents and warrants to and covenants with GBC as follows, which representations, warranties and covenants shall continue during the Term, that except as disclosed in the Proposal or expressly acknowledged in a SOW (and then only with respect to the applicable Project):
  - (i) Provider does not operate directly or through affiliates in any country other than Canada;
  - (ii) None of Provider's Representatives operate directly or through affiliates in any country other than Canada; and
  - (iii) all of the Services will be provided by Representatives of Provider who are located in Canada.

#### 8.6 Independent Verification

Upon the request of GBC, Provider will provide cogent evidence gathered by an independent third party which demonstrates to the reasonable satisfaction of GBC that Provider is meeting its obligations under section 8 and providing the Services in a manner that suitably protects the security of GBC Confidential Information and Personal Information for which GBC is responsible. If GBC acting reasonably is not satisfied with that evidence, GBC, its auditors, or any auditor designated by GBC shall be entitled, upon at least twenty-four (24) hours prior Notice to Provider, to review or audit Provider's security practices. Provider shall assist GBC and any auditor referred to in this paragraph with the conduct of any such review or audit.

SECTION 9  
CONFLICT OF INTEREST

**9.1 No Conflict of Interest**

Provider warrants and covenants with GBC that Provider (including Provider's Representatives) has not engaged and shall not engage in any activity, where such activity creates a conflict of interest (actually or potentially in the sole opinion of GBC) with the provision of Deliverables pursuant to this Agreement. Provider shall promptly advise GBC of any situation which creates an actual or potential conflict of interest and shall abide by GBC's determination with respect to such matter.

**9.2 Termination for Breach**

A breach of this Article by the Provider shall entitle GBC to terminate this Agreement, in addition to any other remedies that GBC has in this Agreement, in law or in equity.

**9.3 Provider's Representatives**

The Provider shall take all necessary steps to ensure that the Provider's Representatives do not violate section 9.1, and shall be responsible for any such violation without limiting the foregoing, the Provider shall bring the prohibitions under section 9.1 to the attention of the Provider's Representatives.

**9.4 Upon Termination**

During the Term and after the termination or expiry of this Agreement, Provider shall not directly or indirectly use for personal or any other type of gain, any information obtained through the performance of Provider's obligations under this Agreement.

SECTION 10  
PROPRIETARY RIGHTS

**10.1 Ownership of Intellectual Property Rights**

The following provisions of this section 10.1 shall apply with respect to the ownership of all Intellectual Property Rights and any other rights in and to the Deliverables.

- (a) *Ownership by GBC.* Subject to the following provisions of this section 10.1, Provider irrevocably assigns to and in favour of GBC, and GBC accepts, all Intellectual Property Rights and all other right, title and interest, in and to the Goods (excluding any Pre-Existing Works and Commercial Goods as hereinafter referred to) for all time, which shall vest in GBC immediately upon their creation. Provider shall be required to deliver the Goods to GBC at the earliest of the following dates: (i) at such time as is provided in the applicable SOW; (ii) upon termination of the applicable SOW; or (iii) at any time upon the request of GBC.
- (b) *Pre-existing Works.* The provisions of section 10.1(a) above shall not apply with respect to any Pre-existing Works belonging to Provider, provided, however, that prior to providing any Pre-existing Works to GBC or incorporating any Pre-existing Works as part

of any Good, Provider shall: (i) provide GBC with a detailed written description of such Pre-existing Works; (ii) obtain GBC's prior written approval to the use of any such Pre-existing Works as part of the Good; and (iii) procure for GBC the rights and licenses set forth in section 10.1(c) or 10.1(d) (as applicable) with respect to the Pre-existing Works.

- (c) *Grant of Licence.* For those parts of the Goods that consist of Pre-Existing Works that are not Commercial Goods and for Pre-Existing Works that are both Commercial Goods and Software, Provider grants to GBC a perpetual, world-wide, non-exclusive, irrevocable, transferable, royalty-free, fully paid-up right and licence to use, copy, modify and enhance any such Pre-existing Works, to incorporate the same as part of any derivative works created by or for GBC and to permit any such use by any Representative of GBC.
- (d) *Commercial Goods.* For Goods that consist of Commercial Goods other than Software, all right, title and interest to any such Good shall vest in GBC upon Acceptance of that Good.
- (e) *No Restrictive Material in Goods.* Provider shall not incorporate into any Good anything that would limit or restrict GBC from exercising any rights in and to the Goods as set forth in this section 10.1 including anything that would prevent GBC from entering into any contract with any Person other than Provider for the modification, enhancement or further development of any Goods.

## 10.2 Moral Rights

Provider shall obtain from all applicable Representatives or from any other person in a position to assert moral rights, waivers of all rights of integrity and all other moral rights in relation to the Goods, which waivers may be invoked by GBC without restriction.

## 10.3 Notices

Provider shall place a copyright notice on all Goods that are governed by the provisions of section 10.1(a) above, in the following form:

© George Brown College 200\_

## 10.4 Further Assurances

Provider shall, upon request by GBC and without additional remuneration, assist GBC, and cause any of Provider's Representatives involved in the provision of the Deliverables to assist GBC, in every proper and legal way to obtain, maintain and protect the rights of GBC in and to the Goods.

SECTION 11  
REPRESENTATIONS, COVENANTS AND WARRANTIES

11.1 **Authority**

Provider hereby represents and warrants to and covenants with GBC as follows, which representations, warranties and covenants shall continue during the Term:

- (a) *Authority.* Provider has full rights and authority to execute, deliver and perform its obligations under this Agreement.
- (b) *Rights.* Provider holds all licenses, intellectual property rights and authorities necessary to perform its obligations under this Agreement.
- (c) *Compliance.* Provider shall comply with all applicable Laws and Regulations in respect of the performance of this Agreement.

