

Schedule G

Draft Contract

This contract is made and is first effective as of the Effective Date.

Between:

Essex Windsor Solid Waste Authority
360 Fairview Avenue West, Suite 211, West, Essex, Ontario N8M 3G4
(the "**Authority**")

And:

Legal Business Name
Address
City, Prov, Postal Code
(the "**Contractor**")

1.0 Background

The Essex-Windsor Solid Waste Authority is a municipal agency that was created by the City of Windsor and the County of Essex to manage waste on behalf of the City of Windsor and the seven (7) county municipalities (Amherstburg, Essex, LaSalle, Leamington, Kingsville, Tecumseh and Lakeshore).

The Authority desires to retain the Contractor to provide the Services and Deliverables (both as defined below), at the prices stipulated, and in accordance with, the terms of the Contract (defined below).

In Consideration of the mutual covenants, conditions and agreements set forth in this Contract, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties hereto, the Parties agree as follows:

2.0 Interpretation

All terms appearing with the first letter capitalized shall have the meanings assigned in Section 30 (Definitions).

3.0 Contract Documents

The terms of the contract between the Authority and the Contractor for the supply of the Services and Deliverables, as applicable, are comprised of the following (collectively, the "**Contract**"):

- a) the main body of this Contract;
- b) **Schedule "A"** Scope of Work and Specifications;
- c) the RFP, a copy of which is attached hereto as **Schedule "B"** (2022-10-03) for ease of reference, including (i) all Addenda (which, for greater certainty, shall supersede the contents of the RFP) and (ii) all documents incorporated by reference into the RFP; and
- d) the Contractor's proposal dated [MMDDYY] (the "**Proposal**"), a copy of which is attached hereto as **Schedule "C"** for ease or reference, submitted in response to the above-noted RFP to the extent that the proposal clarifies the Services and Deliverables. For greater clarity, the proposal shall not amend the terms under this Contract.

Where the document is not included as a schedule, it is deemed incorporated by reference. In the event of a conflict or inconsistency between any of the above documents, the conflict or inconsistency shall be resolved in favour of the document first appearing on the above list.

4.0 Supply of Services and Deliverables

The Authority hereby retains the Contractor to provide to the Authority with the services (the "**Services**") and to supply the work product (the "**Deliverables**") described in the attached **Schedule "A"**. Where the context permits, the term "Services" shall be deemed to include Deliverables.

If **Schedule "A"** provides that the Services shall be performed by a specific individual (the "**Representative**"), the Authority engages the Contractor to provide the Services on the express and essential condition that the Services shall be performed by the Representative and by no other person. In the event that the Representative is no longer (i) able or willing to perform the Services, or (ii) active with, or employed by the Contractor, for any reason whatsoever, the Authority shall have the right to terminate this Contract immediately upon written notice, without any liability to the Contractor and without prejudice to the Authority's rights hereunder. Notwithstanding the

foregoing, the Contractor may replace the Representative with another individual reasonably satisfactory to the Authority with the prior written consent of the Authority.

5.0 Term

This Agreement is effective as of the date of specified in **Schedule "A"** hereto (the "**Effective Date**"), and, unless earlier terminated pursuant to Section 10.0 – Termination, or extended by the Authority as per the terms of the RFP, shall continue until the expiration date set out in **Schedule "A"** (the "**Term**").

6.0 Timelines for Provision of Services

The Contractor shall provide the Services on the timelines provided for in the RFP, or on such other timelines as may be expressly agreed upon by the Parties in writing.

The Contractor shall notify the Authority as soon as it becomes aware that it cannot meet the agreed upon timelines for the provision of the Services.

In the event of a delay, the Contractor shall, at no additional cost to the Authority, employ accelerated measures such as premium transportation costs or labour overtime to ensure the Services are delivered on or before the revised timelines.

In the event the timelines are not being met by the Contractor, or a change in the timelines proposed by the Contractor is not acceptable to the Authority, acting reasonably, in addition to any other rights and remedies that may be available to the Authority at law, the Authority may terminate the Contract without any liability to the Contractor for such termination.

