

## **ECOMMERCE SOLUTION PROJECT MASTER SERVICES AGREEMENT**

This Master Services Agreement is made as of June 18, 2018 (the “**Effective Date**”) by and between **Her Majesty the Queen in the Right of the Province of British Columbia, as represented by the Attorney General and the General Manager of the Liquor Distribution Branch**, with offices at 2625 Rupert Street, Vancouver, British Columbia, Canada, V5M 3T5 (the “**LDB**”) and Shopify Inc., with offices at 150 Elgin Street, 8<sup>th</sup> Floor, Ottawa, ON K2P 1L4 (“**Contractor**”).

### **BACKGROUND**

The LDB has conducted a competitive procurement process for the purpose of establishing strategic relationship with a company experienced in web design and development and digital strategy to provide an innovative, Responsive and Transactional, all-in-one B2B and B2C, eCommerce platform, website and digital services through a SaaS or Cloud service application including, implementation, integration, ongoing support and maintenance of a full eCommerce solution and to position the LDB for future demands for e-commerce (the “**Procurement**”), as more particularly described in Request for Proposals for eCommerce Project RFP2018-01-30 (the “**RFP**”). Contractor is an independent provider of relevant services. The LDB and Contractor (collectively the “**Parties**” and each a “**Party**”) wish to enter into an agreement pursuant to which Contractor will, as a result of being the successful proponent in the Procurement, perform certain services and provide certain deliverables and other items of work product all for the benefit of the LDB, as set forth in this Agreement.

### **AGREEMENT**

FOR GOOD AND VALUABLE CONSIDERATION, the Parties each hereby covenant and agree as set forth in this Agreement, which is comprised of the following documents:

1. this page (the “**Cover Page**”);
2. the general terms and conditions attached to this Cover Page (the “**General Terms and Conditions**”); and
3. the schedules to this Agreement (the “**Schedules**”), including the following initial Schedules:
  - A. Services E-Commerce Solution – Phase 1 Statement Of Work (SOW)
  - B. Statement of Work for eCommerce Solution Steady State Services
  - C. Statement of Work (SOW) Template
  - D. Privacy Protection Schedule
  - E. Contractor Travel Expense Guidelines
  - F. T&M Rates for Contractor Project Team Members
  - G. Insurance
  - H. Governance
  - I. Agreement Reporting Obligations
  - J. Security
  - K. Defect Severity Definitions
  - L. Stabilization Support and Warranty Services

- M. Proposal Extracts
- N. Change Order Template

[SIGNATURE PAGE TO FOLLOW]



IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Agreement as of the Effective Date.

**Shopify Inc.**

By:   
Name: LOREN PADELORD

Title: VPS GM SHOPIFY PLUS

**Her Majesty the Queen in the Right of the Province of  
British Columbia, as represented by the Attorney  
General and the General Manager of the Liquor  
Distribution Branch**

By:   
Name: R. Blain Lawson

Title: General Manager and CEO

## Table of Contents

### Page

<b>1. DEFINITIONS AND INTERPRETATION .....</b>	<b>1</b>
1.1 Key Definitions .....	1
1.2 Principles of Construction .....	8
1.3 Schedules .....	8
1.4 Proposal Extracts.....	8
1.5 Conflict of Provisions .....	8
<b>2. SERVICES .....</b>	<b>9</b>
2.1 Scope and Definition of Services .....	9
2.2 SOWs .....	9
2.3 Specifications .....	10
2.4 SOW/Assumptions/LDB SOW Dependencies .....	10
2.5 Feasibility/Completeness .....	10
2.6 Performance by Contractor and Remedies for Failure .....	11
2.7 Project Management.....	11
2.8 Acceptance Testing/Acceptance Review .....	13
2.9 Completion of eCommerce Solution/Future Projects.....	15
2.10 Dependency Fault and Inaccurate Assumptions.....	15
2.11 Performance Standards.....	16
2.12 Knowledge Transfer .....	16
2.13 Final Deliverables .....	17
2.14 No Harmful Code or Locks .....	17
2.15 Compatibility of Deliverables .....	17
2.16 Documentation .....	17
2.17 Stabilization Support and Warranty Services .....	18
<b>3. CHANGE MANAGEMENT.....</b>	<b>18</b>
3.1 Change Orders.....	18
3.2 Rejection by Contractor .....	18
3.3 Pricing of Changes .....	18
3.4 Effect of Change .....	19
3.5 Restrictions/Cost .....	19
<b>4. CONTRACTOR PERSONNEL .....</b>	<b>19</b>
4.1 General .....	19
4.2 Background Checks .....	19
4.3 Assignment/Changes .....	20
4.4 Key Members .....	20
4.5 Approved Subcontractors .....	21
4.6 Contract Workers .....	21
4.7 Requirements .....	22
<b>5. FACILITIES/PLACE OF PERFORMANCE/TECHNOLOGY TOOLS .....</b>	<b>22</b>
5.1 Canadian Services .....	22
5.2 Service Locations .....	23
5.3 Telecommuting .....	23
<b>6. PROPRIETARY RIGHTS .....</b>	<b>23</b>
6.1 Deliverables and Work Product .....	23

6.2	Contractor-Background IP .....	24
6.3	Third Party Components .....	24
6.4	LDB-Licensed Items .....	25
6.5	LDB Data and LDB Materials .....	25
6.6	Other Service Providers .....	26
6.7	Confirmatory Agreements.....	26
<b>7.</b>	<b>ADDITIONAL OBLIGATIONS.....</b>	<b>26</b>
7.1	Professional Standards .....	26
7.2	Compliance with laws .....	26
7.3	Work Permits .....	26
7.4	Equipment/Materials .....	27
7.5	LDB Assets/Facilities and Networks .....	27
7.6	Regulatory Investigation .....	27
7.7	Business Continuity/Disaster Recovery .....	27
7.8	Account Management .....	27
7.9	Notifications.....	27
7.10	Contractor Costs and Expenses .....	27
7.11	Records and Audit.....	28
7.12	No Reduction of Contractor Responsibilities.....	28
<b>8.</b>	<b>FEES AND RELATED MATTERS.....</b>	<b>28</b>
8.1	Fees .....	28
8.2	Payment on Acceptance or Milestone Completion .....	28
8.3	Expenses.....	28
8.4	Pass-through Costs .....	29
8.5	Maximum Contract Price .....	29
8.6	Holdbacks.....	29
8.7	Invoices .....	29
8.8	Taxes .....	30
8.9	Payment.....	30
8.10	Disputed Charges .....	30
8.11	Procedure for Procedure for Obtaining Refund, Credit or Discount .....	30
8.12	Set-Off.....	30
8.13	No Charge for Correction.....	30
8.14	Advance Payments .....	31
8.15	No Other Remuneration .....	31
8.16	Appropriation .....	31
8.17	No Volume Commitment .....	31
8.18	Fee Structure for the Acquisition and Implementation of Phase 2 and Phase 3 .....	31
<b>9.</b>	<b>REPRESENTATIONS/WARRANTIES AND DISCLAIMER.....</b>	<b>31</b>
9.1	Mutual Representations/Warranties .....	31
9.2	General Representations/Warranties by Contractor .....	31
9.3	Warranties for Services .....	32
9.4	Warranty for Deliverables .....	32
9.5	Application/Not Limitation .....	33
9.6	Third Party Components .....	33
9.7	Reliance.....	33
9.8	Disclaimer .....	33
<b>10.</b>	<b>CONFIDENTIALITY, PERSONAL INFORMATION PROTECTION, SECURITY AND RELATED MATTERS</b>	
33		
10.1	Confidentiality .....	33

10.2	Contractor Confidential Information .....	34
10.3	Privacy/Personal Information.....	35
10.4	Security .....	36
10.5	No Publicity .....	36
10.6	Compliance Inspection.....	36
10.7	Enforcement .....	36
10.8	Legal Disclosure Obligations .....	36
<b>11.</b>	<b>INDEMNITY AND INSURANCE .....</b>	<b>36</b>
11.1	Indemnity .....	36
11.2	Monetary Limitations of Indemnity .....	37
11.3	Exceptions to Monetary Limitations .....	37
11.4	LDB to Notify Contractor of Loss .....	37
11.5	Remedy for Infringement Allegation .....	37
11.6	Exceptions to Infringement Indemnity.....	37
11.7	Insurance .....	38
11.8	Workers compensation.....	38
11.9	Personal Optional Protection.....	38
11.10	Evidence of Coverage .....	38
<b>12.</b>	<b>TERM AND TERMINATION .....</b>	<b>38</b>
12.1	Term.....	38
12.2	Termination of Agreement for Convenience.....	38
12.3	Termination of SOW for Cause .....	38
12.4	Termination for Convenience by the LDB .....	39
12.5	Termination of Agreement for Cause by the LDB .....	39
12.6	Consequences of Expiration/Termination.....	39
12.7	Transition Assistance .....	39
12.8	Licenses/Assignments .....	39
12.9	Bankruptcy .....	40
12.10	Survival .....	40
<b>13.</b>	<b>DISPUTE RESOLUTION .....</b>	<b>40</b>
13.1	Disputes.....	40
13.2	Informal Dispute Resolution: .....	40
13.3	Procedure for Expedited Disputes: .....	41
13.4	Arbitration: .....	41
13.5	Injunctive Relief:.....	41
13.6	Continuity of Work: .....	42
<b>14.</b>	<b>GENERAL .....</b>	<b>42</b>
14.1	Language.....	42
14.2	Force Majeure .....	42
14.3	Relationship between the Parties.....	42
14.4	Governing Law.....	42
14.5	Notices .....	42
14.6	Enurement and Benefit.....	43
14.7	Assignment.....	43
14.8	Participation in Procurement .....	43
14.9	Conflicts of Interest.....	43
14.10	Miscellaneous.....	44
14.11	Counterparts and Execution by Electronic Means .....	44
14.12	Agreement Not Permit or Fetter.....	44
14.13	Entire Agreement .....	44

<b>14.14</b>	Other Forms and Embedded Agreements.....	44
--------------	--	----

**MASTER SERVICES AGREEMENT  
- GENERAL TERMS AND CONDITIONS -**

**1. Definitions and Interpretation**

**1.1 Key Definitions:** In this Agreement, the following terms have the following meanings, and all other capitalized terms have the meaning ascribed elsewhere in this Agreement (including the Schedules):

- (a) **“1-High Priority”** means an Incident that is (a) with respect to a Deliverable or another item of Work Product that is Software, a serious error or problem so as to cause or cumulatively cause the operation of the Deliverable or Work Product to be materially impaired or production data in respect of such Deliverable or Work Product to be unreliable, as reasonably determined by the LDB; (b) with respect to Related Equipment, a serious error or problem so as to cause or cumulatively cause the operation of the Related Equipment to be materially impaired or not operating in accordance with the Specifications for such Related Equipment, as reasonably determined by the LDB; and (c) with respect to other Deliverables or other items of Work Product, a serious error or problem so as to cause or cumulatively cause any such Deliverables or Work Product to be materially deficient, inaccurate or misleading.
- (b) **“2-Medium”** means an Incident that is (a) with respect to a Deliverable or another item of Work Product that is Software, an error or problem that does not on its own or cumulatively result in a 1-High Priority Incident but which occurs such that use of the Deliverable or Work Product is affected in a noticeable way as compared to the Specifications, as reasonably determined by the LDB, but for which there is a work around which, using reasonable judgement, is overly burdensome and thus not acceptable to the LDB; (b) with respect to Related Equipment, an error or problem that does not on its own or cumulatively result in a 1-High Priority Incident but which occurs such that use of the Related Equipment is affected in a noticeable way as compared to the Specifications, as reasonably determined by the LDB, but for which there is a work around which, using reasonable judgement, is overly burdensome and thus not acceptable to the LDB; and (c) with respect to other Deliverables or other items of Work Product, an error or problem that does not on its own or cumulatively result in a 1-High Priority Incident but which occurs such that use of any such Deliverable or Work Product is affected in a noticeable way, as reasonably determined by the LDB.
- (c) **“3-Low”** means an Incident that is (a) with respect to a Deliverable or another item of Work Product that is Software, an error or problem that does not on its own or cumulatively result in a 1-High Priority Incident or 2-Medium Incident but which occurs such that use of the Deliverable or Work Product is affected in a noticeable way as compared to the Specifications, as reasonably determined by the LDB, but for which there is a work around reasonably acceptable to the LDB; (b) with respect to Related Equipment, an error or problem that does not on its own or cumulatively result in a 1-High Priority Incident or 2-Medium Incident but which occurs such that use of the Related Equipment is affected in a noticeable way as compared to the Specifications, as reasonably determined by the LDB, but for which there is a work around reasonably acceptable to the LDB; and (c) with respect to other Deliverables or other items of Work Product, an error or problem that does not on its own or cumulatively result in a 1-High Priority Incident or 2-Medium Incident but which occurs such that use of any such Deliverable or Work Product is affected in a noticeable way, as reasonably determined by the LDB.
- (d) **“Acceptance Criteria”** means: (i) with respect to a Deployment Deliverable: (A) the Deployment Deliverable is integrated with the processes, controls, interfaces and systems of the LDB and Other Service Providers to the extent specified in the applicable Specifications and, where applicable, is fully documented in clear language for the intended users of the Deployment Deliverable; (B) the Deployment Deliverable has no Blocker Defects or Major Defects and there is an action plan approved by the LDB with regard to the existence of all other Defects, and the impact of such other Defects taken in the aggregate does not materially impair the functioning of the Deployment Deliverable; and (C) the Deployment Deliverable otherwise conforms to and performs in accordance with: (I) its Specifications; (II) the applicable Documentation and Deliverable description set out in the applicable Statement of Work or Change Order; and (D) Contractor has created and delivered to the LDB, and the LDB has accepted, fully documented acceptance criteria required by the LDB’s Technical Support and internal technical resources in order to sustain and support the Deployment Deliverable; and (ii) with respect to any other type of Deliverable, the Deliverable conforms to and, if applicable, performs in accordance with, its Specifications, provided that if the applicable SOW does not expressly specify or reference detailed Specifications then the LDB (acting reasonably) will determine the criteria.

- (e) **“Accepted Requirements”** refer to, for a SOW, Deliverables that identify technical, functional, operational, performance, results, form and content or other relevant specifications or requirements of one or more Services, Deliverables or other items of Work Product described in the SOW after such Deliverables have passed all applicable instances of acceptance review.
- (f) **“Adverse Impact”** has the meaning set out in section 3.2.
- (g) **“Affiliate”** means a person that Controls, is Controlled by or is under common Control with a Party (as the context requires).
- (h) **“Agreement”** means this Master Services Agreement, including its recitals, Cover Page, the General Terms and Conditions, and Schedules annexed hereto or otherwise incorporated herein, and all SOWs entered into pursuant hereto, as amended from time to time including by way of any applicable Change Order.
- (i) **“API”** means application program interfaces.
- (j) **“Approved Subcontractor”** has the meaning set out in section 4.5.
- (k) **“B2B”** means business to business eCommerce Solution.
- (l) **“B2C”** means business to consumer eCommerce Solution.
- (m) **“BCICAC”** has the meaning set out in section 13.4.
- (n) **“Billing Error”** means any error, deficiency or other non-conformance with the billing and invoicing requirements specified in this Agreement, including any requirements set out in a SOW. Without limiting the generality of the foregoing, Billing Errors include invoices: (i) that contain incorrectly calculated fees or fees attributed to activities for which no fees may be charged by Contractor (such as participation in the governance process or activities of the Service Manager); (ii) that are delivered to the incorrect individual or department of the LDB; (iii) received by the LDB more than 90 days from the date on which the Services, Deliverables or other items of Work Product specified in the applicable invoice were provided to or performed for the LDB, except as otherwise confirmed in writing by the LDB; (iv) for Services, Deliverables or other items of Work Product that are performed in one fiscal year of the LDB which are issued in any subsequent fiscal year of the LDB, unless the LDB provides its prior written consent; or (v) that do not include all required supporting documentation.
- (o) **“Blocker Defect”** has the meaning set out in Schedule K.
- (p) **“Business Day”** means a 24-hour day, other than a Saturday, Sunday or statutory holiday in British Columbia, all based on local time in Vancouver, British Columbia.
- (q) **“Business Hours”** means between 7:00 am and 7:00 pm (pacific time) during Business Days.
- (r) **“Change”** has the meaning set out in section 3.1.
- (s) **“Change Order”** has the meaning set out in section 3.1.
- (t) **“Cloud”** means a fully functioning, configurable, ready to use solution on a pay-for-use basis that is owned, supported, hosted (including any and all Infrastructure Systems where applicable), monitored, maintained, delivered and managed remotely by one provider through web access where users are not required to manage or install Software patches, upgrades, back-ups and where application programming interfaces allow for integration between different pieces of Software.
- (u) **“Contract Document”** has the meaning set out in section 1.2.
- (v) **“Contract Worker”** has the meaning set out in section 4.6.
- (w) **“Contractor”** has the meaning set out on the Cover Page.
- (x) **“Contractor Background IP”** means any IP Rights that are: (i) owned or licensed by Contractor, its subcontractors, or their respective Affiliates (including Contractor-Licensed Item) prior to the commencement of the applicable Services utilizing such IP Rights; (ii) developed by Contractor, its subcontractors, or their respective Affiliates independently of the Services; and (iii) modifications, enhancements, and derivative works of the materials described the preceding clauses (i) and (ii). For clarity, Contractor Background IP includes without limitation, the SaaS/Cloud Solution Component.

- (y) **“Contractor-Licensed Item”** means a Deliverable or other item of Work Product that is expressly identified or designated to be a “Contractor-Licensed Item” in either a SOW or another document signed by the Parties. For greater certainty, a reference to a Contractor-Licensed Item that is Software includes all related documentation for the Contractor-Licensed Item, but will not include source code materials unless expressly specified in a SOW or another document signed by the Parties.
- (z) **“Control”** (including, with correlative meanings, the terms **“Controlled by”** and **“under common Control with”**) means any of the following: (i) the possession of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise; (ii) the first person, directly or indirectly, beneficially owns or exercises control or direction over securities in the second person carrying votes which, if exercised, would entitle the first person to elect a majority of the directors of the second person; (iii) the second person is a partnership (other than a limited partnership) and the first person holds more than fifty percent (50%) of the interests of the partnership; or (iv) the second person is a limited partnership and the general partner of the limited partnership is the first person.
- (aa) **“Contractor Confidential Information”** has the meaning set out in section 10.2.
- (bb) **“Cosmetic Defect”** has the meaning set out in Schedule K.
- (cc) **“Cover Page”** means the first page of this Agreement.
- (dd) **“Defect”** means any fault, failure, degradation, or error, including non-conformance to the applicable requirements, Specifications, Documentation, or expectations.
- (ee) **“Deliverable”** means an item of Work Product to be provided to the LDB pursuant to a SOW and that is identified in the SOW as a “Deliverable”.
- (ff) **“Dependency Fault”** has the meaning set out in section 2.10(a).
- (gg) **“Deployment Deliverable”** means a Deliverable that is: (1) a Release; or (2) identified in a SOW as a “Deployment” Deliverable.
- (hh) **“Disputes”** has the meaning set out in section 13.1.
- (ii) **“Documentation”** means, with respect to any Deliverable identified in a SOW as requiring documentation, both collectively and individually as the context may require, all manuals and other documentation regarding the capabilities, implementation, installation, operation, application, use or method of performance of that which is being documented, including, as applicable and available, user manuals, process maps, functional specifications, technical specifications, systems operations manuals, console operations manuals, linking instructions, error logs and reports, scripts, forms, templates, course materials, training materials, and other manuals and reports, whether in printed or electronic format.
- (jj) **“eCommerce Software Solution”** means a SaaS or Cloud that provides a fully functioning, configurable, ready to use solution on a pay-for-use basis that is owned, supported, hosted (including Infrastructure Systems) (where applicable), monitored, maintained, delivered and managed remotely by one provider through web access where users are not required to manage or install Software patches, upgrades, back-ups and where application programming interfaces allow for integration between different pieces of Software;
- (kk) **“eCommerce Solution”** means the in-scope collection of Software, hardware, systems, operating procedures, rules, standards and associated Documentation and training to be planned, designed, acquired or built, tested and deployed as the eCommerce Solution (including all Releases) described in the Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 (Schedule A).
- (ll) **“eCommerce Solution Project”** means: (i) the acquisition, implementation and stabilization of the eCommerce Solution pursuant to the Procurement, including the performance of Services and the creation and delivery of Deliverables and other items of Work Product related to such project as described in the Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 (Schedule A), or any component or phase of such project; or (ii) any project related to the ongoing operation, support, maintenance or enhancement of such eCommerce Solution, including the performance of Services and, to the extent applicable, the creation and delivery of Deliverables and other items of Work Product related to such project as described in the Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 (Schedule A).



- (mm) **“Effective Date”** has the meaning set out on the Cover Page.
- (nn) **“Expedited Dispute”** has the meaning set out in section 13.2.
- (oo) **“Final Acceptance”** has the meaning set out in section 2.8(h).
- (pp) **“Fixes”** includes fixes, patches, repairs or other problem corrections.
- (qq) **“FOIPPA”** has the meaning set out in section 10.8.
- (rr) **“Force Majeure Event”** has the meaning set out in section 14.2.
- (ss) **“Free From Major Defect”** means, with respect to a Deployment Deliverable, operation without any 1-High Priority Incidents or 2-Medium Incidents.
- (tt) **“General Terms and Conditions”** has the meaning set out on the Cover Page.
- (uu) **“Go Live”** means the date that the public can process transactions where ‘order online and deliver to consumer’ is enabled for B2C and ‘order online and deliver to retailer’ is enabled for B2B.
- (vv) **“Harmful Code”** means a virus, worm, “Trojan Horse”, or other code or routine that manifests contaminating or destructive properties that might damage, harm, detrimentally interfere with or otherwise adversely affect a Deliverable or other item of Work Product or any computer system, hardware, Software, equipment, or services in connection with which the Deliverable or other item of Work Product is operated or any related data.
- (ww) **“Holdback”** has the meaning set out in section 8.6.
- (xx) **“Holdback Reduction”** has the meaning set out in section 8.6.
- (yy) **“Hosting Subcontractor”** means (i) Google Canada Inc. or (ii) any other subcontractor of Contractor that replaces Google Canada Inc. (or a subsequent replacement subcontractor) as a hosting services provider to provide Services.
- (zz) **“Inaccurate Assumption”** has the meaning set out in section 2.10(a).
- (aaa) **“Incident”** means an event which is not part of the standard operation and performance Specifications of the eCommerce Solution and which causes or may cause disruption to or a reduction in the quality or performance of the eCommerce Solution, including any Defect.
- (bbb) **“Infrastructure Systems”** means any and all operating systems, database management systems and hosting infrastructure Software and tools.
- (ccc) **“Infringement Allegation”** means a proven or unproven allegation or claim that the creation, possession, provision or Use of a Service, Deliverable or other item of Work Product misappropriates, infringes or violates the IP Rights of any person.
- (ddd) **“Intellectual Property”** means intellectual property, industrial and intangible of whatever nature and kind in any jurisdiction, including software, trademarks, official marks, brand names, business names, trade names, domain names, trading styles, logos, trade secrets, inventions, innovations, discoveries, research, processes, developments, formulae, product formulations, compositions of matter, databases, works of authorship, works subject to copyright, guides, manuals and designs, and including modifications to any of the foregoing, in all cases whether patented or patentable, whether registered or unregistered, and in any medium whatsoever.
- (eee) **“Initial Term”** has the meaning given in section 12.1.
- (fff) **“IP Rights”** means all Intellectual Property rights (including copyright, moral rights, patents, database rights, rights in respect of trademarks, trade secrets and confidential information) of any nature and kind whatsoever, whether or not registered or registrable, and all applications, registrations, renewals, extensions, continuations, divisions, reissues, and restorations relating to any of those rights (where applicable), now or hereafter in force and effect throughout all or any part of the world.
- (ggg) **“Key Member”** has the meaning set out in section 4.4(a).
- (hhh) **“LDB Assets/Facilities”** has the meaning set out in section 7.5.
- (iii) **“LDB Confidential Information”** has the meaning set out in section 10.1(a).

- (jjj) **“LDB Data”** means data provided by or on behalf of the LDB in connection with this Agreement or a eCommerce Solution Project, or created by or on behalf of the LDB through the Use of a Service, Deliverable or other item of Work Product, or Used by the LDB in connection with a Service, Deliverable or other item of Work Product, and all data and other works derived from the data, but for clarity, excluding in all cases Contractor Background IP.
- (kkk) **“LDB Group”** means the LDB and each of its respective Representatives and licensees.
- (lll) **“LDB Head Office”** means LDB’s head office at 2625 Rupert Street, Vancouver B.C. or such other address as the LDB may advise, in writing.
- (mmm) **“LDB-Licensed Item”** has the meaning set out in section 6.4(a).
- (nnn) **“LDB Materials”** means documents, Software, and other items and materials provided by or on behalf of the LDB or a LDB Project team member in connection with this Agreement or the eCommerce Solution Project, excluding LDB-Licensed Items and Contractor Background IP.
- (ooo) **“LDB Policies”** has the meaning set out in section 7.5.
- (ppp) **“LDB Requirement Documents”** refers to the documents attached to the Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 (Schedule A), as such documents may be amended from time to time in accordance with this Agreement.
- (qqq) **“LDB Sites”** means LDB Head Office, LDB’s Delta distribution centre at 7003-72nd Street, Delta B.C. and LDB’s Kamloops distribution centre at 9881 Dallas Drive, Kamloops B.C. or such other addresses as the LDB may advise, in writing.
- (rrr) **“LDB SOW Dependency”** has the meaning set out in section 2.4(b)(i).
- (sss) **“LDB SOW Dependency Target Date”** has the meaning set out in section 2.4(b)(i).
- (ttt) **“LDB-Supplied Item”** has the meaning set out in section 7.4(b).
- (uuu) **“License Agreement”** means the Software-as-a-Service license agreement dated effective June 18, 2018 between the LDB and Contractor pursuant to which Contractor grants to the LDB a right and license to access and use the Shopify SaaS Services (as defined therein).
- (vvv) **“Licenses/Assignments”** means the licenses, transfers, assignments and waivers granted or made by or on behalf of Contractor or a Project Team Member set forth or referenced in this Agreement.
- (www) **“Lock”** means a “time bomb”, “logic bomb”, “back door”, “drop-dead device” or any other disabling or limiting code, design or routine that might be used to interrupt, lock, disable, erase, limit the functionality or Use of, or otherwise adversely affect, or facilitate unauthorized access to, a Deliverable or other item of Work Product or the computer system, hardware, Software, equipment, or services in connection with which the Deliverable or other item of Work Product is operated or any related data.
- (xxx) **“Loss”** has the meaning set out in section 11.1.
- (yyy) **“Major Defect”** has the meaning set out in Schedule K.
- (zzz) **“Maximum Contract Price”** has the meaning set out in section 8.5.
- (aaaa) **“Maximum Expenses Amount”** has the meaning set out in section 8.3.
- (bbbb) **“Medium Defect”** has the meaning set out in Schedule K.
- (cccc) **“Milestone”** means any Deliverable, Service, Work Product or other performance obligation or objective of Contractor described as such in a SOW that must be achieved, performed or delivered by Contractor.
- (dddd) **“Milestone Deadline”** means, for each Milestone, the deadline by which Contractor must complete such Milestone as may be set out in the applicable SOW.
- (eeee) **“Minor Defect”** has the meaning set out in Schedule K.
- (ffff) **“Other Service Providers”** has the meaning set out in section 6.6.
- (gggg) **“Parties” or “Party”** has the meaning given on the Cover Page.

- (hhhh) **“Personal Information”** has the meaning set out in Schedule D.
- (iiii) **“Phase 1 Work and Services”** has the meaning set out in section 2.1.
- (jjjj) **“Phase 2 Work and Services”** the performance of services and, to the extent applicable, the creation and delivery of Deliverables and other items of Work Product related to the eCommerce Solution capabilities growth including, without limitation, (a) delivering new omni-channel offerings such as reserve online, pickup at store and other omni-channel offerings, with the retail depots continuing to facilitate online fulfilment; and (b) evolving digital capabilities through data-driven best practices.
- (kkkk) **“Phase 3 Work and Services”** the performance of services and, to the extent applicable, the creation and delivery of Deliverables and other items of Work Product related to the eCommerce Solution increased product lines and capabilities including, without limitation, adding multi-site, multi-model omni-channel capabilities.
- (llll) **“Post Go Live Support”** means support to be provided by Contractor on and after Go Live, including onsite support for the first 30 days after Go Live, as set out in Appendix B of the License Agreement.
- (mmmm) **“Privacy Protection Schedule”** means the Schedule D.
- (nnnn) **“Procurement”** has the meaning given on the Cover Page.
- (oooo) **“Production”** means use for the first time of any Deployment Deliverable in a live environment by the LDB’s end users.
- (pppp) **“Project”** means: (i) eCommerce Solution Project as contemplated in the Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 (Schedule A), as may be amended; or (ii) any project related to the ongoing operation, support, maintenance or enhancement of such eCommerce Solution, including the performance of services and, to the extent applicable, the creation and delivery of Deliverables and other items of Work Product related to such project under any future SOW as may be mutually agreed to by the Parties and based on the Template Statement of Work set forth in Schedule C.
- (qqqq) **“Project Completion Date”** means, subject to any Changes or delay expressly in this Agreement, the date set forth in the Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 (Schedule A) as the date upon which the eCommerce Solution will be completed in accordance with section 2.9.
- (rrrr) **“Project Manager”** means the individual appointed by each Party to be the Party’s project manager and primary contact in connection with the management of the eCommerce Solution Project.
- (ssss) **“Project Notice”** has the meaning set out in section 14.5.
- (tttt) **“Project Team”** has the meaning set out in section 4.1.
- (uuuu) **“Project Team Member”** has the meaning set out in section 4.1.
- (vvvv) **“Proposal”** means the proposal dated February 14, 2018 submitted by Contractor to the LDB in response to the RFP as part of the Procurement.
- (wwwv) **“Regulatory Investigation”** has the meaning set out in section 7.6.
- (xxxx) **“Related Equipment”** means all equipment or hardware, including all Software (built-in or otherwise) required by the LDB to use, operate or manage such hardware, that the LDB may require Contractor to procure from third party suppliers on behalf of the LDB as part of the eCommerce Solution.
- (yyyy) **“Release”** means any Software having discrete functionality for release or released into Production under this Agreement.
- (zzzz) **“Renewal Term”** has the meaning given in section 12.1.
- (aaaa) **“Representatives”** means directors, officers, employees, agents, consultants, contract workers, contractors, subcontractors, service providers, successors, permitted assigns, related persons and each of them.
- (bbbb) **“Resolution”** means the permanent correction or elimination of an Incident, and “Resolved” has a corresponding meaning.
- (cccc) **“Responsive”** means a website that: (i) is formatted and designed in a way to enable fully functional viewing and navigation across a wide range of devices, including without limitation, traditional PCs, smartphones and

tablet devices, and (ii) a website that uses media queries, which enable the page to employ different cascading style sheets, style rules, plus fluid grids and flexible images, so that the website automatically adjusts itself for a variety of devices and their screens.

- (ddddd) “**RFP**” has the meaning given on the Cover Page.
- (eeee) “**Saas**” or “**Software as a Service**” means a fully functioning, configurable, ready to use solution on a pay-for-use basis that is owned, supported, centrally hosted (including any and all Infrastructure Systems), monitored, maintained, delivered and managed remotely by one provider through web access where users are not required to manage or install Software patches, upgrades, back-ups and where application programming interfaces allow for integration between different pieces of Software.
- (fffff) “**SaaS/Cloud Solution Component**” means the SaaS or Cloud component(s) comprising the eCommerce Solution.
- (ggggg) “**Schedules**” has the meaning set out on the Cover Page.
- (hhhhh) “**Service Level Failure**” has the meaning set out in section 2.11(c).
- (iiii) “**Service Level**” means any performance standards applicable to the provision of the Services by Contractor and identified in a Statement of Work or Schedule L.
- (jjjjj) “**Service Manager**” has the meaning set out in section 7.8.
- (kkkkk) “**Services**” has the meaning set out in section 2.1.
- (lllll) “**SOA**” means service oriented architecture.
- (mmmmm) “**SOAP**” means simple object access code.
- (nnnnn) “**Software**” means software applications (including, without limitation, commercial-off-the shelf software), software tools, methodologies and computer programs, including all versions thereof, and all related documentation, manuals, program files, data files, computer related data, field and data definitions and relationships, data definition specifications, data models, program and system logic, program modules, routines, sub-routines, algorithms, program architecture, design concepts, system designs, program structure, sequence and organization, screen displays and report layouts, technology and techniques, object code (and if obtained, source code) and interfaces.
- (ooooo) “**SOW Assumption**” has the meaning set out in section 2.4(a).
- (ppppp) “**SOW Term**” has the meaning set out in section 12.1.
- (qqqqq) “**Specifications**” has the meaning set out in section 2.3.
- (rrrrr) “**Stabilization Support and Warranty Period**” means, with respect to a Deployment Deliverable, the period commencing on Go Live of the Deployment Deliverable and ending upon the later of: (i) the date that is 60 days after the Go Live Date; and (ii) the end of the first 30 consecutive day period after Go Live during which the Deployment Deliverable operates Free From Major Defect; provided, however, that such period will be extended with respect to all Incidents that are identified during such period and not Resolved during such period until such Incidents are Resolved to the extent required for the Deployment Deliverable to conform to, and function, operate, perform and generate results in accordance with, the Acceptance Criteria for the Deployment Deliverable.
- (sssss) “**Stabilization Support and Warranty Services**” has the meaning set out in Schedule L.
- (ttttt) “**Statement of Work**” or “**SOW**” means a written statement of work, signed by both Parties, that describes the Services, Deliverables and other items of Work Product (if applicable) required for a Project.
- (uuuuu) “**Template Statement of Work**” means the template or form of Statement of Work or SOW attached at Schedule B.
- (vvvvv) “**Term**” means the Initial Term and any Renewal Term.
- (wwwww) “**Third Party Component**” means an item (including computer Software, computer code or other materials) for which Contractor does not own all right, title and interest in, to and associated with the item and all related

IP Rights throughout the world, but does not include LDB Materials and LDB-Licensed Items. For greater certainty, Third Party Components include free or open source Software and Software code.

- (xxxxx) **“Third Party Covenant”** has the meaning set out in section 6.4(a).
- (yyyyy) **“Third Party License”** means a written license agreement pursuant to which Contractor is entitled to Use and include a Third Party Component in a Deliverable or other item of Work Product and which grants to the LDB and the LDB’s licensees the right to Use the Third Party Component in the Deliverable or other item of Work Product (as applicable) as contemplated by this Agreement.
- (zzzzz) **“Transactional”** means an eCommerce website that includes features and functionality such as shopping cart and payment processing.
- (aaaaa) **“Travelling Resource”** has the meaning set out in section 8.3.
- (bbbbb) **“Use” and “Using”** means: (i) with respect to a Contractor Licensed Item licensed under the License Agreement, means the scope of licensed use (including to use and exploit the item for any and all operational and training purposes, including reproducing, copying, loading, installing, accessing, configuring, customizing, implementing, executing, running, operating, hosting, supporting, maintaining, storing, backing-up and archiving) of such Contractor Licensed Item set out in the License Agreement and provided as part of the Shopify SaaS Services (as defined in the License Agreement); and (ii) in relation to any other item, means to use and exploit the item for any and all operational, training, development, testing and enhancement purposes, including reproducing, copying, loading, installing, accessing, configuring, customizing, implementing, executing, running, operating, hosting, supporting, maintaining, distributing, modifying, altering, enhancing, translating, adapting, storing, backing-up, archiving, and creating derivative works from the item.
- (ccccc) **“Warranty Period”** has the meaning set out in section 9.4(b).
- (ddddd) **“Work Product”** means all items and materials (including, as applicable, reports, documents, designs, plans, presentations, Software code and all configurations, modifications, enhancements, additions and interfaces to or of Software) prepared or created by or on behalf of Contractor in the performance of Services or provided or procured by or on behalf of Contractor to or for the benefit of the LDB pursuant to this Agreement, and includes all Deliverables.

**1.2 Principles of Construction:** In this Agreement: (a) headings are for reference only and do not define, limit or enlarge the scope or meaning of this Agreement or any of its provisions; (b) words importing the singular number only include the plural, and vice versa; (c) reference in a document (including a Schedule or SOW) that forms part of this Agreement (each a **“Contract Document”**) to a section by number is a reference to the appropriate section in the Contract Document in which the reference is made; (d) reference to a day, week, month or year, means a calendar day, week, month or year, unless expressly stated otherwise; (e) **“person”** includes an individual, corporation, partnership, joint venture, association, trust, unincorporated organization, society and any other legal entity; (f) **“including”** or **“includes”** means including or includes, as applicable, without limitation or restriction; (g) words importing a gender include both genders; (h) **“discretion”**, **“option”** or any variation thereof means a person’s sole, absolute and unfettered discretion or option; (i) **“law”** includes common law, equity, statutes, regulations and mandatory guidelines, and reference to a specific law includes all regulations and mandatory guidelines made under the law and all amendments to, or replacements of, the law or any regulation or mandatory guideline made under the law in force from time to time; and (j) references to currency are to the lawful money of Canada, unless expressly stated otherwise. The Parties have expressly requested and required that this Agreement and all related documents be drawn up in the English language, and any translations of this Agreement or related documents are for convenience only and are not binding on the Parties.

**1.3 Schedules:** The Schedules to this Agreement are incorporated into and form part of this Agreement. Except for the initial Schedules to this Agreement (which are listed on the Cover Page), a Schedule is not valid or binding unless and until it is signed by both Parties.

**1.4 Proposal Extracts:** The portions of the Proposal set out in Schedule M are incorporated into this Agreement by reference and form an integral part of this Agreement. Contractor will provide the Services in accordance with Schedule M and other terms and conditions of this Agreement.

**1.5 Conflict of Provisions:** These General Terms and Conditions and all Schedules will govern each SOW. If there is a conflict or inconsistency between any Contract Documents, then: (a) a Contract Document that expressly states that it amends another Contract Document will take precedence over that other Contract Document; (b) in the absence of an express

statement that a Contract Document amends another Contract Document, then the following descending order of priority applies: (i) Schedule D; (ii) section 10 of these General Terms and Conditions; and (iii) Schedule J; (iv) these General Terms and Conditions other than section 10; and (v) other than Schedule D or Schedule J, unless a Schedule expressly states that it takes priority over specific provisions of these General Terms and Conditions in which case the Schedule will take priority over the specified provisions but only to the extent of the inconsistency or conflict; and (c) if there is a conflict or inconsistency between two or more Schedules, then the Schedule most directly and specifically related to the subject matter of the conflict or inconsistency will take priority and govern.

## **2. Services**

**2.1 Scope and Definition of Services:** The scope of the Services for the Term of this Agreement is as follows:

- the work and services contemplated for Phase 1 described in the RFP as being in-scope for this Agreement (“**Phase 1 Work and Services**”), as such work and services, including the creation and delivery of Deliverables and other items of Work Product, are more particularly set out in Schedule A (Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1) and, as of the Effective Date, Schedule B (Statement of Work for eCommerce Solution Steady State Services); and
- the **Phase 2 Work and Services** and the **Phase 3 Work and Services**, both described in the RFP as potential in-scope including, without limitation, any potential scope, future scope or other similarly described scope in the RFP, provided that the implementation of such services, in whole or in part, for a phase is at the discretion of the LDB and may be included under this Agreement through a Change Order, the completion of one or more Template Statements of Work attached at Schedule B or a combination of both.

The LDB and the Contractor acknowledge and agree that any additional services that are within such potential in-scope are subject to negotiation (to the extent applicable) and incorporation into this Agreement through a Change Order.

Contractor will perform, on the terms and conditions set out herein and in any Statement of Work, as follows:

- (a) the services and other obligations described in any SOW, including the following SOWs, attached at Schedules A and B to this Agreement, or any Change Order:
    - (i) Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1; and
    - (ii) Statement of Work for eCommerce Solution Steady State Services;
  - (b) all other services and obligations of Contractor set out in this Agreement; and
  - (c) all services, functions, tasks, items and responsibilities that are not specifically listed or described in a SOW but are inherent to, necessary for or customarily part of the services set out in sections 2.1(a) and (b), or that are reasonably required for the proper performance or provision of such services, as these services may be modified in accordance with this Agreement
- (collectively, the “**Services**”).

The Parties agree that those services, functions, tasks, items and responsibilities described in section 2.1(c) are implied, and therefore included, in the scope of the Services to be performed and provided by Contractor under this Agreement to the same extent and in the same manner as if those services, functions, tasks, items and responsibilities had been expressly and specifically described in the applicable SOW or Change Order, and will be performed and provided by Contractor as part of the Services as if they were expressly and specifically described in the applicable SOW or Change Order and at no additional charge or fee to the LDB. For greater certainty, the foregoing does not apply to services, functions, tasks, items and responsibilities that are expressly specified in a SOW or Change Order as excluded from the Services or as not being the responsibility of Contractor. Any dispute between the Parties with respect to the determination of whether any services, functions, tasks, items and responsibilities form part of the Services under this Agreement or not will be deemed to be an Expedited Dispute.

**2.2 SOWs:** Under this Agreement, Contractor will perform and provide certain Services, Deliverables and Work Product as part of one or more discrete phases or components of a Project as described in the SOW for such one or more phases or components of the Project. The Phase 1 Work and Services is set forth in the Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 (Schedule A). If applicable, the Parties will jointly prepare

any additional SOWs for Projects requested by the LDB, which will specify, as appropriate: (a) the Services required under the SOW; (b) any Deliverables and Milestones required under the SOW and the Acceptance Criteria; (c) the number, skill levels, minimum qualifications and specific roles and assignments of the individuals employed or engaged by Contractor who will perform work under the SOW, and the names of the Key Members; (d) a timeline or schedule for the Services, including any Milestone Deadlines; and (e) the fees to be paid for the Services, Deliverables and other items of Work Product, and applicable payment details. A SOW will not be valid or binding unless and until it is signed by both Parties. For greater certainty: (i) the Parties are not obligated to accept or agree to a proposed SOW, and either Party in its discretion may terminate discussions regarding a proposed SOW at any time without notice or liability to the other Party or any other person; and (ii) Contractor is not entitled to receive any fees or other remuneration for the preparation of a SOW. Each SOW is a Contract Document that is part of this Agreement and is governed by this Agreement. The Parties will use the template set forth in Schedule C for each such SOW entered into after the Effective Date.

## **2.3 Specifications:**

### **(a) Definition**

- (i) Subject to sections (ii) and (iii) below, “**Specifications**” refer to, in respect of any Service, Deliverables or Work Product, the technical, functional, operational, performance, results, form and content or other relevant specifications or requirements therefor set out in this Agreement (including the applicable SOW).
- (ii) If certain Deliverables are identified as “Specifications” in a SOW (which include Deliverables that are Accepted Requirements), once such Deliverables have passed all applicable instances of acceptance review, they will form part of the Specifications for the purposes of that SOW.
- (iii) Notwithstanding anything else in this Agreement, the Specifications will at all times be interpreted to include any other specifications, requirements or obligations that, while not expressly included in the Specifications, are from the point of view of a person skilled in the art, inherently required or should reasonably be included in order for the Service, Deliverables or other item of Work Product to meet the requirements set forth in the Specifications.
- (iv) Any dispute between the Parties with respect to the determination of whether any technical, functional, operational, performance, results, form and content or other specifications or requirements form part of the Specifications under this Agreement or not will be deemed to be an Expedited Dispute.

## **2.4 SOW/Assumptions/LDB SOW Dependencies:**

- (a) **SOW Assumptions:** Contractor will ensure that each SOW expressly states assumptions to Contractor’s performance and provision of Services, Deliverables and other items of Work Product specified in the SOW (each a “**SOW Assumption**”).
- (b) **LDB SOW Dependencies:**
  - (i) Contractor will ensure that each SOW expressly states all of the facilities, equipment (including hardware and Software), materials, items, information, data, resources, tasks and other assistance that the LDB is required to obtain, procure, perform or provide in connection the SOW, (each a “**LDB SOW Dependency**”), including in respect of a LDB SOW Dependency, the target date for the completion by the LDB of the LDB SOW Dependency (each a “**LDB SOW Dependency Target Date**”).
  - (ii) The LDB will perform all LDB SOW Dependencies described in the applicable SOW on or prior to the applicable LDB SOW Dependency Target Dates. Any dispute between the Parties with respect to the determination of whether the LDB has completed a LDB SOW Dependency on or prior to the applicable LDB SOW Dependency Target Date or not will be deemed to be an Expedited Dispute.

**2.5 Feasibility/Completeness:** Contractor will not sign a SOW unless and until Contractor has independently assessed the SOW and Contractor is reasonably satisfied that Contractor is capable of performing Contractor’s obligations under the SOW in accordance with the provisions and requirements of the SOW and this Agreement, and that the SOW is a complete statement of all Services, Deliverables, Work Product, SOW Assumptions and LDB SOW Dependencies required for a Project.



## 2.6 Performance by Contractor and Remedies for Failure:

- (a) **Contractor Performance:** Contractor will promptly and diligently perform the Services and deliver the Deliverables and other items of Work Product in accordance with the Specifications and perform Contractor's other duties and obligations under this Agreement, all in accordance with the applicable timelines specified in the SOWs and this Agreement, including the completion of each Milestone on or before the applicable Milestone Deadline.
- (b) **Contractor's Notification Obligation for Performance Delay:** Without limiting the LDB's rights or remedies under this Agreement, Contractor will notify the LDB in writing immediately if it becomes aware or reasonably anticipates that there will be or there is likely to be a delay in the performance or completion of any work or task required, including when Contractor will or is likely to fail to meet a Milestone Deadline. The notice provided by Contractor will include the reasons for Contractor's failure or anticipated failure (including identification and analysis of the root cause of the failure or anticipated failure), the potential effect of the failure on the ability of Contractor to perform the Services or deliver the Deliverables and other items of Work Product and otherwise complete the Milestones by the applicable Milestone Deadlines, all in accordance with the SOW, an effective plan for corrective action and for preventing a future recurrence of the failure or anticipated failure (including any steps that Contractor proposes to take in order to remedy the failure and mitigate the effect of the failure), and if applicable, the anticipated date by which Contractor will complete the Milestone and any other affected Milestones. Subject to any Change or delay permitted pursuant to section 2.10 (if applicable), Contractor agrees that it will promptly implement all such actions and steps and, for clarity, such steps will be performed at no additional cost to the LDB. Any disagreement between the Parties as to whether such steps are sufficient in order to remedy the failure and sufficiently mitigate the effect of the failure will be deemed an Expedited Dispute.
- (c) **LDB's Remedies:** Subject to section 2.10, if Contractor fails to complete any Milestone on or prior to the applicable Milestone Deadline, then the LDB will, without limitation and without limiting the LDB's other rights or remedies under this Agreement or in the applicable SOW, be entitled to all applicable remedies set out below:
  - (i) the LDB will be entitled to immediately escalate the matter as an Expedited Dispute and also to any other governance process as part of the Procurement;
  - (ii) subject to section 8.6, where a Milestone is not completed within 2 Business Days of the applicable Milestone Deadline, then Contractor agrees that Contractor will forego and forfeit to the LDB 10% of the Holdback applicable to such Milestone and for each further 5 Business Day delay, Contractor will forego and forfeit a further 10% of the Holdback, and upon a delay of 30 days or longer, the entire Holdback for such Milestone will not be payable by the LDB to Contractor, having been entirely forgone and forfeited;
  - (iii) Contractor acknowledges and agrees that a failure to meet a Milestone caused by Contractor (or those for whom it is responsible) may be a material breach of this Agreement, damages for which may be available to the LDB; and
  - (iv) if Contractor has not completed a Milestone within 30 days of the applicable Milestone Deadline, then at any time thereafter the LDB, in its discretion and in addition to all other remedies available to it, may terminate the applicable SOW, any other SOW or this Agreement (including all SOWs) for any reason whatsoever at any time throughout the Term of this Agreement.
- (d) **Staff Augmentation Plan:** If Contractor becomes aware or reasonably anticipates that it will or that it is likely to fail to meet a Milestone Deadline for a Milestone, Contractor will immediately, and in addition to Contractor's obligation to provide notice pursuant to section 2.6(b), deliver a staff augmentation plan to the LDB and promptly implement such plan. The staff augmentation plan will describe the additional resources that Contractor will provide in order to mitigate the effect of the failure and to complete the Milestone, and any other affected Milestones, by their Milestone Deadlines. All additional resources necessary to mitigate the effect of the failure and to complete the Milestone, and any other affected Milestones, by their Milestone Deadlines, whether set out under the staff augmentation plan or otherwise (including the increased use of existing resources and including where the applicable Services are being provided on a time and material basis), will be provided at no additional cost to the LDB.

**2.7 Project Management:** The following provisions apply to a Project unless and to the extent that the applicable SOW expressly states otherwise:



- (a) **Methodology:** Contractor will use the methodology outlined in the Agreement and the SOW regarding the organization, governance and management of the Project.
- (b) **Project Managers:** Each Party will appoint a Project Manager in connection with the management of the Project. A Party's Project Manager will have the Party's authorization to make decisions and give instructions on behalf of the Party regarding the Project, excluding decisions or instructions that would constitute an amendment to a Contract Document or a waiver of any rights or entitlements under this Agreement.
- (c) **Reports:**
- (i) **Progress Reports:** Throughout the course of the Project, every week or other reporting period expressly specified in the applicable SOW or otherwise agreed in writing by the Parties, Contractor will create and deliver by email to the LDB's Project Manager a written report (in electronic format) regarding the progress of the Project during the immediately preceding reporting period, together with copies of all related documents reasonably required for the LDB's Project Manager to understand, review and accept the report. Each report will be signed by Contractor's Project Manager and may include, in addition to all information required to be in the report as expressly set forth in the applicable SOW, reasonably detailed information and related documents regarding each of the following: (A) Services scheduled to have been completed since the last report, Services actually completed since the last report, and Services planned for the current reporting period; (B) Deliverables and other items of Work Product scheduled to have been delivered since the last report, Deliverables and other items of Work Product actually delivered since the last report, Deliverables accepted by the LDB since the last report, and Deliverables and other items of Work Product planned for the current reporting period; (C) Milestones scheduled to have been achieved since the last report and Milestones actually achieved since the last report; (D) fees and expenses invoiced to date compared to the Project budget, if applicable; (E) an explanation for each deviation from the Project timeline (including identification and analysis of the root causes of the deviation) and an effective plan for corrective action and for preventing a future recurrence of the problem, where appropriate; (F) identified risks regarding the Project (including any event or circumstance known to Contractor that is likely to cause a delay in the performance and completion of any of Contractor's work regarding the Project, or which may impact the quality, performance or reliability of the Services, Deliverables or other items of Work Product) and planned mitigation strategies; and (G) the current status of all action items and issues outstanding from the previous report.
  - (ii) **Final Report:** Upon completion of the Project, Contractor will promptly create and deliver by email to the LDB's Project Manager a written report (in electronic format) regarding the completion of the Project, together with copies of all related documents. The report will be signed by Contractor's Project Manager and will include, in addition to all information required to be in the report as expressly set forth in the applicable SOW, reasonably detailed information and related documents regarding each of the following: (A) Services completed and Milestones achieved during the Project; (B) Deliverables and other items of Work Product delivered to and accepted by the LDB during the Project; and (C) total fees and expenses invoiced compared to the Project budget, if applicable.
  - (iii) **Project Tracking Tools:** Contractor will use the project tracking tools specified in a SOW to manage the Project. Upon request by the LDB, Contractor will provide the LDB with electronic copies of issue logs, reports and other information contained in the project tracking tools used by Contractor.
  - (iv) **Agreement Reporting:** In addition to the Contractor's other reporting obligations under the Agreement, the Contractor further agrees to provide the LDB, in the format approved by the LDB, with the reports described in Schedule I, at the time intervals described therein and containing the information specified by the LDB from time to time.
- (d) **Project Management Meetings:** Throughout the course of the Project, the Parties will cause their respective Project Managers and other appropriate Representatives to attend project management meetings to review progress reports and discuss the status of the Project and other relevant issues. Unless the applicable SOW expressly states otherwise or the Parties expressly agree in writing otherwise, project management meetings will be held as reasonably requested by a Party, and the meeting participants will participate either in-person at the LDB Head Office or other location agreed by the Parties (with any associated travel costs for Contractor Representatives being at Contractor's expense) or by conference call, video conference or web conference.

- (e) **Committees:** The Parties may in their discretion agree to establish one or more committees (e.g. a steering committee) to provide a forum for the collection and exchange of information and discussions between the Parties regarding the Project. For greater certainty, and notwithstanding any other provision of the Agreement or any SOW, decisions regarding the Agreement or a Project will not be made by a committee but rather will be made by each Party through the Party's authorized Representatives following the processes and procedures specified in the Agreement, unless such decisions are made by a committee in accordance with Schedule H.
- (f) **Supervision/Review:** Throughout the course of the Project, the LDB may, on the LDB's own initiative or at the request of Contractor, supervise, review and provide comments and suggestions regarding Contractor's work or a specific Service, Deliverable or other item of Work Product. The LDB's review and comments or suggestions regarding Contractor's work or a Service, Deliverable or other items of Work Product under this section 2.7(f): (i) are for informational purposes only and are not binding on either Party, and Contractor, in Contractor's discretion, may refuse to implement any of the LDB's comments and suggestions; (ii) will not constitute an amendment to the Agreement or a Change Order; and (iii) will not relieve Contractor of responsibility or liability for Contractor's work, Services, Deliverables and other items of Work Product or any of Contractor's obligations under this Agreement or waive a requirement for a Deliverable to pass acceptance testing or acceptance review as set forth in the Agreement.
- (g) **Governance:** In addition to the governance processes and procedures set out in this Schedule and the General Terms and Conditions, the Parties will jointly participate in the governance processes and procedures set out in Schedule H, as amended from time to time in accordance with the Agreement. Notwithstanding the foregoing, the LDB may waive, in part or in whole, any requirement described in the governance process in relation to a SOW or this Agreement. Contractor is not entitled to receive any fees or other remuneration in respect of Contractor's participation in the governance processes and procedures described in the Agreement.