11.2 **Services**

Provider hereby represents and warrants to and covenants with GBC as follows, which representations, warranties and covenants shall continue during the Term:

- (a) *Manner.* The Services will be performed in a competent, professional, workman-like manner, with due care and diligence, using personnel who have the proper skills, training and background; and
- (b) *Specifications.* The Services will be performed in a manner that complies with all requirements and specifications that are set out in the Agreement, including any SOWs.
- (c) *Location.* Provider will not permit the performance of the Services in any country where any provisions of this Agreement would be unenforceable.

If any Service fails to conform to this warranty, Provider will immediately re-perform the Services at no additional cost to GBC. If Provider is unable to re-perform the applicable Services in accordance with the applicable warranty, then Provider shall refund any fees paid by GBC for the applicable Services. The foregoing shall not limit the rights and remedies available to GBC in respect of any failure by Provider to perform the Services in accordance with the warranty set forth in this section 11.2.

11.3 **Goods**

Provider hereby represents and warrants to and covenants with GBC as follows:

- (a) *Quality.* For any Good, the warranty period is one (1) year or such other period as is specified in the SOW applicable to the provision of that Good to GBC, and shall commence as of the date of Acceptance of that Good. For the warranty period, Provider warrants that that Good will: (i) materially conform to its description in this Agreement and any sample, published documentation or specifications for that Good

provided by Provider to GBC; and (ii) be sufficient for its intended purpose, be of merchantable or better quality and be free from defects.

- (b) *Remedy.* Should any Good not meet the warranty set out in this section 11.3, Provider will as soon as practicable and at no additional charge to GBC: (i) remedy such non-conformance; or (ii) replace the affected Good with an equivalent or superior Good. If there should be any material delay in Provider's ability to either remedy such defects or replace the affected Good, GBC may at its option require that Provider promptly provide a full refund of the amount paid by GBC for the affected Good. GBC will return the affected Good at Provider's expense upon receipt of such refund. The foregoing shall not limit the rights and remedies available to GBC in respect of any failure by Provider to provide Goods in accordance with the warranty set out in this section 11.3.

#### 11.4 General

Provider hereby represents and warrants to and covenants with GBC as follows, which representations, warranties and covenants shall continue during the Term:

- (a) *Rights.* Provider has the right and authority: (i) to convey to GBC title to any Goods; or (ii) in the case of any Goods for which any license is granted to GBC, to grant any such license; in each case as set out in this Agreement, free of any security interest, lien, encumbrance or claim of any kind in favour of or by any third party.
- (b) *Non-infringement.* Goods provided pursuant to this Agreement shall not infringe upon or violate any third-party Intellectual Property Rights.
- (c) *Harmful Code.* All Goods, which include any code or other software, shall be free of any harmful or hidden programs or data incorporated therein with malicious and mischievous intent including but not limited to viruses, worms, time bombs, logic bombs, trap doors, Trojan horses or similar malicious instructions, techniques, or devices capable of disrupting, disabling, damaging, or shutting down a computer system or software or hardware component thereof.
- (d) *Conform.* The Deliverables will conform to any description (including but not limited to technical or functional specifications or other requirements) set out or incorporated by reference in the applicable SOW.

## SECTION 12 INDEMNITIES

#### 12.1 General

Provider agrees to indemnify and hold GBC and its Representatives harmless from all charges, losses, damages and expenses (including reasonable legal fees and disbursements) incurred in connection with any claims, demands, suits or actions incurred by any of them as a result of: (i) the acts or omissions of Provider or its Representatives related to this Agreement or any Deliverables or (ii) any claim that GBC's receipt or use of Deliverables infringes a third party's Intellectual Property Rights or other rights.

Without limiting the foregoing, upon any claim of infringement being made, Provider shall promptly, at

the request of GBC, procure such rights or modify or replace any Deliverables as may be necessary to remedy such claim of infringement without disruption or additional cost.

## SECTION 13 LIMITATION OF LIABILITY

### 13.1 Limitation of Liability

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOSS OF PROFITS, OR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES AS A RESULT OF ANY BREACH OF THE AGREEMENT, OR WITH RESPECT TO ANY MATTER ARISING UNDER OR RELATING TO THE AGREEMENT, WHETHER THE CLAIM IS IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

### 13.2 Exceptions

THE LIMITATIONS OF LIABILITY SET OUT IN SECTION 13.1 ABOVE DO NOT APPLY TO:

- (a) ANY CLAIM ARISING FROM FRAUD, WILFUL MISCONDUCT OR NEGLIGENCE; OR
- (b) ANY CLAIM ARISING FROM ANY BREACH BY PROVIDER OR ITS REPRESENTATIVES OF THE CONFIDENTIALITY, PRIVACY OR SECURITY PROVISIONS SET OUT IN THE AGREEMENT OR OF ANY RULES, PROCEDURES OR POLICIES HEREUNDER RELATING TO CONFIDENTIALITY, PRIVACY OR SECURITY TO WHICH PROVIDER AND ITS REPRESENTATIVES ARE REQUIRED TO COMPLY HEREUNDER; OR
- (c) ANY CLAIM FOR WHICH PROVIDER IS REQUIRED TO INDEMNIFY GBC.

## SECTION 14 INSURANCE

Provider shall maintain, at Provider's cost and expense, insurance coverage as set out in Schedule G and in any event against such risks and in such amounts that could reasonably be expected by persons acting prudently and engaged in similar activities as Provider. Provider shall provide evidence of such insurance to GBC, promptly on demand. Provider acknowledges that any insurance coverage referred to in this Article 14 shall not be construed to limit or qualify in any manner the liabilities and obligations imposed on Provider as set out in this Agreement. This provision will survive the expiration or termination of this Agreement for a period of two (2) years.

## SECTION 15 DISPUTE RESOLUTION

### 15.1 General

The Parties agree to use the dispute resolution procedures set out in Schedule H to resolve any disputes which may arise out of or in connection with this Agreement or which are otherwise related to this Agreement.