For greater certainty, the Contractor shall not be held responsible for delays outside the Contractor's reasonable control or to the extent any delay is caused by the Authority.

7.0 Inspection and Acceptance

The Authority, or persons authorized by the Authority, shall have the right, at all reasonable times to inspect the Services; or otherwise review the Services performed, or being performed, to ensure compliance with the Contract requirements.

Prior to accepting the completion of the Services, where the Authority discovers defective or non-conforming Deliverables, the Authority may at its option and without prejudice to any other rights or remedies it may have hereunder or at law: (a) at the Contractor's expense, request a refund, credit, repair or replacement or (b) obtain a price reduction or re-performance of non-conforming Services at no charge to the Authority. No payment shall be owed for the Services unless and until the Authority has finally accepted the particular Good or Deliverable.

8.0 Fees and Invoicing

Fees. For and in consideration of the Services furnished by the Contractor to the Authority under this Contract, the Authority shall pay the prices and fees set out in **Schedule "B"** (the "**Fees**").

Taxes. The Fees set out in the said **Schedule "B"** may not set out the relevant sales, goods and services, excise, value added or similar taxes, whether of provincial or other jurisdictional level, however taxes should be charged to the Authority and shown separately on each invoice in the normal course. The Contractor acknowledges that it may be subject to withholding tax under Canadian law. All taxes shall be shown separately on each invoice. The Contractor is entitled to apply for any tax credits applicable to or in relation to its services and shall be entitled to provide such information as may be required by the relevant tax authority to such authority.

Invoicing. Unless otherwise agreed in writing or in this Contract, the Contractor shall invoice the Authority for the Services on a monthly basis during the Term, with each invoice for the prior month being issued within five (5) days following the end of the month.

Invoices shall be submitted to the attention of "Accounts Payable" to the address as set out in this Draft Contract. The invoice shall contain: (i) a description of the Services provided in the previous month; (ii) details of the Fees and, shown separately and applicable taxes due; and (iii) a description of any disbursements and expenses claimed. If not previously provided, the first invoice shall contain the Contractor's HST registration number. The Authority shall pay any undisputed amounts owing to the Contractor within thirty (30) days of receipt of the invoice. The Contractor understands that failure to include all supporting documentation with the invoice and/or failure to provide any or all of the foregoing information as part of the invoice may result in a delay of payment to the Contractor and that the invoice may be returned to the Contractor unpaid and unprocessed.

Disputed Invoices. If the Authority disputes an invoice, the Authority shall notify the Contractor in writing of the reasons for its dispute within fourteen (14) days of receiving the invoice. The Authority shall pay only the undisputed portion of the Fees in accordance with the payment terms in this Contract. Any dispute in respect of an invoice shall be resolved through the dispute resolution process set out in Section 23 (Dispute Resolution) of this Contract.

Withholdings. If any Fees payable to the Contractor are subject to withholding taxes, the Authority shall withhold and remit such amounts to the applicable taxing authority, unless the Contractor provides the Authority with an exemption or waiver certificate. The Authority will provide the Contractor with written confirmation of any such withholding and remittance.

Disbursements and Expenses. The Contractor agrees that in no event shall any expenses or disbursements be payable by the Authority, nor shall the Authority be in any way liable for the same, unless such disbursement or expense was pre-approved in writing by the Authority and supporting documentation is provided to the Authority along with the invoice for the same.

9.0 Fee Increases

Unless otherwise specified in the Contract, all prices and fees set out in the Proposal, are the maximum prices and fees to be charged for the Services during the term of the Contract.

Any additional Services not within the scope of the Contract must be offered by the Contractor at a price that is not higher than the Contractor's published prices at the time that the Contract is executed (where not published, then at commercially reasonable and competitive prices) and must not increase until completion of the project or, where the Contract is for a defined term, then for the term of the Contract.

10.0 Termination

Either party may terminate this Contract:

- (1) immediately upon written notice if the Contractor becomes insolvent, or is made the subject of bankruptcy, conservatorship, receivership, or similar proceedings.

Each party may also terminate this Contract, without prejudice to the other party's rights hereunder if the other party breaches any provision of, or any

of its obligations under, this Contract or the Schedules attached hereto and fails to remedy such breach within five (5) business days following notice thereof (or such extended period of time as may be agreed upon by the parties to remedy such breach if it cannot reasonably be cured within five (5) business days).

