



MUSÉE
CANADIEN
DE L'HISTOIRE
-
CANADIAN
MUSEUM
OF HISTORY



CANADIAN
WAR
MUSEUM
-
MUSÉE
CANADIEN
DE LA GUERRE

General Conditions for Letter of Agreement (LOA) - Services

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1 INTERPRETATION

- 1.1 The term “**Contractor**” means the person, firm, agency, entity, artist, architect, engineer or consultant who is registered, licensed or otherwise authorized to practice activities in the province or territory of the **Place of the Work**, and will be engaged by the **Museum** to provide services, design, studies, engineering, architectural and/or other specialized services for the completion of the **Work**.
- 1.2 The term “**Deliverables**”: means the services and/or deliverables set out in the **Letter of Agreement** documents.
- 1.3 The term “**Letter of Agreement**” means the contract arising from the acceptance of the **Letter of Agreement** by the **Contractor** for the completion of the **Work** described in the **Letter of Agreement** document(s).
- 1.4 The term “**Place of the Work**” means the designated site or location of the project for the **Work** identified in the **Letter of Agreement** document(s).
- 1.5 The term “**Party**” means the **Museum**, the **Contractor**, or any other signatory to the **Contract** and “**Parties**” means all of them.
- 1.6 The term “**Services**”: means the services or deliverables to be performed by the **Contractor** as described in the **Letter of Agreement** document(s) pursuant to the issuance of the **Letter of Agreement**.
- 1.7 The term “**Museum**” means the Canadian Museum of History and/or the Canadian War Museum.
- 1.8 The term “**Work**” means all the services, activities, matters and things required to be done, delivered or performed by the **Contractor** under the **Letter of Agreement** (i.e. the total work described in the **Letter of Agreement** document(s)).
- 1.9 In the **Letter of Agreement** document(s), unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

2 THE MUSEUM’S CONTRACTING AUTHORITY

- 2.1 The **Contracting Authority**’s powers and responsibilities shall be as follows:
 - .1 is responsible for all queries related to the terms of the **Letter of Agreement** and for its amendments;
 - .2 has the sole power to authorize any changes to the **Letter of Agreement**;
 - .3 has the sole power to contractually bind the **Museum** with the **Letter of Agreement**;
 - .4 is responsible for dispute resolution arising out of the **Letter of Agreement**.

3 THE MUSEUM’S PROJECT AUTHORITY

- 3.1 The **Project Authority**’s powers and responsibilities shall be as follows:
 - .1 manages the **Work** and is accountable for its complete lifecycle;
 - .2 responsible for all queries related to the **Work**;
 - .3 when required, recommends the granting of extensions or amendments to the **Letter of Agreement**;
 - .4 certifies the **Contractor**’s invoices that **Work** has been completed according to the **Letter of Agreement**;
 - .5 authorizes the project closure;
 - .6 produces and communicates **Contractor**’s performance data.

4 ASSIGNMENT AND SUBCONTRACTING

- 4.1 The **Contractor** shall not assign the **Letter of Agreement** or subcontract any portion of the **Work** without the prior written consent of the **Museum**, which consent may not be unreasonably withheld. No subcontract, if permitted by the **Museum**, shall relieve the **Contractor** from any of its obligations under

the **Letter of Agreement** or impose any liability upon the **Museum**. In any subcontract, the **Contractor** agrees to bind the subconsultant and subcontractor by the same conditions by which the **Contractor** is bound under the **Letter of Agreement**.

5 ADMINISTRATORS AND ASSIGNS

5.1 Subject to the terms hereof, the **Letter of Agreement** shall ensure to the benefit of, and be binding upon, the respective heirs, executors, administrators, successors and assigns of the parties hereto.

6 MEMBERS OF THE HOUSE OF COMMONS

6.1 No members of the House of Commons shall be admitted to any share or part of the **Letter of Agreement** or to any benefit to arise there from.

7 BRIBERY AND CONFLICT OF INTEREST

7.1 The **Contractor** represents and warrants that:

- .1 no bribe, gift or other inducement has been paid, given, promised or offered to any person for, or with a view to the obtaining of the **Letter of Agreement** by the **Contractor**; and
- .2 has not employed any person to solicit or secure the **Letter of Agreement** for a commission, percentage, brokerage or contingent fee; and
- .3 has no pecuniary interest in the business of any third party that would affect its objectivity in carrying out the **Work**.

7.2 No individual for whom the post-employment provisions of the *Conflict of Interest and Post-Employment Code for Public Office Holders* or the *Conflict of Interest and Post-Employment Code* for the Public Service apply, shall derive any direct benefit from the **Letter of Agreement** unless that individual is in compliance with the applicable post-employment provisions.

7.3 Throughout the application of the conditions of the contracts, any persons engaged for their application shall act in compliance with the principles of the *Conflict of Interest and Post-Employment Code* for Public Office Holders, (which are the same as those in the *Conflict of Interest and Post-Employment Code for the Public Service*). Should an interest be acquired during the life of any the **Museum Letter of Agreement** that would cause a conflict of interest or seem to cause a departure from the principles, the **Contractor** shall declare it immediately to the **Contracting Authority**.

8 STATUS OF THE CONTRACTOR

8.1 Nothing in the **Letter of Agreement** shall be construed to place the **Parties** in the relationship of partners, joint venture or employer and employee, and neither **Party** has the power to bind the other in any manner whatsoever. The **Contractor** is engaged under the **Letter of Agreement** as an independent **Contractor**. Neither the **Contractor** nor any of its personnel is engaged as an employee, servant or agent of the **Museum**. The **Contractor** further agrees to be solely responsible for any and all payments and/or deductions required to be made respecting unemployment insurance, worker's compensation, income tax or such other payments or deductions.

9 COMMENCEMENT AND PERFORMANCE OF THE CONTRACTOR'S WORK

9.1 The **Contractor** shall not commence **Work** until a written **Letter of Agreement** has been received.

9.2 The **Contractor** agrees to carry out the **Work** promptly and efficiently in accordance with the terms and conditions of the **Letter of Agreement** and in accordance with the standards of quality acceptable to the industry.

10 TIME OF THE ESSENCE AND DELAYS, FORCE MAJEURE AND COMPLIANCE WITH HEALTH STANDARDS

10.1 It is essential that the **Work** be performed within or at the time stated in the **Letter of Agreement**. The **Contractor** will be in default by the terms of the **Letter of Agreement** due to any delay attributable to

the **Contractor**.

10.2 The **Contractor** shall promptly notify the **Museum** in writing of any event which delays or risks delaying the **Work**. If by reason of Force Majeure or other cause beyond the reasonable control of the **Contractor**, any of the **Work** has been or is likely to be delayed, the **Museum** may, at its sole discretion, consider the delay as an “Excusable Delay” and extend the time for completing the **Work** so delayed. In such a case, the **Contractor** must also advise the **Contracting Authority**, within five (5) working days, of all the circumstances relating to the delay and provide to the **Contracting Authority** for approval a clear work around plan explaining in detail the steps that the **Contractor** proposes to take in order to minimize the impact of the event causing the delay.

10.3 Force Majeure

In the event of a Force Majeure, the **Museum** will communicate with the **Contractor** to establish a new schedule or to terminate this **Letter of Agreement**, in such a case each **Party** will bear its costs. A Force Majeure means the occurrence of a fortuitous event which is impossible to resist or prevent and which has the effect of rendering either of the **Parties** incapable of executing one or more obligations incumbent upon him under the **Letter of Agreement**.