## 2.8 Acceptance Testing/Acceptance Review:

- (a) **Application:** Unless the applicable SOW expressly states otherwise, the acceptance testing and acceptance review procedures set forth in this section 2.8(a) apply to each Deliverable. If a Deliverable is paper-based (e.g. a report), the Deliverable will be subject to acceptance review by the LDB. If a Deliverable is not paper-based (e.g. a Software interface or a Software configuration), the Deliverable will be subject to acceptance testing by the LDB.
- (b) **Notices:** Unless the applicable SOW expressly states otherwise or the Parties expressly agree in writing otherwise, the notices referenced in this section 2.8(b) are deemed to be Project Notices and may be delivered to a Party's email address for acceptance testing notices (which is set forth in the applicable SOW or otherwise expressly specified by the Party from time to time).
- (c) **Timing/Assistance:** Contractor will submit each Deliverable to the LDB in accordance with a time table, set forth in the applicable SOW or otherwise agreed in writing by the Parties acting reasonably, that allows the LDB's allocated Representatives a reasonable period to conduct acceptance testing or acceptance review (as applicable) of the Deliverable. Upon request by the LDB, Contractor will reasonably assist the LDB to conduct acceptance testing and acceptance review.
- (d) **Iterative Testing/Review:** A SOW may contemplate that a Project will have discrete phases, and that a Deliverable, alone or in combination with other Deliverables, may be subject to acceptance testing or acceptance review when delivered and during or at the end of one or more phases throughout the course of the Project. Unless the applicable SOW expressly states otherwise, and notwithstanding that a Deliverable has passed acceptance testing or acceptance review throughout the course of a Project, all Deliverables required for the Project will be subject to acceptance testing or acceptance review (as applicable) at the end of the Project.
- (e) **Quality Control Review:** Before Contractor requests that the LDB conduct acceptance testing or acceptance review of a Deliverable, Contractor will thoroughly review and test the Deliverable, and will make all necessary corrections, so that Contractor is reasonably satisfied that the Deliverable conforms to the Acceptance Criteria. Upon request by the LDB, Contractor will deliver to the LDB copies of written reports of Contractor's internal reviews and tests that reasonably demonstrate that a Deliverable conforms to the Acceptance Criteria. For greater certainty, the acceptance testing and acceptance review procedures set forth in this section 2.8 apply to a Deliverable notwithstanding that it has passed Contractor's internal quality control review.

- (f) **Process:**
- (i) **Testing/Review by the LDB:** When a Deliverable is completed and ready for acceptance testing or acceptance review (as applicable), Contractor will submit the Deliverable to the LDB along with a written acceptance testing/review readiness notice requesting that the LDB conduct acceptance testing or acceptance review (as applicable) of the Deliverable. After the LDB receives the acceptance testing readiness notice, the LDB will test or review (as applicable) the Deliverable in order to determine whether the Deliverable conforms to the Acceptance Criteria. If a Deliverable conforms to the Acceptance Criteria, then the LDB will give to Contractor a written acceptance notice for the Deliverable. If a Deliverable does not conform to the Acceptance Criteria, then the LDB will give to Contractor a written rejection notice describing with reasonable specificity as to the nature of the nonconformity. Promptly after Contractor receives a rejection notice, Contractor will revise the Deliverable so that it conforms to the Acceptance Criteria and then resubmit the Deliverable to the LDB for further acceptance testing or acceptance review (as applicable). After Contractor resubmits the revised Deliverable, the LDB will have a further acceptance testing/review period to conduct further acceptance testing or acceptance review of the revised Deliverable. Subject to section 2.8(f)(ii), the process set forth in this section 2.8(f)(i) will be repeated for each Deliverable until the Deliverable passes acceptance testing or acceptance review (as applicable). Any notices delivered by the Parties under this section 2.8(f)(i) are deemed to be Project Notices.
  - (ii) **Consequences of Failure:** If a Deliverable fails to pass acceptance testing or acceptance review (as applicable) within the applicable acceptance testing/review period for the Deliverable (as set forth in section 2.8(f)(iii) or the applicable SOW), then Contractor will be deemed in breach of the applicable SOW and the LDB in its discretion may, without limiting the LDB's other rights or remedies under the Agreement, choose to take one or more of the following actions in its discretion: (A) extend the time for the acceptance testing/review process; or (B) negotiate with Contractor regarding a revision of the Acceptance Criteria for the Deliverable and the fees payable for the Deliverable; or (C) invoke the LDB's remedies for Contractor's breach of the applicable SOW.
  - (iii) **Periods:** Unless the applicable SOW expressly states otherwise or the Parties expressly agree in writing otherwise: (A) the acceptance review period for a Deliverable other than a Deployment Deliverable that is subject to acceptance review is 10 Business Days after Contractor delivers an acceptance testing/review readiness notice for the Deliverable pursuant to section 2.8(f)(i); and (B) the acceptance testing period for a Deployment Deliverable that is subject to acceptance testing is 20 Business Days after Contractor delivers the acceptance testing/review readiness notice for the Deliverable pursuant to section 2.8(f)(i).
- (g) **Conditional Acceptance:** If the LDB in its discretion agrees to conditionally accept a Deliverable that does not completely conform to the Acceptance Criteria and has not passed acceptance testing or acceptance review, then: (i) the notice of conditional acceptance will specify or reference the deficiencies and nonconformities in the Deliverable that caused the Deliverable to fail acceptance testing or acceptance review (as applicable); (ii) Contractor will remedy all deficiencies and nonconformities in the Deliverable within 10 Business Days, or a longer period expressly agreed in writing by the Parties, after the date of the notice of conditional acceptance and resubmit the Deliverable to the LDB for further acceptance testing or acceptance review pursuant to section 2.8(f)(i); and (iii) if the Deliverable does not pass the further acceptance testing or acceptance review (as applicable), then the LDB may, at its option: (A) require Contractor to correct the Deliverable as soon as possible and resubmit the Deliverable to the LDB for further acceptance testing or acceptance review (as applicable) pursuant to section 2.8(f)(i); or (B) reject the Deliverable and Contractor will be deemed in breach of the applicable SOW and the LDB may invoke the LDB's remedies for Contractor breach. Any notices delivered by the Parties under this section 2.8(g) are deemed to be Project Notices.
- (h) **Final Acceptance:** The Deliverables required for a Project will not achieve "Final Acceptance" unless and until all Deliverables required for the Project have passed all applicable instances of acceptance testing and acceptance review as set forth in the applicable SOW. Final Acceptance of the Deliverables required for a Project is without prejudice to either Party's liabilities, obligations, rights and remedies under this Agreement, except that once a Deliverable has achieved Final Acceptance the Deliverable is no longer subject to acceptance testing or acceptance review.

- (i) **Go Live:** Unless otherwise approved by the LDB in writing, a Deployment Deliverable will not be put into Production unless the Deployment Deliverable has been accepted by the LDB in accordance with section 2.8.
- (j) **Expedited Dispute:** Any dispute between the Parties arising out of the acceptance testing or acceptance review process described in this section 2.8 will be deemed to be an Expedited Dispute.
- (k) **Other Obligations/Remedies:** For greater certainty and subject to section 2.10: (i) a decision by the LDB to extend the time for Contractor to correct a deficient Deliverable and redeliver the Deliverable for acceptance testing or acceptance review will not affect Contractor's obligations to meet all applicable timelines set forth in the Agreement or any of the LDB's rights and remedies under the Agreement, unless the Parties mutually agree in writing otherwise pursuant to a Change Order; and (ii) the LDB's rights and remedies set forth in this section 2.8 are in addition to, and do not limit, any other rights or remedies available to the LDB pursuant to the Agreement or at law or equity.

## 2.9 Completion of eCommerce Solution/Future Projects:

- (a) **eCommerce Solution/Phase 1 SOW:** The eCommerce Solution will be completed when: (i) the eCommerce Solution is built, configured, designed, implemented, integrated, functional and capable of processing transactions; (ii) Contractor has delivered all required final Deliverables for the eCommerce Solution; and (iii) all Deliverables for the eCommerce Solution have achieved Final Acceptance.
- (b) **Future Projects:** Each Project will be completed when: (i) all Services required for the Project have been fully performed by Contractor and all Milestones have been achieved; (ii) all Work Product required for the Project has been delivered by Contractor to the LDB; (iii) all Deliverables required for the Project have achieved Final Acceptance; (iv) Contractor has delivered all required final Deliverables for the Project as set forth in section 2.13; and (v) Contractor has delivered to the LDB a final report for the Project pursuant to section 2.7(c)(ii). Upon request by Contractor after completion of a Project, the LDB will deliver to Contractor a notice confirming that the Project is complete. For greater certainty, if a Project has discrete phases, then the Project will not be completed until each phase is completed.

## 2.10 Dependency Fault and Inaccurate Assumptions:

- (a) **Notification Obligations:** If Contractor knows or reasonably anticipates that: (i) the LDB has or will fail to perform a LDB SOW Dependency on or prior to the applicable LDB SOW Dependency Target Date (each a "**Dependency Fault**"); or (ii) if any SOW Assumptions prove to be inaccurate for reasons not attributable to Contractor or any Approved Subcontractor, and the inaccuracy has a material impact on the actual provision of Services or delivery of Deliverables or other items of Work Product under such SOW (each, an "**Inaccurate Assumption**"), then: (A) Contractor will give notice to the LDB promptly, and in any event within not more than 10 Business Days after Contractor knows or reasonably anticipates that the Dependency Fault or Inaccurate Assumption will or has occurred, providing details (to the extent known to Contractor) of the Dependency Fault or Inaccurate Assumption and (to the extent that Contractor can reasonably determine) the actual or reasonably likely effect of the Dependency Fault or Inaccurate Assumption on a Project and on Contractor's performance of the Services and delivery of Deliverables and other items of Work Product required for the Project; (B) Contractor will use commercially reasonable efforts to continue to perform the Services and deliver the Deliverables and other items of Work Product by their original deadlines; and (C) Contractor will inform the LDB of Contractor's mitigation efforts and coordinate Contractor's mitigation efforts with the LDB.
- (b) **Remedies for Dependency Fault and Inaccurate Assumptions:**
  - (i) **Remedies for Dependency Fault:** Upon the occurrence of a Dependency Fault, Contractor and the LDB will use commercially reasonable efforts to mitigate the effects of the Dependency Fault. Unless otherwise mutually agreed by the Parties, any obligation of Contractor identified in the applicable SOW as one that is dependent on the LDB SOW Dependency will be extended by the same number of days that the LDB SOW Dependency is delayed past the LDB SOW Dependency Target Date, provided that Contractor complies with its obligations set out in section 2.10(a). Any dispute between the Parties with respect to the determination of the number of days an obligation of Contractor will be extended (or whether such extension is contractually provided for under this Agreement) will be deemed to be an Expedited Dispute. If any obligation of Contractor is extended for more than 10 Business Days due to a Dependency Fault, Contractor may request that the LDB initiate a Change request setting out, among other things, any proposed extensions to the timelines specified in the applicable SOWs that are

adversely affected by the Dependency Fault, and any proposed increases in fees that are solely and directly attributable to the Dependency Fault. The Parties will negotiate such Change in good faith in accordance with the change management process set out in section 3, provided that the Parties agree that Contractor will have the right to a Change where the obligation is extended for more than 10 Business Days as set out above. Any disagreement with respect to the occurrence of a Dependency Fault or the content of the Change will be deemed to be an Expedited Dispute.

- (ii) **Remedies for Inaccurate Assumption:** Upon the occurrence of an Inaccurate Assumption, Contractor and the LDB will use commercially reasonable efforts to mitigate the effects of the Inaccurate Assumption. Upon Contractor's request, the LDB will initiate a Change request setting forth proposed adjustments, including changes to the fees only as are reasonable to reflect the net impact on Contractor's performance of Services and delivery of Deliverables and other items of Work Product resulting from such Inaccurate Assumption. The Parties will negotiate such requested Change in good faith in accordance with the change management process set out in section 3. Any disagreement with respect to the occurrence of an Inaccurate Assumption or the content of the Change will be an Expedited Dispute. If Contractor fails to notify the LDB of such Dependency Fault or Inaccurate Assumption in accordance with section 2.10(a), Contractor will be precluded from subsequently citing the Dependency Fault or Inaccurate Assumption as a reason for Contractor's own subsequent failure to perform. The remedies set out in this section 2.10(b) are Contractor's sole remedies for Dependency Faults and Inaccurate Assumptions.

## **2.11 Performance Standards:**

- (a) **Service Levels:** Without limiting the requirements otherwise set forth in this Agreement, Contractor will perform the Services in a manner that meets or exceeds all applicable Service Levels.
- (b) **Service Level Terms:** Any procedures, methodologies, terms and conditions set out in a SOW will apply to all Service Levels under such SOW.
- (c) **Remedy for Failure to Meet Service Levels:** Contractor recognizes that its failure to meet any Service Level may have a material adverse impact on the business and operations of the LDB and that damages resulting from Contractor's failure to meet any Service Level may not be capable of precise determination. If Contractor fails to meet any Service Level (each such failure, a "**Service Level Failure**") for which a remedy is expressly provided in this Agreement, then the LDB will be entitled to such remedies provided Contractor is not excused from performance under this Agreement or the applicable SOW. In addition to any other remedies provided in this Agreement or the applicable SOW, where a Service Level Failure occurs, the LDB may, in its sole discretion require that a senior executive, partner or other individual holding a similar role with Contractor: (i) be notified of the applicable Service Level Failure; and/or (ii) to attend the LDB Head Office in-person (with any associated travel costs for Contractor Representatives being at Contractor's expense) to discuss the cause of such Service Level Failure and the steps that Contractor proposes to take in order to remedy the Service Level Failure. Contractor agrees that it is obligated to meet all Service Levels even if no remedy for a failure to meet such Service Level is expressly provided in this Agreement.
- (d) **Classification of Defects and Incidents:** Contractor will comply with the obligations with respect to Defects and Incidents as set out in this Agreement including any applicable SOW. The LDB, acting reasonably, will have the right to classify or re-classify by written or verbal notice each such Defect as a Blocker Defect, Major Defect, Minor Defect or Cosmetic Defect (including, for certainty, the right to escalate the classification of a Defect previously classified by the LDB to a higher priority level). The LDB will have the right to classify or re-classify each Incident in accordance with section 4.2 of Schedule L.

**2.12 Knowledge Transfer:** Without limiting the generality of any other provision of this Agreement, and unless and to the extent that a SOW expressly states otherwise, throughout the course of a Project, Contractor will provide a transfer (through documents, informal training or both, as reasonable and appropriate) of knowledge regarding the Services, Deliverables and other items of Work Product to the LDB's Representatives so that they have sufficient knowledge to understand and obtain the benefit of the Services and to understand and Use the Deliverables and other items of Work Product as contemplated by this Agreement. For greater certainty, Contractor's knowledge transfer obligations under this section 2.12 do not include formal training sessions.

**2.13 Final Deliverables:** Unless and to the extent that a SOW expressly states otherwise, for each Deliverable that has been accepted by the LDB, and as a condition precedent to the LDB's final payment for the Deliverable, Contractor will deliver to the LDB the following:

- (a) **Documents:** for a Deliverable that is a document, copies of the Deliverable in both electronic PDF and unlocked native electronic (such as Microsoft Office) formats;
- (b) **Software:** for each Deliverable that is Software or other computer code (including a Software interface), a full and complete, fully functional electronic version of the Deliverable in machine code/execution code (computer readable) format (other than for a Third Party Component) that Contractor includes in the Deliverable), and all related programmer's materials, data, diagrams, flowcharts, models, notes, outlines, reports, work papers, specifications, descriptions and other paper or electronic documents or records relating to the design, development, and Use of the Software;
- (c) **SaaS/Cloud:** for each Deliverable that comprises any access to and use of any SaaS/Cloud Solution Component, access to and use of any SaaS/Cloud Solution Component and delivery or access for downloading of electronic versions of the user manuals and related documentation on the features and the use of the SaaS/Cloud Solution Component and technical documentation that is generally available to all customers of Contractor with respect to the SaaS/Cloud Solution Component; and
- (d) **Configuration:** for each Deliverable that is the configuration of a hardware or Software item, Documentation detailing the configuration and providing background regarding configuration decisions.

**2.14 No Harmful Code or Locks:** Contractor will ensure that each Deliverable and other item of Work Product as and when delivered to the LDB does not contain Harmful Code or a Lock. Upon notice by the LDB that a Deliverable or other item of Work Product as delivered to the LDB contained Harmful Code or a Lock, Contractor will promptly repair or replace the Deliverable or item of Work Product so that it does not contain the Harmful Code or Lock (as applicable).

**2.15 Compatibility of Deliverables:** Unless and to the extent that a SOW expressly states otherwise, Contractor will use commercially reasonable efforts to ensure that each Deliverable or other item of Work Product that is a configuration, interface or enhancement of a LDB-Licensed Item is designed, developed and implemented so that the Deliverable or other item of Work Product has the maximum possible compatibility with all future versions and releases of the LDB-Licensed Item and any other technologies and infrastructure with which the Deliverable or other item of Work Product is intended to interoperate.

**2.16 Documentation:**

- (a) **Creation and Delivery of Documentation:** Contractor will create and maintain Documentation as specified in a SOW, which will provide complete and correct information sufficient for the LDB, at any time and either itself or through an Other Service Provider or other contractor or service provider, to understand and obtain the benefit of and, if necessary to transition and continue, the Services previously performed or then being performed by Contractor and to understand, perform, use, operate, complete, maintain and support all Deliverables or other items of Work Product previously received by the LDB or then in process with Contractor. Without limiting the generality of the foregoing, the Documentation will, unless otherwise specified in a SOW, include a complete and correct description of:
  - (i) the technology, processes, procedures and services that Contractor will provide or undertake in order to provide the Services, Deliverables or other items of Work Product;
  - (ii) the methods of operation and procedures Contractor will use to perform the Services, such as network topologies, application design, security administration, system configurations, help desk processes (where applicable), support models, human resource functions, business processes and associated documentation that provides further details of such activities, as applicable (including, for example, user support manuals, job scheduling procedures, specifications and updates of such materials);
  - (iii) the methods of operation and procedures in connection with the Infrastructure Systems; and
  - (iv) such other matters as may be set out in a SOW.

For clarity, Contractor has no obligation to deliver to the LDB Contractor's internal process documentation. Contractor will modify and update the Documentation specified in a SOW for modification and updating, and



deliver such modified and updated Documentation to the LDB, in accordance with the terms of the SOW under which such Documentation was created or as otherwise expressly contemplated in a SOW.

- (b) **Delivery and Maintenance of Documentation:** Contractor will:
- (i) deliver and maintain all Documentation in a location specified by the LDB;
  - (ii) deliver a copy of all Documentation relating to a Service (including any updated Documentation required to be delivered in connection with a Change Order), Deliverable or other item of Work Product to such location as required under this Agreement; and
  - (iii) upon the LDB's request, promptly deliver a copy of such Documentation or any updates thereto, in part or in whole, to the LDB.
- (c) **Specifications and Documentation:** Notwithstanding anything else in this Agreement, the Specifications will at all times be interpreted to include all Documentation (including any updates) relating to the applicable Service, Deliverable or other item of Work Product. For clarity, if Contractor provides or performs a Service, Deliverable (including submitting a Deliverable for acceptance testing or acceptance review in accordance with section 2.8(f)) or other item of Work Product and has not created and delivered the applicable Documentation in accordance with this section 2.16, such Service, Deliverable or other item of Work Project will be deemed not to conform with the Specifications.

**2.17 Stabilization Support and Warranty Services:** Any SOW under which Contractor will deliver one or more Deployment Deliverables, including the Systems Integration Services Statement of Work, must include Stabilization Support and Warranty Services for such Deployment Deliverables. The terms and conditions set out in Schedule L will apply to any Stabilization Support and Warranty Services provided under a SOW.

### **3. Change Management**

**3.1 Change Orders:** Subject to sections 3.2 and 3.3, the Parties may in their discretion agree to changes requested by either Party at any time and from time to time with respect to any aspect of a Project, including Changes to the Services, Deliverables (including scope, timing or cost) or other items of Work Product that Contractor is required to perform or provide as set forth in this Agreement including any applicable SOW (each, a “**Change**” or “**Scope Change**”), provided that: (a) a Change will not be effective or binding unless and until it is confirmed in a written document (each, a “**Change Order**”) that expressly states that it is an amendment to the applicable SOW or the Agreement and is signed by an authorized signatory of each Party; and (b) the LDB will complete the document requesting the Change using the template set forth in Schedule N to the Agreement, whether the request for the Change is made by the LDB or Contractor. Upon the LDB preparing the initial draft of the Change request document and delivering it to Contractor, Contractor will respond within five Business Days of receipt of the Change request document (or such other period as deemed reasonable the LDB in the circumstances) and provide information relevant to the requested Change so that the LDB can fully complete the Change request document, which may include general description of the Change, all reasonably foreseeable consequential changes (if any) to other aspects of the relevant Project resulting from the Change, impact on project schedule, impact on cost (including support and maintenance cost), and other information reasonably requested by the LDB. For clarity, the completed and finalized change request document in the form set forth in Schedule N to the Agreement will become a Change Order upon it being signed by both Parties in accordance with (a) above. Any notices delivered by the Parties under this section 3 are deemed to be Project Notices.

**3.2 Rejection by Contractor:** Contractor will not reject a Change requested by the LDB unless Contractor is unable to make the Changes contemplated in the Change Order due to technical or legal impediments that are commercially unreasonable to overcome, or the Change will result in Contractor not being able to comply with any material terms or conditions of the Agreement, including the privacy obligations, that are not waived by the LDB (each an “**Adverse Impact**”). If Contractor believes that any Change requested by the LDB will result in an Adverse Impact, Contractor will request a meeting with the LDB, and will in advance of that meeting provide the LDB with a written explanation of the Adverse Impact, including details of the Adverse Impact and suggested reasonable alternatives to the Change or means of mitigating the effects of the Adverse Impact. Any disagreement as to whether such issues are an Adverse Impact will be an Expedited Dispute.

### **3.3 Pricing of Changes:**

- (a) The fees that Contractor may charge the LDB with respect to any Change proposed are as follows:

- (i) Contractor will make immaterial changes at no charge to the LDB;
  - (ii) for any Change proposed in respect of which pricing terms are expressly provided in the Agreement or applicable SOWs, Contractor will charge the LDB in accordance with such express terms; and
  - (iii) for any Change other than those described in sections 3.3(a)(i) and 3.3(a)(ii), Contractor will charge the LDB on a net time and material basis (meaning time savings will also be taken into consideration) in accordance with the applicable rates specified in Schedule F to the Agreement (to the extent that the such time and material rates are not specified in the applicable SOW), or on such other basis as agreed by the Parties.
- (b) The Parties will deal transparently with each other throughout the process of the LDB preparing the Change request document in response to any proposed Change, and will consult with each other in establishing the assumptions regarding the scope of the Change and the requirements for the Change. Without limiting the foregoing, Contractor will make available to the LDB all supporting information and documentation reasonably requested by the LDB that relates to the pricing of the proposed Change, including risk margins, a decomposed hourly budget, a bill of materials for any applicable Software or hardware, an administrative bill of costs, details of all Contractor's indirect costs and fixed expenses relating to the Change, time savings and any contingency time periods. For clarity, risk margins may only be included where expressly permitted in a SOW.
- (c) Any disagreement between the Parties with respect to the pricing of Changes under this section 3.3 will be deemed to be an Expedited Dispute.

**3.4 Effect of Change:** For greater certainty, each Change Order is part of the relevant SOW, and all references in the Agreement to a SOW mean the SOW as amended by each Change Order. Contractor will maintain an accurate and complete record of all Change Orders, and will make the records of those items available to the LDB upon request.

**3.5 Restrictions/Cost:** Contractor will not implement a Change or perform additional work unless and until the Change or additional work (as applicable) is expressly authorized by a Change Order. The LDB will not be obligated to pay any fees or other amounts for a Change or additional work unless the Change or additional work (as applicable) and all applicable fees are expressly set forth in a Change Order and are calculated in accordance with the pricing principles set out in section 3.3. Each Party will bear the Party's own costs of participating in the change management process set forth in this section 3, including preparing Change Orders and participating in meetings and discussions relating to any of those items and, unless the Parties expressly agree in writing otherwise, in no event will the LDB have any obligation to compensate Contractor for participating in the change management process set forth in this section 3.

#### **4. Contractor Personnel**

**4.1 General:** Contractor will ensure that each individual assigned by Contractor to perform work for a Project (each a "Project Team Member" and collectively the "Project Team") has the technical and other skills specified in the applicable SOW and all other knowledge, training, experience, qualifications, skills and capabilities necessary to perform assigned work and tasks in a competent and efficient manner. Contractor is fully responsible and liable for all acts and omissions of and by each Project Team Member. Upon request by the LDB, Contractor will, before assigning an individual as a Project Team Member: (a) notify the LDB of the name of the proposed Project Team Member; (b) conduct background checks of the proposed Project Team Member in accordance with section 4.2 and certify to the LDB in writing that such background checks were successfully completed without any negative or disqualifying results; (c) provide the LDB with the proposed Project Team Member's curriculum vitae and additional information about the proposed Project Team Member reasonably requested by the LDB; and (d) provide the LDB with a reasonable opportunity to conduct reference checks in respect of and interview the proposed Project Team Member. If the LDB objects to assigning the proposed Project Team Member to a Project, the Parties will attempt to resolve the LDB's concerns on a mutually agreeable basis. For greater certainty, and subject to the LDB's express prior written consent, a Project Team Member may be an employee of an Approved Subcontractor. Any notices delivered by the Parties under this section 4.1 are deemed to be Project Notices.

**4.2 Background Checks:** In addition to Contractor's obligations with respect to background checks under Schedule J, upon request by the LDB, Contractor will conduct lawful background checks (including identity verification, PS Canada Database check (if applicable), education verification check (if applicable under Appendix J1) and reference check) of a Project Team Member or proposed Project Team Member and certify to the LDB in writing that such background checks were successfully completed without any negative or disqualifying results



**4.3 Assignment/Changes:** A SOW will list by role all of the Project Team Members for the Project described in the SOW and specify the responsibilities and minimum qualifications for each Project Team Member. A SOW will identify by name all Project Team Members if and to the extent known by the Parties when the SOW is signed. By no later than 10 Business Days before the scheduled start date of a Project, Contractor will deliver to the LDB a list of the names of all Project Team Members who are not identified by name in the applicable SOW. Contractor will promptly notify the LDB of any change to the Project Team or the roles and responsibilities of a Project Team Member. Contractor will promptly remove from a Project Team any individual whom the LDB reasonably considers unsuitable for the work or tasks to which the individual is assigned or whom the LDB considers to present a potential security or confidentiality risk. Contractor will promptly replace an individual who is removed or is unavailable with another individual with similar required knowledge, training, experience, qualifications and skills. Any disagreement with respect to the change to the Project Team will be an Expedited Dispute.

**4.4 Key Members:**

- (a) **General:** A SOW will identify each Project Team Member who is a “**Key Member**”. Each of Contractor’s Project Managers is deemed a Key Member of the relevant Project Team. Notwithstanding any other provision of this Agreement: (i) except as otherwise specified in a SOW, Contractor will ensure that each Key Member is available and committed, on a first priority basis relative to all other work commitments, to perform all assigned work and tasks regarding the applicable Project; and (ii) Contractor will not remove a Key Member from any assigned work or tasks without the LDB’s express prior written consent, which shall not be unreasonably withheld (for clarity, it will be reasonable for the LDB to withhold consent if the LDB determines, acting reasonably, that the removal will or likely will impact the schedule for a Project), in each instance, except where the Key Member’s employment or engagement with Contractor or an Approved Subcontractor has ended or the Key Member is otherwise unavailable due to circumstances beyond the control of Contractor or an Approved Subcontractor. Contractor acknowledges that the unauthorized removal of a Key Member from a Project pursuant to section 4.4(b) below is a material breach of this Agreement and will have a serious and detrimental effect upon the Project and the LDB’s business generally. This Agreement does not limit the right or ability of Contractor or an Approved Subcontractor to terminate the employment or engagement of a Key Member for cause or the right of a Key Member to resign voluntarily from employment or engagement by Contractor or an Approved Subcontractor.
- (b) **Unauthorized Removal:** If Contractor removes any Key Member other than at the request of the LDB or with the LDB’s prior written consent, which shall not be unreasonably withheld (for clarity, it will be reasonable for the LDB to withhold consent if the LDB determines, acting reasonably, that the removal will or likely will adversely impact the schedule for a Project), or if any Key Member ceases to perform the Services and work on Deliverables or other items of Work Product to which he or she is assigned due to circumstances beyond the control of Contractor or an Approved Subcontractor, then Contractor will pay to the LDB an amount equal to the fees paid by the LDB to Contractor for work performed by such Key Member during the lesser of the preceding 90 days and the term of such SOW (calculated on a full time basis and using the applicable rate set out in Schedule F), which amount may, at the election of the LDB, either be retained by the LDB as compensation for the costs and impact of the loss and replacement of such Key Member or held by the LDB to be applied against the LDB’s costs and damages for the impact of the loss and replacement of such Key Member upon determination of such costs and damages by agreement between the LDB and Contractor or pursuant to the dispute resolution process. Any disagreement between the Parties with respect to the removal of any Key Member from the performance of his or her obligations under this Agreement other than pursuant to section 4.4(a)(ii) will be first escalated through the Expedited Dispute process before such Key Member is removed by Contractor.
- (c) **Replacement:** If a Key Member is removed from assigned work or tasks in accordance with this Agreement or is otherwise required to be replaced, Contractor will, before assigning an individual as a replacement: (i) notify the LDB of the name of the proposed replacement; (ii) conduct background checks of the proposed replacement in accordance with section 4.2, and provide the results of those background checks to the LDB; (iii) provide the LDB with the proposed replacement’s curriculum vitae and additional information about the proposed replacement reasonably requested by the LDB; and (iv) provide the LDB with a reasonable opportunity to interview the proposed replacement. If the LDB objects to a proposed replacement for a Key Member, the Parties will attempt to resolve the LDB’s concerns on a mutually agreeable basis. For greater certainty, an individual who is assigned to replace a Key Member under this section 4.4(c) is deemed a Key Member and is subject to this section 4.4.

#### 4.5 **Approved Subcontractors:**

- (a) **General:** Contractor will not subcontract the whole or any part of the work Contractor is required to perform under this Agreement to any person without the LDB's express, prior written approval (including in a SOW). The LDB's approval of a proposed subcontractor pursuant to this section 4.5 will make the proposed subcontractor an "**Approved Subcontractor**" for the specific Services approved to be performed by such subcontractor under a specific SOW. Where applicable, this section 4.5 does not apply to a Contract Worker engaged directly by Contractor pursuant to section 4.6.
- (b) **Responsibility:** Notwithstanding the LDB's approval of an Approved Subcontractor: (i) Contractor is and will remain fully responsible and liable for the performance of all of Contractor's obligations under this Agreement; (ii) Contractor will be solely responsible and liable for, and will promptly pay, all fees and expenses payable to the Approved Subcontractor; (iii) Contractor will be fully responsible and liable for, and will bear any and all risks and liabilities relating to, all conduct, acts and omissions by or on behalf of the Approved Subcontractor and the Approved Subcontractor's Representatives as if they were the conduct, acts and omissions of Contractor itself; (iv) Contractor will ensure that the Approved Subcontractor and the Approved Subcontractor's Representatives fully comply with all of Contractor's obligations under this Agreement that are applicable or relevant to the work assigned to the Approved Subcontractor; (v) Contractor will not permit the Approved Subcontractor to perform any work other than the specific work expressly described in the LDB's written approval of the Approved Subcontractor; and (vi) Contractor will promptly cease using the Approved Subcontractor if the LDB reasonably considers the Approved Subcontractor unsuitable for assigned work and tasks.
- (c) **Agreement with Approved Subcontractor:** Unless the Parties expressly agree in writing otherwise, Contractor will ensure that Contractor's subcontract with an Approved Subcontractor is in writing and includes provisions that are consistent with Contractor's obligations under the Agreement (including each of sections 4.7, 5, 6, 7.5, 7.11 and 10 of the General Terms and Conditions) and the following express provisions (which may be included in a separate addendum to a pre-existing contract): (i) an agreement by the Approved Subcontractor that the LDB will not have any financial or other liability to the Approved Subcontractor or any of the Approved Subcontractor's Representatives arising from, connected with or relating to the work performed by or on behalf of the Approved Subcontractor under the subcontract with Contractor, including in the event that this Agreement is terminated; (ii) an agreement by Contractor that the Approved Subcontractor is not prohibited from performing services and providing deliverables to the LDB pursuant to a separate agreement between the Approved Subcontractor and the LDB, provided that doing so does not adversely affect the Approved Subcontractor's performance of the work that the Approved Subcontractor is obligated to perform under the subcontract with Contractor; and (iii) termination provisions consistent with the termination provisions set forth in the Agreement. Upon request by the LDB, Contractor will provide to the LDB: (A) a copy of excerpts from Contractor's subcontract with an Approved Subcontractor containing provisions relating to confidentiality and ownership or waiver of IP Rights and the provisions referenced above in this section 4.5; and (B) a copy of the statement of work or similar document describing the work to be performed by or on behalf of the Approved Subcontractor, which copy may be redacted to delete information regarding the financial arrangement between Contractor and the Approved Subcontractor and other confidential information. Contractor will use commercially reasonable efforts to enforce Contractor's agreement with an Approved Subcontractor for the benefit of the LDB.

**4.6 Contract Workers:** Contractor in its discretion may, without the LDB's approval, directly engage an individual on a contract or consulting basis (each a "**Contract Worker**") to perform work relating to a Project. Contractor will be solely responsible and liable for, and will promptly pay, all fees and expenses payable to each Contract Worker. Contractor will be fully responsible and liable for, and bear any and all risks relating to, all conduct, acts and omissions by or on behalf of each Contract Worker as if they were the conduct, acts and omissions of Contractor's employees. Contractor will ensure that each Contract Worker fully complies with all of Contractor's obligations under the Agreement that are applicable or relevant to the work assigned to the Contract Worker. Unless the Parties expressly agree in writing otherwise, Contractor will ensure that Contractor's contract with a Contract Worker is in writing and includes provisions that are consistent with Contractor's obligations under the Agreement (including each of sections 4.7, 5, 6, 7.5 and 10 of the General Terms and Conditions) and the following express provisions (which may be included in a separate addendum to a pre-existing contract): (a) an agreement by the Contract Worker that the LDB will not have any financial or other liability to the Contract Worker arising from, connected with or relating to the work performed by Contract Worker; and (b) termination provisions consistent with the termination provisions set forth in the Agreement. Upon request by the LDB, Contractor will provide to the LDB a copy of

excerpts from Contractor's contract with a Contract Worker containing provisions relating to confidentiality and ownership or waiver of IP Rights and the provisions referenced above in this section 4.6. Contractor will use commercially reasonable efforts to enforce Contractor's agreement with each Contract Worker for the benefit of the LDB. For greater certainty, terms and conditions set out in the Agreement with respect to Project Team Members also apply to Contract Workers as if Contract Workers were Project Team Members, including terms and conditions set forth in sections 4.2, 4.7, 5, 6, 7.2, 7.5, 7.9 and 10 of the General Terms and Conditions.

#### **4.7 Requirements:**

- (a) **Identification:** While working on the LDB's premises or at the LDB's facilities, each Project Team Member will wear a badge that clearly identifies the Project Team Member as Contractor personnel (not an employee of the LDB).
- (b) **Responsibility:** Project Team Members are not, and will not be construed to be, employees or contractors of the LDB for any reason.
- (c) **Remuneration/Benefits:** As between the Parties, Contractor is solely responsible and liable for the payment of all wages, salaries, compensation, benefits, benefit premiums, insurance and all other forms of compensation or remuneration for all Project Team Members, and for making all deductions required by law from all of those payments, and for making all required withholdings, remittances and payments (including deductions and remittances on account of income tax, Canada pension plan, employment and workers' compensation insurance, or any similar payments) to the relevant governmental authorities in accordance with applicable law. Project Team Members are not entitled to any benefits provided by the LDB to the LDB's employees or contract workers.
- (d) **Familiarization:** Unless and to the extent that a SOW expressly states otherwise, Contractor will, at Contractor's own expense, ensure that each Project Team Member is, to the extent necessary for the performance of assigned work and tasks, familiar with the LDB, the relevant Project and the requirements of this Agreement (including applicable SOWs), and Contractor will not charge the LDB any fees or other amounts for time spent or work done by a Project Team Member to become familiar with any of those matters. If Contractor charges any fees or other amounts for a Project Team Member to become familiar with assigned work and tasks, the LDB may, without limiting the LDB's other rights and remedies under this Agreement, set off any such fees or other amounts against amounts owing to Contractor.
- (e) **Non-Performing Resource:** If the LDB, acting reasonably, considers that any Project Team Member fails to satisfactorily perform any work or tasks assigned to that individual in accordance with the requirements of this Agreement or any SOW, including failure to: (i) perform such work or tasks competently, in a professional manner and with all due care and skill; (ii) comply with the LDB's policies, practices and procedures; or (iii) act in a professional manner (as reasonably determined by the LDB), the LDB may notify Contractor in writing of such performance failure. Upon receiving such notice, Contractor will use commercially reasonable efforts to ensure that the Project Team Member performs all work and tasks in accordance with this Agreement and to rectify the performance failure. If the performance failure is not rectified within 30 days of the date of the above notice, as determined by the LDB in its discretion, Contractor will: (A) remove the Project Team Member from the performance of any work or tasks relating to this Agreement or a SOW and replace such Project Team Member with an individual with equivalent skills, knowledge, training, experience, qualifications and capabilities to perform the work or tasks; and (B) pay to the LDB an amount equal to one half of the fees paid by the LDB to Contractor for work performed by such Project Team Member from the date of the LDB's notice to Contractor in respect of the performance failure (calculated on a full time basis and using the applicable rate set out in Schedule F). Any disagreement between the Parties with respect to the non-performance of any Project Team Member will be deemed to be an Expedited Dispute.

#### **5. Facilities/Place of Performance/Technology Tools**

**5.1 Canadian Services:** Except as expressly set forth in the applicable SOW, no part of the Services (including work performed by an Approved Subcontractor) will be performed or provided, in whole or in part, from any location outside Canada without the LDB's express prior written consent in each instance. For greater certainty, and without limiting the generality of the foregoing, Contractor will not remotely access LDB Data from outside Canada or store any LDB Data outside Canada.

**5.2 Service Locations:** Unless the applicable SOW expressly states otherwise, Contractor will perform the Services on-site at LDB Head Office and, if required and directed by the LDB, at other LDB Sites or at other facilities or service locations expressly approved in writing by the LDB from time to time.

**5.3 Telecommuting:** If the LDB authorizes a Project Team Member to work from a remote location using remote telecommunicating technologies, Contractor will ensure that the use of those telecommunicating technologies complies with the applicable security, privacy and other requirements of this Agreement and the LDB Policies.

## **6. Proprietary Rights**

### **6.1 Deliverables and Work Product:**

- (a) **Ownership:** Subject to section 6.1(d): (i) the LDB will solely own all right, title, and interest throughout the world in, to and associated with each Deliverable and other item of Work Product and all related IP Rights; and (ii) Contractor will not retain any right, title or interest in, to or associated with any Deliverable or other item of Work Product or any related IP Rights, and will not Use, or authorize any other person to Use, any Deliverable or other item of Work Product or any related IP Rights in any manner or for any purpose whatsoever except to the extent required to perform Contractor's obligations under this Agreement.
- (b) **Assignment/Transfer/Waiver:** Subject to section 6.1(d), Contractor hereby irrevocably and unconditionally: (i) assigns and transfers, and agrees to assign and transfer, to the LDB all right, title and interest throughout the world in, to and associated with each Deliverable and other item of Work Product and all related IP Rights free and clear of any and all liens, encumbrances, charges and interests whatsoever of any other person, without any limitation of time and without any restriction whatsoever; (ii) waives, and agrees to waive, in favour of the LDB and the LDB's licensees any and all non-transferable rights (including all moral rights and rights of authorship and attribution) throughout the world in, to or associated with each Deliverable and other item of Work Product and all related IP Rights; and (iii) acknowledges and agrees that each Deliverable and other item of Work Product may be Used, in identical, modified or altered versions and in combination with other works, by the LDB and the LDB's licensees for any and all commercial and non-commercial purposes whatsoever and using any and all means, media and technologies (including any and all forms of publication, reproduction, transmission, distribution, performance, dissemination and display) now in existence or developed in the future, all without any compensation or attribution to Contractor or any other person. Subject to section 6.1(d), if and to the extent that the foregoing assignment, transfer and waiver in this section 6.1(b) are not effective for any reason regarding a Deliverable or other item of Work Product, then Contractor will hold all right, title and interest in, to and associated with the Deliverable or other item of Work Product and all related IP Rights that are not transferred, assigned or waived for the sole benefit of the LDB, and Contractor hereby unconditionally and irrevocably: (A) grants, and agrees to grant, to the LDB a non-exclusive, irrevocable, perpetual, world-wide, fully transferable, fully sublicensable, royalty-free, fully paid-up, unlimited and unrestricted right and license for the LDB and the LDB's licensees to Use the Deliverable or other item of Work Product and all related IP Rights on an enterprise-wide basis (without any restriction or limitation as to the number, identity or kind of locations, sites, systems, installations, copies, users, platforms, interfacing Software, equipment, hardware or otherwise) for any and all commercial and non-commercial purposes whatsoever and using any and all means, media and technologies (including any and all forms of publication, reproduction, transmission, distribution, performance, dissemination and display) now in existence or developed in the future, all without any compensation or attribution to Contractor or any other person; and (B) waives, and agrees to waive, in favour of the LDB and the LDB's licensees any and all non-licensable rights (including all moral rights and rights of authorship and attribution) throughout the world in, to or associated with the Deliverable or other item of Work Product and all related IP Rights.
- (c) **Creators:** Subject to section 6.1(d), Contractor will ensure that each Representative of Contractor who contributes to the design, development or creation of a Deliverable or other item of Work Product has by duly executed written agreement or by operation of law irrevocably and unconditionally: (i) assigned and transferred to Contractor all right, title, and interest the person has throughout the world in, to or associated with the Deliverable or other item of Work Product and all related IP Rights; and (ii) waived in favour of Contractor and Contractor's assigns (including the LDB) and their respective licensees all non-transferable or non-assignable rights (including all moral rights and rights of authorship and attribution) the person has throughout the world in, to or associated with the Deliverable or other item of Work Product and all related IP Rights.

- (d) **Exceptions:** Sections 6.1(a), 6.1(b) and 6.1(c) do not apply to: (i) a Third Party Component that Contractor includes in a Deliverable or other item of Work Product in accordance with section 6.3, if applicable; (ii) a Contractor Licensed Item, (iii) any Contractor Background IP including any used to provide or is included in a Deliverable or other item of Work Product; or (iv) the SaaS/Cloud Solution Component.
- (e) **Definition:** For greater certainty, a reference in this section 6.1 to a Deliverable or other item of Work Product that is Software includes all related Documentation for the Deliverable or other item of Work Product.

## 6.2 Contractor-Background IP:

- (a) **Ownership:** Subject to section 6.2(c), as between the Parties and except as expressly set forth in this Agreement (including each of sections 6.2(b) and 6.2(c)) or a SOW, Contractor will solely own all right, title, and interest throughout the world in, to and associated with all Contractor-Licensed Items and Contractor Background IP. For greater certainty, the LDB understands and agrees that no ownership in or title to Contractor-Licensed Items, Contractor Background IP and/or Derivative Works based in whole or in part upon Contractor-Licensed Items and/or Contractor Background IP is transferred to the LDB under this Agreement. For purpose of this section, “**Derivative Work**” means any discrete modification to the Contractor-Licensed Item and/or Contractor-Background IP and any modified, altered, enhanced or adapted version of Software based on the Contractor-Licensed Item and/or Contractor Background IP, but excluding any API or other interface or integration that will interface or integrate with a Contractor-Licensed Item that is Software and has not been created by or on behalf of Contractor. A Derivative Work will be a Contractor-Licensed Item if provided to the LDB as a Deliverable or Work Product.
- (b) **License Grant/Waiver:** Subject to section 6.2(c), Contractor hereby irrevocably and unconditionally grants, and agrees to grant, to the LDB a non-exclusive, irrevocable, non-sublicensable (except pursuant to section 6.2(b)(ii)), non-transferable (except as permitted under section 14.7(a)) right and license during the Term and such additional periods, if any, as Contractor is required to perform any transition assistance under section 12.7, right and license for the LDB and the LDB’s licensees to: (i) Use each Contractor-Licensed Item, other than Contractor-Licensed Items licensed by Contractor under the License Agreement (in which case the use of such items are as set out in the License Agreement), and all related IP Rights as reasonably necessary for the LDB to receive and benefit from the performance of the Services and to exercise their rights in the Deliverables or other Work Product; and (ii) grant any and all such sublicenses as may be required to authorize third parties (including, without limitation, customers, suppliers, sales channel partners and product end users) to exercise, for the LDB’s benefit and on its behalf, the license rights set forth in section 6.2(b)(i).
- (c) **Exceptions:** Sections 6.2(a) and 6.2(b) do not apply to any of the following: (i) a Third Party Component that Contractor includes in a Contractor-Licensed Item in accordance with section 6.3 other than a Third Party Component expressly sublicensed to the LDB under the License Agreement, or section 6.2(a); or (ii) LDB Materials, LDB-Licensed Items or LDB Confidential Information included in a Contractor-Licensed Item.

## 6.3 Third Party Components:

- (a) **Consent Requirement:** Contractor will not include a Third Party Component in a Deliverable or other items of Work Product without the LDB’s express prior written consent in each instance. If Contractor wishes to request the LDB’s consent to include a Third Party Component in a Deliverable or other items of Work Product, then Contractor will make the request in writing (which request will expressly identify the Third Party Component and the Deliverable or other item of Work Product and provide details of the fees and other charges, if any, payable by the LDB to a third party or to Contractor for the proposed Use of the Third Party Component) and attach to the request a copy of the applicable Third Party License.
- (b) **Acquisition and Licensing of Third Party Components:** Subject to section 6.3(c) and notwithstanding any approval of the LDB under section 6.3(a), Contractor will not incorporate, integrate, bundle, embed or otherwise include third party COTS or other Third Party Component in the eCommerce Solution or in any LDB Materials, Deliverable or other items of Work Product, unless Contractor has: (i) licensed such Third Party Component from the third party licensor thereof on terms that permit Contractor to grant to the LDB, by way of sublicense, the same license rights for the LDB in respect of such Third Party Component as set as set out in section 6.2(b), and Contractor has provided the LDB with such proof as the LDB may require to confirm Contractor’s right to do so, in which case that Third Party Component will be included in the Contractor-Licensed Item and licensed to the LDB under section 6.2(b); or (ii) acquired or supplied, whether in its own name for the benefit of the LDB, or on behalf and in the name of the LDB, as determined by the LDB in its sole discretion, a license to access,

use, copy (other than with respect to the SaaS/Cloud Solution Component, support, maintain, modify, sublicense (as defined to permit the right for any and all sublicensees to further sublicense), assign, distribute or otherwise exploit such Third Party Component on terms and conditions acceptable to the LDB, acting reasonably, and such license has been assigned to the LDB with the consent of the third party licensor of such Third Party Component or entered into directly by the LDB and the relevant third party licensor.

- (c) **Restrictions/Requirements:** If the LDB consents to Contractor including a Third Party Component in a Deliverable or other items of Work Product pursuant to section 6.3(a), then: (i) Contractor may Use the Third Party Component in the Deliverable or other item of Work Product only to the extent expressly authorized in writing by the LDB and permitted by the applicable Third Party License; (ii) Contractor will Use the Third Party Component strictly in accordance with the applicable Third Party License; and (iii) Contractor will include in the Deliverable or other item of Work Product and in all related Documentation a prominent and express proprietary rights notice identifying the Third Party Component and the applicable Third Party License and identifying the parts of the Deliverable or other item of Work Product that are comprised of the Third Party Component.
- (d) **No Open Source Software:** Without limiting the generality of the other provisions of this section 6.3, and unless the LDB expressly agrees in writing otherwise, Contractor will ensure that no Deliverable or other items of Work Product includes or links (dynamically or statically) to, or is distributed with, any Software (including libraries and other Software components) that is subject to a license, agreement or other terms and conditions (including the GNU General Public License or the GNU Lesser General Public License) that requires Contractor, the LDB or any other person to make the object code or source (human readable) code for the Deliverable or other item of Work Product (as applicable) or any other computer Software available to any other person or to license or waive any rights in, to or associated with the Deliverable or other item of Work Product (as applicable) or any other item or any related IP Rights.
- (e) **Use of Development Tools:** Unless otherwise provided in a Statement of Work, Contractor may not use, without the prior written approval of the LDB, which may be withheld in the LDB in its sole discretion, a non-commercially available tool or utility in the development of a Deliverable or other items of Work Product in such a way that would preclude the LDB from maintaining the Deliverable or other items of Work Product as described in the applicable Statement of Work (whether directly or through a third party) following the termination or expiry of such Statement of Work or this Agreement.

#### 6.4 LDB-Licensed Items:

- (a) **General:** Contractor acknowledges as follows: (i) the LDB may provide Contractor with access to or use of Software, technologies or other materials supplied by a third party supplier and used by the LDB pursuant to a license granted by or on behalf of the third party supplier (each a “**LDB-Licensed Item**”); and (ii) Contractor’s access to or use of a LDB-Licensed Item may be conditional upon Contractor’s execution of a prescribed form of written agreement (each a “**Third Party Covenant**”) with the applicable third party supplier and the LDB.
- (b) **Ownership/Use:** Notwithstanding any other provision of this Agreement (including section 6.2), as between the Parties: (i) the LDB and the LDB’s third party licensors will own and retain all right, title, and interest in, to and associated with all LDB-Licensed Items and all related IP Rights; (ii) Contractor will not acquire any right, title or interest in, to or associated with any LDB-Licensed Item or any related IP Rights; (iii) Contractor will not sell, lease, convey or encumber any interest in, to, or associated with any LDB-Licensed Item; (iv) Contractor will not Use, or authorize any other person to Use, any LDB-Licensed Item in any manner or for any purpose whatsoever except to the extent required to perform the work for which the LDB-Licensed Item is provided to Contractor by or on behalf of the LDB; and (v) Contractor will promptly return to the LDB each LDB-Licensed Item (including all copies) in Contractor’s possession or control: (A) at any time upon request by the LDB; (B) after Contractor’s completion of the work for which the LDB-Licensed Item was provided to Contractor; and (C) upon expiration or termination of the relevant SOW.
- (c) **Third Party Covenant:** Contractor will Use each LDB-Licensed Item strictly in accordance with the applicable Third Party Covenant and the restrictions and requirements specified in writing by the LDB from time to time. Contractor will comply with, and ensure that each Project Team Member complies with, the applicable Third Party Covenant and the restrictions and requirements specified in writing by the LDB from time to time.

**6.5 LDB Data and LDB Materials:** Notwithstanding any other provision of this Agreement (including section 6.2), as between the Parties: (a) the LDB will own and retain all right, title, and interest in, to and associated with all LDB Data and LDB Materials and all related IP Rights; (b) Contractor will not acquire any right, title or interest in, to or associated with



any LDB Data or LDB Materials or any related IP Rights; (c) Contractor will not sell, lease, convey or encumber any interest in, to, or associated with any LDB Data or LDB Materials or any related IP Rights; (d) Contractor will not Use, or authorize any other person to Use, LDB Data or LDB Materials in any manner or for any purpose whatsoever except to the extent required to perform work for which the LDB Data or LDB Materials were provided by or on behalf of the LDB to Contractor; (e) Contractor will not remove LDB Data from the LDB's facilities without the LDB's express prior written consent in each instance; and (f) Contractor will promptly return to the LDB all LDB Data and LDB Materials (including all copies) in Contractor's possession or control: (i) at any time upon request by the LDB; (ii) after Contractor's completion of the work or services for which the LDB Data or LDB Materials were provided to Contractor; and (iii) upon expiration or termination of the relevant SOW.

**6.6 Other Service Providers:** For greater certainty, and notwithstanding any other provision of this Agreement, Contractor acknowledges that the LDB and the LDB's licensees may engage independent contractors, consultants and service providers (collectively "**Other Service Providers**") to assist the LDB and the LDB's licensees to exercise their rights and perform their obligations under this Agreement, including by Using Deliverables and other items of Work Product and providing services to the LDB regarding Deliverables and other items of Work Product, and the LDB and the LDB's licensees may disclose and provide Deliverables and other items of Work Product to Other Service Providers and authorize Other Service Providers to Use Deliverables and other items of Work Product for those purposes. Contractor will, at no additional cost to the LDB, cooperate fully with the LDB and any Other Service Providers, including those Other Service Providers providing services, deliverables or other work with respect to the Procurement, in order to coordinate the performance by each Other Service Provider of its obligations with the performance of the obligations of Contractor, including: (a) making available and providing information to the LDB and the Other Service Providers regarding the Services, Deliverables or other items of Work Product; (b) co-operating with or, if requested by the LDB, taking instructions from, the LDB and the Other Service Providers to develop interfaces between, and assist in the operation of, the Services, Deliverables and other items of Work Product and the hardware, Software, equipment or systems of the LDB and the Other Service Providers; and (c) coordinating change management with Other Service Providers.