11.0 Consequences of Termination

Upon expiration or termination of this Contract, the Authority shall pay the Contractor for all of the Services provided to, and accepted by, the Authority prior to expiration or termination and for all pre-approved expenses reasonably and properly incurred by the Contractor prior to expiration or termination, if payable pursuant to Section 8 (Fees and Invoicing) and further, upon such termination of this Contract, the Contractor shall have no further obligation to provide the Services, subject to its Warranty obligations below, and the Authority shall have no obligation to pay the Fees or make any other payments hereunder.

In the event of termination for cause by the Authority, the Authority may set-off any unpaid amounts due to the Contractor under this Contract, against any amounts owing by the Contractor to the Authority hereunder (including any amounts required to indemnify the Authority pursuant to Section 13 (Liability and Insurance), as determined by the Authority in its sole discretion) and any costs that the Authority may incur to supply the Services necessary to complete the Project.

Upon termination, if the Contractor owes any amounts to the Authority, including after any set-off made by the Authority pursuant to Section 8 (Fees and Invoicing), the Contractor shall promptly pay such amounts to the Authority.

Upon termination of this Contract, the Contractor shall immediately return to the Authority all records, files, lists, documents (including electronic material), equipment, software, intellectual property and any other property belonging to the Authority and/or the Authority's Representative, unless otherwise directed by the Authority in writing.

12.0 Indemnity

The Contractor hereby undertakes to indemnify and save harmless (but not defend) the Authority, the members of the Authority's Board, the Authority's employees, agents, and legal representatives, and the Corporation of the City of Windsor and the Corporation of the County of Essex, and their respective elected officials, officers, employees, and agents and other

representatives from and against any and all losses, claims, demands, debts, actions, causes of actions, damages, penalties, interest, costs or expenses (including reasonable legal fees and disbursements) or liability to the extent caused by:

- (1) the negligent or wrongful acts or omissions of the Contractor or its employees and/or agents, including the Contractor's Representative, arising in connection with this Contract and/or the Schedules attached hereto;
- (2) any and all breaches by the Contractor or its employees and/or agents, including the Contractor's Representative, of any representations, warranties, covenants, terms or conditions of this Contract or the Schedules attached hereto; and/or
- (3) any employee source deduction, employer contribution or other employer/employee obligation, including interest and penalties thereon, which the Authority may be assessed or otherwise may incur under any federal, provincial, state or municipal law as a result of a federal, provincial or municipal governmental department or agency, authority or competent tribunal determining that the Representative is considered an employee of the Authority; and any claim by any third party that the Services or Deliverables infringe the Intellectual Property Rights of any person.

13.0 Liability and Insurance

The Contractor shall provide a Certificate of Insurance from an insurer licenses in the province of Ontario.

The Commercial General Liability must name as insured:

- The Essex-Windsor Solid Waste Authority
- The Corporation of the County of Essex
- The Corporation of the City of Windsor

The policy shall contain a cross-liability separation clause and the Essex-Windsor Solid Waste Authority, the Corporation of the County of Essex and the Corporation of the City of Windsor shall be indemnified from any and all claims, demands, losses, costs or damages resulting from the performance of a Contractor's obligation under the Proposal.

The Contractor shall maintain in force at its entire expense the following coverage requirements:

- General Liability not less than \$5,000,000 including bodily injury, including death, personal injury and property damage arising from any one accident or occurrence.;
- Professional Liability Insurance of not less than \$2,000,000.

It is understood and agreed that the coverage provided by these policies will not be changed or amended in any way to the detriment of the Authority, nor cancelled until 30 days after written notice by registered mail of such change or cancellations has been delivered to the Authority. Proof of the insurance coverage shall be in form satisfactory to the Authority

14.0 Change Orders

The Authority or the Contractor may, at any time, propose a change to **Schedule "A"**, or to the Services or Deliverables outside the scope of **Schedule "A"** provided that no changes to this Contract are valid unless made in writing and mutually agreed by the parties.