10.4 Compliance with health standards

In the event that the **Museum** is unable to proceed with this **Letter of Agreement** due to COVID or to another pandemic event or to other health restrictions, the **Museum** will communicate with the **Contractor** to establish a new schedule or, if this is not suitable for the **Contractor**, to terminate the **Letter of Agreement**. In this case, i.e. in the event of termination of the **Letter of Agreement**, it will be understood and agreed that there should be no claims for damages by the **Contractor**. The parties will be deemed to be released from their obligations hereunder, including, but not limited to, indirect, special, or consequential damages or loss of profit caused by the termination of the **Letter of Agreement**.

10.5 The **Museum** will not be responsible for any costs incurred by the **Contractor** or any of its subconsultants, subcontractors or agents as a result of an Excusable Delay.

11 COMPLIANCE WITH APPLICABLE LAWS

11.1 To fulfill its obligation under the **Letter of Agreement**, the **Contractor** hereby undertakes to comply with all laws, regulations, ordinances and codes established from time to time by any federal, provincial, municipal or other governmental authority relating to the **Work**. The **Contractor** undertakes to comply with provincial (or territorial) employment standards, occupational health and safety rules, and human rights legislation. The **Contractor** shall ensure that all its employees or subconsultant and subcontractor shall be paid fair wages.

11.2 The **Contractor** must provide evidence of compliance with such laws to the **Museum** at such times as the **Museum** may reasonably request.

11.3 The **Contractor** must obtain and maintain at its own cost all permits, licenses, regulatory approvals and certificates required to perform the **Work**. If requested by the **Contracting Authority**, the **Contractor** must provide a copy of any required permit, license, regulatory approvals or certificate to the **Museum**.

12 INTERNATIONAL SANCTIONS

12.1 Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the **Museum** cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions.

12.2 The **Contractor** must not supply to the **Museum** any goods or services which are subject to economic sanctions.

12.3 The **Contractor** must comply with changes to the regulations imposed by Canada during the period of the **Letter of Agreement**. The **Contractor** must immediately advise the **Museum** if it is unable to perform the **Work** as a result of the imposition of economic sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services. If the Parties cannot agree on

a work around plan, the **Letter of Agreement** will be terminated for convenience in accordance with section 40.

13 CONFIDENTIALITY

- 13.1 With the exception of the **Museum's** information which is in the public domain, the **Contractor** acknowledges that the present **Letter of Agreement** and all information issued, used or disclosed to the **Contractor** in connection with the **Work** or while carrying out the **Work**, including any personal information within the meaning of the *Personal Information Protection and Electronic Documents Act* (“PIPEDA”), and the Privacy Act (R.S.C., 1985, c. P-21) are private and may be classified as to the highest degree of precaution necessary for their safeguarding.
- 13.2 The **Contractor** shall at all times take all measures necessary, including those set out in any instructions issued by the **Museum**, for the protection of the aforesaid confidential information against espionage, sabotage, fire, theft and other risks of loss or damage.
- 13.3 The **Contractor** further agrees that it will use such confidential information solely on behalf of the **Museum** and for the **Museum's** purposes and not on its own behalf or for its own purposes.
- 13.4 The **Contractor** shall at all times comply strictly with the **Letter of Agreement** in such manner as to ensure that its acts or omissions do not result in the **Museum** being in violation of any applicable laws governing the collection, use, disclosure or storage of information about individuals, including PIPEDA and the Privacy Act.

14 DATA PROTECTION AND SECURITY

- 14.1 The **Contractor** shall ensure that all data bases that contains information related to the **Work** are located in Canada or, if the **Contracting Authority** has given their prior written consent in another country where;
- a. The personal information benefits a protection equivalent to the Canada under the laws such as the [Privacy Act](#) and the [Personal Information Protection and the Electronic Documents Act](#) (“PIPEDA”), The Privacy Act and any applicable policy from the government of Canada.
 - b. The laws do not allow the government of that country or any other entity or person to request or obtain the right to examine or copy information related to the **Letter of Agreement** without the prior written consent of the **Contracting Authority**, except as required by law.

To provide consent to establish a database in another country, the **Contracting authority** can, at their choice, request the **Contractor** to provide legal advice (from a qualified lawyer in the foreign country) to the effect that the laws of this country meets the requirements described above or else to reimburse the **Museum** for obtaining this notice. The **Museum** has the right to reject any request to store their data in another country if their security, confidentiality or integrity may be threatened. The **Museum** can also request that the data transmitted or processed outside of Canada be encrypted using the **Museum** approved cryptography, which reflect the level of sensitivity of personal information / data/ confidential information and that the private key required to decrypt the data be kept in Canada, in accordance with the key management and conservation process approved by the **Museum**.

- 14.2 The **Contractor** must control access of all databases in which data related to the **Letter of Agreement** is stored, in order that only persons with the appropriate security clearance can have access to the database, either by means of a password or other means of access (such as biometric controls).
- 14.3 The **Contractor** must ensure that all databases in which data related to the **Letter of Agreement** are stored are not physically or logically linked to any other databases of the **Contractor's** clients, (which means that there is no direct or indirect connection), and they meet the requirement of this article.
- 14.4 The **Contractor's** must ensure that all data related to the **Letter of Agreement** is processed only in Canada or in another country approved by the **Contracting Authority** in accordance with paragraph 14.1.
- 14.5 The **Contractor** must ensure that traffic on the national network (which means traffic from one part of

Canada to a destination located in another part of Canada) takes place exclusively in Canada, unless the **Contracting Authority** has previously approved another route in writing. The **Contracting Authority** will only consider a route to another country for the transmission of the data, if that country meets the requirements described in paragraph 14.1.

- 14.6 Despite any disposition of the general conditions related to subcontracting, the **Contractor** cannot entrust to a subcontractor (including an affiliated company) any function which allows access to the data of the **Letter of Agreement** without the prior written consent of the **Contracting Authority**.
- 14.7 The **Contractor** must implement and maintain security procedures in order to protect all data against security attacks.
- 14.8 The **Contractor** will implement and maintain a series of security measures designed to protect the personal information against the loss, theft or unauthorized consultation, communication reproduction, use or non-authorized modification. These security measures must include, but not limited to, physical measure, administrative and technical deemed reasonable in taking into account the sensitivity of the information and its use, quantity, distribution and support.
- 14.9 The **Contractor** must report immediately any breach of security measures by sending a notice the **Project manager** and the **Contracting Authority**.
- 14.10 The notice must include sufficient information to permit the **Museum** to understand the importance of the breach of personal information or security measure, and to take steps, if necessary, to reduce the risk of harm to people affected or the **Museum** that could result or mitigate it. The notice must contain at least:
- a. The date or estimated date of the breach;
 - b. The general description of the circumstances by the breach;
 - c. The nature of the information affected by the breach; and
 - d. Any other relevant information.

15 INTELLECTUAL PROPERTY TITLES AND OTHER TITLES INCLUDING COPYRIGHT

- 15.1 The technical documents (including reports and prototypes produced by the **Contractor** for the performance of the **Work** provided for the **Letter of Agreement**) are transferred to the **Museum** and remain its exclusive property. The **Contractor** must submit a copy to the **Museum**. The **Contractor** is entirely indebted to him according to the conditions established by the **Museum**, with regard to these documents and prototypes.
- " Technical document " means any recorded information including reports, working documents related to the service, including concepts, reports of a technical or other nature, photographs, drawings, plans, specifications and software which may or may not be protected by the copyright.
- 15.2 The technical data and inventions conceived or developed, or even put into execution to render the services provided for in the **Letter of Agreement** are the exclusive property of the **Museum**, and the **Contractor** has no right in relation to them.
- 15.3 The **Contractor** transfers all intellectual property rights (copyright, trade secrets, and industrial designs) and waives moral rights on any material created as part of this **Letter of Agreement** or product during its execution.
- 15.4 If, under any law, the rights of the **Contractor** are restored, he grants the **Museum** a perpetual worldwide license, free of rights and irrevocable allowing him to exercise the rights renowned under the terms of the legislation in force on intellectual property.
- 15.5 The **Contractor** certifies the **Museum** the full and free enjoyment of their rights and acts as guarantor against all disturbance, claims or evictions against any claims and any prosecution due to of counterfeits, defamation, evasion of the privacy of others or morality.