**6.7 Confirmatory Agreements:** Upon request by the LDB, Contractor will reasonably cooperate with the LDB, including by promptly executing all documents (in form prescribed by the LDB acting reasonably), to confirm the Licenses/Assignments and to assist the LDB to obtain, register, protect and enforce the LDB's rights in, to and associated with Deliverables and other items of Work Product and all related IP Rights in any and all countries. If the LDB is unable to secure Contractor's signature to apply for registration of IP Rights relating to a Deliverable or other items of Work Product, Contractor hereby irrevocably designates and appoints the LDB and the LDB's duly authorized representatives as Contractor's agent and attorney in fact, to act for Contractor and on Contractor's behalf and stead to execute and file applications for registration of IP Rights and to do all other permitted acts to further the prosecution and issuance of IP Rights registrations with the same legal force and effect as if executed or done by Contractor.

## **7. Additional Obligations**

**7.1 Professional Standards:** Contractor will perform Contractor's obligations under this Agreement with promptness and diligence, in a good and proficient manner, in accordance with the highest applicable industry standards and best practices, and with no less than the standard of professional skill, care and diligence customarily applied by first class contractors providing or performing similar work and providing similar services for similar projects in North America.

**7.2 Compliance with laws:** Contractor will at all times comply, and ensure that all Approved Subcontractors and Project Team Members comply, with all laws applicable to the performance of Contractor's obligations under this Agreement, including the *Freedom of Information and Protection of Privacy Act*, the *Personal Information Protection and Electronic Documents Act* (Canada), the *Workers' Compensation Act* and all other laws relating to personal information protection, data privacy, and export/import controls.

**7.3 Work Permits:** Contractor will obtain and at all relevant times maintain all work permits and other approvals, licenses, certificates, authorizations and approvals required under applicable law as are necessary for Contractor or Contractor's Representatives (including Project Team Members) to perform lawfully all of Contractor's obligations under this Agreement. Upon request by the LDB, Contractor will promptly provide copies of those documents to the LDB, except that the documents may be redacted by Contractor to delete personal information to the extent required to comply with applicable privacy laws.

#### 7.4 Equipment/Materials:

- (a) **General:** Unless and to the extent that a SOW expressly states otherwise, Contractor is solely responsible for obtaining and providing the facilities, personnel, equipment, materials, Software, knowledge, expertise and other resources necessary to perform Contractor's obligations under this Agreement.
- (b) **LDB-Supplied Items:** If the LDB provides Contractor Representatives with use of equipment (including laptop computers), materials or other items (each a "**LDB-Supplied Item**"), then: (i) Contractor is solely responsible and liable for all loss or damage to a LDB-Supplied Item, except for normal wear and tear; and (ii) at any time upon request by the LDB, Contractor will promptly return to the LDB each LDB-Supplied Item in substantially the same condition as when the item was provided by the LDB to Contractor's Representatives.

**7.5 LDB Assets/Facilities and Networks:** Notwithstanding any other provision of this Agreement and without limiting the generality of any other provision of this Agreement, Contractor will ensure that Project Team Members do not access or use (directly or remotely) any of the premises, facilities, computer equipment and systems, networks, information or other items or materials owned or used by the LDB (collectively, "**LDB Assets/Facilities**") except as follows: (a) Contractor will obtain the LDB's express prior written consent in each instance before any access to or use of LDB Assets/Facilities, which consent may be subject to time restrictions and other reasonable limits; (b) Contractor's request for access to and use of LDB Assets/Facilities will be limited to access and use that are reasonably necessary for Contractor to perform Contractor's obligations under this Agreement, and the access and use will be subject to mutually agreed time restrictions; (c) Contractor and Project Team Members will comply with the LDB's policies, procedures, standards, guidelines and practices (including those relating to safety, environment, privacy, security, conduct, and access to and use of LDB Assets/Facilities and the LDB's technology infrastructure) as established and revised from time to time (collectively, "**LDB Policies**"); (d) Project Team Members will not connect any of their equipment to any of the LDB's computer networks or related hardware or devices without the LDB's express prior written consent in each instance; (e) when Project Team Members no longer require access to or use of LDB Assets/Facilities, the Project Team Members will promptly cease the access and use and will return the LDB Assets/Facilities to the LDB in substantially the same condition as when the LDB Assets/Facilities were first made available to the Project Team Members; and (f) Project Team Members will not interfere with the normal business operations of the LDB.

**7.6 Regulatory Investigation:** Without limiting the generality of section 7.11, if the LDB is subject to an investigation, audit, inquiry or request for information pursuant to applicable law (a "**Regulatory Investigation**"), Contractor will provide documents, information and other assistance reasonably requested by the LDB in responding to the Regulatory Investigation at the LDB's cost and expense, except where such Regulatory Investigation is as a result of a breach by Contractor of this Agreement. If a Regulatory Investigation finds that Contractor is not in compliance with applicable law or the requirements of this Agreement, Contractor will promptly address and resolve the non-compliance by or before the date specified by the investigator or the LDB, whichever is sooner.

**7.7 Business Continuity/Disaster Recovery:** Contractor will maintain and regularly test (at least on an annual basis) business continuity and disaster recovery plans, procedures, capabilities and facilities to enable Contractor to respond to and mitigate the effects of a Force Majeure Event and, upon request by the LDB, Contractor will promptly provide the LDB with details of Contractor's business continuity and disaster recovery plans, procedures, capabilities and facilities and the results of related periodic tests.

**7.8 Account Management:** Throughout the Term of the Agreement, Contractor will appoint an individual as Contractor's "Service Manager", who will be Contractor's primary point of contact for the LDB regarding the Agreement and related matters. Upon request by the LDB, Contractor's Service Manager will attend meetings with the LDB's designated Representatives to discuss the Agreement and related matters. Meetings will be held at the LDB Head Office, and Contractor's Service Manager may attend meetings either in-person (with any associated travel costs being at Contractor's expense) or by conference call or video conference. Contractor acknowledges that the tasks and activities performed by the Service Manager will be performed at no cost to the LDB.

**7.9 Notifications:** Contractor will promptly give notice to the LDB of any notices received by Contractor that might adversely affect the LDB, including any notices of potential or actual claims or complaints regarding the Services, Deliverables, other items of Work Product or Third Party Components.

**7.10 Contractor Costs and Expenses:** Except as expressly set forth in this Agreement (including a SOW), Contractor is solely responsible for all costs and expenses incurred by Contractor or Contractor's Representatives (including Project Team Members) arising from, connected with, or relating to Contractor's performance of Contractor's obligations



under this Agreement, including salaries or other compensation of any Project Team Member, operating expenses of Contractor including overhead and administrative expenses, and insurance-related costs.

**7.11 Records and Audit:** Contractor will create and maintain complete and accurate records of the performance of Contractor's obligations under this Agreement throughout the Term of this Agreement, and maintain each of those records for at least 7 years after the record is first created. At any time during the Term of this Agreement and 2 years after the expiration or termination of this Agreement, the LDB may audit Contractor's records and other information relevant to the performance of Contractor's obligations under this Agreement for the purposes of verifying any matter relating to Contractor's performance of Contractor's obligations under this Agreement, including the completeness and accuracy of Contractor's reports and Contractor's calculation of fees, expenses and other amounts invoiced under this Agreement (whether or not those amounts have been paid by the LDB). Contractor will reasonably cooperate with and assist the LDB in the conduct of any audits conducted under this section 7.11, and upon request by the LDB, Contractor will make available on a timely basis all records and information relevant to the audit. An audit will be conducted on not less than 10 Business Days prior notice to Contractor, during normal business hours, in a manner that does not interfere unreasonably with Contractor's business operations, and subject to reasonable confidentiality and security requirements requested by Contractor, provided that such requirements do not prohibit the LDB from sharing the records, information, results and other matters relating to the audit with the LDB's Representatives. If an audit reveals an overcharge by Contractor, then: (a) within 5 Business Day after written notice of the overcharge Contractor will provide to the LDB either an invoice credit or cash refund (at the LDB's option) in an amount equal to the overcharge; and (b) if the overcharge is more than 5% of the actual amount of fees and other charges that ought to have been paid during the audited period, Contractor will reimburse the LDB (either by invoice credit or cash refund, at the LDB's option) for the reasonable costs incurred by the LDB in connection with the audit (including fees paid to independent auditors) within 20 Business Days after written request by the LDB. For greater certainty, an audit under this section 7.11 will not extend to Contractor's internal costs, pricing data, margins or profit, or the amount of fees paid by Contractor to Project Team Members or Approved Subcontractors.

**7.12 No Reduction of Contractor Responsibilities:** No inspection, audit, testing or review performed by or on behalf by the LDB will in any way relieve Contractor of the full responsibility for the quality, character and performance of Services, Deliverables and other items of Work Product or Contractor's obligations under this Agreement.

## **8. Fees and Related Matters**

**8.1 Fees:** As full and complete compensation for the Services, Deliverables and other items of Work Product, the Licenses/Assignments and Contractor's performance of Contractor's obligations under this Agreement, the LDB will pay to Contractor the applicable fees expressly specified in each SOW. If a SOW specifies a fixed fee for a Service, Deliverable or other items of Work Product, then the fee payable by the LDB for the Service, Deliverable or other items of Work Product will be the specified amount of the fixed fee. If a SOW does not specify a fixed fee for a Service, Deliverable or other items of Work Product, then the fee payable by the LDB for the Service, Deliverable or other items of Work Product will be calculated based on the hours actually worked by Project Team Members regarding the Service, Deliverable or other items of Work Product and the applicable time and materials rates specified in Schedule F (to the extent that the such time and material rates are not specified in the applicable SOW), provided that the total fee for the Service, Deliverable or other items of Work Product will not exceed the applicable fee cap (if any) specified in the applicable SOW. Notwithstanding the foregoing, time and materials rates that Contractor is entitled to charge the LDB will not exceed the applicable rates specified in Schedule F. Fees will not be calculated on an overtime or after-hours basis. All rates, budgets, fees and expenses are in Canadian dollars, and all fees will be invoiced and paid in Canadian dollars. Unless and to the extent that a SOW expressly states otherwise, all time and materials rates used to calculate fees for a SOW will be fixed during the term of the SOW. The Parties acknowledge and agree that the Systems Integration Services set out in the Systems Integration Services Statement of Work will be performed by Contractor on a fixed fee basis.

**8.2 Payment on Acceptance or Milestone Completion:** Unless otherwise agreed in the applicable SOW, the LDB will not be obligated to pay any fees applicable to: (a) a Deliverable or other item of Work Product, or for Services that directly relate to the creation, delivery and testing of a Deliverable or other item of Work Product, until that Deliverable or other item of Work Product has been fully accepted by the LDB in accordance with this Agreement; or (b) a Milestone until Contractor has completed the Milestone in accordance with the requirements of this Agreement and the applicable SOW.

**8.3 Expenses:** Subject to the provisions of this Agreement and where, and only where, Services are being performed on a time and material basis, the LDB will reimburse Contractor for pre-approved expenses incurred by each Project Team Member identified as a "Travelling Resource" in the applicable SOW, in connection with travel to LDB Sites or such other locations specified in a SOW, to perform work required under a SOW in accordance with the LDB's Contractor

Travel Expense Guidelines attached as Schedule E to this Agreement. If the LDB pre-approves such travel expenses, Contractor may only seek reimbursement for, and the LDB will only reimburse travel expenses starting from the closer of: (a) Greater Victoria; (b) Metro Vancouver; (c) Contractor's place of business and (d) the residence of the applicable individual, to the applicable LDB facility. Unless the Parties expressly agree in writing otherwise: (i) each expense for which Contractor seeks reimbursement must be approved in advance in writing (including in an email) by the LDB; and (ii) expenses in connection with a Project will not exceed the applicable expenses cap (the "**Maximum Expenses Amount**") (if any) set forth in the SOW. Except as expressly set forth in this section 8.3 or a SOW, Contractor will not be entitled to reimbursement for any expenses incurred by Contractor or any Project Team Member in connection with a Project or this Agreement. Any fixed price Services in a SOW will be inclusive of all expenses and there will be no separate reimbursement of separate expenses unless expressly set forth in the SOW to the contrary of this section 8.3.

**8.4 Pass-through Costs:** If Contractor acquires on Contractor's own behalf or on behalf of the LDB any product or service supplied by a third party that Contractor will transfer or supply to the LDB, then

- (a) subject to 8.4(b), the amount payable by the LDB to Contractor for the product or service will be the lesser of: (i) the amount specified in the applicable SOW as the price for the product or service; or (ii) Contractor's actual out-of-pocket costs for the product or service, without any additional fee, mark-up or other amount (other than a mark-up permitted under section 6.3(c)); and
- (b) Contractor shall ensure that the pricing for such product or service shall be no less favourable than the most favourable and lowest pricing that the third party vendor charges to any other customer of the vendor in the public sector within Canada for product or service (as the case may be) that are substantially similar to the product or service (as the case may be) to which the pricing applies, having regards, without limitation, to the nature, service level performance requirements, volume, revenue or other applicable terms and conditions concerning the provision of such product or service (as the case may be).

**8.5 Maximum Contract Price:** Notwithstanding any other provision of this Agreement, and unless the LDB in its discretion expressly agrees in writing otherwise, the total amount of all fees, expenses and other amounts payable to Contractor in connection with a Project will not exceed the maximum contract price (the "**Maximum Contract Price**") (if any) specified for such Project in the applicable SOW.

**8.6 Holdbacks:**

- (a) **Holdback Amount:** Unless mutually agreed by the Parties otherwise, each invoice issued by Contractor in respect of a fixed fee Milestone will specify a holdback amount calculated as 15% of the total amount of fees and applicable taxes payable under the invoice (the "**Holdback**").
- (b) **Payment of Holdback:** Upon completion of a Project as set forth in section 2.9, the aggregate Holdbacks will be paid by the LDB to Contractor, net of any foregone and forfeited Holdbacks pursuant to section 2.6(c), Schedule L or as otherwise specified in the applicable SOW. For the purposes of section 2.6(c), where completion of the Project occurs pursuant to section 2.9 on or before the Project Completion Date, then, the LDB agrees to pay to Contractor all Holdback amounts foregone and forfeited pursuant to section 2.6(c).

**8.7 Invoices:**

- (a) **Timing:** Contractor will issue separate invoices for each SOW. If fees are specified to be payable upon Contractor's achievement of a Milestone identified in a SOW, then Contractor will issue an invoice for the fees only upon Contractor's achievement of the Milestone. If fees are specified to be payable upon the acceptance of a Deliverable or other item of Work Product identified in a SOW, then Contractor will issue an invoice for the fees only upon the LDB's acceptance of the Deliverable or other item of Work Product in accordance with this Agreement. If fees are not specified to be payable upon Contractor's achievement of a Milestone or acceptance of a Deliverable, then Contractor will issue invoices for the fees on a monthly basis in arrears within three Business Days of each month end or as otherwise expressly set forth in the SOW. Contractor will issue an invoice for payment of the Holdback after a Project is completed as set forth in section 2.9 (where applicable).
- (b) **Content:** Each invoice submitted by Contractor to the LDB will contain itemized details regarding: (i) the Milestone to which the invoice relates; (ii) the fees payable and the basis on which the fees are calculated (including the hours worked by each individual Project Team Member and copies of time sheets for each Project Team Member); (iii) the expenses for which Contractor seeks reimbursement; (iv) the amount of the Holdback for the invoice; and (v) other information reasonably requested by the LDB. Each invoice will attach all supporting documentation reasonably requested by the LDB. Without limiting the foregoing, where a SOW

requires Contractor to create, maintain, modify or update Documentation in respect of the Services, Deliverables or other items of Work Product, Contractor will attach a copy of such Documentation, as accepted by the LDB in accordance with this Agreement, to the invoice. The LDB is not obligated to pay invoiced amounts that are not supported with required detail and supporting documentation, and no interest or late fees will be charged or considered due for those amounts when the deficient invoices are re-invoiced with required detail and supporting documentation.

- (c) **Delivery of Invoices:** Contractor will deliver invoices to the LDB at the postal addresses and email addresses specified by the LDB from time to time. As of the Effective Date, the LDB's postal address for invoices is specified in the applicable SOW.

#### **8.8 Taxes:**

- (a) **Applicable Taxes:** Contractor will charge, collect and remit to the relevant taxation authorities, and the LDB will pay, any applicable taxes payable by the LDB under law or agreement with the relevant taxation authorities on any fees and expenses payable by the LDB under this Agreement. Contractor will be responsible for and will arrange to pay all other applicable federal, state, provincial, municipal or foreign sales, use, value-added, property, excise, import, foreign, withholding and other governmental taxes, duties, charges, levies, fees, excises, tariffs, and assessments of any nature whatsoever now or hereafter imposed arising from, connected with and relating to this Agreement and the amounts payable by the LDB under this Agreement.
- (b) **Withholdings:** Notwithstanding the foregoing in this section 8.8 or any other provision of this Agreement, Contractor authorizes the LDB to withhold and remit to the appropriate taxation or other authorities all taxes or other amounts that the LDB is required by law to withhold and remit in connection with any payments under this Agreement.
- (c) **Refunds:** Contractor will: (i) apply for, and use reasonable efforts to obtain, any available refund, credit, rebate or remission of federal, provincial or other tax or duty imposed on Contractor as a result of this Agreement that the LDB has paid or reimbursed to Contractor or agreed to pay or reimburse to Contractor under this Agreement; and (ii) immediately on receiving, or being credited with, any amount applied for under section 8.8(c)(i), remit that amount to the LDB.

**8.9 Payment:** Subject to sections 2.13 and 8.10, and unless the Parties expressly agree in writing (including in a SOW) otherwise, the LDB will pay to Contractor all properly invoiced fees within 30 days after the LDB's receipt of the invoice.

**8.10 Disputed Charges:** Notwithstanding any other provision of this Agreement, if the LDB disputes any fees or expenses included in an invoice then the LDB will pay the undisputed fees or expenses specified in the invoice and Contractor and the LDB will cooperate with each other in an attempt to resolve the dispute, and Contractor will not suspend the performance of Services or the provision of Deliverables or other items of Work Product as a result of the LDB's withholding of payment of any disputed invoice amount.

**8.11 Procedure for Obtaining Refund, Credit or Discount:** If the LDB is entitled to any refund, credit or discount pursuant to any provision of this Agreement, Contractor will, within the next applicable billing cycle under a SOW, pay such refund, credit or discount amount to the LDB, and will include a note on the immediately following invoice provided under this Agreement that indicates that such refund, credit or discount amount has been paid and the applicable provisions of this Agreement pursuant to which such refund, credit or discount entitlement arose.

**8.12 Set-Off:** Any amounts (including credits) owed by Contractor to the LDB under this Agreement, which are not paid when due, but excluding amounts in dispute under this Agreement, may be set-off by the LDB against fees, expenses and other charges payable by the LDB to Contractor under this Agreement, or may be deducted from any sum due or which at any time may become due to Contractor under this Agreement.

**8.13 No Charge for Correction:** For greater certainty, and notwithstanding any other provision of this Agreement but subject to section 2.10, if Contractor is required to correct any Deliverable or other item of Work Product or re-perform any Service that was not provided or performed in accordance with this Agreement, then the required work performed by Contractor, and the resources required for that work, will not be counted in calculating the fees payable by the LDB under this Agreement.

**8.14 Advance Payments:** If the LDB pays in advance fees for a Service, Deliverable or other item of Work Product, then those fees will not be earned by Contractor unless and until the Service, Deliverable or other item of Work Product has been performed, delivered and accepted by the LDB in accordance with this Agreement.

**8.15 No Other Remuneration:** The fees, charges and expenses payable by the LDB as expressly set forth in a SOW are full and complete compensation for the performance by Contractor of Contractor's obligations under the SOW and under this Agreement regarding the Project described in the SOW, including the Licenses/Assignments for Deliverables and other items of Work Product provided under the SOW, and no further amounts will be payable by or on behalf of the LDB to Contractor or any other person in connection with the SOW or this Agreement or any related Services, Deliverables, other items of Work Product or Licenses/Assignments.

**8.16 Appropriation:** The LDB's obligation to pay money to Contractor is subject to the *Financial Administration Act*, which makes that obligation subject to an appropriation being available in the fiscal year of the LDB during which payment becomes due.

**8.17 No Volume Commitment:** Contractor acknowledges and agrees that the LDB makes no representation or warranty as to the quantity or volume of Services, Deliverables or other items of Work Product required from Contractor under this Agreement.

**8.18 Fee Structure for the Acquisition and Implementation of Phase 2 and Phase 3:** The Parties agree that the fee structure for any acquisition and implementation of Phase 2 Work and Services or Phase 3 Work and Services will be the same as under the Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 with no fees being payable by the LDB for such Services. For greater certainty, there will be no upfront fees for Phase 2 Work and Services or Phase 3 Work and Services but transaction fees will apply with respect to Phase 2 Work and Services or Phase 3 Work and Services once implemented and enabled for the processing of transactions.

## **9. Representations/Warranties and Disclaimer**

**9.1 Mutual Representations/Warranties:** Each Party represents and warrants that: (a) the Party has, and will have at all times throughout the Term of this Agreement, all requisite power, capacity, authority and approvals to enter into, execute and deliver this Agreement and to perform fully the Party's obligations under this Agreement; and (b) the Party's execution and performance of this Agreement will not conflict with, or result in the breach of, any express or implied obligation or duty (contractual or otherwise) that the Party now or in the future owes to any other person.

**9.2 General Representations/Warranties by Contractor:** Contractor represents and warrants as follows:

- (a) **Adequate Resources/Necessary Expertise:** Contractor has, and will have throughout the Term of this Agreement, the necessary skills, expertise and experience, and sufficient trained personnel, facilities, materials and appropriate equipment in place and available, to enable Contractor to perform Contractor's obligations under this Agreement.
- (b) **Project Team:** Each Project Team will collectively have the training, qualifications, knowledge, skills, expertise, experience and capabilities necessary to perform all work required regarding the relevant Project, and will perform that work in a timely manner in accordance with the standards and requirements set forth in this Agreement.
- (c) **No Adverse Developments:** As of the Effective Date, Contractor has no knowledge of any fact that adversely affects or is likely to adversely affect Contractor's ability to perform Contractor's obligations under this Agreement. As of the date Contractor signs a SOW, Contractor has no knowledge of any fact that adversely affects or is likely to adversely affect Contractor's ability to perform Contractor's obligations under the SOW or any related obligations under this Agreement.
- (d) **No Infringement of Third Party Rights:** As of the Effective Date, to the best of Contractor's knowledge and belief, the creation, possession, provision and Use of the Services, Deliverables and other items of Work Product provided under this Agreement and used in accordance with the restrictions and requirements set forth in this Agreement will not infringe the rights (including IP Rights) of any third party provided that this section 9.2(d) shall not apply to the extent such infringement is attributable to the circumstances identified in section 11.6. For clarity, where there is an Infringement Allegation, the Infringement Allegation will be addressed under sections 11.1, 11.5 and 12.5.

- (e) **No Inducements:** Neither Contractor nor any person on Contractor's behalf has given, nor will they give, any payment, gift, donation, benefit, thing of value or other inducement to any Representative of the LDB or any other person in connection with this Agreement or the transactions contemplated by this Agreement; and to the best of Contractor's knowledge no Representative of the LDB or any other person has given any payment, gift, donation, benefit, thing of value or other inducement to Contractor or any of Contractor's Representatives. Contractor acknowledges that the giving or receipt of any payment, gift, donation, benefit, thing of value or other inducement is a significant violation of the LDB's policy on conflicts of interest, and may result in the LDB's termination of this Agreement and all other existing and future contracts between the Parties.
- (f) **Accurate Information:** To the best of Contractor's knowledge and belief, all information and documents furnished or submitted by Contractor to the LDB in connection with this Agreement, including all submissions and proposals by Contractor, are true and correct.
- (g) **Hosting Subcontractor:**
  - (i) To its knowledge the Hosting Subcontractor will have no visibility into the hosting location of any LDB Data within the aggregate pool of Contractor's customer data hosted by the Hosting Subcontractor and the Hosting Subcontractor will not be able to readily isolate LDB Data without Contractor's assistance;
  - (ii) Under the terms of the subcontract between the Contractor and the Hosting Subcontractor with respect to the hosting of LDB Data, Contractor is in no way restricted from notifying the LDB of any access to or disclosure of LDB Data or request for access to or disclosure of LDB Data; and
  - (iii) The agreement governing the provision of hosting services between Contractor and the Hosting Subcontractor does not contain terms that are inconsistent in any material respect with the confidentiality and security obligations of Contractor to the LDB pursuant to Section 10, Schedule D and Schedule J of this Agreement.

**9.3 Warranties for Services:** Contractor represents and warrants to the LDB that each Service as performed by Contractor will: (a) comply with and conform to the Specifications; and (b) be performed in a good and proficient manner to the same reasonable standards of professional skill and competence generally applicable to generally recognized providers of services of the same type as the Services. Contractor will have no obligation to the LDB for any claim under this section 9.3 not made within 180 days after the completion of the Services alleged by the LDB to have been performed in breach of this warranty, provided that this limitation shall not apply to any Services that must be re-performed by Contractor as a result of any breach of warranty under section 9.4. If there is a breach by Contractor of the warranty contained in this section 9.3, Contractor will re-perform the deficient portion of the Services, free of any additional fee, charge or cost to the LDB and will provide the LDB with a credit against fees to completely offset any fees payable by the LDB under this Agreement in respect of those re-performance Services, such as pursuant to a SOW. By way of example, if Contractor uses a Project Team Member that is paid for by the LDB as part of a SOW to perform the warranty Services, then the LDB would receive a credit in respect of the fees that it has paid to Contractor under the SOW for the time that the Project Team Member has performed such re-performance Services.

#### **9.4 Warranty for Deliverables:**

- (a) **Warranty:** Contractor warrants that each Deliverable will conform to, and function, operate, perform and generate results in accordance with, the Acceptance Criteria for the Deliverable throughout the applicable Warranty Period for the Deliverable.
- (b) **Warranty Period:** In this Agreement, "Warranty Period" means: (i) for a Deliverable other than Deployment Deliverable, 180 days, or a longer period expressly specified in the applicable SOW, commencing on the day after the Deliverable achieves Final Acceptance, provided that if Contractor breaches the warranty set forth in section 9.4(a) regarding a Deliverable then the Warranty Period for the Deliverable will be extended by a period equal to the period from the date Contractor is notified or learns of the breach of warranty until the date that the modified or replaced Deliverable delivered by Contractor to the LDB passes the LDB's acceptance in accordance with section 2.8, plus an additional 30 days; and further provided that an extended Warranty Period is subject to further and additional extensions pursuant to this section 9.4(b) if further breaches of the warranty during the applicable Warranty Period occur; and (ii) for a Deployment Deliverable, the Stabilization Support and Warranty Period for such Deployment Deliverable.

(c) **Remedy:** Except with respect to Deployment Deliverables, if the LDB gives notice to Contractor, at any time during the Warranty Period for a Deliverable, of a breach of the warranty set forth in section 9.4(a) regarding the Deliverable, then Contractor will as soon as possible (not to exceed 30 days), and at no additional fee, charge or other cost to the LDB, remedy or replace the deficient Deliverable so that the Deliverable complies with the warranty set forth in section 9.4(a), and the modified or replaced Deliverable will be subject to the warranty set forth in section 9.4(a) for the remainder of the applicable Warranty Period. With respect to each Deployment Deliverable, Contractor will perform Stabilization Support and Warranty Services in accordance with Schedule L during the Warranty Period for such Deployment Deliverable and the LDB will have the remedies set out in such Schedule with respect to Defects identified during such Warranty Period.

(d) **Exclusions:** The warranty set forth in section 9.4(a) does not apply to errors or Defects in a Deliverable that are solely caused by: (i) use of the Deliverable in breach of this Agreement; or (ii) modification of the Deliverable by the LDB in a manner neither approved by Contractor nor contemplated in this Agreement or the Specifications or Documentation for the Deliverable.

**9.5 Application/Not Limitation:** The representations and warranties set forth in sections 9.1, 9.2, 9.3 and 9.4, and the remedies for breach of those warranties, will survive and apply to each Service, Deliverable and other item of Work Product (as applicable) notwithstanding the LDB's acceptance of, and payment of fees in respect of, the Service, Deliverable or other item of Work Product or any other Service, Deliverable or other item of Work Product. For greater certainty: (a) nothing in this section 9 is or will be construed to be in substitution for, or to otherwise limit, any other remedies available to the LDB pursuant to this Agreement or at law or equity; and (b) notwithstanding the expiration of any obligation of Contractor to provide a remedy for breach of warranty set forth in this section 9, the LDB will continue to be entitled to make all lawful claims against Contractor for any defective or deficient Service, Deliverable or other item of Work Product.

**9.6 Third Party Components:** Contractor will reasonably assist the LDB to enforce warranties provided by third party suppliers of Third Party Components and the LDB's other rights and remedies against the third party suppliers of Third Party Components.

**9.7 Reliance:** All representations and warranties made or provided by a Party as set forth in this Agreement are material and are deemed to have been relied upon by the other Party and to have induced the other Party to enter into this Agreement notwithstanding any prior or subsequent investigation by the other Party.

**9.8 Disclaimer:** The representations and warranties expressly set forth in this Agreement are in lieu of all other representations and warranties (express, implied or statutory).

## **10. Confidentiality, Personal Information Protection, Security and Related Matters**

### **10.1 Confidentiality:**

(a) **LDB Confidential Information:** Contractor acknowledges and agrees that, subject to section 10.1(b), all non-public information that Contractor or any Project Team Member may obtain regarding the business and business plans, products, technologies, services and customers of the LDB (collectively "**LDB Confidential Information**"), regardless of manner in which the information is obtained, whether the information was obtained before or after the Effective Date or whether such LDB Confidential Information is or has been conveyed to Contractor or any Project Team Member orally or in written or other tangible or electronic form, is the confidential and proprietary information of the LDB and is owned solely by the LDB and the LDB's licensors. For greater certainty, all LDB Data and all Personal Information in the custody or control of the LDB is deemed LDB Confidential Information.

(b) **Exceptions:** Except for LDB Data and Personal Information in the custody or control of the LDB (all of which is and will always remain LDB Confidential Information), information will not be considered to be LDB Confidential Information to the extent, but only to the extent, that the information is: (i) already known to Contractor free of any restriction at the time it is obtained by Contractor; (ii) subsequently learned by Contractor from an independent third party free of any restriction and without breach of this Agreement, an agreement with the third party or any other confidentiality obligation; (iii) becomes generally publicly available through no wrongful act or omission by or on behalf of Contractor or any person for whom Contractor is responsible under this Agreement or at law; or (iv) independently developed by or on behalf of Contractor without reference to any LDB Confidential Information.



- (c) **Ownership:** As between the Parties, LDB Confidential Information and all right, title and interest (including IP Rights) in, to and associated with LDB Confidential Information will remain the exclusive property of the LDB. This Agreement does not grant, by implication or otherwise, to Contractor any right, title, or interest in, to or associated with LDB Confidential Information, other than the limited license to Use LDB Confidential Information as expressly set out in this section 10.1.
- (d) **Restrictions/Requirements:** Contractor will use LDB Confidential Information only to the extent necessary for Contractor to perform Contractor's obligations under this Agreement or as otherwise permitted under this Agreement. Both during and after the Term of this Agreement, Contractor will: (i) maintain the strict confidentiality of LDB Confidential Information, including by using the same degree of care as Contractor affords to Contractor's own confidential information of a similar nature that Contractor desires not to be accessed, used, disclosed or disseminated, and in no event less than reasonable care, to prevent the unauthorized access to or use or disclosure of LDB Confidential Information; (ii) not disclose or make LDB Confidential Information available to any other person without the LDB's express prior written consent in each instance, except: (A) to its employees, agents, independent contract personnel, permitted subcontractors if and to the extent that such persons need to know the LDB Confidential Information to perform their obligations or enforce their rights under this Agreement, (B) to its professional advisors if, and to the extent that such persons need to know the LDB Confidential Information to provide applicable professional advisory services relating to Contractor's business, and/or (C) for bona fide disclosures required by applicable law, provided that Contractor must first give the LDB notice of such compelled disclosure (except where prohibited by applicable law from doing so) and must use commercially reasonable efforts to provide the LDB with an opportunity to take such steps as it desires to challenge or contest such disclosure or seek a protective order. Thereafter, Contractor may disclose the LDB Confidential Information, but only to the extent required by applicable law and subject to any applicable protective order; and (iii) ensure that all Contractor Representatives (including Project Team Members) and other persons to whom Contractor discloses LDB Confidential Information: (A) have each signed a written confidentiality agreement that is no less restrictive and protective of LDB Confidential Information than this section 10.1 or, in the case of professional advisors, a duty of confidence exists between Contractor and such person; and (B) strictly comply with the restrictions and requirements set forth in this section 10.1. Upon expiration or termination of this Agreement, or at any time upon request by the LDB, Contractor will, unless otherwise provided in a SOW with respect to particular LDB Confidential Information, promptly either deliver to the LDB or permanently delete and destroy all paper and electronic documents and other records containing LDB Confidential Information in Contractor's possession, power or control, in accordance with the LDB's instructions, except as otherwise required by applicable law and for copies made pursuant to archival or back-up computer storage for the period Contractor normally archives backed-up computer records (but for no more than eight (8) years), provided that obligations with respect to such LDB Confidential Information shall continue to apply for as long as Contractor retains the LDB Confidential Information. Notwithstanding any other provision of this Agreement, Contractor will not retain any LDB Confidential Information, including all copies thereof, for more than eight (8) years.
- (e) **Duration of Confidentiality Obligation:** The restrictions and requirements set forth in this section 10.1 will apply to each item of LDB Confidential Information unless and until the item no longer qualifies as LDB Confidential Information by virtue of the application of one or more of the exceptions set forth in section 10.1(b).

**10.2 Contractor Confidential Information:** The LDB acknowledges and agrees that, subject to this section, all non-public information that the LDB (or its representatives or service providers) may obtain regarding the business and business plans, products, technologies, services, customers and service providers of Contractor, including without limitation Contractor Background IP that is non-public in connection with this Agreement (collectively "**Contractor Confidential Information**"), regardless of manner in which the information is obtained, whether the information was obtained before or after the Effective Date or whether such Contractor Confidential Information is or has been conveyed to the LDB (or its representatives or service providers) orally or in written or other tangible or electronic form, is the confidential and proprietary information of Contractor and is owned solely by Contractor and the Contractor's licensors. The following terms and conditions will apply to Contractor Confidential Information: (a) the LDB acknowledges that the Contractor- Licensed Items contain confidential information and trade secrets of Contractor and are of a proprietary nature, (b) the LDB will retain all Contractor Confidential Information in confidence, exercising the same standard of care used by the LDB to protect its own confidential and proprietary information, to prevent the disclosure of Contractor Confidential Information to any third party, without the express written consent of Contractor; (c) the LDB agrees that it will use the Contractor Confidential



Information and share it with Representatives of the LDB on a “needs to know” basis and will not publish, release or disclose or permit to be published, released or disclosed either before or after the expiration or sooner termination of this Agreement, any Contractor Confidential Information except insofar as such publication, release or disclosure is: (i) necessary to enable the LDB to exercise any of its rights and fulfill any of its obligations under this Agreement; (ii) is permitted under section 10.8; or (iii) subject to the paragraph below, necessary in connection with the procurement by the LDB of additional goods or services or the planning or implementation by the LDB of a transition from all or part of the Deliverables, Work Product or the Services to an alternative solution or services provided that no pricing information or other similar highly sensitive Contractor Confidential Information, is published, released or disclosed; (d) ensure that all LDB Representatives and other person to whom LDB discloses Contractor Confidential Information under section 10.2(c)(i) or 10.2(c)(iii) are required to maintain its confidentiality in accordance with this Agreement (which in the case of a professional advisor, is satisfied by the existence of a duty of confidence between LDB and such person); (e) the LDB will destroy all Contractor Confidential Information, including back-up copies, in the LDB’s possession, except to the extent the LDB is required to retain any Contractor Confidential Information: (i) by any applicable law, regulation and/or any governmental, supervisory or regulatory body; (ii) pursuant to internal bona fide document retention policies; or (iii) as a result of an automatic data back-up system used in the ordinary course of business to which users would not normally have access; provided that obligations with respect to such Contractor Confidential Information shall continue to apply for as long as the LDB retains the Contractor Confidential Information; and (e) notwithstanding the foregoing information will not be considered to be Contractor Confidential Information to the extent, but only to the extent, that the information is: (i) already known to the LDB free of any restriction at the time it is obtained by the LDB; (ii) subsequently learned by the LDB from an independent third party free of any restriction and without breach of this Agreement, an agreement with the third party or any other confidentiality obligation; (iii) becomes generally publicly available through no wrongful act or omission by or on behalf of the LDB or any person for whom the LDB is responsible under this Agreement or at law; or (iv) independently developed by or on behalf of the LDB without reference to any Contractor Confidential Information.

With respect to section 10.2(c)(iii) above, for greater certainty, the LDB agrees to provide Contractor with prior written notice identifying any such Contractor Confidential Information it intends to disclose pursuant to that section, prior to disclosure. Contractor will use reasonable efforts to respond promptly, and in any event within three (3) Business Days, stating any objection, with appropriate detail, and if such objection is provided, the LDB will not disclose such Contractor Confidential Information, *provided that* Contractor will not unreasonably withhold its consent to any such disclosure of Contractor Confidential Information. If Contractor fails to provide any written objection to the LDB to such disclosure within such three (3) Business Day period, the LDB may disclose such Contractor Confidential Information without Contractor prior consent.

### **10.3 Privacy/Personal Information:**

- (a) **General:** Notwithstanding any other provision of this Agreement, Contractor will ensure that Project Team Members do not access, obtain possession of or use any Personal Information in the LDB’s custody or control except as expressly permitted under this Agreement, a SOW or otherwise with the LDB’s express prior written consent in each instance.
- (b) **Privacy Compliance:** Without limiting the generality of any other provision of this Agreement, if and to the extent that Contractor or a Project Team Member obtains access to or possession of any Personal Information in the LDB’s custody or control, then Contractor will ensure that Contractor and each Project Team Member complies with Schedule D and with all applicable laws relating to the collection, use, disclosure, protection, retention and destruction of the Personal Information, and Contractor will assist the LDB to comply with those laws. If for any reason Contractor does not comply, or anticipates that it will be unable to comply, with this section 10.3(b) or any provision in Schedule D in any respect, Contractor must promptly notify the LDB of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.
- (c) **No Removal/Remote Access:** Without limiting the generality of any other provision of this Agreement, Contractor will ensure that, unless otherwise expressly approved in advance by LDB in writing: (i) Project Team Members do not remove any document or record containing Personal Information from the LDB’s facilities; (ii) a storage device or media containing Personal Information or other data will not be removed by a Project Team Member from the LDB’s facilities unless and until all Personal Information and other data has been permanently deleted and removed from the storage device or media in accordance with the LDB’s applicable policies and procedures; and (iii) a Project Team Member will not remotely access Personal Information on any of the LDB’s computer systems or networks.

(d) **Personal Information of Contractor Personnel:** Contractor acknowledges that Contractor may be required under this Agreement to disclose (orally or in writing) to the LDB the Personal Information of Project Team Members and other individuals involved in performing work under this Agreement, and that the collection, use, disclosure, storage, retention and disposal of that information might be regulated by applicable law, including a legal requirement that an individual consent to the disclosure of their personal information to the LDB and the LDB's indirect collection and use of the Personal Information. If Contractor is required to disclose Personal Information of an individual to the LDB then Contractor will obtain the consent in accordance with applicable law prior to the disclosure of the individual's Personal Information.

**10.4 Security:** Without limiting the generality of any other provision of this Agreement, Contractor will comply, and will ensure that each Project Team Member complies, with the security and data protection requirements specified in this Agreement, including the requirements specified in Schedule J and all of the LDB's Policies. Contractor will immediately give notice to the LDB of any potential or actual breach of this section 10.4 and will use Contractor's best efforts to remedy the breach and to prevent a recurrence of the breach.

**10.5 No Publicity:** Except as expressly agreed in writing in advance by the LDB in its discretion in each instance, Contractor will ensure that Contractor and any Approved Subcontractor or Project Team Member will not: (a) publicize or otherwise disclose (including through public announcement, news release or media interview) the existence or terms of this Agreement, the business relationship between the Parties, or any related matter; (b) use the LDB's name or trademark in any advertising or publicity; or (c) represent that any product or service of Contractor or an Approved Subcontractor is or has been approved or endorsed by the LDB.

**10.6 Compliance Inspection:** Without limiting the generality of any other provision of this Agreement, both during and after the Term of this Agreement, Contractor will permit the LDB, at the LDB's own expense, and only once per calendar year (except where an inspection is reasonably required by LDB to investigate a claim of misappropriation, fraud or business irregularities of a potentially criminal nature or breach of this section 10 (including Schedules D and J)), to conduct an inspection of the premises and facilities of Contractor, and will ensure that the LDB may conduct an inspection of any Approved Subcontractor's premises and facilities, in order to verify compliance with this section 10, provided that the inspection will be conducted: (a) on not less than 10 Business Days prior notice to Contractor; (b) during normal business hours; (c) subject to reasonable security and confidentiality restrictions and requirements as may be requested by Contractor, provided that such requirements do not prohibit the LDB from sharing the records, information, results and other matters relating to the inspection with the LDB's Representatives; and (d) in a manner that does not interfere unreasonably with Contractor's normal business operations. For greater certainty, the LDB has no duty to make an inspection and will not incur any liability or obligation by reason of doing so or not doing so.

**10.7 Enforcement:** This section 10 is of fundamental importance to the LDB. If Contractor breaches or threatens to breach this section 10 and fails or refuses to comply with a request by the LDB to promptly remedy the breach and agree in writing to comply with this section 10, then the LDB will, in addition to all other remedies under this Agreement or at law, be entitled as a matter of right to judicial relief by way of a restraining order, interim, interlocutory or permanent injunction, or order for specific performance against the breach or threatened breach, and Contractor will not oppose the granting of the judicial relief.

**10.8 Legal Disclosure Obligations:** Contractor acknowledges that the LDB is subject to the *Freedom of Information and Protection of Privacy Act* ("FOIPPA"). Notwithstanding any other provision of this Agreement, Contractor acknowledges and agrees that the LDB may disclose this Agreement and related documents, records and information as required by applicable law (including FOIPPA) or valid orders or directions of a court, tribunal or governmental body or regulatory authority of competent jurisdiction and in accordance with the LDB's policies and practices regarding disclosures required under applicable law. The LDB will comply with applicable requirements under FOIPPA to give notice to Contractor of an intended disclosure by the LDB of this Agreement or related documents, records and information.

## **11. Indemnity and Insurance**

**11.1 Indemnity:** Subject to section 11.6, Contractor must indemnify and save harmless the LDB and the LDB's employees and agents from any loss, claim (including any Infringement Allegation), damage award, action, cause of action, cost or expense that the LDB or any of the LDB's employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, (each a "Loss") to the extent the Loss is caused or contributed to by:

- (a) any act or omission by Contractor, any of Contractor's Representatives, Approved Subcontractors, Contractor's other subcontractors or any other person for whom Contractor is responsible under this Agreement or at law in connection with this Agreement; or
- (b) any representation or warranty of Contractor being or becoming untrue or incorrect.

**11.2 Monetary Limitations of Indemnity:** The indemnification by Contractor pursuant to section 11.1 is limited to:

- (a) \$3,500,000 per Loss; and
- (b) in the aggregate for all Losses, the greater of: (i) all fees and any other amounts paid or payable by the LDB to Contractor under this Agreement in the 2 years immediately preceding the claim for indemnification; or (ii) \$7,000,000.

**11.3 Exceptions to Monetary Limitations:** The limitations set out in section 11.2 do not apply to a Loss resulting from or relating to any of the following:

- (a) bodily injury or damage to real property or tangible personal property;
- (b) a breach of section 10, Schedule D or Schedule J;
- (c) an Infringement Allegation; or
- (d) Contractor's deliberate and sustained cessation of a material portion of the Services without a bona fide attempt to resume such portion of the Services or to remedy the cause of such cessation.

**11.4 LDB to Notify Contractor of Loss:** To claim indemnification for a Loss pursuant to section 11.1, the LDB must notify Contractor in writing of the Loss and such notice shall include reasonable details of the Loss as soon as reasonably practicable after the LDB becomes aware of the Loss provided that a failure by the LDB to provide such notification will not invalidate the claim except to the extent the Contractor is materially prejudiced by that failure.

**11.5 Remedy for Infringement Allegation:** In addition to, and without limiting, the remedies set forth in sections 11.1 and 12.5, if a Service, Deliverable or other item of Work Product is, or is reasonably likely to become, the subject of an Infringement Allegation against any of the LDB Group or if as a result of an Infringement Allegation the Use of a Service, Deliverable or other item of Work Product by any member of the LDB Group is, or is likely to be, enjoined by order of a court or tribunal of proper jurisdiction and authority, then Contractor will at Contractor's own expense: (a) procure for the LDB Group the right to Use and to authorize other persons to Use the Service, Deliverable or other item of Work Product in accordance with this Agreement without the risk of an Infringement Allegation; (b) replace or modify the Service, Deliverable or other item of Work Product so that it is no longer subject to the Infringement Allegation, without a material adverse change in the functionality, performance, operation or results of the Service, Deliverable or other item of Work Product (as applicable) or any other Service, Deliverable or other item of Work Product, in which case the LDB Group will use the replacement or modified Service, Deliverable or other item of Work Product instead of the impugned Service, Deliverable or other item of Work Product; or (c) if neither of options (a) nor (b) specified above in this section 11.5 are reasonably achievable within 90 days or a longer period expressly agreed in writing by the LDB in its discretion or if the Use of a Service, Deliverable or other item of Work Product in accordance with this Agreement is enjoined by order of a court or tribunal of proper jurisdiction and authority, then Contractor will promptly deliver a notice to the LDB together with payment of a refund of the fees paid for such Service, Deliverable or other item of Work Product (except in the case of a Contractor-Licensed Item the refund will be limited to a pro-rata refund of the total license fees for such Contractor-Licensed Item calculated on the basis of straight-line depreciation over a ten-year useful life) and, for clarity, the LDB will have the right to terminate this Agreement and all SOWs in accordance with section 12.5. For greater certainty, options (a) and (b) specified above will be deemed reasonably achievable if Contractor provides similar remedies for any of Contractor's other customers that are or may be subject to the same or similar Infringement Allegation. The remedies set forth in this section 11.5 and sections 11.1 and 12.5 constitute the sole remedies of the LDB and Contractor's exclusive liability with respect to Infringement Allegations.

**11.6 Exceptions to Infringement Indemnity:** Contractor will not be liable for any Losses in respect of an Infringement Allegation to the extent any such Infringement Allegation is attributable to:

- (i) modifications to the Services, Deliverables or other item of Work Product made by the LDB (or its representatives or service providers) which have not been performed or authorized by Contractor (for this purpose, normal use of the Services, Deliverables or other item of Work Product will not be considered a modification);

- (ii) Use of the Services, Deliverables or other item of Work Product in combination with items not provided by or identified to Contractor in the applicable Statement of Work or Documentation as items with which the Services, Deliverables or other item of Work Product will inter-operate (however this exception does not apply to the Use of the Services, Deliverables or other item of Work Product with commercially available computers or commercially available system software);
- (iii) to the extent not modified by Contractor, the incorporation of written requirements, information, data, designs or specifications provided by the LDB (or its representatives or service providers) that themselves infringe the IP Rights of a third party; or
- (iv) after Contractor has complied with its obligations under section 11.5, continued Use by the LDB of any allegedly infringing Service, Deliverable or other item of Work Product that LDB has been notified of in writing to cease Using.

**11.7 Insurance:** Contractor must comply with Schedule G.

**11.8 Workers compensation:** Without limiting the generality of section 7.2, Contractor must comply with, and must ensure that any Approved Subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of Contractor's obligations under this Agreement, including the *Workers Compensation Act* in British Columbia or similar laws in other jurisdictions.

**11.9 Personal Optional Protection:** Contractor must apply for and maintain personal optional protection insurance (consisting of income replacement and medical care coverage) during the Term of the Agreement at Contractor's expense if:

- (a) Contractor is an individual or a partnership of individuals and does not have the benefit of mandatory workers compensation coverage under the *Workers Compensation Act* or similar laws in other jurisdictions; and
- (b) such personal optional protection insurance is available for Contractor from WorkSafeBC or other sources.

**11.10 Evidence of Coverage:** Within 10 Business Days of being requested to do so by the LDB, Contractor must provide the LDB with evidence of Contractor's compliance with section 11.8 or 11.9.

## **12. Term and Termination**

**12.1 Term:** This Agreement will have effect as of the Effective Date and remain in full force and effect for a period of 3 years expiring on June 17, 2021 (the "**Initial Term**"), unless terminated earlier in accordance with this Agreement. The LDB may, in its sole discretion, renew this Agreement for up to 7 additional periods of 1 year each after the expiry of the Initial Term (each a "**Renewal Term**") by providing Contractor with written notice of renewal at least 30 days prior to the expiry of the Initial Term or the then current Renewal Term. A Statement of Work may set out the term of the Statement of Work (the "**SOW Term**") and any terms and conditions relating to the renewal or extension of the Statement of Work. Except as expressly set forth in this Agreement: (a) each SOW relates to an independent project, and breach of a SOW will not entitle a Party to terminate any other SOW or this Agreement as a whole; (b) the completion, expiration, or termination of a SOW will not automatically terminate this Agreement or any other SOW; and (c) if this Agreement is terminated then all SOWs will automatically terminate effective immediately.

**12.2 Termination of Agreement for Convenience:** Notwithstanding any other provision of this Agreement, if all work and Services under all SOWs has been fully performed or the SOWs have expired or been terminated in accordance with this Agreement and there are no SOWs in place under this Agreement, then the LDB may terminate this Agreement at any time for the LDB's sole convenience effective immediately upon notice of termination to Contractor.

### **12.3 Termination of SOW for Cause:**

- (a) **By the LDB:** The LDB may terminate a SOW for cause effective immediately upon delivery of a notice of termination to Contractor if Contractor breaches, in any material respect, the SOW or any of Contractor's obligations under this Agreement relating to the Project described in the SOW and has not remedied the breach within 45 days after receipt of a default notice from the LDB identifying the breach and stating the LDB's intention to terminate the SOW if Contractor does not cure the breach within such 45 day cure period.
- (b) **By Contractor:** Contractor may terminate a SOW for cause effective immediately upon delivery of a notice of termination to the LDB if the LDB fails to pay undisputed fees for Services or Deliverables under the SOW when properly due and payable and has not remedied the breach within 60 days after receipt of a default notice from Contractor identifying the breach and stating Contractor's intention to terminate the SOW if the LDB does

not cure the breach within the 60 day cure period, provided that Contractor delivers the notice of termination to the LDB within 15 days. For greater certainty, nothing in this section 12.3(b) restricts or limits Contractor's remedies of damages and injunctive relief to enforce Contractor's rights under this Agreement.

**12.4 Termination for Convenience by the LDB:** Notwithstanding any other provision of this Agreement (including any SOWs), the LDB may at any time and for the LDB's sole convenience terminate this Agreement or any SOW effective upon no less than 90 days' notice of termination to Contractor.

**12.5 Termination of Agreement for Cause by the LDB:** Notwithstanding any other provision of this Agreement (including any SOWs), but for clarity, in addition to the LDB's other termination rights set out in this section 12, the LDB may terminate this Agreement, including all SOWs, for cause effective immediately, without payment of any termination fees, penalties, costs or other similar amounts of any kind, upon delivery of notice of termination to Contractor if: (a) Contractor breaches section 10; (b) there is a change in the Control of Contractor without the LDB's prior written consent; (c) an Infringement Allegation is made and proceedings initiated in a court of competent jurisdiction against the LDB provided that (i) the LDB provides Contractor with a written opinion of legal counsel of the LDB that the Infringement Allegation is credible and not frivolous and (ii) Contractor has not both notified the LDB that Contractor it is making efforts to remediate the Infringement Allegation by complying with (a) or (b) of section 11.5 and provided to the LDB reasonable evidence of such efforts; (d) if the termination right set out in section 2.6(c)(iv) or any other provision set out in this Agreement, any SOW or Change Order that provides for a specific termination right on the part of the LDB, where applicable, occurs; or (e) Contractor is bankrupt, insolvent, or unable to discharge Contractor's liabilities as they become due, Contractor commences, maintains or is subject to any proceedings for the benefit of insolvent debtors or for protection from creditors or relating to Contractor's liquidation, dissolution or winding-up or insolvency or the appointment of a receiver, receiver-manager or similar officer or custodian for Contractor or all or any significant part of Contractor's assets or business, Contractor makes an assignment for the benefit of all or substantially all of Contractor's creditors, Contractor suspends or ceases, or threatens to suspend or cease, to carry on Contractor's business in the normal course, or Contractor is subject to any liquidation, winding-up or dissolution.

**12.6 Consequences of Expiration/Termination:** Upon expiration or termination of a SOW or this Agreement: (a) the Parties will remain fully responsible and liable for all of their respective liabilities and obligations accrued before the expiration or termination of the SOW or this Agreement (as applicable); (b) Contractor will immediately cease using, and will promptly return to the LDB, all LDB Data, LDB Confidential Information, LDB Materials, LDB-Licensed Items and other items and materials provided to Contractor by or on behalf of the LDB pursuant to the SOW or this Agreement (as applicable); (c) the LDB will pay to Contractor all fees for Services performed and in respect of Deliverables, those Deliverables delivered to and accepted by the LDB pursuant to the SOW or this Agreement (as applicable) up to the effective date of termination; (d) Contractor will deliver to the LDB all originals and copies, in whatever form or medium, of all completed Deliverables (including all available final Deliverables specified in section 2.13) and other items of Work Product then existing under the SOW or this Agreement (as applicable) and all work in progress regarding those Deliverables and other items of Work Product; (e) if the LDB has paid any fees, charges or expenses in advance (before Services are performed and Deliverables and other items of Work Product are delivered and accepted), then Contractor will refund to the LDB those fees less the amount of any payments required pursuant to this section 12.6; (f) Contractor's right to receive or retain any payment pursuant to this section 12.6 is subject to, and without prejudice to, any claims and rights of set-off that the LDB may have against Contractor; and (g) notwithstanding any other provision of this Agreement (including any SOWs), the Parties agree that there will be no termination fee, penalty or other amount payable by the LDB to Contractor in the event that the LDB terminates the Agreement or any SOW for convenience pursuant to section 12.4.