Where a change is proposed, the Party proposing the change shall submit a written change order request to the other Party.

If the change order request is accepted in writing by both Parties, the additional or changed Services or Deliverables (as applicable) shall be supplied at the prices stipulated in the Contract or, where such prices are not listed, then at prices mutually agreed to in writing.

For greater certainty, where no prices have been clearly agreed to in writing in connection with a change order, then the prices last agreed to in the Contract shall apply for purposes of calculating the cost of Services or Deliverables.

15.0 Non-Exclusivity

Subject to any conflict of interest, nothing in this Contract shall prohibit or restrict the Contractor and the Representative from contracting with or being engaged in any capacity in promoting, undertaking, providing services to or in any way being involved with another person, firm or entity.

Nothing in this Contract shall prohibit or restrict the Authority from contracting with or engaging in any capacity any person to provide services

or perform work for the Authority that are similar to or compete with the Services or provided by the Contractor hereunder.

16.0 Accessibility for Ontarians with Disabilities Act (AODA)

The AODA standards apply to Ontario businesses and non-profits. The Authority of Essex is actively participating in meeting the accessibility standards in Ontario.

Any third-party Contractor who contracts with the Authority, must comply with the requirements of the AODA.

Contractor shall ensure that any information, goods or service provided to or on behalf of the Authority conforms with:

- 1) Ontario Regulation 429/07 Accessibility Standards for Customer Service;
- 2) Ontario Regulation 191/11 Integrated Accessibility Standard; and
- 3) World Wide Web Consortium Web Content Accessibility Guidelines (WCAG) 2.0 Level AA.

The successful Contractor may contact AbleDocs (www.AbleDocs.com), to procure the necessary services to ensure that any and all deliverables are AODA compliant or for document remediation at its own expense.

Should the successful Contractor fail to comply with providing deliverables that comply with the requirements of the AODA, and the regulations thereto, the Authority shall contract with AbleDocs, or another qualified service provider, to remediate the deliverables and the successful Contractor shall immediately reimburse the Authority for the costs of same.

17.0 Intellectual Property

“Intellectual Property Rights” means all intellectual and industrial property rights of the Authority which include rights to inventions and patents for inventions, including reissues thereof and continuations in part, copyright, designs and industrial designs, trademarks, know-how, trade secrets and confidential information, and other proprietary rights. Subject to any applicable provisions of the Schedules, the Contractor agrees that upon full payment of all monies properly owed to the Contractor, the Authority shall be the exclusive owner of all Intellectual Property Rights howsoever created or developed by the Contractor, whether by it alone or jointly or with

the contribution or assistance of others arising out of its engagement with the Authority, including without limitation all Intellectual Property Rights in the Deliverables. The Authority agrees, to the fullest extent permitted by law, to indemnify and hold the Contractor harmless from any claim, liability or cost (including reasonable attorney's fees and defense costs) arising or allegedly arising out of any reuse or modification of the Intellectual Property by the Authority or any person or entity that obtains the Intellectual Property from or through the Authority.

The Contractor further agrees that it has no rights in any such Intellectual Property Rights and hereby assigns to the Authority all rights, title and interest that may accrue to the Contractor as a result of its engagement with the Authority. The Contractor hereby undertakes and agrees to cause the Contractor and the Contractor's Representative to waive all moral rights and droits de suite that either the Contractor or the Contractor's Representative now or in the future may have to the Intellectual Property Rights. Each of the Contractor and the Contractor's Representative agree that all Deliverables and other works created in full or in part by the Contractor may be maintained, changed, modified and/or adapted by the Authority without consent of either the Contractor or the Contractor's Representative.

Notwithstanding the foregoing, the Contractor and the Authority may agree in writing that certain identified and designated Intellectual Property Rights will remain with the Contractor.

The Authority acknowledges that Contractor and the Contractor's Representative possess knowledge and expertise relating to the subject matter of the Services and Deliverables and may be contributing pre-existing materials to the Deliverables which may include intellectual property rights ("**Contractor Background IP**"). Nothing in this Contract is intended to transfer to the Authority any rights in the Contractor Background IP, which shall remain the property of the Contractor. To the extent that any Contractor Background IP is included in any Deliverables, the Contractor hereby grants to the Authority a perpetual non-exclusive right and license to use the Background IP to the extent reasonably necessary to exercise the Authority's rights in the Deliverables.