16 CANADIAN LABOR AND MATERIAL EMPLOYMENTS

16.1 The **Contractor** must make every effort to employ Canadian labor and materials in the execution of the **Work**, taking into consideration their availability, cost and efficiency of execution.

17 THE MUSEUM PROPERTY

17.1 The **Contractor** shall take care in a reasonable and adequate manner, of all the **Museum's** property in their possession or control. If they do not comply with this obligation, they will be responsible for any loss or damage which results therefrom unless these are caused by normal wear and tear.

18 NON-PAYMENT IN CASE OF ERRORS OR OMISSIONS

18.1 The **Contractor** is not entitled to payment of costs incurred in order to rectify error and omissions related to the **Work** and which are attributable to themselves, their employees or agents or to persons for whom he has assumed all responsibility for the provision of services.

19 FRAUD

19.1 In the event of a fraud committed by the **Contractor's** employees or agents, the **Contractor** shall be liable for losses to the **Museum** due to fraud, including but not limited to, losses of revenues and assets, and all costs to the **Museum** related to the fraud.

20 INSURANCE

20.1 The **Contractor** is liable for any damage caused by the **Contractor**, its employees, subconsultants, subcontractors or agents, to the **Museum** or any third party.

20.2 The **Contractor** shall, at its own expense, procure and maintain in force for the duration of the **Letter of Agreement**:

- .1 Commercial General Liability insurance, with a minimum limit of five million dollars (\$5,000,000.00) in Canadian funds, without limitation, including coverage for personal injury, bodily injury (including death) or property damage for any one occurrence or series of occurrences arising from one cause, no aggregate, and with a maximum deductible of five thousand dollars (\$5,000.00). The certificate shall provide coverage for, but not be limited to, all premises and operations of the **Contractor**, non-owned automobile of which he may have custody, control or use, contractual liability and liability specifically assumed under the **Letter of Agreement**. The **Museum** shall be added to the certificate as an additional insured and it shall contain a cross-liability clause. The coverage afforded to the **Museum** as an additional insured shall include, but not be limited to, negligence on the part of the **Contractor** arising out of the performance of the **Work**.
- .2 All Risk Property insurance of sufficient limit to cover all property of the **Museum** entrusted to the **Contractor**.
- .3 Worker's Compensation or workplace insurance as required by statute in any Province or Territory where any employee of the **Contractor** or any subconsultant or subcontractor may be domiciled or, if applicable, where the site of the **Work** is located.

20.3 The **Contractor** shall deliver to the **Museum**, at the time of the signing of the **Letter of Agreement**, a certificate or certificates of insurance as evidence that the required coverages are in effect and that the **Museum** shall be given sixty (60) days prior written notice of cancellation, or expiry of or material change to, such coverage.

20.4 The foregoing insurance provision shall not limit the insurance required by municipal, provincial and federal law. The insurance coverages shall be underwritten by a licensed insurer and shall be applicable to the Place of the **Work**. It shall be the sole responsibility of the **Contractor** to determine what additional insurance coverages, if any, are necessary and advisable for its own protection or to fulfill its obligation under the **Letter of Agreement**. Any such additional insurance shall be provided and maintained by the **Contractor** at its own expense.

21 PROFESSIONAL LIABILITY

- 21.1 The Professional Liability insurance coverage shall be in an amount usual for the nature and scope of the services and be continually maintained from the commencement of performance of the services until five (5) years after their completion. The Professional Liability insurance coverage shall have a limit of liability of:
- .1 not less than \$1,000,000.00 per claim and \$2,000,000.00 in the aggregate for an estimated total project cost (including the professional service fees) of less than \$100,000.00; and
 - .2 not less than \$1,000,000.00 per claim and \$5,000,000.00 in the aggregate for an estimated total project cost (including the professional service fees) equal or more than \$100,000.00.
- 21.2 Notice of Cancellation of Insurance Coverage: The **Contractor** shall immediately advise the **Museum** in writing upon being informed or in receipt of any notification of a pending cancellation or of non-renewal of its Professional Liability insurance or of any reduction to the claim limits it maintains.

22 FURTHER DOCUMENTS

- 22.1 The **Contractor** will, at his expense, promptly and duly execute and deliver to the **Museum** such further documents and assurances (in particular the bonding prequalification letter and the additional certificates required), and take such further action as the **Museum** may from time to time request, in order to more effectively carry out the intent and purpose of the **Letter of Agreement** and to establish and protect the rights, interest and remedies intended to be created in favour of the **Museum**.

23 INDEMNITY AGAINST CLAIMS

- 23.1 The **Contractor** shall at all times indemnify and hold harmless the **Museum**, and its directors, officers, employees and others for whom it may be responsible in law, from and against all losses, claims (including claims made by the **Contractor**'s personnel under Worker's Compensation or workplace insurance Legislation), demands, awards, judgments, actions and proceedings by whomsoever made, brought or prosecuted in respect of loss of, damage to or destruction of property (including loss or damage sustained by the **Contractor**) or personal injury including death, expenses and costs suffered or incurred by the **Museum** arising out of the errors, omissions or negligent acts of the **Contractor**, its employees, subconsultants, subcontractors and agents, in the performance of the services under the **Letter of Agreement** or in any way connected with the **Letter of Agreement**.
- 23.2 The **Contractor**'s liability to indemnify or reimburse the **Museum** under the **Letter of Agreement** shall not affect or prejudice the **Museum** from exercising any other rights under law.
- 23.3 This clause shall survive suspension, termination or completion of the **Letter of Agreement**.

24 REPRESENTATION BY THE CONTRACTOR

- 24.1 The **Contractor** represents and warrants that:
- .1 it has the necessary qualifications, including licenses, permits, knowledge, skill and the ability to use them effectively to perform the **Work**.
 - .2 it has everything necessary to perform the **Work**, including the resources, facilities, labour, technology, equipment, and materials.
- 24.2 The **Contractor** must:
- .1 provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices and procedures developed by professional bodies in the performance of similar services at the time when and at the location in which the services are provided.
 - .2 supply everything necessary to perform the **Work**.
 - .3 use, as a minimum, quality assurance procedures, inspections and controls generally used and recognized by the industry to ensure the degree of quality required by the **Letter of Agreement**.
 - .4 select and employ a sufficient number of qualified people.

- .5 perform the **Work** in accordance with standards of quality acceptable to Canada and in full conformity with all the requirements of the **Letter of Agreement**.
- .6 submit in a timely manner to the **Museum**, for approval, a time schedule for the services to be performed, in detail appropriate to the size and complexity of the **Letter of Agreement**, and in the prescribed format.
- .7 adhere to the approved time schedule and, if changes in the approved time schedule become necessary, indicate the extent of, and the reasons for such changes, and obtain the approval of the **Museum**.
- .8 provide effective and efficient supervision to ensure that the quality of workmanship meets the requirements of the **Letter of Agreement**.