## 15.2 Exceptions

Notwithstanding section 15.1 above, each of the parties shall be entitled to seek an injunction or other equitable relief in order to prevent any violation of any legal obligation of the other party with respect to any Confidential Information or Personal Information required to be protected hereunder.

## SECTION 16 NOTICE

Any Notice given pursuant to this Agreement shall be in writing and addressed to the other party at the address listed above. Any such Notice shall be deemed to have been received either when delivered personally to the party for whom intended, or one (1) Business Day following deposit with a globally recognized overnight delivery service, all delivery charges pre-paid, or the Business Day following transmission if sent by facsimile, with originals by mail, and receipt confirmed by the facsimile machine used. Either party may designate a different address by Notice to the other given in accordance herewith.

## SECTION 17 OTHER

### 17.1 Entire Agreement

- (a) *Entire Agreement.* This Agreement including the schedules listed below and all documents incorporated herein by reference constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter. The following schedules are incorporated in and form part of this Agreement:
- (i) SCHEDULE A GBC's Request for Proposal
  - (ii) SCHEDULE B Provider's Proposal
  - (iii) SCHEDULE C Amendments to Provider's Proposal
  - (iv) SCHEDULE D Acceptance Testing
  - (v) SCHEDULE E Fees
  - (vi) SCHEDULE F Confidentiality Obligations
  - (vii) SCHEDULE G Insurance Provisions
  - (viii) SCHEDULE H Dispute Resolution
  - (ix) SCHEDULE I Governance
  - (x) SCHEDULE J Form of Statement of Work

- (b) *Amendment.* Except as expressly set out in this Agreement, this Agreement may be changed only by a written document signed by authorized representatives of GBC and Provider.
- (c) *Severability.* Should any provision of this Agreement be held to be invalid by a court of competent jurisdiction, then that provision will be enforced to the extent permissible, and all other provisions will remain in effect and are enforceable by the parties.
- (d) *Waiver.* No waiver of any part of this Agreement will be deemed to be a waiver of any other provision in this Agreement. No term of this Agreement will be deemed to be waived by reason of any previous failure to enforce it. No term of this Agreement may be waived except in a writing signed by the party waiving enforcement.
- (e) *Precedence.* In the case of any conflict or inconsistency between any of the following documents, such documents shall be interpreted in accordance with the order of priority set out below:
  - (i) the sections of this Agreement;
  - (ii) the sections of any schedule other than Schedules A, B and C;
  - (iii) the RFP (Schedule A);
  - (iv) the Proposal (Schedule B) as amended by Schedule C;
  - (v) any other document incorporated by reference.

## 17.2 Assignment

- (a) *Assignment by Provider.* Provider may not assign its rights or delegate its duties under this Agreement, either in whole or in part, without the prior written consent of GBC. Should GBC consent to any such assignment, such consent may be subject to such terms and conditions as GBC may require.
- (b) *Relief.* No assignment shall relieve Provider from its obligations under this Agreement or impose any liability upon GBC to any assignee.

## 17.3 Independent Contractors

The relationship between the parties is that of independent contractors, and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between them. Neither GBC nor Provider will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided herein.

## 17.4 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without reference to the conflict of laws provisions. Subject to the provisions of section 15.1 and Schedule H, the parties agree to attorn to the jurisdiction of

the courts of the Province of Ontario for the conduct of any legal proceedings under, or related to, this Agreement.

#### 17.5 Interpretation

- (a) *Headings.* The headings used in this Agreement are for convenience of reference only, and are not intended to be full or accurate descriptions of the content of the paragraphs.
- (b) *Drafting.* No provision of this Agreement will be interpreted against any party merely because that party or its legal representative drafted the provision.
- (c) *English.* This Agreement has been drawn up in English at the request of the parties.
- (d) *Remedies.* All remedies are cumulative.
- (e) *Agreement Binding.* This Agreement is for the benefit of, and binding upon the parties, their successors and permitted assigns.

#### 17.6 Performance

Provider agrees to promptly perform, make, execute, deliver, or cause to be performed, made, executed, or delivered all such further acts and documents as GBC may reasonably require for the purpose of giving effect to this Agreement.

#### 17.7 Exclusivity

This Agreement shall in no way limit the right of GBC to contract with any other Person to acquire any goods or services that are identical or similar to the Deliverables to be provided by Provider under this Agreement.

#### 17.8 Publicity

Provider shall not issue any public notice or press release, or otherwise make use of its association with GBC or this Agreement, without the prior written consent of GBC.

#### 17.9 Force Majeure

Except as expressly provided otherwise in this Agreement, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control that could not have been avoided by the exercise of reasonable foresight, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, terrorism, labour shortage or dispute, or governmental act, provided that the party affected by such failure or delay gives the other party prompt Notice of such cause, and uses its reasonable commercial efforts to promptly correct such failure or delay in performance.

**IN WITNESS WHEREOF THE PARTIES** hereto have executed this Agreement:

**George Brown College**

**[Insert full legal name of the Provider]**

**Signature:**

**Signature:**

**Name:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**Signature:**

**Name:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

\_\_\_\_\_

**SCHEDULES TO TEMPLATE MASTER AGREEMENT FOR  
GOODS AND SERVICES**

**George Brown College**

**SCHEDULE A**  
**GBC'S REQUEST FOR PROPOSAL**

This Schedule is incorporated in and forms part of an Agreement entered into between George Brown College ("GBC") and ● (the "Provider") dated ●.

**SCHEDULE B  
PROVIDER'S PROPOSAL**

This Schedule is incorporated in and forms part of this Agreement between George Brown College ("GBC") and ● (the "Provider") dated ●.

**SCHEDULE C**  
**AMENDMENTS TO PROVIDER'S PROPOSAL**

This Schedule is incorporated in and forms part of this Agreement between George Brown College ("GBC") and ● (the "Provider") dated ●.

**SCHEDULE D**  
**ACCEPTANCE TESTING**

This Schedule is incorporated in and forms part of this Agreement between George Brown College (“GBC”) and ● (the “Provider”) dated ●.