18.0 Confidentiality

All specifications, drawings, patterns, samples and other information furnished to the Contractor by the Authority in connection with the Contract will be used solely for the purpose of carrying out the work and for no other purpose; will remain the property of the Authority; and be returned or destroyed at the Authority's request at the expense of Contractor. The

Contractor may retain irretrievable electronic copies of information contained in routine back-ups created as part of its information technology system back-up and disaster recovery protocols. Such retained confidential information shall remain subject to the provisions of this Section 18 until destruction of such confidential information.

This Contract and information issued, used or disclosed in connection with the work are confidential and may be classified as to the degree of precaution necessary for their safeguarding. Contractor shall at all times take all measures reasonably necessary, including those set out in any instructions issued by the Authority, for the protection of the same.

The restrictions on the use and disclosure of the confidential information shall not apply to information which (a) was known to the Contractor before receipt of same from the Authority; or (b) becomes publicly known other than through breach of any confidentiality obligations; or (c) is disclosed pursuant to the requirements of a governmental authority or judicial order, but only to the extent required to comply with the said requirements of the government authority or judicial order.

19.0 Compliance with Laws

The Contractor acknowledges that the Authority is subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c M.56 ("**FOI Legislation**") and that information provided to or from the Authority in connection with this Contract may be subject to the provisions of these acts and other applicable law.

Without limiting anything else in this Contract, the Contractor hereby covenants and agrees that it shall comply with all duties and obligations as set out in all applicable laws, as amended from time to time, and shall make all reasonable efforts to assist the Authority in complying with the Authority's duties and obligations as set out in and which arise from law applicable to this Contract or to the Services and Deliverables provided hereunder.

20.0 Financial Audit

The Contractor shall keep proper accounts and records of the cost relating to the Services and Deliverables, including all invoices, receipts and vouchers.

If this Contract includes payment for time spent by the Contractor, its employees, Representatives, agents or subcontractors providing the Services and Deliverables, the Contractor must keep a record of the actual time spent

each day by each individual providing any part of the Services and Deliverables.

Unless the Authority has consented in writing to its disposal, the Contractor must retain all the information described in this section for seven (7) years after either:

- (1) the Contractor receives the final payment under this Contract; or
- (2) until the settlement of all outstanding claims and disputes, whichever is later.

During this time, the Contractor must make this information available for audit, inspection and examination by the representatives of the Authority, who may make copies and take extracts. The Contractor must provide all reasonably required facilities for any audit and inspection and must furnish all the information the Authority or its representatives may, from time to time, require to perform a complete or partial audit of this Contract. Notwithstanding the foregoing, the Authority's right to inspect, copy and audit shall not extend to the composition of the Contractor's rates and fees, percentage mark-ups or multipliers but shall apply only to their application to the applicable units.

Where such audit or inspection discloses an overpayment by the Authority, the Authority shall have a right to set-off the amount of such overpayment against future Contractor invoices issued pursuant to this or any other Contract and, to the extent that the Authority's right of set-off is not exercised or not adequate to cover such overpayment, the Contractor shall be responsible for promptly repaying such overpayment.

21.0 Subcontractors

The Contractor may subcontract portions of the work pursuant to this Contract provided that the Contractor shall be liable for its subcontractors' compliance with the Contract.

22.0 Relationship

The Contractor shall render the Services hereunder as an independent Contractor and that the Contractor's employees and/or agents, including the Representative, are not employees of the Authority.

Neither the Contractor nor any of its employees and/or agents, including the Representative, shall have any right to any the Authority employee benefit, entitlement or advantage.

Nothing in this Contract shall be construed as creating a partnership, joint venture or agency relationship between the parties, or as authorizing either party to act as agent for the other or to enter into any contracts on behalf of the other party. Neither the Contractor nor the Representative is authorized to bind or commit the Authority, either actually or apparently, in any manner whatsoever, without express prior written consent from the Authority to do so.