**12.7 Transition Assistance:** Notwithstanding any other provision of this Agreement, and in addition to the Services otherwise specified in a SOW, upon request by the LDB at any time before or after the termination of a SOW, Contractor will cooperate in good faith and provide assistance and knowledge transfer to the LDB or other persons authorized by the LDB as may be required to facilitate the orderly and efficient transition and migration of the work to be performed by Contractor under the SOW to either the LDB itself or other persons designated by the LDB. Unless a SOW is terminated by the LDB in accordance with sections 12.3(a) or 12.5 (in which case, no additional fees will be payable), the LDB will pay to Contractor reasonable fees for the work performed by Contractor under this section 12.7 calculated on a time and materials basis using the applicable time and materials rates specified in Schedule F (to the extent that the such time and material rates are not specified in the applicable SOW).

**12.8 Licenses/Assignments:** Notwithstanding any other provision of this Agreement and unless specified in a SOW or other writing between the Parties, and subject to the terms and conditions of the License Agreement: (a) all Licenses/Assignments granted under this Agreement and related to Work Product are and will remain perpetual and

irrevocable and will survive indefinitely after the expiration or termination of this Agreement and any or all SOWs, and Contractor will not terminate, revoke or rescind any such Licenses/Assignments for any reason or cause whatsoever; (b) no breach of this Agreement by the LDB will constitute a repudiation of this Agreement by the LDB; and (c) if the LDB commits any breach (whether fundamental or not) of this Agreement, and whether the breach is or is not capable of being remedied, Contractor's sole rights and remedies in respect of the breach are limited to Contractor's rights and remedies other than termination, revocation or rescission of any Licenses/Assignments. For greater certainty, nothing in this section 12.8 restricts or limits Contractor's remedies of damages and injunctive relief to restrain any use of a Deliverable in breach of this Agreement.

**12.9 Bankruptcy:** For the purposes of any bankruptcy, debtor protection or similar laws, each of the licenses granted under this Agreement are and will be deemed to be licenses of and rights to use intellectual property, and any disclaimer, resiliation or rejection of this Agreement by or on behalf of Contractor or a trustee or similar person appointed under bankruptcy, debtor protection or similar laws will not affect the LDB's right to retain and exercise any of the licenses granted under this Agreement or any related rights.

**12.10 Survival:** Notwithstanding any other provision of this Agreement, sections 1, 2.14, 6 (other than section 6.6), 7.2, 7.6, 7.11 (for two years after the expiration or termination of this Agreement), 8.8, 8.10 (for two years after the expiration or termination of this Agreement), 8.12 (for two years after the expiration or termination of this Agreement), 8.14, 8.15, 8.16, 9, 10 (except sections 10.4 and 10.6 will only survive as long as Contractor (or any of its subcontractors) has custody of or is storing or otherwise handling any LDB Data (other than Aggregated Statistical Information (as defined in the License Agreement)) or LDB Confidential Information), 11.1 to 11.6 inclusive, 11.7 to 11.10 inclusive (for six months after the expiration or termination of this Agreement), 12.6, 12.7, 12.8, 12.9, 12.10, 13 and 14, Schedule D, and Schedule J (for as long as Contractor (or any of its subcontractors) has custody of or is storing or otherwise handling any LDB Data (other than Aggregated Statistical Information (as defined in the License Agreement)) or LDB Confidential Information) of this Agreement, and all other provisions necessary to their interpretation or enforcement, will survive indefinitely after the expiration or termination of this Agreement and will remain in full force and effect and be binding upon the Parties thereafter as applicable.

### **13. Dispute Resolution**

**13.1 Disputes:** All disputes, controversies and claims arising under, out of, in connection with, or in relation to this Agreement, the making or validity of this Agreement, the interpretation of this Agreement, the performance of this Agreement, a Project, a breach of this Agreement, the legal relationship between the Parties or any related matters (collectively, "Disputes") will be resolved as set forth in this section 13.

**13.2 Informal Dispute Resolution:** Subject to section 13.5, either Party may give a written dispute notice to the other Party requiring that the Parties attempt to resolve a Dispute through informal negotiations (either in person, with any associated travel costs for Contractor's Representatives being at Contractor's expense, or by telephone conference call) as follows:

- (a) **Step 1:** The LDB's Project Manager and the Contractor's Project Manager will promptly meet to discuss and attempt to resolve the Dispute;
- (b) **Step 2:** The LDB's Manager, IT Strategic Sourcing and Contractor's Senior Client Account Representative(s) will promptly meet if the Dispute is not fully and finally resolved pursuant to section 13.2(a) within 2 Business Days after the date of the dispute notice;
- (c) **Step 3:** One of more of the LDB's Representatives selected by the LDB and Contractor's Representatives will promptly meet if the Dispute is not fully and finally resolved pursuant to section 13.2(b) within 5 Business Days after the date of the original dispute notice. LDB's Representatives for the purpose of this Step 3 will be LDB's IT Sustainment Sponsor and/or Chief Information Officer, and Contractor's Representatives for the purpose of this Step 3 will be the VP Shared Services and Project Management Office (PMO);
- (d) **Step 4:** One of more of the LDB's Representatives selected by the LDB and Contractor's senior executive will promptly meet if a Dispute is not fully and finally resolved within 10 Business Days after the receipt of the original dispute notice by the other Party for further discussion and potential escalation in an attempt to resolve the Dispute. LDB's Representatives for the purpose of this Step 4 will be LDB's Chief Executive Officer, and Contractor's Representatives for the purpose of this Step 4 will be Contractor's Chief Executive Officer;



- (e) **Unresolved Disputes:** if a Dispute is not fully and finally resolved within 17 Business Days after the receipt of the original dispute notice by the other Party, then either Party may refer the Dispute to arbitration pursuant to section 13.4.
- (f) Subject to resolution pursuant to arbitration in accordance with section 13.4 a Dispute that is subject to a dispute notice pursuant to this section 13.2 will not be finally resolved unless and until the resolution is expressly confirmed in a definitive written document signed by both Parties.

**13.3 Procedure for Expedited Disputes:** Disputes that are expressly designated in this Agreement, including in any SOWs, as being “Expedited Disputes” (each, an “**Expedited Dispute**”) will be resolved in accordance with the following procedure to the extent necessary to resolve the Expedited Dispute:

- (a) the applicable Project Managers will attempt to resolve any Dispute informally by meeting as often as necessary, for a period not to exceed 24 hours, to discuss the Dispute and negotiate in good faith in an attempt to resolve the Dispute;
- (b) if the Project Managers are unable to resolve the Dispute within 24 hours, within 24 hours thereafter, the General Manager of the Liquor Distribution Branch and the vice-president or other individual of similar authority of Contractor will meet at a mutually agreeable time to attempt to resolve the Expedited Dispute;
- (c) if the persons described in section 13.3(b) above are unable to resolve the Dispute within 24 hours, within 24 hours thereafter, the Deputy Minister for the LDB and the CEO, owner or other individual of similar authority of Contractor will meet at a mutually agreeable time and place to attempt to resolve the Expedited Dispute;
- (d) unless otherwise agreed by the Parties, if the people referred to in section 13.3(c) are unable to resolve the Dispute within such meeting or such successive meetings (if both Parties agree in writing to extend the number of meetings) then the Dispute will be resolved by arbitration pursuant to section 13.4, provided that
  - (i) submissions to the arbitrator are required to be made within 48 hours of the arbitrator being appointed;
  - (ii) the arbitrator is required to render a decision within 24 hours of submissions; and
  - (iii) the arbitrator will be selected by agreement of the Parties and failing agreement within 48 hours after the completion of the meetings contemplated in section 13.3(b), then as determined as quickly as possible by the Arbitration Act;
- (e) subject to resolution pursuant to arbitration in accordance with section 13.4, an Expedited Dispute will not be finally resolved unless and until the resolution is expressly confirmed in a definitive written document signed by both Parties; and
- (f) all communications (oral and written) made in the course of negotiations regarding a Dispute pursuant to section 13.2 or 13.3 will be deemed made “without prejudice” and will not be admissible into evidence in arbitration or any other legal proceeding, unless the communication is in writing and expressly states that it is made “with prejudice”.

**13.4 Arbitration:** Subject to sections 13.3 and 13.5, all Disputes that are not finally resolved pursuant to section 13.2 or 13.3 will be referred to and finally resolved by binding arbitration under the *Domestic Commercial Arbitration Rules of Procedure* of the British Columbia International Commercial Arbitration Centre (the “**BCICAC**”) by one arbitrator where agreed by the Parties and otherwise by three arbitrators appointed (one by each Party, and one by those appointed arbitrators together) in accordance with those rules. The arbitration will be private and confidential, and will be administered by the BCICAC. If the BCICAC is not operative, the arbitration will proceed ad hoc and be governed by the *Arbitration Act* (British Columbia). The place of arbitration will be the City of Vancouver, British Columbia and the language used in the arbitration will be the English language. Any award rendered in an arbitration is final and binding and judgment thereon may be entered in any court having jurisdiction for the enforcement of the award.

**13.5 Injunctive Relief:** Notwithstanding the foregoing in this section 13, either Party may seek preliminary or temporary injunctive relief from the Supreme Court of British Columbia sitting in Vancouver, British Columbia to avoid irreparable harm or to preserve the status quo, and the Parties hereby irrevocably submit and attorn to the original and exclusive jurisdiction of that court in respect of all of those matters or any other matter that is not properly subject to arbitration pursuant to section 13.4.



**13.6 Continuity of Work:** Pending the resolution of a Dispute, the Parties will continue to observe and perform all of their obligations under this Agreement regardless of the nature of the Dispute and notwithstanding the referral of the Dispute for resolution in accordance with this section 13.

#### **14. General**

**14.1 Language:** English is the language of the performance of this Agreement, Contractor will perform and provide all Services in the English language, and all Deliverables and items of Work Product (including Software user interfaces) will be in the English language.

**14.2 Force Majeure:** A Party will not be liable to the other Party for any delay in performing or failure to perform any of the Party's obligations under this Agreement to the extent performance is delayed or prevented solely and directly due to acts of fire, flood, earthquake, explosion or other casualty or accident or act of God, war or other violence, and in each case only to the extent that the foregoing could not have reasonably been mitigated by a reasonable business continuity/disaster recovery plan (each a "**Force Majeure Event**"); and any delay or failure of that kind will not be a breach of this Agreement and the time for performance of the affected obligations will be extended by a period that is reasonable in the circumstances, provided that the Party claiming the benefit of this section 14.2: (a) promptly gives notice to the other Party specifying the Force Majeure Event and providing a good faith estimate of the duration of the Force Majeure Event; (b) uses commercially reasonable efforts to overcome the effect of the Force Majeure Event and resume performance of the Party's obligations under this Agreement as soon as reasonably possible; and (c) promptly notifies the other Party when the Force Majeure Event has ceased or been overcome. Notwithstanding the occurrence of a Force Majeure Event, each Party will each continue to perform the Party's obligations under this Agreement to the extent that the Force Majeure Event does not prevent the Party from doing so. For greater certainty, in no event will an act or omission of Contractor or any person for whom Contractor is responsible under this Agreement or at law constitute a Force Majeure Event.

**14.3 Relationship between the Parties:** The Parties are non-exclusive, independent contracting parties, and nothing in this Agreement or done pursuant to this Agreement will create or be construed to create a partnership, joint venture, agency, employment or other similar relationship between the Parties. At all times Contractor will conduct Contractor's business and affairs in a manner consistent with maintaining Contractor's independent contractor status. The arrangement and relationship between the Parties is non-exclusive, and nothing in this Agreement or done under this Agreement in any way limits, prohibits or restricts either Party from engaging in discussions or entering into agreements with any other person at any time regarding similar services, deliverables and other work product as those performed, delivered or provided under this Agreement.

**14.4 Governing Law:** This Agreement, the relationship of the Parties, and all related matters will be governed by, and construed solely in accordance with, the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia, excluding any rules of private international law or the conflict of laws that would lead to the application of any other laws and excluding any laws that implement the United Nations Convention on Contracts for the International Sale of Goods.

**14.5 Notices:** Except as expressly set forth in this Agreement, all notices (including default notices and termination notices) to be given under this Agreement will be in writing and will be delivered to a Party by hand/courier or facsimile transmission to a Party at the Party's addresses and numbers set forth below:

To the LDB:

2625 Rupert Street  
Vancouver, BC V5M 3T5  
Fax: 604-252-3381  
Email: LDBPCM@BCLDB.com  
Attention: Director of Business Systems

To Contractor:

150 Elgin Street  
8<sup>th</sup> Floor  
Ottawa, ON K2P 1L4  
Fax: 1 (855) 380-3328

Email: Joe.Frasca@Shopify.com with a copy to: contract\_notices@shopify.com  
Attention: Joe Frasca, Senior Vice President, General Counsel and Corporate Secretary

or at other addresses and numbers for notice as may from time to time be specified by the Party in a notice delivered to the other Party pursuant to this section 14.5. Notwithstanding the foregoing, where this Agreement states that a Party may deliver a notice to the other Party by “**Project Notice**”, such Project Notice may be delivered via email to the address set forth above, provided that the subject line of such email includes the following: “THIS NOTICE CONSTITUTES PROJECT NOTICE PURSUANT TO SECTION 14.5 OF THE MASTER SERVICES AGREEMENT BETWEEN THE PROVINCE AND SHOPIFY INC.”. A notice delivered by hand/courier will be deemed delivered when it is received. A notice delivered by facsimile will be deemed delivered on the next Business Day following the date of transmittal and acknowledgement of receipt by the recipient’s fax machine. A notice delivered by email will be deemed delivered on the next Business Day following the date of transmittal and acknowledgement of receipt by the recipient (not an automated acknowledgement).

**14.6 Enurement and Benefit:** The provisions of this Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Certain provisions of this Agreement expressly benefit certain third parties referenced in this Agreement, each of whom are third party beneficiaries to this Agreement and are entitled to independently enforce the applicable provisions of this Agreement for their own benefit.

**14.7 Assignment:**

- (a) **Assignment by the LDB:** The LDB may assign at any time, in its discretion, and without the consent of Contractor but upon reasonable prior written notice, this Agreement to any government, public sector or Crown entity, body or authority or any Private Sector Service Provider. In this section 14.7(a), “**Private Sector Service Provider**” means a private sector entity that is providing services (including outsourcing or similar services) to the LDB for which the benefit of this Agreement and the rights granted hereunder shall be used for the benefit of the LDB and, without the consent of Contractor, expressly excluding any entity that is a direct competitor of Contractor.
- (b) **Assignment by Contractor:** Contractor will not assign, either directly or indirectly, this Agreement or any rights, duties, liabilities, obligations or interests of Contractor under this Agreement, without the prior written consent of the LDB, which consent may be given or withheld in the discretion of the LDB. For the purpose of this Agreement, and without limiting the ordinary meaning of “assign” for the purposes of this section 14.7, the following will be deemed to be an assignment by Contractor:
- (i) the amalgamation of Contractor (other than amalgamations with Affiliates of Contractor that do not cause a change in the control of Contractor, as “control” is defined in the *Business Corporations Act*);
  - (ii) an assignment by operation of law;
  - (iii) a sale of all or substantially all of the assets or undertaking of Contractor; or
  - (iv) a direct or indirect change in the control of Contractor, as “control” is defined in the *Business Corporations Act*, excluding a change in the control of any direct or indirect parent corporation of Contractor, the shares of which are publicly traded on a recognized stock exchange.

**14.8 Participation in Procurement:** Contractor acknowledges that, by executing this Agreement: (a) Contractor’s involvement in the Procurement and projects performed under this Agreement are subject to review and oversight by the LDB; (b) the LDB’s review and oversight role requires the LDB to exercise its discretion in assessing Contractor’s performance of its obligations under this Agreement and activities associated with the Procurement. Contractor will act in good faith and to provide reasonable assistance to the LDB in respect of the LDB’s review and oversight role. Contractor will refer any complaints or other concerns relating to the LDB’s discretion, oversight and review relating to the Procurement to the dispute process set out in section 13 or the LDB’s vendor complaint process.

**14.9 Conflicts of Interest:** Contractor will not, and will require Contractor Representatives to not, directly or indirectly engage in any activity, business or undertaking that could create a conflict of interest or perceived conflict of interest with the LDB in respect of all or any part of the Services, Procurement or this Agreement. If Contractor becomes aware of any act, omission or event that could be construed as creating a conflict of interest or a perceived conflict of interest in respect of all or any part of the Services, Procurement or this Agreement, or where Contractor is uncertain as to whether or not a conflict of interest or a perceived conflict of interest could exist in a particular situation, Contractor will immediately notify the LDB of the conflict or perceived conflict. Contractor will abide, and will require Contractor Representatives to

abide, by any direction given by the LDB in respect of any such conflict or perceived conflict, except where Contractor reasonably disagrees with such direction from the LDB, in which case such matter will be deemed to be an Expedited Dispute. If such Dispute is resolved by arbitration, then the Dispute will be determined by the arbitrator (or arbitrators) in accordance with any LDB Policies or processes demonstrably utilized or held by the LDB in respect of conflicts of interest. The LDB retains the right to prohibit any person, (including any Contractor Representatives) from taking any action, delivering any Services or otherwise participating in any manner with respect to the Procurement, Services or to this Agreement where the LDB determines, in its sole opinion, that such person's current or past corporate, employment or other interests may give rise to a conflict of interest, and the decision of the LDB in respect thereof will be based upon such information as the LDB, in its sole discretion, determines to be relevant.

**14.10 Miscellaneous:** Each Party will, promptly upon the reasonable request of the other Party, execute all further documents and instruments and do all further and other things as may be reasonably necessary to implement and carry out the provisions and intent of this Agreement and to confirm and perfect the Parties' respective proprietary rights and licenses as set forth in this Agreement. Time is of the essence in this Agreement. If a Party's consent or approval is required under this Agreement, then such Party in its discretion may withhold the consent or approval unless this Agreement expressly states otherwise. No consent or waiver by either Party to or of any breach of this Agreement by the other Party will be effective unless in writing and signed by the non-breaching Party or deemed or construed to be a consent to or waiver of a continuing breach or any other breach of those or any other obligation of the breaching Party. Except as expressly set forth in this Agreement, each Party's rights and remedies under this Agreement are cumulative and not exhaustive or exclusive of any other rights or remedies to which such Party may be entitled under this Agreement or applicable law, and such Party will be entitled to pursue any and all of such Party's rights and remedies concurrently, consecutively and alternatively. It is the intention of the Parties that this Agreement will not be interpreted in favour of or against either Party on the basis that the Party drafted particular provisions of this Agreement. If any provision of this Agreement is held by an arbitration panel or court of competent jurisdiction to be invalid or unenforceable for any reason, then the provision will be deemed severed from this Agreement and the remaining provisions of this Agreement will continue in full force and effect without being impaired or invalidated in any way, unless as a result of the severance this Agreement would fail in its essential purpose.

**14.11 Counterparts and Execution by Electronic Means:** A Contract Document may be executed and delivered in one or more counterparts, which may be delivered by facsimile transmission or by email in PDF or similar secure format, and each executed and delivered counterpart will be deemed an original and all counterparts will together constitute one and the same document.

**14.12 Agreement Not Permit or Fetter:** This Agreement does not operate as a permit, license, approval or other statutory authority which Contractor may be required to obtain from the LDB or any of its agencies in order to provide the Services or delivery the Deliverables or other items of Work Product. Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by the LDB or its agencies of any statutory, prerogative, executive or legislative power or duty.

**14.13 Entire Agreement:** This Agreement sets forth the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes any and all negotiations, discussions, agreements or understandings, oral or written, between the Parties with respect to the subject matter of this Agreement. Except as expressly set forth in this Agreement, this Agreement, including each Contract Document, may be modified only by a written instrument that expressly states that it is an amendment to the Contract Document and this Agreement and is signed by the Parties or their successors or permitted assigns.

**14.14 Other Forms and Embedded Agreements:** Purchase orders, ordering documents, forms of acceptance, invoices, acknowledgements, confirmations, and other documents issued by a Party in connection with this Agreement are for administrative convenience only, and the terms and conditions (if any) contained in those documents are of no force or effect and do not in any way amend this Agreement even if signed and returned by the other Party. License agreements, end user agreements and other agreements, terms and conditions and documents that are included with a Deliverable or other item of Work Product are of no force or effect with respect to the LDB and do not in any way amend this Agreement, even if they are accepted or agreed to (whether by signing or by other form of acceptance, including clicking an "I Agree" button) by or on behalf of the LDB before, during or after the delivery, download, installation or use of the Deliverable or item of Work Product.

**MASTER SERVICES AGREEMENT**

**SCHEDULE A – SERVICES E-COMMERCE SOLUTION – PHASE 1 STATEMENT OF WORK (SOW)**

**(See attached)**

**MASTER SERVICES AGREEMENT**  
**SCHEDULE B – STATEMENT OF WORK FOR ECOMMERCE SOLUTION STEADY STATE**  
**SERVICES**

**(See attached)**

**MASTER SERVICES AGREEMENT**  
**SCHEDULE C – STATEMENT OF WORK (SOW) TEMPLATE**

SOW Effective Date: [Insert date the SOW is effective]  
SOW No. [Insert no.]

This Statement of Work forms part of the Master Services Agreement between **Her Majesty the Queen in the Right of the Province of British Columbia, as represented by the Attorney General and the General Manager of the Liquor Distribution Branch** (the “LDB”) and **Shopify Inc.** (“Contractor”) dated as of June 18, 2018, as amended from time to time (the “Agreement”) and is entered into as of the SOW Effective Date between the LDB and Contractor in accordance with section 2.2 of the Agreement.

**ARTICLE 1**  
**INTERPRETATION**

**1.1 Definitions**

Capitalized terms used herein have the meanings set out in Appendix 1. All capitalized terms used herein and not otherwise defined will have the meaning set out in the General Terms and Conditions.

**1.2 Appendices**

The following are the Appendices attached to this Statement of Work:

Appendix 1	–	Definitions
Appendix 2	–	Description of Services
Appendix 3	–	Services Specifications
Appendix 4	–	Project Plan
Appendix 5	–	Project Team Members
Appendix 6	–	Key Members
Appendix 7	–	Approved Subcontractors as of SOW Effective Date
Appendix 8	–	Project Methodology and Management
Appendix 9	–	Fees
Appendix 10	–	Contractor-Licensed Items and Third Party Components

**1.3 References to this Statement of Work to include Appendices**

Unless the context requires otherwise, references in this Statement of Work to “this Statement of Work”, “this SOW”, “herein”, “hereof”, “hereunder” and “hereto” will include this Statement of Work and the Appendices to this Statement of Work, collectively.

#### 1.4 Deemed Incorporation of Agreement Terms

This Statement of Work will be deemed to incorporate by reference the terms and conditions of the Agreement (excluding other Statements of Work) except to the extent otherwise expressly stated herein. For the purposes of this Statement of Work, all such terms and conditions incorporated by reference herein will survive until the termination or expiry of the SOW Term.

#### 1.5 Order of Priority

In the event of any inconsistency between any of the provisions of the main terms and conditions of this Statement of Work and the Appendices, the inconsistency will be resolved by reference to the following descending order of priority:

- (a) the main terms and conditions of this Statement of Work (excluding the Appendices); and
- (b) the remaining Appendices, with equal priority.

### **ARTICLE 2** **SOW SERVICES**

#### 2.1 SOW Services

- (a) Commencing on the SOW Effective Date, Contractor will provide, on the terms and conditions set out in the Agreement as supplemented and modified by the terms and conditions of this Statement of Work, the following Services (the “**SOW Services**”):
  - (i) the [X] Services, as described in Appendix 2; and [Note: [X] should be replaced by a description of the type of Services to be provided (e.g. “Systems Integration Services”, “Support and Maintenance Services”, “Application Management Services, etc.) or a broader reference in Appendix 2 include more than one type of Services (e.g. Project Services)]
  - (ii) all other obligations and Services to be performed by Contractor pursuant to this Statement of Work, including any Services described in section 2.1 of the General Terms and Conditions that are applicable to this Statement of Work.
- (b) Contractor will, at all times, provide the [X] Services in accordance with the Specifications set out in Appendix 3.
- (c) The requirements and schedule for Contractor’s performance of the [X] Services are set out in this section 2.1 and the Project Plan (set out in Appendix 4).

### **ARTICLE 3** **ENGAGEMENT MANAGEMENT; PERSONNEL REQUIREMENTS**

#### 3.1 Project Team

The Project Team Members under this Statement of Work are set out in Appendix 5.

#### 3.2 Project Manager

The Project Manager under this Statement of Work is set out in Appendix 6.

#### 3.3 Requirements for Project Team

**[Set out any specific requirements for Project Team performing SOW Services]**



### 3.4 Key Member

For the purposes of this Statement of Work, the Key Members are set out in Appendix 6.

### 3.5 Approved Subcontractors

For the purposes of this Statement of Work, the persons set out in Appendix 7 will be deemed Approved Subcontractors approved by the LDB in accordance with section 4.5(a) of the General Terms and Conditions.

## **ARTICLE 4** **PROJECT METHODOLOGY AND MANAGEMENT**

### 4.1 Project Methodology and Management

Contractor will perform the SOW Services using approaches, process, methodologies and activities set out in Appendix 8.

## **ARTICLE 5** **FEES**

### 5.1 Fees

The fees payable by the LDB for the performance by Contractor of the SOW Services are set out in Appendix 9.

## **ARTICLE 6** **INTELLECTUAL PROPERTY**

### 6.1 Contractor-Licensed Items and Third Party Components

Set out in Appendix 10 are all Contractor-Licensed Items and Third Party Components that will be delivered or used in provision of the SOW Services, embedded or otherwise included in the Deliverables or other items of Work Product.

## **ARTICLE 7** **SERVICE LEVEL TERMS**

### 7.1 [SOW Service Level Terms

Set below are specific terms and conditions relating to the Service Levels applicable to the SOW Services:

[●] [Remove if not applicable.]

## **ARTICLE 8** **TERM AND TERMINATION**

### 8.1 SOW Term and Renewal

- (a) The term of this Statement of Work will begin on the SOW Effective Date and continue until **[the date that is the later of: (i) the date that is ● years thereafter: and (ii)]** the date immediately after the Warranty Period applicable to the last Deliverable accepted by the LDB (the “SOW Initial Term”), unless terminated earlier in accordance with the Agreement.
- (b) **[The LDB may renew this Statement of Work on the terms and conditions (including pricing) contained herein for additional terms of ● year (each, a “SOW Renewal Term”) by**

providing notice to Contractor that it elects to renew this Statement of Work at least [30] days prior to the end of the SOW Initial Term or the then-current SOW Renewal Term.]

8.2 Survival upon Expiration or Termination

[Article 1, Sections • and •], the provisions of the Agreement identified in section 12.10 of the General Terms and Conditions and incorporated by reference herein, and this section 8.2, any obligations to pay amounts which arose prior to the termination or expiration of this Statement of Work and which remain due and payable following such termination or expiration and such other provisions as are necessary for the interpretation thereof, will survive expiration or termination of this Statement of Work subject to any time limitations determined by applicable law.

IN WITNESS WHEREOF the Parties have executed this Statement of Work as of the SOW Effective Date.

Her Majesty the Queen in the Right of the  
Province of British Columbia, represented by the  
Attorney General and the General Manager of the  
Liquor Distribution Branch

Shopify Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

Title \_\_\_\_\_

Title \_\_\_\_\_

## **Appendix 1**

### **Definitions**

“**Appendices**” means the Appendices listed in section 1.2 and includes any other Appendices mutually agreed in writing by the Parties and signed by an authorized signatory of each Party.

“**Project Plan**” means, for the purposes of this Statement of Work, the plan for the performance of the SOW Services set out in Appendix 4.

“**[X] Services**” has the meaning set out in section 2.1(a)(ii).

“**SOW Effective Date**” has the meaning set out on the first page of this Statement of Work.

“**SOW Initial Term**” has the meaning set out in section 8.1(a).

“**SOW Renewal Term**” has the meaning set out in section 8.1(b).

“**SOW Services**” has the meaning set out in in section 2.1.

“**SOW Term**” means the SOW Initial Term and any SOW Renewal Terms.

“**Specifications**” means the technical, operational, functional and performance Specifications for the SOW Services and any Infrastructure Systems set out in Appendix 3 and all fixes, enhancements or other Changes thereto made in accordance with this Statement of Work.

## **Appendix 2 Description of Services**

### **1. Introduction**

This Appendix 2 describes certain services, functions, processes and responsibilities that form part of the Services to be provided by Contractor to the LDB pursuant to this Statement of Work.

### **2. Service Locations**

**[Pursuant to Section 5.2 of the General Terms and Conditions, Contractor to explicitly list the locations from which it intends to provide the Services]**

### **3. Description of the Services**

**[Contractor/LDB to insert detailed description of the Services]**

### **Appendix 3 Services Specifications**

#### **1. Introduction**

This Appendix 3 sets out the technical, functional, operational, and performance specifications and other requirements for the Services.

#### **2. Detail specifications**

**[Contractor/LDB to insert detailed specifications for the Services]**

## Appendix 4 Project Plan

[The Project Plan described in this Appendix is a contractual project plan, setting out Milestones, Milestone Deadlines, Acceptance Criteria, LDB SOW Dependencies and the like. This Project Plan is not meant to be a detailed operational project plan (which may also be prepared but should not form part of this Statement of Work).]

### 1. Introduction

- (a) This Appendix 4 sets out, as of the SOW Effective Date: (i) Contractor's responsibilities in managing and performing the activities necessary to ●; (ii) the Milestones that Contractor will meet in its performance of such activities on or before the applicable Milestone Deadlines; (iii) the LDB SOW Dependencies applicable to such activities; and (iv) the SOW Assumptions.
- (b) Contractor will be responsible for the management and completion of the activities and tasks described in the Project Plan, other than the LDB SOW Dependencies.

### 2. Interpretation

Any reference in this Appendix 4 to the "successful completion" or the "successful delivery" of any Service or Deliverable, as applicable, means that: (a) Contractor has completed the applicable Milestone in accordance with the Agreement, including any requirements for the applicable Deliverable; (b) Contractor has provided reasonable documentation of such completion in accordance with the Agreement; and (c) the LDB has accepted the Milestone, to the extent applicable, in accordance with section 2.8 of the General Terms and Conditions.

### 3. Deliverables, Testing Periods and Acceptance Deadlines

- (a) The following will be considered Deliverables for the purposes of this Statement of Work. **[Deliverables are to be finalized with Contractor]**

Number	Deliverable	Related Requirements	Description	Deliverable Deadline	Delivery	Acceptance Criteria
1.		[Insert related requirements from the LDB Requirements Documents that need to be completed as part of this Deliverable.]				
2.						
3.						
4.						

- (b) Except for the testing periods listed below in the column under the heading "Testing Period" for the Deliverables listed below in the column under the heading "Deliverable", the testing periods for the Deliverables identified in section 3(a) are as outlined in section 2.8 of the General Terms and Conditions:

Number	Deliverable	Testing Period
1.		
2.		
3.		

4. **Milestones**

On or before each of the dates set out in the table below in the column under the heading “Milestone Deadline”, Contractor will complete the corresponding Milestone described in the column under the heading “Milestone”. **[Milestones are to be finalized with Contractor]**

Number	Milestone	Milestone Deadline
1.		
2.		
3.		

5. **LDB SOW Dependencies**

The LDB SOW Dependencies for this SOW are as set out in the table below:

Number	LDB SOW Dependency	Milestones Affected	LDB SOW Dependency Target Date
1.			
2.			
3.			

6. **SOW Assumptions**

The SOW Assumptions for this SOW are as set out in the table below:

Number	SOW Assumptions
1.	
2.	
3.	



**Appendix 5**  
**Project Team Members**

<b>Role</b>	<b>Assigned Individuals</b>	<b>Travelling Resource</b>	<b>Skill Level / Minimum Qualifications</b>	<b>Responsibilities</b>
<b>[Insert title]</b>	<b>[Insert name]</b>	<b>[Indicate whether individual is a Travelling Resource]</b>	<b>[ Insert description]</b>	<b>[Insert description.]</b>

**Appendix 6**  
**Key Members**

As of the SOW Effective Date, the individuals listed in the table below in the column under the heading, “Key Member”, will be Key Members. Contractor will ensure that, with respect to the column under the heading, “Extent of Allocation”, each Key Member will be available to perform his or her designated responsibilities for at least the percentage of his or her working time as set out in such column.

Key Member	Extent of Allocation
<b>Project Manager, [Name]</b>  To have the role described in section 2.6(b) of the General Terms and Conditions	<b>[Specify the extent of dedication as a percentage of working time (e.g. 80%) for each Key Member listed in this table.]</b>
<b>[Title], [Name]</b>  <b>[Describe role.]</b>	

**Appendix 7**  
**Approved Subcontractors as of SOW Effective Date**

**[List all Approved Subcontractors and the particular SOW Services for which approval by the LDB has been granted as of the SOW Effective Date for the purposes of this Statement of Work.]**

Name of Approved Subcontractor	SOW Services for which LDB Approval Granted

## **Appendix 8**

### **Project Methodology and Management**

**[This section should describe with clarity the methodology proposed to deliver the Project, including:**

- **roles and responsibilities of the Parties;**
- **the Software development, quality assurance and other practices that will be used for the delivery of the Project;**
- **Contractor's list of progress reports and samples of those reports; and**
- **any specific escalation process as defined and supported by Contractor.]**

## Appendix 9 Fees

**[This Appendix should summarize all of the fees payable for the SOW Services provided under this Statement of Work.]**

### 1. Introduction

This Appendix 9 summarizes the fees, and the methodologies for their calculation, with respect to the SOW Services to be delivered by Contractor to the LDB pursuant to this Statement of Work.

### 2. Maximum Contract Price

The Maximum Contract Price for the Project is \$**[Insert amount]** which will include all applicable taxes.

### 3. Maximum Expenses Cap

The Maximum Expenses Cap for the Project is \$**[Insert amount]**. **[This concept only applies to Projects that are done on a T&M basis. Remove if not applicable]**

### 4. Detailed Cost Break Down

Detailed cost break down is set out in Appendix 9-1.

### 5. Services Fees

**[Summary of the fees that are payable in respect of the Services]**

Subject to section 2 of this Appendix 9, Contractor will complete the Milestones described in the column under the heading "Milestone" in the following table on or before each of the dates set out in the column under the heading "Milestone Deadline", and the LDB will pay the fee set out in the column under the heading "Fee", all pursuant to the terms and conditions in this SOW and the Agreement:

Number	Milestone	Milestone Deadline	Fee
1.			
2.			
3.			
4.			
5.			

### 6. Time and Material Rates

**[Insert any SOW-specific T&M rates for SOW Services that are not performed on a fixed-fee basis. Remove if not applicable.]**

### 7. Taxes

**[Insert any tax provisions that are specific to this Statement of Work. Remove if not applicable]**

**8. Address for Delivery of Invoices**

**[Insert address for delivery of invoices to the LDB]**

**Appendix 9-1  
Detailed Cost Break Down**

**[Contractor to insert details cost breakdown of all SOW Services]**

**Appendix 10**  
**Contractor-Licensed Items and Third Party Components**

[This Appendix sets out all of the Contractor-Licensed Items and Third Party Component that will be used by Contractor for Deliverables and other items of Work Product. Contractor's rights with respect to Contract-Licensed Items are set out in s. 6.2 of the General Terms and Conditions. Third Party Components are discussed in s. 6.3 of the General Terms and Conditions]

**1. Contractor-Licensed Items**

[Contractor to insert list of Contractor-Licensed Items and specify the Deliverable or other item of Work Product it will be used in]

**2. Third Party Components**

[Contractor to insert list of Third Party Components and specify the Deliverable or other item of Work Product it will be used in]

**MASTER SERVICES AGREEMENT**  
**SCHEDULE D – PRIVACY PROTECTION SCHEDULE**

This Schedule forms part of the agreement between Her Majesty the Queen in right of the Province of British Columbia, as represented by the General Manager of the Liquor Distribution Branch, (the “**Province**” or “**LDB**”) and Shopify Inc. (the “**Contractor**”) respecting eCommerce Solution Project Master Services Agreement (the “**Agreement**”).

**Definitions**

1. In this Schedule,
  - (a) “**access**” means disclosure by the provision of access;
  - (b) “**Act**” means the *Freedom of Information and Protection of Privacy Act* (British Columbia), as amended from time to time;
  - (c) “**contact information**” means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
  - (d) “**personal information**” means recorded information about an identifiable individual, other than contact information, including any such information disclosed by the LDB or by an individual to, or otherwise collected or created by the Contractor as a result of the Agreement or any previous agreement between the LDB and the Contractor dealing with the same subject matter as the Agreement but excluding any such information that, if this Schedule did not apply to it, would not be under the “control of a public body” within the meaning of the Act; and
  - (e) “**privacy course**” means the Province’s online privacy and information sharing training course.

**Purpose**

2. The purpose of this Schedule is to:
  - (a) enable the LDB to comply with its statutory obligations under the Act with respect to personal information; and
  - (b) ensure that, as a service provider, the Contractor is aware of and complies with the Contractor’s statutory obligations under the Act with respect to personal information.

**Collection of personal information**

3. Unless the Agreement otherwise specifies or the LDB otherwise directs in writing, the Contractor may only collect or create personal information that is necessary for the performance of the Contractor’s obligations, or the exercise of the Contractor’s rights, under the Agreement.
4. Unless the Agreement otherwise specifies or the LDB otherwise directs in writing, the Contractor must collect personal information directly from the individual the information is about.
5. Unless the Agreement otherwise specifies or the LDB otherwise directs in writing, the Contractor must tell an individual from whom the Contractor collects personal information:
  - (a) the purpose for collecting it;
  - (b) the legal authority for collecting it; and



- (c) the title, business address and business telephone number of the person designated by the LDB to answer questions about the Contractor's collection of personal information.

### **Privacy Training**

- 6. The Contractor must ensure that each person who will provide services under the Agreement that involve the collection or creation of personal information will complete, at the Contractor's expense, the privacy course prior to that person providing those services.
- 7. The requirement in section 6 will only apply to persons who have not previously completed the privacy course.

### **Accuracy of personal information**

- 8. The Contractor must make every reasonable effort to ensure the accuracy and completeness of any personal information to be used by the Contractor or the LDB to make a decision that directly affects the individual the information is about.

### **Requests for access to personal information**

- 9. If the Contractor receives a request for access to personal information from a person other than the LDB, the Contractor must promptly advise the person to make the request to the LDB unless the Agreement expressly requires the Contractor to provide such access and, if the LDB has advised the Contractor of the name or title and contact information of an official of the LDB to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

### **Correction of personal information**

- 10. Within 5 business days of receiving a written direction from the LDB to correct or annotate any personal information, the Contractor must annotate or correct the information in accordance with the direction.
- 11. When issuing a written direction under section 10, the LDB must advise the Contractor of the date the correction request to which the direction relates was received by the LDB in order that the Contractor may comply with section 12.
- 12. Within 5 business days of correcting or annotating any personal information under section 10, the Contractor must provide the corrected or annotated information to any party to whom, within one year prior to the date the correction request was made to the LDB, the Contractor disclosed the information being corrected or annotated.
- 13. If the Contractor receives a request for correction of personal information from a person other than the LDB, the Contractor must promptly advise the person to make the request to the LDB and, if the LDB has advised the Contractor of the name or title and contact information of an official of the LDB to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

### **Protection of personal information**

- 14. The Contractor must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the Agreement.

### **Storage and access to personal information**

- 15. Unless the LDB otherwise directs in writing, the Contractor must not store personal information outside Canada or permit access to personal information from outside Canada.

### **Retention of personal information**

16. Unless the Agreement otherwise specifies, the Contractor must retain personal information until directed by the LDB in writing to dispose of it or deliver it as specified in the direction.

### **Use of personal information**

17. Unless the LDB otherwise directs in writing, the Contractor may only use personal information if that use is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement. For greater certainty, the Contractor must not exploit or permit to be exploited, or otherwise use any personal information for the Contractor's own purposes.

### **Disclosure of personal information**

18. Unless the LDB otherwise directs in writing, the Contractor may only disclose personal information inside Canada to any person other than the LDB if the disclosure is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
19. Unless the Agreement otherwise specifies or the LDB otherwise directs in writing, the Contractor must not disclose personal information outside Canada.

### **Notice of unauthorized disclosure**

20. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.5 of the Act, if the Contractor knows that there has been an unauthorized disclosure of personal information in the custody or under the control of the Contractor, the Contractor must immediately notify the LDB. In this section, the phrase "unauthorized disclosure of personal information" will bear the same meaning as in section 30.5 of the Act.

### **Demands for disclosure of or access to personal information**

21. Notwithstanding section 9, if a law enforcement or regulatory authority contacts the Contractor with a demand for access to or disclosure of personal information or LDB Data, the Contractor must promptly advise the authority to make the demand to the LDB and will use best efforts to redirect the authority to make such demand directly to the LDB.
22. If the Contractor is compelled by law to disclose or allow access to personal information or LDB Data, the Contractor will: (a) where permitted by applicable law, provide the LDB with reasonable prior written notice of such compelled disclosure or access; (b) provide the LDB with reasonable assistance if the LDB wishes to contest the disclosure or access; (c) in the case of compelled disclosure or access outside of Canada and notice to the LDB is not permitted by applicable law, take reasonable steps to challenge the compelled disclosure, including presenting evidence at court with respect to: (i) the control of personal information or LDB Data, as the case may be, by the LDB as a "public body" under the Act; (ii) the application of the Act to Contractor as a "service provider" to the LDB that may make such compelled disclosure or access an offence under the Act; and (iii) such compelled disclosure or access being in conflict with the Act; and (d) only disclose or allow access to the minimum personal information or LDB Data necessary to comply with applicable law and in no circumstances provide: (i) blanket or unfettered access to personal information of LDB Data; or (ii) the encryption keys used to secure LDB Data or the ability to break such encryption; in each case at the cost of LDB but only to the extent any costs are incurred that would not otherwise be incurred as part of Shopify's standard response to such compelled disclosure or access.

### **Inspection of personal information**

23. In addition to any other rights of inspection the LDB may have under statute, which if exercised will be at LDB's expense (except where any inspection reveals a failure in any material respect by Shopify to comply with the provisions of this Schedule D (Privacy), in which case Shopify will reimburse the LDB for expenses reasonably incurred by the LDB to conduct such inspection), LDB may, as provided for in the Agreement, on reasonable notice

to the Contractor, enter on the Contractor's premises to inspect and verify Contractor's compliance with this Schedule and the Contractor must permit, and provide reasonable assistance to, any such inspection, all as more particularly set out in and in compliance with Section 10.6 (Compliance Inspection) of the Agreement.

#### **Compliance with the Act and directions**

24. Contractor acknowledges and agrees that, as a service provider to the LDB, the Act applies to Contractor and the Contractor must in relation to personal information comply with:
  - (a) the requirements of the Act applicable to the Contractor as a service provider, including any applicable order of the commissioner under the Act; and
  - (b) any direction given by the LDB under this Schedule.
25. The Contractor acknowledges that it is familiar with the requirements of the Act governing personal information that are applicable to it as a service provider.

#### **Notice of non-compliance**

26. If for any reason the Contractor does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Contractor must promptly notify the LDB of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

#### **Interpretation**

27. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
28. Any reference to the "Contractor" in this Schedule includes any subcontractor or agent retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors and agents comply with this Schedule.
29. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.
30. If a provision of the Agreement (including any direction given by the LDB under this Schedule) conflicts with a requirement of the Act or an applicable order of the commissioner under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.
31. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or, subject to section 32, the law of any jurisdiction outside Canada.
32. Nothing in this Schedule requires the Contractor to contravene the law of any jurisdiction outside of Canada unless such contravention is required to comply with the Act.

**MASTER SERVICES AGREEMENT**  
**SCHEDULE E – CONTRACTOR TRAVEL EXPENSE GUIDELINES**

When expenses are pre-approved for a Travelling Resource in accordance with section 8.3 of the General Terms and Conditions, the LDB will only reimburse Contractor for such expenses properly incurred by such Travelling Resource in accordance with LDB policy and, in particular, the Travel Policy – Group I located at [http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/10\\_Travel.htm](http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/10_Travel.htm)), as amended from time to time.

**MASTER SERVICES AGREEMENT**  
**SCHEDULE F – T&M RATES FOR CONTRACTOR PROJECT TEAM MEMBERS**

Role	Hourly Rate
Blended hourly rate for all roles	\$150.00 CAD

## MASTER SERVICES AGREEMENT

### SCHEDULE G –INSURANCE

1. **Required Insurance:** Contractor must, without limiting Contractor's obligations or liabilities and at Contractor's own expense, purchase and maintain throughout the Term of the Agreement the following insurances with insurers licensed in Canada in forms and amounts acceptable to the LDB:
  - (a) Commercial General Liability in an amount not less than the applicable amount specified in section 2(a) inclusive per occurrence against bodily injury, personal injury and property damage and including liability assumed under the Agreement and this insurance must:
    - (i) include the LDB as an additional insured but only with respect to liability arising out of the operations of the named insured;
    - (ii) be endorsed to provide the LDB with 30 days advance written notice of cancellation or material change, provided, however, when insurers are unable to endorse any required policy of insurance to provide prior written notice to the LDB of a reduction in limits, cancellation or non-renewal, the Contractor will provide thirty (30) days prior written notice to the LDB of any reduction in limits, cancellation, non-renewal or other adverse material change for any such policy; and
    - (iii) include a cross liability clause; and
  - (b) Technology (Errors and Omissions) Liability which includes:
    - (i) Professional (Errors and Omissions) Liability insuring Contractor's liability resulting from errors or omissions in the performance of the Services in an amount not less than the applicable amount specified in section 2(a) per claim and this insurance must be endorsed to provide the LDB with 30 days advance written notice of cancellation.
    - (ii) Network Security and Privacy Breach Liability, including for cyber liability, breach of confidential or personal information and the loss, damage, destruction, distortion, erasure, corruption or alteration of electronic data from any cause whatsoever (including computer virus) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.
2. **Insurance Terms:**
  - (a) For the purposes of section 1, the required insurance policy amounts will be calculated as follows:
    - (i) \$2,000,000 for Commercial General Liability insurance; and
    - (ii) \$5,000,000 for Professional Errors and Omissions insurance; and
    - (iii) \$5,000,000 for Network Security and Privacy Breach Liability insurance
  - (b) All insurance described in section 1 must:
    - (i) be primary; and
    - (ii) not require the sharing of any loss by any insurer of the LDB.
3. **Evidence of Insurance:** Contractor must provide the LDB with evidence of all required insurance as follows:
  - (a) within 10 Business Days of the commencement of the Services, Contractor must provide to the LDB evidence of all required insurance in the form of a completed Province of British Columbia Certificate of Insurance;

- (b) if any required insurance policy expires before the Term, Contractor must provide, within 10 Business Days of the policy's expiration, evidence of a new or renewal policy meeting the requirements of the expired insurance in the form of a completed Province of British Columbia Certificate of Insurance; and
  - (c) if requested by the LDB at any time, Contractor must provide to the LDB certified copies of the required insurance policies.
4. **Alternative Insurance Arrangements:** Contractor must obtain, maintain and pay for any additional insurance which the Contractor is required by law to carry, or which the Contractor considers necessary to cover risks not otherwise covered by insurance specified in this Schedule in the Contractor's sole discretion.
5. **Alternative Insurance Arrangements:** Despite section 1(b), if in the LDB's sole discretion, the LDB has approved in writing either a fronted self-insurance program or a duly licensed captive insurer as an alternative to the Professional (Errors and Omissions) Liability Insurance requirement set out in section 1(b), then Contractor must maintain throughout the Term of the Agreement that alternative in accordance with the terms of the approval.
6. **Obligations with respect to Approved Subcontractors:** Contractor must ensure that each Approved Subcontractor providing Services carries all insurance(s) of the types and amounts applicable to the Services the Approved Subcontractor will be performing.

## MASTER SERVICES AGREEMENT

### SCHEDULE H –GOVERNANCE

- 1. Purpose:** This Schedule sets out management and governance structure and process for the relationship between the LDB and Contractor under the Agreement.
- 2. Expediency:** The LDB and Contractor agree that: (a) the effective administration of the Agreement will be facilitated by ongoing management involvement as contemplated by the governance structure and processes as set out in this Schedule; (b) the timely establishment of governance structures and processes is necessary to facilitate the implementation of the Procurement; and (c) the initial meetings of each the committees or Project Working Groups established under this Schedule will be held at a time and location as directed by the LDB.
- 3. Continuing Obligations:** Notwithstanding any other provision in this Schedule, the primary purpose of the governance structures and processes set forth in this Schedule is to facilitate communications and dispute resolution between the Parties. Nothing in this Schedule alters or amends the rights and obligations set forth in any other portion of this Agreement or any SOW pursuant to the Agreement. In case of any conflict between the provisions of the Agreement and the provisions of this Schedule, the provisions of the Agreement will prevail. Without limiting the generality of the foregoing, the Parties agree that dispute resolution process described in section 13 of the General Terms and Conditions should govern with respect to the escalation and resolution of any Dispute.
- 4. Principles:** The LDB and Contractor agree that the governance structure and process will align with and enable effective implementation and administration of the Agreement and “best practices” for sustaining significant technical and technology services and business transformation projects, namely: (a) the Parties will proactively identify sources of disagreement and discord and take timely action before they become matters of dispute; (b) issues will be resolved through a process of cooperative and amicable negotiations, with a view to the best result for the Procurement; (c) in addition to providing a decision making process involving escalation, the Parties will ensure that various levels of the governance structure will work to create a high quality relationship that brings value to the Parties and the Procurement; (d) the Parties will work together to assemble and effectively communicate with the necessary stakeholders to resolve key issues in an expeditious manner; (e) the Parties will use the governance structure and processes to provide a forum under which both Parties may be heard; (f) the Parties will effectively identify and resolve issues through cooperative negotiation starting at the project operational level and, where necessary, involving escalation of such issues through a series of levels in the governance structure; (g) decisions and directives rendered through the governance process will be documented and communicated and both Parties will accept and adhere to these decisions and directives; (h) the Parties will, through the governance structure, be flexible and accommodate the lifecycle of the Agreement, including regular and ongoing Services, periods of unplanned or significant change, and, if required, outgoing transition; and (i) subject to the specific decision-making rights of either party set out in the Agreement, decisions will be guided by what is best for the on-going management and successful and timely implementation of the Procurement in accordance with the applicable budgets.
- 5. Governance Structure:** The governance structure will be comprised of individuals described in this Schedule H and further categorized into working groups and committees set out below. Each Party will periodically review its portion of the governance structure and communicate any proposed updates to the other Party. The Parties will consult one another prior to initiating any alteration or change to the governance structure, which change shall only be implemented pursuant to Article 3 of the General Terms and Conditions. The following diagram provides a general overview of the governance structure. The governance structure is described in further detail below.





## 6. Project Working Groups:

- (a) Project working groups (the “**Project Working Groups**”) will be formed on an “as needed” basis by the joint operations committee (“**Joint Operations Committee**”). LDB’s members on such Project Working Groups will be the LDB’s Project Manager or the LDB’s Manager, IT Strategic Sourcing. Contractor’s members in the Project Working Groups will be the Project Manager, the Project Portfolio Manager, the Account Executive, and the Vice President of Sales. Project Working Groups will: (i) perform any function as requested by the Joint Operations Committee; (ii) be consultative in nature for and on behalf of the Joint Operations Committee; (iii) receive operational direction and mandate from the Joint Operations Committee; (iv) make day to day decisions for items within the scope of their responsibilities; and (v) identify and escalate issues as necessary to the Joint Operations Committee where the Parties’ collaborative efforts fail to resolve such issues or where the Parties determine that the Joint Operations Committee should otherwise be aware of the issue.
- (b) Project Working Groups will comply with the following meeting and operational protocols: (i) each Project Working Group will have a chair and members as determined by the Joint Operations Committee; (ii) the chair of a Project Working Group will be responsible for establishing meeting frequency, setting agendas, moderating meetings, recording decisions and approving recommendations to be submitted to other levels of the governance structure; (iii) each Project Working Group will document any issues escalated to the Joint Operations Committee; and (iv) representatives of either party on a Project Working Group are entitled to escalate issues to the Joint Operations Committee, without first obtaining permission from the other Party.
- (c) The Project Working Groups will operate subject to and in accordance with: (i) the terms of the Agreement and in particular and terms set forth in this Schedule; and (ii) the decisions and the direction of the Joint Operations Committee.

## 7. Joint Operations Committee

- (a) The Parties will establish a Joint Operations Committee, which will be comprised of up to 3 representatives at Procurement executive level from each of the LDB and Contractor as appointed by their respective members of the joint executive committee (“**Joint Executive Committee**”). LDB’s members on such Joint Operations Committee will be LDB’s Manager, IT Strategic Sourcing and/or IT Sustainment Sponsor. Contractor’s members of the Joint Operations Committee will at least be partners, associate partners or executives of the Contractor in order to qualify to be members of the Joint Operations Committee.
- (b) The Joint Operations Committee will have responsibility and oversight, within the scope of authority and mandate designated by the Joint Executive Committee, for the following areas: (i) review of Changes to the

scope of any Services or Deliverables subject to any such review right not limiting any rights (including approval rights) of the LDB otherwise set out in the Agreement; (ii) review and monitoring of schedule and timeframes; (iii) review and monitoring of budgets; (iv) review and monitoring of stakeholder relationships; (v) review and monitoring of performance and delivery; (vi) resource related issues; (vii) review of human resource related issues, including issues relating to LDB Representatives, any Project Team Members and Key Members; (viii) review of the plan and approach for knowledge management and knowledge transfer; and (ix) review of any plan developed for transition and migration of Contractor's work in accordance with section 12.7 of the General Terms and Conditions and escalation of any issues or concerns of either Party related thereto.