**ARTICLE 1**  
**DEFINITIONS**

1.1 “Acceptance Test” means the test described in Article 2 of this Schedule.

**ARTICLE 2**  
**TESTING**

2.1 Acceptance Testing of a Good will be conducted in accordance with the following procedure:

- (a) GBC shall conduct such acceptance tests as it deems necessary to verify that a Good is as warranted in this Agreement and is without any fault that, in GBC’s reasonable view, impairs operation or diminishes the value of that Good in a material way (each a “Defect”).
- (b) GBC will conduct such tests within ● days of receipt of that Good (or such other period of time as may be agreed to by the parties in writing) (the “Test Period”) and shall provide Provider with a list of all Defects of which GBC is aware (the “Defect List”). If GBC fails to provide Provider with a Defect List within the Test Period, then Provider will give GBC a written Notice of this failure. Within five (5) Business Days of such Notice, GBC will either provide Provider with a Defect List or be deemed to have accepted the Good being tested.
- (c) Provider shall correct the Defects identified hereunder and shall re-submit the applicable Good for re-testing within seven (7) days of Provider’s receipt of the Defect List, or as otherwise agreed between GBC and Provider. Upon receipt of the corrected Good, GBC shall be entitled to carry out any further acceptance tests of the Good during a second Test Period. If any of the Defects listed on the Defect List have not been addressed to the reasonable satisfaction of GBC or if the most recent modifications to the Good raise further Defects, then GBC may give Provider a Notice of either: (i) non-acceptance of the Good or (ii) a further opportunity to correct the Good. If GBC gives Provider a further opportunity to correct, the parties shall repeat the steps set out in this section 2.1 until: (i) the Good has been accepted or deemed accepted by GBC or (ii) GBC issues a Notice of non-acceptance. If GBC fails to give any such Notice within seven (7) days of receipt of the corrected Good, then Provider will give GBC a written Notice of this failure. Within five (5) Business Days of such Notice, GBC will either provide such a Notice or be deemed to have accepted the Good being tested.
- (d) Unless the parties agree otherwise in writing, any Good not Accepted will be returned to Provider at Provider’s expense for a full refund of any moneys paid for that Good and any Services related to that Good.



**SCHEDULE E  
FEES**

This Schedule is incorporated in and forms part of this Agreement between George Brown College ("GBC") and ● (the "Provider") dated ●.

**SCHEDULE F**  
**CONFIDENTIALITY OBLIGATIONS**

This Schedule is incorporated in and forms part of this Agreement between George Brown College (“GBC”) and ● (the “Provider”) dated ●.

1. Both parties recognize that the protection of the Confidential Information (as defined below) by the receiving party (the “Recipient”) is of vital importance to the party disclosing that information (the “Disclosing Party”).
2. “Confidential Information” means any and all information and materials, which: (i) are designated in writing, as confidential at the time of disclosure, or (ii) if disclosed orally or visually, are designated in writing, as confidential, within thirty (30) days of disclosure, or (iii) a reasonable person, having regard to the circumstances, would regard as confidential.
3. Confidential Information does not include information which:
  - (a) is or at any time becomes in the public domain other than by a breach of this Agreement or breach of a similar agreement between the Disclosing Party and a third party;
  - (b) is known to the Recipient (as substantiated by cogent and reliable written evidence in the Recipient’s position) free of any restrictions at the time of disclosure;
  - (c) is independently developed by the Recipient through individuals who have not had either direct or indirect access to the Disclosing Party’s Confidential Information; and
  - (d) is disclosed to the Recipient without any restriction on its use or further disclosure by a third party who had a right to make such disclosure.

The above listed exceptions do not apply in the case of Confidential Information that is also Personal Information.

4. Neither party shall be liable for disclosure of Confidential Information if disclosure is required by applicable law, provided that the Recipient, to the extent permitted by such law, notifies the Disclosing Party as soon as it becomes aware that any such requirement has been or may be imposed, so that the Disclosing Party may seek a protective order or other relief. For greater certainty, the provisions of this section 4 shall not permit either party to disclose any information under any law which is not applicable in the Province of Ontario.
5. As between the Disclosing Party and the Recipient, the Disclosing Party is the owner of its Confidential Information, and except to the extent set out in this Agreement, no interest, license or other right in or to the Confidential Information is granted to the Recipient or implied simply by the disclosure of the Confidential Information.
6. EXCEPT TO THE EXTENT EXPRESSLY SET OUT IN THIS AGREEMENT:

- (a) ALL CONFIDENTIAL INFORMATION PROVIDED BY A DISCLOSING PARTY IS PROVIDED ON AN "AS IS" BASIS, WITHOUT ANY WARRANTY, REPRESENTATION OR CONDITION OF ANY KIND.
- (b) THE DISCLOSING PARTY EXPRESSLY EXCLUDES THE FOLLOWING REPRESENTATIONS, CONDITIONS AND WARRANTIES WITH RESPECT TO ITS CONFIDENTIAL INFORMATION: ACCURACY, COMPLETENESS OR NON-INFRINGEMENT OF TRADE-MARKS, PATENTS, COPYRIGHTS OR ANY INTELLECTUAL PROPERTY RIGHTS OR OTHER RIGHTS OF THIRD PERSONS.