23.0 Dispute Resolution

The parties agree that any dispute between the parties under this Contract shall be resolved in the following manner.

The parties shall first endeavour to resolve any such dispute matter or matters by good-faith negotiation, which shall conclude when: (a) the parties reach an agreement settling the dispute; (b) a party declares impasse; or (c) thirty (30) days following the start of the negotiations have expired. If requested in writing by either the Authority or the Contractor, the Authority and the Contractor shall attempt to resolve any dispute between them arising out of or in connection with this Contract by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties.

If a dispute cannot be settled within a period of thirty (30) calendar days with the assistance of a mediator, if mutually agreed by the Parties, the dispute may be settled by binding arbitration subject to the terms of the *Arbitration Act, 1991, S.O. 1991, c. 18*. Failing the Parties agreeing to proceed to resolve any dispute by way of arbitration, the Parties may exercise any and all rights they may have to resolve the dispute. However, notwithstanding the foregoing, in no case shall a dispute between the Parties, or involving either of them, delay the supply of the Services or Deliverables and completion of the Project.

24.0 Severability

All notices and communications hereunder shall be in writing and shall be either (a) delivered personally, (b) delivered by commercial courier service, (c) sent by registered or certified mail to the postal address indicated below or such other address as may hereafter be designated in writing in accordance herewith, or (d) transmitted by facsimile or e-mail address indicated below:

To the Contractor:

Company Name.
Address
City, Ontario, postal code
Tel: 519-XXX-XXXX
Email:

To the Authority:

Essex Windsor Solid Waste Authority
360 Fairview Avenue West, Suite 211, West Essex, Ontario, N8M 3G4
Tel: (519) 776-6441 ext.1225
Attention: Michelle Bishop
Email: MBishop@ewswa.org

Notices delivered personally shall be deemed to have been received when delivered; if delivered by courier, shall be deemed to have been delivered on the delivery date and time recorded by the courier in its delivery records; if transmitted by facsimile or by e-mail, shall be deemed to have been received when confirmed by the recipient as having been received and notices sent by certified or registered mail shall be deemed to have been received four (4) days after mailing.

25.0 Amendment, Waivers and Assignment

This Contract may be amended in whole or in part only by the express written agreement of the parties hereto.

No waiver of any provision of this Contract shall be implied, and no waiver shall be valid unless it is in writing and signed by the party waiving its rights. No waiver of any breach of any of the terms, provisions or conditions of this Contract shall be construed as or held to be a waiver of any other breach, or a waiver of, acquiescence in, or consent to, any further or succeeding breach hereof.

The Contractor may not assign its rights under this Contract without the prior written consent of the Authority, and any attempt to do so shall be a breach of this Contract and shall be void.

26.0 Entire Agreement

This Contract and the Schedules attached hereto constitute the entire agreement between the parties and supersede all previous negotiations, understandings and agreements, verbal or written with respect to any

matters referred to in this Contract except as specifically set out in this Contract.

27.0 Governing Law and Attornment

This Contract shall be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Without limiting the requirement to address disputes in accordance with Section 23 (Dispute Resolution) above prior to exercising any other right the Parties may have, each Party irrevocably and unconditionally attorns to the exclusive jurisdiction of the courts located in the Province of Ontario for the purpose of any action or proceeding brought by either of them in connection with this Contract or any alleged breach thereof.

28.0 Survival

The representations, warranties and other provisions in this Contract that by their sense and context are intended to survive completion of performance, expiration or termination of this Contract, shall so survive the performance, expiration or termination of this agreement as necessary to give effect to their intention.

29.0 Counterparts

This Contract may be executed in any number of counterparts, and may be executed electronically, each of which shall be deemed to be an original and all of which taken together shall constitute one agreement. To evidence the fact that it has executed this Contract, a party may send a copy of its executed counterpart to the other party by electronic transmission and the signature transmitted by such transmission shall be deemed to be that party's original signature for all purposes.

30.0 Definitions

In this Contract, capitalized terms shall have the following meanings:

- (1) **AODA** has the meaning assigned in Section 16 (Accessibility for Ontarians with Disabilities Act).
- (2) **Background IP** has the meaning assigned in Section 17 (Intellectual Property).
- (3) **Consequential Damages** has the meaning assigned in Section 32 (Limit of Liability; Waiver of Consequential Damages).