- (c) Subject to any written direction from the Joint Executive Committee to the contrary, the Joint Operations Committee will also: (i) provide strategic direction to the Project Working Groups; (ii) provide day to day management in connection with the relationship of the Parties and the operations and delivery of any Project; (iii) provide status reporting on project scope, budget, timeframes and stakeholder relationships to the Joint Executive Committee; (iv) provide recommendations to the Joint Executive Committee regarding significant changes in scope, budget, timeframes and stakeholder relationships relating to any Project; (v) review requests for changes to Key Members, Approved Subcontractors, and SOWs subject to any such review right not limiting any rights (including approval rights) of the LDB otherwise set out in the Agreement; (vi) monitor the performance of Contractor, Project Working Groups, stakeholders and suppliers as required for the successful delivery of any Project; (vii) identify and escalate any contractual or management problems to the Joint Executive Committee that are not otherwise adequately addressed by the Joint Operations Committee; (viii) conduct an annual review of reporting requirements under the Agreement for the purposes of recommending any enhancements or changes to such requirements, which enhancements or changes would be implemented through the change management process; (ix) invite the input and participation of stakeholders as required to reach resolution of issues; (x) resolve issues escalated from Project Working Groups; and (xi) escalate issues as necessary to the Joint Executive Committee.
- (d) The Joint Operations Committee will meet as directed by the LDB, or as otherwise agreed by the Parties.
- (e) Meetings of the Joint Operations Committee will be chaired by one of the representatives from the LDB (as designated by the LDB), who will establish agendas and moderate the meetings. All decisions (including approvals) of the Joint Operations Committee must be recorded in writing.
- (f) Representatives from either Party are entitled to escalate issues to the Joint Executive Committee, without first obtaining permission to escalate from the other Party.
- (g) The Joint Operations Committee will operate subject to and in accordance with the decisions and the direction of the Joint Executive Committee.

**8. Joint Executive Committee:** The Parties will establish a Joint Executive Committee, which will be comprised of: (i) two executive level representatives from the LDB; (ii) two executive level representatives from Contractor; and (iii) such other members, as mutually agreed upon by the Parties, to facilitate the resolution of specific issues or to participate on an ongoing basis. The LDB's members on the Joint Executive Committee will be the Chief Information Officer, LDB's Executive Director of Wholesale, and will at least include General Manager of the Liquor Distribution Branch (or equivalent) or the Executive Project Director for the Procurement. Contractor's members of the Joint Executive Committee will at least be vice-presidents or other individuals of similar or higher authority of Contractor in order to qualify to be members of the Joint Executive Committee.

- (b) The Joint Executive Committee will provide executive level governance of the relationship between the Parties and have responsibility and oversight in the following areas: (i) review of Changes to the scope of the Procurement or any Service, Deliverable or other item of Work Product described in a SOW which are escalated from the Joint Operations Committee (for clarity any such Changes shall be effected in accordance with the terms otherwise set forth in the Agreement and shall not require any approval of or authorization by the Joint Executive Committee); (ii) review and monitoring of financial matters and changes to fees made in accordance with the terms of the Agreement; (iii) reviewing and considering Joint

Operations Committee's recommendations; (iv) ensuring that there is sufficient transparency of the financials to ensure that the actuals are aligned with the principles and requirements of the Agreement; (v) reviewing performance (business, project and relationship) against plans; (vi) reviewing and monitoring transition of Services to an Other Service Provider; (vii) reviewing and considering: (A) changes to legislation; (B) changes in policy, or (C) privacy and security related matters; (viii) without limiting the change management process, establishing and approving strategic directions for the working relationship between the Parties, including long-term goals and priorities; (ix) recommending any changes or amendments to the Agreement and any amendments to procedures with such changes or amendments then be effected in the manner otherwise contemplated in the Agreement including requiring any approvals contemplated therein; (x) determining the decision making authority and scope of the Joint Operations Committee; (xi) resolving issues escalated from the Joint Operations Committee; (xii) providing the final tier of issue and dispute resolution; (xiii) monitoring the state of the relationship between the Parties; (xiv) providing recommendations on any proposed changes in the governance structure; and (xv) monitoring the trends and directions of the government that may impact the relationship between the Parties;

- (c) The Joint Executive Committee will meet as directed by the LDB, or as otherwise agreed by the Parties.
- (d) Meetings will be chaired by a representative of the LDB (as designated by the LDB) who will establish agendas and moderate the meetings.
- (e) Decisions of the Joint Executive Committee will be recorded in writing.
- (f) The Joint Executive Committee will operate subject to and in accordance with the terms of the Agreement and in particular the terms set forth in this Schedule.

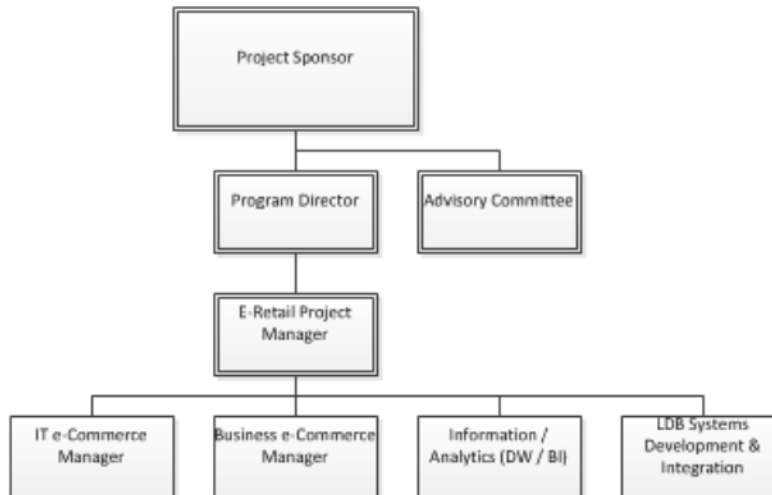
**9. Meeting Protocols General:** The Parties acknowledge and agree that all governance meetings will follow the following requirements: (a) the Parties will provide as much meeting notice as is reasonably possible or as otherwise set forth in this Schedule; (b) meeting notices will include mandatory and optional invitees, provided that meeting attendance is mandatory for permanently appointed members of any committee and optional invitees must be approved by both Parties (including approval by email); (c) no substitutions are allowed for governance group members, unless previously agreed to by both Parties for the specific meeting in question (including approval by email); (d) where reasonably possible, meeting changes should be communicated at least 2 Business Days in advance of the scheduled meeting; (e) where reasonably possible, meeting invitees will indicate their ability to attend at least 2 Business Days prior to the meeting; (f) meeting notices will indicate whether an individual's presence is required in-person, if no indication is given, remote access is acceptable; (g) meetings shall start at the stated time on the meeting notice; (h) agendas will be determined by the chair(s) and circulated together with any other meeting material 24 hours prior to the meeting where reasonably possible; (i) quorum for all meetings will require at least one representative of each Party to be present in-person (with any associated travel for Contractor Representatives being at Contractor's expense) or through acceptable remote access and where no quorum exists a meeting shall not be properly constituted subject to any meeting in respect to a dispute that is cancelled due to a lack of quorum shall be deemed to be an immediate escalation to the next governance level, or arbitration as applicable, unless otherwise agreed by the Parties; and (J) approvals of any matter or the passage of any resolution at a meeting requires the unanimous approval of the representatives present at such meeting which, for clarity, has a quorum present.

## Appendix H1

### Overarching Governance Structure for Projects and Related Projects

The Parties agree that the chart in this Appendix H1 (the “**LDB Overarching Project Governance Chart**”) reflects the LDB’s overarching governance structure for the Projects and related projects as of the Effective Date. The LDB may in its sole discretion, at any time and from time to time, and without having to provide Contractor any prior notice (written or otherwise) or obtaining any prior consent from Contractor (written or otherwise), make any change to any aspect of the LDB’s governance structure represented in this LDB Overarching Project Governance Chart, such as adding, removing, and/or changing titles, and members for any given title, on any level of the LDB Overarching Project Governance Chart. Any such updated LDB Overarching Project Governance Chart will supersede and replace the applicable then-existing LDB Overarching Project Governance Chart in the Appendix H1 in its entirety and be deemed to be incorporated into and form part of this Schedule H from and after the date of the LDB notifying Contractor of such change.

As of the Effective Date and unless the LDB Overarching Project Governance Chart is updated pursuant to this Appendix H1 of Schedule H, Contractor’s Project Manager will report to LDB’s IT Sustainment Sponsor, and LDB’s IT Sustainment Sponsor will report to the eCommerce Solution Steering Committee.



**MASTER SERVICES AGREEMENT**  
**SCHEDULE I –AGREEMENT REPORTING OBLIGATIONS**

<b>Report</b>	<b>Frequency</b>	<b>Content</b>	<b>To</b>
Obligations Report	Monthly	Status of Contractor obligations under the Agreement (including all SOWs), including any obligations that Contractor reasonably anticipates it will not meet in the future. The format for this report will be provided to the Contractor by the LDB.	The LDB

**MASTER SERVICES AGREEMENT**  
**SCHEDULE J –SECURITY**

**Definitions**

1. In this Schedule the following terms have the following meanings:
  - (a) **“Equipment”** means any equipment (e.g. desktop/ mobile computers, servers, operating systems, network devices, application/ security software), including interconnected systems or subsystems of equipment, software and networks, used or to be used by the Contractor to provide the Services.
  - (b) **“Facilities”** means any facilities (e.g. data centres) at which the Contractor collects and/or stores Information.
  - (c) **“Information”** means information
    - (i) in the LDB Material, or
    - (ii) accessed, produced or obtained by the Contractor (whether verbally, electronically or otherwise) as a direct result of the Agreement.
  - (d) **“Record”** means a “record” as defined in the *Interpretation Act*.
  - (e) **“Sensitive Information”** means:
    - (i) Information that is "personal information" as defined in the *Freedom of Information and Protection of Privacy Act*, or
    - (ii) any other Information specified as "Sensitive Information" in Appendix J7.
  - (f) **“Services Worker”** means an individual involved in providing the Services for or on behalf of the Contractor and, for greater certainty, may include:
    - (i) the Contractor or a subcontractor if an individual, or
    - (ii) an employee or volunteer of the Contractor or of a subcontractor.

**Schedule contains additional obligations**

2. The obligations of the Contractor in this Schedule are in addition to any other obligation in the Agreement or the schedules attached to it relating to security including, without limitation, the obligations of the Contractor in the Privacy Protection Schedule.

**Services Worker**

3. The Contractor must not permit a Services Worker to have access to Sensitive Information unless the Services Worker has first entered into a confidentiality agreement with the Contractor to keep Sensitive Information confidential on substantially similar terms as those that apply to the Contractor under the Agreement.
4. The Contractor may only permit a Services Worker to have access to Sensitive Information or otherwise be involved in providing the Services if, after having subjected the Services Worker to the personnel security screening requirements set out in Appendix J1 and any additional requirements the Contractor may consider appropriate, the Contractor is satisfied that the Services Worker does not constitute an unreasonable security risk. The Contractor must create, obtain and retain Records documenting the

Contractor's compliance with the security screening requirements set out in Appendix J2 in accordance with the provisions of that appendix.

#### **Logging and Monitoring All Access to Sensitive Information and Equipment**

5. Subject to section 6, the Contractor must create and maintain detailed Records logging the activities of all Service Workers in relation to:
  - (a) their access to Sensitive Information and Equipment; and
  - (b) other matters specified by the LDB in writing, acting reasonably, for the purposes of this section.
6. The Records described in section 5 must be made and maintained in a manner, and contain information, specified in Appendix J2.

#### **Facilities and Equipment protection and access control**

7. The Contractor must create, maintain and follow documented processes that protect the Contractor's Facilities and Equipment that are used to provide the Services to ensure the confidentiality, integrity, and the availability of the information collected and generated. The processes must have the security controls specified in Appendix J4.
8. The Contractor must create, maintain and follow a documented process that limits access to the Contractor's Facilities and Equipment used to provide the Service to those authenticated persons who are authorized to have that access and for the purposes for which they are authorized. The Contractor must comply with the information access control requirements set out in Appendix J3.
9. If the LDB makes available to the Contractor any Facilities or Equipment of the LDB for the use of the Contractor in providing the Services, the Contractor must comply with any policies and procedures provided to it by the LDB in writing on acceptable use, protection of, and access to, such Facilities or Equipment.

#### **Sensitive Information access control**

10. The Contractor must:
  - (a) create, maintain and follow a documented process for limiting access to Sensitive Information to those persons who are authorized to have that access and for the purposes for which they are authorized, which process must include measures to verify the identity of those persons; and
  - (b) comply with the information access control requirements set out in Appendices J3 and J7.

#### **Integrity of Information**

11. The Contractor must:
  - (a) create, maintain and follow a documented process for maintaining the integrity of Information while possessed or accessed by the Contractor; and
  - (b) provide the financial information needed for the Office of the Auditor General to verify the integrity of the financial information in the annual financial statement audit.

12. For the purposes of section 11, maintaining the integrity of Information means that, except to the extent expressly authorized by the Agreement or approved in writing by the LDB, the Information has:
  - (a) remained as complete as when it was acquired or accessed by the Contractor; and
  - (b) not been altered in any material respect.

#### **Documentation of changes to processes**

13. The Contractor must create and maintain detailed Records logging any changes it makes to the processes described in sections 7, 8, 10 and 11.

#### **Incident Response**

14. The Contractor must ensure that the incident management policy is documented, followed, reviewed, updated in accordance with the provisions of Appendix J5.
15. If Contractor becomes aware that:
  - (a) unauthorized access, collection, use, disclosure, alteration or disposal of Information or Records containing Information; or
  - (b) unauthorized access to Facilities or Equipment has occurred or is likely to occur (whether or not related to a failure by the Contractor to comply with this Schedule or the Agreement), the Contractor must immediately (within 24 hours) notify the LDB of the particulars of that occurrence or likely occurrence. If the Contractor provides a notification under this section other than in writing, that notification must be confirmed in writing to the LDB as soon as it is reasonably practicable for the Contractor to do so.
16. If the LDB decides to conduct a review of a matter described in section 15 (whether or not the matter came to the attention of the LDB as a result of a notification under section 15), the Contractor must, on the request of the LDB, participate in the review to the extent that it is reasonably practicable for the Contractor to do so.

#### **Retention of Records**

17. Unless the Agreement otherwise specifies, the Contractor must retain all Records in the Contractor's possession that contain Information until directed by the LDB in writing to dispose of them or deliver them as specified in the direction.

#### **Storage of Records**

18. Until disposed of or delivered in accordance with the terms of the Agreement, the Contractor must store any Records in the Contractor's possession that contain Information in accordance with the provisions of Appendix J4, if attached.

#### **Security Governance**

19. The security of the Service must be governed in accordance with the provisions of Appendix J6.
20. In addition to complying with the Payment Card Industry Data Security Standards (PCI DSS) as it relates to the Service, the Contractor must assist with the LDB's compliance with PCI DSS. The Contractor must acknowledge in a written agreement (i.e. PCI DSS 12.8) that they are responsible for the security of cardholder data to the extent they possess or otherwise store, process or transmit on behalf of the LDB as part of the Services, or to the extent that they could impact the security of the LDB's Cardholder Data



Environment. The LDB should be provided annually a list of the PCI DSS requirements that the Contractor manages. The Contractor should annually provide their Attestation of Compliance to the LDB.

21. In addition to any other rights of inspection the LDB may have under statute, which if exercised, will be at LDB's expense (except where any inspection reveals a failure in any material respect by Shopify to comply with the provisions of this Schedule J (Security), in which case Shopify will reimburse the LDB for expenses reasonably incurred by LDB to conduct such inspection), the LDB may, as provided for in the Agreement, on reasonable notice to the Contractor, verify Contractor's compliance with this Schedule and the Contractor must permit, and provide reasonable assistance to, any such inspection, all as more particularly set out in and in compliance with Section 10.6 (Compliance Inspection) of the Agreement. In the exercise of LDB's rights pursuant to Section 10.6 of the Agreement, the LDB may, enter on the Contractor's premises to inspect and, at the LDB's discretion, copy (at LDB's cost):

- (a) any Records in the possession of the Contractor containing Information; or
- (b) any of the Contractor's Information management policies or processes (including the processes described in sections 7, 8, 10 and 11 and the logs described in sections 5 and 12) relevant to the Contractor's compliance with this Schedule, provided that such information (other than that portion of the Metadata, as defined in the License Agreement, that is LDB Confidential Information), shall be deemed Contractor Confidential Information and subject to the obligations of confidentiality as set out in the Agreement; and

provide reasonable assistance to, the exercise by the LDB of the LDB's rights under this section, including the investigation of a system breach.

#### **Interpretation**

22. In this Schedule, unless otherwise specified:
- (a) references to sections are to sections of this Schedule; and
  - (b) references to appendices are to the appendices attached to this Schedule.
23. Any reference to the "**Contractor**" in this Schedule includes any subcontractor retained by the Contractor to perform obligations under the Agreement, including, for greater certainty any Approved Subcontractor, and the Contractor must ensure that any such subcontractors comply with this Schedule.
24. The appendices attached to this Schedule are part of this Schedule.
25. If there is a conflict between a provision in an appendix attached to this Schedule and any other provision of this Schedule, the provision in the appendix is inoperative to the extent of the conflict unless the appendix states that it operates despite a conflicting provision of this Schedule.
26. If there is a conflict between:
- (a) a provision of the Agreement, this Schedule or an appendix attached to this Schedule; and
  - (b) a documented process required by this Schedule to be created or maintained by the Contractor the provision of the Agreement, Schedule or appendix will prevail to the extent of the conflict.
27. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.

## **Appendix J1**

### **Security Screening Requirements**

The personnel security screening requirements set out in this Appendix J1 are for the purpose of assisting the Contractor to determine whether or not a Services Worker constitutes an unreasonable security risk.

#### **Verification of education and professional qualifications**

1. The Contractor must verify, by reasonable means, any relevant education and professional qualifications of a Services Worker, obtain or create, as applicable, Records of all such verifications, and retain a copy of those Records.

#### **Verification of employment history and reference checks**

2. The Contractor must verify, by reasonable means, any relevant employment history of a Services Worker, which will generally consist of the Contractor requesting that a Services Worker provide employment references and the Contractor contacting those references. If a Services Worker has no relevant employment history, the Contractor must seek to verify the character or other relevant personal characteristics of the Services Worker by requesting the Services Worker to provide one or more personal references and contacting those references. The Contractor must obtain or create, as applicable, Records of all such verifications and retain a copy of those Records.

#### **Security interview**

3. The Contractor must allow the LDB to conduct a security-focused interview with a Services Worker if the LDB identifies a reasonable security concern and notifies the Contractor it wishes to do so.

## **Appendix J2**

### **Logging and Monitoring Requirements**

#### **Logging**

1. Implement logging to link all access to system components to each individual user.
2. Implement logging for all Equipment to record the following events:
  - All individual user accesses to sensitive information;
  - All actions taken by any individual with root or administrative privileges;
  - System configuration changes;
  - Access to logs;
  - Initialization, stopping, or pausing of logging; and
  - Use of and changes to identification and authentication mechanisms (e.g. creation of new accounts and elevation of privileges).
3. For each event at least the following should be logged: user identification, date and time, origination of event, and identity or name of affected system component.
4. Using time-synchronization technology, synchronize all critical system clocks and times to ensure critical systems have correct and consistent time, time data is protected, and time settings are received from industry-accepted time sources.
5. Secure logs (e.g. through access controls, backup to a centralized log server, or file-integrity monitoring software) so they cannot be altered.
6. Retain logs for at least one year, with a minimum of three months immediately available for analysis (e.g. online, archived, or restorable from backup).

#### **Monitoring**

7. Analyze logs and security events on an ongoing basis for all Equipment to identify anomalies or suspicious activities. Follow up exceptions and anomalies identified during the review.
8. Ensure that security policies and operational procedures for monitoring all access to Equipment and sensitive information are documented, in use, and known to all affected parties.
9. Use intrusion-detection and/or intrusion-prevention techniques to detect and/or prevent intrusions into the network. Monitor all traffic at the network perimeter as well as critical points, and alert personnel to suspected compromises.
10. Deploy a change-detection mechanism (e.g. file-integrity monitoring tool) to alert personnel to unauthorized modification of critical system files; configuration files, or content files.

## **Appendix J3**

### **Access Control Requirements**

#### **Identify and Authenticate Users**

1. Define and implement policies and procedures that ensure secure user identification management for non-consumer users and administrators on all system components, therefore:
  - Assign all users a unique ID;
  - Control addition, deletions, and modification of user IDs, credentials, and other identifier objects; and
  - Immediate revocation of access for terminated users.
2. Ensure proper non-consumer and administrator user-authentication management by employing at least one of the following authentication mechanisms:
  - Something you know, such as a password or passphrase;
  - Something you have, such as a token device or smart card; and/or
  - Something you are, such as a biometric.
3. Secure all individual non-console administrative access and all remote access to the Equipment using multi-factor authentication.

#### **Authorization**

4. Limit access to Equipment and Sensitive Information to only those individuals whose job requires such access.
5. Establish an access control system(s) for Equipment that restricts access based on a user's need to know, and is set to "deny all" unless specifically allowed.
6. Identify and segregate conflicting duties and areas of responsibility to reduce incidents of fraud and other abuse (i.e. segregation of duties).

## **Appendix J4**

### **Facility and Equipment Security Requirements**

#### **Restrict Physical Access to Facility and Equipment**

1. Use appropriate facility entry controls to limit and monitor physical access to Facility and Equipment.
2. Develop procedures to easily distinguish between onsite personnel and visitors.
3. Control physical access for onsite personnel to sensitive areas on a need to access basis.
4. Implement procedures to identify and authorize visitors.
5. Physically secure all media. Maintain strict control over the internal or external distribution of any kind of media. Maintain strict inventory controls over the storage and accessibility of media. Destroy media when it is no longer needed for business or legal reasons.

#### **Secure Network**

6. Establish and implement firewall and router configuration standards.
7. Use network-level access control to limit connections to untrusted destinations.
8. Ensure all external network connections are disabled by default, and enabled only as necessary to provide the services.
9. Use network segmentation to ensure no employee devices or other portable devices is operated within service provision environment.
10. Design network architecture to mitigate the risk of distributed denial of service attacks.

#### **Hardening of Equipment**

11. Maintain an inventory of Equipment (i.e. system components).
12. Always change vendor-supplied defaults and remove or disable unnecessary default accounts before installing a system on the network.
13. Develop configuration standards for all system components. Assure that these standards address all known security vulnerabilities and are consistent with industry-accepted system hardening standards.

#### **Protect All Systems from Malware**

14. Deploy anti-virus software on all systems commonly affected by malicious software.
15. Ensure that all anti-virus mechanisms are maintained (e.g. kept current, periodic scans performed).
16. Ensure that anti-virus mechanisms are actively running and cannot be disabled or altered by users, unless specifically authorized by management on a case-by-case basis for a limited time period.

#### **Develop and Maintain Secure Systems and Applications**

17. Establish a process to identify security vulnerabilities, using reputable outside sources for security vulnerability information, and assign a risk ranking to newly discovered security vulnerabilities.

18. Ensure that all system components that are software are protected from known vulnerabilities by installing applicable vendor- supplied security patches. Install critical security patches within one month of release.
19. Develop internal and external software applications securely (i.e. based on industry standards and/or best practices, incorporating information security through-out the software-development life cycle).
20. Address common coding vulnerabilities in software-development processes by implementing secure coding guidelines and training developers in up-to-date secure coding techniques.
21. The Contractor must ensure that development, test, and training environments use clean test data (i.e. non-production data). If production data is needed for these environments, the data must be obfuscated such as data masking. Development, test and training environments are separated from production environments.
22. For public-facing web applications address new threats and vulnerabilities on an ongoing basis and ensure these applications are protected against known attacks by methods such as:
  - Reviewing public-facing web applications via manual or automated application vulnerability security assessment tools or methods, at least bi-weekly;
23. Follow change control processes and procedures for all changes to system components.

#### **Regularly Test Security Systems and Processes**

24. Regularly (quarterly) test for the presence of wireless access to detect and identify all authorized and unauthorized wireless access points in the Contractor's Facility and Equipment.
25. Run internal and external network vulnerability scans at least quarterly and after any significant change in the network.
26. Perform external and internal penetration testing at least annually and after any significant infrastructure or application upgrade or modification in accordance with an industry-accepted penetration test methodology the Contractor has implemented. Exploitable vulnerabilities found during the penetration testing are corrected and testing is re-performed to verify the corrections.

## **Appendix J5**

### **Incident Response Requirements**

1. Create an Incident Response Plan to be implemented in the event of system breach. The plan should include the following:
  - Roles, responsibilities, and communication and contact strategies in the event of a compromise;
  - Specific incident response procedures (i.e. identification, containment, remediation, recovery, and lessons learned); and
  - Create system operations playbooks to be implemented in the event of an operational incident. The playbooks should include the following:
    - (i) System redundancies and recovery procedures;
    - (ii) Business recovery and continuity procedures; and
    - (iii) Data backup processes.
2. Review and test the plan at least annually.
3. Designate specific personnel to be available on a 24/7 basis to respond to alerts.
4. Provide appropriate training to staff with security breach response responsibilities.
5. Develop a process to modify and evolve the incident response plan according to lessons learned to incorporate industry developments.
6. Conduct appropriate actions as needed to investigate an incident, breach or compromise.
7. Take appropriate actions to remediate the incident, breach, or compromise.
8. Where an incident affects LDB data, provide the LDB with a sanitized version of the investigation report.
9. Provide adequate investigative support to the LDB to enable the LDB to conduct its own security investigations into information incidents

## **Appendix J6**

### **Security Governance Requirements**

1. Establish, publish, maintain, and disseminate a security policy
2. Develop usage policies for critical access control technologies and define proper use of these technologies.
3. Ensure that the security policy and procedures clearly define information security responsibilities for all personnel.
4. Assign to an individual or team the following information security management responsibilities:
  - Establish, document, and distribute security policies and procedures.
  - Monitor and analyze security alerts and information, and distribute to appropriate personnel.
  - Establish, document, and distribute security incident response and escalation procedures to ensure timely and effective handling of all situations.
  - Administer user accounts, including additions, deletions, and modifications.
  - Monitor and control all access to data.
5. Provide security awareness training to all personnel.
6. The Contractor must ensure that at all times demonstrate compliance with the selected security standard via a certification with attestation. At the request of the LDB or at least annually, the Contractor provides satisfactory evidence of the certification with attestation of compliance.
7. Implement a security threat and risk-assessment process performed at least annually and upon significant changes to the Equipment that identifies critical Equipment, threats, and vulnerabilities and results in a formal, documented analysis of risk. At the request of the LDB, at a frequency no more than annually, the Contractor assists the LDB with the Province's security threat and risk analysis.



**Appendix J7**  
**Sensitive Information**

1. All personally-identifiable information, sales transaction data (other than Aggregated Statistical Information), wholesale customer information and inventory information provided by and collected on behalf of the Liquor Distribution Branch is Sensitive Information.
2. Keep sensitive information storage to a minimum by implementing data retention and disposal policies, procedures, and processes in accordance with all applicable laws.
3. The Contractor must implement and maintain the logical isolation of the LDB's information at all times, including keeping all LDB Data logically segregated from all other data and information, including any information of Contractor or third parties, in a secure manner.
4. The Service should not collect and the Equipment should not store cardholder data and/or sensitive authentication data, i.e. the Service, Equipment or Facilities should **not** be within the PCI Cardholder Data Environment;
5. The Contractor will use strong cryptography and security protocols that meet or exceed the then current Payment Card Industry Data Security Standards (PCI DSS) definition of 'strong cryptography' to safeguard sensitive information and will ensure all LDB Data is and remains encrypted at rest and in transit (including over both private and public networks).

**MASTER SERVICES AGREEMENT**  
**SCHEDULE K –DEFECT SEVERITY DEFINITIONS**

<b>Defect Severity Level</b>	<b>Definition</b>	<b>Action</b>
Blocker (Severity 1)	<p>Blocker means that the Defect is critical to the operation of the application. There is no workaround. Blocker types are the following:</p> <ul style="list-style-type: none"> <li>• The Defect crashes the application being tested</li> <li>• The application does not start up</li> <li>• The Defect causes critical data loss</li> <li>• Technical support is needed – time outs, run time errors, web services errors are generated</li> </ul>	Immediate action is required from the development and system support team
Major (Severity 2)	<p>Major severity Defects are road blocks of testing an application. Workaround for obtaining the required results are unsatisfactory or do not exist. Major severity types include the following:</p> <ul style="list-style-type: none"> <li>• Functionality or workflow of feature is not functioning as described on the functional specification</li> <li>• Feature is missing all together</li> <li>• Major features do not work as documented</li> <li>• Application performance is outside agreed-upon non-functional requirements</li> <li>• Memory leaks are present</li> </ul>	Immediate action is required from the development team
Medium (Severity 3)	<p>Medium severity Defects describe a feature that is not working correctly. There is a satisfactory workaround; the application could be released if the Defect is properly documented. The types are the following:</p> <ul style="list-style-type: none"> <li>• Important but not critical to the function of the application is not working</li> <li>• Can continue testing</li> </ul>	Immediate action is required from the development team. They have to be resolved before the final build.

	<ul style="list-style-type: none"> <li>• Reports are not recognizing an option correctly but still can be generated</li> <li>• Defect causes the system to produce incorrect, incomplete or inconsistent results or affects its usability</li> </ul>	
Minor (Severity 4)	<p>Minor severity Defects are not road blocks to the functionality of an application. A workaround exists and the impairment is slight. The types include:</p> <ul style="list-style-type: none"> <li>• Minor problems such as tab order is not flowing properly</li> <li>• Messaging is difficult to understand or is misleading</li> <li>• Poor performance for non-critical tasks</li> </ul>	Action is required from the development team. However, it is expected that the final build will address the Minor severity Defects relevant to that build.
Cosmetic (Severity 5)	<p>Cosmetic severity Defects do not affect functionality of an application but they do affect the look and feel or are suggestions from improvement. The types include:</p> <ul style="list-style-type: none"> <li>• Cosmetic problems such as spelling mistakes, font &amp; text size</li> <li>• Alignment of fields is not as specified in the functional requirements</li> <li>• Suggestions on the user interface that make the feel and look of the application easier</li> <li>• Enhancements to the application</li> <li>• Enhancement for usability</li> </ul>	A patch after the release can address this type of Defects.

## MASTER SERVICES AGREEMENT

### SCHEDULE L –STABILIZATION SUPPORT AND WARRANTY SERVICES

#### 1. Stabilization Support and Warranty Services:

##### 1.1 Service Description:

- (a) During the Stabilization Support and Warranty Period for each Deployment Deliverable, Contractor will provide: (i) the Services set out in Appendix N1 to this Schedule (the “**Stabilization Support and Warranty Services**”) as part of the Services under the SOW under which the applicable Deployment Deliverable is delivered; and (ii) dedicated on-site Contractor personnel to provide the Stabilization Support and Warranty Services.
- (b) On or before 90 days prior to the Milestone Deadline for Go Live for each Deployment Deliverable, Contractor will deliver to the LDB its proposed list of dedicated on-site Contractor personnel who will perform the Stabilization Support and Warranty Services (the “**Stabilization Support and Warranty Services Contractor Personnel List**”), which will include a list of escalation contacts for purposes of Appendix N1 to this Schedule. The Contractor personnel set out in the Stabilization Support and Warranty Services Contractor Personnel List will have the required knowledge and expertise to diagnose, respond to and complete the implementation of the corrective actions required under Appendix N1 of this Schedule. Upon the LDB’s approval of the Stabilization Support and Warranty Services Contractor Personnel List, the Contractor personnel listed therein will be deemed to be Key Member and Contractor will ensure such Contractor personnel are available to provide the Stabilization Support and Warranty Services on a dedicated basis.

##### 1.2 Stabilization Support and Warranty Service Levels and Remedies:

- (a) Contractor will perform the Stabilization Support and Warranty Services in a manner that meets or exceeds the applicable Service Levels for such Services set out in Appendix N1 to this Schedule.
- (b) Without limiting the LDB’s other rights and remedies under this Statement of Work or the Agreement, or at law or in equity, if Contractor fails to meet or exceed the Service Levels for Stabilization Support and Warranty Services set out in Appendix N1 to this Schedule, the LDB will be entitled to the remedies set out in Appendix N1 to this Schedule.

**APPENDIX L1**  
**DESCRIPTIONS OF STABILIZATION SUPPORT AND WARRANTY SERVICES**

**1. Stabilization Support and Warranty Services:**

This Appendix:

- (a) describes the Stabilization Support and Warranty Services that Contractor is required to provide to the LDB pursuant to section 1.1 of the Schedule L;
- (b) establishes the Stabilization Support and Warranty Service Levels with which Contractor is required to comply in providing the Stabilization Support and Warranty Services;
- (c) establishes the remedies available to the LDB and the escalation procedures that the LDB and Contractor will follow in the event that Contractor fails to meet applicable Stabilization Support and Warranty Service Levels; and
- (d) describes Contractor's tracking and reporting obligations related to the Stabilization Support and Warranty Service Levels.

**2. Definitions:**

In this Appendix, the following terms will have the following meanings

- (a) **"Contractor Support Team"** means the Key Members providing Stabilization Support and Warranty Services, which are initially set out in LDB-approved Stabilization Support and Warranty Services Contractor Personnel List but may change from time to time in accordance with the Key Member-related provisions of the Agreement.
- (b) **"Escalation"** means the individual Contractor personnel to whom an Incident will be escalated in the event that Contractor misses a Response Time, Time to Cure or Update deadline in respect of that Incident by the length of time indicated in the Escalation column.
- (c) **"Final Holdback Amount"** means, with respect to a Deployment Deliverable, the Holdback for the final Milestone under the SOW under which the Deployment Deliverable is delivered.
- (d) **"Mean Time to Cure Percentage"** means, in respect of a 1-High Priority Incident, 2-Medium Incident or 3-Low Incident, as applicable, the total number of times during the Stabilization Support and Warranty Period that Contractor achieved Resolution of such category of Incident within the Time to Cure specified for that category of Incident divided by the total number of times during the Stabilization Support and Warranty Period that such category of Incident arose, expressed as a percentage.
- (e) **"Mean Time to Patch Percentage"** means, in respect of a 1-High Priority Incident, 2-Medium Incident or 3-Low Incident, as applicable, the total number of times during the Stabilization Support and Warranty Period that Contractor implemented a Workaround for that category of Incident within the Time to Patch specified for that category of Incident divided by the total number of times during the Stabilization Support and Warranty Period that such category of Incident arose, expressed as a percentage.
- (f) **"Mean Time to Respond Percentage"** means, in respect of a 1-High Priority Incident, 2-Medium Incident or 3-Low Incident, as applicable, the total number of times during the Stabilization Support and Warranty Period that Contractor responded to an Incident (whether notified of the Incident by the LDB or Contractor identifies the Incident) within the Response Time for that category of Incident divided by the total number of times during the Stabilization Support and Warranty Period that such category of Incident arose, expressed as a percentage.

- (g) **“Response Time”** means: (i) in the event that the LDB first identifies an Incident and notifies Contractor of such Incident, the time period following the receipt of such notice by Contractor within which Contractor must deliver a response to the LDB confirming that Contractor received such notice; and (ii) in the event that Contractor first identifies an Incident, the time period following such identification within which Contractor must deliver a notice to the LDB informing it of such Incident.
- (h) **“Stabilization Support and Warranty Service Levels”** or **“Warranty Service Levels”** means the Service Levels described in the table in section 4.
- (i) **“Time to Cure”** means: (i) in the event that the LDB first identifies an Incident and notifies Contractor of such Incident, the time period following receipt of such notice by Contractor within which Contractor must achieve Resolution of that Incident; and (ii) in the event that Contractor first identifies an Incident, the time period following such identification within which Contractor must achieve Resolution of that Incident.
- (j) **“Time to Patch”** means: (i) in the event that the LDB first identifies an Incident and notifies Contractor of such Incident, the time period following receipt of such notice by Contractor within which Contractor must implement a Workaround for that Incident; and (ii) in the event that Contractor first identifies an Incident, the time period following such identification within which Contractor must implement a Workaround for that Incident.
- (k) **“Update”** means the frequency with which all members of the Contractor Support Team involved in the Resolution of an Incident will provide updated information concerning Resolution of the Incident to the LDB’s applicable personnel.
- (l) **“Workaround”** means a temporary modification of, addition to or deletion from the Deployment Deliverable that bypasses an Incident and enables the Deployment Deliverable to conform to and perform in accordance with its Specifications in all material respects.

### 3. **Stabilization Support and Warranty Services**

#### 3.1 **System Support Services**

- (a) Contractor will perform the following Solution support services for the LDB:
  - (i) Contractor will respond to Incidents identified by Contractor or reported by the LDB, provide updated information to the LDB regarding all Incidents, achieve Resolution of and implement any fixes required in the course of such Resolution for all Incidents, and escalate all Incidents in accordance with section 4.2.
  - (ii) Contractor will make modifications to the Documentation (including any additional material provided pursuant to section 3.1 of this Appendix) and provide such modified Documentation to the LDB so that the Documentation in the possession of the LDB is up to date, accurate and complete at all times.
- (b) In providing the Services described in this section 3.1, the Contractor Support Team will be accessible and will respond to communications received from the LDB via telephone or email.

#### 3.2 **Tracking and Reporting Services.** Contractor will comply with the following Deployment Deliverable tracking and reporting requirements:

- (a) **Daily Tracking and Reporting.**
  - (i) Contractor will maintain complete and accurate logs of all Incidents using the LDB’s ticketing system. Without limiting the foregoing, the Contractor Support Team will maintain complete and accurate logs of all communications received. All such logs will contain: (A) the identity of each individual initiating the communication; (B) the contact information for the individual initiating

the communication; (C) a detailed description of the issue that is the subject of the communication; and (D) any other relevant information provided by the individual initiating the communication.

- (ii) For each communication received by the Contractor Support Team, the Contractor Support Team will assign a tracking number and will advise the individual initiating the communication of the number assigned. The Contractor Support Team will also advise the individual initiating the communication of the course of action it will take to resolve the issue or problem that is the subject of the communication.
  - (iii) Contractor will provide any information reasonably requested by the LDB, at any time, relating to Contractor's performance of the obligations set out in this Appendix.
- (b) *Monthly Stabilization Support and Warranty Period Tracking and Reporting.* No later than 5:00 p.m. on the fifth day following the end of each calendar month during the Stabilization Support and Warranty Period and the fifth day following the end of the Stabilization Support and Warranty Period, Contractor will provide the LDB with a report in a form acceptable to the LDB, acting in a commercially reasonable manner, which includes the following information (based on data from the LDB's ticketing system that is provided to Contractor by the LDB):
- (i) the Mean Time to Patch Percentage and the Mean Time to Cure Percentage for each category of Incident during the Stabilization Support and Warranty Period and all details relevant to the calculation of such percentages;
  - (ii) for each Incident reported, a complete record of the diagnosis of, response to and all actions taken in response to such Incident, including the classification of such Incident (i.e. as a 1-High Priority Incident, 2-Medium Incident or 3-Low Incident), the Response Time for such Incident, the Time to Cure for such Incident and any Escalation required in respect of such Incident; and
  - (iii) details of Contractor's compliance with all other Stabilization Support and Warranty Service Levels set out in section 4.

### **3.3 On-site Support**

- (a) *On-site Support.* For the first 30 days during the Stabilization Support and Warranty Period with respect to each Deployment Deliverable, Contractor will provide dedicated on-site support to the LDB for at least 4 days each week during such 30-day period. Contractor shall ensure that its on-site support team consists of at least three Contractor Support Team members and includes a combination of functional and technical team members with skills in each of relevant modules and applications.

## **4. Stabilization Support and Warranty Service Levels**

### **4.1 Hours**

- (a) Contractor will provide all Stabilization Support and Warranty Services during Business Hours. For greater certainty, nothing in this Appendix will be construed to limit or otherwise derogate from Contractor's obligation to provide Stabilization Support and Warranty Services in accordance with the Stabilization and Support Warranty Service Levels set out in this Appendix (including the obligation to respond to, provide Workarounds for and achieve Resolution of Incidents in accordance with section 4.2) during Business Hours.

### **4.2 Notification, Response, Resolution and Escalation**

- (a) During the Stabilization Support and Warranty Period, the LDB or Contractor, as the case may be, will notify the other forthwith upon becoming aware of any Incident. The LDB may provide such notice to Contractor via any of the methods set out in section 3.1(b). The LDB, acting reasonably, will have the right to classify or re-classify by written or verbal notice each such Incident as a 1-High Priority Incident, 2-

Medium Incident or 3-Low Incident (including, for certainty, the right to escalate the classification of an Incident previously classified by the LDB to a higher priority level).

- (b) If the LDB elects to re-classify an Incident, then, for the purposes of calculating Contractor's achievement of the relevant Stabilization Support and Warranty Service Levels, the following rules will apply:
- (i) the Warranty Service Level applicable to the period of time within which Contractor is required to achieve Resolution of the Incident will be the Warranty Service Level that applies for the severity level once the Incident has been re-classified;
  - (ii) the calculation of the period of time within which Contractor achieves Time to Cure or Time to Patch of the Incident will commence as of the time that the LDB notifies Contractor of the re-classification of the Incident; and
  - (iii) for the purpose of calculating Contractor's achievement of Warranty Service Levels and the LDB's entitlement to remedies for Contractor's failure to meet any Stabilization Support and Warranty Service Levels, the Stabilization Support and Warranty Service Levels and remedies that will apply will be the Stabilization Support and Warranty Service Levels that apply based on the definition within which the Incident was ultimately re-classified.
- (c) Upon becoming aware of an Incident during the Stabilization Support and Warranty Period, Contractor will respond to and update the LDB implement Workarounds for the Incident, achieve Resolution of the Incident and escalate all Incidents in accordance with the requirements set out below. In addition to the Escalation level requirements set out in the table below, the LDB personnel may request that an Incident be escalated to the next level of escalation at any time by written or verbal notice to the corresponding Contractor personnel, and Contractor will escalate such Incident as requested. For greater certainty, all timing requirements set forth in the table below are on a 24\*7\*365 basis.

Incident	Response Time	Update	Time to Patch	Time to Cure	Mean Time to Respond, Mean Time to Patch Percentage and Mean Time to Cure Percentage Service Level	Escalation
1-High Priority Incident	20 minutes	Every 30 minutes	1 day	5 days, provided the cure does not require a core change to the solution and if it requires a new release	95%	Immediately upon Contractor missing the applicable Response Time, Time to Cure or any Update, and updates or further escalation (as appropriate) every 40 minutes later



Incident	Response Time	Update	Time to Patch	Time to Cure	Mean Time to Respond, Mean Time to Patch Percentage and Mean Time to Cure Percentage Service Level	Escalation
2-Medium Incident	60 minutes	Every hour	3 days	10 days, provided the cure does not require a core change to the solution and if it requires a new release	95%	immediately upon Contractor missing the applicable Response Time, Time to Cure or any Update, and updates or further escalation (as appropriate) every 40 minutes later
3-Low Incident	4 hours	Every 2 hours	5 days	30 days, provided the cure does not require a core change to the solution and if it requires a new release	95%	immediately upon Contractor missing the applicable Response Time, Time to Cure or any Update, and updates or further escalation (as appropriate) every 90 minutes later

## 5. Remedies

### 5.1 Procedures to Address Warranty Service Level Failure

- (a) If Contractor fails to meet or exceed any Stabilization Support and Warranty Service Level, without limiting any other remedies and rights of the LDB under the Agreement including the applicable SOW, Contractor will comply with this section 5.

### 5.2 Warranty Service Level Failures, Remedies and Multiple Warranty Service Level Failures

- (a) If Contractor fails to meet or exceed any Stabilization Support and Warranty Service Level, then Contractor will provide the applicable remedies outlined herein to compensate the LDB in part for the reduced value of the Services actually provided by Contractor (and not as a penalty or exclusive liquidated damages). The payment remedies for Contractor's failure to meet or exceed Stabilization Support and Warranty Service Levels will be aggregated for all missed Stabilization Support and Warranty Service Levels in the Stabilization Support and Warranty Period for each Deployment Deliverable and can be paid by setting off against any Holdback.
- (b) Contractor agrees that the remedies outlined herein are only partial compensation for the damage that may be suffered by the LDB as a result of Contractor's failure to meet any Stabilization Support and Warranty Service Level (and not as a penalty or exclusive liquidated damages) and that payment of any such remedy

is without prejudice to any entitlement the LDB may have to damages or other remedies under the Agreement, at law or in equity.

- (c) If a single event or Incident results in Contractor failing to meet or exceed multiple Stabilization Support and Warranty Service Levels, then a remedy payment will only be payable with respect to one of such Stabilization Support and Warranty Service Levels, as selected by LDB, in its sole discretion, and if not selected by LDB, the Stabilization Support and Warranty Service Level in respect of which the largest remedy payment is payable.
- (d) Notwithstanding any other provision of this section 5, in no event will aggregate payment remedies with respect to a Deployment Deliverable as a result of Contractor's failure to meet or exceed any Stabilization Support and Warranty Service Level exceed 15% of the Final Holdback Amount for such Deployment Deliverable.

### 5.3 Remedy for Failure to Meet Mean Time to Respond Service Levels

- (a) If, during the Stabilization Support and Warranty Period, Contractor fails to meet or exceed the Service Levels relating to Mean Time to Respond as set out in section 4.2, then, subject to section 5.2(d), the LDB will be entitled to the remedy set out below:

Service Level Failure	Remedy
During the Stabilization Support and Warranty Period, Mean Time to Respond Percentage for 1-High Priority Incidents < 95% <u>OR</u> Mean Time to Respond Percentage for 2-Medium Incidents < 95% <u>OR</u> Mean Time to Respond Percentage for 3-Low Incidents < 95%	Credit against fees in an amount equal to 5% of the Final Holdback Amount for the applicable Deployment Deliverable

### 5.4 Remedies for Failure to Meet Mean Time to Patch and Mean Time to Cure Service Levels

- (a) If, during the Stabilization Support and Warranty Period, Contractor fails to meet or exceed one or more of the Service Levels relating to Mean Time to Patch and Mean Time to Cure as set out in section 4.2, then, subject to section 5.2(d), the LDB will be entitled to the remedy set out below:

Service Level Failure	Remedy
During the Stabilization Support and Warranty Period, 1-High Priority Incident Mean Time to Patch Percentage < 95% <u>OR</u> 1-High Priority Incident Mean Time to Cure Percentage < 95%	The payment by Contractor to the LDB of an amount equal to 10% of the Final Holdback Amount for the applicable Deployment Deliverable
During the Stabilization Support and Warranty Period, 2-Medium Incident Mean Time to Patch Percentage < 95% <u>OR</u> 2-Medium Incident Mean Time to Cure Percentage < 95%	
During the Stabilization Support and Warranty Period, 3-Low Incident Mean Time to Patch Percentage < 95% <u>OR</u> 3-Low Incident Mean Time to Cure Percentage < 95%	

- (b) For clarity, the remedy specified in the above table will only apply one time notwithstanding the number of Service Level Failures of the types described in the above table.

**MASTER SERVICES AGREEMENT  
SCHEDULE M –PROPOSAL EXTRACTS**

None.

**MASTER SERVICES AGREEMENT**  
**SCHEDULE N – CHANGE ORDER TEMPLATE**

Project Name:	<input type="text"/>	Request Number:	<input type="text" value="Sequential number for this Project"/>
SOW Number:	<input type="text"/>	Change Order Number:	<input type="text"/>
Requester Name:	<input type="text"/>	Request Date:	<input type="text"/>

Description of Scope Change:

*Provide a brief description. This field will be used to refer to the Scope Change by name.*

**Justification for Change:**

*Why is this change necessary?*

What is the business impact of not making this change?

What is the IT/Systems impact of not making this change?

Change Type:	<input type="text"/>	Change Severity:	<input type="text"/>
<i>(see below)</i>		<i>(see below)</i>	
Investigation Assigned to:	<input type="text" value="Who will investigate/assess the impact and viability of this change?"/>	Date Assigned:	<input type="text"/>

Impact of Change:

*State specifically what elements of the In-Scope section of the Project Charter/Project Plan this change will affect. Restate the In-Scope section and all other affected sections of the Project Charter/Project Plan here.*

This Scope Change makes the following changes to the Agreement, the referenced SOW and the Project described in the SOW: ●

Estimated impact on cost: \$● on project schedule: ● days

Implementation Timelines: ●

**Additional Documents:**

*If applicable, include additional documents that are part of this Scope Change:*

The following additional documents (copies attached) are part of this Scope Change: ●

**Decision on Change:** [Approve / Reject / Defer]

Project Sponsor

Date:

Project Manager

Date:

Principal Stakeholder - IT

Date:

Principal Stakeholder –  
Business

Date:

By signing above, the listed approving parties confirm that they have reviewed and understood this document, and provide their formal approval for the Scope Change to proceed to be designed and executed under the direction of LDB's Project Manager (subject to the signing of this document by both the Contractor and LDB below).

<b>Shopify Inc.</b>	<b>Her Majesty the Queen in the Right of the Province of British Columbia, represented by the Attorney General and the General Manager of the Liquor Distribution Branch</b>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

By signing the above, the Parties agree that this document is an amendment to the referenced SOW, is subject to the terms and conditions of the Master Services Agreement executed by the Parties (the “**Agreement**”) and constitutes a Change Order under the Agreement. Capitalized terms used in this Change Order have the meanings set forth in the referenced SOW and

the Agreement. Except as expressly set forth this Change Order, each of the SOW and the Agreement is and will remain in full force and effect.

## SOFTWARE-AS-A-SERVICE LICENSE AGREEMENT

This Software-as-a-Service License Agreement (“**Agreement**”) sets out the terms and conditions that govern the access to and use of the Shopify SaaS Services (as defined below) and the provision of the Support Services (as defined below), and is made and entered into as of June 18, 2018 (“**Effective Date**”) by and between **Her Majesty the Queen in the Right of the Province of British Columbia, as represented by the Attorney General and the General Manager of the Liquor Distribution Branch**, with offices at 2625 Rupert Street, Vancouver, British Columbia, Canada, V5M 3T5 (the “**LDB**”) and **Shopify Inc.**, with offices at 150 Elgin Street, 8th Floor, Ottawa, ON K2P 1L4 (“**Shopify**” or “**Contractor**”). Shopify and the LDB are sometimes referred to herein individually as a “**Party**” and together as the “**Parties**”.

### BACKGROUND

- A. The LDB has conducted a competitive procurement process for the purpose of establishing a strategic relationship with a company experienced in web design and development and digital strategy to provide an innovative, Responsive and Transactional, all-in-one B2B and B2C, eCommerce platform, website and digital services through a SaaS or Cloud service application including, implementation, integration, ongoing support and maintenance of a full eCommerce solution and to position the LDB for future demands for e-commerce, as more particularly described in Request for Proposals for eCommerce Project RFP2018-01-30 (the “**RFP**”).
- B. Shopify submitted a proposal in response to the RFP in which Shopify proposed a Cloud-based SaaS eCommerce solution based on the Service Software;
- C. The LDB and Shopify have entered into the MSA, pursuant to which Shopify will, among other things, implement and integrate the eCommerce Solution and, upon Go Live, will, under the Statement of Work for eCommerce Solution Steady State Services attached as Schedule B to the MSA (as may be amended from time to time, the “**eCommerce Services SOW**”), provide the eCommerce Solution (on a right to use and licensed basis) and maintenance and support services for the eCommerce Solution on the terms and conditions of this Agreement;
- D. In connection with the eCommerce Solution, the LDB wishes to obtain from Shopify a license and right to use and access the Service Software, SaaS Documentation and related Intellectual Property described in this Agreement, and Shopify agrees to supply and grant to the LDB a license and right to use access the Service Software, SaaS Documentation and related Intellectual Property described in this Agreement; and
- E. This Agreement sets out the terms and conditions governing the license and rights of the LDB to access and use the Shopify SaaS Services, SaaS Documentation (as defined herein) and related Intellectual Property of Shopify in connection with the provision of Services by Shopify under the eCommerce Services SOW, as well as the terms and conditions governing the Support Services.

### AGREEMENT

In consideration of the premises and the covenants and agreements herein contained, and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the Parties hereby agree as follows:

#### SECTION 1. DEEMED INCORPORATION OF CERTAIN MSA PROVISIONS

This Agreement will be deemed to incorporate by reference the following provisions of the MSA:

- (a) the following provisions of the General Terms and Conditions: section 1.2 (Principles of Construction); section 2.7(g) (Governance); section 5.1 (Canadian Services); section 7.2 (Compliance with laws); section 7.4(a) (Equipment/Materials – General); section 7.6 (Regulatory Investigation); section 7.7 (Business Continuity/Disaster Recovery); section 7.8 (Account



Management); section 7.9 (Notification); section 7.10 (Contractor Costs and Expenses); section 7.11 (Records and Audit); section 7.12 (No Reduction of Contractor Responsibilities); section 9.1 (Mutual Representations/Warranties); section 9.5 to the extent related to 9.1 (Application/Not Limitation); section 9.7 to the extent related to section 9.1 (Reliance); section 10 (Confidentiality, Personal Information Protection, Security and Related Matters) except for section 10.3(c) (No Removal/Remote Access); section 11.7 (Insurance); section 11.8 (Workers compensation); section 11.10 (Evidence of Coverage); section 13 (Dispute Resolution); section 14.1 (Language); section 14.2 (Force Majeure); section 14.3 (Relationship between the Parties); section 14.5 (Notices); section 14.6 (Enurement and Benefit); section 14.7 (Assignment), subject to the additional requirement set out in Section 10.6; section 14.8 (Participation in Procurement); section 14.9 (Conflicts of Interest); section 14.10 (Miscellaneous); and section 14.11 (Counterparts and Execution by Electronic Means); section 14.12 (Agreement Not Permit or Fetter); and

- (b) the following Schedules of the MSA: Schedule D (Privacy Protection Schedule) (“**Privacy Protection Schedule**”); Schedule G (Insurance); Schedule H (Governance), and Schedule J (Security) (“**Security Schedule**”).