7. The Recipient will:

- (a) use the Disclosing Party's Confidential Information only in accordance with this Agreement and only for the purpose of fulfilling its obligations and exercising its rights under this Agreement and will not use, manipulate or exploit the Disclosing Party's Confidential Information in any other purpose;
- (b) use the same degree of care to protect the Disclosing Party's Confidential Information as the Recipient would protect its own confidential information of a like nature and in any event using a standard no less than a reasonable degree of care;
- (c) disclose the Disclosing Party's Confidential Information only to the Recipient's employees, subcontractors or agents who have a need to know the information in connection with this Agreement and are bound by a written contract to keep the Confidential Information of third parties confidential at least to the same extent as set forth in this Agreement;
- (d) not make copies of the Disclosing Party's Confidential Information or modify it other than as expressly permitted under this Agreement;
- (e) upon demand, inform the Disclosing Party of the location of its Confidential Information and the measures that the Recipient has taken to preserve its confidentiality; and
- (f) provide written Notice to the Disclosing Party immediately upon becoming aware that any unauthorized access, copying, disclosure, use or disposition of the Confidential Information has occurred or is likely to occur and make a commercially reasonable effort to limit the scope and consequences of any such access, copying, disclosure, use or disposition; and
- (g) take such measures as may be reasonably required to prevent any access, use or disclosure of any Confidential Information by any unauthorized person.

8. The parties acknowledge that Confidential Information (including but not limited to the copyright, proprietary rights, and/or trade secret interests that are embodied in the Confidential Information) of the Disclosing Party is of value to the Disclosing Party or to its suppliers and that any unauthorized copying, use, disclosure, access or disposition of that Confidential Information by the Recipient will cause irreparable injury to the Disclosing Party. Consequently, the Recipient agrees that in addition to any other remedies that the Disclosing Party may have, the

Disclosing Party will be entitled to seek injunctive and other equitable relief, as a matter of right, to prevent the breach or the further breach this Agreement.

9. Upon expiration or termination of this Agreement or at the Disclosing Party's request, the Recipient will: (i) return all Confidential Information disclosed to it by the Disclosing Party and all copies thereof, regardless of form; (ii) destroy any such Confidential Information that cannot be returned; and (iii) furnish to Disclosing Party, as soon as reasonably practicable, a certificate signed by an executive of Recipient attesting to such return or destruction. Notwithstanding the foregoing, the Recipient will not be required to return any Confidential Information provided to it by the Disclosing Party for which the Disclosing Party has granted any license or other rights that survive the expiration or termination of this Agreement.

**SCHEDULE G  
INSURANCE PROVISIONS**

This Schedule is incorporated in and forms part of this Agreement between George Brown College ("GBC") and ● (the "Provider") dated ●.

**ARTICLE 1  
INSURANCE REQUIREMENTS**

- 1.1 *Coverage.* Provider will maintain at its own cost and expense the following insurance coverage:
- (a) General liability insurance with limits of liability of not less than \$●.
  - (b) **Professional liability coverage**
  - (c) If Provider will be bringing tools or equipment of substantial value onto GBC premises, it must provide proof of all risk property insurance with a policy limit equal to or greater than the value of the tools and equipment.
  - (d) GBC must be named as an additional insured with respect to the required coverage set out at sections 1.1 (a) to (●).
- 1.2 *Non-Cancellation.* During the Term, Provider shall maintain in full force and effect each of the policies of insurance required to be maintained pursuant to this Schedule G. Provider may not let these policies lapse or cancel, or materially modify them so as to reduce or negate the coverage of such policies without thirty (30) calendar days prior written Notice to GBC.
- 1.3 *Evidence of Insurance.* Upon the request of GBC, Provider shall provide evidence of all required insurance. Such evidence shall be in the form of a completed certificate of insurance duly completed and executed by an insurer satisfactory to GBC acting reasonably. Delivery to and examination by GBC of a Certificate of Insurance or other evidence of insurance shall in no way relieve Provider of any of its obligations pursuant to the provisions of this Schedule G and shall in no way operate as a waiver by GBC of any of its rights.
- 1.4 *Worker's Compensation.* Provider shall comply with all applicable legislation governing workplace safety and in particular will obtain and maintain during the Term of this Agreement, the necessary coverage for itself and any employees, and will, upon request by GBC provide particulars of such coverage.
- 1.5 *Liabilities of Provider.* The liabilities and obligations of Provider under this Agreement shall not be restricted to any amounts set forth in this Schedule G and such insurance amounts provided for herein shall not be construed so as to relieve or limit the liability of Provider in excess of such coverage and shall not preclude GBC from taking such other actions as are available to it under any provision of this Agreement or otherwise at law or in equity.

ARTICLE 2  
**WSIB**

2.1 *Certificate.* Upon the written request of GBC, Provider will provide to GBC a WSIB Clearance Certificate to demonstrate Provider's good standing with the WSIB.

## **SCHEDULE H DISPUTE RESOLUTION**

This Schedule is incorporated in and forms part of this Agreement between George Brown College (“GBC”) and ● (the “Provider”) dated ●.

### **Section 1 – Definitions and Interpretation**

#### 1.1 Definitions and Interpretation

- (a) “Dispute” means any dispute or controversy between GBC and Provider (collectively the “Parties” and individually a “Party”)) with respect to any matter arising out of or in connection with this Agreement or otherwise related to this Agreement.

### **Section 2 – General Principles**

- 2.1 Except where expressly excluded from the provisions of this Schedule H, all Disputes shall be resolved by employing the procedures provided for in this Schedule H.
- 2.2 For clarification, the provisions of this Schedule H shall not limit or restrict the right of either Party to seek injunctive relief or to bring any action in any court of law with respect to any dispute, controversy or claim relating to the improper use or misappropriation of Intellectual Property Rights or breach of confidentiality or breach of privacy.
- 2.3 Unless otherwise agreed by the Parties at the time that any Dispute arises, the provisions of Schedule H shall not apply to any Dispute that involves a Party’s right to object to any mediator who has been retained by the Parties to resolve a Dispute in accordance with Section 1.5 of this Schedule H acting as an arbitrator in respect of the same Dispute.
- 2.4 Subject to the terms of this Agreement, unless requested or otherwise agreed by GBC in writing to do so, Provider shall not stop or suspend its performance under this Agreement pending the resolution of any Dispute.
- 2.5 All Disputes that may arise with respect to any matter governed by this Agreement shall to the fullest extent possible be resolved collectively by the Parties’ Representatives, or any person designated by any of them to deal with any category of Dispute.
- 2.6 Provider shall identify to GBC in writing any subcontractors, affiliates or other individuals that Provider acting reasonably believes can contribute to the resolution of any Dispute. Upon GBC’s request, Provider will cause any such Person to participate in the dispute resolution process in the manner and to the extent requested by GBC.