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- (4) **Contract** has the meaning assigned in Section 3 (Contract Documents).
 - (5) **Contractor** has the meaning assigned in the preamble.
 - (6) **Authority** has the meaning assigned in the preamble.
 - (7) **Effective Date** has the meaning assigned in Section 5 (Term).
 - (8) **Fees** means the prices and fees set out in **Schedule "B"**.
 - (9) **FOI Legislation** has the meaning assigned in Section 19 (Compliance with Laws).
 - (10) **Force Majeure** has the meaning assigned in Section 31 (Force Majeure).
 - (11) **Intellectual Property Rights** has the meaning assigned in Section 17 (Intellectual Property Rights).
 - (12) **RFP** has the meaning assigned in Section 1 (Background).
 - (13) **Services, Deliverables** have the meanings assigned in Section 4 (Supply of Services and Deliverables) and Services may be used to describe Services and Deliverables collectively.
 - (14) **Representative** means the representative described in the attached Schedule "A".
 - (15) **Term** has the meaning assigned in Section 5 (Term).

31.0 Force Majeure

In the event that either Party is delayed or unable to perform any part of its obligations under this contract due to circumstances that were not foreseeable and were beyond the reasonable control of such Party, including acts of nature or the elements, war, riot, insurrection, military action, terrorist activity, economic sanction, blockade or embargo, sabotage, flooding, earthquake, or action or restraint by the order or act of a government authority properly exercising its jurisdiction (each, an event of "**Force Majeure**"), such Party shall be excused from the performance of such obligation to the extent that performance is prevented, hindered, or delayed by such Force Majeure. For clarity, in no event shall lack of funds or economic hardship, failure to obtain necessary licenses or approvals, import or export restrictions or customs clearance or compliance, or strikes by or lockouts of unionized employees or other labour unrest constitute an event of Force Majeure. Upon the occurrence of a Force Majeure event, the

affected Party shall notify the other Party of same and use its reasonable efforts to remedy or correct the delay or failure to perform as soon as possible. In no circumstances shall the Party prevented or delayed from performing any part of its obligations be liable to the other Party for any damage caused by the event of Force Majeure. In the event that such Force Majeure results in a delay exceeding thirty (30) days, the other Party may suspend the contract pending resolution of the Force Majeure, or terminate the Contract.

32.0 Limit of Liability; Waiver of Consequential Damages

The total amount of all claims the Authority may have against the Contractor under this Contract or arising from the performance or non-performance of the Services under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the higher of: i) the fees paid to the Contractor; or ii) the limit of insurance required to be maintained hereunder. This limit of liability shall not apply to claims arising under sections 13, 16, 17, 19, and 20.

Neither the Authority nor the Contractor, shall be liable to the other or shall make any claim for any incidental, indirect, consequential damages, damages related to loss of use, loss of profits, loss of income, unrealized energy savings, diminution of property value or loss of reimbursement or credits from governmental or other agencies ("**Consequential Losses**") arising out of or connected to this Contract. This Section shall not apply to Consequential Losses arising under sections 13, 16, 17, 19, and 20.

The parties hereto have each electronically executed this Contract by their respective and duly authorized signing officers.

**ESSEX-WINDSOR SOLID WASTE
AUTHORITY**

Per:

Per:

We have the authority to bind the Authority.

[COMPANY NAME]

Per: **Name, Position**

I have authority to bind the Contractor.

DRAFT

Schedule "A"

Scope of Work and Specifications

Effective Date: MMDD, 2022

Commencement Date: MMDD, 2022

Termination Date: MDDD, 20XX

Representative: Name
Mobile: (XXX)-xxx-xxxx

Representative the Authority: Name
Mobile: (XXX)-xxx-xxxx

Description of Services:

Fees

Total Cost of Contract

The fees and amounts set out in bid number RFP 2022-10-03 are in Canadian funds unless otherwise specified herein.

Please refer to Section 8 (Fees and Invoicing) of this Contract for further terms regarding the fees.