24.3 Codes, By Laws, Licences, Permits

- .1 For professional and design services, the **Contractor** shall comply with all statutes, codes, regulations and municipal laws applicable to the design and where necessary, shall review the design with those public authorities having jurisdiction in order that the consents, approvals, licences and permits required for the **Letter of Agreement** be applied for and obtained.

25 WARRANTY (AS APPLICABLE TO THE TYPE OF WORK)

- 25.1 The **Contractor** warrants that for a period of twelve (12) months from the date of completion of the **Work**, the **Work** shall be free from all defects in material or workmanship and conform to the requirements of any **Letter of Agreement** between the parties.
- 25.2 In the event of a breach of the **Contractor's** warranty set out in paragraph 25.1, the **Contractor** shall at his expense, redo, correct or make good the **Work** found to be defective or in non-conformity with the terms of any agreement with the **Museum**.
- 25.3 If the **Contractor** fails to correct the defect or deficiency within seven (7) calendar days upon receipt of written notification from the **Museum**, the **Museum** may correct the defect or deficiency and the costs incurred shall be deducted from any money owing to the **Contractor** under this **Letter of Agreement** or any other contract between the parties.

26 INSPECTION AND ACCEPTANCE OF THE WORK

- 26.1 All the **Work** is subject to inspection and acceptance by the **Museum**. Inspection and acceptance of the partial or final **Work** by the **Museum** do not relieve the **Contractor** of its responsibility for defects and other failures to meet the requirements of the **Letter of Agreement**. The **Museum** will have the right to reject any **Work** that is not in accordance with the requirements of the **Letter of Agreement** and require its correction or replacement at the **Contractor's** expense.
- 26.2 The **Contractor** remains responsible for the loss of the **Work** caused by a case of force majeure until the **Museum** has accepted the **Work**.

27 TERMINATION FOR CAUSE

- 27.1 The **Contractor** will be in default under the terms of the **Letter of Agreement** in the following circumstances:
 - .1 the **Contractor** fails to perform any of the **Contractor's** obligations under the **Letter of Agreement**, or, in the **Museum's** view, so fails to make progress and thus endangers performance of the **Letter of Agreement** in accordance with its terms; or,
 - .2 the **Contractor** becomes bankrupt or insolvent, or a receiving order is made against the **Contractor**, or an assignment is made for the benefit of creditors, or if an order is made or resolution passed for the winding up of the **Contractor**, or if the **Contractor** takes the benefit of any statute for the time being in force relating to bankrupt or insolvent debtors.

The **Museum** may, by written notice to the **Contractor**, terminate the whole or any part of the **Letter of**

Agreement.

27.2 In the event of **Letter of Agreement's** termination, the **Museum** may:

- .1 arrange, in conformity with terms and conditions of the **Letter of Agreement** for the **Work** to be completed, and the **Contractor** shall be liable to the **Museum** for any costs incurred to complete the **Work**, even if the costs incurred by the **Museum** exceed those initially set forth in the **Letter of Agreement**;
- .2 require the **Contractor** to deliver and transfer title of any finished **Work** which has not been delivered and accepted prior to such termination and any materials or work-in-process which the **Contractor** has specifically acquired or produced for the fulfilment of the **Letter of Agreement**.

27.3 In the event of the **Letter of Agreement** termination, the **Museum**:

- .1 shall pay the **Contractor**, for all such finished **Work** delivered pursuant to such direction and accepted by the **Museum**, the cost to the **Contractor** of such finished **Work** plus the proportionate part of any fee established by the terms of the **Letter of Agreement**.
- .2 shall pay or reimburse the **Contractor** the fair and reasonable cost to the **Contractor** of all materials or work-in-process delivered to the **Museum** pursuant to such direction.
- .3 may withhold from the amounts due to the **Contractor** any amount it deems necessary to pay the additional costs, it expects to pay for the completion of the **Work**.

28 SECURITY CLEARANCES

28.1 The **Contractor** must comply to a security screening before gaining access to the **Museum's** buildings.

28.2 The **Contractor** shall submit to the **Museum**, before commencement of the **Work**, the names of all persons who will be present at the place of work, whether inside or outside the area of work and who are involved with the **Work**, whether they are employees of the **Contractor**, subconsultants or subcontractor.

28.3 The **Contractor** and all subconsultants and subcontractors shall agree to submit to the **Museum**, required by the **Museum**, the security screening forms in a duly completed manner, for themselves and for any other persons who will be assigned to work on their behalf on this project, before commencing the **Work**: Declaration Regarding Criminal Convictions, Consent to Disclosure of Personal Information parts (1) Reliability, (2) Criminal record, (3) Credit and (4) any other security clearance form reasonably required by the **Museum**.

28.4 The **Contractor** agrees to only allow authorized screened personnel on the work site in accordance with criteria established by the **Museum**.

29 HARASSMENT IN THE WORKPLACE

29.1 The **Contractor** acknowledges the responsibility of the **Museum** to ensure, for its employees, a healthy work environment, free of harassment. In this sense, the **Contractor** must collaborate with the **Museum**.

29.2 The **Contractor** must not, either as an individual, or as a corporate or unincorporated entity, through its employees, subconsultants or subcontractors, harass, abuse, threaten, intimidate, discriminate against any employee, **Contractor** or other individual employed by, or under the **Letter of Agreement** with the **Museum**.

29.3 The **Contractor** will be advised in writing of any complaint and will have the right to respond in writing. Upon receipt of the **Contractor's** response, the **Contracting Authority** will, at its entire discretion, determine if the complaint is founded and decide on any action to be taken.

30 HEALTH AND SAFETY AND COVID, PANDEMIC OR HEALTH RESTRICTION PARTICULARITIES

30.1 The **Contractor** must provide a safe and healthy workplace and comply with relevant health and safety laws and standards. The **Contractor** must provide adequate information and instructions to all their employees on health and safety concerns. The **Contractor** must allow their employees to meet their

responsibilities to ensure a safe and healthy workplace.

30.2 COVID, Pandemic or Health Restriction Particularities

The **Contractor** must ensure:

- .1 To comply with and apply the latest health and safety standards;
- .2 to apply the basic hygiene measures of the General Directorate of Public Health;
- .3 to verify the state of health of workers prior to their arrival on site;
- .4 to plan the **Work** to respect physical distancing for the applicable period;
- .5 to use specific personal protective equipment, as applicable; and
- .6 to follow the protocols, policies and directives of the **Museum**.

31 LABOUR DISPUTE AT THE WORK SITE/POST EMPLOYMENT CODE

- 31.1 The **Contractor** shall take all reasonable action to prevent any strikes, lockouts, picketing, boycotts and other labour disputes at the Work site or any other disruptive actions affecting the **Museum**, its affiliates, the services or the building.
- 31.2 In the event of a strike or lockout involving the **Contractor's** personnel which results in the **Contractor** being unable to perform all or a portion of the services, the **Contractor** shall, with the **Museum's** approval, take whatever steps are necessary to maintain the performance of services and to provide such performance with the least effect on the normal operations of the **Museum**, its affiliates and all other occupants of the building. The **Museum** reserves the right to make whatever arrangements are necessary to maintain the cleanliness of the building and perform the other services set forth in the **Letter of Agreement** and, pursuant thereto, to use whatever equipment the **Contractor** has in the building for cleaning purposes.
- 31.3 Whether as a result of a strike or otherwise, if the **Contractor** fails to perform its obligations under the **Letter of Agreement** terms, within a period of twenty-four (24) hours following receipt of written notice of such failure, the **Museum** shall have the right to terminate the **Letter of Agreement**, without further notice, and employ another **Contractor** to perform the obligations of the **Letter of Agreement** and to take any other steps it deems necessary to ensure that the **Work** is to be performed in a timely and orderly manner.