Where provisions of the MSA are incorporated into this Agreement by reference, such provisions will apply with all of the necessary changes having been made, *mutatis mutandis*.

## SECTION 2. INTERPRETATION

### 2.1 MSA Defined Terms

Unless otherwise defined herein, capitalized terms used herein that are defined in the MSA will have the meaning set forth in the MSA and all such capitalized terms and definitions set out in the MSA are incorporated herein by reference. Except as expressly set out herein, no other terms of the MSA are incorporated in this Agreement and no such provisions shall have any force or effect with respect to the Shopify SaaS Services or Support Services.

### 2.2 Other Defined Terms

In addition to any other terms defined in this Agreement, the following capitalized terms have the following respective meanings.

- (a) “**Account**” means the online account the LDB uses to access Shopify SaaS Services.
- (b) “**Authorized Customer Users**” means any Customer User that the LDB permits to access and use any customer facing component of a Store.
- (c) “**Customer Users**” means any person who accesses and uses any customer facing component of a Store, including LDB’s wholesale and retail customers.
- (d) “**Delete**” means, with respect to LDB Content, the LDB Content (including back up and disaster recovery copies) is permanently deleted, erased or destroyed entirely and securely in such a way that it cannot be used by anyone else thereafter, and “**Deleted**” and “**Deletion**” will have corresponding meanings.
- (e) “**Harmful Code**” means any software, hardware or other technologies, devices, or means, the purpose or effect of which is to: (i) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner, any (A) computer, software, firmware, hardware, system or network, or (B) any application or function of any of the foregoing or the integrity, use, or operation of any data Processed thereby; or (ii) prevent the LDB or any authorized user from accessing or using the Shopify SaaS Services or Shopify Systems as intended by this

Agreement or the eCommerce Services SOW, and includes any virus, bug, Trojan horse, worm, backdoor, malware or other malicious computer code, and any time bomb or drop-dead device.

- (f) **“Hosting Subcontractor”** means (i) Google Canada Inc. or (ii) any other subcontractor of Shopify that replaces Google Canada Inc. (or a subsequent replacement subcontractor) as a hosting services provider to host the Shopify SaaS Services.
- (g) **“Infringement Allegation”** means a proven or unproven allegation or claim that the creation, possession, provision or Use of the Shopify SaaS Services, the Support Services or Shopify IP misappropriates, infringes or violates the IP Rights of any person.
- (h) **“LDB Content”** means any photos, images, videos, graphics, written content, audio files, code, information, data or other content, that is (i) uploaded, submitted, posted, transferred, transmitted, or otherwise provided or made available by or on behalf of the LDB or any Customer User, (ii) collected, downloaded, or otherwise received by Shopify or the Shopify SaaS Services for the LDB or any Customer User, or (iii) generated, stored, displayed, distributed or exhibited, in connection with the LDB’s Store, the Shopify SaaS Services or Support Services. All output, copies, reproductions, improvements, modifications, adaptations, translations, and other derivative works of, based on, derived from, or otherwise using any LDB Content are themselves also LDB Content. For the avoidance of doubt, LDB Content includes all Metadata and LDB Content is LDB Data.
- (i) **“Metadata”** means any and all data or other information reflecting the access or use of the Shopify SaaS Services or Support Services by or on behalf of the LDB or any Customer User or the LDB’s Store, including end user profile, visit, session, impression, click-through or click-stream data, log records, telemetry data and any statistical or other analysis, information, or data based on or derived from any of the foregoing, except for any Shopify log records, data therein and telemetry data to the extent that such log records and data does not identify the LDB and/or include any Personal Information. For clarity, Metadata includes Aggregated Statistical Information.
- (j) **“MSA”** means the master services agreement between the LDB and Shopify made as of June 18, 2018, as amended from time to time, including, without limitation, the eCommerce Services SOW.
- (k) **“Process”** means to take any action or perform any operation or set of operations on any data, information, material, work, expression or other content, including to (i) collect, receive, input, upload, download, record, reproduce, store, organize, combine, log, catalog, cross-reference, manage, maintain, copy, adapt, alter, translate, or make other improvements or derivative works, (ii) process, retrieve, output, consult, use, disseminate, transmit, submit, post, transfer, disclose, or otherwise provide or make available, or (iii) block, erase, or destroy. **“Processing”** and **“Processed”** have correlative meanings.
- (l) **“SaaS Documentation”** means the user guide(s), user instructions, update notes, manuals, help files and any other similar documentation in the form generally made available by Shopify, online or otherwise, to its customers regarding the use of the Shopify SaaS Services, including any such documentation that describes the functions and features of the Shopify SaaS Services, as such documentation is updated and provided or made available to the LDB from time to time.
- (m) **“SaaS Specifications”** means the Specifications, including functional and performance specifications and requirements, for the Shopify SaaS Services set out in the eCommerce Services SOW, this Agreement, and to the extent consistent with and not limiting the foregoing, the SaaS Documentation, subject to updates in accordance with Section 3.5.
- (n) **“Service Software”** means the Shopify software and any third party or other software, and all new versions, updates, revisions, improvements and modifications of the foregoing software, that is designed to operate on any Shopify System and that Shopify provides remote access to and use of as part of the Shopify SaaS Services on a software as a service basis.

- (o) **“Shopify Systems”** means the information technology infrastructure used by or on behalf of Shopify in providing the Shopify SaaS Services or Support Services or both, including all computers, software, hardware, databases, electronic systems (including database management systems), networking devices (including but not limited to hubs, switches, routers, and firewalls) and networks, whether operated directly by Shopify or through the use of third-party services, including all infrastructure on which any LDB Content is stored.
- (p) **“Store”** means an online store provided by Shopify as part of the Shopify SaaS Services pursuant to which the LDB can sell products to consumers and/or business to the extent such sales by the LDB are permitted by laws applicable to the LDB.
- (q) **“Transaction”** means all Store processed sales orders.

## 2.3 Order of Precedence

If there is any conflict with or inconsistency between the provisions of the main body of this Agreement, any provisions of the MSA incorporated herein by reference and any of Appendices attached hereto, the order of precedence will be as follows:

- (a) the Privacy Protection Schedule;
- (b) the Security Schedule;
- (c) the main body of this Agreement and eCommerce Services SOW with equal priority;
- (d) the AUP and other Appendices of this Agreement with equal priority; and
- (e) the other provisions of the MSA incorporated herein by reference.

## 2.4 Other Forms and Embedded Agreements

Subject to Section 5.3, purchase orders, ordering documents, forms of acceptance, invoices, acknowledgements, confirmations, and other documents issued by a Party in connection with this Agreement are for administrative convenience only, and the terms and conditions (if any) contained in those documents are of no force or effect and do not in any way amend this Agreement even if signed and returned by the other Party.

## 2.5 Appendices

The Appendices to this Agreement are incorporated into and form part of this Agreement.

# SECTION 3. SERVICES

## 3.1 Shopify SaaS Services License

As of Go Live, Shopify hereby grants the LDB, exercisable by and through its users, a limited, non-exclusive, revocable (by termination of this Agreement pursuant to Section 5) non-transferable (except as permitted under Section 10.6) right and license during the Term and such additional periods, if any, provided under this Agreement, to:

- (a) access and use the eCommerce Solution described in the eCommerce Services SOW (the **“Shopify SaaS Services”**), including in operation with other software, hardware, systems, networks and services to the extent contemplated in the MSA or a Statement of Work, solely for the purposes of using the Shopify SaaS Services in accordance with this Agreement (including the LDB obligations under Section 4) and the eCommerce Services SOW, including for Processing LDB Content and testing the Shopify SaaS Services;

- (b) to the extent the Shopify SaaS Services provides the functionality, generate, print, copy, upload, download, store and otherwise Process all graphical user interface (GUI), audio, visual, digital and other output, displays and content as may result from any access to or use of the Shopify SaaS Services in compliance with this Agreement;
- (c) prepare, reproduce, print, download and use as many copies of the SaaS Documentation as may be useful in connection with the LDB's use of the Shopify SaaS Services in compliance with this Agreement; and
- (d) grant any and all such sublicenses as may be required to authorize third parties (including, without limitation, customers, suppliers, sales channel partners and product end users) to exercise, solely for the LDB's benefit and on its behalf, the license rights set forth in this Section 3.1.

### 3.2 **Shopify IP**

The LDB acknowledges and agrees that: (a) the Shopify SaaS Services, including without limitation any associated software, documentation, applications, websites, tools and products (including any storefront design templates found in Shopify's Theme Store), and any modifications, successors, enhancements and updates thereto, and all Intellectual Property Rights therein (collectively, "**Shopify IP**") are exclusively owned by Shopify and/or Shopify's third party providers; and (b) the LDB has no rights in the Shopify IP, other than the rights and licenses granted herein.

### 3.3 **Service Levels**

- (a) Shopify shall provide the Shopify SaaS Services in a manner that meets or exceeds the service levels set out in Appendix A and the Support Services in a manner that meets or exceeds the service levels set out in Appendix B (collectively, the "**Service Levels**").
- (b) Shopify recognizes that its failure to meet any Service Level may have a material adverse impact on the business and operations of the LDB and that damages resulting from Contractor's failure to meet any Service Level may not be capable of precise determination. If Contractor fails to meet any Service Level (each such failure, a "**Service Level Failure**") the LDB may, in its sole discretion, require that Shopify discuss the cause of such Service Level Failure and the steps that Shopify proposes to take in order to remedy the Service Level Failure in accordance with Appendix A or Appendix B, as applicable.

### 3.4 **Support and Maintenance**

- (a) Shopify shall support and maintain the Shopify SaaS Services as contemplated in, and in accordance with, Appendix B (the "**Support Services**").
- (b) Subject to the requirements of Section 33.1(1)(p) of FOIPPA, the LDB directs that Shopify may, if and to the extent necessary for Shopify to provide the Support Services in accordance with this Agreement, temporarily access and disclose LDB Content, including any personal information (as defined in the Privacy Protection Schedule) included therein, outside Canada.

### 3.5 **Updates to Shopify SaaS Services**

- (a) Shopify shall have the right from time to time during the Term to make updates to the Shopify SaaS Services (including the Service Software), including by modifying or removing one or more of the features of the Stores, provided that: (i) such updates do not result in any material adverse change to the features and functionality of the eCommerce Solution as of Go Live and (ii) such updates are of general applicability to Shopify Plus customers. All such updates will be provided by Shopify without any additional or increase to fees. If Shopify incorporates any lost or reduced functionality into a new product or service and continues to offer both products and services to its customers, the

LDB will have the option of choosing to obtain the new product or service at no additional fee or cost.

- (b) Shopify will implement all updates to the Shopify SaaS Services in accordance with Shopify's change/release management process set out in Appendix E which may be updated, supplemented or otherwise modified from time to time in Shopify's sole discretion.
- (c) For clarity, the scope of updates to the Shopify SaaS Services described in this Section 3.5 do not include any amendments to the terms and conditions of this Agreement, including the Privacy Protection Schedule and Security Schedule, or the eCommerce Services SOW.

### **3.6 Fully Managed SaaS Service**

Subject to Section 4.9 (LDB Dependencies), Shopify will be responsible for all hardware, software, systems, documentation, facilities, personnel, supporting business processes and other resources used or required to be used in order to provide the Shopify SaaS Services and Support Services, whether or not such resources are expressly described in this Agreement, including the Shopify Systems.

### **3.7 Changes in Privacy Law**

During the Term, in the event that obligations set out herein (including in Schedule D (Privacy Protection Schedule), Schedule J (Security) and section 10 (other than section 10.3(c)) of the General Terms and Conditions incorporated by reference herein) that are intended to address the LDB's compliance with FOIPPA are no longer required as a result of changes to FOIPPA, either Party may propose a Change to delete or modify such obligations in accordance with the change management process set out in section 3 of the General Terms and Conditions and such process shall apply with respect to any such proposed Change.

## **SECTION 4. LDB OBLIGATIONS**

### **4.1 Use of the Services**

- (a) The LDB may not use the Shopify SaaS Services in violation of the AUP or any other purpose not authorized under this Agreement nor may the LDB, in the use of the Shopify SaaS Services, violate any laws (including but not limited to copyright laws) applicable in British Columbia. The LDB will comply with all laws applicable in British Columbia in its use of the Shopify SaaS Services.
- (b) The LDB agrees not to reproduce, duplicate, copy, sell, resell or exploit any portion of the Shopify SaaS Services without the express written permission of Shopify.

### **4.2 Store Terms of Service and Privacy Policy**

- (a) The LDB will post in a reasonably prominent manner on or in each Store, terms of service ("**Store Terms**") and a privacy policy ("**Store Privacy Policy**") applicable to Authorized Customer Users of the Store. The content of the Store Terms and Store Privacy Policy must be in compliance with laws applicable in British Columbia, including FOIPPA.
- (b) The LDB is solely responsible for all of the terms and conditions of the Transactions conducted on or through the Stores, including, without limitation, terms regarding payment, returns, warranties, shipping, handling, transportation, storage, insurance, fees, applicable taxes, title and licenses, all of which must be in accordance with applicable law. Other than the provision of the Shopify SaaS Services which provides the means to process Transactions, the LDB is solely responsible for the operation of, and Transactions processed through, the Stores.

### **4.3 Taxes for Transactions**

It is the LDB's responsibility to: (a) determine what, if any, taxes apply to Transactions occurring via a Store; and (b) collect, report and remit the correct tax to the appropriate tax authorities. Shopify is not responsible for determining whether taxes apply to a Transaction, or for collecting, reporting, or remitting any taxes arising from any Transaction.

#### **4.4 Content Back Up**

Subject to Shopify's responsibilities under Sections 9.3 and 9.4, the LDB is solely responsible for maintaining backups of the LDB Content, including but not limited to LDB management, inventory, product listings, sales, order and payment tracking data, financial data, reports and numeric results.

#### **4.5 Passwords**

LDB employees and LDB authorized Account users are responsible for keeping passwords that are in the LDB's possession secure. Shopify will not be liable for any loss or damage from the LDB's failure to maintain the security of its Account of any passwords that are in the LDB's possession.

#### **4.6 Search Engines**

The LDB shall not purchase search engine or other pay per click keywords (such as Google AdWords), or domain names that use "Shopify" or Shopify's trademarks and/or variations and misspellings thereof.

#### **4.7 Acceptable Use Policy**

The LDB shall access and use the Shopify SaaS Services in accordance with the Shopify Acceptable Use Policy attached hereto as Appendix C ("AUP").

#### **4.8 LDB Content**

- (a) The LDB understands and acknowledges that LDB Content displayed to Customer Users may require changes to conform and adapt to technical requirements of connecting networks or devices.
- (b) By uploading LDB Content, the LDB agrees: (i) to allow Authorized Customer Users to view the LDB Content the LDB posts for customer display to a Store; (ii) to allow Shopify to store, and in the case of LDB Content LDB posts for customer display, display, the LDB Content in accordance with this Agreement; and (iii) that Shopify can, at any time, review within Canada all the LDB Content submitted to Shopify SaaS Services, although Shopify is not obligated to do so. The LDB shall retain ownership over all LDB Content that is uploaded to a Store in accordance with Section 6.1; however, by posting LDB Content for customer display to a Store, the LDB agrees to allow Authorized Customer Users to view such LDB Content. The LDB is responsible for compliance of LDB Content with any applicable laws in accordance with Section 4.1(a).
- (c) Notwithstanding any other provision of this Section 4.8, LDB Content will not be (i) disclosed, sold, assigned, leased or otherwise provided or made available, intentionally or otherwise, by or behalf of Shopify to any third party, other than as expressly permitted by this Agreement; or (ii) commercially exploited by or on behalf of Shopify.
- (d) Shopify acknowledges and agrees that LDB Content is and will be at all times under the control, by legal or other reasons, of the LDB.

#### **4.9 LDB Dependencies**

The LDB acknowledges and agrees that the access to and use of the Shopify SaaS Services and provision of the Support Services as contemplated in this Agreement is dependent on the LDB meeting the dependencies attached hereto as Appendix D (the "**LDB Dependencies**"). Notwithstanding anything to the contrary, Shopify shall not be responsible for, and shall not have any liability to the extent arising from, any delays attributable to any failure by the

LDB or its service providers or representatives to complete any of the LDB Dependencies and Shopify will be relieved of its obligation to provide the Shopify SaaS Services and Support Services to the extent such Services cannot be provided due to such failure to meet any of the LDB Dependencies for as long as such failure continues.

## SECTION 5 TERMINATION

### 5.1 Term

This Agreement will have effect as of the Effective Date and remain in full force and effect until the earlier of: (a) termination or expiry of the eCommerce Services SOW; or (b) termination of the MSA (the “**Term**”), unless terminated earlier in accordance with this Agreement.

### 5.2 Termination for Cause

- (a) By the LDB: The LDB may terminate this Agreement and the eCommerce Services SOW for cause effective immediately, without payment of any termination fees, penalties, costs or other similar amounts of any kind, upon delivery of a notice of termination to Shopify if: (i) Shopify breaches, in any material respect, any of Shopify’s obligations under this Agreement or the eCommerce Services SOW and has not remedied the breach within 45 days after receipt of a default notice from the LDB identifying the breach and stating the LDB’s intention to terminate this Agreement and the eCommerce Services SOW if Shopify does not cure the breach within the 45 day cure period; (ii) Shopify breaches section 10 (other than section 10.3(c)) of the General Terms and Conditions incorporated herein by reference, the Privacy Protection Schedule or Security Schedule; (iii) an Infringement Allegation is made and proceedings initiated in a court of competent jurisdiction against the LDB provided that (A) the LDB provides Shopify with a written opinion of legal counsel of the LDB that the Infringement Allegation is credible and not frivolous and (B) Shopify has not both notified the LDB that Shopify it is making efforts to remediate the Infringement Allegation by complying with (a) or (b) of Section 8.5 and provided to the LDB reasonable evidence of such efforts; (iv) Shopify is bankrupt, insolvent, or unable to discharge Shopify’s liabilities as they become due, Shopify commences, maintains or is subject to any proceedings for the benefit of insolvent debtors or for protection from creditors or relating to Shopify’s liquidation, dissolution or winding-up or insolvency or the appointment of a receiver, receiver-manager or similar officer or custodian for Shopify or all or any significant part of Shopify’s assets or business, Shopify makes an assignment for the benefit of all or substantially all of Shopify’s creditors, Shopify suspends or ceases, or threatens to suspend or cease, to carry on Shopify’s business in the normal course, or Shopify is subject to any liquidation, winding-up or dissolution; (v) Shopify assigns or attempts to assign this Agreement to a third-party in violation of this Agreement; or (vi) there is a change in the Control of Shopify without the LDB’s prior written consent.
- (b) By Shopify: Shopify may terminate this Agreement and the eCommerce Services SOW for cause effective immediately upon delivery of a notice of termination to the LDB if: (i) the LDB breaches, in any material respect, any of the LDB’s obligations under this Agreement or the eCommerce Services SOW and has not remedied the breach within 45 days after receipt of a default notice from Shopify identifying the breach and stating Shopify’s intention to terminate this Agreement and the eCommerce Services SOW if the LDB does not cure the breach within the 45 day cure period; (ii) the LDB fails to pay undisputed fees for Shopify SaaS Services under the eCommerce Services SOW when properly due and payable and has not remedied the breach within 60 days after receipt of a default notice from Shopify identifying the breach and stating Shopify’s intention to terminate the eCommerce Services SOW and this Agreement if the LDB does not cure the breach within the 60 day cure period, provided that Shopify delivers the notice of termination to the LDB within 15 days and upon delivery of such notice of termination, termination will only be effective if the LDB does not dispute such delivery of notice, which dispute will be deemed to be an Expedited Dispute; or (iii) the LDB assigns or attempts to assign this Agreement to a third-party in violation of this Agreement. For greater certainty, nothing in this Section 5.2(b) restricts or limits Shopify’s remedies of damages and injunctive relief to enforce Shopify’s rights under this Agreement.

### **5.3 Termination for Convenience by the LDB**

- (a) Subject to Section 5.3(b), the LDB may at any time and for the LDB's sole convenience terminate this Agreement and the eCommerce Services SOW effective upon no less than 90 days' notice of termination to Shopify.

s.21

### **5.4 Effect of Termination**

Upon the expiry of this Agreement, or termination of this Agreement by either Party for any reason:

- (a) the Parties will remain fully responsible and liable for all of their respective liabilities and obligations accrued before the expiration or termination of this Agreement;
- (b) subject to Sections 5.4(g) and 5.4(j), Shopify will cease providing the LDB with the Shopify SaaS Services and the LDB will no longer have access to the administrative console for the Stores;



- (c) subject to Section 5.4(j), the Stores will be taken offline;
- (d) unless otherwise provided in the eCommerce Services SOW, the LDB will not be entitled to any refunds of any prepaid fees, pro rata or otherwise;
- (e) any outstanding balance of any undisputed fees or other charges owed by the LDB to Shopify for Shopify SaaS Services actually performed up to the effective date of termination will immediately become due and payable in full;
- (f) subject to Sections 5.4(g) and 5.4(h), Shopify will immediately discontinue all Use of LDB Content and sections 10.1 and 10.2 of the General Terms and Conditions incorporated by reference in this Agreement will apply with respect to the retention and destruction of Confidential Information of each Party upon termination or expiry of this Agreement;
- (g) subject to Section 5.4(h), Shopify shall retain in its current state and make available to the LDB for downloading or export in an industry standard format all LDB Content for 60 days after the effective date of termination or expiry of this Agreement;
- (h) without limiting the provisions of Section 9.2, at the end of the retention period specified in Section 5.4(g) or at any time sooner upon written request of the LDB, Shopify shall Delete all LDB Content and LDB's Confidential Information from all Shopify Systems excluding any transaction data generated from the Shopify SaaS Services which, due to Shopify's accounting requirements, must be retained for a minimum of seven (7) years from creation. Notwithstanding the foregoing, Shopify may retain such transaction data which does not include Personal Information but for no longer than eight (8) years from creation and provided, however, that Shopify will anonymize all Personal Information in such transaction data upon the LDB's written request;
- (i) if so requested by the LDB, Shopify will provide to the LDB a written certification signed by an authorized representative certifying that all copies of the LDB Content and all Confidential Information of the LDB have been permanently erased or destroyed, other than any LDB Content and LDB Confidentiality Information Shopify is entitled to retain under Section 5.4(h); and
- (j) the LDB will have the right by notice in writing to Shopify to have Shopify continue to provide the Shopify SaaS Services and Support Services under the eCommerce Services SOW for a period of time while it transitions from the Shopify SaaS Services to another supplier for a time period not to exceed six (6) months from the effective date of the termination or expiration of this Agreement (the "**Transition Period**"). Shopify shall continue to provide the Shopify SaaS Services, the Support Services and additional assistance reasonably requested by LDB for the LDB's transition of the Shopify SaaS Services and all of the provisions of this Agreement shall apply including the LDB's obligations to pay Shopify the applicable fees for such services (as set out in the eCommerce Services SOW). The fees for any such continuation of the Shopify SaaS Services and Support Services shall be the same fees for such Services as were in effect immediately before the expiration or termination of this Agreement and, unless otherwise mutually agreed in writing, any such additional assistance shall be provided by Shopify on a time and material rates basis for the blended hourly rate set out in Schedule F of the MSA.

## 5.5 Bankruptcy

For the purposes of any bankruptcy, debtor protection or similar laws, each of the licenses granted under this Agreement are and will be deemed to be licenses of and rights to use intellectual property, and any disclaimer, rescission or rejection of this Agreement by or on behalf of Shopify or a trustee or similar person appointed under bankruptcy, debtor protection or similar laws will not affect the LDB's right to retain and exercise any of the licenses granted under this Agreement or any related rights.

## SECTION 6. INTELLECTUAL PROPERTY

### 6.1 LDB Intellectual Property

- (a) As between the LDB and Shopify, the LDB is and will remain the exclusive owner of all right, title, and interest throughout the world in, to and associated with all LDB Content, including all Intellectual Property Rights relating thereto. The LDB will be solely responsible for the accuracy, adequacy, quality, legality, reliability, and appropriateness of all LDB Content posted by the LDB or Authorized Customer Users on a Store or otherwise generated, uploaded, stored, posted, displayed, distributed, transmitted or exhibited by the LDB or Authorized Customer Users in connection with the LDB's use of the Shopify SaaS Services.
- (b) For any LDB Content that the LDB posts, displays or exhibits for viewing publically on any Store, or distributes to Shopify for such purpose, in connection with the Shopify SaaS Services, subject to the terms and conditions of this Agreement, the LDB grants to Shopify a worldwide, temporary, non-exclusive, royalty-free and non-transferable (except pursuant to Section 10.6) right for Shopify and its subcontractors to review, use, reproduce, modify, adapt, translate, publish, duplicate, create derivative works of, store, transmit, distribute, publicly perform and display any or all of such LDB Content in any form, media or technology whether known or not currently known, in any manner, solely and so long as necessary to provide the Shopify SaaS Services for the LDB's benefit in accordance with this Agreement and the eCommerce Services SOW and for no other purpose unless the LDB provides prior written consent.
- (c) For any LDB Content, other than the LDB Content described in Section 6.1(b), that the LDB generates, uploads, stores, posts, displays, distributes, transmits or exhibits in connection with the Shopify SaaS Services, subject to the terms and conditions of this Agreement (including the restrictions with respect to the access, storage and disclosure of personal information set out in the Privacy Protection Schedule and with respect to location of services under Section 9.6), the LDB grants to Shopify a worldwide, temporary, non-exclusive, royalty-free, non-transferable (except pursuant to Section 10.6) right for Shopify and its subcontractors to review, use, reproduce, modify, adapt, translate, duplicate, create derivative works of, store, transmit, distribute and non-publically display any or all of such LDB Content in any form, media or technology whether known or not currently known, in any manner, solely and so long as necessary to provide the Shopify SaaS Services for the LDB's benefit in accordance with this Agreement and the eCommerce Services SOW and for no other purpose unless the LDB provides prior written consent.
- (d) The LDB represents and warrants that it has all the rights, power and authority necessary to grant the license under Sections 6.1(b) and 6.1(c). Except for the limited licenses expressly provided under such Sections, nothing contained in this Agreement shall be construed as granting Shopify or any third party any right, title, or interest in or to any LDB Content.

## 6.2 Names and Trademarks

The trade names, trademarks, service marks, trade dress and logos (collectively “**Marks**”) of each Party, its parent or affiliates are the exclusive property of such Party and, except as otherwise provided in this Agreement, the other Party shall not use such Marks or any abbreviation or adaptation thereof for any purposes without the prior written consent of the Party who owns such Marks. Each Party acknowledges that all use of the other Party’s Marks shall inure to the benefit of and be on behalf of the Party owning such Marks. Shopify will not make any public statements associating itself with the LDB nor disclosing any information associated with the license granted to the LDB, including the fact that the license has been granted, without prior written consent of the LDB, which may be withheld in its sole discretion.

## 6.3 Shopify App Store

- (a) Shopify may from time to time recommend, provide the LDB with access to, or enable third party software, applications (“**Apps**”), products, services or website links (collectively, “**Third Party Services**”) for the LDB’s consideration or use, including via the Shopify App Store, provided, however, that any such access, enabling or use of Third Party Services must require the express agreement of the LDB. Such Third Party Services are made available only as a convenience, and the LDB’s express agreement to purchase, access or use of any such Third Party Services is solely between LDB and the applicable third party services provider (“**Third Party Provider**”). Any such use by LDB of Third Party Services offered through Shopify’s website is entirely at LDB’s own risk and discretion, and it is the LDB’s responsibility to read the terms and conditions and/or privacy policies applicable to such Third Party Services before using them.
- (b) Shopify does not provide any warranties with respect to Third Party Services. LDB acknowledges that Shopify has no control over Third Party Services, and shall not be responsible or liable to anyone for such Third Party Services. The availability of Third Party Services on Shopify’s websites, including the Shopify App Store, or the integration or enabling of such Third Party Services with the Services does not constitute or imply an endorsement, authorization, sponsorship, or affiliation by or with Shopify. Shopify does not guarantee the availability of Third Party Services and the LDB acknowledges that Shopify may disable access to any Third Party Services at any time in its sole discretion and without notice to you. Shopify is not responsible or liable to anyone for discontinuation or suspension of access to, or disablement of, any Third Party Service.
- (c) If the LDB expressly agrees to install or enable a Third Party Service for use with the Shopify SaaS Services, the LDB grants Shopify permission to allow the applicable Third Party Provider to access the LDB’s data and to take any other actions as required for the interoperation of the Third Party Service with the Shopify SaaS Services, and any exchange of data or other interaction between the LDB and the Third Party Provider is solely between the LDB and such Third Party Provider. Shopify is not responsible for any disclosure, modification or deletion of your data or other materials, or for any corresponding losses or damages that the LDB may suffer, as a result of access by a Third Party Service or a Third Party Provider to the LDB’s data or other materials.
- (d) Google Maps is a Third Party Service that is used within the Shopify SaaS Services, but the LDB may elect not to access and use Google Maps within the Shopify SaaS Services by using the functionality of the Shopify SaaS Services to disable that Third Party Service. The LDB acknowledges and agrees that its access to use of Google Maps within the Shopify SaaS Services is subject to the LDB’s acceptance of the Google Maps and Earth Enterprise Universal Acceptable Use Policy, as it may be amended by Google from time to time.
- (e) Notwithstanding anything to the contrary, under no circumstances shall Shopify be liable for any direct, indirect, incidental, special, consequential, punitive, extraordinary, exemplary or other damages whatsoever, that result from any Third Party Services or the LDB’s contractual relationship with any Third Party Provider. These limitations shall apply even if Shopify has been advised of the possibility of such damages. The foregoing limitations shall apply to the fullest extent permitted by applicable law.

## **SECTION 7. REPRESENTATIONS AND WARRANTIES**

### **7.1 Shopify Representations, Warranties and Covenants**

SHOPIFY REPRESENTS, WARRANTS AND COVENANTS TO THE LDB AS FOLLOWS:

- (a) (I) TO ITS KNOWLEDGE THE HOSTING SUBCONTRACTOR WILL HAVE NO VISIBILITY INTO THE HOSTING LOCATION OF ANY LDB DATA WITHIN THE AGGREGATE POOL OF SHOPIFY'S CUSTOMER DATA HOSTED BY THE HOSTING SUBCONTRACTOR AND THE HOSTING SUBCONTRACTOR WILL NOT BE ABLE TO READILY ISOLATE LDB DATA WITHOUT SHOPIFY'S ASSISTANCE AND (II) UNDER THE TERMS OF THE SUBCONTRACT BETWEEN SHOPIFY AND THE HOSTING SUBCONTRACTOR WITH RESPECT TO THE HOSTING OF LDB DATA, SHOPIFY IS IN NO WAY RESTRICTED FROM NOTIFYING THE LDB OF ANY ACCESS TO OR DISCLOSURE OF LDB DATA OR REQUEST FOR ACCESS TO OR DISCLOSURE OF LDB DATA; AND (III) THE AGREEMENT GOVERNING THE PROVISION OF HOSTING SERVICES BETWEEN SHOPIFY AND THE HOSTING SUBCONTRACTOR DOES NOT CONTAIN TERMS THAT ARE INCONSISTENT IN ANY MATERIAL RESPECT WITH THE CONFIDENTIALITY AND SECURITY OBLIGATIONS OF SHOPIFY TO THE LDB PURSUANT TO SECTION 10 (OTHER THAN SECTION 10.3(C)) OF THE GENERAL TERMS AND CONDITIONS OF THE MSA AND SCHEDULE D AND SCHEDULE J OF THE MSA;
- (b) SHOPIFY HAS, AND THROUGHOUT THE TERM AND ANY ADDITIONAL PERIODS DURING WHICH SHOPIFY DOES OR IS REQUIRED TO PERFORM THE SHOPIFY SAAS SERVICES AND SUPPORT SERVICES WILL HAVE, THE UNCONDITIONAL AND IRREVOCABLE RIGHT, POWER AND AUTHORITY, INCLUDING ALL PERMITS AND LICENSES REQUIRED, TO PROVIDE THE SHOPIFY SAAS SERVICES AND SUPPORT SERVICES AND GRANT AND PERFORM ALL RIGHTS AND LICENSES GRANTED OR REQUIRED TO BE GRANTED BY IT UNDER THIS AGREEMENT;
- (c) THE SHOPIFY SAAS SERVICES WILL CONFORM TO AND PERFORM IN ACCORDANCE THE SAAS SPECIFICATIONS AND REQUIREMENTS OF THIS AGREEMENT AND THE ECOMMERCE SERVICES SOW;
- (d) (I) SHOPIFY WILL EMPLOY CURRENT INDUSTRY-STANDARD PROTECTION STANDARDS IN RESPECT OF HARMFUL CODE, (II) THE SHOPIFY SAAS SERVICES WILL BE FREE FROM HARMFUL CODE AND OTHER CONTAMINANTS AND SHOPIFY WILL NOT INSERT OR PERMIT ANY THIRD PARTY TO INSERT ANY HARMFUL CODE OR OTHER CONTAMINANT INTO ANY SOFTWARE, HARDWARE OR SYSTEMS, INCLUDING THE SERVICE SOFTWARE OR SHOPIFY SYSTEMS, AND (III) IN THE EVENT THAT HARMFUL CODE OR ANOTHER CONTAMINANT IS SO INSERTED, SHOPIFY SHALL REPORT THE HARMFUL CODE TO THE LDB AS SOON AS REASONABLY POSSIBLE AFTER BECOMING AWARE OF SUCH HARMFUL CODE, AND, AT SHOPIFY'S COST, SUBSEQUENTLY ELIMINATE THE HARMFUL CODE, MITIGATE ANY LOSSES OF OPERATIONAL EFFICIENCY, DATA OR THE LDB CONTENT CAUSED BY SUCH HARMFUL CODE, AND ASSUME RESPONSIBILITY FOR ALL DATA CLEANUP AND RECONSTRUCTION COSTS INCURRED BY THE LDB RESULTING DIRECTLY OR INDIRECTLY FROM THE INTRODUCTION OF THE HARMFUL CODE;
- (e) THE SAAS DOCUMENTATION IS, AND WILL BE CONTINUALLY UPDATED AND MAINTAINED SO THAT IT CONTINUES TO BE, CURRENT, COMPLETE AND ACCURATE, SO THAT THEY DO AND WILL CONTINUE TO FULLY DESCRIBE THE SHOPIFY SAAS SERVICES IN ALL MATERIAL RESPECTS;

- (f) SHOPIFY HAS, AND WILL HAVE THROUGHOUT THE TERM OF THIS AGREEMENT, THE NECESSARY SKILLS, EXPERTISE AND EXPERIENCE, AND SUFFICIENT TRAINED PERSONNEL, FACILITIES, MATERIALS AND APPROPRIATE EQUIPMENT IN PLACE AND AVAILABLE, TO ENABLE SHOPIFY TO PERFORM THE SUPPORT SERVICES IN ACCORDANCE WITH THIS AGREEMENT AND IN ACCORDANCE WITH THE HIGHEST APPLICABLE INDUSTRY STANDARDS AND BEST PRACTICES, AND WITH NO LESS THAN THE STANDARD OF PROFESSIONAL SKILL, CARE AND DILIGENCE CUSTOMARILY APPLIED BY FIRST CLASS SERVICE PROVIDERS PROVIDING OR PERFORMING SIMILAR SERVICES IN NORTH AMERICA;
- (g) AS OF THE EFFECTIVE DATE, SHOPIFY HAS NO KNOWLEDGE OF ANY FACT THAT ADVERSELY AFFECTS OR IS LIKELY TO ADVERSELY AFFECT SHOPIFY'S ABILITY TO PERFORM SHOPIFY'S OBLIGATIONS UNDER THIS AGREEMENT;
- (h) NEITHER SHOPIFY NOR ANY PERSON ON SHOPIFY'S BEHALF HAS GIVEN, NOR WILL THEY GIVE, ANY PAYMENT, GIFT, DONATION, BENEFIT, THING OF VALUE OR OTHER INDUCEMENT TO ANY REPRESENTATIVE OF THE LDB OR ANY OTHER PERSON IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT; AND TO THE BEST OF SHOPIFY'S KNOWLEDGE NO REPRESENTATIVE OF THE LDB OR ANY OTHER PERSON HAS GIVEN ANY PAYMENT, GIFT, DONATION, BENEFIT, THING OF VALUE OR OTHER INDUCEMENT TO SHOPIFY OR ANY OF SHOPIFY'S REPRESENTATIVES. SHOPIFY ACKNOWLEDGES THAT THE GIVING OR RECEIPT OF ANY PAYMENT, GIFT, DONATION, BENEFIT, THING OF VALUE OR OTHER INDUCEMENT IS A SIGNIFICANT VIOLATION OF THE LDB'S POLICY ON CONFLICTS OF INTEREST, AND MAY RESULT IN THE LDB'S TERMINATION OF THIS AGREEMENT AND ALL OTHER EXISTING AND FUTURE CONTRACTS BETWEEN THE PARTIES; AND
- (i) TO THE BEST OF SHOPIFY'S KNOWLEDGE AND BELIEF, ALL INFORMATION AND DOCUMENTS FURNISHED OR SUBMITTED BY SHOPIFY TO THE LDB IN CONNECTION WITH THIS AGREEMENT, INCLUDING ANY SUBMISSIONS AND PROPOSALS BY CONTRACTOR, ARE TRUE AND CORRECT.

## 7.2 LDB Representations, Warranties and Covenants

- (a) THE LDB REPRESENTS AND WARRANTS AND COVENANTS THAT, WITH RESPECT TO THE LDB CONTENT: (i) THE LDB OWNS, HAS VALIDLY LICENSED OR OTHERWISE OBTAINED, OR WILL OWN, VALIDLY LICENSE OR OTHERWISE OBTAIN, THE RIGHT TO ALL LDB CONTENT GENERATED, STORED, POSTED, DISPLAYED, EXHIBITED OR DISTRIBUTED BY, OR UPLOADED OR TRANSMITTED TO OR FROM, A STORE; (ii) ANY LDB CONTENT THAT THE LDB GENERATES, UPLOADS, STORES, POSTS, EXHIBITS, DISPLAYS, DISTRIBUTES OR TRANSMITS DO NOT AND WILL NOT INFRINGE OR VIOLATE ANY OF THE COPYRIGHT, PATENT, TRADEMARK, OR ANY OTHER INTELLECTUAL PROPERTY, PERSONAL OR PROPRIETARY RIGHTS OF ANY THIRD PARTY ("**THIRD PARTY RIGHTS**"); AND (iii) THE LDB HAS OR WILL HAVE THE RIGHT AND AUTHORITY TO OFFER, SELL, TRADE, DISTRIBUTE OR EXPORT THE PRODUCTS OR SERVICES DESCRIBED IN THE LDB CONTENT AND SUCH OFFER, SALE, TRADE, DISTRIBUTION, OR EXPORT DOES NOT OR WILL NOT VIOLATE ANY APPLICABLE LAWS OR THIRD PARTY RIGHTS.
- (b) THE LDB WILL FULFILL ALL OF ITS OBLIGATIONS TO EACH AUTHORIZED CUSTOMER USER WHO ENTERS INTO A TRANSACTION WITH THE LDB THROUGH A STORE, AND THE LDB WILL RESOLVE ANY DISPUTE OR COMPLAINT WITH RESPECT TO TRANSACTIONS WITH THE LDB THROUGH A STORE DIRECTLY WITH ITS AUTHORIZED CUSTOMER USERS.

### 7.3 Disclaimer

EXCEPT AS OTHERWISE SPECIFICALLY SET OUT IN THIS AGREEMENT (INCLUDING ANY PROVISION OF THE MSA INCORPORATED HEREIN BY REFERENCE), EACH PARTY HEREBY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY SUBJECT MATTER HEREOF AND SHOPIFY SPECIFICALLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, DURABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE FOREGOING, SHOPIFY MAKES NO REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND THAT THE SHOPIFY SAAS SERVICES WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE.

## SECTION 8. INDEMNITIES AND LIMITATION OF LIABILITY

### 8.1 Shopify Indemnity

Subject to Section 8.6, Shopify must indemnify and save harmless the LDB and the LDB's employees and agents from any loss, third party claim (including any Infringement Allegation), damage award, action, cause of action, cost or expense that the LDB or any of the LDB's employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, (each a "**Loss**") to the extent the Loss is caused or contributed to by:

- (a) any negligent act or omission by Shopify, any of Shopify's Representatives, Approved Subcontractors, Shopify's other subcontractors or any other person for whom Shopify is responsible under this Agreement or at law in connection with this Agreement; or
- (b) any representation or warranty of Shopify being or becoming untrue or incorrect; or
- (c) any breach of this Agreement; or
- (d) an Infringement Allegation.

### 8.2 Limitations

- (a) Shopify's aggregate liability under this Agreement (including the indemnification by Shopify pursuant to Section 8.1) is limited to:
  - i. \$3,500,000 per Loss; and
  - ii. in the aggregate for all Losses, the greater of: (i) all fees and any other amounts paid or payable by the LDB to Shopify under the eCommerce Services SOW in the 2 years immediately preceding the claim for indemnification; or (ii) \$7,000,000; and
  - iii. with respect to a breach by Shopify of section 10 (other than section 10.3(c)) of the General Terms and Conditions, the Privacy Protection Schedule or Security Schedule incorporated by reference herein, fifty million dollars (\$50,000,000.00).
- (b) Except for damages arising from a breach by Shopify of section 10 (other than Section 10.3(c)) of the General Terms and Conditions, the Privacy Protection Schedule or Security Schedule incorporated by reference herein and the circumstances enumerated in Section 9.3, in no event shall Shopify, its directors, officers, employees, agents, service providers or affiliates, be liable for any indirect, incidental, special, consequential, exemplary or punitive damages in connection with the eCommerce Services SOW and/or this Agreement even if Shopify has been advised of the possibility or certainty of such damages.

- (c) The LDB's aggregate liability under this Agreement is limited in the aggregate for all Losses to an amount equal to two (2) times the total fees and any other amounts paid or payable by the LDB to Shopify pursuant to the eCommerce Services SOW.

### 8.3 Exceptions to Monetary Limitations

- (a) The limitations set out in Section 8.2(a) do not apply to a Loss resulting from or relating to any of the following:
  - i. bodily injury or damage to real property or tangible personal property;
  - ii. an Infringement Allegation; or
  - iii. Shopify's deliberate and sustained cessation of a material portion of the Shopify SaaS Services or Support Services without a bona fide attempt to resume such portion of such Services or to remedy the cause of such cessation.
- (b) Each Party acknowledges and agrees that to the extent it incurs any losses, damages or liabilities (collectively, "**Damages**") as a result of a breach by the other Party of its obligations under the MSA, a Statement of Work and/or this Agreement, such Party (the "**non-breaching Party**") may only make a single claim for such Damages arising from the same breach and may not make multiple claims for such Damages under the separate contractual agreements between the Parties, and (ii) the non-breaching Party shall use all commercially reasonable efforts to mitigate such Damages.
- (c) Notwithstanding anything to the contrary, Shopify shall not be liable for any Losses incurred by the LDB or any third party to the extent such Losses are caused or contributed to the LDB's actions or inactions (including without limitation those of its service providers and/or representatives) including without limitation any breach of its obligations hereunder.

### 8.4 LDB to Notify Shopify of Loss

To claim indemnification for a Loss pursuant to Section 8.1, the LDB must notify Shopify in writing of the Loss and such notice shall include reasonable details of the Loss and documents substantiating the cause and generation of the Loss as soon as reasonably practicable after the LDB becomes aware of the Loss provided that a failure by the LDB to provide such notification will not invalidate the claim except to the extent the Shopify is materially prejudiced by that failure.

### 8.5 Remedy for Infringement Allegation

In addition to, and without limiting, the remedies set forth in Sections 8.1 and 5.2(a), if any Shopify SaaS Service, Support Services or Shopify IP is, or is reasonably likely to become, the subject of an Infringement Allegation against any of the LDB Group or if as a result of an Infringement Allegation the Use of any Shopify SaaS Service, Support Services or Shopify IP by any member of the LDB Group is, or is likely to be, enjoined by order of a court or tribunal of proper jurisdiction and authority, then Shopify will at Shopify's own expense: (a) procure for the LDB Group the right to Use and to authorize other persons to Use the Shopify SaaS Service, Support Services or Shopify IP in accordance with this Agreement without the risk of an Infringement Allegation; (b) replace or modify the Shopify SaaS Service, Support Services or Shopify IP so that it is no longer subject to the Infringement Allegation, without a material adverse change in the functionality, performance, operation or results of the Shopify SaaS Service, Support Services or Shopify IP (as applicable) or any other Shopify SaaS Service, Support Services or Shopify IP, in which case the LDB Group will use the replacement or modified Shopify SaaS Service, Support Service or Shopify IP instead of the impugned Shopify SaaS Service, Support Service or Shopify IP; or (c) if neither of options (a) nor (b) specified above in this Section 8.5 are reasonably achievable within 90 days or a longer period expressly agreed in writing by the LDB in its discretion or if the Use of any Shopify SaaS Service, Support Service or Shopify IP in accordance with this Agreement is enjoined by order of a court or tribunal of proper jurisdiction and authority, then

Shopify will promptly deliver a notice to the LDB together with payment of a pro-rata refund of the fees paid for such Shopify SaaS Service, Support Service or Shopify IP calculated on the basis of straight-line depreciation over a ten-year useful life and, for clarity, the LDB will have the right to terminate this Agreement and the eCommerce Services SOW in accordance with Section 5.2(a). For greater certainty, options (a) and (b) specified above will be deemed reasonably achievable if Shopify provides similar remedies for any of Shopify's other customers that are or may be subject to the same or similar Infringement Allegation. The remedies set forth in this Section 8.5 and Sections 8.1 and 5.2(a) constitute the sole remedies of the LDB and Shopify's exclusive liability with respect to Infringement Allegations.

#### **8.6 Exceptions to Infringement Indemnity**

Shopify will not be liable for any Losses in respect of an Infringement Allegation to the extent any such Infringement Allegation is attributable to:

- (a) modifications to the Shopify SaaS Services, Support Services or Shopify IP made by the LDB (or its representatives or service providers) which have not been performed or authorized by Shopify (for this purpose, normal use of the Shopify SaaS Services, Support Services or Shopify IP will not be considered a modification);
- (b) Use of the Shopify SaaS Services, Support Services or Shopify IP in combination with items not provided by or identified to Shopify in this Agreement, the eCommerce Services SOW or SaaS Documentation as items with which the Shopify SaaS Services, Support Services or Shopify IP will inter-operate (however this exception does not apply to the Use of the Shopify SaaS Services, Support Services or Shopify IP with commercially available computers or commercially available system software);
- (c) to the extent not modified by Shopify, the incorporation of written requirements, information, data, designs or specifications provided by the LDB (or its representatives or service providers) that themselves infringe the IP Rights of a third party; or
- (d) after Contractor has complied with its obligations under Section 8.5, continued Use by the LDB of any allegedly infringing portion of the Shopify SaaS Services or Support Services that LDB has been notified of in writing to cease Using.

### **SECTION 9. PRIVACY, CONFIDENTIALITY AND DATA PROTECTION**

#### **9.1 Confidentiality, Privacy and Security**

- (a) In accordance with Section 1, section 10 of the General Terms and Conditions (except for section 10.3(c) (No Removal/Remote Access)), the Privacy Protection Schedule and Security Schedule are incorporated by reference into this Agreement and apply to the provision of Shopify SaaS Services and Support Services by Shopify.
- (b) Shopify will, without limiting Shopify's obligations under Appendix J2 of the Security Schedule with respect to logging and monitoring: (i) ensure all instances of access to LDB Content stored on Shopify Systems are accurately logged in the Shopify Systems and such logs ("**Data Access Logs**") are maintained, secure and will not be altered in any way during the Term in accordance with the Security Schedule; (ii) without limiting Shopify's obligations under the Security Schedule, continuously monitor the Data Access Logs by reviewing the Data Access Logs no less frequently than once every 15 minutes; (iii) upon the earlier of (A) learning of any access to LDB Content that was not authorized by the LDB, including any access to LDB Content by the Hosting Subcontractor, through review of the Data Access Logs or otherwise or (B) the Data Access Logs recording any such access, Shopify will: (I) immediately notify the LDB, (II) promptly investigate such incident and provide the LDB with detailed information about such incident; and



(III) promptly take reasonable steps to mitigate the effects and to minimize any damage resulting from such incident.

## **9.2 Aggregated Statistical Information**

The LDB owns the anonymized and aggregated statistical data derived from the operation of any Shopify SaaS Services for the LDB, including the number of records in a service, the number and types of transactions, configurations, and reports processed in a service and the performance results for the service (the “**Aggregated Statistical Information**”). LDB grants Shopify a perpetual, non-revocable, royalty-free, worldwide, transferable, assignable, non-sublicensable license to utilise the Aggregated Statistical Information for purposes of operating Shopify’s business, provided that Aggregated Statistical Information or use thereof by Shopify will not reveal or disclose or be capable of revealing or disclosing to any third party (a) the identity of any individual, (b) any LDB Confidential Information or (c) any particular data or information is attributable to LDB.

## **9.3 Backup and Recovery of LDB Content**

As a part of the Shopify SaaS Services and at no additional charge, during the Term and for the period specified in Section 5.4(g), Shopify will maintain a backup of all LDB Content, for an orderly and timely recovery of such data if the Shopify SaaS Services are interrupted. Supplier will maintain a contemporaneous backup of LDB Content that can be recovered within 24 hours at any point in time. Shopify will comply with the business continuity and disaster recovery requirements of section 7.7 of the General Terms and Conditions of the MSA incorporated by reference under Section 1. Shopify maintains business continuity plans to ensure critical services for merchants are provided in the event of a catastrophic system failure or other incident affecting Shopify’s ability to provide critical services. Incident response plans are tested regularly. Typically escalation of incidents involves members of the Shopify Production Engineering, Communications, Legal, Support, Business Operations, Security and Executive teams as required.

## **9.4 Loss of LDB Content**

In the event of any suspected or actual loss or corruption of LDB Content, Shopify will, without limiting Shopify’s obligations under the provisions of the MSA expressly incorporated by reference herein (including the Privacy Protection Schedule and Security Schedule), (a) be responsible for recreating lost LDB Content without charge to the LDB provided that such lost LDB Content was provided to Shopify a minimum of twenty-four (24) hours prior to the loss taking place; (b) subject to Section 8, compensate the LDB for any and all Losses, including reasonable expenses, suffered by, accrued against, charged to, or recoverable from the LDB in connection with the occurrence; and (c) provide to the LDB a detailed plan within thirty (30) days of the occurrence describing the measures Shopify will undertake to prevent a future occurrence.

## **9.5 Deletion of LDB Content**

Notwithstanding section 16 of the Privacy Protection Schedule, at all times during the Term, the LDB will have the ability to access and extract or Delete (subject to Section 9.2) or both all or any portion of LDB Content hosted or stored as part of the Shopify SaaS Services. Shopify will assist the LDB in accessing LDB Content (including for purposes of extraction and Deletion) in the event that any LDB Content is not accessible to the LDB through its use of the Shopify SaaS Services in accordance with this Agreement.

## **9.6 Location of Services**

Shopify will ensure that, unless otherwise specifically agreed by the LDB in writing, at all times during the Term: (i) the Facilities (as defined in the Security Schedule) will be physically located in Montreal, Canada; and (ii) all Personal Information will be hosted and accessed in Canada except as otherwise expressly permitted in this Agreement (including pursuant to the provision of certain Support Services in accordance with Section 3.4(b)).

## **SECTION 10. GENERAL**

### **10.1 No Exclusivity**

Shopify reserves the right to provide services to the LDB's competitors and makes no promise of exclusivity in any particular market segment.

### **10.2 Survival**

All provisions of this Agreement that by their nature should survive termination will survive such termination, including, without limitation, the provisions of the MSA incorporated by reference under Section 1 and identified as surviving provisions in section 12.10 of the General Terms and Conditions of the MSA, interpretation provisions, payment obligations, confidentiality obligations, intellectual property rights (including Section 6), warranty disclaimers, indemnities, limitations of liability, Section 5.3(b), Section 5.4, Section 7, Section 9.1, Section 9.2, Section 9.3 and, for the longer of the retention period under Section 5.4(g) and the Transition Period, Section 9.4.

### **10.3 Governing Law**

This Agreement, the relationship of the Parties, and all related matters will be governed by, and construed solely in accordance with, the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia, excluding any rules of private international law or the conflict of laws that would lead to the application of any other laws and excluding any laws that implement the United Nations Convention on Contracts for the International Sale of Goods.

### **10.4 Entire Agreement**

This Agreement (including the terms and conditions of the MSA expressly incorporated herein) together with the eCommerce Services SOW constitutes the entire agreement between the Parties with regard to the subject matter hereof. No waiver, consent, modification, or change of terms of this Agreement will bind either Party unless in writing signed by both Parties, and then such waiver, consent, modification, or change will be effective only in the specific instance and for the specific purpose given. For greater certainty, no electronic or online terms and conditions or policies of Shopify (including those that purport to bind the LDB or its users as a click-wrap or browser-wrap agreement when using the Shopify SaaS Services) will be binding on LDB or its users.

### **10.5 Amendments and Waiver**

No modification to this Agreement is valid or binding unless set forth in writing and fully executed by each of the Parties whose rights or obligations hereunder are changed by such modification and no waiver of any breach of any term or provision of this Agreement is effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, is limited to the specific breach waived. This Agreement cannot be varied or waived by the Parties by any oral agreement or through a course of dealing or conduct or by any equitable principle or other legal doctrine.