### **Section 3 Resolution**

#### 3.1 Escalation Process to Resolve a Dispute

- a) First Level of Dispute Resolution – If the Parties’ Representatives are unable to resolve a Dispute within ten (10) Business Days, then the Dispute shall be referred to the Chief Operating Officer (or substantial equivalent) of each party for resolution (each an “Executive”). The Executives shall make all reasonable efforts to resolve the Dispute within twenty (20) Business Days of its referral. Each Party shall ensure that its Executive has the necessary authority to resolve that Dispute on behalf of that Party.

### 3.2 Mediation

- a) If the time periods set out in Section 3.1 of this Schedule H applicable to any Dispute expire without that Dispute being resolved, either Party may upon Notice to the other Party, initiate mediation of the Dispute in accordance with the applicable Rules of the ADR Institute of Canada Inc. (or its successor) in effect at the date of commencement of such mediation to the extent that the provisions of such rules are not inconsistent with the provisions of the Agreement (the “Rules”). The Parties will jointly appoint a mutually acceptable mediator, seeking assistance in this regard from the ADR Institute of Canada Inc. if they are unable to agree upon such appointment within twenty (20) days of the Notice of mediation. The Parties agree to participate in good faith in the mediation and negotiations thereto for a period of thirty (30) days after the appointment of the mediator. The Parties shall share equally the cost of the mediation. Each Party shall bear its own expenses in respect of preparation for and participating in the mediation. The law governing the procedures and substance of the mediation will be that of the Province of Ontario.

### 3.3 Arbitration

- a) If the Parties are unable to resolve any Dispute in accordance with the procedures set forth in Section 3.2 of this Schedule H within a period of thirty (30) days after the mediator is appointed (or such longer period as agreed to by the Parties in writing), either Party may submit the Dispute to binding arbitration in accordance with the Arbitration Act (Ontario) and the Rules.
- b) The arbitration shall:
  - i) be before a single arbitrator appointed in accordance with the Rules;
  - ii) take place in Toronto, Ontario at a time, date and place specified by the arbitrator unless otherwise agreed in writing by GBC and Provider;
  - iii) will be final and binding and may be enforced in the same manner as a judgment or order to the same effect pursuant to the Arbitration Act (Ontario), and no appeal shall lie therefrom except on questions of law or the jurisdiction of the arbitration; and
  - iv) be governed in its procedure and substance by the laws of the Province of Ontario.



- c) The arbitrator shall:
  - i) not be interested financially in the Agreement or in either Party's business;
  - ii) not be employed by either Party or employed by a person engaged by either Party;
  - iii) not be the same individual who acted as the mediator under Section 1.5 of this Schedule H, unless otherwise mutually agreed to by the Parties (which agreement may be withheld by either Party at its sole discretion); and
  - iv) be required to make his award as soon as possible, and if at all practicable, within ten (10) days after the conclusion of the arbitration hearing, and the arbitrator.
  
- d) The arbitrator may:
  - i) appoint independent experts and any other person to assist him or her in the hearing of the arbitration;
  - ii) determine all questions of law and jurisdiction including questions as to whether the dispute is arbitratable;
  - iii) determine any question of fact including questions of good faith, dishonesty or fraud arising in the Arbitration;
  - iv) order any Party to furnish such further details of that Party's case, as to fact or law, as it may require;
  - v) require or permit the Parties to give evidence under oath or solemn affirmation;
  - vi) order the Parties or either of them to make interim payments towards the costs of the Arbitration;
  - vii) grant permanent and interim damages or injunctive relief, and
  - viii) award costs including reasonable legal fees, interest and costs of the arbitration.
  
- e) Each Party shall:
  - i) cooperate with the arbitrator;
  - ii) provide the arbitrator with all information in its possession or under its control necessary or relevant to the matter being determined;

- iii) use its best efforts to cause any arbitration hearing that may be held hereunder to be:
  - A) started as soon as practicable, and not later than sixty (60) days from the date that the arbitrator is appointed; and
  - B) completed as soon as practicable, and if possible, within one (1) day.
- g) Disputes involving more than two (2) parties shall be settled by one (1) arbitration, as determined by the arbitration procedures adopted in this clause.
- h) Where by this clause any Dispute is to be referred to arbitration, the making of a final award shall be a condition precedent to any right of action by either Party against the other.
- i) Judgment upon an award, including any interim award, rendered by the arbitrator may be entered in any Court having jurisdiction thereof.
- j) The arbitrator's fee and the fees of any independent experts and any other persons appointed to assist the arbitrator shall be shared equally by the Parties.

#### 3.4 Confidentiality

The existence of any Dispute being resolved under this Schedule H and any steps or proceedings taken by the Parties in connection therewith shall be deemed to be Confidential Information of the Parties, except to the extent that disclosure of such information is necessary in connection with proceedings instituted in the Superior Court of Justice (or its successor) as permitted in this Agreement.

## ALTERNATE DISPUTE RESOLUTION PROVISIONS

This Schedule is incorporated in and forms part of this Agreement between George Brown College (“GBC”) and ● (the “Provider”) dated ●.