32 ALCOHOL AND DRUGS

- 32.1 The **Contractor** must ensure that their employees, all their sub-contractors and their personnel are fit when reporting to work and remain fit throughout their work day, free from the **influence of alcohol or drugs**, including **cannabis products**, that may impair their ability to perform their duty in a safe and productive manner.
- 32.2 The **Contractor**, its superintendent and/or its supervisor must ensure that all their personnel, subcontractor(s) and the subcontractor personnel adhere to all aspects of the following policy in effect at the **Museum**:
1. For the safety and security of all Persons, the consumption of alcohol and drugs, including **cannabis products**, on all the **Museum's premises** is strictly forbidden.
 2. Any employee who arrives at work and determines that they may be **under the influence of alcohol or drugs**, including **cannabis products** and/or **prescription drugs**, must notify their supervisor. The **Contractor** shall relieve the employee of their duty and confidentiality shall be respected and maintained when possible.
 3. Any employee who suspects that a co-worker is working under the **influence of alcohol or drugs**, **cannabis products**, **prescription drugs** or **illegal drugs** must immediately notify a supervisor. Every measure should be taken to keep such reports confidential.
 4. It is strictly forbidden for any employee to traffic, provide, produce, sell, trade, manufacture, distribute,

or offer for sale any alcohol, drugs, including **cannabis products**, or otherwise engage in the use of **illegal drugs** or the improper use of drugs, including **prescription drugs**, while on the **Museum’s premises** at all times.

5. Where an employee believes they have or may have an alcohol or drug addiction that interferes or may interfere with their ability to work safely and productively, and to comply with all **Museum’s** policies, the employee must notify their supervisor immediately
6. Personnel in breach of these rules will be escorted at the **Contractor’s** expense out of the **Museum’s premises**.

A violation of article 32 will result in consequences up to and including the **Letter of Agreement** termination.

33 SMOKE-FREE WORKPLACE

33.1 The **Contractor**, its superintendent and/or its supervisor must ensure that all their personnel, subcontractor(s) and the subcontractor personnel adhere to all aspects of the following policy in effect at the **Museum**:

1. **Smoking** is prohibited in the **Museum’s interior and outside spaces** (See map in Appendix 1).
2. This policy covers the use of all smoke-related products, including e-cigarettes, cigars, tobacco and its derivatives and cannabis and its derivatives or any other smokable product. This is intended to make the **Museum** a healthy working environment. It will apply to all persons working or visiting the premises.
3. Personnel in breach of these rules will be escorted at the **Contractor’s** expense out of the **Museum’s premises**.

A violation of article 33 will result in consequences up to and including **Letter of Agreement** termination.

Definitions related to Clauses 32 and 33:

Prescription drugs: means a drug, a narcotic, or a substance, that has been duly authorized by a health professional registered and licensed under the law of a province to practice medicine and/or dispense such drugs.

Illegal drugs: means drugs and other substances that are prohibited or restricted pursuant to the Controlled Drugs and Substances Act, or a regulation thereunder, as amended from time to time, and pursuant to any and all other related statutes and regulations.

It also means **prescription drugs**, where the use or possession of which has not been duly authorized by a health professional registered and licensed under the law of a province to practice medicine and/or dispense such drugs.

Cannabis products: means cannabis in any form, including but not limited to its preparations and derivatives, regardless of whether its use or possession was duly authorized by a health professional registered and licensed under the law of a province to practice medicine and/or to dispense such products.

Influence of alcohol or drugs: the symptoms of influence may include but are not limited to any degree of, impairment of mental abilities, slurred speech, difficulty in maintaining balance, misbehaviour and changes in personality, dizziness, impairment of motor abilities, increase in loudness, exaggerated behaviour, redness of eyes, sleepiness, and any other departure from normal behaviour.

Museum’s premises: Buildings of the Canadian Museum of History (CMH) and the Canadian War Museum (CWM), including but not limited to all spaces within CMH and CWM complex, offices, reception areas, lobbies, corridors, hallways, stairwells, washrooms, indoor parking areas, cafeterias, dining rooms, lounges, institutional vehicles and all areas of the Museums’ sites open to the public.

Buildings of the CMH and CWM: Include Parc Laurier complex in Gatineau and Canadian War Museum complex in Ottawa.

Interior spaces: All spaces within CMH and CWM complex including but not limited to offices, reception areas, lobbies, corridors, hallways, stairwells, washrooms, indoor parking areas, cafeterias, dining rooms, lounges and institutional vehicles.

Outside spaces: All open areas of the CMH and the CWM owned or leased, including exterior parking lots.

Persons: People working at and visiting the premises including but not limited to, employees, interns, volunteers, students, research associates, fellows, visiting or resident scholars, and visitors.

Smoking: Holding or having control over any ignited product or device, including smokeless devices containing an ignited product.

34 COOPERATION WITH OTHER CONSULTANTS AND CONTRACTORS

- 34.1 The **Museum** reserves the right to let separate **Letter of Agreement** to other contractors in connection with any on-going project, for the purpose of carrying out a work which may form a part of the **Contractor's** project or that of the **Museum's** own work forces.
- 34.2 If it is necessary that other persons be sent onto the site of the work, the **Contractor** shall, in accordance with the **Museum's** instructions, allow them access to the site and shall cooperate with them in carrying out of their duties and obligations. The **Museum** agrees to take all reasonable precautions to avoid labour disputes or other disputes on the project arising from the work of other contractors working on the same project.
- 34.3 When separate **Letters of Agreement** are awarded for different parts of the project, or part of the work is performed by the **Museum's** own work forces, the **Museum** shall:
- .1 provide for the co-ordination of the work of its own forces and of each separate **Letter of Agreement** or with the work in its **Letter of Agreement**, and
 - .2 ensure that insurance coverage is provided to the same requirements as it is mentioned in the Insurance Clause #20 or any subsequent General Conditions which may change the existing clause to comply with the **Work** situation in the **Contractor's Letter of Agreement**.
- 34.4 It may be a requirement that the **Contractor** may have to co-ordinate its work with that of other consultants or contractor, hired by the **Museum** or other workers who are part of the **Museum**. The **Contractor's Work** may need to connect with the subsequent work as indicated in the **Letter of Agreement**. Should there be a change in the Scope of Work required for the planning and performance of this co-ordination and connection, the **Contractor** must obtain authorization to that effect from the **Contracting Authority**.
- 34.5 The **Contractor** shall report any deficiencies in the other consultants' or contractors' work to the **Museum's Project Authority** in writing and, where applicable, to the consultants or contractors. Failure of the **Contractor** to report any deficiencies shall invalidate any claims against the **Museum** by reason of the deficiencies of other consultants' or contractors' work except to those of which the **Contractor** was not made reasonably aware.

35 OBLIGATIONS JOINT AND SEVERAL

- 35.1 If two or more contractors are liable under the terms of the **Letter of Agreement** to the **Museum**, their obligations shall be both joint and several.
- 35.2 If only one contractor is liable under the terms of the **Letter of Agreement** to the **Museum**, his obligations shall be indivisible.