### **10.6 Assignment**

In accordance with Section 1, section 14.7 of the General Terms and Conditions is incorporated by reference in this Agreement, except that this Agreement may only be assigned together with the MSA.

*[The remainder of this page is left intentionally blank.]*

IN WITNESS WHEREOF the Parties hereto, each acting under due and proper authority, have executed this Agreement as of the date first written above.

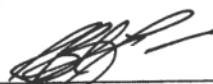
**Shopify Inc.**

**Her Majesty the Queen in the Right of the  
Province of British Columbia, as represented by  
the Attorney General and the General Manager of  
the Liquor Distribution Branch**

By: 

Name: LOREN PADELORD

Title: VP & GM SHOPIFY PLS

By: 

Name: R. Blain Lawson

Title: General Manager and CEO

## Appendix A – Service Levels

**Daily Service Availability:** Amount of time in minutes the Shopify SaaS Services is available in a day: 1440. (Target Performance: 99.9% on a 30 day basis).

Any downtime to the Shopify SaaS Services directly or indirectly attributable to the following circumstances shall be excluded from the calculation of the Daily Service Availability:

- (i) act or omission by the LDB or any authorized user/access to or use of the Shopify SaaS Services by LDB or any authorized user, or using the LDB's or an authorized user's access credentials, that does not strictly comply with this Agreement;
- (ii) any delay or failure of performance caused in whole or in part by the LDB delay in performing, or failure to perform, any of its obligations under this Agreement;
- (iii) Internet connectivity of the LDB or authorized user;
- (iv) a Force Majeure Event;
- (v) failure, interruption, outage or other problem with any software, hardware, system, network, facility or other matter not supplied by Shopify under this Agreement; and
- (vi) Scheduled Downtime means any downtime taking place Sunday between 6 am and 9 am (PST) or any downtime for which Shopify provided the LDB a minimum of seventy-two (72) hours prior written notice of the occurrence thereof.

If Contractor experiences a Service Level Failure, the LDB may, in its sole discretion, require that Shopify discuss the cause of such Service Level Failure and the steps that Shopify proposes to take in order to remedy the Service Level Failure in accordance with the following:

- The LDB shall contact Shopify's LDB account manager. In the event the LDB are not satisfied with the feedback provided by Shopify's LDB account manager, the LDB may escalate the matter as follows:
  - Escalation Point 1: Greg Gorzkowski or Denise Jasienczky (or such other individual(s) as Shopify may designate from time to time).
  - Escalation Point 2: Brad Goble or Roy Sunstrum (or such other individual(s) as Shopify may designate from time to time).

## Appendix B – Support

Please note that Shopify is providing support only to the LDB staff, and not to buyers transacting through a Store. Customer support to buyers is the responsibility of the LDB.

In LDB-initiated support scenarios, the Personal Information disclosed to the support agent is dependent on the nature of the support request. No Personal Information will be collected as a matter of course, but may be necessary in order to assist with troubleshooting. In all scenarios, access to Personal Information does not include off-site persistent storage of Personal Information records. Data transfer consists of the transfer necessary for data to be visible on the computing device of the service worker, and temporary caching of data that occurs as a result.

Support Services will be provided outside of Canada where (i) it is initiated by LDB outside of the Service Hours set out below for any Option A Tier 1, Tier 2 or Tier 3 support or (ii) support needs to be escalated after an initial LDB request during hours outside of those set out in Option A Tier 1, Tier 2 or Tier 3 support; or (iii) production engineering support is required during hours outside of those set out in Option A for production engineering support for LDB-initiated support. Any personal information made available outside Canada in connection with the Support Services will be subject to the Temporary approval via Automated access broker (as described below).

All decisions to grant access to Personal Information outside of Canada will be governed by an access request evaluation and rules system that is configured and operated in Canada. Access will be granted by this system based on (i) identity of the user (based on factors such as duration of service with Shopify, completion of training and completion of access request documentation) and (ii) the user's device profile (e.g. device security configurations). This system will maintain the configuration of access control mechanisms protecting access to Personal Information, and will enforce limitations on access to Personal Information from outside Canada so that all such access is temporary and complies with this Agreement. If any personnel of Shopify or its subcontractors require temporary access to Personal Information to provide Support Services in accordance with this Agreement for any period beyond the applicable limited period enforced by such system, any such additional access will be granted by Shopify using a manual process in Canada to be established by Shopify.

### Service Desk Operating Hours

#### **A. For LDB-Initiated Support:**

<b>Tier</b>	<b>Contact</b>	<b>Initiation</b>	<b>Geographic Location</b>	<b>Service Hours (PT)</b>	<b>Approvals</b>	<b>Tracking</b>
0	Account Manager	LDB - Phone, Email	BC	9am-5pm, Mon-Fri	LDB initiated	CRM Ticket
1 - Option A	Local Guru Team	LDB - Phone, Email, Chat	Canada	7am-6pm, 7 days/week	LDB initiated	Support Ticketing System
1 - Option B	Guru Team	LDB - Phone, Email, Chat	Global	24/7/365	LDB initiated, location based on availability	Support Ticketing System
2 - Option A	Local Tier 2 Support	Shopify - Escalation from Tier 0 or 1	Canada	6am-9pm, 7 days/week	No additional approval	Support Ticketing System

Tier	Contact	Initiation	Geographic Location	Service Hours (PT)	Approvals	Tracking
2 - Option B	Tier 2 Support	Shopify - Escalation from Tier 0 or 1	Global	24/7/365	No additional approval	Support Ticketing System
3 - Option A	Local Tier 3 Support	Escalation from Tier 2	Canada	6am-2pm, Mon-Fri	No additional approval. approval	Support Ticketing System
3 - Option B	Tier 3 Support	Escalation from Tier 2	Global	12am-2pm, Mon-Fri	No additional approval.	Support Ticketing System

To Pixel Union

Tier	Contact	Initiation	Geographic Location	Service Hours (PT)	Approvals	Tracking
1	Pixel Union Support	LDB - Phone, Email	BC	8am-6pm, Mon-Fri	LDB initiated	Support Ticketing System

#### B. Service-Initiated Support

“**Temporary approval via Automated access broker**” means that no employees will have continuous access to the environment processing Personal Information, but when necessary to provide the Service, access will be granted to employees who meet the service worker criteria (training, security screening process, etc.). Access will be granted in Canada at Shopify’s discretion, as needed to provide the service. Shopify will host the Temporary approval via Automated access broker in Canada and all access granted by such broker will be granted from Canada.

Tier	Contact	Initiation	Geographic Location	Service Hours (PT)	Approvals	Tracking
1 - Option A	Local Production Engineering	Performance monitoring systems	Canada	7am-3pm, Mon-Fri	Temporary approval via Automated access broker	System logging
1 - Option B	Production Engineering	Performance monitoring systems	Global	24/7/365	Temporary approval via Automated access broker	System logging
1	Security	Security monitoring systems	Canada	24/7/365	Temporary approval via Automated access broker	System logging

### **Target Service Levels**

<b>Target Service Level</b>	<b>Description</b>	<b>Target Performance</b>
<b>Incident Response Time</b>	Elapsed time from the time the incident is confirmed or alarmed or escalated in writing from the LDB to Shopify's service desk to the time the incident is responded to by Shopify. The LDB shall provide any supporting documentation or information where available.	Severity 1: 15 min Severity 2: 15 min Severity 3: 60 mins. Severity 4: 60 mins.
<b>Incident Resolution time</b>	Elapsed time from the time the root cause of the incident (which has been alarmed or escalated by the LDB to Shopify's service desk) is identified in writing by Shopify to the time the incident is resolved.	Severity 1 outage: 4 hours Severity 2 outage: 8 hours Severity 3 outage: 24 hours Severity 4 outage: 48 hours

<b>Severity Code</b>	<b>Definition</b>
<b>1</b>	A problem has made an application function unusable or unavailable and no workaround exists which affects business critical functions that impact the customer online or customer/employee retail experience.
<b>2</b>	A problem has made an application function unusable or unavailable but a workaround exists. or A problem has made an application function unusable or unavailable and no workaround exists.
<b>3</b>	A problem has diminished application functionality or performance but the functionality still performs as specified in the user documentation. Business critical functions are still operational.
<b>4</b>	A problem has diminished application functionality or performance. Business functions are still operational and supportive functions can be intervened to operate.

### **Post Go Live Support**

In addition to Shopify's standard support throughout the Term, Shopify will provide support post Go Live date for a period of 30 days with respect to both B2C and B2B deployments of the eCommerce Solution. Such support will be offered onsite at LDB for at least 4 days each week during the 30-day period. Shopify's support team will consist of the following skill sets:

- Front end technical development skill
- CMS knowledge
- General troubleshooting
- Integrations (data flows & transactions)

If additional resources and knowledge are required, Shopify will provide additional staff who will provide support remotely.

## Appendix C – Shopify Acceptable Use Policy

Shopify is a commerce platform that provides the tools and technology for merchants to set up an online store and sell products and services on their own website, at physical retail locations, marketplaces and more. While Shopify believes the free and open exchange of ideas and products is a key tenet of commerce, there are some activities that are incompatible with Shopify's mission to make commerce better for everyone. This Acceptable Use Policy ("AUP") describes activities that are prohibited in connection with your use of the Shopify SaaS Services.

The following activities are prohibited:

1. **Child Exploitation:** You may not offer goods or services, or post or upload LDB Content that exploit or abuse children, including but not limited to images or depictions of child abuse or sexual abuse, or that present children in a sexual manner.
2. **Harassment, Bullying, Defamation and Threats:** You may not offer goods or services, or post or upload LDB Content, that harass, bully, defame or threaten a specific individual.
3. **Hateful Content:** You may not offer goods or services, or post or upload LDB Content, that condone or promote violence against people based on race, ethnicity, color, national origin, religion, age, gender, sexual orientation, disability, medical condition or veteran status.
4. **Illegal Activities:** You may not offer goods or services, or post or upload LDB Content, that contravene or that facilitate or promote activities that contravene, the laws of the jurisdictions in which you operate or do business.
5. **Intellectual Property:** You may not offer goods or services, or post or upload LDB Content, that infringe on the copyright or trademarks of others.
6. **Malicious and Deceptive Practices:** You may not use the Shopify SaaS Services to transmit malware or host phishing pages. You may not knowingly perform activities or upload or distribute LDB Content that harm or disrupt the operation of the Shopify SaaS Services or other infrastructure of Shopify or others, including Shopify's third party providers. You may not use the Shopify SaaS Services for deceptive commercial practices or any other illegal or deceptive activities.
7. **Personal and Confidential Information:** You may not post or upload any LDB Content that contain personally identifiable information, sensitive personal information, or confidential information, such as credit card numbers, confidential national ID numbers, or account passwords unless you have consent from the person to whom the information belongs or who is otherwise authorized to provide such consent or otherwise have all necessary rights to post or upload such LDB Content.
8. **Self-Harm:** You may not offer goods or services, or post or upload LDB Content, that promote self-harm.
9. **Spam:** You may not use the Shopify SaaS Services to transmit unsolicited commercial electronic messages.
10. **Terrorist Organizations:** You may not offer goods or services, or post or upload LDB Content, that imply or promote support or funding of, or membership in, a terrorist organization.

If you engage in activities that violate this AUP, Shopify may specifically request that you take the remedial steps to cure such violation. If you fail to notify Shopify that you have initiated reasonable measures to comply with Shopify's request within 72 hours, or if Shopify is otherwise required by applicable laws to take action, then Shopify may take such remedial steps as are reasonably necessary (which may include suspending your Account or your access to the Shopify SaaS Services and/or removing the relevant LDB Content (as applicable)), until Shopify is satisfied that the relevant issues have been resolved. Such remedial steps will be to the minimum extent and of the minimum duration required to resolve the relevant issues. If any Authorized Customer User engages in activities that violate this AUP, Shopify may suspend such user's access to the Shopify SaaS Services.



Shopify has the right, but not the obligation, to monitor or investigate within Canada any LDB Content and your use of the Shopify SaaS Services at any time for compliance with this AUP and this Agreement, or any other agreement between you and Shopify governing your use of the Shopify SaaS Services. Any action taken with respect to enforcing this AUP, including taking no action at all, will be at Shopify's sole discretion.

If you feel that a user of the Shopify SaaS Services has violated this AUP, please contact us at <https://www.shopify.com/legal/report-aup-violation>.

#### **Appendix D – LDB Dependencies**

1. With respect to the Support Services only, the LDB provides access to Shopify to key technical contacts at the LDB (or any of the LDB's representatives or service providers to the extent necessary).
2. LDB to maintain licenses to Salesforce.com for use as CRM Lightning Edition, Unlimited license and Bambora for online payment gateway and any other LDB Licensed Items for use with Shopify SaaS Services which the Parties have mutually agreed, in writing, to incorporate or otherwise utilize in connection with the Shopify SaaS Services.

# Shopify Core Application Change Management

## Introduction

Shopify's application change management follows the principles of test-driven development and continuous integration, using GitHub as a central code repository and version control system. Buildkite is one of the systems used to run automated tests.

## Test-driven development

As part of delivering any feature, Shopify developers also deliver an automated test suite with wide coverage that prevents regressions from happening in the future.

## Continuous integration

Following a standard Git workflow, developers work on local copies of a master version of an application and then request to merge their changes into the master branch.

While a developer is working on their local copy, changes from other developers are being merged into the master branch. As a result, the longer the developer works on an individual project locally, the more effort it can take them to ensure that their code will integrate into the master branch.

Continuous integration (CI) involves merging developers' working copies into the master branch more than once a day, with the goal of reducing integration problems.

Continuous integration software runs all of the tests automatically when changes are pushed to the code repository, so that developers can merge their changes as quickly as possible into the master branch.

# Shopify Core application change management

## Feature development

When a Shopify Core developer wants to make changes to an application, they first check out a local copy of the master branch from the project's repository in GitHub, creating a feature branch. The developer makes local changes to test code and application code in the feature branch.

When a specific change is complete, the developer creates a "commit" that includes that change. Commits are labelled snapshots of all the files in a branch of an application at that time. As well as a description provided by the developer, each commit has its own unique identifier (a hash sum value using the SHA-1 algorithm).

The developer's next step is to push the feature branch with its commits to GitHub. The commits appear in the GitHub interface with short form identifiers such as 69428c9.

## Pushing code to the central repository (GitHub)

Shopify uses Buildkite to manage continuous integration, along with several other tools. Whenever a developer pushes commits to GitHub, Buildkite automatically builds the application with those changes in a virtual environment and runs all the tests in the repository.

The developer creates a pull request (PR) to merge their commits into the master branch and receive feedback on their proposed changes to the code.

The developer can continue to commit to the feature branch in response to feedback. As the PR is a request to merge the entire feature branch into the master branch, commits added after the creation of the PR are also included in the merge.

**Figure 1** and **Figure 2** illustrate a commit with successful CI test results as it appears on GitHub (69428c9).



*Figure 1: Successful commit CI test results on GitHub*

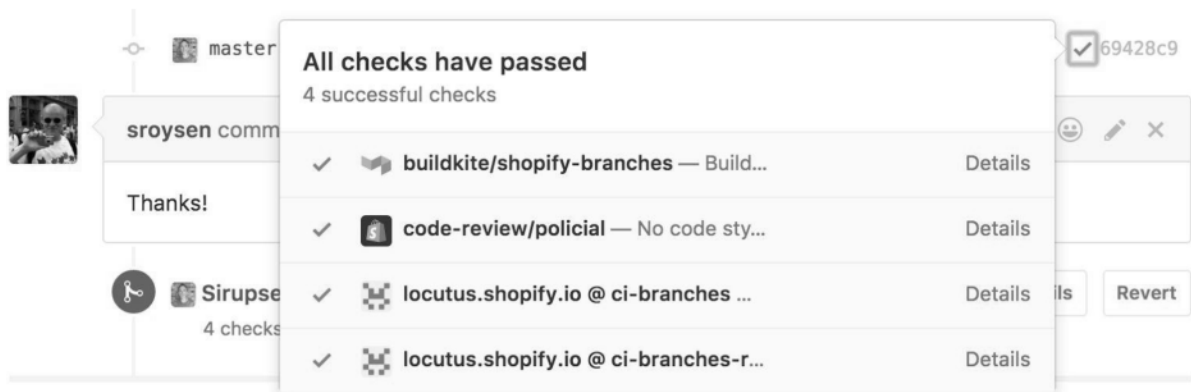


Figure 2: Successful commit CI test details on GitHub (detailed view)

## Merging code into master

After the developer's request to merge their code into the master branch—including any new commits created as a result of feedback—has been reviewed and approved by one or more developers who didn't author the code, a developer initiates the merge.

Buildkite then runs an additional CI test—called a merge CI test—on all of the code in the feature branch after the merge is initiated. If the merge CI test passes, the code is deployed automatically. A failed merge CI test prevents the code from deploying automatically. GitHub assigns a commit number to the merge of the feature branch into the master branch. This merge commit can be thought of as a container for the individual commits in the feature branch. The merge commit number generated by GitHub is also attached to the merge CI test record in Buildkite. In the illustrations in this document the reference shared by the merge commit and merge CI test is 70d88e2.

The results of the merge CI test on Buildkite are illustrated by **Figure 3** and the corresponding results on GitHub by **Figure 4**.

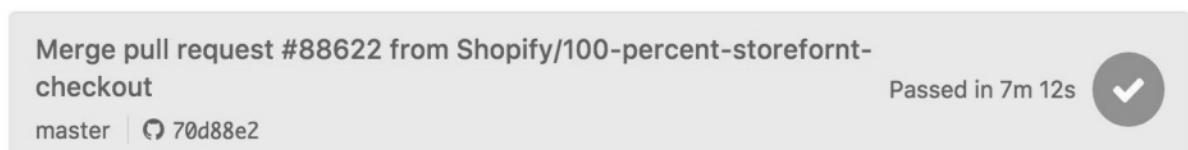


Figure 3: Successful merge CI test results on Buildkite

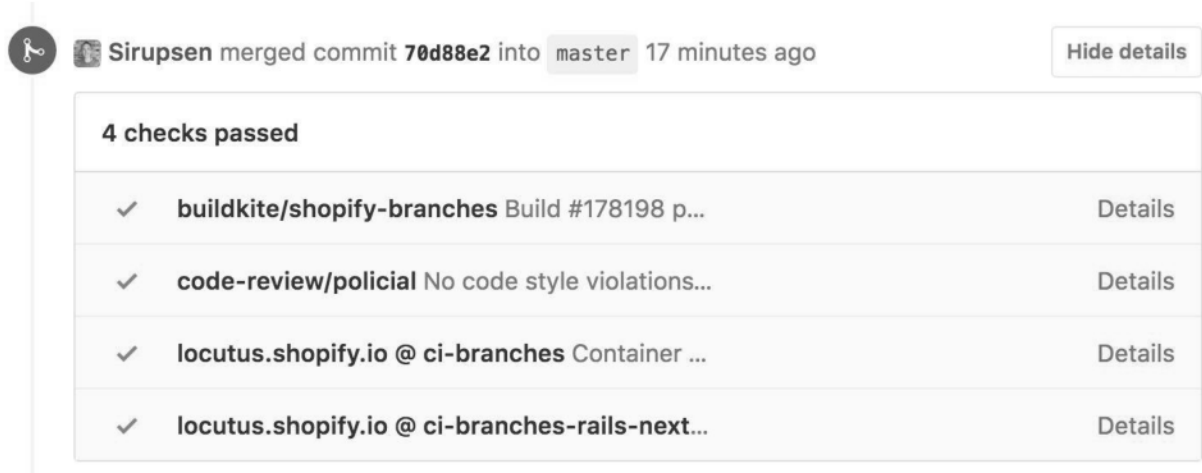


Figure 4: Successful merge CI test results on GitHub

## Deploying feature code to production

After the feature branch has been merged into master, Shipit, an automated deployment tool, deploys the master branch to production unless the merge CI test fails.

## Workflow summary

**Figure 5** illustrates a high-level view of the Shopify Core application change management workflow.

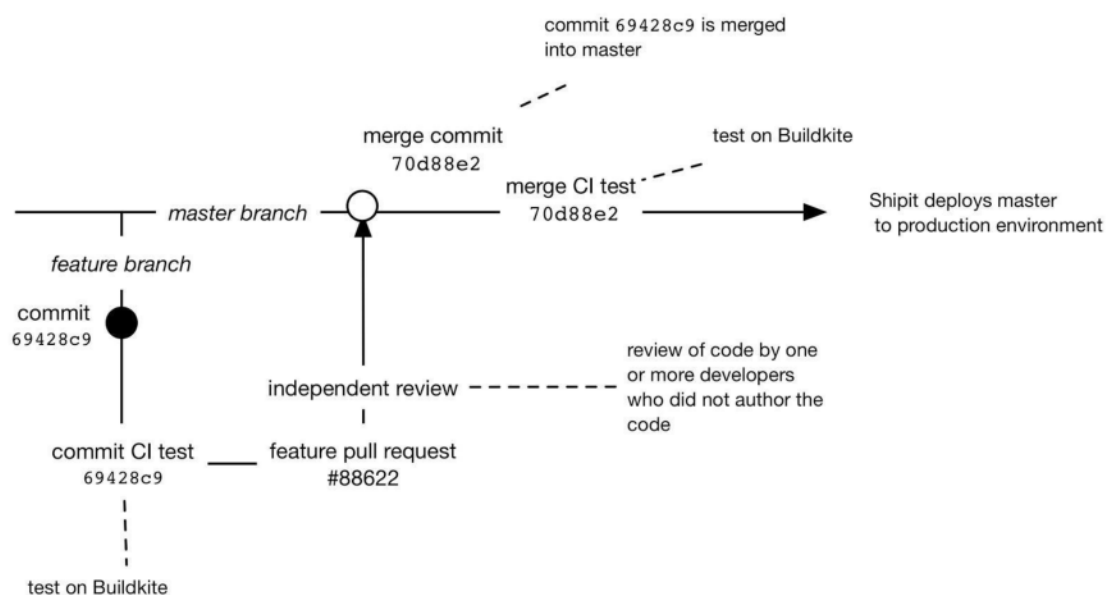


Figure 5: Shopify testing flow

A Shopify Core developer takes the following steps:

1. Check out master branch and create feature branch.
2. Make changes to feature branch.
3. Commit changes.
4. Push branch to GitHub.
5. Create PR to merge feature branch into master.
6. After review by one or more independent developers is complete and all tests pass, merge feature branch into master, which triggers merge CI test.

As long as the merge CI test passes, master is deployed automatically.

**STATEMENT OF WORK FOR ACQUISITION  
AND IMPLEMENTATION OF ECOMMERCE SOLUTION SERVICES – PHASE 1**

**SOW EFFECTIVE DATE: JUNE 18, 2018**

This Statement of Work forms part of the Master Services Agreement between Her Majesty the Queen in the Right of the Province of British Columbia, as represented by the Attorney General and the General Manager of the Liquor Distribution Branch (the “**LDB**”) and Shopify Inc. (“**Contractor**” or “**Shopify**”) dated as of June 18, 2018, as amended from time to time (the “**Agreement**”) and is entered into as of the SOW Effective Date between the LDB and Contractor in accordance with section 2.2 of the General Terms and Conditions.

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

Capitalized terms used herein have the meanings set out in Appendix 1. All capitalized terms used herein and not otherwise defined herein will have the meaning set out in the General Terms and Conditions.

**1.2 Appendices**

The following are the Appendices attached to this Statement of Work:

Appendix 1	–	Definitions
Appendix 2	–	Description of Services
Appendix 3	–	Services Specifications
Appendix 4	–	Project Plan
Appendix 5	–	Project Team Members
Appendix 6	–	Key Members
Appendix 7	–	Approved Subcontractors as of SOW Effective Date
Appendix 8	–	Project Methodology and Management
Appendix 9	–	Fees
Appendix 9-1	–	Detailed Cost Break Down
Appendix 10	–	Contractor-Licensed Items and LDB-Licensed Items

**1.3 References to this Statement of Work to include Appendices**

Unless the context requires otherwise, references in this Statement of Work to “this Statement of Work”, “this SOW”, “herein”, “hereof”, “hereunder” and “hereto” will include this Statement of Work and the Appendices to this Statement of Work, collectively.

**1.4 Deemed Incorporation of Agreement Terms**

This Statement of Work will be deemed to incorporate by reference the terms and conditions of the Agreement (excluding other Statements of Work) except to the extent otherwise expressly stated herein. For the purposes of this Statement of Work, all such terms and conditions incorporated by reference herein will survive until the termination or expiry of the SOW Term.



## **1.5 Order of Priority**

In the event of any inconsistency between any of the provisions of the main terms and conditions of this Statement of Work and the Appendices, the inconsistency will be resolved by reference to the following descending order of priority:

- (1) the main terms and conditions of this Statement of Work (excluding the Appendices); and
- (2) the Appendices, with equal priority.

## **ARTICLE 2 SOW SERVICES**

### **2.1 SOW Services**

(1) Commencing on the SOW Effective Date, Contractor will provide, on the terms and conditions set out in the Agreement as supplemented and modified by the terms and conditions of this Statement of Work, the SOW Services and all other obligations and Services to be performed by Contractor pursuant to this Statement of Work, including any Services described in the General Terms and Conditions that are applicable to this Statement of Work.

(2) Contractor will, at all times, provide the SOW Services in accordance with the Specifications set out in Appendix 3, as applicable.

(3) The requirements and schedule for Contractor's performance of the SOW Services are set out in this section 2.1 and the Project Plan (set out in Appendix 4).

### **2.2 Modifications to the Agreement Terms for SOW Services**

For the purposes of this Statement of Work, and in addition to the modifications to the Agreement as set out in other provisions of this Statement of Work, the Agreement (excluding other Statements of Work) is modified as follows:

(1) Subsections 1.1(a)-(c) of the General Terms and Conditions are not applicable to this Statement of Work, shall have no force or effect with respect to this Statement of Work and do not form part of this Statement of Work.

(2) Notwithstanding sections 1.1(ii) (Definition of Documentation), 1.1(ee) (Definition of Deliverable), 2.13 (Final Deliverables), 2.16 (Documentation) and any other relevant provisions in the General Terms and Conditions, the Parties acknowledge and agree that:

- (a) no Work Product (unless otherwise explicitly specified in this Statement of Work (including the Final Project Plan)), Software (including any Release) or Deployment Deliverable is being delivered pursuant to this Statement of Work,
- (b) no Documentation (or updates thereto) will be provided by Contractor to the LDB except as expressly set out in this Statement of Work (including the Final Project Plan) and the content of the Documentation will only include what is specified in this Statement of Work (including the Final Project Plan), provided that sections 2.13(a) and (c) of the General Terms and Conditions will apply; and
- (c) the SaaS/Cloud Component shall not constitute a Deliverable (but for clarity, access and use of the SaaS/Cloud Component is a Deliverable),

and any related provision in the Agreement shall be amended *mutatis mutandis* for purposes of this Statement of Work to give effect to the foregoing.

(3) Subsections (ii) and (iii) of section 2.6(c) (LDB's Remedies) of the General Terms and Conditions are not applicable to this Statement of Work, shall have no force or effect for this Statement of Work and does not form part of this Statement of Work.

(4) Notwithstanding sections 1.1(d) (Definition of Acceptance Criteria) and 2.8 (Acceptance Testing/Acceptance Review) of the General Terms and Conditions, the Parties acknowledge and agree that:

- (a) if the Acceptance Criteria and Specifications for a Deliverable provided pursuant to this Statement of Work are set out in this Statement of Work (including the Final Project Plan) and the Acceptance Criteria and Specifications for such Deliverable will be those solely as set out in this Statement of Work (including the Final Project Plan);
- (b) where it is explicitly set out in this Statement of Work (including the Final Project Plan) that no Acceptance Criteria is applicable to a Deliverable provided pursuant to this Statement of Work (including the Final Project Plan), then no Acceptance Criteria will apply;
- (c) where neither (a) or (b) above applies to a Deliverable provided pursuant to this Statement of Work (including the Final Project Plan), then the default Acceptance Criteria, which is set out in section 1.1(d)(ii) of the General Terms and Conditions, will apply;
- (d) without limiting Contractor's obligations to remedy any failure of a Deliverable to pass acceptance testing or acceptance review (as applicable) within the applicable acceptance testing/review period for a Deliverable, Contractor will only be deemed to be in breach of this Statement of Work as result of such failure in the event Contractor (i) does not submit a Deliverable to the LDB by the date required to be submitted as agreed to by the Parties and does not provide written notice to the LDB that such Deliverable will be delayed on or prior to such date or (ii) re-submits a Deliverable for a third time and subsequently fails to pass acceptance testing or acceptance review (as applicable); and
- (e) in the event the LDB does not notify Contractor whether a Deliverable conforms to the Acceptance Criteria within the applicable acceptance testing or acceptance review period (as applicable), such Deliverable shall be deemed accepted,

and any related provision in the Agreement, including but not limited to sections 2.8(f)(ii)-(iii) and section 2.8(g) of the General Terms and Conditions, shall be amended *mutatis mutandis* to give effect to the foregoing.

(5) Notwithstanding section 2.17 of the General Terms and Conditions (Stabilization Support and Warranty Services) and Schedule L of the Agreement, the Parties acknowledge and agree that no Stabilization Support and Warranty Services will be provided pursuant to this Statement of Work and any definitions solely with respect to Stabilization Support and Warranty Services, including but not limited to Stabilization Support and Warranty Period, and Schedule L of the Agreement in its entirety are not applicable to this Statement of Work, shall have no force and effect and do not form part of this Statement of Work.

(6) Notwithstanding section 3.3(b) of the General Terms and Conditions (Pricing of Changes), the Parties acknowledge and agree that (i) each Party will provide all information reasonably necessary for the other Party to evaluate the requested Change in connection with any Change request and (ii) Contractor shall not be required to provide any pricing related supporting information to the extent that the LDB is not required to directly pay for the agreed upon Change.

(7) For the purposes of this Statement of Work, and in addition to the modifications to the Agreement as set out in other provisions of this Statement of Work, sections 5.3 (Telecommuting) and 12.7 (Termination Assistance) of the General Terms and Conditions are not applicable to this Statement of Work, shall have no force or effect and does not form part of the Agreement.

(8) For the purposes of this Statement of Work, the Parties acknowledge and agree for clarity as follows:

- (a) for clarity, the Parties acknowledge and agree that the reference to “circumstances beyond the control of Contractor or an Approved Subcontractor” in section 4.4(b) (Unauthorized Removal) of the General Terms and Condition shall include, but is not limited to, resignations, termination with cause and an employee exercising his/her statutory rights including to medical/personal leave; and
- (b) the second sentence of subsection (B) of section 4.7(e) (Non-Performing Resource) of the General Terms and Conditions is not applicable to this Statement of Work due to the pricing structure of this Statement of Work, shall have no force or effect and does not form part of this Statement of Work.

(9) Notwithstanding section 10.1(d) of the General Terms and Conditions, upon any early termination of this Statement of Work, the provisions of Sections 5.4(f), (g), (h) and (i) of the License Agreement will apply to any LDB Data being stored by the Hosting Subcontractor under this Statement of Work and such sections will be deemed incorporated into this Statement of Work by reference.

### **ARTICLE 3 ENGAGEMENT MANAGEMENT; PERSONNEL REQUIREMENTS**

#### **3.1 Project Team**

The Project Team Members under this Statement of Work are set out in Appendix 5.

#### **3.2 Project Manager**

The Project Manager under this Statement of Work is set out in Appendix 6.

#### **3.3 Requirements for Project Team**

For the purposes of this Statement of Work, the requirements for the Project Team are set out in Appendix 4, Sections 5 and 6.

#### **3.4 Key Member**

For the purposes of this Statement of Work, the Key Members are set out in Appendix 6.

#### **3.5 Approved Subcontractors**

(1) For the purposes of this Statement of Work, the persons set out in Appendix 7 will be deemed Approved Subcontractors approved by the LDB in accordance with section 4.5(a) of the General Terms and Conditions.

(2) As of the SOW Effective Date, all hosting services that form part of, and support the provision of, the SOW Services will be subcontracted by Contractor to Google Canada Inc., which is the Hosting Subcontractor as of the SOW Effective Date. The Hosting Subcontractor will not be considered an ‘Approved Subcontractor’ as such term is defined in the Agreement and the section 4.5 of the General Terms and Conditions for Approved Subcontractors will not be applicable to the Hosting Subcontractor provided that:

- (a) Contractor is and will at all times remain fully responsible and liable for the performance of all of Contractor's obligations under this Statement of Work
  - (b) Contractor will be solely responsible and liable for, and will promptly pay, all fees and expenses payable to the Hosting Subcontractor;
  - (c) Contractor will be fully responsible and liable for, and will bear any and all risks and liabilities relating to, all conduct, acts and omissions by or on behalf of the Hosting Subcontractor and any Hosting Subcontractor representative as if they were the conduct, acts and omissions of Contractor itself; and
  - (d) Contractor will ensure that Hosting Subcontractor and each Hosting Contractor representative fully complies with all of Contractor's obligations under this Statement of Work that are applicable or relevant to the work assigned to the Hosting Subcontractor.
- (3) Contractor may change the Hosting Subcontractor from time to time provided that: (i) Contractor gives the LDB written notice describing the proposed or planned change at least 180 days before the change would take effect; and (ii) Contractor will also provide to the LDB all information in its possession that is reasonably requested by the LDB about the change to assist the LDB in deciding whether the LDB will continue to receive the Services or terminate them. If the LDB gives Contractor written notice within such advance notice period that the LDB wishes to terminate the Services, then the Agreement will terminate effective as of the date set out in the LDB's notice, without charge, penalty or other liability of the LDB arising from such termination.

## **ARTICLE 4 PROJECT METHODOLOGY AND MANAGEMENT**

### **4.1 Project Methodology and Management**

Contractor will perform the Services using approaches, process, methodologies and activities set out in Appendix 8.

## **ARTICLE 5 FEES**

### **5.1 Fees**

Except as otherwise agreed to by the Parties pursuant to a Change Order, the Parties acknowledge and agree: (1) ~~s.21~~ the Services provided under this Statement of Work; (2) Contractor will perform all such Services ~~s.21~~ and (3) sections 8.1, 8.2, 8.3, 8.5, 8.6, 8.7, 8.9, 8.10, 8.11 and 8.14 of the General Terms and Conditions do not apply to this Statement of Work (excluding any Change Orders that include fees) and shall have no force or effect with respect to this Statement of Work (excluding any Change Orders that include fees).

### **5.2 Sharing of Costs for the Dedicated Network Connection**

In accordance with the Statement of Work for eCommerce Solution Steady State Services (Schedule B of the Agreement), Contractor will pay half of the costs incurred by the LDB to procure, configure and maintain the two MPLS connections from the peering facility to the LDB's data center for the Dedicated Network Connection (as defined in the Statement of Work for eCommerce Solution Steady State Services (Schedule B of the Agreement)). To the extent any such costs are incurred by the LDB under this Statement of Work in connection with the LDB meeting LDB SOW Dependency 1 set out in Section 5 of Appendix 4, Contractor will, upon receipt of an invoice from the LDB for such costs, promptly pay the LDB an amount equal to Contractor's portion of such costs. Notwithstanding the foregoing, the LDB may elect to set off costs for the

Dedicated Network Connection owed by Contractor under this Statement of Work against fees payable by the LDB to Contractor under the Statement of Work for eCommerce Solution Steady State Services (Schedule B of the Agreement) in accordance with that Statement of Work, rather than bill Contractor for such costs under this Statement of Work.

## **ARTICLE 6 INTELLECTUAL PROPERTY**

### **6.1 Intellectual Property Modifications**

For the purposes of this Statement of Work, and in addition to the modifications to the Agreement as set out in other provisions of this Statement of Work:

(1) Sections 6.3 (Third Party Components) and 9.6 (Third Party Components) and 12.8 (Licenses/Assignments) of the General Terms and Conditions are not applicable to this Statement of Work, shall have no force or effect with respect to this Statement of Work and do not form part of this Statement of Work. In the event that any Third Party Components are included in any Deliverable or Work Product, Contractor represents, warrants and covenants that it has, and throughout the SOW term, will have obtained all necessary rights, including licenses, consents and approvals, to allow the LDB to Use all Third Party Components included in any Deliverable or Work Product provided under this Statement of Work in accordance with the applicable license terms specified in section 6.2(b) of the General Terms and Conditions or as otherwise agreed upon by the Parties in writing including pursuant to any Change Order and all Third Party Components included in any Deliverables and other Work Product provided under this Statement of Work are subject to the right to use or license granted by Contractor to the LDB under section 6.2(b) of the General Terms and Conditions or as otherwise agreed upon by the Parties in writing including pursuant to any Change Order.

(2) Notwithstanding section 12.8 of the General Terms and Conditions, subsection (a) of that section will not apply to Licenses/Assignments granted with respect to this Statement of Work, including Work Product provided under this Statement of Work.

### **6.2 Contractor-Licensed Items and LDB-Licensed Items**

Set out in Appendix 10 are all Contractor-Licensed Items and LDB-Licensed Items, if any, that will be delivered or used in provision of the Services, embedded or otherwise included in the Deliverables or other items of Work Product.

## **ARTICLE 7 SERVICE LEVEL TERMS**

### **7.1 SOW Service Level Terms**

For the purposes of this Statement of Work, section 2.11 (Performance Standards) of the General Terms and Conditions is not applicable to this Statement of Work, shall have no force or effect with respect to this Statement of Work and does not form part of this Statement of Work. The Parties agree that any Defects of Deliverables will be resolved through acceptance testing as set out in the Project Plan, as more particularly set out in section 2.2(4) of this Statement of Work or pursuant to the support and maintenance services to be provided by Contractor as set out in Appendix B of the License Agreement.

**ARTICLE 8**  
**TERM AND TERMINATION**

**8.1 SOW Term**

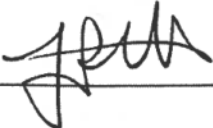
The term of this Statement of Work will begin on the SOW Effective Date and continue until the later of (a) all Stages of the SOW Services have been completed and all Deliverables under this Statement of Work have been accepted by the LDB in accordance with this Statement of Work; and (b) if there is any Deferred Work, all Services under the Change Order for the Deferred Work are completed in accordance with that Change Order (the “**SOW Term**”), unless terminated earlier in accordance with the Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF the Parties have executed this Statement of Work as of the SOW Effective Date.

Her Majesty the Queen in the Right of the  
Province of British Columbia, as  
represented by the Attorney General and  
the General Manager of the Liquor  
Distribution Branch

By:



Name: LOREN PADEL FORD

Title:

VP & GM SHOPFY PLUS

Shopify Inc.

By:



Name: R. Blain Lawson

Title:

General Manager and CEO

## **Appendix 1 - Definitions**

**“Agreement”** has the meaning set out on the first page of this SOW.

**“Appendices”** means the Appendices listed in section 1.2 and includes any other Appendices mutually agreed in writing by the Parties and signed by an authorized signatory of each Party.

**“Contractor”** or **“Shopify”** has the meaning set out on the first page of this SOW.

**“Deferred Work”** has the meaning set out in section 7 of Appendix 4.

**“Design Team”** means a group of employees of Contractor and/or its Approved Subcontractor designated by Contractor to work on design elements described in this SOW.

**“Final Project Plan”** has the meaning set out in section 1 of Appendix 4.

**“LDB”** has the meaning set out on the first page of this SOW.

**“Project Plan”** means, for the purposes of this Statement of Work, the plan for the performance of the SOW Services set out in Appendix 4, as may be superseded and replaced by the Final Project Plan in accordance with section 1 of Appendix 4.

**“Services Specifications”** means the technical, operational, functional and performance Specifications for the SOW Services and Deliverables specified in Appendix 3 or in any such Deliverables identified as “Specifications” in the Project Plan and all fixes, enhancements or other Changes thereto made in accordance with this Statement of Work or a Change Order.

**“SOW Effective Date”** has the meaning set out on the first page of this Statement of Work.

**“SOW Services”** has the meaning set out in in section 3 of Appendix 2.

**“SOW Term”** has the meaning set out in section 8.1.

**“Stages”** has the meaning set out in in section 3 of Appendix 2.

**“Updated Project Plan”** has the meaning set out in section 1 of Appendix 4.



## **Appendix 2 - Description of Services**

### **1. Introduction**

This Appendix 2 describes certain services, functions, processes and responsibilities that form part of the Services to be provided by Contractor to the LDB pursuant to this Statement of Work.

### **2. Service Locations**

Contractor will provide the SOW Services to the LDB from Ottawa Ontario, Toronto Ontario, Waterloo Ontario, Montreal Quebec, Victoria, Burnaby & Vancouver, British Columbia, and various remote work locations within Canada.

### **3. Description of Services**

- (a) Commencing on the SOW Effective Date, Contractor will provide, on the terms and conditions set out in the Agreement as supplemented and modified by the terms and conditions of this Statement of Work, the following Services (the “**SOW Services**”):
  - (i) certain services to implement access to an e-commerce solution as more particularly described in the Project Plan and Appendix 8;
  - (ii) the provision of the Deliverables set out in the Project Plan;
  - (iii) all other obligations and Services to be performed by Contractor pursuant to this Statement of Work, including any Services described in section 2.1 of the General Terms and Conditions that are applicable to this Statement of Work.
- (b) Contractor will, at all times, provide the SOW Services in accordance with the Specifications set out in Appendix 3.
- (c) The schedule for Contractor’s performance of the SOW Services are set out in the Project Plan.
- (d) The SOW Services consist of the following five stages (“**Stages**”): (i) Research and Discovery; (ii) UI/UX Design; (iii) Development and Integration; (iv) Deployment and Testing; and (v) Training Strategy.

For clarity, Post Go Live Support for the eCommerce Solution implemented under this Statement of Work will be provided by Contractor under the Statement of Work for eCommerce Solution Steady State Services (Schedule B of the Agreement), not this Statement of Work.

### **4. General Terms and Conditions**

Notwithstanding anything to the contrary in the SOW or the General Terms and Conditions:

- (a) LDB employees are responsible for keeping passwords for the Account that are in the LDB’s possession secure. Contractor will not be liable for any loss or damage from the LDB’s failure to maintain the security of its Account or any passwords that are in the LDB’s possession.
- (b) The LDB will be solely responsible for the accuracy, adequacy, quality, integrity, legality, reliability, and appropriateness of all LDB Content, LDB Material and LDB Licensed Items provided by the LDB or a third party on behalf of LDB to Contractor in connection with the SOW Services.

- (c) The LDB represents, warrants and covenants that:
  - (i) the LDB owns, has validly licensed or otherwise obtained, or will own, validly license or otherwise obtain, the right to all LDB Content, LDB Material and LDB Licensed Items provided to Contractor for Use in connection with the SOW Services and Contractor may Use such LDB Content, LDB Material and LDB Licensed Items to the extent required to perform the SOW Services for which such LDB Content, LDB Material and LDB Licensed Items were provided, subject to Contractor's compliance with the Agreement, including sections 6.4 and 6.5 of the General Terms and Conditions; and
  - (ii) Use of any LDB Content, LDB Material and LDB Licensed Items provided by the LDB to Contractor in connection with the SOW Services by Contractor or its subcontractors in accordance with the Agreement will not infringe the rights (including IP Rights) of any third party.
- (d) The LDB shall not purchase search engine or other pay per click keywords (such as Google AdWords), or domain names that use "Shopify" or Contractor's trademarks and/or variations and misspellings thereof.

## **Appendix 3 - Services Specifications**

### **1. Introduction**

This Appendix 3 specifies the Services Specifications.

### **2. Detail Specifications**

The Services Specifications consist of the Specifications set out in the Project Plan in Appendix 4, Section 3, of this Statement of Work and below:

- (a) The eCommerce Solution is a hosted platform that provides ecommerce capabilities for shops, configured by a merchant. These capabilities include:
  - (i) an Internet-routable service that can display various web pages to buyers and potential buyers of a shop's product;
  - (ii) a content customization system, allowing a merchant to interact with web pages to modify the look-and-feel of all Internet-routable web pages displayed by the service;
  - (iii) dynamically generated web pages displaying single products, or groups of products, for sale on the shop;
  - (iv) shopping cart functionality, allowing a buyer to specify a quantity of one or more products that they intend to purchase, and building a virtual "cart" to store these purchase intentions;
  - (v) order creation functionality, allowing a buyer to perform a financial transaction representing a commitment to purchase one or more products, including payment for applicable fees such as shipping and taxes;
  - (vi) a buyer notification system, whereby email notifications may be sent to buyers following the completion of a successful checkout transaction, containing order data and other relevant data such as return policy, or shipping details, based on merchant specifications;
  - (vii) a webhook transmission system, whereby outgoing network connections may be made by the service to destinations specified by the merchant upon the occurrence of designated events, such as receiving a new order, containing relevant data about the event that occurred;
  - (viii) a web page display functionality capable of displaying custom pages designed by the merchant;
  - (ix) a product management system, allowing a merchant to interact with web pages or an API to create and manage product records in the system, including details such as price, inventory quantities, physical characteristics, and a product description;
  - (x) an order management system, allowing a merchant to interact with web pages or an API to view and modify details of completed orders, including fulfillment status and related financial transactions; and
  - (xi) a customer management system, allowing a merchant to interact with web pages or an API to view, modify, or delete customer records.

- (b) The eCommerce Solution will comply with the *Freedom of Information and Protection of Privacy Act* (BC), the provisions of Schedule D (Privacy Protection Schedule) to the Agreement and Schedule J (Security) to the Agreement.
- (c) The eCommerce Solution will comply with CSAE 3416 SOC 2 audit (Type II annually) for the entire service or alternatively ISO 27001 Certification.
- (d) The eCommerce Solution will fully enable Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 (Schedule A of the Agreement), Go Live of B2C and B2B and includes all major pillars of digital commerce in an all-in-one solution/
- (e) The eCommerce Solution will integrate with an external Identity and Access Management system using Open Standards based Federation Protocol (e.g. SAMLv2 Federation, WSFED 2, OAuth, OpenID) for Authentication/Login and Open Standards Based Federated provisioning (e.g. SCIM or SAML Provisioning) or provide an Open Standards based API (e.g. SOAP or RestFul Web Service) which the LDB can use to create, update, delete, disable accounts for Account Management.
- (f) The eCommerce Solution will handle pricing and pack size for same product by customer type (the same product (sku) must be sold at different prices and pack sizes according to customer type (business or consumer)).
- (g) The eCommerce Solution will enable catalogue management for exclusive products to be sold exclusively to one or more customers (individual consumers or business locations) or customer type (business or consumer).
- (h) The eCommerce Solution includes the software and commerce services for the following Stores (as defined in the License Agreement):
  - (i) up to two (2) Stores, unless otherwise mutually agreed pursuant to a Change Order in accordance with section 3 of the General Terms and Conditions;
  - (ii) the Stores will be located at the URL(s) listed below:
    - (A) for B2C:
 

BCCannabisStores.com

BCCannabisStores.ca
    - (B) for B2B:
 

BCCannabisStores.com

BCCannabisStores.ca

provided, however, that the LDB may, at its sole discretion, change or add any of the URLs for the Stores from time to time upon written notice to Shopify;
  - (iii) the Stores will include the Account (as defined in the License Agreement), a related administrative console (with access for unlimited users of the LDB) and the following Shopify Plus features:
    - A. Unlimited SKU's;

- B. Unlimited bandwidth;
- C. SSO/Multipass API;
- D. Giftcard API available for private applications;
- E. Increased API calls - (up to 500%) on private apps;
- F. TLD SSL Checkout, which will reside at the LDB's primary sub-domain name(s) identified under paragraph (ii) above and not at Shopify's domain name; and
- G. Customizable checkout,

as described in the SaaS Documentation; and

- (iv) the Stores will comply with the requirements of the Schedule J (Security) of the Agreement.

## **Appendix 4 - Project Plan**

### **1. Introduction**

- (a) This Appendix 4 sets out, as of the SOW Effective Date: (i) Contractor's responsibilities in managing and performing the activities necessary to complete the SOW Services; (ii) the Milestones that Contractor will meet in its performance of such activities on or before the applicable Milestone Deadlines; (iii) the LDB SOW Dependencies applicable to such activities; and (iv) the SOW Assumptions. Contractor and the LDB acknowledge that the details of the Project Plan below are based on the Contractor's and the LDB's information as at the SOW Effective Date and is subject to the provisions of section 1(b) below.
- (b) Within thirty 30 days after the SOW Effective Date, or such other date as the Parties mutually agree in writing, Contractor shall prepare and propose to the LDB for the LDB's review and approval an updated Project Plan ("**Updated Project Plan**"), and shall cooperate and work closely with the LDB in finalizing the Updated Project Plan (including incorporating the LDB's reasonable comments). The Updated Project Plan will become the final Project Plan (the "**Final Project Plan**") when it is signed by the Contractor and the LDB and incorporated into this Statement of Work by Change Order. Any subsequent changes thereto shall be subject to mutual agreement of the Parties and shall be subject to, and incorporated into this Statement of Work by Change Order.
- (c) Contractor will be responsible for the management and completion of the activities and tasks described in the Project Plan, other than the LDB SOW Dependencies.

### **2. Interpretation**

Any reference in this Appendix 4 to the "successful completion" or the "successful delivery" of any Service or Deliverable, as applicable, means that: (a) Contractor has completed the applicable Milestone in accordance with this Statement of Work, including any requirements for the applicable Deliverable; (b) Contractor has provided reasonable documentation of such completion in accordance with this Statement of Work; and (c) the LDB has accepted the Milestone, to the extent applicable, in accordance with this Statement of Work.

### **3. Deliverables, Testing Periods and Acceptance Deadlines**

The following will be considered Deliverables for the purposes of this Statement of Work.

Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
1: Research and Discovery	<ul style="list-style-type: none"> <li>A detailed project roadmap/timeline that includes all project phases</li> <li>Sitemap for B2B and B2C sites</li> <li>The following lo-fi wireframes for desktop: <ul style="list-style-type: none"> <li>(a) Homepage</li> <li>(b) product detail page</li> <li>(c) product listing page</li> <li>(d) informational page (e.g., privacy, questions, and answers)</li> <li>(e) landing page (B2C only)</li> <li>(f) search page</li> <li>(g) checkout page(s) for registered users</li> <li>(h) checkout pages(s) for non-registered users (B2C only)</li> <li>(i) customer account page(s)</li> <li>(j) sign-in page</li> <li>(k) contact customer care page</li> <li>(l) email newsletter and signup (B2C only)</li> <li>(m) transactional emails, order purchase receipt, and confirmation</li> </ul> </li> <li>High-level chapter framework developed for documentation</li> <li>Revised and updated data flows and diagrams</li> <li>Global revised milestone schedule (revision of all subsequent milestones through remaining Stages based on findings during Research and Discovery Stage).</li> </ul>	<p>Contractor will collaborate throughout the Research and Discovery Stage to align planning and execution. Architectural oversight and technical work will be ongoing throughout the duration of the Project, which the Contractor will sync up with its design and front end teams at relevant milestones through the early weeks of the Project. Daily internal stand-ups amongst relevant members of the Contractor's team will be used to ensure project continuity and progress.</p> <p>Contractor will also provide:</p> <ul style="list-style-type: none"> <li>a limited number of graphics in order to deliver stylistic direction;</li> <li>sample content to deliver direction for the LDB's page content titles, features and content blocks;</li> <li>(upon completion of designs) a style guide (aka a UI kit) to support internal growth out of the Project that will include guidelines on color, fonts, photography, imagery etc.; and</li> <li>training materials that support the management of ongoing content production and edits.</li> </ul>	<p><b>Three Weeks Total</b></p> <ul style="list-style-type: none"> <li>A detailed project roadmap/timeline that includes all project phases – END OF STAGE 1</li> <li>Sitemap for B2B and B2C sites – DURING WEEK 2 OF Research and Discovery</li> <li>all wireframes – at END OF STAGE 1</li> <li>High-level chapter framework developed for documentation – at END OF STAGE 1</li> <li>Global revised milestone schedule (revision of all subsequent milestones through remaining phases) – at END OF STAGE 1</li> </ul>	<p>To the extent applicable to a Deliverable in Stage 1, the Acceptance Criteria, process and timelines for Acceptance Testing or Acceptance Review by the LDB for such Deliverable will be determined and mutually agreed upon by the Parties based on the LDB's identification of MVP user stories and creative artifacts and will be set forth in the Final Project Plan.</p>

Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
1: Research and Discovery	<p><u>Fit Gap Analysis</u> - user stories and functional requirements will be audited against the out of the box capabilities of the solution. Any requirements not serviced out of the box will be assessed and, subject to mutual agreement between the Parties, categorized as follows:</p> <ul style="list-style-type: none"> <li>(a) Requirement to be delivered in a later phase;</li> <li>(b) Requirement identified but not necessary and will not be delivered; or</li> <li>(c) Requirement not technically possible and will not be delivered.</li> </ul> <p>With each user story, Contractor will identify whether it is within the scope of the Project, whether it is possible within Shopify or requires a custom solution. If Contractor then reviews all the 'Not possible' items, that should serve to identify the 'Gaps' that needs to be solved. This approach resulted from our request to the LDB for a complete set of business/functional requirements and the LDB in turn, asked Contractor to provide the LDB with the suite of stories that the LDB can update or create to serve as a prototype to be followed by a fit-gap analysis.</p>			



Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
2: UI/UX Design	<p>Contractor will continue with wireframes from Research and Discovery, adding high fidelity design polish to the following pages, as well as any net new pages identified in the Research and Discovery Stage:</p> <ul style="list-style-type: none"> <li>Homepage</li> <li>product detail page</li> <li>product listing page</li> <li>informational page (e.g., privacy, questions, and answers)</li> <li>landing page (B2C only)</li> <li>search page</li> <li>checkout page(s) for registered users</li> <li>checkout pages(s) for non-registered users (B2C only)</li> <li>customer account page(s)</li> <li>sign-in page</li> <li>contact customer care page</li> <li>email newsletter and signup (B2C only)</li> <li>transactional emails, order purchase receipt, and confirmation</li> </ul>	<p>Contractor will account for the following throughout the design process:</p> <ul style="list-style-type: none"> <li>Core features and functionality identified by the LDB's team</li> <li>Prioritization and display of key products, functionality, information, and messaging</li> <li>Opportunities for unique user interactions to enhance user engagement</li> <li>Prototyping of dynamic features and engagements</li> <li>Exploration of design patterns, navigation, and user flows, as mapped to business objectives</li> </ul> <p>Both lo-fi and hi-fi design work will be iterative; designs will be delivered using InVision, a dynamic tool that allows multiple mockups to be linked together to show a simulative website-like experience. Contractor will design and present mockups through the UX stage for the LDB's feedback and approval on; the existing schedule allows for two revisions of the lo-fi designs and two revision of the hi-fi designs. InVision has a notes/feedback functionality that the LDB will use to collate feedback and approval for delivery to the Contractor's Design Team as per the LDB SOW Dependencies noted in Appendix 4.</p>	<p><b>7 Weeks Total</b></p> <p>3 weeks Low Fidelity Designs Wireframes</p> <ul style="list-style-type: none"> <li>3 weeks High Fidelity Designs</li> <li>1 week Design Review</li> </ul>	<p>To the extent applicable to a Deliverable in Stage 2, the Acceptance Criteria, process and timelines for Acceptance Testing or Acceptance Review by the LDB for such Deliverable will be determined and mutually agreed upon by the Parties based on the LDB's identification of MVP user stories and creative artifacts and will be set forth in the Final Project Plan.</p>

Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
2: UI/UX Design	<p>Contractor will also design UX/UI for the following features:</p> <ul style="list-style-type: none"> <li>• Wish list (or favourited) items</li> <li>• Requisition lists</li> <li>• Preference engine (recommendation engine)</li> <li>• Custom check-out flow</li> <li>• Contact Form for CCC</li> <li>• Management of B2C Credit Cards</li> <li>• Management of modification of B2C Credit Cards</li> <li>• Maps of Store Locations</li> <li>• B2B Payments</li> <li>• Order Limits UX</li> </ul> <p>Contractor will create two transactional and responsive website designs (one for B2B and one for B2C) that will include the following:</p> <ul style="list-style-type: none"> <li>• Mood Board informed by existing LDB brand, tone, guides and assets</li> <li>• Dynamic prototypes of key components and interactions delivered</li> <li>• Comprehensive production-ready suite of High Fidelity Designs for mobile, desktop, and tablet</li> <li>• LDB Web Style Guide delivered</li> <li>• Deeper sub-chapter framework developed for training documentation</li> <li>• B2B Payments</li> <li>• Management / modification of B2C Credit Cards</li> <li>• Contact-us form per Customer Care Centre</li> <li>• Order Limits UX</li> <li>• Maps of Store Locations</li> </ul>	<p>Throughout the UI/UX Design Stage, the LDB will be kept up to date on progress, and will be asked to take part in weekly meetings and design reviews. Contractor will complete this Stage by delivering a comprehensive suite of static designs (.jpg or .png) for mobile, desktop and select tablet, covering all essential UX across the both B2C and B2B experiences.</p> <p>Accessibility – Throughout the UX/UI Design Stage, WCAG 2.0 Level AA Guidelines will be referenced to ensure that the site design is compliant to client spec. This includes a fundamental focus on the following:</p> <ul style="list-style-type: none"> <li>• Fonts and text sizing</li> <li>• Colours/contrast</li> <li>• Text alternatives</li> <li>• Clear navigation</li> </ul>		

Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
3a: Development and Integration	<p>Contractor will provide:</p> <ul style="list-style-type: none"> <li>Updated architectural data flow model</li> <li>Comprehensive technical specifications of integration</li> <li>Development of software hosting infrastructure and monitoring</li> <li>Integration with the LDB's Product Information Management, Order Management and Warehouse Management Systems</li> <li>Integration between Contractor and the LDB's existing infrastructure as related to all user identify data, access, management and storage requirements</li> <li>Payment gateway system integration including credit card vaulting</li> <li>Integration between Contractor and the LDB's existing infrastructure as related to all sales and financial data</li> <li>Completion of testing/acceptance for system integration</li> <li>Deeper sub-chapter framework developed for training documentation</li> </ul>	<p>The LDB will be kept up to date on progress throughout the build and will be engaged to respond to any functional questions that arise from the build process. The development team will be focused on ensuring that all information is flowing between the LDB's system and Contractor, as required. As per the Research and Discovery Stage, a recommended sequence of development pertaining to each of the following solutions will be executed:</p> <p><b>(a) Products &amp; Order Data</b></p> <ul style="list-style-type: none"> <li>Product Info and Product Interfaces</li> <li>Pricing</li> <li>Transactions (Daily Sales)</li> <li>Inventory Levels</li> <li>Fulfilment, Shipment Tracking, Confirmation</li> </ul> <p><b>(b) User Management</b></p> <ul style="list-style-type: none"> <li>B2B / B2C Customers</li> <li>User Authentications/ SSO/ SAML</li> </ul>	<b>14 Weeks Total</b>	<p>To the extent applicable to a Deliverable in Stage 3, the Acceptance Criteria, process and timelines for Acceptance Testing or Acceptance Review by the LDB for such Deliverable will be determined and mutually agreed upon by the Parties based on the LDB's identification of MVP user stories and creative artifacts and will be set forth in the Final Project Plan.</p>

Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
3: Development and Integration		<p><b>(c) Payments (Bambora)</b></p> <ul style="list-style-type: none"> <li>• Payment Processing</li> <li>• Hosted Payments Custom Solution</li> <li>• Customer Payment Method</li> <li>• Tokenization/Management</li> <li>• Credit Card Vaulting services</li> </ul> <p><b>(d) Sales Tracking</b></p> <ul style="list-style-type: none"> <li>• Daily and continuous Sales transmission</li> </ul> <p><b>Accessibility</b> – Throughout the Development and Integration Stage, WCAG 2.0 Level AA Guidelines are referenced to ensure that the site design is compliant to client spec. This includes a fundamental focus on the following:</p> <ul style="list-style-type: none"> <li>• Fonts and text sizing</li> <li>• Colours/contrast</li> <li>• Text alternatives</li> <li>• Clear navigation</li> </ul> <p>Throughout development, Contractor will address requirements for screen-reader accessibility and keyboard navigation in accordance with WCAG 2.0.</p> <p>For each of these integration solutions, Contractor will work with the Acceptance Criteria to ensure robust testing is executed. As development progresses, Contractor will execute our own internal testing in a staged environment, offering realistic use-case behavior, allowing for continual development and cumulative progress.</p>		

Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
3b: Development and Integration	<p>Contractor will develop two (2) custom Shopify themes, once each for B2C and B2B Cannabis, including all page, collection, shop and product templates</p> <p>Contractor will share access to the working B2C and B2B solutions upon completion of a significant portion of front end development and configuration. Until this point, the LDB will have access to demo instances to allow for exposure, training and familiarity with the platform. The minimum amount of work that Contractor needs to complete in order to grant the LDB access to a working staged instance of the final solution is TBD and will be identified in Stage 1.</p> <p>Once the working staged instance has been shared with the LDB, a separate environment will be set up to allow testing, training and access to the LDB and Contractor's staff. This set up of multiple instances will be delivered with the completed production websites, allowing the LDB to tier access and train staff beyond the completion of Phase 1.</p> <p>Contractor will conduct all QA &amp; UAT for all relevant devices and browsers</p>	<ul style="list-style-type: none"> <li>Enhanced ecommerce analytics (B2C only)</li> <li>Tag manager snippet (the LDB will manage tag manager)</li> <li>Google universal analytics</li> <li>SSL Everywhere throughout all pages</li> <li>Maps functionality to help users discover the LDB locations (B2C only)</li> <li>Guest checkout (additional to registered checkout; B2C only)</li> <li>Auto generation of shipping costs (B2C only)</li> <li>Routing of webform(s) for customer care and support enquiries, for orders and complaints</li> <li>Online account management to include contact details, billing and delivery details, and payment details</li> <li>Previously purchased (order history)</li> <li>B2B Payments</li> <li>Management / modification of B2C Credit Cards</li> <li>Contact-us form per Customer Care Centre</li> <li>Order Limits UX</li> <li>Maps of Store Locations</li> </ul>	<b>10 Weeks Total</b>	

Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
3: Development and Integration		<p><b>Search Discovery</b></p> <p>Out of the box, all pages, products, collections and filter results are equipped with industry standard SEO. Contractor will enable the creation of h1, h2 page headers with product keywords and descriptions to ensure product pages rank high on organic search across multiple search engines. Image alt tags and product metadata will also be employed where necessary to add scrapable SEO content in the customer's account pages on the storefront.</p> <p>Payment Processing Checkout will display taxes, shipping options and rates, as well as collect payment information. Historical order information will also be displayed and accessible. This integration is accomplished via Contractor's Hosted Payments SDK. This allows Contractor's SaaS offering to connect to a 3rd party payment capture technology. Leveraging Bambora's Custom Checkout module, this integration will allow the LDB to use Contractor for their storefront, and still leverage Bambora's payment capture protocols, including tokenization, and credit card vaulting services.</p> <p><b>Performance</b></p> <p>Performance will be taken into account by the Contractor at the onset of the Project, addressing any Research and Discovery specific features or functionality that may</p>		

Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
		<p>require unique development implementations that could slow down the site. Contractor will test against industry standards for front end performance to ensure the site's speed and performance exceed industry norms.</p>		

Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
4: Deployment and Testing	<p>Contractor will:</p> <ul style="list-style-type: none"> <li>provide B2C and B2B websites on Shopify Plus platform with all MVP pages, features and functionality implemented and testable, that meets all MVP user stories and creative artifacts /acceptance criteria and includes access to an use of the SaaS/Cloud Solution Component (i.e. access to and use of the SaaS/Cloud Solution Component thereof and access for downloading of electronic versions of related technical documentation to the extent applicable on the features and the use of the SaaS/Cloud Solution Component); and</li> <li>provide a separate staged environment to allow testing and training of staff during Phase 1 and beyond the completion of Phase 1.</li> </ul>	<p><b>Testing</b></p> <ul style="list-style-type: none"> <li>Contractor will facilitate third-party vulnerability scans and penetration tests will be performed monthly in order to identify and remedy potential security weaknesses. Performance and load testing will be performed once the solution is complete using purpose-built tools to ensure both sites meet their expected surge capacity demands.</li> </ul> <p>Contractor will also:</p> <ul style="list-style-type: none"> <li>carry out all functional testing of the eCommerce Solution prior to integration testing;</li> <li>carry out load and stress testing simulating maximum load including user interfaces, application integration and reporting; and</li> <li>carry out and participate in full integration testing.</li> </ul>	<p><b>8 Weeks Total with 2 phases running in parallel</b></p> <ul style="list-style-type: none"> <li>6 weeks QA and UAT</li> <li>3 weeks Documentation</li> </ul>	<p>To the extent applicable to a Deliverable in Stage 4, the Acceptance Criteria, process and timelines for Acceptance Testing or Acceptance Review by the LDB for such Deliverable will be determined and mutually agreed upon by the Parties based on the LDB's identification of MVP user stories and creative artifacts and will be set forth in the Final Project Plan.</p>



Stage	Deliverable(s)	Related Requirements	Deliverable Delivery Deadline	Acceptance Criteria
5: Training Strategy	<p>Contractor will provide</p> <ul style="list-style-type: none"> <li>Development and documented training plan and associated training material for (a) train the trainer; and (b) train the end user.</li> <li>Commence training to the LDB</li> <li>Deliver training materials to the LDB</li> </ul>	<p><b>Training</b></p> <p>Training sessions will feature an open dialogue to ensure pertinent questions can be asked and addressed by the Project Team. In addition to webinars, print and digital training materials, Contractor's dedicated Senior Strategic Manager will also be available on demand.</p> <p>The Project Team will develop specific custom training guides tailored to the specific needs of the LDB and their custom Contractor implementation. The LDB's dedicated Training Manager will execute a tailored eCommerce training program to relevant individuals as appointed by the LDB within the organization. Each in-person training session will focus on a functional role within the LDB's eCommerce team (customer service, merchandising, content management, etc.) to guarantee the delivered content is relevant to its audience. Contractor will provide a separate instance for the LDB where training and test configurations can occur. The LDB is not limited to one instance; Contractor will provision as many as required.</p>	<ul style="list-style-type: none"> <li>Documentation: 11 person weeks split across April-August.</li> <li>Training: 16 person weeks split across July-August</li> </ul>	<p>To the extent applicable to a Deliverable in Stage 5, the Acceptance Criteria, process and timelines for Acceptance Testing or Acceptance Review by the LDB for such Deliverable will be determined and mutually agreed upon by the Parties based on the LDB's identification of MVP user stories and creative artifacts and will be set forth in the Final Project Plan.</p>

#### 4. Milestones

On or before each of the dates set out in the table below in the column under the heading "Milestone Deadline", Contractor will complete the corresponding Milestone described in the column under the heading "Milestone".

All Milestones listed below may be renegotiated; through the Research and Discovery Stage, as Project scope is explored and understood, and as the required Go

Live date is identified relating to the national legalization date, but any change to a Milestone or Milestone Date will require mutual written agreement of the Parties through the Final Project Plan or Change Order, and this schedule will increase in granularity as needed.

Number	Milestone Stage	Stage	Milestone Deadline	Associated Deliverable
1	Kick off in Burnaby with the LDB, Contractor and its subcontractor (Pixel Union), 5 days	Research and Discovery	ASAP	N/A
2	LDB – delivery of global LDB brand and visual identity guides and any subsequent guides associated with the development of any new identity associated with Cannabis retail	All UX/UI Design deliverables	Upon Project kick off	Stage 1 and 2 Deliverables from Appendix 4, section 3
3	LDB – delivery of access to any existing analytics and any materials detailing the LDB’s understanding of its users, market, demographics, customers (both B2B and B2C)	All UX/UI Design deliverables	Upon Project kick off	Stage 1 Deliverables from Appendix 4, section 3
4	Site Maps for B2B and B2C experiences for cannabis signed off by the LDB	All UX/UI Design deliverables	Second week of Research and Discovery	Stage 1 Deliverables from Appendix 4, section 3
5	Detailed milestone schedule for technical work delivered to the LDB from Contractor	Research and Discovery	Third week of Research and Discovery	N/A
6	Technical integration work commences	Development and Integration	Second week of Research and Discovery	Stage 1 Deliverables from Appendix 4, section 3
7	All lo-fi wireframes delivered to the LDB	Research and Discovery	Second week of UX/UI Design	Stage 1 and 2 Deliverables from Appendix 4, section 3
8	Front End build commences	Development and Integration	10 weeks before Go Live	Stage 2 Deliverables from Appendix 4, section 3
9	B2B & B2C Cannabis – Design Complete	UI/UX Design	Eight weeks before Go Live	Stage 2 Deliverables from Appendix 4, section 3

Number	Milestone Stage	Stage	Milestone Deadline	Associated Deliverable
10	Integration between Contractor and Salesforce Service Cloud complete	Development and Integration	TBD in Research and Discovery	Stage 3a and 3b Deliverables from Appendix 4, section 3
11	Custom payment gateway integration with Bambora complete	Development and Integration	TBD in Research and Discovery	Stage 3a and 3b Deliverables from Appendix 4, section 3
12	QA and UAT begins (continues through launch)	Deployment and Testing	TBD in Research and Discovery	Stage 3a and 3b Deliverables from Appendix 4, section 3
13	All integrations between Contractor and the LDB's infrastructure complete	Research and Discovery	TBD in Research and Discovery	Stage 3a and 3b Deliverables from Appendix 4, section 3
14	Integrations to shipping provider	Research and Discovery	TBD in Research and Discovery	Stage 3a and 3b Deliverables from Appendix 4, section 3
15	All testing of integrations complete	Deployment and Testing	One week before Go Live	Stage 3a and 3b Deliverables from Appendix 4, section 3
16	Training strategy (train the trainer & end user)	Training Strategy	Two weeks previous to Go Live	N/A
17	Training with the LDB staff commences	Training Strategy	Two weeks previous to Go Live	N/A
18	Go Live	All UX/UI Design and Development and Integration deliverables	September 17, 2018	With the exception of the training manual described in Milestone #19 and Deferred Work, successful completion of all identified Deliverables through Stages 1-5 from Appendix 4, section 3, in accordance with any applicable Acceptance Criteria.

Number	Milestone Stage	Stage	Milestone Deadline	Associated Deliverable
19	Training manual delivered to the LDB	Training Strategy	One week after Go Live	Stage 5 Deliverables from Appendix 4, section 3

## 5. LDB SOW Dependencies

The LDB SOW Dependencies for this SOW are as set out in the table below:

Number	LDB SOW Dependency	Milestones Affected	LDB SOW Dependency Target Date
1	To accommodate the personal information requirements of accessing the eCommerce Solution over Canadian leased lines, the LDB will need to procure and configure two MPLS connections (one on each side) between the LDB's data center and the Cologix Montreal peering facility (provided, however, that the costs of such two MPLS connections will be shared equally between the LDB and Contractor in accordance with the Statement of Work for eCommerce Solution Steady State Services (Schedule B of the Agreement)). For clarity, Contractor is responsible for procuring, configuring and maintaining the connection from the Shopify Systems (as defined in the License Agreement) to the Cologix Montreal peering facility.	All	At commencement of contract
2	Contractor access to key technical contacts at the LDB, response times within 12 hours for urgent matters.	All Milestones through Development and Integration	At commencement of contract
3	Contractor access to key marketing and brand direction contacts at the LDB.	All wireframe and design Milestones through Research and Discovery and all subsequent Stages.	At commencement of contract
4	Integration mapping to the LDB services identified in RFP Appendix A3.	All Milestones through the Development and Integration	Second week of Research and Discovery
5	24 hour maximum response time from LDB functional contacts to Contractor requests.	All	Ongoing

Number	LDB SOW Dependency	Milestones Affected	LDB SOW Dependency Target Date
6	The LDB to source and secure licenses to Salesforce Service Cloud for use as CRM.	All Milestones through Development and Integration	End of Research and Discovery
7	The LDB to secure Bambora contract for online payment gateway and work with Contractor to connect Bambora to Contractor, including credit card vaulting services.	All Milestones through Development and Integration	End of Research and Discovery
8	The LDB will review and or test Deliverables in accordance with applicable acceptance review or acceptance testing processes and associated acceptance review or acceptance testing periods set forth in the Project Plan in Appendix 4, section 3.	All	Ongoing
9	The LDB to support Contractor's photographic direction and provide required production services and required artifacts per RFP Appendix A4	UI/UX Design and subsequent Milestones	First week of UX/UI Design
10	The LDB to deliver comprehensive brand guide and visual identity assets including, licenses, static logo files of the LDB brand elements. The LDB will provide the artifacts per RFP Appendix A4.	UI/UX Design and subsequent Milestones (front end development, integrations, etc.)	First week of UX/UI Design
11	The LDB to refine existing B2C user stories and creative artifacts to a selected group of MVP user stories and creative artifacts, with subsequent post-MVP user stories ranked by importance.	Research and Discovery and all subsequent Milestones	Second week of Research and Discovery
12	The LDB to refine existing B2B user stories and creative artifacts to a selected group of MVP user stories and creative artifacts, with subsequent post-MVP user stories ranked by importance.	Research and Discovery and all subsequent Milestones	Second week of Research and Discovery
13	The LDB will complete the provided content matrix with all language and imagery required for non-product pages on both B2B and B2C sites.	Hifi design commencing	Two weeks into the UX/UI Design

Number	LDB SOW Dependency	Milestones Affected	LDB SOW Dependency Target Date
14	The LDB to secure shipping provider agreement and work with Contractor to connect shipping provider to Shopify.	All UI/UX Design, Development and Integration, and Deployment and Testing Milestones	End of Research and Discovery
15	The LDB will cause their third party licensors (for example, Salesforce and Bambora) to provide all cooperation required to provide their services.	All	Ongoing and throughout Stages.
16	The LDB has sufficient power, monitors, professional office chairs and high speed internet (via WIFI) for any time that Contractor's team are working on premise at the LDB's facilities. It is also expected that enough desk space will be provided to allow Contractor to bring in additional equipment to create adequate working conditions if required (i.e., monitors, keyboards, mouse, headphones).	All Development and Integration Milestones	Established at the onset of the Project.
17	The LDB will assist with expediting the UI/UX Design Stage by limiting the LDB requested revisions to two design revisions for each of lo-fidelity wireframes and high-fidelity designs.	All UI/UX Design Milestones	Completion of UX/UI Design, commencement of Development and Integration
18	The LDB must identify core user stories and creative artifacts that will inform the criteria for the MVP.	All UI/UX Design and Development and Integration Milestones	End of Research and Discovery
19	Through testing phase, the LDB must assign personnel to test front end website experience against MVP user stories as pages and features are completed.	Development and Integration	Mid way through Development and Integration
20	The LDB's current systems architecture and infrastructure is in a working, functional state and all API's have clear documentation with relevant expertise and knowledge held by someone on the LDB's technical team.	Research and Discovery	At commencement of contract

Number	LDB SOW Dependency	Milestones Affected	LDB SOW Dependency Target Date
21	The LDB permits Contractor to use tools, systems, software and technology that are in accordance with Contractor's regular working methodologies including but not limited to email, designs and mock-ups code management, project management, calendars and file storage provided such tools, systems, software and technology cannot be used to process personal information as defined in FOIPPA Schedule I.	All Milestones	Kick-Off during Research and Discovery
22	The LDB (or its designates) will acknowledge requests from Contractor to the LDB for feedback and/or approvals of any Deliverables through the design phase within 2 hours of delivery unless submitted past 4:00pm Monday to Thursday (in which case, next day by 10:00 am).	Milestones in connection with Deliverables in Stages 2-4	At commencement of UI/UX Design
23	The LDB (or its designates) will answer requests from Contractor to the LDB for feedback and/or approvals of any Deliverables through the design phase within 48 hours of the delivery of materials to the LDB.	Milestones in connection with Deliverables in Stages 2-4	At commencement of UI/UX Design
24	The LDB has either an internal team or a dedicated agency of record who will support the LDB with creative direction of its brand, identity and the development of marketing collateral and this team will be available through the design phase to support with brand guidance, feedback, asset sharing/development and general feedback.	Milestones in connection with Deliverables in Stages 2-4	At commencement of UI/UX Design
25	The LDB will develop a net new visual identity for its Cannabis enterprise including a logo, fonts, colours and graphics and any assets developed will be shared for usage with the Design Team.	Milestones in connection with Deliverables in Stages 2-5	At commencement of UI/UX Design

## 6. SOW Assumptions

The SOW Assumptions for this SOW are as set out in the table below:

Number	SOW Assumptions
1	Contractor will take creative lead based on briefing for the development of the eCommerce site.
2	The LDB will be trained on SEO implementation and management by Contractor and will implement their own SEO strategy across all sites, from individual pages through to product and category pages.
3	Any visual content (imagery, video) intended to be implemented across any of the sites has been procured and licensed by the LDB, is readily available and can be delivered to the Design Team upon commencement of the design phase. All photography should be prepared as both high resolution (source) and web-ready (processed) jpeg files.
4	It is assumed that the Design Team will not be supporting the LDB with the development of any briefs to generate new content tailored for this Project.
5	It is assumed that the LDB have dedicated development resources to work on the Oracle API who will interface with the Contractor's developers.
6	It is assumed that all of the LDB's existing integrations and API implementations are operating and functional as intended with no bugs or issues that will hinder development
7	It is assumed that the LDB will coordinate and brief any relevant LDB staff with regard to the presence of Contractor's team on LDB premises for relevant work sessions, presentations or meetings.
8	The LDB is contracting the proponent based on its experience and knowledge in ecommerce and with the platform. It is assumed that any design decisions that meet functional requirements will acknowledge the Contractor's expertise and will not receive unwarranted disputes or revision requests from the LDB's creative team.
9	It is assumed that the LDB has its own personnel to test website against MVP user stories and creative artifacts to bolster the QA and testing phase.
10	It is assumed that the LDB will consider Contractor's counsel when considering the conflict of functionality/feature requests and their potentially adverse effects on page load times and site speed.

## 7. Deferred Work

If any features, functionality or other Specifications within the required scope of the eCommerce Solution set out in this Statement of Work are not included in the Deliverables and the eCommerce Solution that is enabled for the processing of transactions upon Go Live, the SOW Services, including Deliverables, to complete the implementation of such Specifications (the **"Deferred Work"**) will be deferred until after Go Live and the Parties will enter into a no cost Change Order in accordance with section 3 of the General Terms and Conditions to establish a mutually agreed project plan to complete the Deferred Work in a manner similar to the Project Plan.



### Appendix 5 - Project Team Members

Role	Assigned Individuals*	Travelling Resource	Skill Level/Minimum Qualifications	Responsibilities
s.22		In Toronto	Multiple years in the Cannabis space, Cannabis Crown Corporation experience	Assist the LDB and Contractor with strategic planning
		In Vancouver	5 years of business management experience with a focus in nutraceuticals and software engineering experience.	Main POC during project phase and beyond.
		In Waterloo, able to travel as needed	5 years engineering project management experience, 2 years solutioning with the Shopify platform	High level technical solutioning. Ecommerce SME
		In Victoria and able to travel	7 years in Project Management with a focus on eCommerce	Design Project Manager
		In Vancouver	10+ years in software project management with experience in traditional and agile methodology	Project Manager
		In Victoria and able to travel	14+ years Design experience ranging from branding to design systems. 5 years focused on UX design	UI/UX Design Lead
		In Victoria and able to travel	7+ years Design experience working projects, ranging from iOS apps to large catalog ecommerce stores and full company rebrands	UI/UX Designer
		In Victoria and able to travel	15+ years in Software Development/IT	Plan and Implement technical integration solution
		In Victoria and able to travel	13 years in Software Development 5 years	Implement technical

Role	Assigned Individuals*	Travelling Resource	Skill Level/Minimum Qualifications	Responsibilities
s.22			specializing in Shopify web development	integration solution
		In Victoria and able to travel	8 years in the web industry with 5 years specializing in Shopify web development	Develop and Implement the UI/UX designs of the work products
		In Vancouver	4 years in Front End Shopify web development	Develop and Implement the UI/UX designs of the work products
		In Victoria and able to travel	10+ years in Software Development	Implement technical integration solution
		In Victoria and able to travel	3+ years in SQA for eCommerce products	Ensure the functionality of the final work products adhere to the design/requirements defined.
		In Victoria and able to travel	13 years' experience in customer support with 4+ years specializing in the Shopify platform and Merchant Support	Train LDB team members on the use and management of the final work products
		In Victoria and able to travel	18+ years in Software Development/IT with 5 years of leading technical team.	

### Appendix 6 - Key Members

As of the SOW Effective Date, the individuals listed in the table below in the column under the heading, “Key Member”, will be Key Members. Contractor will ensure that, with respect to the column under the heading, “Extent of Allocation”, each Key Member will be available to perform his or her designated responsibilities for at least the percentage of his or her working time as set out in such column.

Key Member	Extent of Allocation
s.22	20% throughout duration of Project
	100% throughout initial Research and Discovery and 50% for remainder duration of Project
	100% throughout duration of Project
	75% throughout duration of Project
	100% throughout Research and Discovery and Development and Integration
	100% throughout duration of Project
Technical Support Contact(s)	100% throughout duration of Project
Hosting Facility Contact	N/A
s.22	20% throughout duration of Project
	20% throughout duration of Project
	100% in initial Research and Discovery and UI/UX Design and 25% as Contractor enters into Development and Integration

**Appendix 7 - Approved Subcontractors as of SOW Effective Date**

Name of Approved Subcontractor	SOW Services for which LDB Approval Granted
s.22	s.22 - creation of user documentation and training manual
Pixel Union	Refer to Appendix 5 and Appendix 6

## **Appendix 8 - Project Methodology and Management**

### **Stage 1 – Research and Discovery**

Contractor will begin with a research phase focused on identifying the LDB's functional requirements, its intended audience, and the desired online shopping experience as set forth in the Project Plan in Appendix 4, section 3. This crucial exercise will set the direction for the rest of this Statement of Work. Contractor will identify assumptions, goals, and functionality that will impact design, offering a more complete understanding of the scope and required outcome. Contractor will also revisit the schedule for all Deliverables and ensure its milestone schedule for initial delivery, testing, and any Acceptance Criteria for Deliverables are updated accordingly through the Final Project Plan.

This Stage will consist of several on-site days with the LDB doing a complete overview of the Project. After the initial on site meetings, Contractor will distill the information received and provide regular updates to the LDB throughout the Stage at least weekly. Contractor will then wrap up this phase with another on-site session where the Deliverables and associated Acceptance Criteria listed in the Project Plan of Appendix 4, section 3, will be reviewed and updated, where applicable.

### **Stage 2 – UX/UI Design**

Once Contractor has completed the UX exploration in Stage 1, Contractor will commence work designing LDB's new online experience as set forth in the Project Plan of Appendix 4, section 3.

Throughout the design phase, the LDB will be kept up to date on progress, and will be asked to take part in weekly project meetings and design reviews to provide direction and feedback to Contractor.

### **Stage 3(a) – Development and Integration (e.g., Technical Implementation of System Integration)**

Once Stage 1 Research and Discovery is complete, Contractor will begin building solutions for each required integration between the LDB's systems and Contractor as set forth in the Project Plan in Appendix 4, section 3.

LDB will be kept up to date on progress throughout this Stage and will be required to promptly respond to any functional questions that arise during the build process. Contractor will be focused on ensuring that all information is flowing between the LDB's systems, third party services (i.e., Salesforce Service Cloud, Payment and Shipping) and Contractor, as required.

### **Stage 3(b) – Development and Integration (e.g., Front End Development)**

Contractor will kick off development in accordance with the Project Plan set forth in Appendix 4, section 3, leveraging its knowledge and expertise with the Shopify platform. The LDB will be kept up to date on progress throughout the build and will be required to promptly respond to any functional questions that arise from the build process. Contractor will provide the applicable Deliverables as set forth in the Project Plan in Appendix 4, section 3 at the end of this Stage.

As development progresses, Contractor will execute its own internal testing in a staged environment, offering realistic use-case behavior, allowing for continual development and cumulative progress. Review will also take place with Contractor as components are completed to ensure adherence to design.

The LDB will be kept up to date on progress throughout the build and will promptly respond to any functional questions that arise from the build process.

### **Stage 4 – Deployment and Testing**

As the technical build of functional components and front end implementation is completed, all aspects will be passed through our internal QA (Quality Assurance) and UAT (User Acceptance Testing) as set forth in the Project Plan in Appendix 4, section 3. At this stage, any concerns regarding either design or performance will be identified and addressed. Documentation will continue to develop during this phase with a focus on

platform understanding and technical context of the implementation.

As testing and implementation nears completion, the comprehensive needs of the training documentation will be fleshed out, in preparation for Stage 5.

The LDB will be kept up to date on progress throughout the build verification process and will be required to promptly respond to any functional questions that arise.

### **Stage 5 – Training Strategy**

An important aspect of this Project will be the setup and operation of the Shopify eCommerce stores for the LDB. Contractor will provide training and assistance and associated documentation to the LDB as set forth in the Project Plan in Appendix 4, section 3, who will then be tasked with the setup and ongoing maintenance of the website (with support of Contractor).

### **Project Progress Tracking and Escalation Process**

Through discussions with the LDB in Stage 1 of the Project, Contractor will determine the appropriate meeting frequency to ensure a consistent flow of information between Parties. In general, Contractor recommends at least one weekly check-in with all individuals appointed by the LDB and additional check-ins with specific working teams appointed by Contractor and the LDB as needed. Internally, Contractor will be conducting daily check-ins to ensure that progress/issues are tracked and resolved as quickly as possible.

Each check-in will generate a set of meeting notes that includes summary, questions and issues along with relevant actions items that are assigned. This will be shared between the Parties via email, Slack or another method as agreed on in Stage 1.

Status updates will be shared by the Parties at the weekly check-ins.

As the Project progresses, there may be Scope Changes that require tracking and management. If the LDB requests a Scope Change and it has a material impact on the scope/timing of Deliverables, Contractor will require a Change request to be completed by the LDB in accordance with the Agreement. Once a Change Order is approved and signed by both Parties in accordance with the Agreement, the Scope Change of the Change Order will be included in the final scope delivery.

Should there be a need to escalate a Project issue or concern, Contractor's team members, Chris Long and Chantel Fernandes, should be the first point of contact for the LDB.

## Appendix 9 - Fees

s.21

### Appendix 9-1 - Detailed Cost Break Down

This Appendix is subject to change based on completion of this SOW and schedule commitments from both LDB and Shopify's team. Please note that the time estimates contained in this Appendix 9-1 are estimates only and Shopify will provide additional time should the LDB require further involvement and hours. For clarity, the no fees pricing for the SOW Services is in no way contingent on the estimated hours in the table being correct. The estimated hours in the table below are included in this SOW for informational purposes only.

Role	Personnel	Stage 1		Stage 2		Stage 3		Stage 4		Stage 5	
		# Weeks	Hours	# Weeks	Hours	# Weeks	Hours	# Weeks	Hours	# Weeks	Hours
s.22		3	120	3	120	2	80	1	40	0	0
		2	80	3	120	1	40	0	0	0	0
		2	80	4	160	4	160	4	160	0	0
		0	0	2	80	4	160	4	160	2	80
		2	80	3	120	2	80	2	80	1	40
Back End Developer	TBD	2	80	5	200	4	160	4	160	1	40
s.22		2	80	4	160	4	160	4	160	1	40
		2	80	2	80	2	80	2	80	1	40
		2	80	3	120	3	120	4	160	2	80
BA & QA	TBD	2	80	3	120	3	120	4	160	2	80
s.22		0	0	1	40	1	40	2	80	2	80
		1	40	1	40	4	160	4	160	1	40
Training Personnel	TBD	0	0	0	0	0	0	1	40	4	160
s.22		0	0	0	0	0	0	4	160	4	160
		3	120	4	160	3	120	3	120	3	120
		3	120	4	160	3	120	3	120	2	80
		1	40	1	40	0.5	20	0.5	20	1	40
		2	80	1.5	60	1	40	1	40	0.5	20
		2	80	1.5	60	1	40	1	40	1	40



Subcontracts & Services	Personnel	Stage 1		Stage 2		Stage 3		Stage 4		Stage 5	
		# Weeks	Hours	# Weeks	Hours	# Weeks	Hours	# Weeks	Hours	# Weeks	Hours
Consulting: Penetration & Security		0	0	0	0	0	0	2	80	2	80
Consulting: Privacy		1	40	1	40	1	40	1	40	1	40
Consulting: Accessibility Testing		0	0	0	0	0	0	2	80	2	80

*\*Team members for roles that start work in June and July will be determined at a later date. Once the individuals are identified, they will be submitted to the LDB for vetting and approval.*

## **Appendix 10 - Contractor-Licensed Items and LDB Licensed Items**

This Appendix sets out all of the Contractor-Licensed Items and LDB-Licensed Items that will be used by Contractor for Deliverables and other items of Work Product. Contractor's rights with respect to Contractor-Licensed Items are set out in section 6.2 of the General Terms and Conditions.

### **1. Contractor-Licensed Items**

All Contractor Background IP required to be Used by the LDB to receive the SOW Services and Use the Deliverables provided under this Statement of Work will be Contractor-Licensed Items, provided, however, that, as of Go Live, the eCommerce Software Solution will be licensed under the License Agreement.

During initial scoping it will be determined whether any third party content will be required within the Work Product. This may include, but not limited to, image, photography and graphics, which will need to be licensed for use. While Contractor will strive to generate all needed content as part of its delivery, in the case where third party content is required, at the LDB's election, either Contractor will seek permission from the LDB to enter into a license agreement with the third party or the LDB will directly enter into such license agreement.

### **2. LDB-Licensed Items**

As set out in the Project Plan, LDB SOW Dependencies include the procurement by LDB of the following to be LDB-Licensed Items as part of this solution:

- (a) Salesforce Service Cloud - Lightning Edition, Unlimited Plan - Customer Care Solution;  
and
- (b) Bambora - Secure Canadian hosted online payment gateway.

## **STATEMENT OF WORK FOR ECOMMERCE SOLUTION STEADY STATE SERVICES**

### **SOW EFFECTIVE DATE: JUNE 18, 2018**

This Statement of Work forms part of the Master Services Agreement between Her Majesty the Queen in the Right of the Province of British Columbia, as represented by the Attorney General and the General Manager of the Liquor Distribution Branch (the “**LDB**”) and Shopify Inc. (“**Contractor**” or “**Shopify**”) dated as of SOW Effective Date (as set out above), as amended from time to time (the “**Agreement**”) and is entered into as of the SOW Effective Date between the LDB and Contractor in accordance with section 2.2 of the General Terms and Conditions of the Agreement.

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

All capitalized terms used herein and not otherwise defined herein will have the meaning set out in the License Agreement or, if not defined in the License Agreement, the Agreement.

#### **1.2 Appendices**

The following are the Appendices attached to this Statement of Work:

Appendix 1 – Description of Services

Appendix 2 – Fees

#### **1.3 References to this Statement of Work to include Appendices**

Unless the context requires otherwise, references in this Statement of Work to “this Statement of Work”, “this SOW”, “herein”, “hereof”, “hereunder” and “hereto” will include this Statement of Work and the Appendices to this Statement of Work, collectively.

#### **1.4 License and Right to Use on the terms of the License Agreement**

The SOW Services, being comprised of a license and right to use Software as a Service and related maintenance and support services, are as contemplated by the Agreement provided by Contractor on the terms and conditions of the License Agreement and, as a result, except as otherwise expressly set out in this Statement of Work, this Statement of Work does not incorporate the terms of the Agreement, nor shall any of the terms of the Agreement apply to the licensing and provision of the SOW Services except as expressly specified in the License Agreement.

#### **1.5 Order of Priority**

In the event of any inconsistency between any of the provisions of the main terms and conditions of this Statement of Work, the Appendices to this Statement of Work and the License Agreement, the inconsistency will be resolved by reference to the following descending order of priority:

- (1) the License Agreement;
- (2) the main terms and conditions of this Statement of Work (excluding the Appendices); and
- (3) the Appendices, with equal priority.

## **ARTICLE 2 SOW SERVICES**

### **2.1 SOW Services**

In accordance with the terms and conditions set out in the License Agreement, Contractor will, commencing upon Go Live and thereafter during the SOW Term, provide the following Services (collectively, the “**SOW Services**”): (1) the eCommerce Solution in accordance with the functionality and specifications set out in Appendix 1 (which, for clarity, is defined as the Shopify SaaS Services in the License Agreement and includes all aspects of the Shopify SaaS Services described in the License Agreement); and (2) the maintenance and support services described in Appendix 2 of the License Agreement for the eCommerce Solution.

## **ARTICLE 3 APPROVED SUBCONTRACTORS**

### **3.1 Approved Subcontractors**

(1) Subject to section 3.1(2) of this Statement of Work, the Parties agree that Pixel Union is the only Approved Subcontractor (as defined in the Agreement) for the purposes of this Statement of Work and the License Agreement and sections 4.5(b) and (c) of the General Terms and Conditions shall apply to Pixel Union in its capacity as an Approved Subcontractor.

(2) Notwithstanding anything to the contrary in the Agreement, the LDB acknowledges and agrees that (I) the eCommerce Solution is based on the Shopify SaaS platform which is a generally available commercial product, and (II) Contractor is permitted, at its sole discretion, to subcontract any portion of the eCommerce Solution which is made generally available to Contractor’s customers (each a “**Shopify Subcontractor**”) without any obligations to the LDB (including any LDB approval rights) provided that:

- (a) Contractor is and will at all times remain fully responsible and liable for the performance of all of Contractor’s obligations under this Statement of Work and the License Agreement;
- (b) Contractor will be solely responsible and liable for, and will promptly pay, all fees and expenses payable to any Shopify Subcontractor;
- (c) Contractor will be fully responsible and liable for, and will bear any and all risks and liabilities relating to, all conduct, acts and omissions by or on behalf of any Shopify Subcontractor and any Shopify Subcontractor representative as if they were the conduct, acts and omissions of Contractor itself; and
- (d) Contractor will ensure that each Shopify Subcontractor and each Shopify Subcontractor representative fully complies with all of Contractor’s obligations under this Statement of Work and the License Agreement that are applicable or relevant to the work assigned to the Shopify Subcontractor.

(3) Within thirty (30) days of the execution of this Statement of Work, Shopify shall provide the LDB a list of all material subcontractors it utilizes in providing the eCommerce Solution and shall provide the LDB an updated version of such list within thirty (30) days of the end of each calendar year or upon the LDB’s written request no more than once per calendar year.

(4) As of the Effective Date, the hosting services that form part of, and support the provisions of, the eCommerce Solution will be subcontracted by Contractor to Google Canada Inc., which is the initial Hosting Subcontractor. Contractor may change the Hosting Subcontractor from time to time provided that: (a) Contractor gives the LDB written notice describing the proposed or planned change at least 180 days before the change would take effect; and (b) Contractor will also provide to the LDB all information in its

possession that is reasonably requested by the LDB about the change to assist the LDB in deciding whether the LDB will continue to receive the Services or terminate them. If the LDB gives Contractor written notice within such advance notice period that the LDB wishes to terminate the Services, then this Statement of Work and the License Agreement will terminate effective as of the date set out in the LDB's notice, without charge, penalty or other liability of the LDB arising from such termination.

## **ARTICLE 4 FEES AND INVOICING**

### **4.1 Fees and Invoicing**

(1) The fees payable by the LDB for the licensing, support and maintenance of the eCommerce Solution as contemplated in, and in accordance with the License Agreement, are set out in Appendix 2.

(2) Contractor shall invoice the LDB, and the LDB shall pay such invoices, as contemplated in, and in accordance with, Appendix 2.

## **ARTICLE 5 SOW TERM**

### **5.1 SOW Term**

(1) The term of this Statement of Work will begin on the SOW Effective Date and remain in full force and effect for a period of 3 years after Go Live of the eCommerce Solution (the "**Initial SOW Term**"), unless terminated earlier in accordance with the License Agreement or as a result of the termination of the License Agreement or the Agreement.

(2) Subject to section 5.1(4), the LDB may, in its sole discretion, renew this Statement of Work for up to 7 additional periods of 1 year (or, at the sole discretion of the LDB, longer periods that collectively do not exceed 7 years) each after the expiry of the Initial SOW Term (each a "**Renewal SOW Term**") if (a) the LDB provides Contractor with written notice of renewal at least 60 days prior to the expiry of the Initial SOW Term or the then current Renewal SOW Term and (b) either (i) mutual agreement in writing between the Parties is reached as to the cost per Transaction fees for the Renewal SOW Term before the expiry of the Initial SOW Term or the then current Renewal SOW Term; or (ii) the LDB elects for the cost per Transaction fees for the Renewal SOW Term to be increased by the full amount of the Renewal Cost Per Transaction Fee Cap set out in Appendix 2. In this Statement Work, "**SOW Term**" means the Initial SOW Term and any Renewal SOW Terms.

(3) This Statement of Work will terminate upon any early termination of the Agreement or any termination of the License Agreement.

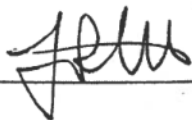
(4) Notwithstanding section 5.1(2), the final Renewal SOW Term that is available under this SOW will, if the LDB elects to renew this Statement of Work for that Renewal SOW Term, will be deemed reduced by the total number of days from and including the Effective Date of the Agreement to, but not including, Go Live.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF the Parties have executed this Statement of Work as of the SOW Effective Date.

**Her Majesty the Queen in the Right of the  
Province of British Columbia, as  
represented by the Attorney General and  
the General Manager of the Liquor  
Distribution Branch**

**Shopify Inc.**

By: \_\_\_\_\_

Name  
: LOREN PADEL FORD

Title: VP & GM SHOPIFY PLUS

By: \_\_\_\_\_

Name: R. Blain Lawson

Title: General Manager and CEO

**Appendix 1**

## Appendix 1 - Description of Services

The eCommerce Solution shall meet the following requirements and Specifications:

1. The Shopify service is a hosted platform that provides ecommerce capabilities for shops, configured by a merchant. These capabilities include:
  - (a) an Internet-routable service that can display various web pages to buyers and potential buyers of a shop's product;
  - (b) a content customization system, allowing a merchant to interact with web pages to modify the look-and-feel of all Internet-routable web pages displayed by the service;
  - (c) dynamically generated web pages displaying single products, or groups of products, for sale on the shop;
  - (d) shopping cart functionality, allowing a buyer to specify a quantity of one or more products that they intend to purchase, and building a virtual "cart" to store these purchase intentions;
  - (e) order creation functionality, allowing a buyer to perform a financial transaction representing a commitment to purchase one or more products, including payment for applicable fees such as shipping and taxes;
  - (f) a buyer notification system, whereby email notifications may be sent to buyers following the completion of a successful checkout transaction, containing order data and other relevant data such as return policy, or shipping details, based on merchant specifications;
  - (g) a webhook transmission system, whereby outgoing network connections may be made by the service to destinations specified by the merchant upon the occurrence of designated events, such as receiving a new order, containing relevant data about the event that occurred;
  - (h) a web page display functionality capable of displaying custom pages designed by the merchant;
  - (i) a product management system, allowing a merchant to interact with web pages or an API to create and manage product records in the system, including details such as price, inventory quantities, physical characteristics, and a product description;
  - (j) an order management system, allowing a merchant to interact with web pages or an API to view and modify details of completed orders, including fulfillment status and related financial transactions; and
  - (k) a customer management system, allowing a merchant to interact with web pages or an API to view, modify, or delete customer records.
2. The eCommerce Solution will comply with the *Freedom of Information and Protection of Privacy Act* (BC), the provisions of Schedule D (Privacy Protection Schedule) to the Agreement and Schedule J (Security) to the Agreement.
3. The eCommerce Solution will comply with CSAE 3416 SOC 2 audit (Type II annually) for the entire service or alternatively ISO 27001 Certification.
4. The eCommerce Solution will fully enable Statement of Work for Acquisition and Implementation of eCommerce Solution Services – Phase 1 (Schedule A of the Agreement), Go Live of B2C and B2B and includes all major pillars of digital commerce in an all-in-one solution.

5. The eCommerce Solution will integrate with an external Identity and Access Management system using Open Standards based Federation Protocol (e.g. SAMLv2 Federation, WSFED 2, OAuth, OpenID) for Authentication/Login and Open Standards Based Federated provisioning (e.g. SCIM or SAML Provisioning) or provide an Open Standards based API (e.g. SOAP or RestFul Web Service) which the LDB can use to create, update, delete, disable accounts for Account Management.
6. The eCommerce Solution will handle pricing and pack size for same product by customer type (the same product (sku) must be sold at different prices and pack sizes according to customer type (business or consumer)).
7. The eCommerce Solution will enable catalogue management for exclusive products to be sold exclusively to one or more customers (individual consumers or business locations) or customer type (business or consumer).
8. The eCommerce Solution includes the software and commerce services for the following Stores:
  - (a) up to two (2) Stores, unless otherwise mutually agreed using the change management process set out in section 3 of the General Terms and Conditions;
  - (b) the Stores will be located at the URL(s) listed below:

- (i) for B2C:

BCCannabisStores.com

BCCannabisStores.ca

- (ii) for B2B:

BCCannabisStores.com

BCCannabisStores.ca

provided, however, that the LDB may, at its sole discretion, change or add any of the URLs for the Stores from time to time upon written notice to Shopify;

- (c) the Stores will include the Account, a related administrative console (with access for unlimited users of the LDB) and the following Shopify Plus features:
  - (i) Unlimited SKU's;
  - (ii) Unlimited bandwidth;
  - (iii) SSO/Multipass API;
  - (iv) Giftcard API available for private applications;
  - (v) Increased API calls - (up to 500%) on private apps;
  - (vi) TLD SSL Checkout, which will reside at the LDB's primary sub-domain name(s) identified under paragraph (b) above and not at Shopify's domain name; and
  - (vii) Customizable checkout,

as described in the SaaS Documentation;



- (d) the Stores will comply with the requirements of the Security Schedule; and
  - (e) the Stores will be available and perform in accordance with the applicable service levels and standards set out the License Agreement.
9. The eCommerce Solution includes other services (including data retention and destruction services and data backup and recovery services) described in the License Agreement.

The Shopify SaaS Services will have available a connection to a Canadian resident dedicated network from Shopify Systems to the LDB's data centre through use of a direct connect tool, such as Google Cloud Dedicated Interconnect as described at <https://cloud.google.com/interconnect/docs/details/dedicated> (the "**Dedicated Network Connection**"), and Shopify will use such dedicated network connection for all transmissions of Sensitive Information, between the Shopify SaaS Services and the LDB that are within the control of Shopify. For clarity, the LDB will be responsible for ensuring the Dedicated Network Connection is used for all transmissions of Sensitive Information between the Shopify SaaS Services and the LDB that are within the LDB's control.

To establish and maintain the Dedicated Network Connection, Shopify will procure, configure and maintain the connection from the Shopify Systems to the peering facility and the LDB will be responsible for procuring, configuring and maintaining two MPLS connections (one on each side) between the peering facility and the LDB's data center (provided, however, that the costs of such two MPLS connections will be shared equally between the LDB and Shopify in accordance with Section 4 of Appendix 2).

## **Appendix 2 - Fees**

### **1. Introduction**

This Appendix 2 summarizes the fees, and the methodologies for their calculation, with respect to the eCommerce Solution to be delivered by Contractor to the LDB pursuant to this Statement of Work and the License Agreement.

s.21

### **5. Taxes**

Contractor will charge, collect and remit to the relevant taxation authorities, and the LDB will pay, any

applicable taxes payable by the LDB under law or agreement with the relevant taxation authorities on the Transaction fees payable by the LDB under this Statement of Work. Contractor will be responsible for and will arrange to pay all other applicable federal, state, provincial, municipal or foreign sales, use, value-added, property, excise, import, foreign, withholding and other governmental taxes, duties, charges, levies, fees, excises, tariffs, and assessments of any nature whatsoever now or hereafter imposed arising from, connected with and relating to this Statement of Work and the amounts payable by the LDB under this Statement of Work, including taxes based on Shopify's net income.

#### **6. Invoices**

- (a) Within fifteen (15) days of the end of each month, Contractor shall issue an invoice to the LDB for the Transactions processed through the eCommerce Solution during such month at the postal addresses and email addresses specified by the LDB from time to time. As of the SOW Effective Date, the LDB's postal address for invoices is:

BC Liquor Distribution Branch  
2625 Rupert Street, Vancouver BC V5M 3T5

- (b) Each invoice submitted by Contractor to the LDB will contain itemized details regarding:  
(i) the number of Transactions processed through the eCommerce Solution during the applicable month; and (ii) the fees and associated consumption taxes payable by the LDB in accordance with this Statement of Work with respect to the Transaction fees payable by the LDB as a result of such Transactions.
- (c) Contractor will charge, collect and remit to the relevant taxation authorities all applicable consumption taxes related to the Transactions processed through the e-Commerce Solution.
- (d) The LDB will pay to Contractor all properly invoiced fees within 30 days after the LDB's receipt of the invoice.
- (e) Notwithstanding any other provision of this Statement of Work, if the LDB disputes any fees or expenses included in an invoice then the LDB will pay the undisputed fees or expenses specified in the invoice and Contractor and the LDB will cooperate with each other in an attempt to resolve the dispute, and Contractor will not suspend access to or use of the e-Commerce as a result of the LDB's withholding of payment of any disputed invoice amount.
- (f) Any amounts (including credits) owed by Contractor to the LDB under this Statement of Work, which are not paid when due, but excluding amounts in dispute under this Statement of Work, may be set-off by the LDB against fees, expenses and other charges payable by the LDB to Contractor under this Agreement, or may be deducted from any sum due or which at any time may become due to Contractor under this Statement of Work.

#### **7. Procedure for Obtaining Refund, Credit or Discount**

If the LDB is entitled to any refund, credit or discount pursuant to any provision of this Statement of Work or the License Agreement, Contractor will, within the next applicable billing cycle under this Statement of Work, pay such refund, credit or discount amount to the LDB, and will include a note on the immediately following invoice provided under this Statement of Work that indicates that such refund, credit or discount amount has been paid and the applicable provisions of this Statement of Work or the License Agreement.

#### **8. Set-Off**

Any amounts (including credits) owed by Contractor to the LDB under this Statement of Work, the License Agreement or the Agreement, which are not paid when due, but excluding amounts in dispute under this

Statement of Work, the License Agreement or the Agreement, may be set-off by the LDB against fees, expenses and other charges payable by the LDB to Contractor under this Statement of Work or the License Agreement, or may be deducted from any sum due or which at any time may become due to Contractor under this Statement of Work, the License Agreement or the Agreement.

**9. No Other Remuneration**

The fees, charges and expenses payable by the LDB as expressly set forth in this Statement of Work and the License Agreement are full and complete compensation for the performance by Contractor of Contractor's obligations under this SOW and the License Agreement with respect to the SOW Services, and no further amounts will be payable by or on behalf of the LDB to Contractor or any other person in connection with this SOW or the License Agreement.

**10. Appropriation**

The LDB's obligation to pay money to Contractor is subject to the *Financial Administration Act*, which makes that obligation subject to an appropriation being available in the fiscal year of the LDB during which payment becomes due.

**11. No Volume Commitment**

Contractor acknowledges and agrees that the LDB makes no representation or warranty as to the quantity or volume of SOW Services or Transactions under this Statement of Work.

**12. Ongoing Changes and Configuration of Online Store**

At any time during the SOW Term, the LDB may request Changes to the configuration of any Store of the eCommerce Solution using the change management process set out in section 3 of the General Terms and Conditions or as a Project requested by LDB in accordance with section 2.2 of the General Terms and Conditions and provided under a new Statement of Work.

Contractor will charge any fees associated with said work at a rate of \$150.00 CAD plus GST per hour (or on such other basis as agreed by the Parties) during the Initial SOW Term.