### Section 1 – Arbitration

- a) Subject to section 15.2 of the Agreement, all questions, differences, claims and disputes arising out of or in connection with this Agreement or the breach, termination or invalidity of this Agreement (collectively, a “Dispute”) shall be resolved by arbitration.
- b) The arbitration will be conducted by a single arbitrator.
- c) Any party (the “Complainant”) may initiate arbitration by giving written notice in the manner provided for in section 16 of this Agreement to the other (the “Respondent”) of the Complainant’s desire to submit a Dispute to arbitration in accordance with this Schedule H (the “Complaint”). The Complaint shall describe with reasonable particularity the subject matter of the Dispute and shall nominate an arbitrator (the “Proposed Arbitrator”).
- d) The Proposed Arbitrator shall determine the Dispute unless, within ten calendar days of receipt of the Complaint (the “Response Period”), the Respondent, by written notice to the Complainant, objects to the appointment of the Proposed Arbitrator. If, within the Response Period, the Respondent objects to the appointment of the Proposed Arbitrator and the Complainant and the Respondent do not otherwise agree on the appointment of an arbitrator, the arbitrator may be appointed by a judge of the Superior Court of Justice sitting in Toronto upon application of either party.
- e) The arbitration will take place in Toronto, Ontario and will be conducted in English. Except as otherwise provided in this Schedule H, the arbitration will be governed by the Arbitration Act, 1991, S.O. 1991, c. 17.
- f) Unless the arbitrator otherwise determines, the fees of the arbitrator and the costs and expenses of the arbitration will be borne and paid equally by the Parties.
- g) To the extent not otherwise provided for in this Schedule H, the procedure to be followed will be as agreed to by the Parties, or, in default of such agreement, as determined by the arbitrator.
- h) The decision of the arbitrator shall be final and binding as between the Parties to this Agreement and there shall be no rights of appeal of any kind. Judgement upon the award, including any interim award, rendered by the arbitrator may be entered in any court having jurisdiction.
- i) The arbitration shall be kept confidential and the existence of the arbitration proceeding and any element of it (including but not limited to any pleadings, briefs or other documents submitted and exchanged and testimony or other oral submissions and any awards made) shall not be disclosed beyond the arbitrator, the Parties, their counsel and any person to whom disclosure is necessary to the conduct of the proceeding, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

**SCHEDULE I  
GOVERNANCE**

This Schedule is incorporated in and forms part of this Agreement between George Brown College (“GBC”) and ● (the “Provider”) dated ●.

**ARTICLE 1  
DESIGNATED REPRESENTATIVES**

1.1 *Appointment.* Each party will appoint an individual who is a Representative of that party to be that party’s “Designated Representative”.

1.2 *Responsibilities.* A party’s Designated Representative:

- (a) is responsible for the day-to-day matters arising from or relating to the Deliverables;
- (b) will be available for problem escalation; and
- (c) will perform the specific tasks and duties assigned to him or her in the Agreement.

1.3 *Authority.* Unless otherwise expressly set out in this Agreement, each party’s Designated Representative shall have authority and responsibility with respect to all day-to-day matters relating to the provision or use (as applicable) of the Deliverables.

1.4 *Designated Representatives.* The initial Designated Representatives for Provider and GBC are:

(a) For GBC:

Name: \_\_\_\_\_

Phone: _____	Fax: _____
Email _____	Other: _____

(b) For Provider:

Name: \_\_\_\_\_

Phone: _____	Fax: _____
Email _____	Other: _____

1.5 *Changes.* Either party may change its Designated Representative by giving the other party at least five (5) Business Days written Notice. Such Notice will set out the name and the contact information for the individual who will be the new Designated Representative for that party.

ARTICLE 2  
**SHIPPING ADDRESS**

2.1 *Shipping Address.* Unless otherwise set forth in any applicable SOW, the Provider shall deliver all Goods to the following location (the “Shipping Address”):

**George Brown College**

**SCHEDULE J  
FORM OF STATEMENT OF WORK**

This Schedule is incorporated in and forms part of the Agreement between George Brown College (“GBC”) and ● (the “Provider”) dated ●.

**FORM OF STATEMENT OF WORK**

This Statement of Work is made pursuant to the Master Agreement for ● between George Brown College (“GBC”) and ● (the “Provider”) dated ●.

**A. TERM**

This SOW shall commence on the SOW Effective Date and shall continue until ●. Notwithstanding the foregoing, unless otherwise directed by GBC, this SOW shall continue following the expiration date set forth above until such time as Provider has completed all Services and GBC has accepted all Goods required to be provided under this SOW.

**B. SERVICES**

**B1. DESCRIPTION OF SERVICES**

Attachment One to this SOW sets out the Services to be performed by the Provider pursuant to this SOW.

**B3. ROLES AND TASKS**

The following is a description of the key personnel required to provide the Services described in this SOW:

Role	Task(s)

**B4. NAMED REPRESENTATIVES**

The Provider shall make the following individuals who are Representatives of Provider available to fill the following roles:

Role	Name
------	------

- 1.
- 2.
- 3.

**B5. SITE(S)**

Street Address	City	Province
----------------	------	----------

- 1.
- 2.
- 3.

Services may not be performed at any other location without GBC's prior written consent.

**C. WORK SCHEDULE**

Unless otherwise set forth in any Project Plan that is attached hereto, or that is developed at any time hereafter and agreed to in writing by the Parties, Provider will perform the Services so as to meet the milestones set forth below on or before the following dates:

	Milestone	Date for Achieving Milestone
1.		
2.		
3.		
4.		

Provider will inform GBC in writing immediately if any failure or delay by GBC to perform any obligation under this Agreement, that if not corrected, will likely result in Provider being unable to meet any milestone set out in this SOW or, if applicable, the attached Project Plan. Such notice will identify the failure, the consequences of the failure and any affected milestones. If GBC does so, then for the period of time until GBC corrects any such failing, Provider shall be excused any default with respect to Provider's failing to meet such milestones. Otherwise, the failure of Provider to achieve any milestone by more than three (3) Business Days is a material breach of this Agreement by Provider.

**D. DESCRIPTION OF GOODS**

**D1. DESCRIPTION OF COMMERCIAL GOODS**

Provider shall make the following Goods available to GBC:

	<b>Good</b>	<b>Manufacturer/Distributor</b>	<b>Model</b>	<b>Quantity</b> (Number or "When ordered by GBC")
1.				
2.				
3.				