36 ACCOUNTS

- 36.1 The **Contractor** shall:

- .1 keep accounts and records of the cost of performing the **Letter of Agreement**;
- .2 keep for a period of six (6) years from the end of the calendar year in which the **Letter of Agreement** is terminated or completed, all documents relating to such costs (accounts, records and other documents), unless he obtains the prior written consent of the **Museum** to otherwise dispose of such accounts;
- .3 on demand, produce to the **Museum** the documents mentioned in paragraph 36.1.2 and permit the **Museum** to examine, audit and take copies and extracts.

37 INVOICING

37.1 No amount shall be payable by the **Museum** unless the **Contractor** has submitted an invoice pursuant to the payment schedule described in the **Letter of Agreement**. All invoices must clearly show the **Letter of Agreement** number and be submitted in writing to the **Museum** at the following address:

Canadian Museum of History
 Accounts Payable
 100 Laurier Street
 Gatineau, Quebec K1A 0M8
payables@historymuseum.ca

37.2 The **Contractor**, in his name, must submit invoices for each delivery or shipment; invoices must only apply to the **Letter of Agreement**. Each invoice must indicate whether it covers partial or final delivery and must show the following items:

- .1 details of expenditures (such as item, quantity, unit of issue, unit price, hourly rates and level of effort, subcontracts, mark-up, as applicable) in accordance with the Basis of Payment, exclusive of Applicable Taxes;
- .2 deduction for holdback, if applicable;
- .3 the extension of the totals, if applicable; and
- .4 if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges.

All invoices shall set out applicable taxes separately. In addition, the **Contractor's** appropriate tax registration numbers shall be clearly displayed on every invoice.

37.3 Fees

- .1 The **Museum** shall pay to the **Contractor**, for services rendered, a sum of money calculated in accordance with the provisions of the **Letter of Agreement**.
- .2 The **Contractor's** fees are only payable when the **Contractor** has performed the services as determined by the **Museum**. Payment in respect of a service or part of a service is not to be deemed a waiver of the **Museum's** rights of set off at law or under the **Letter of Agreement** for costs or expenses arising from default or negligence of the **Contractor**.
- .3 The maximum amount payable under the **Letter of Agreement**, including fees and disbursements, shall not exceed the sum specified in the **Letter of Agreement** particulars, without the prior written authorization of the **Contracting Authority**.

37.4 Fee Arrangement(s) for Services

- .1 The fee to be paid to the **Contractor** for the services described in the **Letter of Agreement** shall be determined by one or more of the following arrangements as specified in the **Letter of Agreement**:
 - a. Fixed Fee - may be in the form of a fixed lump sum or an amount made up of fixed unit prices multiplied by a number of units of deliverables in the amount(s) specified in the **Letter of Agreement**.
 - b. Time Based Fee - may be in the form of a Maximum Upset Fee or a Budget Fee.

- i. Maximum Upset Fee means the **Contractor** is expected to complete the services within this upset fee unless changes to the Scope of Work increase the level of effort.
 - ii. Budget Fee is used when the Scope of Work is not well defined, and the **Museum** wants to establish a budget envelope.
 - .2 The **Contractor's** personnel shall be paid at the hourly rates quoted in the **Contractor's** Price Proposal. The rates shall include all costs for salary, labour burden, profit, administrative overhead, disbursements, travel and all subconsultant or subcontractor coordination costs.
 - .3 These will be the only rates payable to the **Contractor** and shall be applicable for all phases of the **Letter of Agreement**.
- 37.5 The **Contractor** must, upon request by the **Museum**, provide a solemn declaration certifying that it has paid the corresponding requests for payment by the subconsultants or the subcontractors.
- 37.6 Payment of invoices submitted to the **Museum** shall be paid on the latter of the following two dates:
- .1 within thirty (30) days following the date on which all of the Work has been completed in accordance with the terms of the **Letter of Agreement**;
 - .2 within thirty (30) days following the date on which an invoice and substantiating documentation are received according to the terms of the **Letter of Agreement**.
- Note:** The payment period may be adjusted in consideration of any payment discount in the **Contractor's** Proposal.
- 37.7 The **Museum**, within thirty (30) days of its receipt, is to notify the **Contractor** of the nature of the objection to the content of the invoice or the substantiating documentation. The **Contractor** must provide clarifications as soon as reasonably possible after receipt of the objection from the **Museum**. The **Museum** may withhold payment until satisfactory explanation has been provided by the **Contractor**.

38 TAXES

- 38.1 All amounts payable are in addition to the provincial sales tax, goods and services tax and any other tax applicable to the **Work** to be performed.
- 38.2 Applicable taxes will be paid by the **Museum** in accordance with the Invoicing section in article 37. It is the sole responsibility of the **Contractor** to charge applicable taxes at the correct rate in accordance with applicable legislation. The **Contractor** agrees to remit to appropriate tax authorities any amounts of applicable taxes paid or due.
- 38.3 The **Contractor** is not entitled to use the **Museum's** exemptions from any tax, such as provincial sales taxes, unless otherwise specified by law. The **Contractor** must pay applicable provincial sales tax, ancillary taxes, and any commodity tax, on taxable goods or services used or consumed in the performance of the **Letter of Agreement** (in accordance with applicable legislation), including for material incorporated into real property.
- 38.4 Tax Withholding of 15 % – Canada Revenue Agency
- Pursuant to the Income Tax Act, 1985, c. 1 (5th Supp.) and the Income Tax Regulations, the **Museum** must withhold 15 % of the amount to be paid to the **Contractor** in respect of services provided in Canada if the **Contractor** is not a resident, unless the **Contractor** obtains a valid waiver from the Canada Revenue Agency. The amount withheld will be held in an account for the **Contractor** in respect to any tax liability which may be owed to Canada Revenue Agency.

39 RIGHT OF SET-OFF

- 39.1 Without restricting any right of set-off given by law, the **Museum** may set-off against any amount payable to the **Contractor** under the **Letter of Agreement**, any amount payable to the **Museum** by the **Contractor** under the **Letter of Agreement** or under any other current **Letter of Agreement**. The **Museum** may, when making a payment pursuant to the **Letter of Agreement**, deduct from the amount

payable to the **Contractor** any such amount payable to the **Museum** by the **Contractor** which, by virtue of the right of set-off, may be retained by the **Museum**.

40 TERMINATION WITH NOTICE

- 40.1 The **Museum** may, at any time and upon giving two (2) business day notice to the **Contractor**, terminate or suspend the **Contract** with respect to all or any part or parts of the **Work** not completed.
- 40.2 Provided the **Contractor** is not in breach of its **Letter of Agreement**, all **Work** completed by the **Contractor** to the satisfaction of the **Museum**, before the giving of such notice, shall be paid for by the **Museum** in accordance with the provisions of the **Letter of Agreement**. Where there are no provisions in the **Letter of Agreement** with respect to the **Contractor's** cost, the **Museum** shall pay such sum as the **Museum** shall determine to be the **Contractor's** reasonable costs.
- 40.3 To be entitled to payment and reimbursement, the **Contractor** must demonstrate that the cost and expenses were actually incurred and that they are fair and reasonable and are properly attributable to the termination or suspension of the **Letter of Agreement** or the part thereof so terminated.
- 40.4 The **Contractor** shall have no claim for damages, compensation, loss of profit, allowance or other compensation by reason of or as a direct or indirect consequence arising out of any action taken or notice given by the **Museum** under the provisions of this Article, except as expressly provided in the **Letter of Agreement**.

41 ALTERATIONS OF DRAWINGS AND/OR SPECIFICATIONS BY THE MUSEUM

- 41.1 The **Museum** reserves the right to request alterations of any drawings and specifications when deemed appropriate. Unless the **Contractor** reasonably objects, all classified Drawings supplied or **Work** thereafter executed by the **Contractor** or a subsequent subconsultant or subcontractor shall be altered accordingly, with such necessary changes in price and of the time or times for delivery as may be agreed upon by all parties. However, the **Contractor**, a supplier, a subconsultant or a subsequent subcontractor may not request a price adjustment for products manufactured for commercial purposes.

42 SUSPENSION OF WORK AND CHANGE IN SPECIFICATIONS BY THE MUSEUM

- 42.1 The **Museum** may at any time order the suspension of **Work** in whole or in part, as described in the **Letter of Agreement**, and make modifications of, and changes in or additions to the specifications, changes in methods of delivery, packaging, change in the date or location of delivery. All directions given by the **Museum** with respect to the foregoing shall be complied with immediately by the **Contractor**. If any such suspension, modification, change or addition of the **Work** shall result in a monetary increase or decrease of the cost of the **Work**, the **Letter of Agreement** price shall be amended and adjusted accordingly, provided that the **Contractor** shall in no event be entitled to compensation for any loss of anticipated profits and provided further that minor increases or decreases in cost shall be disregarded.

43 EXECUTION OF DOCUMENT

- 43.1 A facsimile, scanned or electronic executed copy of the **Letter of Agreement** and associated documents shall be binding on the **Parties**.

44 COUNTERPARTS

- 44.1 The **Letter of Agreement** may be executed in any number of counterparts and all these counterparts shall for all purposes constitute one agreement, binding on the **Parties**, notwithstanding that all **Parties** are not signatory to the same counterpart.

45 ENTIRE LETTER OF AGREEMENT

- 45.1 The **Letter of Agreement** constitutes the entire agreement between the **Parties** and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings, negotiations and discussions between them, whether written or oral, relating to this subject matter. Each **Party**

acknowledges that in entering into the **Letter of Agreement** it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in the **Letter of Agreement**. No party shall have any claim for innocent or negligent misrepresentation based upon any statement in the **Letter of Agreement**. Nothing in this clause shall limit or exclude any liability for fraud.

46 SEVERABILITY

46.1 If any section, paragraph, word or other portion of the **Letter of Agreement** shall be held illegal, invalid or unenforceable, then the illegal, invalid or unenforceable portion shall be stricken and not form part of any such **Letter of Agreement**. The invalidity of any provisions hereof shall not affect any remaining provisions.

47 LANGUAGE OF THE LETTER OF AGREEMENT

47.1 The **Letter of Agreement** will be drawn up in English or in French, depending on the language requested by all **Parties** hereto.

48 OFFICIAL LANGUAGES

48.1 If, in the course of completing the **Work**, the **Contractor** has to provide services or communications to the public in a location where sufficient demand exists for services in both official languages, English and French, the **Contractor** must comply with the Official Languages Act.

49 POWERS OF THE MUSEUM

49.1 The **Museum** is the agent of His Majesty the King in the Right of Canada for all purposes of the **Letter of Agreement**. Nothing contained in or omitted from the **Letter of Agreement** shall restrict any right or power of His Majesty the King or of the **Museum** existing under any Act of the Parliament of Canada or otherwise. Every right or power of the **Museum** under the **Letter of Agreement** or otherwise shall be cumulative and non-exclusive.

50 NON-PERFORMANCE - WAIVER

50.1 The failure by the **Museum** to exercise or enforce any right conferred upon it under the **Letter of Agreement** shall not be deemed to be a waiver of any such right or operate to bar the exercise and enforcement thereof at any time or times thereafter unless such waiver is evidenced by writing from the **Contracting Authority**.

51 AMENDMENTS

51.1 No change or modification of the **Letter of Agreement** shall be valid unless it be in writing and signed by each **Party**.

52 NOTICES

52.1 Where in the **Letter of Agreement** any notice, request, direction or other communication is required to be given or made by either **Party**, it shall, except as otherwise provided, be in writing and is effective if delivered in person, sent by registered mail, or by electronic means addressed to the **Party** for whom it is intended at the address hereinafter. Any notice, request, direction or other communication shall be deemed to have been received if delivered by person, on the day it was delivered; if by registered mail, when the postal receipt is acknowledged by the other **Party**; and if by electronic means, on transmission. The address of either **Party** may be changed by notice in the manner set out in this provision.

To the Contractor: As determined in the **Letter of Agreement**.

To the Museum:

<p><u>To the Project Authority for Work related issues and as determined in the Letter of Agreement.</u></p>	<p><u>To the Contracting Authority for all other related issues and as determined in the Letter of Agreement.</u></p>
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53 GOVERNING LAW

53.1 Unless otherwise specified, the **Letter of Agreement** shall be governed by and construed in accordance with the law of the place where the **Work** is being conducted.

54 JUDICIAL DISTRICT

54.1 In case of dispute, the competent jurisdiction is the one where the **Work** is executed or were to be executed.

55 DISPUTES

55.1 All claims by the **Contractor** against the **Museum** relating to the **Letter of Agreement** shall be in writing and shall be submitted to the **Contract Authority** within thirty (30) days of the date of the occurrence giving rise to the claim. The **Contracting Authority** will issue its decision in writing within a reasonable time, in accordance with regulations promulgated by the **Museum** and taking into account such factors as the size and complexity of the claim and the adequacy of the information and support regarding the claim provided by the **Contractor**. Specific findings of facts are not required but, if made, shall not bind the **Museum** in any subsequent proceeding.

55.2 The **Contracting Authority's** decision on the claim shall be final and conclusive, subject to review by a tribunal of competent jurisdiction. Pending a decision from a tribunal of competent jurisdiction, the **Museum** has a right to require that, notwithstanding its claim, the **Contractor** proceed diligently with the performance of the Work in accordance with the terms of the **Letter of Agreement** and in accordance with the **Contract Authority's** decision.

55.3 Notwithstanding any other provision of this Article, the **Contractor** and the **Museum** can mutually agree on any alternative means of dispute resolution or procedures for resolving any claims by the **Contractor**.

56 INTEGRITY AGREEMENT

56.1 To ensure fairness, openness and transparency; by accepting an **Letter of Agreement**, the **Contractor** agrees that they are eligible to do business with the **Museum** and certifies that they have not been convicted in any Federal or Provincial Court for the following:

1. Any kind of fraud under the Financial Administration Act, whether Federal or Provincial;
2. Any kind of fraud, bribery, perjury, extortion or falsification against any Government under the Criminal Code of Canada;
3. Participation in activities of criminal organizations and or Money Laundering;
4. Corruption, collusion, bid-rigging or any other anti-competitive activity under the Competition Act;
5. Income and excise tax evasion, whether Federal or Provincial;
6. Bribing a foreign public official;
7. Offences in relation to drug trafficking; and
8. Payment of a contingency fee to a person to whom the Lobbying Act applies.

56.2 The **Museum** will declare a **Contractor** non-conforming in respect of which the information herein requested is missing or inaccurate, or in respect of which the information contained in the certifications specified above is found to be untrue, in any respect, by the Museum.

56.3 The **Museum** will have the right to terminate the **Letter of Agreement** for default if:

1. It is determined, after issuing the **Letter of Agreement**, that the **Contractor** made a false declaration, or
2. During the **Letter of Agreement**, the **Contractor** is convicted for any of the conducts stated above; in this case the **Contractor** will have the obligation to disclose promptly such circumstance.