**D2. OTHER GOODS**

--

**D3. ACCEPTANCE TEST PROCEDURES**

The following are the test procedures to be followed by Provider with respect to the Goods to be provided under this SOW. If no information is set out in the following space, the acceptance test procedures shall be as set forth in Schedule D of the Master Agreement.

**E. PAYMENT FOR SERVICES**

Provider will perform the Services described in this SOW for the prices and on the terms set out below (check one of the three boxes below as applicable).

**E1. Maximum Amount**

The actual total cost for the Services and Goods provided pursuant to this SOW may not exceed the Maximum Amount of \$●.

**E2. Calculation of Fees**

**Fixed Price**

In accordance with section 7.1(a)(i) of the Master Agreement, Provider will provide all Services for a fixed price of \$●, which will be paid in accordance with the following payment schedule:



	Payment Milestone	% of Fixed Price	Payment
1.			
2.			
3.			
4.			
TOTAL			

**Time and Materials**

In accordance with section 7.1(a)(ii) of the Master Agreement, Provider will perform the services on a time and materials basis for the estimated total cost set forth below, and subject to the following holdback amount:

Estimated Total Cost:       \$ ●

Holdback Amount:           ●%

The Services will be performed by the following Provider Representatives at the hourly rates set forth below:

	Resource	Rate (Per Hour)
1.		
2.		
3.		
4.		

Provider may invoice GBC in accordance with section 7.1 of the Master Agreement. GBC may withhold a percentage of the payment owing on any such invoice equal to the holdback amount set out above (or if no amount is specified, the holdback amount set out in section 7.1(b) of the Master Agreement applies) until all Services required to be performed under this SOW have been completed and all Goods provided under this SOW have been Accepted.

The hourly rates set forth above are fixed for the duration of this SOW.

**Time and Materials with Milestones**

In accordance with section 7.1(a)(iii) of the Master Agreement, Provider will perform the Services on a time and materials basis, (with payments to be made only upon the achievement of certain milestones), for the estimated total cost set forth below, and subject to the following holdback amount:

Estimated Total Cost:       \$●

Holdback Amount:           ●%

The Services will be performed by the following Personnel at the hourly rates set for below

	<b>Resource</b>	<b>Rate (Per Hour)</b>
1.		
2.		
3.		
4.		

Upon achieving each of the following milestones, Provider may invoice GBC for the Services actually performed since the last invoice on a time and materials basis. GBC may withhold a percentage of the payment owing on any such invoice equal to the Holdback set out above until all Services required to be performed under this SOW have been completed and all Goods provided under this SOW have been Accepted.

	<b>Payment Milestone</b>	<b>Percentage Payment (Before the Application of the Holdback)</b>
1.		
2.		
3.		
4.		

The hourly rates set forth above are fixed for the duration of this SOW.

All prices set forth above are exclusive of taxes.

**F. PAYMENT FOR GOODS**

Attachment Three to this SOW sets out the pricing models and costs associated with each of the Goods to be provided pursuant to this SOW.

**G. Approved Subcontractors**

For purposes of section 2.1 of the Master Agreement, the following are approved subcontractors of Provider, who shall be responsible on behalf of Provider for the roles identified below:

	<b>Subcontractor</b>	<b>Address</b>	<b>Role</b>
1.			
2.			
3.			
4.			

**IN WITNESS WHEREOF THE PARTIES** hereto have executed this Agreement:

George Brown College

*[Insert full legal name of the Provider]*

**Signature:**

**Signature:**

**Name:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**Signature:**

**Name:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

\_\_\_\_\_

**DRAFT**  
**November 7, 2006**

**ATTACHMENT ONE**  
**DESCRIPTION OF SERVICES**

**ATTACHMENT TWO  
SERVICE LEVELS**

- industry standard practices and industry best practices in North America;
- GBC’s business requirements;
- any service levels set out in the RFP]

**1.0 Introduction**

This Attachment sets out the Service Level Metrics that Supplier must meet with respect to the Services being provided pursuant to this SOW. It sets them out in a tabular format, and provides the following information for each one:

- (a) Service Description - a broad description of the Services to be provided either under this Agreement or SOW as is specifically identified below.
- (b) Measurement Criteria - a selection of specific metrics
- (c) Remedy - the remedy to be applied or the action to be taken in the event that Supplier fails to meet the associated Service Level Metric

**2.0 Service Level Metrics**

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Service Description	Measurement Criteria Designation	Remedy
Aggregate Measures		
Per Incident Measures		

<b>Disaster Recovery*</b>
---------------------------

Service Description	Measurement Criteria Designation	Remedy

\* Force majeure provisions do not apply to the Service Level Metrics set out under this heading, "Disaster Recovery".

**Communication and Reporting**

Service Description	Measurement Criteria Designation	Remedy

**Other**

Service Description	Measurement Criteria Designation	Remedy

**3.0 Defaults**

3.1 Should any of the following events occur, GBC may terminate or suspend some or all of the Services provided under this SOW without liability, cost or penalty:

3.2 Should any of the following events occur, GBC may terminate or suspend some or all of the Services provided under the Agreement without liability, cost or penalty:

**ATTACHMENT THREE  
COST OF GOODS**

**A. Pricing**

**A1. Per Device Pricing**

The following table sets out the pricing for each Good using the Per Device Pricing model described in Schedule D (Costing Tables of the RFP):

	<b>Good</b>	<b>Model and Version Numbers (if applicable)</b>	<b>Cost</b>
1.			
2.			
3.			

**A2. Flat Pricing**

The following table sets out the pricing for each Good using the Flat Pricing model described in Schedule D (Costing Tables of the RFP):

	<b>Good</b>	<b>Model and Version Numbers (if applicable)</b>	<b>Cost (Per Quarter)</b>
1.			
2.			
3.			

**A3. Alternative Pricing**

1.		
2.		
3.		

With respect to any Good, GBC may switch between pricing models during the term of the Agreement. GBC must give the selected Proponent at least thirty (30) days written notice of any such switch.