56.4 By accepting an **Letter of Agreement**, the **Contractor** agrees with this clause and solemnly affirms

that all individuals who directly or indirectly control the company, corporation, or sole ownership; including its organizations, corporate bodies, societies, companies, firms, partnerships, associations of persons, parent companies, and subsidiaries, whether partly or wholly-owned, as well as individuals, and directors are eligible to be awarded an **Letter of Agreement** with the **Museum**, and that such persons can complete all of the certifications as noted above.

57 NON-DISCLOSURE AGREEMENT

57.1 THIS NON-DISCLOSURE AGREEMENT (hereinafter called "Agreement") is entered into between The Canadian Museum of History, located at 100 Laurier Street, Gatineau, Quebec (hereinafter called "the Museum") and the **Contractor** (hereinafter called "Company") by accepting a **Letter of Agreement** from the **Museum**.

57.2 WHEREAS the **Museum** and the Company are willing to disclose to each other certain confidential and/or proprietary information (hereinafter called "Confidential Information") or the purpose of this solicitation hereinafter called "Project");

NOW, THEREFORE, in consideration of the covenants hereinafter contained and other good and valuable consideration, the Parties agree as follows:

1. Each Party agrees to disclose (hereinafter called the "Disclosing Party") to the other party (hereinafter called the "Receiving Party") such portion of Confidential Information as the Disclosing Party considers necessary and appropriate in the circumstances for the purposes of the Project. All Confidential Information disclosed hereunder in written, printed or some other tangible form shall be clearly and conspicuously marked by the Disclosing Party with the word "CONFIDENTIAL" or otherwise identified by an appropriate stamp or legend indicating its confidential and/or proprietary nature. All Confidential Information disclosed hereunder verbally or visually will be identified by the Disclosing Party as confidential at the time of disclosure and shall be confirmed as such in writing by the Disclosing Party within fifteen (15) days of its disclosure to the Receiving Party.

The Receiving Party agrees to hold all Confidential Information disclosed hereunder by the Disclosing Party in confidence for Perpetuity from the date of its receipt hereunder and to use the same degree of care, to prevent any unauthorized disclosure or publication thereof, as it uses to protect its own confidential information of a like nature, provided, however, that in no event shall the Receiving Party employ less than a reasonable degree of care. The Receiving Party agrees not to disclose or divulge any such Confidential Information to anyone except their employees who have a need to know same and are directly involved in the Project, provided the Receiving Party obtains from such employees in advance of any disclosure of such Confidential Information their agreement to keep same confidential on the same terms and conditions that apply to the Receiving Party pursuant to this Agreement.

2. The Receiving Party further agrees not to use any of the Confidential Information disclosed hereunder by the Disclosing Party for any purpose other than for the Project for the period of time identified in paragraph 1 above from the date of its receipt hereunder, without the prior written consent of the Disclosing Party.

3. All Confidential Information disclosed pursuant to this Agreement and all documents relating thereto disclosed hereunder shall remain the property of the Disclosing Party and shall be returned promptly by the Receiving Party to the Disclosing Party together with any copies thereof upon receipt by the Receiving Party of a written request from the Disclosing Party therefor, which the Disclosing Party may make at any time and from time to time.

4. The foregoing obligations imposed upon the Receiving Party to keep all Confidential Information disclosed hereunder by the Disclosing Party in confidence and not use any thereof for any purpose other than for the Project, shall not apply to any such information which the Receiving Party can show:

(a) is already in the possession of the Receiving Party at the time of receiving the same from the Disclosing Party without any obligation of confidentiality as shown by the prior records of the Receiving Party;

- (b) is published or becomes available within the public domain otherwise than as consequence of a breach by the Receiving Party of its obligation not to disclose any of the Disclosing Party's Confidential Information;
 - (c) is lawfully received by the Receiving Party from any third party without restriction on disclosure or use, and without breach of this Agreement;
 - (d) is independently developed without any breach of this Agreement by the Receiving Party's personnel who have not had access to any of Confidential Information; or
 - (e) is approved in writing by the Disclosing Party for release or other use by the Receiving Party according to terms stipulated in such approval.
5. Except as otherwise expressly permitted hereunder, no license under any trade secret, patent, patent application, industrial design, trademark, copyright, mask work, confidential process, formula, plan, computer program, data or other valuable Confidential Information or know-how is granted to the Receiving Party or can be implied by disclosure to the Receiving Party by the Disclosing Party of any of Confidential Information hereunder. The Disclosing Party shall use all reasonable efforts to attempt to provide information hereunder to the Receiving Party that is accurate and sufficient for the purposes of the Project. The Disclosing Party, however, shall not assume any responsibility whatsoever with the respect to the accuracy or sufficiency of such information.
 6. This Agreement shall continue for Perpetuity from its effective date, subject, however, to the proviso that either party may terminate this Agreement at any time during the period upon reasonable prior written notice to the other party. Unless previously returned pursuant to paragraph 3 above, upon the expiration or termination of this Agreement, the Receiving Party shall promptly return to the Disclosing Party all Confidential Information and all documents relating thereto disclosed to it hereunder together with any copies thereof. The obligations concerning disclosure and use of Confidential Information imposed hereunder shall survive the expiration or termination of this Agreement and shall continue to bind the Receiving Party, its successors, permitted assigns and their representatives for the balance of the period of time identified in paragraph 1 above then outstanding from the date of first receipt of such Confidential Information hereunder or with respect to any applicable portion thereof, until the effective date of any of the events recited in paragraphs 4 (b), (c), (d), or (e) above, whichever occurs first.
 7. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all proposals, negotiations, representations, warranties, conditions and agreements, collateral or otherwise, oral or written, made prior to the execution hereof and related to the subject matter hereof. Any modification or amendment to this Agreement must be in writing, having direct reference to this Agreement and must be signed by authorized representatives of both Parties. The invalidity of any provisions hereof shall not affect any remaining provisions.
 8. This Agreement and the rights and obligations granted to and undertaken by the Parties shall not be assignable or transferable, in whole or in part, by either party without the prior written consent of the other party.
 9. This Agreement shall be governed and interpreted in accordance with the laws of Canada applicable therein. The Parties shall comply with the applicable laws relating to the import, export and re-export of Confidential Information disclosed pursuant to this Agreement.
 10. All notices, requests and other communications and Confidential Information pursuant to this Agreement shall be addressed as follows:

In the case of the **Museum**: To the **Contracting Authority**, Canadian Museum of History, 100 Laurier Street, Gatineau, Quebec, K1A 0M8.

In the case of Company: To the **Contractor's** Authorized Representative.

Any notice, request or other communication forwarded hereunder shall be deemed to have been received: if delivered by hand, at the time of delivery; if emailed or sent by facsimile transmission, on the first business day (days other than Saturdays, Sundays and statutory holidays) of addressee after

it has been transmitted; and if mailed, on the tenth business day (days other than Saturdays, Sundays and statutory holidays) of addressee after it has been mailed by certified or registered mail; except, however, in the event of an interruption in mail service in the country of domicile of either party in which case receipt shall be deemed to occur when such notice is actually received. An address for service hereunder may be changed by either party from time to time by written notice to the other party.

11. Each party agrees not to use the other party's name in any way for advertising or promotional purposes, or to make any disclosure to any third party or any public announcement regarding the existence or content of this Agreement, with the exception of its external legal counsel and/or public accounting firm when reasonably required, without obtaining the prior written consent of the other party.
12. Neither party has any obligation by virtue of this Agreement to procure from or sell to the other party any goods or services.
13. IN WITNESS WHEREOF the **Contractor** hereto has caused this Agreement to be agreed to by accepting a **Letter of Agreement** from the Museum.

Appendix 1

